



²³⁷
City of Las Cruces
 PEOPLE HELPING PEOPLE

Council Action and Executive Summary

Item # 9 Ordinance/Resolution# 14-043

For Meeting of _____
 (Ordinance First Reading Date)

For Meeting of September 3, 2013
 (Adoption Date)

Please check box that applies to this item:

QUASI JUDICIAL LEGISLATIVE ADMINISTRATIVE

TITLE: A RESOLUTION AUTHORIZING LA CALERITA CONSTRUCTION LLC, GENERAL CONTRACTOR FOR THE NEW MEXICO DEPARTMENT OF TRANSPORTATION INTERSTATE 10 AND NEW MEXICO STATE ROAD 28 INTERCHANGE PROJECT, TO WORK OUTSIDE OF THE HOURS OF 7:00 A.M. TO 6:00 P.M. AS REQUIRED BY THE CITY OF LAS CRUCES MUNICIPAL CODE, SECTION 19-131.

PURPOSE(S) OF ACTION:

Authorize a variance.

COUNCIL DISTRICT: 4		
<u>Drafter/Staff Contact:</u> Shukri Sharabi	<u>Department/Section:</u> Utilities/Regulatory Environmental Services/Technical Support	<u>Phone:</u> 528-3684
<u>City Manager Signature:</u>		

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

The New Mexico Department of Transportation's (NMDOT) Interstate 10 (I-10) and New Mexico State Road 28 (NM 28) Interchange Project, Project No. 1100361, consists of roadway reconstruction and replacement of eastbound and westbound bridges over NM 28 (known as Avenida de Mesilla), bridge approaches, on and off ramps, reconstruction of NM 28, removal and relocating of Las Cruces utilities, new drainage structures, roadway lighting, and traffic control. The approximate project length is three (3) miles with the contract time beginning July 22, 2013, and all work scheduled to be completed within 330 calendar days. NMDOT has awarded the project to La Calerita Construction LLC, for a total contract amount of \$10,099,693.80.

In order to minimize inconveniences to residents and the traveling public, the NMDOT has requested a variance to the City of Las Cruces Municipal Code, Section 19-131 which stipulates construction hours of 7:00 a.m. to 6:00 p.m. The contractor would like to schedule bridge removal and replacement, utility tie-in work, traffic signalization, and some miscellaneous construction during the nighttime hours.

City staff has reviewed the request and evaluated the potential impact to adjacent residential areas. Based on that review and the proximity of the residential areas to the work site coupled with the type of work proposed, Utilities staff feels there will be a minimal adverse impact to residents if work outside required hours is permitted.

City staff will coordinate and monitor the conditions and any concerns raised as a result of the variance; bringing them to the attention of the project officials for immediate action.

SUPPORT INFORMATION:

1. Resolution.
2. Attachment "A", Las Cruces Municipal Code Section 19-131.
3. Attachment "B", New Mexico Department of Transportation Letter Request.
4. Attachment "C", Overall Project Map.

SOURCE OF FUNDING:

Is this action already budgeted? N/A	Yes	<input type="checkbox"/>	See fund summary below
	No	<input type="checkbox"/>	If No, then check one below:
	<i>Budget Adjustment Attached</i>	<input type="checkbox"/>	Expense reallocated from: _____
		<input type="checkbox"/>	Proposed funding is from a new revenue source (i.e. grant; see details below)
		<input type="checkbox"/>	Proposed funding is from fund balance in the _____ Fund.
Does this action create any revenue? N/A	Yes	<input type="checkbox"/>	Funds will be deposited into this fund: _____ in the amount of \$ _____ for FY ____.
	No	<input type="checkbox"/>	There is no new revenue generated by this action.

BUDGET NARRATIVE

N/A

FUND EXPENDITURE SUMMARY: N/A

Fund Name(s)	Account Number(s)	Expenditure Proposed	Available Budgeted Funds in Current FY	Remaining Funds	Purpose for Remaining Funds
N/A	N/A	N/A	N/A	N/A	N/A

OPTIONS / ALTERNATIVE

1. Vote "Yes"; this will authorize La Calerita Construction LLC to work outside the hours of 7:00 a.m. to 6:00 p.m. on the I-10/NM 28 Interchange Project as required by the City of Las Cruces Municipal Code, Section 19-131.
2. Vote "No"; this will not authorize, La Calerita Construction LLC, to work outside the hours of 7:00 a.m. to 6:00 p.m. on the I-10/NM 28 Interchange Project as required by the City of Las Cruces Municipal Code, Section 19-131.
3. Vote to "Amend"; this could authorize La Calerita Construction LLC to work specific times outside the hours of 7:00 a.m. to 6:00 p.m. on the I-10/NM 28 Interchange Project.
4. Vote to "Table"; this could allow council to postpone consideration of this Resolution to determine alternate courses of action.

REFERENCE INFORMATION:

The resolution(s) and/or ordinance(s) listed below are only for reference and are not included as attachments or exhibits.

N/A

RESOLUTION NO. 14-043

A RESOLUTION AUTHORIZING LA CALERITA CONSTRUCTION LLC, GENERAL CONTRACTOR FOR THE NEW MEXICO DEPARTMENT OF TRANSPORTATION INTERSTATE 10 AND NEW MEXICO STATE ROAD 28 INTERCHANGE PROJECT, TO WORK OUTSIDE OF THE HOURS OF 7:00 A.M. TO 6:00 P.M. AS REQUIRED BY THE CITY OF LAS CRUCES MUNICIPAL CODE, SECTION 19-131.

The City Council of the City of Las Cruces is informed that:

WHEREAS, the New Mexico Department of Transportation's Interstate 10 (I-10) and New Mexico State Road 28 (NM 28) Interchange Project, Project No. 1100361, consist of roadway reconstruction and replacement of eastbound and westbound bridges over NM 28, bridge approaches, on and off ramps, reconstruction of NM 28, removal and relocating of Las Cruces utilities, new drainage structures, roadway lighting, and traffic control; and

WHEREAS, the total approximate project length is three (3) miles with the contract time beginning July 22, 2013, and all work scheduled to be completed within 330 calendar days; and

WHEREAS, La Calerita Construction LLC, (Contractor) is the general contractor for the New Mexico Department of Transportation for this project; and

WHEREAS, the New Mexico Department of Transportation has requested a variance to the City of Las Cruces Municipal Code, Section 19-131; and

WHEREAS, Las Cruces Municipal Code, Section 19-131 stipulates construction hours of 7:00 a.m. to 6:00 p.m.; and

WHEREAS, the Contractor would like to schedule bridge removal and replacement, utility tie-in work, traffic signalization, and some miscellaneous construction during the nighttime hours to reduce impact to residents and the traveling

public; and

WHEREAS, Utilities staff has reviewed the request and evaluated the potential impact to adjacent residential areas and based on that review, Utilities staff feels there will be a minimal adverse impact to residents if work outside required hours is permitted; and

WHEREAS, Utilities staff will coordinate and monitor the conditions and any concerns raised as a result of the variance; bringing them to the attention of the necessary project officials for immediate action.

NOW, THEREFORE, Be it resolved by the governing body of the City of Las Cruces:

(I)

THAT La Calerita Construction LLC, general contractor of the New Mexico Department of Transportation's Interstate 10 and New Mexico State Road 28 Interchange Project, is allowed to work outside of the hours of 7:00 a.m. to 6:00 p.m. as required by the City of Las Cruces Municipal Code, Section 19-131.

(II)

THAT City staff reserves the right to reduce or modify the extended hours of operation by written notice to La Calerita Construction LLC, if adverse conditions are observed and cannot be remedied.

(III)

THAT City staff is hereby authorized to do any and all deeds necessary in the accomplishment of the herein above.

DONE AND APPROVED on this _____ day of _____, 20_____.

APPROVED:

Mayor

ATTEST:

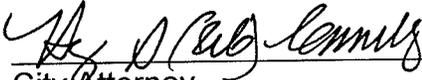
City Clerk

(SEAL)

Moved by: _____

Seconded by: _____

APPROVED AS TO FORM:



City Attorney

VOTE:

Mayor Miyagishima: _____

Councillor Silva: _____

Councillor Smith: _____

Councillor Pedroza: _____

Councillor Small: _____

Councillor Sorg: _____

Councillor Thomas: _____

ation, which disturbs the peace and quiet of a neighborhood, shall be deemed a violation of this division.

(Code 1988, § 21-85)

Cross reference—Traffic, ch. 27.

Sec. 19-131. Construction, repair or demolition work.

Construction, repair or demolition work to commercial or residential buildings, roadways, utility facilities or infrastructure other than between the hours of 7:00 a.m. and 6:00 p.m., which work disturbs the comfort or repose of others, shall be deemed a violation of this division except in case of urgent public necessity as determined by the city council.

(Code 1988, § 21-86; Ord. No. 1814, § I, 7-17-00)

Cross reference—Buildings and building regulations, ch. 30.

Sec. 19-132. Limitations on the volume of sound emanating from vehicular sound amplification systems.

(1) It is unlawful for any person operating or controlling a motor vehicle in either a public or private place within the city to operate any sound amplifier which is part of or connected to any radio, stereo receiver, compact disc player, cassette tape player, or other similar device in the motor vehicle, in such a manner that, when operated, it is audible by any person or police officer other than the occupants of the motor vehicle at a distance of 30 or more feet from the source or when operated, causes a person or police to be aware of the vibration accompanying the sound at a distance of 30 or more feet from the source.

(2) The provisions of this section do not apply to:

- a. An authorized emergency vehicle as defined in NMSA 1978, §§ 66-1-4.1(D) and 66-7-6;
- b. Motor vehicles used for businesses or political purposes, properly permitted, which in the normal course of business use sound making devices;
- c. Horns or warning devices required under NMSA 1978, § 66-7-6; or

d. Amplified sound activities permitted under section 19-134.

(Ord. No. 1722, § II, 2-1-99)

Sec. 19-133. Penalties.

(1) A violation of any of the provisions of this division shall be a petty misdemeanor. When an offender commits a violation of this division, the offender shall be sentenced to a fine of not less than \$100.00 nor more than \$500.00. In addition, the offender may be sentenced up to 90 days in jail. The minimum fine of \$100.00 may not be suspended, deferred or taken under advisement. The court may, in its discretion, suspend the remainder of the fine as well as any jail time.

(2) Where the complaint alleges a violation of this division, any plea of guilty or nolo contendere thereafter entered in satisfaction of the charges shall include at least a plea of guilty or nolo contendere to a violation of this division and no other disposition by plea of guilty or nolo contendere to any other charge shall be authorized.

(Ord. No. 1722, § III, 2-1-99; Ord. No. 2485, § I, 11-17-08)

Sec. 19-134. Temporary permits.

(1) The chief of police may grant a temporary permit which allows noncompliance with the limitations prescribed in this article for the purpose of amplified sound activities of short duration. The issuance of such permits will be only for a time period between 7:00 a.m. and 12:00 midnight and shall not exceed three consecutive days.

(2) Permits shall be granted upon application, at no cost to applicant, provided an initial investigation assures that the permit will not result in a condition unreasonably injurious to the comfort, repose, health, peace or safety of others.

(3) The following factors shall be considered, in the initial investigation, in order to determine whether granting the permit will result in a condition unreasonably injurious to the comfort, repose, health, peace or safety of others.

- a. Distance of proposed activities from a residential zone.
- b. Number of amplification devices to be used in the proposed activities.



July 8, 2013

Attn: Shukri Sharabi, Contracts Administrator
 City of Las Cruces
 700 N. Main Street
 Las Cruces, NM 88001

Project CN: 1100361R (Avenida De Mesilla)
 Re: Working hours

Dear Mr. Sharabi:

NMDOT respectfully requests that La Calerita Construction granted permission to work beyond the normal working hours established within city limits. This contract completion date is June 3, 2014 and requires utility upgrades, signals, culverts, CBC extensions, Drop Inlets, roadway reconstruction, and Bridge replacement. It's essential that some work be done during nighttime hours such as the bridge removal, bridge placement, utility connections, and replacement of existing bridges, and some miscellaneous construction.

Your cooperation in getting this granted will greatly be appreciated. I can be contacted at 575-525-7315 if further assistance is required.

Sincerely,

A handwritten signature in black ink, appearing to read "Gabriel Garcia".

Gabriel Garcia,
 Project Manager

Susana Martinez
 Governor

Tom Church
 Interim Cabinet Secretary

Commissioners

Pete K. Rahn
 Chairman
 District 3

Dr. Kenneth White
 Secretary
 District 1

Robert R. Wallach
 Commissioner
 District 2

Ronald Schmeits
 Commissioner
 District 4

Butch Mathews
 Commissioner
 District 5

Jackson Gibson
 Commissioner
 District 6

ATTACHMENT C

NEW MEXICO DEPARTMENT OF TRANSPORTATION
I-10 INTERSTATE/ AVENIDA DE MESILLA

Start of Project:
West of Hickory Drive

End of Project:
West of Stem Drive

Legend

- NM DOT Project
- Las Cruces Utilities Water
- Las Cruces Utilities Sewer
- Las Cruces Utilities Gas

