



City of Las Cruces®

PEOPLE HELPING PEOPLE

Council Action and Executive Summary

Item # 8Ordinance/Resolution# 16-050For Meeting of _____
(Ordinance First Reading Date)For Meeting of September 8, 2015
(Adoption Date)

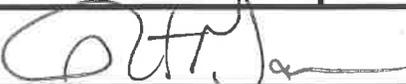
Please check box that applies to this item:

 QUASI JUDICIAL LEGISLATIVE ADMINISTRATIVE

TITLE: A RESOLUTION AUTHORIZING THE CITY OF LAS CRUCES, TO ACCEPT THE COOPERATIVE PROJECT AGREEMENT – CONSTRUCTION WORK FROM THE NEW MEXICO DEPARTMENT OF TRANSPORTATION (NMDOT), FOR THE CONSTRUCTION OF THE EL PASEO ROAD SAFETY IMPROVEMENTS PROJECT IN THE AMOUNT OF \$396,300.00, TO RATIFY THE CITY MANAGER’S SIGNATURE ON THE GRANT AWARD DOCUMENT, AND TO ADJUST THE FY2016 BUDGET AND FY2016 CAPITAL IMPROVEMENT PROGRAM (CIP).

PURPOSE(S) OF ACTION:

Accept grant award, ratify the City Manager’s signature, and adjust the City’s budget and CIP.

COUNCIL DISTRICT: N/A		
Drafter/Staff Contact: Amy Johnson Bassford	Department/Section: Financial Services / Grants Administration	Phone: 541-2281
City Manager Signature:		

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

In March 2015 the City of Las Cruces (City) received notice of Cooperative Project Agreement-Construction Work, LC00130, awarding the grant in the amount of \$396,300.00 for the El Paseo Road Safety Improvements Project. The City is required to fund any difference in total NMDOT project grant and the total construction cost.

The project began with the design phase through a Cooperative Project Agreement from NMDOT, approved in Resolution 14-177, which is now complete. The project will provide improvements to El Paseo Avenue to include installation of signs, pavement markings, raised curb medians, crosswalks, installation of “no turn on red” signs at intersections, and upgrades to pedestrian signals from Main Street to University Avenue.

The period of performance is from August 12, 2015 through September 30, 2017. Any funds not expended must be returned to the State upon the reversion date.

(Continue on additional sheets as required)

SUPPORT INFORMATION:

1. Resolution.
2. Exhibit "A", Cooperative Project Agreement-Construction Work LC00130.
3. Exhibit "B", Budget Adjustment.
4. Exhibit "C", Revised CIP.

SOURCE OF FUNDING:

Is this action already budgeted?	Yes	<input type="checkbox"/>	See fund summary below
	No	<input checked="" type="checkbox"/>	If No, then check one below:
	<i>Budget Adjustment Attached</i>	<input type="checkbox"/>	Expense reallocated from: _____.
		<input checked="" 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?	Yes	<input checked="" type="checkbox"/>	Funds will be deposited into this fund: 4212 in the amount of \$396,300.00 for FY16.
	No	<input type="checkbox"/>	There is no new revenue generated by this action.

BUDGET NARRATIVE

This increase of \$396,300.00 in funding is specific to grant funding currently budgeted in Fund 4212: State Street Improvements under project number 14316.

FUND EXPENDITURE SUMMARY:

Fund Name(s)	Account Number(s)	Expenditure Proposed	Available Budgeted Funds in Current FY	Remaining Funds	Purpose for Remaining Funds
State Street Improvements	42806030-854121-14316	\$396,300.00	\$396,300.00*	\$0	None

*Upon approved budget adjustment.

OPTIONS / ALTERNATIVES:

1. Vote "Yes"; this will approve the resolution accepting a grant and approving the Cooperative Project Agreement – Construction Work with NMDOT-LC00130, ratify the City Manager's signature on the grant document, and adjust the FY16 budget and FY16 CIP.
2. Vote "No"; and the grant funds will revert to the State.

(Continue on additional sheets as required)

3. Vote to "Amend"; this could modify the Resolution and will need to provide staff alternate direction on how to proceed with the project and/or grant award. This could impact the availability of the funding from NMDOT.
4. Vote to "Table"; this could impact the availability of funding from NMDOT.

REFERENCE INFORMATION:

1. N/A

RESOLUTION NO. 16-050

A RESOLUTION AUTHORIZING THE CITY OF LAS CRUCES, TO ACCEPT THE COOPERATIVE PROJECT AGREEMENT – CONSTRUCTION WORK FROM THE NEW MEXICO DEPARTMENT OF TRANSPORTATION (NMDOT), FOR THE CONSTRUCTION OF THE EL PASEO ROAD SAFETY IMPROVEMENTS PROJECT IN THE AMOUNT OF \$396,300.00, TO RATIFY THE CITY MANAGER’S SIGNATURE ON THE GRANT AWARD DOCUMENT, AND TO ADJUST THE FY2016 BUDGET AND FY2016 CAPITAL IMPROVEMENT PROGRAM (CIP).

The City Council is informed that:

WHEREAS, on March 30, 2015, the City of Las Cruces was notified by the New Mexico Department of Transportation (NMDOT) of a Cooperative Agreement–Construction Work Grant, LC00130, in the amount of \$396,300.00; and

WHEREAS, this funding will be used for the El Paseo Road Safety Improvement Project from Main Street to University Avenue, to install signs, pavement markings, raised curb medians, crosswalks, and “no turn on red” signs at intersections, and upgraded pedestrian signals; and

WHEREAS, the period of performance is from August 12, 2015 through September 30, 2017, any funds not expended must be returned to the State upon the reversion date.

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

(I)

THAT the City of Las Cruces is authorized to enter into a cooperative project agreement for grant funding in the amount of \$396,300.00 with the NMDOT; as seen in Exhibit “A” attached hereto and made part of this resolution.

(II)

THAT the City Manager’s signature on the cooperative project agreement

document is hereby ratified.

(III)

THAT the City of Las Cruces FY2016 budget is hereby adjusted as outlined in Exhibit "B" attached hereto and made part of this resolution.

(IV)

THAT the City of Las Cruces FY2016 Capital Improvement Program is hereby adjusted as outlined in Exhibit "C" attached hereto and made part of this resolution.

(V)

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

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

APPROVED:

Mayor

ATTEST:

City Clerk

(SEAL)

Moved by: _____

Seconded by: _____

VOTE:

Mayor Miyagishima: _____

Councillor Silva: _____

Councillor Smith: _____

Councillor Pedroza: _____

Councillor Small: _____

Councillor Sorg: _____

Councillor Levatino: _____

APPROVED AS TO FORM:



City Attorney

Contract Number
Vendor Number
Control Number

D14851
0000054342
LC00130

COOPERATIVE PROJECT AGREEMENT-CONSTRUCTION WORK

This Agreement is between the **NEW MEXICO DEPARTMENT OF TRANSPORTATION** ("Department"), and the City of Las Cruces ("Public Entity"), collectively referred to as the "Parties." This Agreement is effective as of the date of the last party to sign it on the signature page below.

In consideration of the covenants contained herein and pursuant to NMSA 1978, Section 67-3-28, the Parties agree as follows:

1. Purpose:

The purpose of this Agreement is to provide Federal Highway Administration (FHWA) funds to the Public Entity for a transportation project described in the Public Entity's Plans Specifications and Estimate Package (PS&E), the Project Identification Form (PIF) and the Statewide Transportation Improvement Program (STIP). The deliverables under this Agreement may be referred to as the "Construction Work" for the project, which is referred to interchangeably as "Project" or "Project Control No. LC00130." The Project is a joint and coordinated effort for which the Department and the Public Entity each have authority or jurisdiction. Additionally, the purpose of this Agreement is to ensure that the scope of work is maintained throughout the life of the Project.

2. Funding:

- a. The total funding for Project Control No. LC00130, is **Three Hundred Ninety Six Thousand Three Hundred Dollars and No Cents** (\$396,300) which will be shared by the Parties as follows:

1. FFY 2015 Highway Safety Improvement Program (HSIP) Funds

Department's 92.64% share

\$367,132

Install signs, markings, raised curb medians, and crosswalks. Install "no turn on red" signs at intersections and upgrade pedestrian signals on FL 4537. From El Paseo from University Ave to Main Street. (Description as per STIP database and Agreement Request Form, this agreement only pertains to the construction portion of Project Control No. LC00130.)

2. State's matching 7.36% share

\$29,168

For the purpose stated above.

3. The Total Project (Construction Work) Funding

\$396,300

- b. **If current federal fiscal year funding is not obligated by September 30th of the current federal fiscal year, this Agreement shall terminate.** Should this occur the Public Entity shall be solely responsible for all termination costs. However, if prior federal fiscal year

funding has been authorized, this Agreement will remain in effect. If the Public Entity cannot meet the federal fiscal year deadline, and the money is reprogrammed for the next fiscal year, this Agreement will remain in effect.

- c. The Public Entity shall pay all Project costs that exceed the total funding amount specified in this section and all costs determined to be ineligible for reimbursement under the terms of the listed funding sources.
- d. FHWA's obligation of federal funds shall be supported by a certified cost estimate based on the Public Entity's Engineer's Estimate (EE). The EE shall be submitted to the Department's South Region T/LPA Coordinator prior to the PS&E Review pursuant to 23 CFR Part 630B.
- e. After the project is advertised, bids shall be submitted in accordance with the advertisement for bids. The Public Entity will open sealed bids in accordance with the Public Entity established procurement procedures. The Department will review the Public Entity's determination of lowest responsive bid to determine if the amount of federal funds obligated by the FHWA requires adjustment pursuant to 23 CFR Part 630.106. The Public Entity's responsive low bid for the project, including approved alternates, will be compared to the amount obligated. The Department will allow a 15% increase over the base bid and any approved alternates to cover Engineering and Contingencies and Gross Receipts Tax. If the difference between the FHWA's obligation amount and the responsive low bid plus the 15% is within \$250,000, the amount of funds obligated will not change. If the difference between the obligation amount and the responsive low bid plus the 15% exceeds \$250,000, the difference will be deducted reducing the amount of funds obligated.
- f. The Public Entity may not make changes and add extra work to the Project after the construction contract has been let in order to take advantage of the projected project costs used to set obligations. Pursuant to 23 CFR 630 and 23 CFR 635, specifically 23 CFR 635.120, extra work may be added to a project as a change order if such could have been reasonably anticipated at the time of letting and such work is necessary to the completion of the project. If at any point in the construction, the Public Entity identifies extra work as defined by the Department's current specifications that may be justified by incorporation into the contract, this proposed work shall be reviewed by the Department (State Construction Engineer or Designee), which must concur prior to the commencement of the extra work.

3. Method of Payment – Reimbursement:

The Department's District T/LPA Coordinator shall reimburse the Public Entity upon receipt of payment requests for the purposes stated in Section 2, with supporting documentation as determined and/or approved by the Department, certifying that costs have been incurred in compliance with this Agreement. Invoices will be accepted monthly, but must be submitted at a minimum quarterly to the Department's District T/LPA Coordinator. Payment requests shall be identified by the project control number and certified that the requests accurately reflect work completed, amount due and the remaining Agreement balance. All expenses must be actual, rather than estimated, and listed on the payment request as charged. Only those expenses that are properly documented and deemed eligible will be reimbursed. Incomplete submittals will be returned to the Public Entity for corrections. Only invoices for approved/undisputed work will be processed.

The Department's District T/LPA Coordinator will not reimburse the Public Entity for costs incurred prior to obligation of federal funding and the full execution of this Agreement, after the expiration of the Agreement, or in excess of the maximum dollar amount of the Agreement. Final payment requests shall be submitted to the Department's District T/LPA Coordinator within thirty (30) calendar days of physical completion of the project and prior to the termination date identified within Section 20.

4. Public Entity Shall:

- a. Act in the capacity of the lead agency for the Project.
- b. Use the Project Control Number in all correspondence and submittals to the Department.
- c. Provide notice to the Department's **South** Region T/LPA Coordinator of the bid tabs and the lowest responsive bidder.
- d. Pay all costs, perform all labor and supply all material for the Project, or procure construction services to perform all labor and supply all materials for the Project.
- e. Identify a Project Manager who shall be the single point of contact for all communications to and from the Department.
- f. Provide the written authorization received from the Department's South Region T/LPA Coordinator to the District T/LPA Coordinator prior to advertising the Project for bids or performing work with the Public Entity's personnel, equipment, and /or resources.
- g. Advertise, let, and supervise the construction of Project Control No. LC00130 using applicable federal, state or local requirements or procure services to accomplish these tasks.
- h. Ensure and maintain proof of compliance with 23 CFR Section 635.410 and ensure construction materials, including those associated with utility facilities and relocations, to be in accordance with "Buy America" requirements which require proof of origin and place of manufacture of iron and steel products and materials to be made in America. Additionally, ensure that this provision is included in all advertisement, construction and supply contracts at all tiers associated with the Project.
- i. Ensure construction of the Project complies with Title II of the Americans with Disabilities Act of 1990 (ADA), implemented by 28 CFR 35, Section 504 of the 1973 Rehabilitation Act, implemented by 49 CFR 27, NMDOT Pedestrian Access Details, and NMSA 1978 Sections 67-3-62 and 67-3-64. Additionally, ensure that this provision is included in all advertisement, construction and supply contracts at all tiers associated with the Project.
- j. If the Project will be built with Public Entity resources, prepare a detailed report of equipment and labor, including a project schedule, for submission to the Department's District T/LPA Coordinator. If Public Entity is not building the Project with Public Entity resources a detailed report is not required.
- k. The Public Entity shall ensure that the contractor and all subcontractors register and enter all required data into B2Gnow and LCPtracker programs. Assistance can be obtained in this effort by contacting the Office of Equal Opportunity Programs ("OEOP") as identified in Section 11. The Public Entity shall verify all entries by the contractor and all subcontractors into the B2Gnow and LCPtracker programs. Failure by the Public Entity to adhere to this reporting provision may result in the Project being deemed ineligible for reimbursement.
- l. Ensure construction activities comply with approved design, environmental commitments, right of way activities, utility coordination, and construction management and testing.

1. Construction management, testing and inspection services may be eligible for reimbursement if the underlying procurement is consistent with federal aid funding and state procurement laws and regulations.
 2. The Public Entity's award of contracts for construction management testing or inspection services shall be independent and shall not be procured through the construction contractor.
- m. Develop and execute the Project in accordance with the Department's current Specifications, Tribal/Local Public Agency Handbook, and the Construction Procedures Handbook for Federal Aid Local Government Lead Projects.
 - n. Comply with **Appendix A**, "Construction Phase Duties and Obligations," which is hereby incorporated in this Agreement, for construction projects.
 - o. Timely submit and receive all required environmental documentation and authorization for the construction phase to the Project. Copies of all approvals shall be provided to the District T/LPA Coordinator prior to construction.
 - p. Shall register with www.sam.gov and DUNS and provide such information to the Department as well as the total compensation and names of the Public Entity 2015's top five executives to comply with the Federal Funding Accountability and Transparency Act of 2006.
 - q. If the Public Entity has received a combined \$750k in Federal Funding, which under OMB Super Circular Section 200.501 requires the Public Entity to have a single audit performed, the Public Entity must provide the Department a copy of the most recent completed audit report before the start of work.

5. The Department Shall:

- a. Assign the District T/LPA Coordinator as the representative to provide technical assistance to develop, monitor and oversee progress under this Agreement.
- b. Assign a T/LPA Construction Liaison Engineer to oversee the Project for Federal funding compliance.
- c. Timely process accepted requests for reimbursement.

6. Both Parties Agree:

Upon termination of this Agreement, the Public Entity shall account for any remaining property, materials or equipment that belongs to the Department, and dispose of it as directed by the Department.

7. Project Responsibility:

The Public Entity is solely responsible for ensuring that the Project is carried out to completion. The improvements and services required under this Agreement shall remain the full responsibility of the Public Entity unless stated otherwise in this agreement.

8. Public Entity Sole Jurisdiction:

Unless otherwise specified in this agreement the Department is not incorporating this Project into the State Highway System and ownership of the project shall remain with the Public Entity.

9. Legal Compliance:

The Public Entity shall comply with all applicable federal, state and local laws and regulations, and applicable Department policies in the performance of this Agreement. These laws include, but are not limited to: FHWA memorandums; Authorization to proceed and project monitoring at 23 CFR Part 630.106; Agreement provisions at 23 CFR Part 630.112; Project approval and oversight at 23 U.S.C. § 106 [as amended by SAFETEA-LU section 1904]; Single Audit Act Amendments of 1996 (P.L. 104-156)/OMB Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations; Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments, 49 CFR Part 18; Titles VI and VII of the Civil Rights Act of 1964 and related statutes; Disadvantaged Business Enterprise Program, 49 CFR Part 26; External Equal Opportunity/Contractor Compliance Program, including On-the-Job training requirements, 23 CFR Part 230; the Americans with Disabilities Act, 42 §§ 12101-12213 and 28 CFR Parts 35 and 36; the Federal Funding Accountability and Transparency Act of 2006 (Pub. L. 109-282), as amended by section 6202 of Public Law 110-252; 2 CFR Part 170; and 2 CFR Part 25.

Additionally, the Public Entity shall comply with all applicable federal, state and local laws and regulations governing environmental issues, workplace safety, employer-employee relations and all other laws and regulations governing operation of the workplace. The Public Entity shall ensure that the requirements of this compliance are made a part of each contract and subcontract on this Project at all tiers.

10. Federal Grant Reporting Requirements:

Under the Federal Funding Accountability and Transparency Act, the Department is required to report on projects or activities, which are awarded federal grants of \$25,000 or more. This information will be made available to the public on www.USASpending.gov. For this reporting Public Entity is the “subgrantee”.

The type of information the Department is required to report includes:

- a. Name of subgrantee receiving the award;
- b. Amount of award;
- c. Funding Agency;
- d. NAICS code for contracts or the Catalog of Federal Domestic Assistance program number for grants;
- e. Program source;
- f. Award title descriptive of the purpose of the funding action;
- g. Location of the subgrantee, which includes the Congressional District;
- h. Place of performance of the program or activity, which includes the Congressional District;
- i. Unique identifier – DUNS -- of the subgrantee and its parent organization, if one exists; and,
- j. Total compensation and names of the top five executives of the subgrantee. This information is required, if the subgrantee in the preceding year received eighty (80) percent or more of its annual gross revenues in federal awards, which exceeds \$25 million annually, and the public has no access to this information under the Securities Exchange Act or the Internal Revenue Code.

The Department will extract as much information as possible from the Public Entity's grant application and standard reports. As specified in Section 4, Paragraph r, the subgrantee will be required to provide the total compensation and names of the subgrantee's top five executives, if applicable, and shall register with www.sam.gov and DUNS and provide that information to the Department.

More information on the Transparency Act may be located via the following links: <http://edocket.access.gpo.gov/2010/pdf/2010-22705.pdf>; and, <http://edocket.access.gpo.gov/2010/pdf/2010-22706.pdf>.

11. Disadvantaged Business Enterprise (DBE) Program:

- a. DBE Goal Setting – In accordance with 49 CFR Part 26, The Department establishes an overall state DBE goal tri-annually. In the event the Department assigns a project specific DBE goal, the Public Entity is required to meet that goal through its contractors or demonstrate good faith efforts. The Public Entity shall ensure that DBE provisions and goals are included in its invitations to bid and resulting contracts. DBE payment and utilization information shall be tracked through the B2Gnow software.
- b. Record Keeping Responsibilities – The Public Entity shall appoint a DBE liaison officer and assure that its officer completes and submits required Program forms and information to the Department's Office of Equal Opportunity Programs (OEOP). The OEOP can be contacted as follows:

New Mexico Department of Transportation
OEOP
Aspen Plaza, Suite 201
1596 Pacheco Street
Santa Fe, New Mexico 87505
Phone: 1-800-544-0936 or 505-827-1774
Fax: 505-827-1779

- c. Sanctions – Compliance with the DBE provisions is mandatory. Failure to comply will be treated as a violation of this Agreement. Furthermore, if the Public Entity fails to comply with the DBE provisions, the Department may impose sanctions as provided in 49 CFR Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. § 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. §§ 3801, et seq.).
- d. Required Contract Assurance: Each contract Department signs with the Public Entity Contractor and each subcontract the Public Entity Contractor signs with a contractor or subcontractor must include the following assurance: "The contractor, sub-recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Contract. The contractor shall carry out applicable requirements of 49 CFR 26 in the award and administration of USDOT-assisted contracts". Failure by the contractor to carry out these requirements is a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy, as the NMDOT deems appropriate.

- e. Provision of DBE Program Information: The Public Entity contractor shall provide any DBE related information or data to the District's T/LPA Coordinator or the Department's Office of Equal Opportunity Programs, including but not limited to lists of quoters and DBE monthly participation forms, as required or upon request.

12. Title VI Program Obligations:

- a. Public Entity Assurances – Each contract the Public Entity enters into with a construction contractor, design consultant, other consultant or recipient on a project assisted by the United States Department of Transportation (USDOT), and any subcontract thereto, shall include the assurances contained in **Appendix C**.
- b. The Public Entity shall sign and submit the attached Appendix C (Equal Employment Opportunity (EEO) and Title VI Program Recipient Assurances) to the Department's Office of Equal Opportunity Programs as identified within the Appendix. By signing **Appendix C**, assurance is given in consideration of and for the purpose of obtaining any and all federal grants, loans, contracts, property, discounts or other federal financial assistance extended after the date hereof to the Public Entity.
- c. The Public Entity shall require recipients to sign and submit the attached Appendix C (Equal Employment Opportunity (EEO) and Title VI Program Recipient Assurances) to the Department's Office of Equal Opportunity Programs as identified within the Appendix for each contract the Public Entity enters into with a construction contractor, design consultant, other consultant or recipient on a USDOT-assisted project, and any subcontract thereto.

13. Third Party Beneficiary:

No provision of this Agreement creates in the public, or any member thereof, a third-party beneficiary nor authorizes anyone not a party to the Agreement to maintain a suit(s) for wrongful death(s), bodily and/or personal injury(ies) to person(s), damage(s) to property(ies), and/or any other claim(s) whatsoever pursuant to the provisions of this Agreement.

The Department will not be a party to any claim between Public Entity and their designated contractor or subcontractor at any tier.

14. New Mexico Tort Claims Act:

No provision of this Agreement establishes any waiver of immunity from liability for alleged tortious conduct of any employee of the Department or the Public Entity arising from the performance of this Agreement apart from that set forth in the New Mexico Tort Claims Act, NMSA 1978, §§ 41-4-1, et seq.

15. Office of Inspector General Reviews:

The Public Entity shall provide to all bidders the reporting and oversight requirements that they are bound to from the time of bid submission. The following provisions must be included in all prime contracts, subcontracts, and other contracts for services for a federally-funded project.

- a. Inspector General Reviews. Any Inspector General of a federal department or executive agency shall review, as appropriate, any concerns raised by the public about specific

investments using federal funds. Any findings of such reviews not related to an ongoing criminal proceeding shall be relayed immediately to the head of the department or agency concerned.

- b. Access of Offices of Inspector General to Certain Records and Employees. With respect to each contract or grant awarded using federal funds, any representative of an appropriate Inspector General appointed under the Inspector General Act of 1978, 5 U.S.C. App. §§ 3 or 8G, is authorized to examine any records of the contractor or grantee, any of its subcontractors or sub-grantees, or any state or local agency administering such contract, that pertain to, and involve transactions relating to, the contract, subcontract, grant, or sub-grant; and to interview any officer or employee of the contractor, grantee, sub-grantee, or agency regarding such transactions.
1. Allow access by the Government Accountability Office Comptroller General and his representatives to examine any records of the contractor or any of contractor's subcontractors, or any state or local agency administering such contract that directly pertain to, and involve transactions relating to, the contract or subcontract.
 2. Allow the Comptroller General and his representatives to interview any officer or employee of the contractor or any of contractor's subcontractors, or of any state or local government agency administering the contract, regarding such transactions.
 3. Nothing in this section shall be interpreted to limit or restrict in any way any existing authority of an Inspector General.
- c. New Mexico Department of Transportation/Office of Inspector General. As specified in New Mexico State Transportation Commission Policy Number 30 (CP-30), dated June 2006, has the authority to carry out all duties required. The duties are the same as those specified in Federal Law: Office of Inspector General, 23 U.S.C. §302 (the capability to carry out the duties required by law); 23 U.S.C. §112 (contracting for engineering and design services); the review of Federal-aid construction contracts references; 23 U.S.C. § 106 (project approval); 23 U.S.C. § 112 (letting of contracts); 23 U.S.C. § 113 (prevailing rate of wage); 23 U.S.C. § 114 (construction); 23 CFR Parts 635 and 636 (design build); 23 CFR Part 637 (construction inspection approval); the State Departments of Transportation are responsible for ensuring that all federal-aid projects are carried out in accordance with federal requirements. This responsibility was specifically clarified in 23 U.S.C. § 106, as amended by Section 1904(a) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU, Public Law 109-59).

16. Access to Records, Accountability of Receipts and Disbursements:

There shall be strict accountability for all receipts and disbursements. The Public Entity shall maintain all records and documents relative to the Project for five years after completion. Project files should be kept in accordance with the Department's "Office Procedures Manual" current edition. The Public Entity shall furnish the Department, State Auditor, or appropriate Federal Auditors, upon demand, any and all records relevant to this Agreement for auditing purposes. If an audit determines that a specific expense was inappropriate or not related to the Project, the Public Entity shall reimburse that portion to the Department within thirty (30) days of written notification. If documentation is insufficient to support an audit by customarily accepted accounting practices, the expense identified shall be reimbursed to the Department within thirty (30) days of written notification.

17. Appropriation

The terms of this Agreement are contingent upon sufficient appropriations and authorizations being made by the State Legislature, or the Congress of the United States, if federal funds are involved. If sufficient appropriations and authorizations are not made, this Agreement shall terminate upon written notice given by the Department to the Public Entity. The Department is expressly not committed to expenditure of any funds until such time as they are programmed, budgeted, obligated by FHWA, encumbered, and approved for expenditure by the Department. The Department's decision as to whether its funds are sufficient for fulfillment of this Agreement shall be final.

18. Scope of this Agreement:

This Agreement constitutes the entire Agreement between the Parties. Any claimed covenant, term, condition, warranty or promise of performance not expressly included in this document or its amendments, is not part of this Agreement and not enforceable pursuant to this Agreement. Performance of all duties and obligations herein shall conform with and shall not contravene any state, local, or federal statutes, regulations, rules, or ordinances.

19. Severability:

In the event that any portion of this Agreement is determined to be void, unconstitutional, or otherwise unenforceable, the remainder of this Agreement shall remain in full force and effect.

20. Term:

This Agreement becomes effective upon signature of all parties. The effective date is the date when the last party signed the Agreement on the signature page below. This Agreement shall terminate on **September 30, 2017**. Neither party shall have any obligation after said date except as stated in Sections 7 and 16 above.

21. Termination:

This Agreement shall terminate on **September 30, 2017**. Neither party shall have any obligation after said date unless otherwise provided in this agreement.

- a. The Department may terminate this Agreement if the funds identified in Section Two have not been contractually committed between the Public Entity and a contractor.
- b. The Department will review inactive projects on a quarterly basis. An inactive project is a project for which no expenditures have been charged against federal funds for the past three (3) months.
- c. If the Department determines a project to be inactive, the Department may, as directed by FHWA, redirect the unexpended balance pursuant to 23 CFR Part 630.106.
- d. The Department may, at its option, terminate this Agreement if the Public Entity fails to comply with any provision of this Agreement. By such termination, neither party may nullify obligations already incurred for performance or failure to perform prior to termination of the Agreement.

22. Principal Contacts and Notices:

The principal contacts for this Agreement are listed below. Except as otherwise specified, all notices shall be in writing (including notice by facsimile or E-mail) and shall be given to the principal contacts listed below.

South Region T/LPA Coordinator

Jesus Sandoval, P.E.
T/LPA Coordinator
New Mexico Department of Transportation
750 N. Solano Drive
Las Cruces, New Mexico 88001
Office: 575-525-7336
E-mail: Jesus.sandoval@state.nm.us

District T/LPA Coordinator

Alden Elwess
TSE
New Mexico Department of Transportation
2912 East Pine Street
Deming, New Mexico 88030
Office: 575-544-6554

Public Entity

Louis Grijalva
Projects Development Administrator
City of Las Cruces
P.O. Box 20000
Las Cruces, New Mexico 88004
Office: 575-528-3479
E-mail: lhg@las-cruces.org

23. Amendment

This Agreement shall not be altered, modified, supplemented, or amended except by an instrument in writing and executed by the Parties.

In witness whereof, the Parties have set their hands and seal the day and year set forth below.

NEW MEXICO DEPARTMENT OF TRANSPORTATION

By: 
Cabinet Secretary or Designee

Date: 8/12/15

REVIEWED AND APPROVED AS TO FORM AND LEGAL SUFFICIENCY BY THE DEPARTMENT'S OFFICE OF GENERAL COUNSEL

By: 
Assistant General Counsel

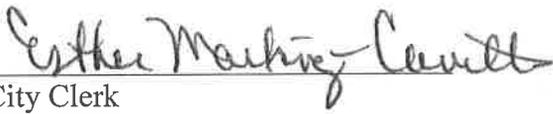
Date: 3-24-15

CITY OF LAS CRUCES

By: 
~~Mayor~~ City Manager

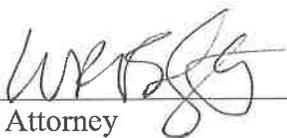
Date: 4-3-15

ATTEST

By: 
City Clerk

Date: 4-9-15

APPROVED AS TO FORM BY THE CITY OF LAS CRUCES ATTORNEY

By: 
City Attorney

Date: 2 April 2015

Construction Phase Duties and Obligations

1. The Public Entity shall be responsible for all construction engineering; including project supervision, surveying, inspection, and testing. The Public Entity shall comply with the current edition of the Department's Specifications, Construction Procedures Handbook for Federal-Aid Local Government Projects, the New Mexico Transportation Departments Office Procedures Manual, and the Department's Tribal/Local Public Agency Handbook.
2. Mix designs, price reduction guidelines, daily production, and test reports shall be pursuant to the Department's or the Public Entity's established procedures as approved by the Department, depending on the governing specifications. The American Standard Testing Method equivalents of the American Association of State Highway and Transportation Officials test methods are acceptable. Technician and Training Certification Program (TTCP) procedures are acceptable.
3. The Department's Minimum Acceptance Testing requirements, as identified in the Department's Construction Procedures Handbook for Federal Aid Local Government Projects shall be adhered to.
 - a. The Public Entity's lab personnel or consultant may perform project acceptance testing of materials in accordance with the Public Entity's procedures and requirements, if approved by the Department. All test reports shall be available for review by the Department and FHWA (if applicable).
 - b. Independent assurance testing is required and is the sole responsibility of the Public Entity and shall be done by an independent lab not responsible for acceptance testing. Periodic independent assurance testing may be conducted by the Department's District personnel to ensure material and construction compliance.
 - c. The Department maintains a listing of pre-approved independent testing assurance labs, which may be used by the Public Entity or the Public Entity's consultant for independent assurance testing, aggregate source acceptance, and concrete mix designs, relative to equipment and procedures used by the Public Entity and/or their consultant.
 - d. The Public Entity's Engineer or the Public Entity's consultant shall certify that all materials incorporated into the project meet or exceed the specification requirements. The Minimum Acceptance Requirements are available on the Department's external website.
 - e. All personnel doing sampling and testing for Acceptance/Independent Assurance on federally funded projects shall have current certifications by the Technical Training and Certificate Program.
4. The Public Entity Engineer or Public Entity consultant shall certify with each reimbursement request that the Certificates of Compliance are on file with the Public Entity Engineer's Office and Public Entity consultant's office, for products and materials incorporated into the Project and for the quantities shown on the progress payment estimate. The Department may periodically conduct an audit of the Certificates of Compliance pursuant to Section 106.4 of the Department's Standard Specifications. Department personnel may occasionally check the Public Entity's procedures for handling of all Certificates of Compliance.
5. The Public Entity Engineer or Public Entity consultant shall certify with each reimbursement request that the items shown on the estimate have been completed and accepted in accordance with the contract requirements.
6. The Department may periodically audit the Public Entity's source documents for each project. The Department's established guidelines shall be used to prepare the Source Document Books.

Department or FHWA (if applicable) personnel may periodically review the Public Entity's procedures for documentation.

7. Change Orders:
 - a. Changes to conform to the field conditions may be warranted; however, these changes shall be discussed with and approved by the Department prior to implementation, in accordance with the Department's Change Order Procedures. The change order shall be submitted soon thereafter to the Project Manager. All decreases/increases shall be documented on factor sheets, which may be obtained from the Department and attached to the change order. No payment shall be made for additional quantities until the Department approves the change orders.
 - b. "Extra Work" for which there is no unit bid price shall be negotiated and the price shall be supported by a cost breakdown, the Department's average unit bid price, or the Public Entity's average unit price list on comparable projects. "Extra Work" shall not be performed unless approved by the Department and approved by FHWA, if participation is requested. If, "Extra Work" cannot be negotiated by the preceding manner, then the contractor may be required to do similar work on a "Force Account" basis as per the Department's specifications.
 - c. Change orders for non-participating work shall be submitted to the Department for review and approval. If the work impacts the scope of work, contract time in excess of pro-rated time, and/or additional contracted funds, it shall require Department approval.
8. The Public Entity shall identify a Project Manager to the Department as the single point of contact for all communications to and from the Department and shall be in charge of the Project.
9. The Public Entity's Project Manager shall keep the Department's District T/LPA Coordinator routinely apprised of the Project's progress and important issues concerning the Project, and send copies of all pertinent correspondence on a monthly basis.

Title VI Nondiscrimination Assurances For FHWA Recipients

The _____ (Title of Recipient) (hereinafter referred to as the "Recipient") HEREBY AGREES THAT as a condition to receiving any Federal financial assistance from the Department of Transportation (the Federal Highway Administration), it will comply with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d-42 U.S.C. 2000d-4 (hereinafter referred to as the Act), and all requirements imposed by or pursuant to Title 49, Code of Federal Regulations (CFR), Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, Title 23 Code of Federal Regulations, Part 200, Title VI Program and Related Statutes – Implementation and Review Procedures (hereinafter referred to as the Regulations) and other pertinent nondiscrimination authorities and directives, to the end that in accordance with the Act, Regulations, and other pertinent nondiscrimination authorities and directives, no person in the United States shall, on the grounds of race color, or national origin, sex (23 USC 324), age (42 USC 6101), disability/handicap (29 USC 790) and low income (Executive Order 12898) be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Recipient receives Federal financial assistance from the Department of Transportation, including the Federal Highway Administration, and HEREBY GIVES ASSURANCE THAT it will promptly take any measures necessary to effectuate this Agreement. This assurance is required by Title 49 Code of Federal Regulations, subsection 21.7(a)(1) and Title 23 Code of Federal Regulations, section 200.9(a) (1) of the Regulations.

More specifically and without limiting the above general assurance, the Recipient hereby gives the following specific assurances with respect to its (Name of Appropriate Program):

1. That the Recipient agrees that each "program" and each "facility as defined in 49 CFR subsections 21.23(e) and (b) and 23 CFR 200.5(k) and (g) of the Regulations, will be (with regard to a "program") conducted, or will be (with regard to a "facility") operated in compliance with all requirements imposed by, or pursuant to, the Regulations.
2. That the Recipient shall insert the following notification in all solicitations for bids for work or material subject to the Regulations and made in connection with all (Name of Appropriate Program) and, in adapted form in all proposals for negotiated agreements:

The (Recipient), in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C 2000d to 2000d-4 and Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office the Secretary, Part 21, Nondiscrimination in Federally - assisted programs of the Department of Transportation and Title 23 Code of Federal Regulations, Part 200, Title VI Program and Related Statutes, issued pursuant to such Acts, hereby notifies all bidders that it will affirmatively insure that in any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, national origin, sex, age, disability/handicap and low income in consideration for an award.

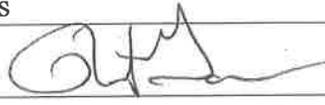
3. That the Recipient shall insert the clauses of Appendix C of this assurance in every contract subject to the Acts and the Regulations.
4. That the Recipient shall insert the clauses of Appendix C of this assurance, 'as a covenant running with the land, in any deed from the United States effecting a transfer of real property, structures, or improvements thereon, or interest therein.
5. That where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, the assurance shall extend to the entire facility and facilities operated in connection therewith.
6. That where the Recipient receives Federal financial assistance in the form, or for the acquisition of real property or an interest in real property, the assurance shall extend to rights to space on, over or under such property.
7. That the Recipient shall include the appropriate clauses set forth in Appendix C of this assurance, as a covenant running with the land, in any future deeds, leases, permits, licenses, and similar agreements entered into by the Recipient with other parties: (a) for the subsequent transfer of real property acquired or improved under (Name of Appropriate Program); and (b) for the construction or use of or access to space on, over or under real property acquired, or improved under (Name of Appropriate Program).
8. That this assurance obligates the Recipient for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property or interest therein or structures or improvements thereon, in which case the assurance obligates the Recipient or any transferee for the longer of the following periods: (a) the period during which the property is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or (b) the period during which the Recipient retains ownership or possession of the property.
9. The Recipient shall provide for such methods of administration for the program as are found by the Secretary of Transportation or the official to whom he delegates specific authority to give reasonable guarantee that it, other recipients, subgrantees, contractors, subcontractors, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Act, the Regulations and this assurance.
10. The Recipient agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Act, the Regulations, and this assurance.

THIS ASSURANCE is given in consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts, property, discounts or other Federal financial assistance extended after the date hereof to the Recipient Department of Transportation under the (Name of Appropriate Program) and is binding on it, other recipients, subgrantees, contractors, subcontractors, transferees, successors in interest and other participants in the (Name of Appropriate Program).

The person or persons whose signatures appear below are authorized to sign this assurance on behalf of the Recipient.

Date: _____ Project Control Number: LC00130

Recipient Name: City of Las Cruces

Signature of Authorized Official: 

Print Name: ROBERT L. GARZA, P.E Title: CITY MANAGER

Phone: 575-541-2076 E-mail: rgarza@las-cruces.org

This Appendix should be signed and mailed to the following:
New Mexico Department of Transportation
OEOP
Aspen Plaza, Suite 201
1596 Pacheco Street
Santa Fe, New Mexico 87505
Phone: 1-800-544-0936 or 505-827-1774
Fax: 505-827-1779

During the performance of this contract, the contractor, for itself, its assignees and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

1. **Compliance with Regulations:** The contractor shall comply with the Regulation relative to nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation (hereinafter, "UsDOT") Title 49, Code of Federal Regulations, Part 21, and the Federal Highway Administration (hereinafter "FHWA") Title 23, Code of Federal Regulations, Part 200 as they may be amended from time to time, (hereinafter referred to as the "Regulations"), which are herein incorporated by reference and made a part of this contract.
2. **Nondiscrimination:** The Contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, or national origin, sex, age, and disability/handicap and low income in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by 49 CFR, section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
3. **Solicitations for Subcontractors, Including Procurements of Materials and Equipment:** In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin, sex, age, and disability/handicap and low income.
4. **Information and Reports:** The contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the (Recipient) or the FHWA to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information the contractor shall so certify to the (Recipient), or the FHWA as appropriate, and shall set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, the (Recipient) shall impose such contract sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:
 - a. withholding of payments to the contractor under the contract until the contractor complies, and/or
 - b. cancellation, termination or suspension of the contract, in whole or in part.
6. **Incorporation of Provisions:** The contractor shall include the provisions of paragraphs (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.

The contractor shall take such action with respect to any subcontract or procurement as the (Recipient) or the FHWA may direct as a means of enforcing such provisions including sanctions for non-compliance: Provided, however, that, in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request the (Recipient) to enter into such litigation to protect the interests of the (Recipient), and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

The following clauses shall be included in any and all deeds effecting or recording the transfer of real property, structures or improvements thereon, or interest therein from the United States.

(GRANTING CLAUSE)

NOW, THEREFORE, the U.S. Department of Transportation, as authorized by law, and upon the condition that the (Name of Recipient) will accept title to the lands and maintain the project constructed thereon, in accordance with (Name of Appropriate Legislative Authority), the Regulations for the Administration of (Name of Appropriate Program) and the policies and procedures prescribed by FHWA, also in accordance with and in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the Department of Transportation and Title 23 Code of Federal Regulations, Part 200, Title VI Program and Related Statutes (hereinafter referred to as the Regulations) pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. 2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the (Name of Recipient) all the right, title and interest of the Department of Transportation in and to said lands described in Exhibit "___" attached hereto and made a part hereof.

(HABENDUM CLAUSE)

TO HAVE AND TO HOLD said lands and interests therein unto (Name of Recipient) and its successors forever, subject, however, to the covenants, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and shall be binding on the (Name of Recipient), its successors and assigns.

The (Name of Recipient), in consideration or the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that (1) no person shall on the grounds of race, color, or national origin, sex, age, and disability/handicap, and low income be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on over or under such lands hereby conveyed [and]* (2) that the (Name of Recipient) shall use the lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, Title 23 Code of Federal Regulations, Part 200, Title VI Program and Related Statutes – Implementation and Review

* Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to effectuate the purposes of Title VI of the Civil Rights Act of 1964.

Procedures, and as said Regulations may be amended and (3) that in the event of breach of any of the above-mentioned nondiscrimination conditions, the Department shall have a right to re-enter said lands and facilities on said land, and the above described land and facilities shall thereon revert to and vest in and become the absolute property of the Department of Transportation and its assigns as such interest existed prior to this instruction. *

The following clauses shall be included in all deeds, licenses, leases, permits, or similar instruments entered into by the (Name of Recipient) pursuant to the provisions of Assurance 7(a).

The (grantee, licensee, lessee, permittee, etc., as appropriate) for himself, his heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree [in the case of deeds and leases add "as a covenant running with the land"] that in the event facilities are constructed, maintained, or otherwise operated on the said property described in this (deed, license, lease, permit, etc.) for a purpose for which a Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, Title 23 Code of Federal Regulations, Part 200, Title VI Program and Related Statutes – Implementation and Review Procedures, and as said Regulations may be amended.

[Include in licenses, leases, permits, etc.]*

That in the event of breach of any of the above nondiscrimination covenants, (Name of Recipient) shall have the right to terminate the [license, lease, permit, etc.] and to re-enter and repossess said land and the facilities thereon, and hold the same as if said [licenses, lease, permit, etc.] had never been made or issued.

[Include in deed.]*

That in the event of breach of any of the above nondiscrimination covenants, (Name of Recipient) shall have the right to re-enter said lands and facilities thereon, and the above described lands and facilities shall thereupon revert to and vest in and become the absolute property of (Name of Recipient) and its assigns.

The following shall be included in all deeds, licenses, leases, permits, or similar agreements entered into by (Name of Recipient) pursuant to the provisions of Assurance 7(b).

The (grantee, licensee, lessee, permittee, etc., as appropriate) for himself, his personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds, and leases add "as a covenant running with the land") that (1) no person on the ground of race, color, or national origin sex, age,

* Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to effectuate the purposes of Title VI of the Civil Rights Act of 1964.

disability/handicap, and low income shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over or under such land and the furnishing of services thereon, no person on the ground of, race, color, or national origin sex, age, disability/handicap, and low income shall be excluded from participation in, denied the benefits of, or be otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee, etc.) shall use the premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations. Department of Transportation, Subtitle A, Office of the Secretary. Part 21, Nondiscrimination in Federally-assisted programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, Title 23 Code of Federal Regulations, Part 200, Title VI Program and Related Statutes – Implementation and Review Procedures, and as said Regulations may be amended.

[Include in licenses, leases, permits, etc.]*

That in the event of breach of any of the above nondiscrimination covenants, (Name of Recipient) shall have the right to terminate the [license, lease, permit, etc.] and to re-enter and repossess said land and the facilities thereon, and hold the same as if said [license, lease, permit, etc.] had never been made or issued.

[Include in deeds]*

That in the event of breach of any of the above nondiscrimination covenants, (Name of Recipient) shall have the right to re-enter said land and facilities thereon, and the above described lands and facilities shall thereupon revert to and vest in and become the absolute property of (Name of Recipient) and its assigns.

* Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to effectuate the purposes of Title VI of the Civil Rights Act of 1964.

**CERTIFICATION OF COOPERATIVE AGREEMENT – CONSTRUCTION WORK
COMPLIANCE/COMPLETION**

I, _____, in my capacity as _____ of

_____ do hereby certify as follows:

That the State has complied with all the terms and conditions in the Agreement for

Control Number: LC00130

By: _____

Date: _____

Mayor or designee

When completed, please send Certification to:

Alden Elwess, TSE
New Mexico Department of Transportation
District 1
2912 East Pine Street
Deming, New Mexico 88030

Run Date: 08/07/2015
Run Time 16:28:45

U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION
FEDERAL-AID PROJECT MODIFICATION

Report: FMISD06A
Page 1

STATE: NEW MEXICO

PROJECT NO: LC00(130)

NO: 2

STATE PROJ. NO(S): LC00130

DESCRIPTION: LPA, From MP 0 to MP 1.72, El Paseo HSIP Project - Fr. University Ave to Main Street, Install Signs, Markings,
Raised Curb Medians

CLASSIFICATION OF PHASE OF WORK: PENG

THE PROJECT AGREEMENT FOR THE ABOVE-REFERENCED PROJECT ENTERED INTO BETWEEN THE UNDERSIGNED PARTIES AND EXECUTED BY THE DIVISION ADMINISTRATOR ON 06/16/2014 IS HEREBY MODIFIED AS FOLLOWS:

PROGRAM CODE	URBAN/ WITH		FORMER AMOUNT	REVISED AMOUNT
LS30		ESTIMATED TOTAL OF PROJECT	\$5,000.00	\$401,300.00
		FEDERAL FUNDS	\$4,632.00	\$361,302.00
		ADV CONSTRUCTION FUNDS	\$0.00	\$0.00
		PERCENT FEDERAL SHARE	92.64%	91.32%

STATE REMARKS:

REQUESTING 9 DAY LETTER-
ROW:6/26/15, RAILROAD:3/19/15, UTILITY:6/5/15, ITS:3/19/15.
ENV:3/14/13, ARCH:10/26/12. ONE SOLE SOURCE REQUEST.
0.00% DBE

This agreement is subject to the following award terms: <http://edocket.access.gpo.gov/2010/pdf/2010-22705.pdf> and <http://edocket.access.gpo.gov/2010/pdf/2010-22706.pdf>.

DIVISION REMARKS:

requested supporting documents - LM 6/6/14
Need End Date. LM 7.2.15

ALL OTHER TERMS AND CONDITIONS OF THE PROJECT AGREEMENT WILL REMAIN IN FULL FORCE AND EFFECT.

DEPARTMENT OF TRANSPORTATION

AVAILABLE FUNDS CERTIFIED BY:	JOLENE V. CASADOS	DATE:	07/16/2015
APPROVAL RECOMMENDED BY:	JOLENE V. CASADOS	DATE:	07/16/2015
APPROVED AND AUTHORIZED BY:	SEAN P. SANDOVAL	DATE:	07/17/2015

FEDERAL HIGHWAY ADMINISTRATION

APPROVAL RECOMMENDED BY:	LUIS F. MELGOZA	DATE:	08/06/2015
APPROVED AND AUTHORIZED BY:	LUIS F. MELGOZA	DATE:	08/06/2015
MODIFICATION APPROVED BY:	KIM L. SANCHEZ	DATE:	08/06/2015

Vedra

POSTED

AUG 11 2015

JC



195
State of New Mexico
Purchase Order

PO Number to be on all Invoices and Correspondence
Dispatch via Print

Department of Transportation

P O Box 1149
 Santa Fe NM 87504-1149
 United States

Vendor: 0000054342
 LAS CRUCES, CITY OF
 ATTN: ACCOUNTING
 P O BOX 20000
 LAS CRUCES NM 88004

Purchase Order 80500-0000224187	Date 08/17/2015	Revision	Page 1
Payment Terms Pay Now	Freight Terms FOB Destination	Ship Via Best Way	
Buyer Jolene Valerie Casados		Phone	

Ship To: 01 DISTRICT 1
 United States

Bill To: P O Box 1149
 Santa Fe NM 87504-1149
 United States

Origin: REQ ExclExcl #:

Line-Sch	Item/Description	Mfg ID	Quantity	UOM	PO Price	Extended Amt	Due Date
1- 1	LGU-Construction, 2015 Install signs, markings, raised curb medians and crosswalks from El Paseo (FL4537) from University Ave to Main Street, 10% State Match, add 2nd Distribution line on Voucher to Reduce Match (Reversal activity).		1.00	EA	396,300.00	396,300.00	08/11/2015
	80500-20100-9001010000-535300-55301- -HWALC00130- -116-50000						
	Schedule Total					<u>396,300.00</u>	
	Contract ID: D14851			Contract Line: 0			Release: 1
	Item Total					<u>396,300.00</u>	
	Total PO Amount					<u>396,300.00</u>	

Agency Approval - I certify that the proposed purchase represented by this document is authorized by and is made in accordance with all State (and if applicable Federal) legislation rules and regulation. I further certify that adequate unencumbered cash and budget expenditure authority exists for this proposed purchase and all other outstanding purchase commitments and accounts payable.

Authorized Signature

STATE OF NEW MEXICO
GENERAL SERVICES DEPARTMENT- PURCHASING DIVISION
TERMS AND CONDITIONS UNLESS OTHERWISE SPECIFIED

SPD-101A (07/92)

1. GENERAL: When the State Purchasing Agent issues a purchase document in response to the Vendors bid, a binding contract is created.
2. VARIATION IN QUANTITY: No variation in the quantity of any item called for by this order will be accepted unless such variation has been caused by conditions of loading, shipping, packing or allowances in manufacturing process, and then only to the extent, if any, specified elsewhere in this order.
3. ASSIGNMENT:
 - A: Neither the order, nor any interest therein, nor claim thereunder, shall be assigned or transferred by the Vendor, except as set forth in subparagraph 3B below or as expressly authorized in writing by the STATE PURCHASING AGENTS OFFICE. No such assignment or transfer shall relieve the Vendor from the obligations and liabilities under this order.
 - B: Vendor agrees that any and all claims for overcharge resulting from antitrust violations which are borne by the State as to goods, services, and materials purchased in connection with this bid are hereby assigned to the State.
4. STATE FURNISHED PROPERTY: State furnished property shall be returned to the state upon request in the same condition as received except for ordinary wear, tear, and modifications ordered hereunder.
5. DISCOUNTS: Prompt payment discounts will not be considered in computing the low bid. Discounts for payment within 20 days will be considered after the award of the contract. Discounted time will be computed from the date of receipt of the merchandise or invoice, whichever is later.
6. INSPECTION: Final inspection and acceptance will be made at the destination. Supplies rejected at the destination for non-conformance with specifications shall be removed, at the Vendors risk and expense, promptly after notice of rejection.
7. INSPECTION OF PLANT: The State Purchasing Agent may inspect, at any reasonable time, the part of the contractors, or any subcontractors plant or place of business, which is related to the performance of this contract.
8. COMMERCIAL WARRANTY: The Vendor agrees that the supplies or services furnished under this order shall be covered by the most favorable commercial warranties the Vendor gives to any customer for such supplies or services, and that the rights and remedies provided herein shall extend to the State and are in addition to and do not limit any rights afforded to the State by any other cause of this order. Vendor agrees not to disclaim warranties of fitness for a particular purpose or merchantability.
9. TAXES: The unit price shall exclude all State taxes.
10. PACKING, SHIPPING AND INVOICING:
 - A: The States purchase document number and the Vendors name, users name and location shall be shown on each packing and delivery ticket, package, bill of lading and other correspondence in connection with the shipment. The users count will be accepted by the Vendor as final and conclusive on all shipments not accompanied by a packing ticket.
 - B: The Vendors invoice shall be submitted in triplicate, duly certified and shall contain the following information: order number, description of supplies or services, quantities, unit prices and extended totals. Separate invoices shall be rendered for each and every complete shipment.
 - C: Invoices must be submitted to the using agency and NOT THE STATE PURCHASING AGENT.
11. DEFAULT: The State reserves the right to cancel all or any part of this order without cost to the State, if the Vendor fails to meet the provisions of this order and, except as otherwise provided herein, to hold the Vendor liable for any excess cost occasioned by the State due to the Vendors default. The Vendor shall not be liable for any excess costs if failure to perform the order arises out of causes beyond the control and without the fault or negligence of the Vendor, such causes include, but are not restricted to, acts of God or of the public enemy, acts of the State or of the Federal Government, fires, floods, epidemics, quarantine restrictions, strikes, freight embargos, unusually severe weather and defaults of subcontractors due to any of the above, unless the State shall determine that the supplies or services to be furnished by the subcontractor where obtainable from other sources in sufficient time to permit the Vendor to meet the required delivery scheduled. The rights and remedies of the State provided in this paragraph shall not be exclusive and are in addition to any other rights now being provided by law or under this order.
12. NON-COLLUSION: In signing this bid, the Vendor certifies he/she has not, either directly or indirectly, entered into action in restraint of free competitive bidding in connection with this proposal submitted to the State Purchasing Agent.
13. NON-DISCRIMINATION: Vendors doing business with the State of New Mexico must be in compliance with the Federal Civil Rights Act of 1964 and Title VII of that Act, Rev., 1979.
14. THE PROCUREMENT CODE: Sections 13-1-28 through 13-1-199 NMSA 1978 imposes civil and criminal penalties for its violation.
In addition, the New Mexico criminal statutes impose felony penalties for bribes, gratuities and kickbacks.
15. All bid items are to be NEW and most current production, unless otherwise specified.
16. PAYMENT FOR PURCHASES: Except as otherwise agreed to: late payment charges may be assessed against the user state agency in the amount and under the conditions set forth in section 13-14158 NMSA 1978.
17. WORKERS COMPENSATION: The Contractor agrees to comply with state laws and rules pertaining to workers compensation benefits for its employees. If the Contractor fails to comply with Workers Compensation Act and applicable rules when required to do so, this (Agreement) may be terminated by the contracting agency.
18. PAY EQUITY RECORDING: The Contractor agrees to comply with New Mexico Pay Equity reporting requirements as detailed in Executive Order 2009-049 Implementation Guidance available at <http://www.generalservices.state.nm.us/spd/guidance.pdf>



NEW MEXICO DEPARTMENT OF
TRANSPORTATION

June 29, 2015

Attention: T/LPA Region Coordinator

Jesus Sandoval, P.E. - South Region
750 North Solano Dr.
Las Cruces, NM 88001

Susana Martinez
Governor

Tom Church
Cabinet Secretary

Subject: Authorization Request

The following Tribal/ Local Projects are scheduled for Obligation:

Control Number	District
LC00130	1

Commissioners

Pete K. Rahn
Chairman
District 3

Please check if Certification Package has been reviewed and approved.

Construction Certification Package has been reviewed and approved by Region.

Ronald Schmeltz
Vice Chairman
District 4

A project agreement **WILL NOT** be Executed until this Authorization Request is received and has all signatures along with checkbox filled out. Once form is received Project will be obligated at FHWA.

Dr. Kenneth White
Secretary
District 1

T/LPA
Authorized Signature *Joseph Cordova*

Date 7-13-15

Butch Mathews
Commissioner
District 5

Region T/LPA
Authorized Signature *Shawn Kelly*

Date 7-14-15

Jackson Gibson
Commissioner
District 6

District T/LPA
Authorized Signature *Aldo J. Sivero*

Date 7-14-15

CLE T/LPA
Authorized Signature *Anna Kigin*

Date 6-30-15

CITY OF LAS CRUCES

Fund Summary

EXHIBIT "B"

Fund: 4212
DFA: 300

Fund Name: STATE GRANT STREET IMPROVEMTS
DFA Name: Capital Project Funds

	2015-16 Budget			%
	Adopted	Adjustment	Amended	Inc. / Dec.
<i>Beginning Balance</i>	\$ 79,534	0	79,534	0.00%
Resources				
Revenue	\$ 2,647,171	396,300	3,043,471	14.97%
Proceeds	0	0	0	0.00%
Transfers In	0	0	0	0.00%
Total Resources	\$ 2,647,171	396,300	3,043,471	14.97%
Expenditures				
Salaries & Benefits	\$ 0	0	0	0.00%
Operating Costs	0	0	0	0.00%
Capital Outlay	0	0	0	0.00%
Debt Service	0	0	0	0.00%
Grant / Projects	2,647,171	396,300	3,043,471	14.97%
Transfers Out	0	0	0	0.00%
Total Expenditures	\$ 2,647,171	396,300	3,043,471	14.97%
<i>Ending Balance</i>	\$ 79,534	0	79,534	0.00%



CITY OF LAS CRUCES
Revised Capital Improvements Program

FY 2016-21
9/8/2015

DEPARTMENTS	Project Title	FUNDED CAPITAL PROJECTS (\$) 2016	INFRASTRUCTURE CAPITAL IMPROVEMENT PLAN (\$)					Source / Cum Total *
			2017	2018	2019	2020	2021	
PUBLIC WORKS Public Works-Streets and Flood	2nd Street - Picoacho Ave to Hadley Ave			510,000	519,000	129,000	Flood Control, Sales Tax	
	3rd St - Picoacho Ave to Hadley Ave				519,000	390,000	Flood Control, Sales Tax	
	4th St - Picoacho Ave to Hadley Ave	661,600					Flood Control, Street Bonds	
	6th Street - Parker to Palmer				519,000		Flood Control, Sales Tax	
	6th Street - Picoacho Ave to Hadley Ave		550,000				Flood Control, Sales Tax	
	Amador/Melendres Signal				100,000		Flood Control, Sales Tax	
	Arlington Overlay - Triviz to Camino del Rex					825,000	Flood Control, Sales Tax	
	Beliamah Drive - Lees to Luna St	270,000				110,000	Flood Control, Sales Tax	
	Bencomo Lane - Clark Rd to western dead end	196,000		455,200			Legislative, Street Bonds	
	Box - Farney Ln to Desert Rose Ct						Legislative, Street Bonds	
	Boston Dr - Montana to Missouri				795,000		Flood Control, Sales Tax	
	Brown Road - Valley to Circle						Flood Control, Sales Tax	
	Brownlee Ave - Valley Dr to First St	210,000					Flood Control, Street Bonds	
	Calle del Sol - Brown to Avenida Blanco			174,200			Flood Control, Street Bonds	
	Cambridge Drive - Main to eastern dead end	480,000	3,500,000	180,200			Flood Control, Street Bonds	
	Camino Coyote- Public Safety Complex	5,591,753		50,000			Flood Control, Street Bonds, TIDD	
	Church and Water- Two-Way Conversion	50,000	50,000	50,000			NMDOT, Sales Tax, Flood Control	
	Clark Road - Burns In to Mayfield Rd						Flood Control, Street Bonds	
	Co-op match (pending council approval)			480,500			Flood Control, Street Bonds	
	Court Ave - Melendres to Water	546,467					Flood Control	
Crescent Drive - Farney to Apollo	756,000					Flood Control, Street Bonds		
Elks Dr- widening from Reina to Hatfield	78,000					Flood Control		
El Molino - Phase VII (Pond)	255,509					Local NMDOT, Sales Tax, Flood Control		
El Paseo Medians/Boulez Signal Improvements	357,345					State Grant		
El Paseo Safety Imp LC001306Main- Univ								
El Paseo/Idaho Intersection Improvements	205,200					948,000	Flood Control, Sales Tax	
El Prado Ave. - Brown Rd to Melendres						350,000	Flood Control, Street Bonds	
Ethel Ave-Alameda Blvd to Miranda						655,000	Flood Control, Sales Tax	
Evelyn Street p Madrid Ave to Ash St	205,000						Flood Control, Sales Tax	
Farney Lane - Espina to Main	960,000						Legislative, Street Bonds	
Flood Control Infrastructure		360,000	360,000	360,000	360,000	360,000	Flood Control	
Hadley Ave. - Raymond St to Mesilla St	522,600						Flood Control, Sales Tax	
Hadley Ave - Water to Armijo							Flood Control, Street Bonds	
Jody Drive - Richard Dr to Karen Ave				228,000			Flood Control, Sales Tax	
Karen Drive - Dona Ana Rd to east end	50,000	50,000	50,000	50,000	50,000	50,000	Flood Control, Sales Tax	
Land Acquisition - Flood Control Property	50,000						Legislative, Street Bonds	
Laverda Drive - Elks to South side of Sandhill Arroyo	246,400						Flood Control, Street Bonds	
Lees Drive - Idaho to Montana	522,900						Flood Control	
Madrid Ave Extension - Martha to Triviz				700,000			Flood Control, Street Bonds	
MAP match (pending council approval)	150,000	150,000	150,000	150,000	150,000	150,000	Sales Tax, Flood Control	
McFie Ave - Valley Dr to First St							820,000	Flood Control, Sales Tax
Med Park Ave - Idaho to West end	492,760						222,000	Flood Control, Sales Tax
Melendres Ave - Hadley to Las Cruces							730,000	Flood Control, Street Bonds
Melendres Ave- Hadley to Picoacho								Flood Control, Street Bonds
Metro Verde Volunteer Assessment District								
Mesquite/Tornillo Drainage		12,000,000					Bonds	
Midway Ave- Gas Line Rd to Mesa Dr		630,000		1,000,000			Flood Control, Sales Tax	
Miranda Ave- Parker Rd to Palmer Rd						240,000	Flood Control, Sales Tax	
Missouri Ave/Triviz Dr/Dan Roser Improvements	900,000		1,000,000	1,000,000	500,000		Flood Control, Street Bonds	
Overlays (various)	764,155	1,200,000	1,000,000	1,000,000	700,000	200,000	Sales Tax, Street Bonds, Flood Control, SAP	

CITY OF LAS CRUCES
Revised Capital Improvements Program

FY 2016-21
 9/8/2015

Project Title	FUNDED CAPITAL PROJECTS (\$) 2016	INFRASTRUCTURE CAPITAL IMPROVEMENT PLAN (\$)					Source / Cum Total *
		2017	2018	2019	2020	2021	
SCADA Rehabilitation	1,750,000	154,500	159,135	163,909	168,826	173,891	Rates
Street Improvement Project	1,500,000	1,639,091	1,688,263	1,738,911	1,791,078	1,844,811	Bonds
Street Utility Rehabilitation - WW Capital Improvements	1,591,350	100,000	100,000	100,000	100,000	100,000	Rates
WW Lake Hands Treat Plant Operations	100,000						Rates
WWTP Primary Clarifier	1,400,000	3,126,565	3,220,362	3,316,973	3,416,482	3,518,976	Bonds
WWTP Rehabilitation	3,035,500	5,045,156	5,192,760	5,344,793	5,501,386	5,662,678	Bonds
Total Other - Rehabilitation Projects	7,901,850						
Total Wastewater Rehab Projects	9,071,647	6,127,281	6,129,193	6,479,221	6,488,412	6,852,302	
Wastewater Development Projects							
Lift Station Upgrade WW	490,000	504,700	519,841	535,436	551,499	568,044	Impact Fees
New Interceptors	1,332,634	1,372,634	1,413,813	1,456,227	1,499,914	1,544,911	Impact Fees
SCADA Installations	20,600	21,218	21,855	22,510	23,165	23,881	Impact Fees
Total CIP Projects	1,843,234	1,898,552	1,955,508	2,014,173	2,074,599	2,136,837	
Septic Systems - NMED Grant (High Priority)	2,200,000	3,214,400	3,310,832	3,410,157	3,512,482	3,617,836	SAP
Septic Systems - NMED Grant (Powers Dr & Walls Ave)	401,029	284,109	292,632	301,411	310,454	319,767	SAP
Septic Systems - WW Capital Improvements (High Priority)	275,834						Rates/CRT
Water Reclamation - Booster & Pipe	2,100,000						Bonds
WWTP Laboratory	2,100,000	3,498,509	3,603,464	3,711,568	3,822,916	3,937,603	Bonds
Total Other Projects	7,076,681						
Total Wastewater Development Projects	8,920,117	5,397,061	5,558,972	5,725,742	5,897,514	6,074,440	
TOTAL WASTEWATER PROJECTS	17,991,864	11,524,322	11,688,166	12,204,963	12,383,927	12,928,741	
TOTAL UTILITIES	\$ 37,611,710	\$ 22,148,690	\$ 29,782,479	\$ 31,003,816	\$ 32,135,526	\$ 32,798,130	\$ 185,480,351
GRAND TOTAL	82,664,840	102,134,841	80,194,088	56,330,566	94,603,176	91,263,780	507,191,291

ABBREVIATIONS AND HIGHLIGHTING*

CDBG-Community Development Block Grant
 CIP-Capital Improvement Reserves
 CP-Council Priority
 FED-Federal Grant
 PIF-Park Impact Fees
 SAP-State Appropriations
 State-State Grants
 TBD-To be determined
 FLCM-Foundation for Las Cruces Museums
 ALTSD-Aging and Long-Term Services Department



City of Las Cruces[®]

PEOPLE HELPING PEOPLE

6

COUNCIL ACTION AND EXECUTIVE SUMMARY PACKET ROUTING SLIP

For Meeting of _____
(Ordinance First Reading Date)

For Meeting of September 8, 2015
(Adoption Date)

TITLE: A RESOLUTION AUTHORIZING THE CITY OF LAS CRUCES, TO ACCEPT THE COOPERATIVE PROJECT AGREEMENT – CONSTRUCTION WORK FROM THE NEW MEXICO DEPARTMENT OF TRANSPORTATION (NMDOT), FOR THE CONSTRUCTION OF THE EL PASEO ROAD SAFETY IMPROVEMENTS PROJECT IN THE AMOUNT OF \$396,300.00, TO RATIFY THE CITY MANAGER'S SIGNATURE ON THE GRANT AWARD DOCUMENT, AND TO ADJUST THE FY2016 BUDGET AND FY2016 CAPITAL IMPROVEMENT PROGRAM (CIP).

Purchasing Manager's Request to Contract (PMRC) {Required?} Yes No

DEPARTMENT	SIGNATURE	PHONE NO.	DATE
Drafter/Staff Contact Amy Johnson Bassford		541-2281	8/20/15
Public Works Director Loretta Reyes		528-3125	8/20/15
Financial Services Victoria Fredrick		541-2080	8/20/15
Management & Budget Manager Robert Lundien		541-2106	8/20/15
Assistant City Manager /CAO Mark Winson	RL mo	541-2100	8-24-15
Assistant City Manager/COO Daniel Avilla		541-2271	8-26-15
City Attorney Wm. "Rusty" Babington		541-2128	28 August 2015
Interim City Clerk Linda Lewis		541-2115	8/28/15