

48  
**City of Las Cruces**<sup>®</sup>  
 PEOPLE HELPING PEOPLE

**Council Action and Executive Summary**

Item #   2        Resolution#  10-119       Council District:   5  

For Meeting of October 26, 2009  
 (Adoption Date)

**TITLE:** A RESOLUTION APPROVING A MEMORANDUM OF UNDERSTANDING BY AND BETWEEN THE CITY OF LAS CRUCES AND THE BOARD OF EDUCATION OF LAS CRUCES PUBLIC SCHOOLS FOR CERTAIN CONTRACT ADMINISTRATION SERVICES RELATED TO THE CONSTRUCTION OF A NEW ELEMENTARY AND MIDDLE SCHOOL.

**PURPOSE(S) OF ACTION:** To approve a Memorandum of Understanding between the City of Las Cruces and Las Cruces Public Schools to facilitate the construction of public infrastructure for educational facilities located along Peachtree Hills Road and Jornada Road.

<b>Name of Drafter:</b> Cheryl Rodriguez <i>CR</i>		<b>Department:</b> Community Development		<b>Phone:</b> 528-3207	
<b>Department</b>	<b>Signature</b>	<b>Phone</b>	<b>Department</b>	<b>Signature</b>	<b>Phone</b>
Community Development	<i>DW</i>	528-3066	Budget	<i>Richard M. ...</i>	541-2107
			Assistant City Manager	<i>[Signature]</i>	541-2274
Legal	<i>[Signature]</i>	541-2128	City Manager	<i>[Signature]</i>	541-2076

**BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:**

The Las Cruces Public Schools (LCPS) submitted a petition for annexation for 162.734 ± acres of property located north of Peachtree Hills Road and west of Jornada Road. The proposed Peachtree Hills Annexation is primarily to facilitate the construction and operation of a new elementary school and a new middle school. The elementary school will accommodate approximately 600 students and the middle school will accommodate approximately 900 students.

The proposed annexation includes the entire right-of-way for two Metropolitan Planning Organization (MPO) designated thoroughfares: Peachtree Hills Road (Minor Arterial), and Jornada Road (Collector). Peachtree Hills Road through Sonoma Ranch Boulevard will be the primary access point for the elementary and middle schools. As Peachtree Hills Road and Jornada Road are unimproved roadways, LCPS will finance the pro-rata share of improvements to the two thoroughfares. The roadway improvements to Jornada Road will commence at the intersection of Jornada Road and Peachtree Hills Road and extend to the northern boundary of the annexation for approximately 2,700 feet. The roadway improvements to Peachtree Hills Road will commence at the intersection of Jornada Road and Peachtree Hills Road and extend west to the intersection of Peachtree Hills Road and Sonoma Ranch Boulevard.

In addition to roadway improvements, LCPS will also extend the necessary utilities to the subject property. The City of Las Cruces will be the sewer service provider. Rio Grande Natural Gas Association will be the gas provider. Moongate Water Company will serve as the water provider.

The required roadway and utility improvements will be done in concert with the construction of the new school facilities. On June 27, 2009 (see Attachment "A"), the LCPS formally requested that the City of Las Cruces act as the agent for construction management for the necessary roadway and utility infrastructure improvements to Peachtree Hills Road and Jornada Road. The school district further acknowledged in the formal request that the LCPS will assume all liability and responsibility for the costs associated with the roadway and utility infrastructure improvements.

In order to facilitate the formal request, it is necessary that the City of Las Cruces and LCPS enter into a Memorandum of Understanding (MOU) for contract administration services associated with the installation of public infrastructure. The MOU identifies that LCPS will provide (1) complete construction drawings in accordance with CLC Design Standards for roadway construction to Peachtree Hills Road from Sonoma Ranch Boulevard to Jornada Road and to Jornada Road north from Peachtree Hills Road for approximately 2,700 feet; (2) complete construction drawings in accordance with CLC Design Standards for utility construction for natural gas and sewer that includes the construction of a sewer lift station, force main, and gravity sewer line from Ortega Road to Peachtree Hills Road along the Jornada Road alignment; (3) complete cost estimate for construction work; (4) engineering services, as required, through project construction; and (5) all funds for design, construction, and administration of the project. The MOU also identifies that the CLC will provide (1) the procurement, in accordance with the CLC Procurement Code, for the construction of the improvements as identified in the paragraph above; and (2) the construction administration and inspection of the abovementioned improvements.

**SUPPORT INFORMATION:**

<b>Fund Name / Account Number</b>	<b>Amount of Expenditure</b>	<b>Budget Amount</b>
N/A	N/A	N/A

1. Resolution
2. Exhibit "A" – Memorandum of Understanding
3. Attachment "A" – June 27, 2009 letter from Las Cruces Public Schools

**OPTIONS / ALTERNATIVES:**

1. Vote YES to approve the Resolution. This action allows the two parties to execute a construction management agreement that stipulates the scope of services, specific responsibilities, expectations, schedules, services, and management procedures for the construction of public infrastructure associated with the educational facilities.
2. Vote NO to deny the Resolution. This action does not authorize the City of Las Cruces to provide contract administration services to LCPS for the construction of public infrastructure associated with the educational facilities.
3. Modify the Resolution and vote YES to approve the Resolution. This action will modify the Resolution as the City Council determines appropriate.
4. Table/Postpone the Resolution and direct staff accordingly.

RESOLUTION NO. 10-119**A RESOLUTION APPROVING A MEMORANDUM OF UNDERSTANDING BY AND BETWEEN THE CITY OF LAS CRUCES AND THE BOARD OF EDUCATION OF LAS CRUCES PUBLIC SCHOOLS FOR CERTAIN CONTRACT ADMINISTRATION SERVICES RELATED TO THE CONSTRUCTION OF A NEW ELEMENTARY AND MIDDLE SCHOOL.**

The City Council is informed that:

**WHEREAS**, the Las Cruces Public Schools has commenced construction of new elementary and middle school facilities located west of Jornada Road and north of Peachtree Hills Road, in an area that is proposed to be annexed into the Corporate boundary of the City of Las Cruces; and

**WHEREAS**, the Las Cruces Public Schools is allocating financial resources to the development of the elementary and middle school facilities, including the construction of public infrastructure to support these new educational facilities; and

**WHEREAS**, the City of Las Cruces has staff resources and technical expertise in contract administration for the construction of public infrastructure; and

**WHEREAS**, the Las Cruces Public Schools intends to engage the City of Las Cruces for contract administration services in support of the construction of educational facilities, more specifically those public improvements necessary to support the educational facilities; and

**WHEREAS**, the City of Las Cruces desires to manage and facilitate the construction of the public improvements in order to ensure their timely and efficient installation.

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

**(I)**

**THAT** the Memorandum of Understanding between the City of Las Cruces and the Board of Education of Las Cruces Public Schools, more particularly described in Exhibit "A," attached hereto and made a part of this Resolution, is hereby approved.

(II)

THAT the City Manager or Assistant City Manager is hereby authorized to execute a construction management agreement with the Board of Education of Las Cruces Public Schools.

(III)

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

DONE AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_ 2009.

APPROVED:

(SEAL)

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

VOTE:

Mayor Miyagishima: \_\_\_\_\_  
Councillor Silva: \_\_\_\_\_  
Councillor Connor: \_\_\_\_\_  
Councillor Archuleta: \_\_\_\_\_  
Councillor Small: \_\_\_\_\_  
Councillor Jones: \_\_\_\_\_  
Councillor Thomas: \_\_\_\_\_

Moved by: \_\_\_\_\_

Seconded by: \_\_\_\_\_

APPROVED AS TO FORM:

*[Signature]*  
\_\_\_\_\_  
Deputy City Attorney

**MEMORANDUM OF UNDERSTANDING BY AND BETWEEN  
THE CITY OF LAS CRUCES ("CITY") AND  
LAS CRUCES PUBLIC SCHOOLS ("LCPS") FOR CERTAIN CONTRACT  
ADMINISTRATION SERVICES RELATED TO THE  
CONSTRUCTION OF A NEW ELEMENTARY AND MIDDLE SCHOOL**

This Memorandum of Understanding is entered into pursuant to Section 11-1-1 et. Seq., NMSA 1978 the \_\_\_\_ day of \_\_\_\_\_, 2009 by and between the City Council of the City of Las Cruces, New Mexico, a Municipal Corporation under the laws of the State of New Mexico, herein known as City, and the Board of Education of Las Cruces Public Schools, herein known as LCPS.

WHEREAS, the LCPS has commenced construction of new elementary and middle school facilities("Project") located west of Jornada Road and north of Peachtree Hills Road, in an area that is proposed to be annexed into the Corporate boundary of the City; and,

WHEREAS, the LCPS is allocating financial resources to the development of the Project, including the construction of public infrastructure to support these new educational facilities; and,

WHEREAS, the LCPS, as part of the required site development for the Project, will be required, among other things, to construct right-of-way improvements, both adjacent to the new schools and off-site, including roadway and pedestrian systems, street lighting, drainage, signage, striping, and the extension of all utilities required of the newly constructed facilities ("Improvements"); and,

WHEREAS, the City has staff resources and technical expertise in contract administration for the construction of public infrastructure; and,

WHEREAS, the LCPS intends to engage the City for contract administration services in support of the Project, more specifically those Improvements necessary to support the Project; and,

WHEREAS, the City desires to manage and facilitate the construction of these Improvements in order to ensure their timely and efficient installation.

NOW, THEREFORE, the parties hereto agree as follows as concerns the "Improvements":

LCPS will provide the following:

1. Complete and City approved construction drawings, specifications, cost estimate, contract and bidding documents for the Improvements required for the Project consistent with the City's Design Standards, Development Codes and Policies.
2. Engineering services, as needed, throughout design, bidding, and construction of the Improvements.

3. All funding, without exception, necessary for the design, construction, and construction administration for the Project, including the reimbursement for all materials testing costs relating to soil, asphalt, and concrete necessary for contract compliance testing.

The City will provide the following:

1. Provide the LCPS Engineer the Contract and Bidding document boiler plate and construction drawings templates so the LCPS Engineer can compile the construction drawings and specifications for the Improvements into bid documents, consistent with the City's standard public bidding and procurement process.

2. Administration of the public bidding and contractor selection process for the Improvements.

3. Construction administration services for the Improvements to include construction management, inspection and materials testing.

FURTHER, the parties hereto agree that this Memorandum of Understanding will remain in full force and effect until such time as a construction management agreement is executed by the parties, stipulating the scope of services, specific responsibilities, expectations, schedules, services, and management procedures for the construction of certain public infrastructure as outlined herein.

**DONE AND APPROVED** this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

\_\_\_\_\_  
Mayor, City of Las Cruces

\_\_\_\_\_  
Board President, Las Cruces Public Schools

(SEAL)

ATTEST:

\_\_\_\_\_  
Approved As to Form:



MEMORANDUM OF UNDERSTANDING

Between : Las Cruces Public Schools and City of Las Cruces

MOU For: Administration of Construction Contract;

Roadway and Utility Construction, Peachtree Hills Road from Sonoma Ranch Blvd. to Jornada Road, and Jornada Road from Peachtree Hills Road, north approximately 2,700 feet. Utilities shall include natural gas, and sewer. Construction of sewer lift station, force main and gravity sewer line, (Ortega Road to Peachtree Hills Road, along the Jornada Road Alignment).

Items to be provided by Las Cruces Public Schools:

Complete construction drawings for the work described above. All designs shall conform to City of Las Cruces Design Standards.

Complete construction cost estimate for the work described above.

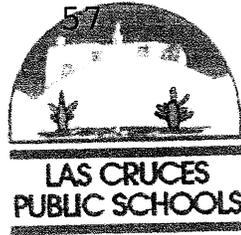
Engineering services as required, through project construction.

All funds for design, construction and administration of the project.

Items to be provided by City of Las Cruces:

Incorporation of construction drawings into complete bid documents, and administration of project bid, through City of Las Cruces procurement process.

Construction administration and inspection, in conformance with City of Las Cruces Public Works requirements.



**APPOINTMENT FOR COMPLIANCE**

The United States Department of the Interior, Bureau of Land Management is the owner of a 121.7 +/- acre parcel, located in Dona Ana County and more precisely; within the Southwest 1/4 of Section 10, Township 22, South, Range 2, East, New Mexico Principal Meridian. The parcel is currently under lease to Las Cruces Public Schools for the purposes of building a middle and elementary school. Once the school is fully constructed BLM intends to transfer ownership to LCPS. Since ownership of the afore described parcel will be transferred to LCPS, the BLM will allow Las Cruces Pubic Schools to act as it's agent for the purposes of complying with Chapters 37 and 38 of the City of Las Cruces Municipal Code.

**Approved By:**

Tom Landrum 5-28-09  
Bureau of Land Management Date

**Accepted By:**

[Signature] 5/28/09  
Las Cruces Public Schools Date

**ACKNOWLEDGEMENT**

**ACKNOWLEDGEMENT**

STATE OF NEW MEXICO  
COUNTY OF Dona Ana  
The foregoing instrument was acknowledged before me this

STATE OF NEW MEXICO  
COUNTY OF Dona Ana  
The foregoing instrument was acknowledged before me this

28 day of May, 2009  
by

28 day of May, 2009  
by [Signature]

(Notary Public)  
My commission expires: April 10, 2013

(Notary Public)  
My commission expires: April 10, 2013

[Signature]