

**ACTION SHEET
ITEM FROM FINANCE COMMITTEE MEETING OF 12/14/15
FOR CITY COUNCIL MEETING OF 01/13/16**

ISSUE:

20. Request for Approval of Grant Agreement and Award – Traffic & Criminal Software (TraCS) Project to Support Statewide Deployment of Tool and Records for Police Department; State of New Mexico Department of Transportation; and Approval of Budget Increase in the Amount of \$100,000. (Patrick Gallagher)

FINANCE COMMITTEE ACTION:

Approved as Discussion item.

FUNDING SOURCE: 22229.570500.560250.560200

SPECIAL CONDITIONS OR AMENDMENTS

STAFF FOLLOW-UP:

VOTE	FOR	AGAINST	ABSTAIN
COUNCILOR TRUJILLO	X		
COUNCILOR RIVERA	X		
COUNCILOR LINDELL	X		
COUNCILOR MAESTAS	X		
CHAIRPERSON DOMINGUEZ			

4-13-15

ACTION SHEET
ITEM FROM PUBLIC SAFETY COMMITTEE MEETING OF 12/15/15

ISSUE: Approval with a budget increase for the Police Grant fund Project agreement for the Traffic & Criminal Software (TraCS) project from the State of NM DOT

PUBLIC SAFETY COMMITTEE ACTION: Recommended to move to Council no Quorum

SPECIAL CONDITIONS OR AMENDMENTS:

STAFF FOLLOW UP:

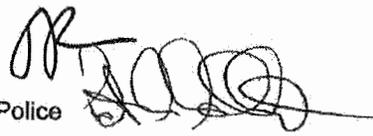
VOTE	FOR	AGAINST	ABSTAIN
CHAIRPERSON COUNCILOR DIMAS	Absent		
VICE-CHAIRPERSON HARRIS			
MEMBER DR. MIKE MIER			
MEMBER DR. NANCY OWEN-LEWIS	Absent		
MEMBER PETER MIZRAHI			
MEMBER MIKE BOWEN	Absent		
MEMBER ERIC JOHNSON	Absent		
MEMBER JOE ARENLLENO			
MEMBER			

DISK fc1/fcissue

City of Santa Fe, New Mexico

memo

DATE: December 4, 2015
TO: Finance Committee
VIA: Oscar Rodriguez, Finance Director
FROM: Patrick Gallagher, Interim Chief of Police



ITEM AND ISSUE:

Request acceptance, approval and budget increase to Police Grants Fund for Project Agreement #16-HE-64-PO1 and #16-HE-64-PO4 - Traffic & Criminal Software (TraCS) Project between the State of New Mexico Department of Transportation and the City of Santa Fe Police Department.

BACKGROUND AND SUMMARY:

The attached project agreement to the City of Santa Fe Police Department is from the New Mexico Department of Transportation. This project supports a statewide deployment of the Traffic and Criminal Software (TraCS) version 10 (or most recent release), an incident Location Tool and a Records Management System to law enforcement agencies. The agreement will allow the City of Santa Fe to provide law enforcement officers a uniform tool to automate crash reports, traffic citations, DWI citations, Offense Incident Reports and other reports as needed or required by the Department. It will also support data sharing to the Department crash database as mandated, improve customer service by improving the quality, accuracy, integrity, timeliness, completeness, consistency and accessibility for law enforcement agencies as well as reduce redundant data entry, thereby decreasing errors and creating efficiencies.

The agreement period begins after the authorized officials have signed and ends September 30, 2016. This request is to increase the Police Grants:

Equipment/Machinery #22229.570500	\$95,000
In State Travel #22229.560250	\$ 2,000
Out of State Travel #22229.560200	\$ 3,000 and
State Grants--NM Department of Transportation - Revenue #21229.490150	\$100,000.

REQUESTED ACTION:

Acceptance and approval of project agreement from the New Mexico Department of Transportation, Police Grants budget increase and submit to the City Council for approval.

:lav

GRANT AGREEMENT

This grant agreement is between the New Mexico Department of Transportation (the "Department") and Santa Fe Police Department (the "Grantee"). The Department and the Grantee agree as follows:

1. **Award.** The Department hereby awards the Grantee funding for the following project: Traffic & Criminal Software (TraCS); Project No's. 16-HE-64-P01 and 16-HE-64-P04; \$100,000.00
2. **Scope of Work.** The Grantee shall perform the professional services stated in exhibit A.
3. **Payment.** To be reimbursed for eligible expenses, the Grantee must submit timely, properly prepared reimbursement requests as provided in the Department's Traffic Safety Division Project Management and Accounting Procedures Manual. The Grantee acknowledges that the Department will not pay for any expenses incurred prior to both parties signing the agreement, after termination of the agreement, or in excess of the amount of the award noted in section 1. The Grantee must submit its final reimbursement request no later than thirty days after termination of this agreement.
4. **Records and Audit.** The Grantee shall strictly account for all receipts and disbursements related to this agreement. The Grantee shall record costs incurred, services rendered and payment received, and shall maintain these financial records during the agreement and for three years from the date of submission of the final reimbursement request. On request, the Grantee shall provide the financial records to the Department and the state auditor, and shall allow the Department and the state auditor to inspect or audit these financial records during business hours at the Grantee's principal office during the agreement and for three years from the date of submission of the final reimbursement request. If the financial records provided by the Grantee are insufficient to support an audit by customary accounting practices, the Grantee shall reimburse the Department for any expense incurred related to the insufficient documentation within thirty days of written notice from the Department. If an audit or inspection reveals that funds were used for expenses not directly related to the project, or otherwise used inappropriately, or that payments were excessive or otherwise erroneous, the Grantee shall reimburse the Department for those funds or payments within thirty days of written notice.
5. **Officials Not to Benefit.** The parties intend that no member of the New Mexico Legislature or the United States Congress, or any public official, public employee or tribal council member, in that person's individual capacity, will benefit from this agreement.
6. **Termination.** The Department may terminate this agreement for any reason, by giving the Grantee thirty days written notice. The Grantee may only terminate this agreement based on the Department's uncured, material breach of the agreement. On receipt of a "Notice

of Cancellation," the Grantee shall suspend work unless otherwise directed by the Department in writing. The parties acknowledge that termination will not nullify obligations incurred prior to termination.

7. **Appropriations.** The Grantee acknowledges that:

- (1) this agreement is contingent upon sufficient appropriations and authorizations being made by the Congress of the United States or the New Mexico state legislature;
- (2) if sufficient appropriations and authorizations are not made, this agreement will terminate upon written notice by the Department to the Grantee; and
- (3) the Department will not expend any funds until they are approved for expenditure, and the Department's determination as to whether approval has been granted will be final.

8. **Compliance with Law.** The Grantee, its employees, agents and contractors, shall comply with the following:

- (1) Title VI and Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, the Americans with Disabilities Act of 1990, the Environmental Justice Act of 1994, the Civil Rights Restoration Act of 1987, and 49 C.F.R. § 21;
- (2) all federal and state laws, rules, and regulations, and executive orders of the Governor of the state of New Mexico pertaining to equal employment opportunity, including the Human Rights Act, NMSA 1978, §§ 28-1-1 through -15 (In accordance with such, the Grantee states that no person, on the grounds of race, religion, national origin, sex, sexual orientation, gender identity, spousal affiliation, serious medical condition, age or handicap, will be excluded from employment with or participation in, denied the benefits of, or otherwise subjected to, discrimination in any activity performed under this agreement. If the Grantee it is found to be in violation of any of these requirements, the Grantee shall take prompt and appropriate steps to correct such violation.); and,
- (3) state laws applicable to workers compensation benefits for the Grantee's employees, including the Workers' Compensation Act, NMSA 1978, §§ 52-1-1 through -70, and related regulations.

9. **Notices.** For a notice under this agreement to be valid, it must be in writing; be delivered by hand, registered or certified mail return receipt requested and postage prepaid, fax or e-mail; and be addressed as follows:

For Department:
Anthony Apodaca
1120 Cerrillos Rd., SB-1 South
Santa Fe, NM 87505

For Grantee:
Sgt. Chris McCord
2515 Camino Entrada
Santa Fe, NM 87507

10. **Severability.** The parties intend that if any provision of this agreement is held to be unenforceable, the rest of the agreement will remain in effect as written.

11. **Tort Claims.** The parties intend that (1) immunity from liability for tortious conduct under NMSA 1978, § 41-4-4(A) will apply to all conduct relating to this agreement, (2) only the waivers of immunity from liability under NMSA 1978, §§ 41-4-4 through -12 will apply, and (3) this agreement does not waive immunity from liability for tortious conduct relating to this agreement of any employee of the Department or the Grantee.

12. **Jurisdiction and Venue.** The Grantee acknowledges the jurisdiction of the courts of the state of New Mexico for any adversarial proceeding arising out of this agreement, and that venue for any such proceeding will be in the First Judicial District Court for the county of Santa Fe, New Mexico.

13. **Project Responsibility.** The Grantee acknowledges that it bears sole responsibility for performing the services referred to in section 2.

14. **Term.** This agreement takes effect upon signature of all parties. If the Grantee does not deliver the signed agreement to the Department within sixty days of the Department's signature, the agreement will be voidable by the Department. The agreement terminates at midnight on September 30, 2016 unless earlier terminated as provided in section 6 or section 7.

15. **Applicable Law.** The laws of the state of New Mexico, without giving effect to its choice of law principles, govern all adversarial proceedings arising out of this agreement.

16. **Amendment.** No amendment of this agreement will be effective unless it is in writing and signed by the parties.

17. **No Third-party Beneficiary.** This agreement does not confer any rights or remedies on anyone other than the Department and the Grantee.

18. **Merger.** This agreement constitutes the entire understanding between the parties with respect to the subject matter of the agreement and supersedes all other agreements, whether written or oral, between the parties, except that this agreement does not supersede the Grantee's rights under any other grant agreement.

19. **Disadvantaged Business Enterprise.** The recipient shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR part 26. The recipient shall take all necessary and reasonable steps under 49 CFR part 26 to ensure *nondiscrimination in the award and administration of DOT-assisted contracts*. The recipient's DBE program, as required by 49 CFR part 26 and as approved by DOT, is incorporated by

reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the recipient of its failure to carry out its approved program, the Department may impose sanctions as provided for under 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.).

Each party is signing this agreement on the date stated opposite that party's signature.

DEPARTMENT OF TRANSPORTATION

Date: _____, 2015

By: _____
Cabinet Secretary or Designee

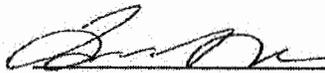
City of Santa Fe

Date: _____, 2015

By: _____
~~x City Manager or Designee~~ Mayor

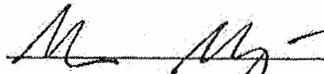
Approved as to form and legal sufficiency

Date: 12 Nov, 2015

By: 
Assistant General Counsel
Department of Transportation

Approved as to form and legal sufficiency

Date: 17 Nov, 2015

By: 
Counsel for City of Santa Fe

New Mexico Department of Transportation
Traffic and Criminal Software (TraCS) Version 10

APPROVED:

OSCAR RODRIGUEZ, FINANCE DIRECTOR
22229.490150

IN WITNESS WHEREOF, the parties have executed this Agreement on the dates set
forth below.

ATTEST:

YOLANDA Y. VIGIL, CITY CLERK

CC Meeting

Exhibit A

1. **Scope of Work.** This supports a statewide deployment of the Traffic and Criminal Software (TraCS) version 10 (or most recent release), an Incident Location Tool and a Records Management System to law enforcement agencies.

- (1) Provide law enforcement officers with a uniform tool to automate crash reports, traffic citations, DWI citations, Offense/Incident reports and other reports as needed or required by the Department.
- (2) Support data sharing to the Department crash database as mandated.
- (3) Create a list of essential business processes, business rules and data integrity requirements that will be needed to electronically transfer electronic citation and crash report data.
- (4) Establish a helpdesk for law enforcement users of TraCS.
- (5) Notify the Department's program manager of any changes in project coordinators.
- (6) Support NHTSA's and the Department's Comprehensive Transportation Safety Plan goals and strategies.
- (7) Improve customer service by improving the quality, accuracy, integrity, timeliness, completeness, consistency and accessibility for law enforcement agencies.
- (8) Enable electronic transfer of records data from TraCS to a Statewide Traffic Records Distribution Center and other New Mexico state agencies.
- (9) Reduce redundant data entry, thereby decreasing errors and creating efficiencies.
- (10) Enhance the quality of operations, self-sufficiency and data sharing; enable officers in New Mexico to use TraCS for capturing electronic records data in the field.

2. **Funding.** The project itemized budget is as follows:

	Budget FFY 16
Commodities/Equipment	\$95,000.00
In-State Travel	\$2,000.00
Out of State Travel	\$3,000.00
TOTAL	\$100,000.00

TOTAL: \$100,000.00

The Grantee may transfer funds between budget categories only with prior written approval of the Traffic Safety Division Director.

3. **Training.** The Agency Coordinator must attend the Project Management and

Accounting Procedures financial training. The Payroll Administrator must attend TSD's Project Management and Accounting Procedures financial training.

4. **Equipment.** The Grantee is approved to purchase equipment \$1,000 and over as long as equipment is to be utilized for TraCS. The Grantee will be required to complete a Property Agreement and Inventory Record sheet for all equipment \$1,000 and over and submit it to the Traffic Safety Division; any equipment \$5,000 and over must be pre-approved, in writing, by National Highway Traffic Safety Administration.

5. **Reporting.** The Grantee must submit activity reports on the same schedule as claims for payment (as provided in the Department's Traffic Safety Division Project Management and Accounting Procedures Manual or electronically), using the activity report form provided unless otherwise directed by the Department. The final activity report must assess whether performance goals were met, and must include a summary of the project activities, an analysis of the data reported from the project, and an analysis of the accomplishments of the project.

Exhibit B - User Agreement.

New Mexico Traffic & Criminal Software
User's Agreement

This New Mexico Traffic & Criminal Software User's Agreement ("Agreement") is entered into by and between the New Mexico Department of Transportation, Traffic Safety Bureau ("Licensor") and the Santa Fe Police Department ("Licensee") (collectively, Licensor and Licensee may be referred to as the "Parties").

The Parties agree that the following terms and conditions apply to the provisions of the Traffic & Criminal Software and the Software Development Kit (SDK) and documentation (collectively referred to as "TraCS"). TraCS is a proprietary product owned by the State of Iowa, administered by the Licensor and protected by Title 17 of the United States Code. It is the intent of Licensor that TraCS be distributed only to other federal, state, local and tribal (including their assigned representative) entities for government use.

License. Licensor grants to Licensee a nonexclusive, nontransferable, royalty free license to copy and use TraCS in accordance with the terms and conditions of this Agreement. Licensee shall use TraCS for public safety purposes only and shall not use TraCS for any commercial purpose whatsoever. TraCS may not be used, sublicensed, lent, copied, modified or transferred, in whole or in part, except as provided for in this Agreement.

Forms. Licensee shall have the right to employ TraCS to modify existing forms and create additional forms for use with TraCS, provided that such modified and additional forms shall be made available to Licensor and other licensees without charge. Licensee shall grant a nonexclusive, transferable, royalty free license to the Licensor and other licensees to copy, use and modify the forms for use by Licensor and other licensees.

Third party software developers/vendors: The Licensee may provide TraCS to a third party for the purposes of modifying forms, creating additional forms and developing interfaces to integrate TraCS with systems being used by the Licensee. The Licensee will enter into an agreement with the third party that requires the third party to acknowledge and comply with the terms of this Agreement, including, without limitation, the prohibition against use for commercial purpose. The Licensee will provide a copy of the agreement to the Licensor.

Proprietary Protection: *The Licensor represents, and the Licensee acknowledges, that TraCS contains trade secrets of the Licensor (including without limitation, algorithms, methods and structure and design elements). Such trade secrets are entrusted to the Licensee for use as expressly authorized under this Agreement. The Licensee and any third party the Licensee enters into agreement with agree to hold all the Licensor's trade secrets in confidence. Under no circumstances may the Licensee, or any third party the Licensee enters into an agreement with, de-compile, reverse engineer, or "unlock" (as the term is generally used in the industry) TraCS.*

New Releases: Licensor will provide the final form of each new release of TraCS to Licensee for use under the same provisions as the original TraCS software.

Effective Date: This Agreement becomes effective when signed by both Parties and continues until terminated.

Limitation of Liability: In no event shall Licensor be liable for any damages whatsoever (including, without limitation, indirect, incidental, special, or consequential damages including lost profits, business interruption, loss of information, or other loss) arising out of this Agreement or Licensee's use or inability to use TraCS, even if Licensor has been advised of the possibility of such damages.

Governing Laws: This Agreement shall be governed by the laws of New Mexico and any action arising out of or connected with it shall be brought in the courts of New Mexico.

Disclaimer of Warranty: TraCS is provided "as is" and "with all faults" without any warranty of any kind, express or implied, including but not limited to, warranties of non-infringement, performance, merchantability or fitness for a particular purpose. Licensee is responsible for the selection of TraCS to achieve its intended purpose, use of software, and the results obtained.

Support: The Licensee will develop its own technical and implementation resources for deployment of TraCS in their jurisdiction. Licensor will continue to offer advice on implementation as resources allow. Licensee may contract with TEG for support with the approval of the Licensor.

Termination: The Agreement may be terminated as follows: by the Licensee at any time; or by the Licensor (1) for breach or nonperformance by Licensee of any material term or condition of this Agreement or (2) if the State of Iowa decides to discontinue support and maintenance of the TraCS software for use by other States. A transfer of the source code to the Licensee(s) will be negotiated between the Licensor and Licensee(s). Upon termination of this Agreement, Licensee shall promptly return to Licensor all copies of TraCS, including any modification, or certify that all have been destroyed.

Michael Sandoval, Director
NMDOT Transportation Planning and Safety Division

Date

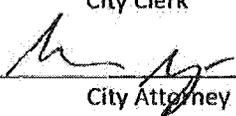
Licensed Agency: Santa Fe Police Department

Mayor

Date

City Clerk

Date



City Attorney

11/17/15

Date

Finance Director

Date

