

City of Las Cruces®

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Council Action and Executive Summary

Item # 7 Ordinance/Resolution# 13-002

For Meeting of _____
(Ordinance First Reading Date)

For Meeting of July 2, 2012
(Adoption Date)

Please check box that applies to this item:

QUASI JUDICIAL LEGISLATIVE ADMINISTRATIVE

TITLE: A RESOLUTION APPROVING A JOINT PLANNING AGREEMENT FOR NEW MEXICO STATE TRUST LANDS BETWEEN THE CITY OF LAS CRUCES AND THE COMMISSIONER OF PUBLIC LANDS FOR THE STATE OF NEW MEXICO AND AUTHORIZING THE MAYOR TO SIGN THE AGREEMENT ON THE CITY'S BEHALF.

PURPOSE(S) OF ACTION:

To approve a Joint Planning Agreement with the State Land Office.

COUNCIL DISTRICT: N/A		
<u>Drafter/Staff Contact:</u> David Dollahon	<u>Department/Section:</u> Community Development / Planning & Neighborhood Services	<u>Phone:</u> 528- 3060
<u>City Manager Signature:</u>		

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

The Commissioner of Public Lands of the State of New Mexico, the Honorable Ray Powell, (henceforth referred to as "Commissioner" or "State Lands Office") has undertaken efforts to improve the relationships between the State Lands Office and various governmental entities that are affected by the decisions that are made by the Commissioner on public trust lands. As such, the Commissioner has proposed a Joint Planning Agreement with his office and the City of Las Cruces. Outlined within the draft Joint Planning Agreement attached to the proposed Resolution are the following items of common interest between the City and the State Lands Office:

- 1) Joint Planning of State Trust Lands,
- 2) Annexations,
- 3) Joint Marketing and Economic Development,
- 4) Land Exchanges,
- 5) Conveyances to Third Parties, Consultation with City of Las Cruces,
- 6) Leases between the City and the Commissioner; Consultation prior to Disposition of the Underlying Land,
- 7) Planning and Development or Business Leases between the Commissioner and Third Parties,

- 8) Dedications of Rights of Way,
- 9) Impact Mitigation; Air Quality, and
- 10) Infrastructure.

These items, in summary, include jointly planning or master planning existing lands within the City limits; allowing annexations only through mutual agreement; marketing for economic development purposes through joint efforts; coordination of land exchanges or leases directly with the City or to third parties in consultation with the City; consulting on any City leaseholds prior to disposition of the underlying land; requiring third parties to dedicate rights of way along planned corridors or ensuring necessary improvements to infrastructure are made in a timely manner and through coordinated efforts; and mitigating any impacts caused by any proposed actions, including maintaining air quality.

The proposed Joint Planning Agreement, if approved, would apply to State Land Office properties within the City limits of Las Cruces. The proposed Resolution also authorizes the Mayor to sign the Agreement on the City's behalf, if approved.

SUPPORT INFORMATION:

- 1. Resolution.
- 2. Exhibit "A", Joint Planning Agreement for New Mexico State Trust Lands.
- 3. Attachment "A", Maps of State Trust Lands in Las Cruces.

SOURCE OF FUNDING:

Is this action already budgeted? N/A	Yes	<input type="checkbox"/>	See fund summary below
	No	<input type="checkbox"/>	If No, then check one below:
	<i>Budget Adjustment Attached</i>	<input type="checkbox"/>	Expense reallocated from:
		<input type="checkbox"/>	Proposed funding is from a new revenue source (i.e. grant; see details below)
		<input type="checkbox"/>	Proposed funding is from fund balance in the _____ Fund.
Does this action create any revenue? N/A	Yes	<input checked="" type="checkbox"/>	Funds will be deposited into this fund: <u>1000</u> in the amount of <u>\$5,000</u> for FY2012 or 2013 (depends on execution date).
	No	<input type="checkbox"/>	There is no new revenue generated by this action.

BUDGET NARRATIVE

N/A

FUND EXPENDITURE SUMMARY:

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

OPTIONS / ALTERNATIVES:

1. Vote "Yes"; this will approve the Joint Planning Agreement between the City and the Commissioner of Public Lands for the State of New Mexico for state lands within or around the City limits of Las Cruces.
2. Vote "No"; this will not approve the Joint Planning Agreement between the City and the Commissioner of Public Lands for the State of New Mexico for state lands within or around the City limits of Las Cruces.
3. Vote to "Amend"; this would allow Council to propose modifications to the Joint Planning Agreement, as it deems appropriate, but subject to the Commissioner's approval.
4. Vote to "Table"; this would allow Council to postpone consideration of the Resolution to adopt the Joint Planning Agreement and direct staff accordingly.

REFERENCE INFORMATION:

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

1. N/A

RESOLUTION NO. 13-002

A RESOLUTION APPROVING A JOINT PLANNING AGREEMENT FOR NEW MEXICO STATE TRUST LANDS BETWEEN THE CITY OF LAS CRUCES AND THE COMMISSIONER OF PUBLIC LANDS FOR THE STATE OF NEW MEXICO AND AUTHORIZING THE MAYOR TO SIGN THE AGREEMENT ON THE CITY'S BEHALF.

The City Council is informed that:

WHEREAS, the Honorable Ray Powell, Commissioner of Public Lands of the State of New Mexico, is a strong advocate for planning and coordination with the local governments, especially in light of the impacts that decisions by the Commissioner about public lands can have on local communities; and

WHEREAS, the Commissioner of Public Lands of the State of New Mexico has great authority in the use of public lands throughout the State that are under his jurisdiction; and

WHEREAS, Commissioner Powell and his staff have proposed a Joint Planning Agreement between the Commissioner and the City of Las Cruces in order to improve communication and allow for advanced planning along numerous fronts that affect both the Commissioner and the City; and

WHEREAS, the Joint Planning Agreement includes, but is not limited to, joint planning or master planning on state lands within the City limits, coordination on disposal of properties and leaseholds held by the City, and land dedications to the City and other parties through a consultative process.

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

(I)

THAT the Joint Planning Agreement between the Commissioner of Public Lands of the State of New Mexico and the City of Las Cruces, as shown in Exhibit "A,"

attached hereto and made a part of this Resolution, is hereby approved.

(II)

THAT the Mayor is hereby authorized to execute the Joint Planning Agreement with the Commissioner of Public Lands of the State of New Mexico on the City's behalf.

(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 _____ 2012.

APPROVED:

Mayor

ATTEST:

City Clerk

(SEAL)

Moved by: _____

Seconded by: _____

VOTE:

- Mayor Miyagishima: _____
- Councillor Silva: _____
- Councillor Smith: _____
- Councillor Pedroza: _____
- Councillor Small: _____
- Councillor Sorg: _____
- Councillor Thomas: _____

APPROVED AS TO FORM:



City Attorney

JOINT PLANNING AGREEMENT FOR NEW MEXICO STATE TRUST LANDS

THIS JOINT PLANNING AGREEMENT (the "Agreement") is entered as of the ___ day of _____, 20__ (the "Effective Date") between the COMMISSIONER OF PUBLIC LANDS OF THE STATE OF NEW MEXICO, Trustee for the Enabling Act Trust, Act of June 20, 1910, 36 Stat. 557, ch. 310 (the "Commissioner") and THE CITY OF LAS CRUCES, a New Mexico Municipal Corporation (the "City"). The Commissioner and the City agree as follows:

RECITALS

- A. WHEREAS, the Commissioner holds and manages approximately 8,000 acres of state trust land within the municipal limits of the City; and
- B. WHEREAS, under New Mexico law, state trust lands are exempt from regulation by the City; and
- C. WHEREAS, pursuant to the New Mexico Constitution, the Commissioner has the authority to direct, control, care for and dispose of all state trust land pursuant to Article XIII, Section 2, of the New Mexico Constitution; and
- D. WHEREAS, notwithstanding the Commissioner's sole authority over state trust lands, working cooperatively, transparently, fairly and in good faith with the City, and in compliance with all laws, will benefit the state land trust and its beneficiaries; and
- E. WHEREAS, the City has a legitimate interest in ensuring planned, orderly growth of the municipality; and
- F. WHEREAS, the orderly, planned use and development of state trust lands within the City's municipal limits will be mutually beneficial to the state land trust and beneficiaries, as well as to the City and its residents; and

G. WHEREAS, the Commissioner and the City have an interest in utilizing state trust lands for the greatest benefit to the local community by seizing opportunities for local economic development and job creation; and

H. WHEREAS, the Commissioner has and may continue to execute state land office leases with the City that help facilitate planned and orderly growth by securing sites for municipal services, infrastructure, and economic development opportunities; and

I. WHEREAS, the Commissioner must be compensated in an amount at least equal to the true value of all trust lands leased, sold, exchanged or otherwise conveyed.

NOW THEREFORE, the Commissioner and the City agree as follows:

AGREEMENT

1. Recitals. The recitals are incorporated herein.
2. Joint Planning of State Trust Lands. The Commissioner and the City will explore opportunities to jointly plan or master plan state trust lands within the municipal limits, including the formation of a joint planning committee(s) and/or advisory group(s) for the master planning of trust lands within the municipal limits or in anticipation of an annexation. The Commissioner and the City shall form an initial joint planning committee to identify planning objectives and to prioritize planning efforts for specific planning projects or for specific trust lands.
3. Annexations. Annexations will occur only through agreement between the Commissioner and the City. Prior to the annexation of any state trust lands, the Commissioner and the City will enter an annexation agreement for the proposed annexation that describes, among other things, the rights and privileges, if any, that will be associated with the land after annexation.

4. Joint Marketing and Economic Development. The City and the Commissioner will use best efforts to explore opportunities for joint marketing of state trust lands, and in pursuing economic development opportunities that will result in benefits to the local community and to the state land trust by, among other things, increasing the value of the trust lands for the benefit of the trust beneficiaries, increasing the municipal tax base, creating local employment, and providing needed services and amenities to the local community.

5. Land Exchanges. The City and the Commissioner will use best efforts to coordinate land exchanges between the City and the Commissioner or between the Commissioner and any other governmental entity that will result in benefits to the local community and to the state land trust by, among other things, increasing the value of the trust lands for the benefit of the trust beneficiaries, increasing the municipal tax base, creating local employment, providing needed services and amenities to the local community, and improving access to state trust lands or public facilities.

6. Conveyances to Third Parties, Consultation with City. The Commissioner will consult with the City before initiating any lease, sale, or exchange with a third party for lands within the City's municipal limits..

7. Leases between the City and the Commissioner; Consultation prior to Disposition of the Underlying Land. When the Commissioner and the City are parties to a lease of state trust lands, the Commissioner will consult with the City prior to any sale, exchange, or other conveyance of the underlying trust lands. Upon the City's request, and where not in conflict with the best interests of the trust, the Commissioner will withhold from

disposition any property encumbered by a lease with the City, and will implement safeguards to avoid land use conflicts with the City's existing use.

8. Planning and Development or Business Leases between the Commissioner and Third Parties. Prior to the execution of any planning and development lease or other business lease with a private third party, the Commissioner will require as a condition of the lease, that the lessee follow all of the City's typical development approval processes as if the underlying property were privately owned including compliance with plans and ordinances, the payment all fees due to the City for the filing of zone change requests or subdivision plats, and the issuance of building permits or other development related approvals required by the City. The City will not unreasonably withhold future approval of any development agreements, and other development-related approvals that are consistent with a master plan for the land or the City's comprehensive plan. The City and the Commissioner will explore opportunities for expedited land use and development approvals on state trust lands, especially in cases where planned land uses will advance economic development objectives.

9. Dedications of Rights of way. For planned rights of way located within a business lease or planning and development lease the Commissioner will require the lessee to purchase the required rights of ways on behalf of and for the Benefit of the City at a rate negotiated between the Commissioner and the lessee. For proposed rights of way located outside the boundaries of any planning and development lease, the Commissioner will sell rights of way directly to the City, or its designee, at a rate that accounts for any immediate and certain increase in value to the adjacent trust lands as determined by appraisal or other reasonable means. Where appropriate, such rate may be

set by the State Land Office's standard fee schedules on a per-rod basis. The City will accept dedication of rights of way with a reversionary interest unto the Commissioner such that the dedication is "for so long as" the right of way is used for the intended public purpose.

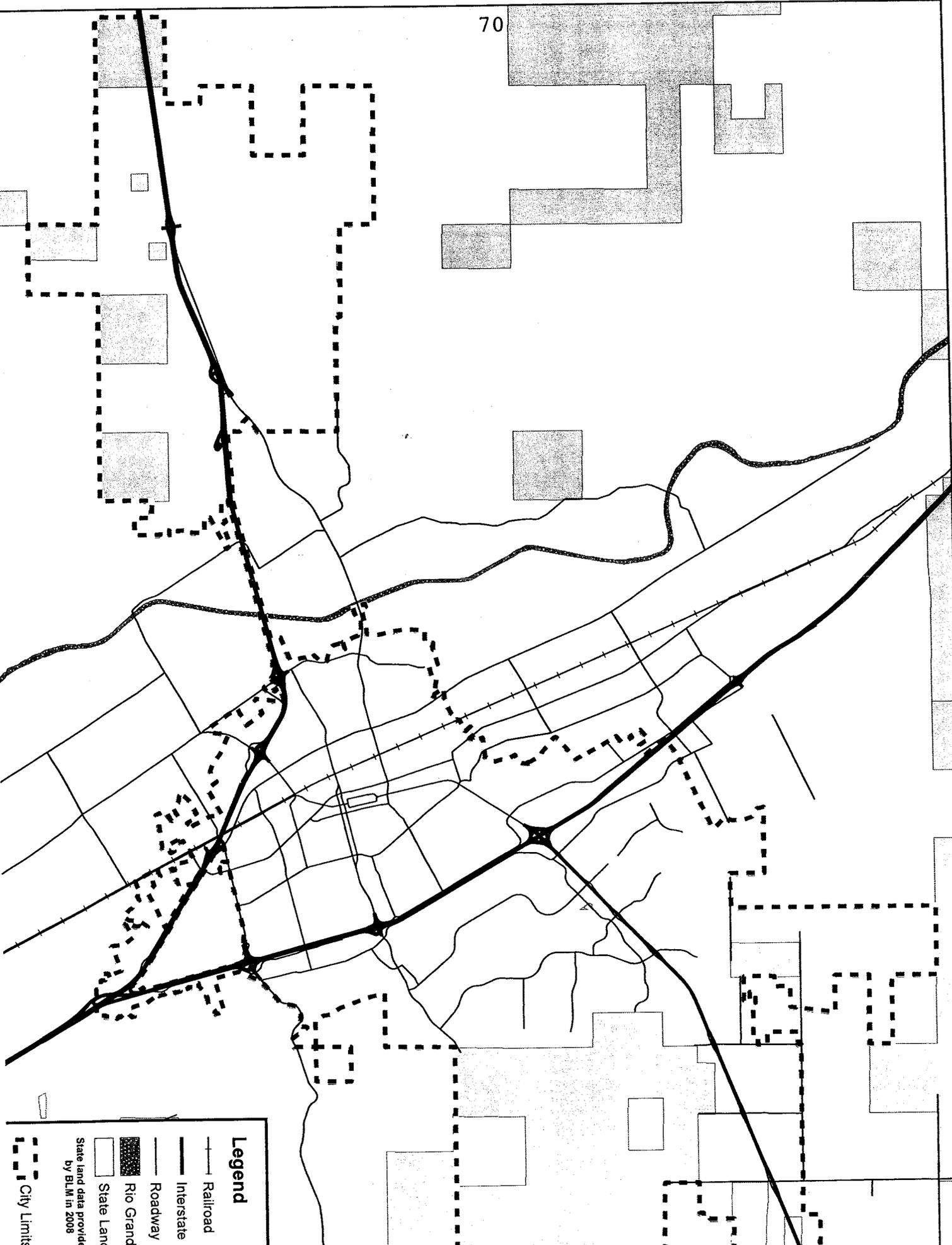
10. Impact Mitigation; Air Quality. The City and the Commissioner will use best efforts to mitigate impacts that may result from the development of state trust lands, including but not limited to making efforts to improve air quality by limiting the scale and timing of grading prior to development.

11. Infrastructure. The City shall provide its typical municipal services to state trust lands annexed to the City in accordance with the City's typical processes and fees or pursuant to the terms of any jointly developed plans.

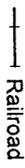
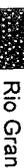
[ACKNOWLEDGMENTS FOLLOW]

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Legend

-  Railroad
 -  Interstate
 -  Roadway
 -  Rio Grande
 -  State Land
 -  City Limits
- State land data provided by BLM in 2008