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City of Las Cruces[®]
 PEOPLE HELPING PEOPLE

Council Action and Executive Summary

Item # 8

Ordinance/Resolution# 13-063

For Meeting of _____
 (Ordinance First Reading Date)

For Meeting of November 5, 2012
 (Adoption Date)

Please check box that applies to this item:

QUASI JUDICIAL

LEGISLATIVE

ADMINISTRATIVE

TITLE: A RESOLUTION APPROVING AN AGREEMENT CONCERNING EMERGENCY WATER DELIVERY WITH PICACHO MUTUAL DOMESTIC WATER CONSUMERS ASSOCIATION.

PURPOSE(S) OF ACTION:

To approve a request to provide emergency water delivery.

COUNCIL DISTRICT: N/A		
Drafter/Staff Contact: Marcia B. Driggers	Department/Section: City Attorney/Legal	Phone: (575) 541-2128
City Manager Signature:		

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

On February 4, 2012, the City of Las Cruces ("City") Utilities staff met with the president of Picacho Mutual Domestic Water Consumers Association ("Picacho MDWCA") to discuss their interest of receiving emergency access to City water. As a result of this meeting, the Utilities Water Resources staff checked the pressure at a nearby fire hydrant and determined that water service could be provided. A current upgrade project along Picacho Avenue encompasses the intersection where Picacho MDWCA expressed interest in having the service located. A tie-in could be constructed and ready for Picacho MDWCA to use once their upgrade is completed.

To enable the delivery of emergency water, an Agreement Concerning Emergency Water Delivery would need to be entered into between the City and Picacho MDWCA. Attached to and made part of this Resolution as Exhibit "A," is the Agreement Concerning Emergency Water Delivery. As part of the conditions of this Agreement, Picacho MDWCA would be served with a new four-inch water meter with valve and backflow prevention system. Picacho MDWCA will install, own, operate and maintain the backflow preventer and the City will install, own, operate and maintain the meter and valve.

The City will supply water to Picacho MDWCA on an emergency basis only if such delivery does not jeopardize the quality or quantity of water delivered to City customers. Picacho MDWCA will be required to comply with conditions for payment as set forth in Exhibit "A", which includes

(Continue on additional sheets as required)

paying the Large Commercial tariff based on the monthly reading of the meter on Picacho Avenue and a monthly access charge as established by the Las Cruces Utilities Board.

In accordance with the By-Laws, approved by City Council Resolution 07-190, the Las Cruces Utilities Board of Commissioners is authorized to develop long range and strategic policy recommendations to the City Council. The Utilities Board, however, does not have authority to approve the request for utility service outside of the City limits, but can recommend such approval. It recommended approval of the Agreement with Picacho MDWCA in Board Resolution No. 12-13-010.

The City Council is the final authority for approval or disapproval of requests from properties located outside of the City limits to connect to the City's water system.

SUPPORT INFORMATION:

1. Resolution.
2. Exhibit "A", An Agreement Concerning Emergency Water Delivery.
3. Attachment "A", Map of area.
4. Attachment "B", Utilities Board Resolution No. 12-13-010.

SOURCE OF FUNDING:

N/A	Is this action already budgeted?	
	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?	Yes	<input checked="" type="checkbox"/> Funds will be deposited:* (<i>See Budget Narrative</i>)
	No	<input type="checkbox"/> There is no new revenue generated by this action.

BUDGET NARRATIVE

*Monthly water payments will be deposited into this fund: 5300-53530010-541311 in an amount to be determined for FY13.

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 Agreement Concerning Emergency Water Delivery.
2. Vote "No"; this will not approve the Agreement Concerning Emergency Water Delivery.
3. Vote to "Amend"; this would allow Council to propose modifications to the Agreement as it deems appropriate, which modifications would have to be approved by Picacho Mutual Domestic Water Consumers Association.
4. Vote to "Table"; this would allow Council to postpone consideration of the Resolution to approve the 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.

N/A.

RESOLUTION NO. 13-063**A RESOLUTION APPROVING AN AGREEMENT CONCERNING EMERGENCY WATER DELIVERY WITH PICACHO MUTUAL DOMESTIC WATER CONSUMERS ASSOCIATION.**

The City Council is informed that:

WHEREAS, on February 14, 2012, the City of Las Cruces Utilities Department met with the Picacho Mutual Domestic Water Consumers Association ("Picacho MDWCA") to discuss their interest to have emergency access to City water; and

WHEREAS, the City is willing to provide emergency water delivery to Picacho MDWCA in accordance with the Agreement Concerning Emergency Water Delivery which is attached as Exhibit "A"; and

WHEREAS, the proposed emergency water delivery is subject to the conditions set forth in the Agreement; and

WHEREAS, Picacho MDWCA would be served through a new four-inch water meter with valve and backflow prevention system. The backflow preventer will be owned, operated, and maintained by Picacho MDWCA; and

WHEREAS, the City will own, operate and maintain the meter and valve; and

WHEREAS, the City will supply water to Picacho MDWCA on an emergency basis only if such delivery does not jeopardize the quality or quantity of water delivered to City customers; and

WHEREAS, Picacho MDWCA will be required to pay the Large Commercial tariff based on the monthly reading of the meter on Picacho Avenue and will also pay a monthly access charge established by the Las Cruces Utilities Board; and

WHEREAS, Picacho MDWCA will comply with all conditions for payment as set forth in Exhibit "A"; and

WHEREAS, the Las Cruces Utilities Board recommended in Board Resolution No. 12-13-010 that the City Council approve the Agreement.

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

(I)

THAT the Agreement Concerning Emergency Water Delivery with Picacho MDWCA, as shown in Exhibit "A" attached hereto and made a part of this resolution, is hereby approved.

(II)

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

DONE AND APPROVED this _____ day of _____, 2012.

APPROVED:

Mayor

ATTEST:

City Clerk

(SEAL)

VOTE:

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

Moved by: _____

Seconded by: _____

APPROVED AS TO FORM:



City Attorney

AGREEMENT CONCERNING EMERGENCY WATER DELIVERY

THIS AGREEMENT is entered into on this 19TH day of SEPT., 2012, between the CITY OF LAS CRUCES, a New Mexico municipal corporation, and the PICACHO MUTUAL DOMESTIC WATER CONSUMERS ASSOCIATION, a New Mexico non-profit corporation, on the following conditions:

BACKGROUND

1. In an attempt to insure its customers of reliable water delivery, Picacho MDWCA desires to have emergency access to Las Cruces water.
2. Las Cruces is willing to provide emergency water to Picacho MDWCA on the terms and conditions set forth in this Agreement.

CONDITIONS

1. **PICACHO AVENUE CONNECTION**
 - A. A new four (4) inch water meter will be installed by Picacho MDWCA with a necessary valve and backflow prevention system. The meter and valve will be owned, operated and maintained by the City. The backflow preventer will be owned, operated and maintained by Picacho MDWCA.
 - B. As requested by Picacho MDWCA, Las Cruces will supply water to Picacho MDWCA on an emergency basis only if such delivery does not jeopardize the quality or quantity of water delivered to Las Cruces customers.

- C. The City does not guarantee that its water will be available in the quantity, duration and pressure desired by Picacho MDWCA on a future emergency basis.
- D. Picacho MDWCA will not rely on the availability of Las Cruces water to solve routine peaking capacity problems or as a substitute for the necessary expansion of its production and/or storage facilities.

2. **PAYMENT FOR EMERGENCY WATER**

- A. Las Cruces will read the meter on Picacho Avenue on a monthly basis and will charge Picacho MDWCA based on the Large Commercial tariff. A copy of the current tariff is attached as Exhibit "A". There is a minimum monthly access charge of \$37.00. This charge may be adjusted by the Las Cruces Utilities Board.
- B. If emergency water has been delivered, the City will charge Picacho MDWCA according to the Large Commercial tariff in effect at that time. City water rates are set in accordance with City rate making procedures in public meetings. Picacho MDWCA will not be given individualized notice of future rate adjustments. Water rates are effective on the date indicated in the applicable Board resolution.
- C. Payment shall be due within thirty (30) days of billing. In the event of delinquency, Picacho MDWCA will pay the City a delinquent charge on the unpaid balance in accordance with existing City policy or as amended. Failure to pay said billings and delinquent charges timely may result in

termination of service. Las Cruces acknowledges that Picacho MDWCA may pay all or part of said billings under protest.

- 3. **TERMINATION** This Agreement will continue until terminated for any reason by either party on sixty (60) days advance written notice to the other party.
- 4. **AMENDMENTS** Any amendments to this Agreement will be made in writing and agreed to and executed by the parties before becoming effective.

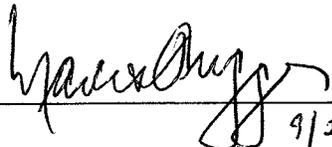
IN WITNESS WHEREOF, the parties have executed this Agreement in duplicate on the date first written above.

CITY OF LAS CRUCES

By _____

Robert Garza, City Manager

APPROVED:


 _____ 9/21/12
 Marcia B. Driggers

Utilities Attorney

PICACHO MDWCA

By 
Larry L. Covington, President

LAS CRUCES UTILITIES

Sheet No. W-2010-4
 Approval Date: **August 12, 2010**
 Effective Billing Date: **October 1, 2010**
 Case No: **2009 -001 (W)**

WATER
LARGE COMMERCIAL SERVICE

AVAILABILITY

Available in the Las Cruces Utilities water service area for any establishment engaged in the operation of a business; an institution, whether or not for profit; or government entities.

Such enterprises shall include, but not be limited to, clubs, hotels, motels, schools, hospitals, multi-unit complexes, churches, municipal, county, state and federal buildings.

This rate applies to customers whose consumption equals to or exceeds 50,000 gallons within the billing cycle during at least ten (10) months of the twelve (12) months within the rate class review period. Customers whose usage is equal to or greater than 1,250,000 gallons within any month of the twelve (12) month review period shall receive service under the Industrial tariff unless the customer can demonstrate to the satisfaction of the Utility Director that the measured usage was the result of a nonrecurring circumstance. The rate class review period is a period of twelve (12) consecutive billing months that Las Cruces Utilities will review to determine the customer's appropriate rate classification. An initial rate review will be conducted in conjunction with the implementation of new rates approved by the Board of Commissioners for the City of Las Cruces Utilities. Subsequent rate reviews will be undertaken approximately twelve (12) months from the effective date of the new rates and every twelve (12) month period thereafter. A customer's rate classification will not be changed as a result of a rate review in the absence of at least twelve (12) consecutive months of billing history.

Landscape water meter available per Landscape Meter Schedule, see Sheet No. W-2010-12.

RATE

The bills are the sum of:

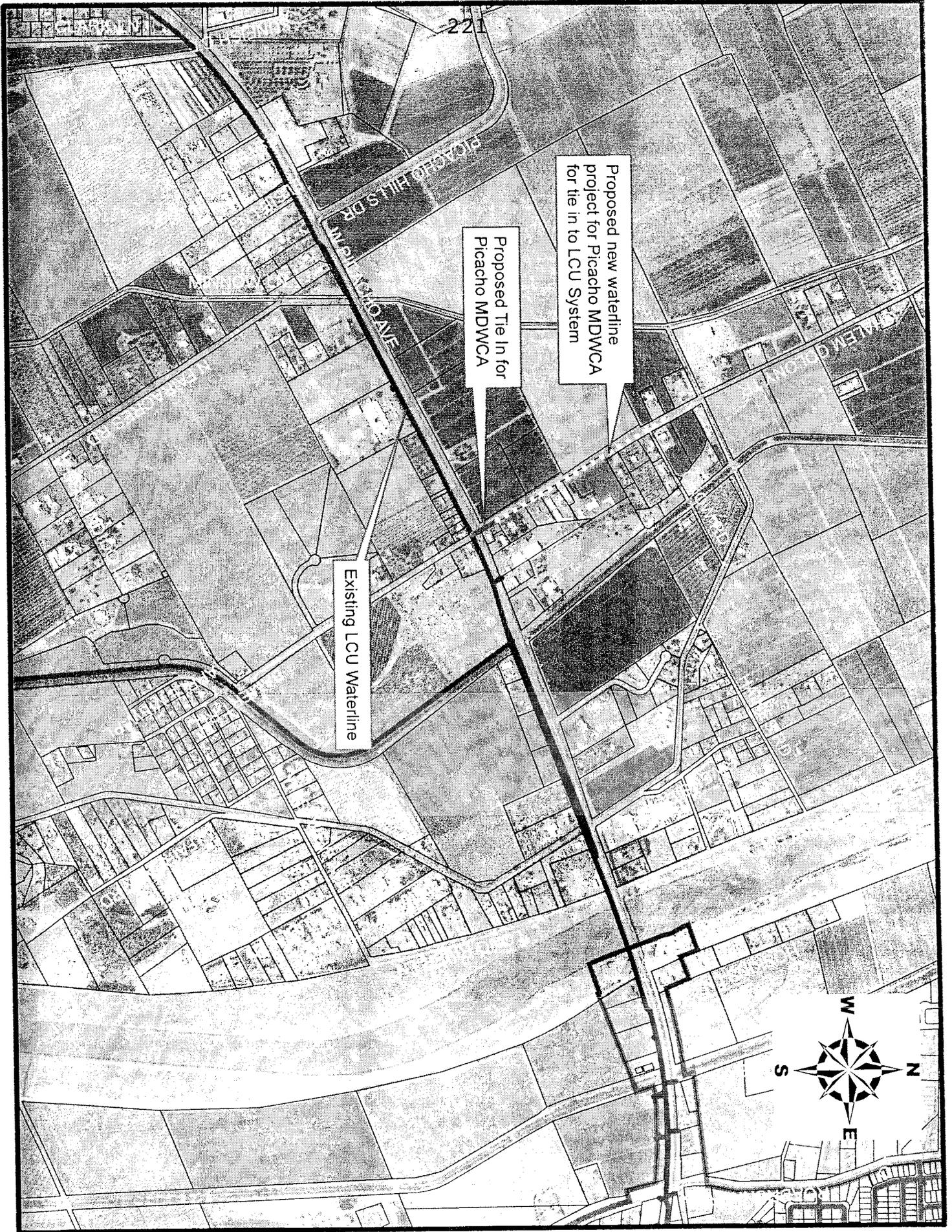
<u>Access Charge</u>	
Per month.....	\$37.00
<u>Volume Charge</u>	
Summer Period (billing months of June, July, August, and September)	
Per 1,000 gallons	\$2.05
Non-Summer Period (all other billing months)	
Per 1,000 gallons	\$1.71

Tax

Applicable Taxes & Payment in Lieu of Franchise Tax assessed by a Governmental Authority and not included in Cost of Service rates.

BILLING UNITS

The unit volume for the purpose of measurement per service shall be 1,000 gallons for the amount consumed in a billing cycle.



LAS CRUCES UTILITIES BOARD RESOLUTION NO. 12-13-010**A RESOLUTION RECOMMENDING APPROVAL TO CITY COUNCIL OF THE REQUEST FROM THE PICACHO MUTUAL DOMESTIC WATER CONSUMERS ASSOCIATION TO PROVIDE EMERGENCY WATER DELIVERY.**

The Board of Commissioners for the City of Las Cruces Utilities, on behalf of the City of Las Cruces, is informed that:

WHEREAS, on February 14, 2012, the City of Las Cruces Utilities Department met with the Picacho Mutual Domestic Water Consumers Association (Picacho MDWCA) to discuss their interest to have emergency access to the City of Las Cruces water; and

WHEREAS, the City of Las Cruces (City) is willing to provide emergency water delivery to Picacho MDWCA in accordance with the Agreement Concerning Emergency Water Delivery identified as Exhibit "A" which is attached and made part of this Resolution; and

WHEREAS, the proposed emergency water delivery is subject to the conditions set forth in Exhibit "A"; and

WHEREAS, Picacho MDWCA would be served through a new four-inch water meter with valve and backflow prevention system. The backflow preventer will be owned, operated, and maintained by Picacho MDWCA; and

WHEREAS, the City will own, operate and maintain the meter and valve; and

WHEREAS, the City will supply water to Picacho MDWCA on an emergency basis only if such delivery does not jeopardize the quality or quantity of water delivered to Las Cruces customers; and

WHEREAS, Picacho MDWCA will be required to pay the Large Commercial tariff based on the monthly reading of the meter on Picacho Avenue and will also pay a monthly access charge established by the Las Cruces Utilities Board; and

WHEREAS, Picacho MDWCA will comply with all conditions for payment as set forth in Exhibit "A"; and

NOW, THEREFORE, be it resolved by the Board of Commissioners for the City of Las Cruces Utilities, on behalf of the City of Las Cruces:

(I)

THAT, the Utilities Board of Commissioners recommends approval to City Council of the request to provide Picacho Mutual Domestic Water Consumers Association emergency water delivery.

(II)

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

DONE AND APPROVED this 11th day of October, 2012.

By _____
Board Chair

ATTEST:

Secretary

Moved by _____

Seconded by _____

VOTE:
Chair Little: _____
Vice-Chair Hanson: _____
Commissioner Cadena: _____
Commissioner Ericson: _____
Commissioner Pedroza: _____
Commissioner Sorg: _____
VACANT

APPROVED AS TO FORM:

Utilities Attorney