



City of Las Cruces®

PEOPLE HELPING PEOPLE

Council Action and Executive Summary

Item # 7 Ordinance/Resolution# 17-005

For Meeting of _____
(Ordinance First Reading Date)

For Meeting of July 5, 2016
(Adoption Date)

Please check box that applies to this item:

QUASI JUDICIAL LEGISLATIVE ADMINISTRATIVE

TITLE: A RESOLUTION AUTHORIZING THE CONDEMNATION OF THE WATER UTILITY ASSETS OF JORNADA WATER COMPANY.

PURPOSE(S) OF ACTION:

To authorize condemnation.

COUNCIL DISTRICT: ALL		
<u>Drafter/Staff Contact:</u> Marcia B. Driggers	<u>Department/Section:</u> Legal	<u>Phone:</u> 541-2128
<u>City Manager Signature:</u>		

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

Jornada Water Company (Company) notified the City of Las Cruces (City) that the Company was for sale and that it was giving the City the first option to purchase. If mutually acceptable conditions for the sale and purchase could not be negotiated, it would seek to sell the Company to other water providers. The parties each obtained preliminary appraisals. Based on those preliminary appraisals a tentative purchase price of \$16,400,000 was negotiated. The Company consists of a customer base of 3,500 customers, 5,961 acre feet of perfected and unperfected ground water rights, and all water system infrastructure.

Section 1.03(c) of the City Charter authorizes the City to exercise its power of eminent domain to condemn private property for a public purpose when the City Council determines by resolution that such condemnation will serve the public interest; and this Resolution, if approved, would determine that such condemnation will serve the public interest. The public interest being served by the condemnation includes and is not necessarily limited to the following: 1) acquiring the Company's perfected and unperfected water rights will allow the City to offer water utility service in areas inside and outside of the City limits which is consistent with currently served wastewater service areas and future wastewater service areas outlined in the City's Water and Wastewater System Master Plan; 2) allowing the City to provide water utilities to areas outside City limits currently served by City gas service and future gas service areas outlined in the City's High Pressure Natural Gas Master Plan; 3) acquiring the Company's perfected and unperfected water rights will further allow the City to provide the necessary stewardship in the management,

(Continue on additional sheets as required)

preservation, and legal defense of additional groundwater rights in the Mesilla Basin; and 4) filing a condemnation action provides assurance that the Company will not be selling its water utility assets to a third party, which would thwart the City's ability to accomplish the public interests previously set forth.

SUPPORT INFORMATION:

1. Resolution.
2. Exhibit "A", Company water right areas and service areas.

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"/>	<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 type="checkbox"/>	Funds will be deposited into this fund: _____ in the amount of \$_____ for FY__.
	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 action will authorize the condemnation of the water utility assets of the Company.
2. Vote "No"; this action will not authorize the condemnation of the water utility assets of the Company.
3. Vote to "Amend"; this action would allow the City Council to modify provisions of the Resolution.

(Continue on additional sheets as required)

4. Vote to "Table"; this action would allow the City Council to table or postpone authorizing the condemnation.

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

(Continue on additional sheets as required)



City of Las Cruces®

PEOPLE HELPING PEOPLE

COUNCIL ACTION AND EXECUTIVE SUMMARY PACKET ROUTING SLIP

For Meeting of _____
 (Ordinance First Reading Date)

For Meeting of July 5, 2016
 (Adoption Date)

TITLE: **A RESOLUTION AUTHORIZING THE CONDEMNATION OF THE WATER UTILITY ASSETS OF JORNADA WATER COMPANY.**

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

DEPARTMENT	SIGNATURE	PHONE NO.	DATE
Drafter/Staff Contact	<i>[Handwritten Signature]</i>	541-2128	6-20-16
Department Director	<i>[Handwritten Signature]</i>	541-2128	21 JUNE 2016
Other			
Assistant City Manager /CAO Management & Budget Manager	<i>[Handwritten Signature]</i>	541-2100 541-2107	6-22-2016 6-21-2016
Assistant City Manager/COO	<i>[Handwritten Signature]</i>	541-2271	6-27-16
City Attorney	<i>[Handwritten Signature]</i>	541-2128	21 JUNE 2016
City Clerk	<i>[Handwritten Signature]</i>	541-2115	6-22-16

RESOLUTION NO. 17-005**A RESOLUTION AUTHORIZING THE CONDEMNATION OF THE WATER UTILITY ASSETS OF JORNADA WATER COMPANY.**

The City Council is informed that:

WHEREAS, Jornada Water Company (“Company”) notified the City of Las Cruces (“City”) that the Company was for sale and that it was giving the City the first option to purchase and that, if mutually acceptable conditions for the sale and purchase could not be negotiated, it would seek to sell the Company to other water providers; and

WHEREAS, the parties each obtained preliminary appraisals, and based on those preliminary appraisals were able to negotiate a tentative purchase price of \$16,400,000 for the Company consisting of a customer base of 3,500 customers, 5,961 acre feet of perfected and unperfected ground water rights, and all water system infrastructure; and

WHEREAS, Section 1.03(c) of the City Charter authorizes the City to exercise its power of eminent domain to condemn private property for a public purpose when the City Council determines by resolution that such condemnation will serve the public interest; and this Resolution, if approved, would determine that such condemnation will serve the public interest; and

WHEREAS, the public interest being served by the condemnation includes and is not necessarily limited to the following: 1) acquiring the Company’s perfected and unperfected water rights will allow the City to offer water utility service in areas inside and outside of the City limits, which is consistent with currently served wastewater service areas and future wastewater service areas outlined in the City’s Water and

Wastewater System Master Plan; 2) allowing the City to provide water utilities to areas outside City limits currently served by City gas service and future gas service areas outlined in the City's High Pressure Natural Gas Master Plan; 3) acquiring the Company's perfected and unperfected water rights will further allow the City to provide the necessary stewardship in the management, preservation, and legal defense of additional groundwater rights in the Mesilla Basin; and 4) filing a condemnation action provides assurance that the Company will not be selling its water utility assets to a third party, which would thwart the City's ability to accomplish the public interests previously set forth.

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

(I)

THAT the City Council determines that the condemnation of the water utility assets of the Jornada Utility Company, as shown on Exhibit "A" attached hereto and made part of this Resolution, will serve the public interest and so authorizes the condemnation.

(II)

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)

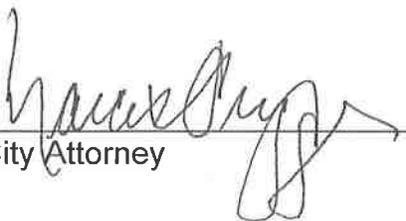
Moved by: _____

Seconded by: _____

VOTE:

Mayor Miyagishima:	_____
Councillor Gandara:	_____
Councillor Smith:	_____
Councillor Pedroza:	_____
Councillor Eakman:	_____
Councillor Sorg:	_____
Councillor Levatino:	_____

APPROVED AS TO FORM:



City Attorney

SR ASST

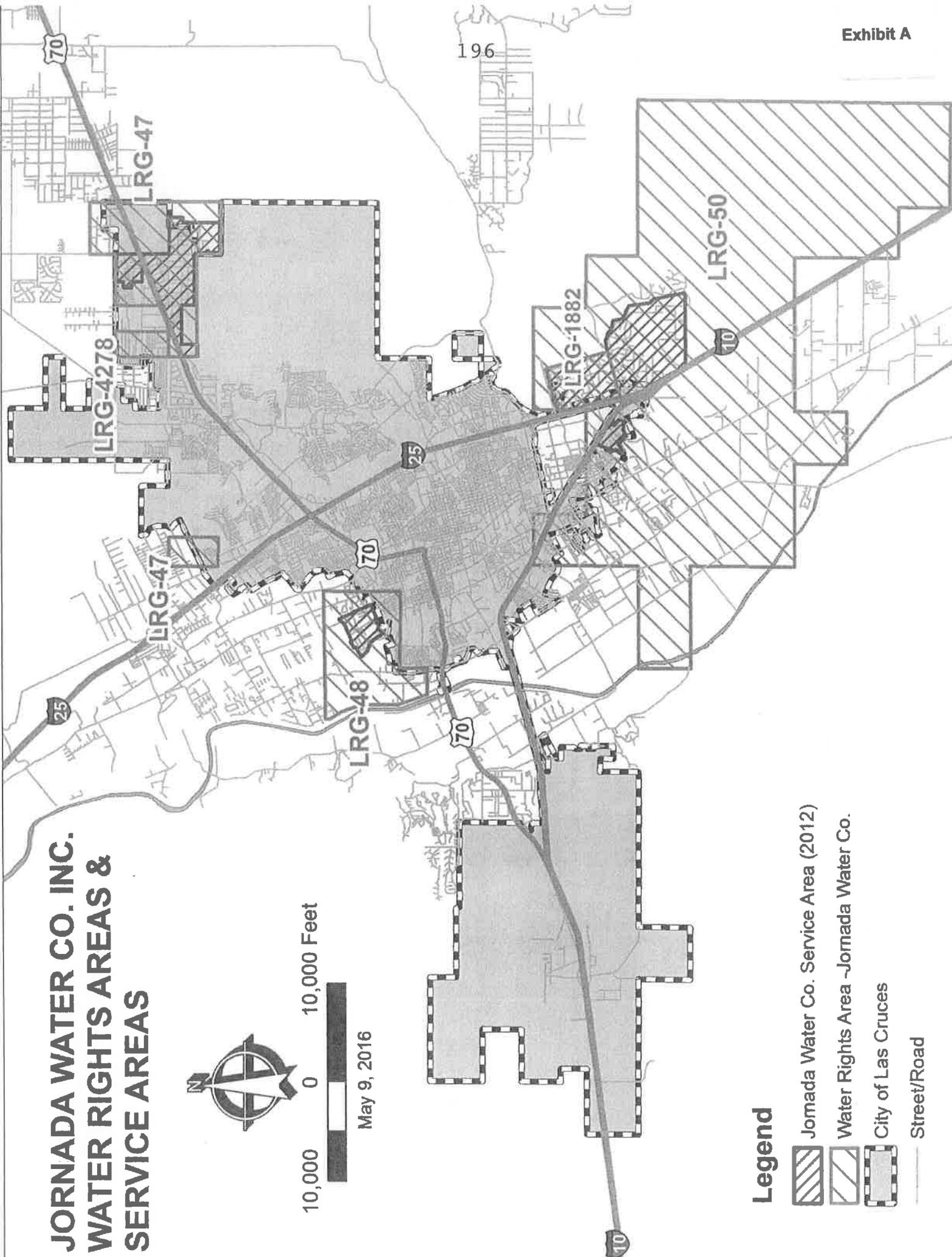
JORNADA WATER CO. INC. WATER RIGHTS AREAS & SERVICE AREAS



10,000 0 10,000 Feet



May 9, 2016



Legend

-  Jomada Water Co. Service Area (2012)
-  Water Rights Area - Jomada Water Co.
-  City of Las Cruces
-  Street/Road