

COUNCIL BILL NO. 16-021
ORDINANCE NO. 2780

AN ORDINANCE REPEALING LAS CRUCES MUNICIPAL CODE 1997 (LCMC), SECTION 2-1347, ENTITLED "WATER ACQUISITION AND MANAGEMENT FUND," AND ENACTING REPLACEMENT LCMC, SECTION 2-1347 TO BE ENTITLED "WATER RIGHTS FUND."

The City Council is informed that:

WHEREAS, LCMC, Section 2-1347 entitled "Water Acquisition Management Fund," authorizes the addition of \$0.11 per billing unit to each customer's monthly water bill. The fund is internally divided into two (2) subparts. \$0.06 is used for water acquisition costs as set forth in Section 2-1347(b) and the remaining \$0.05 is used for water management costs as set forth in Section 2-1347(c); and

WHEREAS, staff proposes changes to LCMC, Section 2-1347 for the following reasons:

1. Combining the two (2) subparts into one and allowing the previously separated, authorized expenditures set forth in Sections 2-1347(b) and (c) to be paid from one proposed, combined fund; thus recognizing that the Las Cruces Utilities Department (Department) on behalf of the City of Las Cruces (City) is no longer actively buying or leasing water rights or water allotments or buying or leasing land for water rights or water allotments as currently authorized in Section 2-1347(b)(1) and (2);

2. Adds a new authorized expenditure for lobbying expenses; thus recognizing that it is often advisable for the City to use lobbyists with expertise in water rights matters who can work with the City's other lobbyists;

3. Adds another authorized expenditure to promote water conservation; thus providing funding for water conservation programs to comply with the Office of the State Engineer's requirements;

4. Changes the title of the section from "Water Acquisition and Management Fund" to "Water Rights Fund" to more accurately reflect what the fund will be used for; and

WHEREAS, the Las Cruces Utilities Board recommended in Las Cruces Utilities Board Resolution No. 15-16-LCU017 that the City Council repeal LCMC, Section 2-1347, and enact replacement LCMC, Section 2-1347 as set forth above.

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

(I)

THAT existing LCMC, Section 2-1347 in its entirety is hereby repealed.

(II)

THAT LCMC, Section 2-1347, as shown on Exhibit "A," attached hereto and made a part of this Ordinance, is hereby enacted.

(III)

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

DONE AND APPROVED on this 2 day of May, 2016.

APPROVED:

ATTEST:



Mayor



City Clerk
(SEAL)
CITY OF LAS CRUCES

Moved by: Sorg

Seconded by: Smith

VOTE:

Mayor Miyagishima:	<u>Aye</u>
Councillor Gandara:	<u>Aye</u>
Councillor Smith:	<u>Aye</u>
Councillor Pedroza:	<u>Aye</u>
Councillor Eakman:	<u>Aye</u>
Councillor Sorg:	<u>Aye</u>
Councillor Levatino:	<u>Aye</u>

APPROVED AS TO FORM:



City Attorney

Sec. 2-1347. - Water rights fund.

- (a) A water rights fund formerly known as the water acquisition and management fund is hereby established. The fund shall be funded primarily by an \$0.11 per billing unit fee added to each customer's monthly water bill. Expenditures from the fund shall be limited to the following purposes:
 - (1) Purchase or lease of water rights or water allotments;
 - (2) Purchase or lease of land for water rights or water allotments;
 - (3) Payments for annual Elephant Butte Irrigation District water assessments and for administrative expenses to Elephant Butte Irrigation District and the Office of the State Engineer such as application fees;
 - (4) Legal opinions regarding suitability of water rights or water allotments for purchase or lease;
 - (5) Legal expenses related to any litigation that may affect the ability of the city to acquire, use or retain water rights or water allotments;
 - (6) Engineering or technical expenses related to any litigation that might affect the ability of the city to acquire, use or retain water rights or water allotments;
 - (7) Lobbying expenses related to legislation that might affect the ability of the City to acquire use or retain water rights or water allotments; and
 - (8) Developing, promoting, and funding water conservation programs to comply with the Office of the State Engineer's requirements and water rights conditions.

- (b) Other fund revenue may include payment for water rights upon development in accordance with sections 2-1341 through 2-1346 of this Code and as amended.

• **Sec. 2-1347. - ~~Water acquisition and management fund~~ rights fund.**

(a) ~~A water acquisition and management rights fund formerly known as the water acquisition and management fund is hereby established. The fund shall be funded primarily by an \$0.11 per billing unit fee added to each customer's monthly water bill. The fund shall internally be divided into two subparts. One part shall be used for water acquisition costs and one part shall be used for water management costs. Expenditures from the fund shall be limited to the following purposes:~~

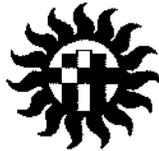
~~(b) — The fee for water acquisition costs shall be \$0.06 per billing unit. A billing unit is 1,000 gallons. Expenditures from this part of the fund shall be made for the following purposes:~~

- (1) Purchase or lease of water rights or water allotments;
- (2) Purchase or lease of land for water rights or water allotments; and
- (3) Payments for annual Elephant Butte Irrigation District water assessments and for administrative expenses to Elephant Butte Irrigation District and the office of the state engineer such as application fees;

~~(c) The fee for the water management costs shall be \$0.05 per billing unit. A billing unit is 1,000 gallons. Expenditures from this part of the fund shall be made for the following purposes:~~

- (4) Legal opinions regarding suitability of water rights or water allotments for purchase or lease;
- (25) Legal expenses related to any litigation that may affect the ability of the city to acquire, use or retain water rights or water allotments; and
- (36) Engineering or technical expenses related to any litigation that might affect the ability of the city to acquire, use or retain water rights or water allotments;
- (7) Lobbying expenses related to legislation that might affect the ability of the city to acquire use or retain water rights or water allotments; and
- (8) Developing, promoting, and funding water conservation programs to comply with the office of the state engineer's requirements and water rights conditions.

(d) ~~Other fund revenue may include payment for water rights upon development in accordance with sections 2-1341 through 2-1346 of this Code and as amended.~~



City of Las Cruces[®]

PEOPLE HELPING PEOPLE

Council Action and Executive Summary

Item # 7 Ordinance/Resolution# 2780

For Meeting of April 4, 2016
(Ordinance First Reading Date)

For Meeting of May 2, 2016
(Adoption Date)

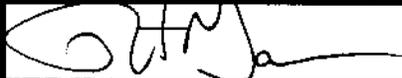
Please check box that applies to this item:

QUASI JUDICIAL LEGISLATIVE ADMINISTRATIVE

TITLE: AN ORDINANCE REPEALING LAS CRUCES MUNICIPAL CODE 1997 (LCMC), SECTION 2-1347, ENTITLED "WATER ACQUISITION AND MANAGEMENT FUND," AND ENACTING REPLACEMENT LCMC, SECTION 2-1347 TO BE ENTITLED "WATER RIGHTS FUND."

PURPOSE(S) OF ACTION:

Approve revisions to LCMC.

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

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

LCMC, Section 2-1347 entitled "Water Acquisition and Management Fund," authorizes the addition of \$0.11 per billing unit to each customer's monthly water bill. The fund is internally divided into two (2) subparts. \$0.06 of the \$0.11 is used for water acquisition costs as set forth in Section 2-1347(b) and \$0.05 of the \$0.11 is used for water management costs as set forth in Section 2-1347(c). Staff proposes changes for the following reasons:

Combining the two (2) subparts into one, thus allowing the previously separated, authorized expenditures in Sections 2-1347(b) and (c) to be paid from the proposed combined fund:

1. This change recognizes that the City Utilities Department (Department) on behalf of the City of Las Cruces (City) is no longer actively buying or leasing water rights or water allotments or buying or leasing land for water rights or water allotments as currently authorized in Section 2-1347(b)(1) and (2). Historically these have been the major expenditures from subpart (b). the Department continues to pay the Elephant Butte Irrigation District (EBID) assessments and administrative expenses to EBID and the Office of the State Engineer as provided in Section 2-1347(b)(3) but, without the buying or leasing expenditures, the subpart (b) fund balance continues to accrue without benefit to the Department or to City water utility customers;

(Continue on additional sheets as required)

2. Adds a new authorized expenditure for lobbying expenses: This recognizes that it is often advisable for the City to use lobbyists with expertise in water rights matters who can work with the City's other lobbyists;
3. Adds another authorized expenditure to promote water conservation: This provides funding for water conservation programs to comply with the Office of the State Engineer requirements;
4. Changes the title of the section from "Water Acquisition and Management Fund" to "Water Rights Fund:" This more accurately reflects what the fund will be used for; and
5. As proposed, the ordinance as presented would repeal and replace the specific section due to the extensive proposed changes; thus making the changes less confusing rather than through multiple amendments.

SUPPORT INFORMATION:

1. Ordinance.
2. Exhibit "A", proposed replacement LCMC, Section 2-1347, entitled "Water Rights Fund."
3. Attachment "A", Existing LCMC, Section 2-1347, entitled "Water Acquisition and Management Fund," shown in legislative format.

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: _____ 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

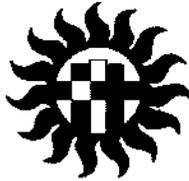
OPTIONS / ALTERNATIVES:

1. Vote "Yes"; this action will approve the Ordinance repealing the existing LCMC, Section 2-1347, entitled "Water Acquisition and Management Fund," and enacting replacement LCMC, Section 2-1347, entitled "Water Rights Fund."
2. Vote "No"; this action will keep existing LCMC, Section 2-1347 in effect.
3. Vote to "Amend"; this action would allow the City Council to modify provisions of replacement LCMC, Section 2-1347.
4. Vote to "Table"; this action would allow the City Council to table or postpone consideration of the Ordinance and to 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



City of Las Cruces®

PEOPLE HELPING PEOPLE

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COUNCIL ACTION AND EXECUTIVE SUMMARY PACKET ROUTING SLIP

For Meeting of April 4, 2016
(Ordinance First Reading Date)

For Meeting of May 2, 2016
(Adoption Date)

TITLE:

AN ORDINANCE REPEALING LAS CRUCES MUNICIPAL CODE 1997 (LCMC), SECTION 2-1347, ENTITLED "WATER ACQUISITION AND MANAGEMENT FUND," AND ENACTING REPLACEMENT LCMC, SECTION 2-1347 TO BE ENTITLED "WATER RIGHTS FUND."

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

DEPARTMENT	SIGNATURE	PHONE NO.	DATE
Drafter/Staff Contact	<i>[Signature]</i>	541-2128	3/2/2016
Department Director	<i>[Signature]</i>	541-2128	3/9/16
Other			
Assistant City Manager /CAO Management & Budget Manager	<i>[Signature]</i>	541-2100 541-2107	3-11-2016 2-10-2016
Assistant City Manager/COO	<i>[Signature]</i>	541-2271	3/11/16
City Attorney	<i>[Signature]</i>	541-2128	9 MAR 2016
City Clerk	<i>[Signature]</i>	541-2115	3-22-16

Legal Advertising Affidavit

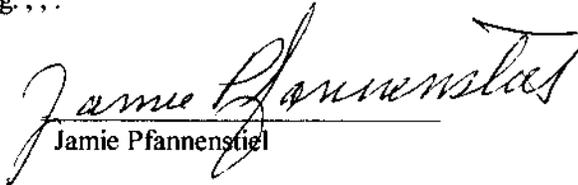
Jamie Pfannenstiel, who, being duly sworn as the Advertising Assistant of the Las Cruces BULLETIN, a weekly newspaper of general distribution published in the City of Las Cruces, County of Doña Ana, State of New Mexico, disposes and states that the legal advertising for

CITY OF LAS CRUCES CITY ATTORNEY

In the matter of:

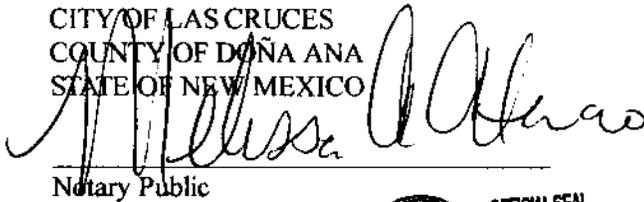
NOTICE OF INTENT TO ADOPT City Council Meeting to be Held on May 2, 2016: (1) Council Bill No. 16-021; Ordinance No. 2780:

In accordance with the laws of the State of New Mexico, the attached was published in its entirety 1 time(s) in the Las Cruces BULLETIN, the first publication date being 04/01/2016 and subsequent publications being: , , .



Jamie Pfannenstiel

Sworn to and subscribed
before me this day 04/01/2016
in the
CITY OF LAS CRUCES
COUNTY OF DOÑA ANA
STATE OF NEW MEXICO



Notary Public



OFFICIAL SEAL
MELISSA A. ATENCIO
NOTARY PUBLIC - STATE OF NEW MEXICO

My commission expires: 5-12-16

Advertising Costs: \$43.77

NOTICE OF INTENT TO ADOPT

The City Council of The City of Las Cruces, New Mexico, Hereby Gives Notice of Its Intent to Adopt The Following Ordinance(s) at a City Council Meeting to be Held on May 2, 2016:

(1) Council Bill No. 16-021; Ordinance No. 2780: An Ordinance Repealing Las Cruces Municipal Code 1997 - (LCMC), Section 2-1347, Entitled "Water Acquisition and Management Fund," and Enacting Replacement LCMC, Section 2-1347 to be Entitled "Water Rights Fund."

Copies Are Available for Inspection During Working Hours at the Office of the City Clerk.

Witness My Hand and Seal of the City of Las Cruces on this the 29th day of March 2016.

Linda Lewis, CMC
City Clerk

Date: 04/01, 2016

**NOTICE OF INTENT
TO ADOPT**

The City Council of The City of Las Cruces, New Mexico, Hereby Gives Notice of Its Intent to Adopt The Following Ordinance(s) at a City Council Meeting to be Held on May 2, 2016:

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Linda Lewis, CMC
City Clerk

Date: 04/01, 2016

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CITY OF LAS CRUCES - CITY ATTORNEY

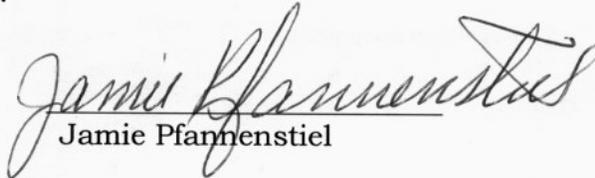
In the matter of:

NOTICE OF ADOPTION

Council Bill No. 16-021; Ordinance No. 2780:

Council Bill No. 16-022; Ordinance No. 2781:

In accordance with the laws of the State of New Mexico, the attached was published in its entirety **One** time in the **Las Cruces BULLETIN**, the first and only publication date being 5/06/2016.


Jamie Pfannenstiel

Sworn to and subscribed
before me this 6th day
of May 2016
in the

CITY OF LAS CRUCES
COUNTY OF DOÑA ANA
STATE OF NEW MEXICO

Notary Public



OFFICIAL SEAL
MELISSA A. ATENCIO
NOTARY PUBLIC - STATE OF NEW MEXICO

My commission expires: 5-12-16

\$58.03

Advertising Costs

NOTICE OF ADOPTION

The City Council of the City of Las Cruces, New Mexico, Hereby Gives Notice of Its Adoption of the Following Ordinance(s) at the Regular City Council Meeting Held on May 2, 2016:

1. Council Bill No. 16-021; Ordinance No. 2780: An Ordinance Repealing Las Cruces Municipal Code 1997 (LCMC), Section 2-1347, Entitled "Water Acquisition and Management Fund," and Enacting Replacement LCMC, Section 2-1347 to be Entitled "Water Rights Fund."

2. Council Bill No. 16-022; Ordinance No. 2781: An Ordinance Repealing and Replacing Chapter 39, Outdoor Lighting of the Las Cruces Municipal Code in its Entirety to Correct Typographical Errors, Amend Definitions, Revise Submittal Requirements and Special Lighting Permit Requirements, Clarify Non-Conforming/Grandfathering Provisions and Amend Provisions for Billboard Lighting Options.

Copies Are Available for Inspection During Working Hours at the Office of the City Clerk. **Witness My Hand and Seal of the City of Las Cruces on this the 3rd day of May, 2016.**

Linda Lewis, CMC
City Clerk

05/06, 2016

LAS CRUCES SUN-NEWS

PROOF OF PUBLICATION

I, being duly sworn, Diana Jaramillo deposes and says that she is the Legal Coordinator of the Las Cruces Sun-News, a newspaper published daily in the county of Dona Ana, State of New Mexico; that Pub#1105941 is an exact duplicate of the notice that was published once a week/day in regular and entire issue of said newspaper and not in any supplement thereof for 1 consecutive week(s)/day(s), the first publication was in the issue dated April 3, 2016, the last publication was April 3, 2016. Despondent further states this newspaper is duly qualified to publish legal notice or advertisements within the meaning of Sec. Chapter 167, Laws of 1937.

Signed

Diana Jaramillo
Legal Coordinator
Official Position

STATE OF NEW MEXICO

ss.

County of Dona Ana

Subscribed and sworn before me this

12th day of May 2016

Diana Jaramillo

Notary Public in and for
Dona Ana County, New Mexico

June 24, 2019
My Term Expires

NOTICE OF INTENT TO ADOPT

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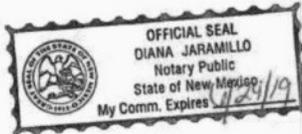
Copies Are Available for Inspection During Working Hours at the Office of the City Clerk. Witness My Hand and Seal of the City of Las Cruces on this the 29th day of March 2016.

Linda Lewis, CMC

City Clerk

Pub #1105941

Run Date: April 3, 2016



LAS CRUCES SUN-NEWS

PROOF OF PUBLICATION

I, being duly sworn, Maria Del Villar deposes and says that she is the Legal Coordinator of the Las Cruces Sun-News, a newspaper published daily in the county of Dona Ana, State of New Mexico; that the 1113779 is an exact duplicate of the notice that was published once a week/day in regular and entire issue of said newspaper and not in any supplement thereof for 1 consecutive week(s)/day(s), the first publication was in the issue dated May 8, 2016 the last publication was May 8, 2016 Despondent further states this newspaper is duly qualified to publish legal notice or advertisements within the meaning of Sec. Chapter 167, Laws of 1937.

Signed

Maria Del Villar

Legal Coordinator
Official Position

STATE OF NEW MEXICO

ss.

County of Dona Ana

Subscribed and sworn before me this

9th day of June 2016

Maria Isabel Del Villar

Notary Public in and for
Dona Ana County, New Mexico

August 6, 2016

My Term Expires

NOTICE OF ADOPTION

The City Council of the City of Las Cruces, New Mexico, Hereby Gives Notice of Its Adoption of the Following Ordinance(s) at the Regular City Council Meeting Held on May 2, 2016:

1. Council Bill No. 16-021; Ordinance No. 2780: An Ordinance Repealing Las Cruces Municipal Code 1997 (LCMC), Section 2-1347, Entitled "Water Acquisition and Management Fund," and Enacting Replacement LCMC, Section 2-1347 to be Entitled "Water Rights Fund."
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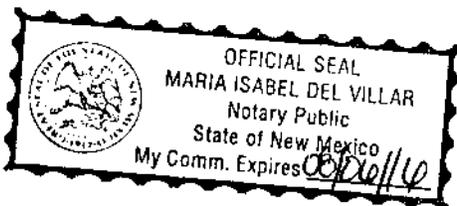
Copies Are Available for Inspection During Working Hours at the Office of the City Clerk. Witness My Hand and Seal of the City of Las Cruces on this the 3rd day of May, 2016.

Linda Lewis, CMC

City Clerk

Pub#1113779

Run Date: May 8, 2016



Order Confirmation

Ad Order Number	Customer	Customer Account	Ordered By	PO Number
000113779	CITY OF LAS CRUCES	26484		
Sales Rep.	Customer Address	Customer Phone #1	Customer Phone #2	
mdelvillar	PO BOX 20000,ATTN: CITY CLERK	575-541-2118		
Order Taker	Customer Fax	Customer Email		
mdelvillar	LAS CRUCES, NM, USA 88004			
Order Source	Payor Customer	Payor Account	Special Pricing	
Rep	CITY OF LAS CRUCES	26484	None	

Tear Sheets	Proofs	Affidavits	Blind Box	Promo Type	Materials
1	0	0			
Invoice Text					

Net Amount	Tax Amount	Total Amount	Payment Method	Payment Amount	Amount Due
\$41.52	\$3.45	\$44.97		\$0.00	\$44.97

Ad Number	Ad Type	Ad Size	Color	Production	Production Notes
000113779-01	CLS Legal liner	1.0 X 67 LI	<NONE>	AdBooker	
Ad Attributes					
Ad Released Pick Up					
No					

Product Information	Placement/Classification
LC Sun-News::	Legal
Run Schedule Invoice Text	Sort Text
NOTICE OF ADOPTION The City Council NOTICEOFADOPTIONTHECITYCOUNCILOFTHECITYO	

Product Information	Placement/Classification	Run Dates	# Inserts	Cost
LC Online::	Legal	5/8/2016	1	\$4.33
Run Schedule Invoice Text	Sort Text			
NOTICE OF ADOPTION The City Council NOTICEOFADOPTIONTHECITYCOUNCILOFTHECITYO				

LAS CRUCES SUN-NEWS

PROOF OF PUBLICATION

I, being duly sworn, Maria Del Villar deposes and says that she is the Legal Coordinator of the Las Cruces Sun-News, a newspaper published daily in the county of Dona Ana, State of New Mexico; that the 1113779 is an exact duplicate of the notice that was published once a week/day in regular and entire issue of said newspaper and not in any supplement thereof for 1 consecutive week(s)/day(s), the first publication was in the issue dated May 8, 2016 the last publication was May 8, 2016 Despondent further states this newspaper is duly qualified to publish legal notice or advertisements within the meaning of Sec. Chapter 167, Laws of 1937.

Signed

Maria Del Villar

Legal Coordinator
Official Position

STATE OF NEW MEXICO

ss.

County of Dona Ana

Subscribed and sworn before me this

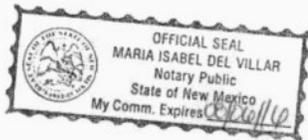
9th day of June 2016

Maria Isabel Del Villar

Notary Public in and for
Dona Ana County, New Mexico

August 6, 2016

My Term Expires



NOTICE OF ADOPTION

The City Council of the City of Las Cruces, New Mexico, Hereby Gives Notice of Its Adoption of the Following Ordinance(s) at the Regular City Council Meeting Held on May 2, 2016:

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Copies Are Available for Inspection During Working Hours at the Office of the City Clerk. Witness My Hand and Seal of the City of Las Cruces on this the 3rd day of May, 2016.

Linda Lewis, CMC

City Clerk

Pub#1113779
Run Date: May 8, 2016