



# City of Albuquerque

## Planning Department

Real Property Division

EC-19-412

Timothy M. Keller, Mayor

Interoffice Memorandum

April 22, 2019

**TO:** Klarissa Peña, President, City Council

**FROM:** Timothy M. Keller, Mayor 

**SUBJECT:** Approving Real Estate Sale Agreement for Tract A-19-A Re-division of Tract A-19 NORTHEAST UNIT together with a portion of vacated Corona Drive NW TOWN OF ATRISCO GRANT Containing 39,465 square feet (0.906 acres)

The above referenced Property was declared Non-Essential for Municipal Purposes on June 4, 2018, City Council EC-18-96. An RFP was issued on the Property for the appraised value of Two Hundred Fifty Six Thousand and Five Hundred Dollars (\$256,500.00). Casa Del Rey Ministries was the only bidder and submitted a successful bid for Two Hundred Sixty Five Thousand Dollars (\$265,000.00). After expenses related to the sale of the Property, the remaining proceeds will go to the Department of Municipal Development.

City Council approval and consideration is requested to approve the Real Estate Sales Agreement.

Approved:



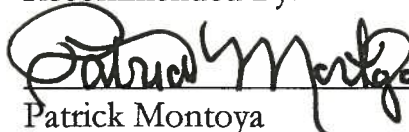
4/23/19

Sarita Nair

Date

 Chief Administrative Officer

Recommended By:

 4-23-2018

Patrick Montoya

Date

Director of DMD



Approving Real Estate Sales Agreement for Corner of Ouray Rd. & Corona Drive

## **Cover Analysis**

### **1. What is it?**

Approval of Real Estate Sales Agreement for Tract A-19-A Re-division of Tract A-19 NORTHEAST UNIT together with a portion of vacated Corona Drive NW TOWN OF ATRISCO GRANT Containing 39,465 square feet (0.906 acres).

### **2. What will this piece of legislation do?**

Approving the Real Estate Sales Agreement will allow the Property to be sold. This will generate revenue for the Department of Municipal Development and Property Tax revenue for the County of Bernalillo.

### **3. Why is this project needed?**

The Real Estate Sale Agreement must be approved in accordance with City ordinances before conveyance.

### **4. How much will it cost and what is the funding source?**

\$0

### **5. Is there a revenue source associated with this contract? If so, what level of income projected?**

After closing costs related to the sale of the Property, the remaining proceeds will be deposited the Department of Municipal Development.

### **6. What will happen if the project is not approved?**

City will retain ownership, liability and expense of maintenances of the Property and no revenue will be generated for the Department of Municipal Development and no property tax revenue will be generated for the County of Bernalillo.

### **7. Is this service already provided by another entity?**

This is not a service contract.



Mayor Tim Keller

EC-18-96  
**CITY OF ALBUQUERQUE**  
Albuquerque, New Mexico  
Office of the Mayor

**INTER-OFFICE MEMORANDUM**

January 16, 2018

**TO:** Ken Sanchez, President, City Council

**FROM:** Tim Keller, Mayor

**SUBJECT:** Declaring the Southeast Corner of Ouray Road & Corona Drive,  
Not-Essential for Municipal Purposes.

The Department of Municipal Development has requested that the above referenced property be sold.

The Real Property Review Board met on November 2, 2017, and recommended the above referenced property be declared Not-Essential for Municipal Purposes.

Mario J. Del Curto, MAI, appraised the Property on July 15, 2017 for Two Hundred Fifty Six Thousand and Five Hundred Dollars (\$256,500).

City Council approval is requested to declare the property Not-Essential for Municipal purposes.

Declaring Southeast Corner of Ouray Road & Corona Drive  
Not-Essential for Municipal Purposes

Declaring Southeast Corner of Ouray Road & Corona Drive  
Not-Essential for Municipal Purposes

Approved:

SN 4/9/16  
Sarita Nair Date  
Chief Administrative Officer

Approved as to Legal Form:

Samantha M Hults  
Samantha Hults Date  
City Attorney

(46) 1-3-2017

Recommended By:

SR  
Lawrence Rael Date  
Acting Director of Department of Municipal Development

## **Cover Analysis**

### **1. What is it?**

Declaring Tract A-19-A Re-division of Tract A-19 NORTHEAST UNIT together with a portion of vacated Corona Drive NW TOWN OF ATRISCO GRANT Containing 39,465 square feet (0.906 acres) Not-Essential for Municipal Purposes.

### **2. What will this piece of legislation do?**

Declaring the Property not-essential will allow the property to be sold. This will generate revenue for the Department of Municipal Development and generate Property Tax Revenue for the County of Bernalillo.

### **3. Why is this project needed?**

The Property must be declared Non-Essential for Municipal Purposes in accordance with City ordinances before conveyance.

### **4. How much will it cost and what is the funding source?**

Declaring the property not-essential will not incur any cost to the City's General Fund.

### **5. Is there a revenue source associated with this contract? If so, what level of income is projected?**

After expenses related to the sale of the Property, the remaining proceeds will go to the Department of Municipal Development.

### **6. What will happen if the project is not approved?**

City will retain ownership of the Property and no revenue will be generated for the Department of Municipal Development no property tax revenue will be generated for the County of Bernalillo.

### **7. Is this service already provided by another entity?**

In accordance with the Surplus Ordinance no other City department is authorized to sell City owned property.

**Del Curto Appraisal Services**

**Mario J. Del Curto, MAI**

**8312 Bouvardia Avenue NW**

**Albuquerque, NM 87120**

**505 401 2537 - Office & FAX 505 503 1967 - Email [appraiser55@msn.com](mailto:appraiser55@msn.com)**

**July 25, 2017**

**City of Albuquerque**

**Planning Department, Real Property**

**Attention: Mr. James F. McNeely, Review Appraiser**

**P.O. Box 1293**

**Albuquerque, New Mexico 87102**

**Phone: (505) 924-3488 - FAX: (505)-924-3498**

**RE: Appraisal Report- A Vacant Site**

**Southeast Corner of Ouray Road & Corona Drive NW; N/of I-40 & E/of Coors Road**

**Albuquerque, NM 87120 - Appraisal File #M17020**

**Mr. McNeely:**

In accordance with your request, I have prepared an appraisal report on the above-referenced property. This report is intended to assist the client, subsidiaries and/or affiliates with internal decision making processes. According to instructions, I have provided an opinion of fair market value for the fee simple estate "as is" in the subject property described herein. The owner of the property is the City of Albuquerque.

This letter of transmittal is not to be misconstrued as a complete appraisal, but merely indicates the final value opinion developed in the following appraisal report which has been prepared to meet minimum requirements as set forth by the Appraisal Foundation for Uniform Standards of Professional Appraisal Practice (USPAP) and with the Office of the Comptroller of the Currency's Real Estate Appraisal and Evaluation Guidelines. The appraisal is made subject to general assumptions and limiting conditions stated in the body of the report. The Certification and Assumptions and Limiting Conditions are presented in the *Addenda*, and are considered an integral part of the report. Based on the analyses contained in my appraisal file; I hereby certify that the property referenced above has the following opinion of fair market value.

**VALUE OPINION**

	<b>Effective Date</b>	<b>Fair Market Values</b>
<b>"As Is" Value of Vacant Site</b>	<b>July 15, 2017</b>	<b>\$256,500 (\$6.50/SF)</b>

Respectfully submitted,

**DEL CURTO APPRAISAL SERVICES - CONSULTANTS & APPRAISERS, INC.**



**Mario J. Del Curto, MAI - NM General Certified Appraiser #000247-G**

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**Del Curto Appraisal Services - Consultants & Appraisers, Inc.**

**8312 Bouvardia Avenue NW, • Albuquerque, NM 87120 • Office (505) 503-1967 • Cell (505) 401-2537 • FAX (505) 503-1967**

## ADMINISTRATIVE REAL PROPERTY REVIEW BOARD MINUTES

November 2, 2017, 10:00am

### BOARD MEMBERS:

Jessica M. Hernandez, City Attorney, Legal Department  
(Charlie Salas-Ramos) Don Britt, Real Property Manager,  
Suzanne Lubar, Planning Director  
Lou Hoffman, Director, Department of Finance

### OTHERS ATTENDING:

Brandi Salazar, Real Property Agent II  
Reylene Garcia, Real Property Supervisor  
Melissa R. Lozoya, Acting Director Department of Municipal Development  
Chris Tebo, Assistant City Attorney

The Administrative Real Property Review Board met on November 2, 2017 to recommend a parcel of City owned property to be declared not-essential for municipal purposes.

Tract A-19-A Re-division of Tract A-19 NORTHEAST UNIT  
together with a portion of vacated Corona Drive NW TOWN OF ATRISCO GRANT  
Containing 39,465 square feet (0.906 acres)

The Department of Municipal Development wishes to declare this property not-essential for municipal purposes.

A MOTION WAS DULY MADE BY Suzanne Lubar, SECONDED BY Chris Tebo AND PASSED BY THE ADMINISTRATIVE REAL PROPERTY REVIEW BOARD BY A VOTE OF 3 FOR AND 0 AGAINST TO DECLARE THE PROPERTY NOT-ESSENTIAL FOR MUNICIPAL PURPOSES.

The above actions were taken at the November 2, 2017 meeting of the Administrative Real Property Review Board.

Jessica M. Hernandez  
for Jessica M. Hernandez, City Attorney  
Legal Department

Charlie Salas-Ramos  
Charlie Salas-Ramos  
Assistant Real Property Manager

(not present)  
Lou Hoffman, Director of DFAS

Suzanne Lubar  
Suzanne Lubar, Planning Director



**REAL PROPERTY NOT ESSENTIAL FOR MUNICIPAL PURPOSE**  
**ANALYSIS AND RECOMMENDATION PURSUANT TO ORDINANCE §5-2-2 AND §5-2-3**

Property Address: Southeast corner of Ouray Rd and Corona Drive N/or I-20 & E/of Coors Rd, Albuquerque 87120

UPC #: 101105932937410115

Legal Description: Tract A-19-A Re-division of Tract A-19 NORTHEAST UNIT  
together with a portion of vacated Corona Drive NW TOWN OF ATRISCO GRANT Containing 39,465  
square feet (0.906 acres)

Property has not been utilized for a municipal purpose.

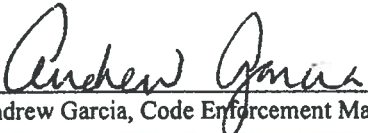
Current Zoning Designation: R-T

Current Use / Allowable Use(s): Vacant Property

Surrounding Zoning and Uses	Zoning	Land Use
North	N/A	Right of way
South	P-R	Parking lot
East	R-T	Townhome development
West	N/A	Right of way

Sector Development Plan: **Coors Corridor**

Comprehensive Plan: Established Urban

  
Andrew Garcia, Code Enforcement Manager

10/9/17  
Date

Pursuant to §5-2-2, the Administrative Real Property Review Board has analyzed the subject property, in relation to the Albuquerque/Bernalillo County Comprehensive Plan and related master plans and has voted to:

☒ RECOMMEND TO DECLARE THE PROPERTY NON-ESSENTIAL FOR MUNICIPAL PURPOSES

Pursuant to §5-2-3, the Planning Department has reviewed the zoning of the subject property to determine the appropriateness of the zoning in terms of the City's master plan, in particular the master plan documents which comprise the Albuquerque/Bernalillo County Comprehensive Plan, and has determined:

☒ THE PROPERTY IS APPROPRIATELY ZONED - *No further action required.*

☐ THE PROPERTY IS NOT APPROPRIATELY ZONED

*The Planning Department shall initiate a zone change for a more appropriate zoning designation.*

  
Suzanne Lubar, Planning Director

11/2/17  
Date



**REAL ESTATE PURCHASE AGREEMENT**

**BETWEEN**

**CASA DEL REY MINISTRIES,  
AS PURCHASER**

**AND**

**THE CITY OF ALBUQUERQUE, A NEW MEXICO MUNICIPAL CORPORATION,  
AS SELLER**

**EFFECTIVE DATE:**

## **REAL ESTATE PURCHASE AGREEMENT**

Real Estate Purchase Agreement ("Agreement") made and entered into by and between Casa Del Rey Ministries ("Buyer"), and City of Albuquerque, a New Mexico municipal corporation ("Seller").

WHEREAS, the City of Albuquerque is the owner of vacant land, known as Tract A-19-A, being a Redivision of Tract A-19, Northeast Unit Together with a portion of Vacated Corona Drive, N.W. (Now comprising Tracts A-19-A, A-19-B, A-19-C1, A-19-C2 and A-19-D) within the Town of Atrisco Grant, Albuquerque, Bernalillo County, New Mexico, as the same is shown and designated on the Plat thereof, filed in the office of the County Clerk of Bernalillo County, New Mexico, on March 22, 1991, in Plat Book 91C, Page 57, containing 0.906 acres more or less, and generally known as the south easterly portion of Corona Road and Ouray Drive; and,

WHEREAS, the property is a remnant from a roadway project; and,

WHEREAS, the City of Albuquerque has declared the property not essential for municipal purposes as required by City Ordinance § 5-2-5 on June 4, 2018; and,

WHEREAS, the Buyer is willing to purchase and City is willing to sell the property not essential for municipal purposes, generally known as the south easterly portion of Corona Road and Ouray Drive NW.

NOW, THEREFORE, for mutual consideration, and on the terms set forth herein, the Buyer and Seller agree as follows:

### **I. PURCHASE AGREEMENT**

#### **1. Sale.**

Subject to the terms and conditions of this Agreement, the Seller shall sell and the Buyer shall purchase from Seller that certain 0.906 acres +/- tract of real estate in Bernalillo County, New Mexico, located at the southeast corner of Corner of Ouray Road & Corona Drive NW and described above and more specifically shown on Exhibit A ("Property") attached hereto and made a part of this Agreement.

#### **2. Purchase Price.**

The purchase price ("Purchase Price") of the Property is TWO HUNDRED SIXTY FIVE THOUSAND and No/100 DOLLARS (\$265,000.00), plus or minus the prorations payable by the Buyer to the Seller at the closing of the Sale shall be paid as follows:

A. One Thousand and no/100 Dollars (\$1,000.00) earnest money deposit

("Deposit") has been paid to the City by Buyer, the receipt of which is hereby acknowledged by the City; and,

- B. The balance of the Purchase Price ("Balance Due") and any prorations shall be paid to the City at the Closing, as described below, in immediately available funds as required by the title company.

## **II. SURVEY, TITLE COMMITMENT AND TITLE POLICIES**

### **1. Title Insurance.**

At least thirty (30) days prior to the closing of the Sale, the City shall order a commitment ("Title Commitment") for a policy of title insurance covering the Property from Stewart Title, 7801 Academy Rd NE, Building 1, Suite 101, Albuquerque, NM 87109 (Cindy Aragon, Title Officer), together with legible copies of documents shown on Title Commitment's Schedule B as exceptions. In the Title Commitment, the Title Company or its underwriter will agree to issue to the Buyer, upon the recording of a Deed, as described below, conveying title to the Property from the Seller to the Buyer, a standard title policy of title insurance ("Title Policy") in the amount of the Purchase Price and insuring the title of the Buyer in the Property free and clear of all liens, encumbrances, taxes and other exceptions, subject only to the Permitted Exceptions (defined below). The expense of the Title Commitment and Title Policy shall be paid in full by the Seller. The Buyer shall pay for any deletions of standard exceptions or additional endorsements desired by Buyer.

### **2. Survey.**

At least thirty (30) days prior to the closing of the Sale, the Buyer, at Buyer's sole expense, may obtain a survey or an Improvement Inspection Report of the Property ("Survey"). The Survey will (i) state that the Survey is prepared for the Buyer, the Title Company and the underwriter of the Title Company; (ii) be certified by a New Mexico licensed surveyor ("Surveyor") as of a date no more than sixty (60) days before the date of the closing of the Sale; (iii) be in form and content acceptable to the Buyer; and (iv) to satisfy all requirements for issuance of the Title Policy.

### **3. Notice of Objections to Surveys or Title Commitment.**

Within ten (10) working days after receipt by the Buyer of the Survey or Title Commitment (the "Objection Period"), the Buyer will give written notice to the Seller of any objections the Buyer may have to any matter shown on the Survey or in the Title Commitment ("Objections"). If the Buyer fails to object to any matter shown on the Survey or fails to object to the condition of title to the Property as shown in the Title Commitment within the ten (10) day period, the Buyer shall be deemed to have waived such matters or conditions. For up to and including twenty-one (21) working days after Seller's receipt of the written notice of Buyer's Objections (the "Cure Period"), the Seller may attempt to cure, eliminate or modify any or all Objections to the satisfaction of the Buyer, but shall have no obligation to do so. Within five (5)

days from receipt of the written notice of Buyers Objections, the Seller will give notice to the Buyer as to whether or not Seller will satisfy or attempt to satisfy any of the Buyer's Objections. If the Seller is unable to or does not satisfy the Objections upon the expiration of the Cure Period, the Buyer shall have the following options, one of which shall be exercised by written notice given to Seller within five (5) days after the expiration of the Cure Period: (i) the Buyer may agree to an additional period of time in which the Seller may continue to attempt to satisfy the Objections; (ii) the Buyer may waive the Objection and accept title to the Property subject to any unsatisfied Objections, in which event the unsatisfied Objections will be deemed to be waived for all purposes and constitute Permitted Exceptions; or (iii) the Buyer may terminate this Agreement, in which event, the Seller and the Buyer will have no further rights, obligations or liabilities to one another under this Agreement. If the Buyer does not deliver written notice to the Seller five (5) days after the expiration of the Cure Period electing one of the above options, this Agreement will automatically terminate. Upon termination of the agreement as provided in this Section, the Buyer and Seller shall have no further rights, obligations or liabilities as between the Buyer and Seller as provided in this Agreement and all obligations and liabilities of Buyer and Seller will cease upon the date of termination, except as otherwise provided in this Agreement, including, without limitation, as to liabilities expressly stated to survive termination of this Agreement. If the Seller does not satisfy the Objections, then the rights available to the Buyer, as provided in this paragraph, are the sole rights and remedies of the Buyer to the exclusion of all other rights and remedies existing in law or equity.

#### **4. Permitted Exceptions.**

For the purposes of this Agreement and the Deed, "Permitted Exceptions" will constitute the Schedule B Standard Exceptions set forth in 13 NMAC 14.5, Section 9 and all matters shown on the Initial Title Commitment, the Updated Title Commitment and the Survey which the Buyer approves or is deemed to have approved pursuant to this paragraph, and any liens or encumbrances caused or created by the Buyer or the Buyer's employees, agents or contractors, and any unsatisfied objections waived by the Buyer.

#### **5. Deed.**

The Seller shall convey title to the Property to the Buyer by statutory form quitclaim deed ("Deed"), subject only to the Permitted Exceptions. The description of the Property to be contained in the Deed shall conform to the description of the Property contained in the Survey, except that if a subdivision plat is required to close the Sale, the description of the Property in the Deed shall conform to the description of the Property in the recorded subdivision plat.

#### **6. Buyer Inspections and Zone Change.**

Buyer may conduct at Buyer's sole cost any and all inspections of the Property and Buyer may seek a zone change for the property and Buyer shall have up to six (6) months from the effective date, ("Due Diligence Period") to perform any inspections Buyer feels necessary and to effect a zone change for the property. This Agreement is contingent upon the Buyers satisfaction

with all due diligence inspections and the completion of the zone change. If the results of any inspection or the outcome of the efforts to effect a zone change are unsatisfactory to the Buyer, at Buyer's sole discretion, the Buyer may give written notice to Seller and this Agreement shall terminate and the Earnest Money shall be refunded to Buyer. Upon the written request of Buyer and a showing that Buyer has made diligent efforts to complete any inspections and effect a zone change, Seller may, at Seller's sole discretion, extend the Due Diligence Period for an additional two months. If Buyer does not remove the contingencies for inspections or zone change on or before the end of the Due Diligence Period or any approved extension period, Seller, at Seller's sole option, may terminate this Agreement by giving Buyer written notice of termination.

Buyer shall restore the Property to the same condition in which it existed immediately prior to the conducting of any inspection or physical testing promptly upon completion of each such inspection or test. Buyer will not permit any liens or encumbrances to arise against the Property in connections with or as a result of such inspection or testing or effecting a zone change and Buyer will be responsible for any losses, liabilities, costs, expenses (including, without limitation, reasonable attorneys' fees and court costs), arising from any inspections or zone change efforts. The Buyer's obligation hereunder shall survive closing.

Buyer shall ensure that its contractors maintain commercial general liability insurance insuring against any liability arising out of their activities, in, upon, about or with respect to the Property and the insurance must be at least in the amounts of \$1,000,000.00 per occurrence combined single limit for injury to or death of one or more persons, and for damage to the Property.

### **III. ENVIRONMENTAL INSPECTION**

#### **1. Definitions.**

As used in this Agreement, the following terms shall have the following definitions:

A. "Environmental Condition" means any condition regarding the presence of Hazardous Materials located on, in, under or originating from the property or located within the improvements thereon with respect to air, soil, surface water or groundwater that require response under any Environmental Requirements in effect at the time of their application.

B. "Environmental Requirements" means all applicable federal, state and local governmental agency environmental statutes, ordinances, rules, notices, regulations, standards, permits orders and any other governmental requirements relating, by way of example and not limitation, to the following: (i) the spill, leaked, discharge, emission or release of any Hazardous Material, to the air, surface water, ground water or soil; (ii) the storage, treatment, disposal or handling of any Hazardous Materials and (iii) the construction, operation, maintenance, repair or closing of aboveground or underground storage tanks or impoundments containing Hazardous Materials.

C. "Hazardous Materials" means substances defined as such pursuant to the

Comprehensive Environmental Response Compensation and Liability Act, as amended; or as hazardous waste, as that term is defined under the Resource Conservation Recovery Act; PCB's; petroleum hydrocarbons; and substances so defined pursuant to requirements prevailing and applicable on the Effective Date as established by the State of New Mexico.

D. "Other Materials" means any materials or substances which do not come within the definition of Hazardous Materials, including, but not limited to, ACM, radon or other radioactive substances, lead-based paint, nonhazardous wastes or any toxic or polluting substances.

E. "Documents" means all documents, photographs, maps, data, notes, reports, chromatograms, in digital form, print, videotape or other media used to transmit information regarding the environmental condition of any aspect of the property, including, but not limited to the Phase I Report, the Phase II Report, if any, and the Cleanup Plan, if any.

## **2. Notice to Buyer and Acceptance of Property.**

The Buyer, at Buyer's sole expense, may conduct any and all investigations it desires to fully examine the environmental characteristics of the Property ("Due Diligence") including, but not limited to, the examination of any improvements located thereon and the evaluation of the Environmental Condition of the Property for the presence of any Hazardous Materials or Other Materials located on, in, under or originating from the Property. The Buyer acknowledges and represents, as of the Closing, that the Buyer has independently investigated all matters pertaining to the Property deemed material to the Buyer, the Buyer is purchasing the Property based upon the Buyer's own inspection and knowledge of the Property and the Buyer's development, real estate, legal, environmental and marketing experience, and not based on any representations of Seller. The Buyer is purchasing the Property AS IS. Except as expressly stated in this Agreement, no representations, statements or warranties, expressed or implied, have been made by or on behalf of the Seller as to the merchantability, quantity, quality or condition of the Property; the fitness of the Property for any particular purpose; the existence or location of water, potable water or water rights on or appurtenant to the Property; access to public right-of-way or utility connections on or to the Property. The Buyer may, at the Buyer's sole risk and expense, provide or acquire any access or utility connections the Buyer deems necessary or desirable to permit the Buyer to have full use and enjoyment of the Property. The provisions of this Section III.2. shall survive the closing of the Sale and shall not be merged into the execution and delivery of the Deed or any other document executed and delivered subsequently to the execution and delivery of this Agreement.

## **3. Acknowledge of Receipt of Reports.**

The Buyer acknowledges that the Seller may have provided to Buyer documents relating to the environmental condition of the Property. The Buyer further acknowledges that the documents may or may not be all documents in Seller's possession and that the documents may or may not be complete as to information needed for Buyer to determine the condition of the property. The Buyer shall have the right and sole responsibility to conduct any and all

investigations it desires to fully examine the environmental characteristics of the AS IS Property.

**4. Notice of Violation.**

If the Seller receives any new notices of a violation of any Environmental Requirement with respect to the Property prior to the date of the Closing, then prior to the Closing, Seller shall give to the Buyer a copy of such notice.

**IV. WARRANTIES AND REPRESENTATIONS**

**1. Seller's Warranties.**

The Seller warrants and represents that:

- A. The Seller has good, indefeasible and marketable title to the Property.
- B. There are no leases or other use, occupancy or possession agreements in effect pertaining to the Property, except those lease agreements by and between the Seller and Buyer, which will be in effect at the time of or survive the closing of the Sale.
- C. The Property has free access to and from a public street, road, alley or other right-of-way.

**V. CLOSING**

**1. Closing of Sale.**

Within ten (10) days after the removal of any contingencies, the acceptance of title and the acceptance of the environmental condition of the Property, the Buyer will give the Seller notice of a proposed time and date of closing of the Sale ("Closing"), which date will be no later than thirty (30) days following Seller's receipt of such notice. The Closing will be at the office of the Title Company, either (i) at the time and on the date stated in the notice, or (ii) at such other time, date and place as the Seller and the Buyer may agree in writing. At the Closing, the Seller, the Buyer and the Title Company will perform the following duties:

A. The Seller's Duties. At or prior to Closing, Seller will deliver or cause to be delivered each of the following items:

- (i) The Deed, suitable for recording, conveying title to the Property to Buyer, subject to the Permitted Exceptions;
- (ii) Any reasonable and customary certificates and affidavits that may be required in the normal course by Title Company, in form and substance reasonably satisfactory to Sellers, duly executed by Sellers;

Seller shall also execute any document reasonably required by the Title Company in order to

delete any standard exceptions from the Title Policy at Buyer's request and expense.

B. Buyer's Duties. The Buyer shall pay to the Title Company, as escrow agent, the Purchase Price, plus or minus the prorations and any closing costs to be paid by the Buyer including the cost of the deletion of any standard exception or additional endorsements to the Title Policy and the cost of the survey. The Buyer's payment shall be made by check of the Buyer or such other method of payment as may be required by the Title Company to make an immediate payment at the Closing of the Purchase Price due to the Seller as provided in this Agreement, or by such other method of payment as the Seller and the Buyer may agree in writing.

C. Title Company's Duties. At or promptly after the Closing, unless otherwise instructed by the Seller and the Buyer, the Title Company will:

- (i) record the Deed in the records of the County Clerk of Bernalillo County, New Mexico, and deliver the recorded Deed to the Buyer ;
- (ii) issue and deliver the Title Policy to the Buyer as provided in the Title Commitment, except for any matters which have been eliminated or modified as provided in this Agreement; and
- (iii) disburse to the Seller the balance of the Purchase Price due to the Seller and make all other disbursements as provided in the escrow closing statements to be prepared by the Title Company and signed by the Seller and the Buyer at the Closing, including, but not limited to, any disbursements and payments necessary to discharge any obligations which are liens upon the Property, including, but not limited to, liens arising from judgments, taxes or debts secured by Deed of trust or mortgage.

## **2. Possession.**

The Buyer shall have the right to possession of the Property as of 5:00 p.m. on the date of Closing and the Seller shall put the Buyer in possession of the Property as of the Closing.

## **3. Failure to Close.**

If the either party fails to close the Sale for any reason, except as provided in this Agreement, and if the non-defaulting party has fully performed or tendered performance of all the obligations of the non-defaulting party as provided in this Agreement, then the non-defaulting party shall have the right to either terminate this Agreement or to bring an action for damages and/or for specific performance. Upon termination of the agreement as provided in this Section, the Buyer and Seller shall have no further rights, obligations or liabilities as between the Buyer and Seller as provided in this Agreement and all obligations and liabilities of Buyer and Seller will cease upon the date of termination, except as otherwise provided in this Agreement, including, without limitation, as to liabilities expressly stated to survive termination of this Agreement.



#### **4. Prorations; Closing Costs.**

A. Ad valorem taxes and standby or similar charges for utility services for the year in which the Sale is closed, and rents or other income from the Property, if any, will be prorated up to and including the Closing Date and divided between the Buyer and the Seller. If the current figures cannot be obtained, the proration shall be based upon the figures for the last assessment period.

B. As closing costs, the Seller and the Buyer will each pay one-half of any escrow charges and expenses charged by the Title Company for closing services. The Seller and the Buyer will each pay their respective attorneys' fees. The Buyer shall pay the filing fee for recording the Deed. The Buyer and Seller shall equally share all costs of the Survey, Title Commitment and the Title Policy.

### **VI. MISCELLANEOUS.**

#### **1. Waiver of Default.**

No failure by the Buyer or Seller to insist upon the strict performance of any term, condition, or covenant of this Agreement or to exercise any right or remedy available on the breach thereof will constitute a waiver of any breach or of any term, condition, or covenant. No obligation of this Agreement that the Buyer or Seller is required to perform and no breach thereof will be waived, altered, or modified, except by written instrument executed by the Buyer or Seller. No exercise or failure to exercise any right or power of the Seller or of the Buyer as provided in this Agreement will be considered to exhaust that right or power.

#### **2. Time Is Of The Essence.**

Time is of the Essence in the performance of this Agreement.

#### **3. Notices.**

All notices, requests, demands and other communications given under this Agreement will be in writing, and, unless otherwise specified in this Agreement, will be deemed to have been given if delivered or if acceptance is refused in person by overnight courier, or three days after deposit with the U.S. Postal Service if mailed by certified or registered mail, postage pre-paid, and addressed to the Seller or to the Buyer at the following addresses, unless either the Seller or the Buyer changes the Seller's or the Buyer's address by giving written notice of the change to the other. The addresses for notices are:

- A. Notice to the Sellers:  
City of Albuquerque  
Planning Department  
P. O. Box 1293

Albuquerque, New Mexico 87103  
Attn: Real Property Division Manager

B. Notice to the Buyer:  
Casa Del Rey Ministries  
2500 Corona Dr. NW  
Albuquerque, New Mexico 87120

**4. Exhibits.**

All certificates, documents, exhibits, attachments, riders, and addenda, if any, referred to in this Agreement, including but not limited to the exhibits referred to in this Agreement, are hereby incorporated into this Agreement by reference and are made a part hereof as though set forth in full in this Agreement to the extent they are consistent with the terms and conditions of this Agreement.

**5. Further Action.**

At any time, and from time to time, each party agrees, without further consideration, to take such actions and to execute and deliver such documents as may be reasonably necessary to effectuate the purposes of this Agreement.

**6. Severability/invalidity.**

In the event any covenant, condition or provision herein is held to be void, voidable, invalid, illegal, or unenforceable by any court of competent jurisdiction, such covenant, condition or provision shall be deemed amended to conform to applicable laws so as to be valid or enforceable, or, if it cannot be so amended, without material altering the intention of the parties, it shall be stricken. If stricken, all other covenants, conditions and provision of this Agreement shall remain in full force and effect provided that the striking of such covenants, conditions or provisions does not materially prejudice either the Buyer or Seller in its respective rights and obligations contain in the valid covenants, conditions or provisions of this Agreement.

**7. Modification and Governing Laws.**

This Agreement may be modified only in writing and is governed by the laws of the State of New Mexico. Both Seller and the Buyer agree to the exclusive jurisdiction of the courts of the State of New Mexico for all purposes regarding this Agreement and further agree and consent that venue of any action brought hereunder shall be exclusively in the County of Bernalillo, New Mexico.

**8. Force Majeure.**

If performance of part or any portion of this Agreement is made impossible by any prevention, delay, or stoppage caused by strikes; lockouts; labor disputes; acts of God; inability to obtain services, labor or materials or reasonable substitutes for those items; government actions; civil commotions, fire; flood or other casualty; or other causes beyond the reasonable control of the Party obligated to perform, performance by that Party is extended for a period of time equal to the period of that prevention, delay, or stoppage.

**9. Approval of the Buyer and Seller; Binding Effect.**

This Agreement is subject to approval and signature by Seller's Chief Administrative Officer or her designee. Upon execution of this Agreement by the Chief Administrative Officer or her designee, the covenants, terms and conditions of this Agreement will be binding on and inure to the benefit of the Buyer and of the Seller and of their respective heirs, devisees, personal representatives, successors and assigns.

**10. Effective Date.**

The effective date of this Agreement shall be the later of the date of approval by the Seller's Chief Administrative Officer or her designee and the date of approval of Buyer.

**11. Final Dates.**

If the final date of any deadline falls upon a Saturday, Sunday, or holiday recognized by the U.S. Postal Service, then in such event the time of such deadline shall be extended to the next day that is not a Saturday, Sunday, or holiday recognized by the U. S. Postal Service. Whenever the word "days" is used herein, it shall be considered to mean "calendar days" and not "business days" unless an express statement to the contrary is made.

**12. Limitations on Liability.**

Neither party has any liability with respect to the obligations under this contract or otherwise for incidental, consequential, special, indirect, exemplary or punitive damages even if it has been advised of the possibility of such damages.

**13. Representation.**

Each party hereto acknowledges that it has been represented, or has had ample opportunity to obtain representation of counsel, with respect to this contract. Accordingly, each party hereto represents to the other that it has read and understood the terms of this Agreement, and the consequences of executing this Agreement, and that except as expressly set forth herein, no representations have been made by either party to induce the other party to execute this Contract.

**14. Multiple Counterparts.**

The Agreement may be signed in multiple counterparts or with detachable signature pages, but in either, or both, circumstances shall constitute one instrument, binding upon all parties thereto as if all parties signed the same document. If so executed, each such counterpart of this Agreement is to be deemed an original for all purposes and all such counterparts will collectively constitute one agreement, but in the making of proof of this Agreement, it will not be necessary to produce or account for more than one such counterpart.

**15. Headings and Captions.**

Captions of sections and paragraphs are for convenience, not limitation, and are not to be construed as modifying text

**16. Interpretation.**

Whenever the context hereof will so require, the singular will include the plural, the

male gender will include the female gender and the neuter and vice versa. The terms "include", "includes", "including" and similar terms will be construed to mean "without limitation". All references to Sections, subsections, Exhibits and Articles will be deemed references to Sections, subsections, and Articles of this Agreement and to Exhibits, which are attached hereto and made a part hereof for all purposes.

**17. Public Document.**

Seller is a municipal corporation under the laws of the State of New Mexico. Seller and Buyer acknowledge that this Agreement is subject to the New Mexico Inspection of Public Records Act, § 14-2-1 et seq. NMSA 1978 and is a "public record" within the meaning of said act.

**18. Audits and Inspections.**

Buyer understand and will abide by all provisions of the Accountability In Government Ordinance, §2-10-1 et seq. and Inspector General Ordinance, §2-17-1 et seq. R.O.A. 1994.

**19. Authorization to Sign.**

If Buyer executes this Agreement as a corporation or partnership, then Buyer and the person(s) executing this Agreement on behalf of the Buyer represents and warrants that such entity is duly qualified to do business in the State of New Mexico and that the individuals executing this Agreement on Buyer's behalf are duly authorized to execute and deliver this Agreement on Buyer's behalf.

**20. Entire Agreement.**

This Agreement, including the attached Exhibits, constitutes the full and final agreement of the parties and incorporates all of the conditions, agreements, and understandings between the parties concerning the subject matter of this contract, and all such conditions, understandings and agreements have been merged into this written Agreement. All prior negotiations and agreements are merged into this agreement. No prior condition, agreement, or understanding, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement. No subsequent agreement may modify this Real Estate Sales Agreement unless it is in writing and signed by the parties or their authorized agents. This Agreement represents the entire contract between the parties and, except as otherwise provided herein, may not be amended, changed, modified, or altered without the written consent of the parties hereto.

**IN WITNESS WHEREOF, THE PARTIES HERETO HAVE SIGNED THIS AGREEMENT AS OF THE DATE indicated by each signature, and the Agreement is effective upon the signature of the Seller's Chief Administrative Officer or her authorized designee for the City of Albuquerque.**

**[SIGNATURE PAGES IMMEDIATELY FOLLOWING]**

**SELLER:**  
**CITY OF ALBUQUERQUE,**  
**A New Mexico municipal corporation:**

By: \_\_\_\_\_

Date: \_\_\_\_\_



Sarita Nair, Chief Administrative Officer

**RECOMMENDED:**

By: \_\_\_\_\_

Date: \_\_\_\_\_

Patrick Montoya, Director  
Municipal Development Department

**BUYER**

**Casa Del Rey Ministries**

By: \_\_\_\_\_

Date: \_\_\_\_\_

Printed: Ruben Guarjardo

Its \_\_\_\_\_

By: \_\_\_\_\_

Date: \_\_\_\_\_

Its \_\_\_\_\_

**EXHIBIT A**

