



Mayor Richard J. Berry

CITY OF ALBUQUERQUE

Albuquerque, New Mexico

Office of the Mayor

EC-16-54

INTER-OFFICE MEMORANDUM

January 11, 2016

TO: Dan Lewis, President, City Council

FROM: Richard J. Berry, Mayor

[Handwritten signature of Richard J. Berry]

SUBJECT: Approving Exchange Agreement


The Department of Municipal Development would like to exchange 5,680 sq. ft. of City owned property with Sandia Foundation for 75,446 sq. ft. of property. The Department of Municipal Development needs to exchange the property to acquire the remaining parcel needed for of the Marble Arno Storm Drain Project. As additional consideration, the Department of Municipal Development will also give \$896,299.00 to Sandia Foundation.

City Council will be asked to approve the request to declare the property Non-essential for Municipal purposes before approving the Exchange Agreement.

The Exchange Agreement is forwarded to City Council for consideration and approval.


Approving Exchange Agreement


Approved:



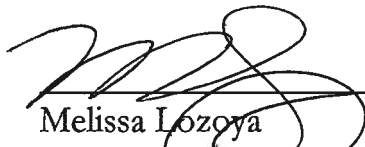
Robert J. Perry Date 1/14/16
Chief Administrative Officer

Approved as to Legal Form:



Jessica M. Hernandez Date 1/14/16
City Attorney


Recommended By:



Melissa Lozoya Date 1/14/16
Acting Director of DMD

Cover Analysis

1. What is it?

Approving the Exchange Agreement for the City-owned entirety of Lot 3 and a southerly portion of Lot 2, Trotter Addition, for the Sandia Foundation owned portion of Tract 1, Lands of Sandia Foundation.

2. What will this piece of legislation do?

It will allow the Department of Municipal Development to exchange properties with Sandia Foundation to complete the property acquisition for the Marble Arno Storm Drain Project.

3. Why is this project needed?

The Exchange Agreement must be approved in accordance with the City ordinances before the exchange can occur and the Marble Arno Storm Drain Project can proceed.

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

The Department of Municipal Development will pay an additional \$896,299 to Sandia Foundation as part of the exchange agreement. The additional \$896,299 will be paid by the Department of Municipal Development, Fund 7519040 (Broadway Pump Station Reconstruction).

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

The property is to be exchanged and no revenue will be generated.

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

City will retain ownership of the Property and the City will have to restart negotiations or proceed to a costly condemnation to acquire the needed property.

7. Is this service already provided by another entity?

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

**CITY OF ALBUQUERQUE
REAL PROPERTY
EXCHANGE AGREEMENT**

Project: **Marble Arno Pond Project**

Legal Description: A portion of Tract 1 of the Plat of Tract 1 & 2, Lands of Sandia Foundation, as the same is shown and designated on the plat thereof filed August 25, 2005 in Book 2005C, Page 287 in the office of the County Clerk of Bernalillo County, New Mexico described by a metes and bounds legal description on Exhibit "A" attached hereto (hereinafter the "Marble Avenue Property"), which legal description shall be confirmed by the Title Company and revised by agreement of the parties in the event of any mutual mistake in the legal description. The Marble Avenue Property does not include an approximately 3, 271 square foot portion of Tract 1, as described on Exhibit "B" attached hereto (hereinafter the "Retained Parcel"), which parcel is being retained by Sandia.

THIS CONTRACT made and entered into this _____ day of _____, 2015 between Sandia Foundation, a New Mexico non-profit corporation (hereinafter "Sandia") whose address is 6211 San Mateo Boulevard NE, Suite 100, Albuquerque, NM 87109, and the City of Albuquerque, a New Mexico municipal corporation, (hereinafter the "City"). For the purposes of this Contract, Sandia shall be deemed to be either singular or plural as the context requires.

WITNESSETH:

In consideration of, and subject to the terms, conditions and provisions contained in this Contract, Sandia hereby agrees to sell and the City hereby agrees to purchase the above described Marble Avenue Property for public use situated in Bernalillo County, State of New Mexico, subject to the following terms, conditions and covenants.

TERMS AND CONDITIONS:

A. PURCHASE PRICE:

1. Cash Consideration. The City agrees to purchase the Marble Avenue Property and to pay upon delivery of a good and marketable title therefore, as follows:

(a) Total Purchase Price: As set forth and described on Exhibit "C" attached hereto.

(b) Other Consideration. In addition to the Cash Consideration, at Closing, the City shall deed to Sandia, by quitclaim deed, the real estate described on Exhibit "D" hereto (hereinafter the "Arno Street Property"), free and clear of all liens and encumbrances, except those approved by Sandia (hereinafter the "Arno Deed").

B. TITLE:

1. Within ten (10) days after the signing of this Contract, the City shall order a commitment for an Owner's Title Insurance Policy on the Marble Avenue

Property (the "Marble Title Commitment"). If any exceptions or other matters appear in the Marble Title Commitment, the documents included in Schedule B-2 of the Marble Title Commitment (the "Marble Title Documents") or any survey obtained by the City (except for the Schedule B Standard Exceptions set forth in 13 NMAC 14.5, Section 9), which the City finds objectionable then the City shall, not later than ten (10) days after receipt of the last of the Marble Title Commitment and the Marble Title Documents, but in no event later than thirty (30) days before the Closing Date (the "Marble Objection Period"), furnish written notice to Sandia and Title Company of the City's Objection(s). Sandia may, within fifteen (15) days after receipt of such objection (the "Marble Cure Period"), cure or attempt to cure any matter to which the City has timely objected, although Sandia will have no obligation to endeavor to cure any title objection raised by the City except for the removal of monetary liens and/or encumbrances, and Sandia will not be required to expend any effort or funds, or to commence litigation to cure any objection. In the event that the City's objections have not been cured by the end of the Cure Period, the City may terminate this Contract by written notice to Sandia and Title Company within ten (10) days after the Cure Period. If the City fails to terminate this Contract in the time allowed hereunder, the City will be deemed to have waived any uncured objection to the matters disclosed in the Marble Title Commitment, the Marble Title Documents, survey obtained by the City, and shall be deemed to have approved same. The Schedule B Standard Exceptions set forth in 13 NMAC 14.5, Section 9 (other than Schedule B Standard Exceptions 1 through 6, all matters shown on the Marble Title Commitment which the City approves (or is deemed to have approved) pursuant to this Section, and any liens or encumbrances caused or created by the City will constitute "Permitted Exceptions" for purposes of this Contract, the title policy issued to the City (the "Marble Title Policy") and the Marble Deed. Notwithstanding anything to the contrary herein, the Marble Title Policy will contain the Schedule B Standard Exceptions unless the City elects to have them removed from the Marble Title Policy at its cost.

2. Within ten (10) days after the signing of this Contract, Sandia shall order a commitment for an Owner's Title Insurance Policy on the Arno Street Property (the "Arno Title Commitment"). If any exceptions or other matters appear in the Arno Title Commitment, the documents included in Schedule B-2 of the Arno Title Commitment (the "Arno Title Documents") Title Documents or any survey obtained by Sandia (except for the Schedule B Standard Exceptions set forth in 13 NMAC 14.5, Section 9), which Sandia finds objectionable then Sandia shall, not later than ten (10) days after receipt of the last of the Arno Title Commitment and the Arno Title Documents, but in no event later than thirty (30) days before the Closing Date (the "Arno Objection Period"), furnish written notice to City and Title Company of Sandia's objection(s). City may, within fifteen (15) days after receipt of such objection (the "Arno Cure Period"), cure or attempt to cure any matter to which Sandia has timely objected, although City will have no obligation to endeavor to cure any title objection raised by Sandia except for the removal of monetary liens and/or encumbrances, and City will not be required to expend any effort or funds, or to commence litigation to cure any objection. In the event that Sandia's objections have not been cured by the end of the Cure Period, Sandia may terminate this Contract by written notice to City and

Title Company within ten (10) days after the Cure Period. If Sandia fails to terminate this Contract in the time allowed hereunder, Sandia will be deemed to have waived any uncured objection to the matters disclosed in the Arno Title Commitment, the Arno Title Documents, and the survey obtained by Sandia, and shall be deemed to have approved same. The Schedule B Standard Exceptions set forth in 13 NMAC 14.5, Section 9 (other than Schedule B Standard Exceptions 1 through 6), all matters shown on the Arno Title Commitment which Sandia approves (or is deemed to have approved) pursuant to this Section, and any liens or encumbrances caused or created by Sandia will constitute "Permitted Exceptions" for purposes of this Contract, the Arno Title Policy and the Arno Deed. Notwithstanding anything to the contrary herein, the Arno Title Policy will contain the Schedule B Standard Exceptions unless Sandia elects to have them removed from the Arno Title Policy at its cost.

3. At Closing, Sandia shall convey title to the Marble Avenue Property to the City by special warranty deed ("Marble Deed"), subject only to the Permitted Exceptions identified on Exhibit "B" to the Marble Deed. Sandia shall cause Title Company to remove from the Marble Title Policy at Closing all deeds of trust and other financing documents given by Sandia granting a security interest in the Marble Avenue Property or any part thereof (collectively, "Sandia's Financing Documents"), and Sandia's Financing Documents shall not be deemed Permitted Exceptions hereunder.
4. At Closing, City shall convey title to the Arno Property to Sandia by the Arno Deed.

C. CLOSING DATE, OBLIGATIONS, AND COSTS:

1. Closing Date: The closing of this transaction and the conveyance of title to the Marble Avenue Property, pursuant to the terms and conditions of this Contract (the "Closing") will take place on a date (the "Closing Date") that is thirty (30) days after the last to occur of (a) receipt by Sandia and the City of the Conditional Certificate of Completion for the Marble Avenue Property from the New Mexico Environment Department (the "NMED") pursuant to 20 NMAC Chapter 6, Part 3 (the "VRP Program"), (b) receipt by the City of the Covenant not to Sue for the Marble Avenue Property from the NMED pursuant to the VRP Program; (c) receipt by Sandia and the City of the Conditional Certificate of Completion for the Arno Street Property from the NMED pursuant to the VRP Program; (d) receipt by Sandia of either the Covenant not to Sue for the Arno Property by the NMED pursuant to the VRP Program or a determination from NMED that it will not issue a Covenant not to Sue to Sandia for the Arno Property; and (e) the final approval of the replat with the Development Review Board for the Marble Avenue Property and Tract 2 Plat (as defined below), or such other date that is mutually agreeable to Sandia and the City, but in no event later than April 1, 2016 (the "Outside Closing Date") unless such Outside Closing Date is mutually extended in writing signed by both parties. If the City demonstrates to Sandia that the City is using good faith efforts to meet all closing conditions, Sandia will grant a sixty (60) day extension to the Outside Closing Date. The Closing will be handled by Old Republic Title (Lisa Ortega) at 5501 Jefferson St.,

N.E., Suite 100, Albuquerque, NM 87109 ("Title Company").

2. Sandia's Conditions to Closing: Sandia's obligation to sell the Marble Avenue Property to the City at the Closing is subject to and conditioned upon:
 - (a) The delivery by the City of the items set forth in C(4) on the Closing Date, or the waiver of any such conditions in accordance with the terms of this Contract;
 - (b) The replatting of the Marble Avenue Property to remove the Retained Parcel to be recorded at Closing, including the filing of the final plat;
 - (c) The replatting of Tract 2 of the Plat of Tract 1 & 2, Lands of Sandia Foundation, as the same is shown and designated on the plat thereof filed August 25, 2005 in Book 2005C, Page 287 in the office of the County Clerk of Bernalillo County, New Mexico ("Tract 2") (i) to include the Retained Parcel; (ii) to include the Arno Street Property; and (iii) to vacate the private reciprocal cross-lot access easement on Tract 1 (the "Tract 2 Plat"), including the filing of the final plat. The replatting of the Marble Avenue Property and Tract 2 shall be performed by Sandia and all costs incurred therefor shall be paid equally (50/50) by Sandia and the City whether or not Closing occurs;
 - (d) Title Company's issuance of the Arno Title Policy to Sandia, effective as of the date and time of recording of the Arno Deed, insuring marketable title in fee simple to the Arno Street Property in Sandia, with exceptions only for the Permitted Exceptions.
 - (e) Receipt of a Conditional Certificate of Completion from the NMED under its VRP Program; and
 - (f) Receipt of either a Covenant Not to Sue for the Arno Street Property from the NMED under its VRP Program or a determination from NMED that it will not issue a Covenant not to Sue to Sandia for the Arno Property.
3. City's Conditions to Closing: City's obligation to purchase the Marble Avenue Property at the Closing is subject to and conditioned upon:
 - (a) The delivery by Sandia of the items set forth in C(4) on the Closing Date, or the waiver of any such conditions in accordance with the terms of this Contract;
 - (b) The replatting of the Marble Avenue Property (i) to remove the Retained Parcel and (ii) to vacate the private reciprocal cross-lot access easement on Tract 1, including the filing of the final plat;
 - (c) Receipt of a Conditional Certificate of Completion and a Covenant Not to Sue for the Marble Avenue Property from NMED under its VRP

Program, as deemed applicable by the NMED;

- (d) Title Company's issuance of the Marble Title Policy to the City, effective as of the date and time of recording of the Marble Deed, insuring marketable title in fee simple to the Marble Avenue Property in the City, with exceptions only for the Permitted Exceptions.
- (e) If required by NMED, receipt of an updated Phase 1 Environmental Assessment for the Marble Avenue Property.
- (f) Filing of the final plat for the Marble Avenue Property.

4. Sandia Closing Obligations: On or before the Closing Date, Sandia will deliver to Title Company all of the following:

- (a) The Marble Deed, prepared by the Title Company, and approved by Sandia and the City, conveying to the City fee title to the land and the improvements, free and clear of all liens, encumbrances, conditions, easements, assignments, restrictions and rights of third parties, except for the Permitted Exceptions.
- (b) Such documents and instruments relating to the organization, existence and authority of Sandia, as Title Company shall require, if Sandia is a corporation, limited liability company, partnership or other entity.
- (c) An executed closing statement for this transaction prepared by Title Company and approved by Sandia and the City (the "Closing Statement").
- (d) Such escrow instructions to Title Company as Sandia shall desire, which shall be consistent with the provisions of this Contract ("Sandia's Instructions").

5. City Closing Obligations: On or before the Closing Date, the City will deliver to Title Company all of the following:

- (a) An amount equal to the Purchase Price, adjusted as herein provided, all as shown on the Closing Statement.
- (b) The Arno Deed, prepared by the Title Company, and approved by Sandia and the City, conveying to Sandia fee title to the land and the improvements of the Arno Street Property, free and clear of all liens, encumbrances, conditions, easements, assignments, restrictions and rights of third parties, except as approved by Sandia.
- (c) Such instruments and documents relating to the organization, existence and authority of the City, as Title Company shall require.
- (d) An executed Closing Statement for this transaction, prepared by

Title Company, and approved by Sandia and the City.

- (e) Such escrow instructions to Title Company as the City shall desire, which shall be consistent with the provisions of this Contract (hereinafter the "City's Instructions").

6. Transaction Costs To Be Paid by the City:

- (a) All customary and reasonable closing costs for this transaction, as shown on the Closing Statement, which costs shall be paid after closing within thirty (30) days of receipt of an Invoice from the Title Company;
- (b) If the Arno Street Property is subject to any kind of existing special assessment or assessments related to infrastructure improvements, including, but not limited to, a Special Assessment District ("SAD"), the City shall pay all assessments accrued to the Closing Date relating to the Arno Street Property at or before Closing, and obtain a release of lien satisfactory to Sandia and the Title Company.
- (c) A policy of title insurance for the Marble Avenue Property and the Arno Street Property, subject only to Permitted Exceptions;
- (d) A pro rata share of the real property taxes of the Marble Avenue Property, not yet due and payable for the calendar year of the Closing Date, which taxes shall be prorated based upon the number of square feet being purchased, and further prorated daily on a calendar basis, to the date of Closing;
- (e) The costs of voluntary remediation activities required to obtain the Conditional Certificate of Completion and Covenant Not to Sue for the Marble Avenue Property and the Conditional Certificate of Completion and Covenant Not to Sue for the Arno Street Property from the NMED under the VRP Program ; provided that the City shall be 100% responsible for the costs of any abandonment of test wells on the Marble Avenue Property whether required before Closing or after Closing and provided one-half of the cost related to application for acceptance into the VRP Program is paid for by Sandia, up to and not exceeding \$9,981;
- (f) One-half of the cost of any update to the Phase One Environmental Assessment performed on the Marble Avenue Property and Arno Street Property previously paid for by the City;
- (g) One-half of the costs associated with replatting the Marble Avenue Property and Tract 2; and
- (h) The costs of performance of the City's obligations set forth in this Contract.

7. Transaction Costs To Be Paid by Sandia:

- (a) All real and personal property taxes and assessments (all, collectively, "Taxes") for tax years prior to the year of Closing, for the Marble Avenue Property, together with any penalties and interest thereon, and its share of prorated Taxes for the current tax year, which Taxes shall be prorated based upon the number of square feet being purchased, and further prorated daily on a calendar basis, to the date of Closing. All Taxes, the amount of which might not be ascertainable as of the Closing Date, will be based on the last ascertainable annual bill, and shall be final. The City shall assume all subsequent Taxes.
- (b) If the Marble Avenue Property is subject to any kind of existing special assessment or assessments related to infrastructure improvements, including, but not limited to, a Special Assessment District ("SAD"), Sandia shall pay all assessments accrued to the Closing Date relating to the Marble Avenue Property at or before Closing, and obtain a release of lien satisfactory to the City and the Title Company.
- (c) All water, sewer, gas, electrical or other utility charges accrued or accruing on or before the Closing Date;
- (d) The costs of performance of Sandia's obligations set forth in this Contract, including but not limited to, any payments required in order for Sandia's Financing Documents to be released;
- (e) One-half of the cost related to application for acceptance into the VRP Program, up to and not exceeding \$9,981 with the City providing the invoice for such work on or before Closing;
- (f) One-half of the cost of any update to the Phase One Environmental Assessment performed on the Marble Avenue Property and Arno Street Property previously paid for by the City;
- (g) One-half of the costs associated with replatting the Marble Avenue Property and Tract 2; and
- (h) The cost of recording releases of Sandia's Financing Documents or any title curative or similar documents that Sandia has agreed to record according to the terms of this Contract.

8. The parties shall be obligated to make initial payments for the foregoing costs described in Sections C(6) and C(7) and reimburse the other party for the foregoing costs in accordance with Exhibit "E." The obligations to pay for expenses set forth in Sections C(6) (d), (e), (f), and (g) and C(7) (e), (f), and (g) shall not terminate upon a termination or expiration of this Contract, and Sandia and the City shall be obligated to make those payments upon demand by the other party. All other expenses incurred by Sandia or the City with respect to the Closing, including, but not limited to, attorneys' fees of Sandia

and the City, will be borne and paid exclusively by the party incurring the same, without reimbursement, except to the extent otherwise agreed in writing by the parties before or at Closing or specifically provided herein.

- D. RISK OF LOSS:** All risk of loss or damage to the Marble Avenue Property shall be borne by Sandia until Closing, and all risk of loss or damage to the Arno Street Property shall be borne by the City until Closing. In the event there is any loss or damage to the Marble Avenue Property or the Arno Street Property between the execution of the Contract and the Closing Date, by reason of fire, vandalism, flood, earthquake, wind, or other acts of God, the party hereto receiving such damaged property may, at its option either (1) proceed with this transaction so long as the granting party has agreed in writing to repair or replace the damaged property prior to Closing, or (2) declare this contract null and void.
- E. THREAT OF CONDEMNATION:** This property acquisition is executed under threat of condemnation by the City.
- F. SANDIA'S WARRANTIES:** Sandia represents and warrants to the City, as of the date hereof, and as of the Closing Date, as follows:
1. To Sandia's knowledge, meaning the conscious awareness of Robert M. Goodman without investigation ("Sandia's Knowledge"), there has not been, any hazardous materials or other environmental hazards located or released on, or from the Marble Avenue Property, except as is disclosed in any environmental reports or tests performed on the Marble Avenue Property and provided to the City. Sandia further warrants that to Sandia's Knowledge, the Marble Avenue Property is not in violation of any federal, state, or local law, ordinance, or regulation relating to hazardous materials, industrial hygiene or other environmental conditions on, under, or about the Marble Avenue Property;
 2. Sandia is the owner in fee simple of the Marble Avenue Property and that it has a good and lawful right to convey the Property, or any part thereof;
 3. If Sandia is a corporation, partnership, or other legal entity, Sandia warrants that it is duly formed and validly existing under the laws of its domicile, is in good standing with and authorized to do business in the State of New Mexico, and has all requisite authorization and documentation to enter into and close this transaction on the terms and conditions set forth in this Contract, and the named corporate officer, partner or agent who executed, acknowledged and delivered this contract, for and on behalf of Sandia, is and was, at all material times, the duly authorized corporate officer, member, partner or agent of Sandia.
 4. To Sandia's Knowledge, except as set forth in any environmental reports or tests performed on the Marble Avenue Property and provided to the City, Sandia has received no notice from any governmental authority that the Marble Avenue Property or any part thereof, is in violation of any applicable governmental requirements;
 5. As of the Closing Date, there will be no management, service, supply,

security, maintenance or similar contracts with respect to the Marble Avenue Property; and,

6. The representations and warranties set forth in this Contract will be true and correct on and as of the Closing Date, with the same force and effect as if made at that time, and all of such representations and warranties will survive the Closing until the City's receipt of the Covenant Not to Sue from NMED related to the Marble Property.

EXCEPT AS OTHERWISE EXPRESSLY STATED IN THIS CONTRACT OR IN THE DEED, CITY IS PURCHASING THE MARBLE AVENUE PROPERTY, AND THE MARBLE AVENUE PROPERTY SHALL BE CONVEYED AND TRANSFERRED TO CITY "AS IS, WHERE IS, AND WITH ALL FAULTS," IN ITS PRESENT CONDITION, AND SPECIFICALLY AND EXPRESSLY WITHOUT ANY WARRANTIES, REPRESENTATIONS OR GUARANTIES, EITHER EXPRESS OR IMPLIED, OF ANY KIND, NATURE OR TYPE WHATSOEVER FROM OR ON BEHALF OF SANDIA.

G. CITY'S WARRANTIES: The City represents and warrants to Sandia, as of the date hereof, and as of the Closing Date, as follows:

1. The City has duly authorized this Contract and the Closing of the purchase of the Marble Avenue Property pursuant to this Contract;
2. As of the Closing Date, the City will have full legal right and authority to purchase the Marble Avenue Property from Sandia;
3. As of Closing, the City is the owner in fee simple of the Arno Street Property and the City has a good and lawful right to convey the Arno Street Property, or any part thereof;
4. To the City's knowledge without investigation, there have not been any hazardous materials or other environmental hazards located or released on, or from the Arno Street Property, except as set forth in any environmental reports or tests performed on the Arno Street Property and provided to Sandia. The City further states that to the City's knowledge without investigation, the Arno Street Property is not in violation of any federal, state, or local law, ordinance, or regulation relating to hazardous materials, industrial hygiene or other environmental conditions on, under, or about the Arno Street Property;
5. To the City's knowledge, except as set forth in any environmental reports or tests performed on the Arno Street Property and provided to the Sandia, the City has received no notice from any governmental authority that the Arno Street Property, or any part thereof, is in violation of any applicable governmental requirements;
6. The City has made a reasonable search of its files and has provided Sandia with all documentation related to the condition of the Arno Street Property.

7. As of the Closing Date, there will be no management, service, supply, security, maintenance or similar contracts with respect to the Arno Street Property; and,
8. The representations and warranties set forth in this Contract will be continuing and will be true and correct on and as of the Closing Date, with the same force and effect as if made at that time, and all of such representations and warranties will survive the Closing for a period of six months after the Closing.

EXCEPT AS OTHERWISE EXPRESSLY STATED IN THIS CONTRACT OR IN THE DEED, SANDIA IS ACQUIRING THE ARNO STREET PROPERTY AND THE ARNO STREET PROPERTY SHALL BE CONVEYED AND TRANSFERRED TO SANDIA "AS IS, WHERE IS, AND WITH ALL FAULTS," IN ITS PRESENT CONDITION, AND SPECIFICALLY AND EXPRESSLY WITHOUT ANY WARRANTIES, REPRESENTATIONS OR GUARANTIES, EITHER EXPRESS OR IMPLIED OF ANY KIND, NATURE OR TYPE WHATSOEVER FROM OR ON BEHALF OF THE CITY.

H. REAL ESTATE COMMISSION: The parties hereby warrant and represent to each other that no broker or other person is entitled to claim a commission, broker's fee or other compensation in connection with this Contract by, through or under the party giving the representation.

I. DEFAULT AND REMEDIES:

1. Sandia's Default; City's Remedies. If Sandia fails to meet, comply with or perform any covenant, agreement or obligation required of Sandia within the time limits and in the manner required by this Contract, and such failure remains uncured fourteen (14) business days after the City gives Sandia written notice of default, or any representation or warranty of Sandia has been breached on the Closing Date, then Sandia will be deemed to be in default hereunder, and the City may, as the City's sole and exclusive remedies, do one of the following:
 - (a) Enforce specific performance of this Contract against Sandia;
 - or
 - (b) Terminate this Contract by written notice delivered to Sandia, in which case, the parties shall have no further rights or obligations under this Contract, except for those rights and obligations that expressly survive the termination of this Contract
5. City's Default; Sandia's Remedies. If the City fails to meet, comply with or perform any covenant, agreement or obligation required by the City within the time limits and in the manner required by this Contract, and such failure remains uncured fourteen (14) business days after Sandia gives the City written notice of the default, or any representation or warranty of the City has been breached on the Closing Date, then the City

shall be deemed to be in default hereunder, and Sandia may, as Sandia's sole and exclusive remedies, do one of the following:

- (a) Enforce specific performance of this Contract against the City;
- or
- (b) Terminate this Contract by written notice delivered to the City, in which case, the parties shall have no further rights or obligations under this Contract, except for those rights and obligations that expressly survive the termination of this Contract

J. TERMINATION RIGHT. If the Outside Closing Date is reached and any of the conditions to Closing set forth in Section C(2) have not been met, either Sandia or the City shall have the right to terminate this Contract by giving written notice to the other Party and the Title Company.

K. MISCELLANEOUS:

1. Entire Contract; Modification. This Contract embodies the whole contract between the parties hereto, and there are no promises, terms and conditions or obligations referring to the subject matter hereof, other than as contained herein. Neither this Contract nor any provisions hereof may be waived, modified, amended, discharged or terminated except by an instrument in writing signed by both parties.
2. Full Compensation. Sandia hereby agrees that the compensation herein provided to be paid and granted, includes full compensation for the Marble Avenue Property, as well as full payment of any and all damages resulting to the remaining property of whatever nature, arising out of, or by reason of, the use of said Marble Avenue Property for right of way and other public projects for their interests, and the interests of their life tenants, remaindermen, reversioners, lienors and lessees, and any and all other legal and equitable interests which are, or may be, outstanding, and Sandia agrees to discharge the same.
3. Applicable Law; Venue. This Contract will be governed by and construed under and in accordance with the laws of the State of New Mexico. Venue for any litigation with respect to this Contract will be in Bernalillo County, New Mexico.
4. Assignment. Neither party will have the right to assign its right, title and interest under the terms of this Contract without the prior written consent of the other party, which shall not be unreasonably withheld, conditioned or delayed; and any such assignment will be effective upon the non-assigning party's receipt of the assigning party's written notice of said assignment after written consent. No such assignment by either party shall be deemed to release the assigning party from any obligation or liability under this Contract.
5. Headings. The headings contained in this Contract are for reference and

convenience purposes only, and will not in any way affect the meaning or interpretation hereof.

6. 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 Contract and to Exhibits, which are attached hereto and made a part hereof for all purposes.
7. Multiple Counterparts. This Contract may be executed in a number of identical counterparts or by the parties hereto on separate signature pages, which may be incorporated into the same counterparts hereof. If so executed, each such counterpart of this Contract 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 Contract it will not be necessary to produce or account for more than one such counterpart.
8. Notice. Any notice, demand, approval or disapproval, consent or submission for approval or consent permitted or required hereunder (hereinafter, collectively, any "Notice") will be in writing, and any such Notice shall be deemed given (a) if delivered via courier (including "overnight delivery services"), when actually delivered to the address specified below of the person to whom notice is given, (b) if mailed, (except where actual receipt is specified in this Contract) two (2) business days after deposit in the United States mail, postage prepaid, by certified mail, return receipt requested, addressed to the person to whom notice is given at the address specified in this Section, (c) if sent by facsimile, when transmitted to the facsimile number specified in this Section of the person to whom notice is given, provided that (i) the transmitting facsimile machine indicates that the transmission of all pages of the notice was effectively completed, and (ii) the party giving notice must send, not later than the next business day after such facsimile notice, duplicate notice by means described in item (a) or (b) above, and (d) if sent by email, when the email is transmitted to the address provided below, provided that the party giving notice must send, not later than the next business day after such email, duplicate notice by means described in item (a) or (b) above. Any party may change its address for notices by notice theretofore given in accordance with this Section and will be deemed effective only when actually received by the other party.

To Sandia:

Sandia Foundation, Attention Robert M. Goodman
6211 San Mateo Boulevard NE
Albuquerque, NM 87109

E-mail address: bob@sandiafoundation.org

Facsimile: 505-246-2411

Telephone Number: 505-242-2684

With a copy to:

Margaret Lewis Meister
Modrall, Sperling, Roehl, Harris & Sisk, P.A.
500 Fourth Street N.W. Suite 1000
Albuquerque, NM 87102
E-mail address: mmeister@modrall.com
Facsimile: 505-848-9710
Telephone Number: 505-848-1823

To the City:
Department of Municipal Development
Attn: Department Director
City of Albuquerque
1 Civic Plaza NW
Albuquerque, New Mexico 87102
Facsimile: 505-768-3899
Telephone Number: 505-768-3884

With a copy to:

Real Property Division
Attn: Real Property Division Manager
City of Albuquerque
PO Box 1293
Albuquerque, NM 87103
Facsimile: 505-924-3498
Telephone Number: 505-924-3490

or, the same may be delivered in person at the same address or the last known address of the addressee

9. Severability. If any provision of this Contract is, for any reason, held to violate any applicable law, and so much of this Contract is held to be unenforceable then the invalidity of such specific provision herein will not be held to invalidate any other provision herein, which will remain in full force and effect.
10. Survival. Except for any provision of this Contract, which expressly states that it shall so survive, and any payment obligation of the City under this Contract (the "Surviving Provisions"), none of the terms and provisions of this Contract will survive the termination of this Contract. If this Contract is not terminated, all of the terms and provisions of this Contract other than the Surviving Provisions will be merged into the Closing documents and will not survive Closing.
11. Limitation on Liability. Neither party has any liability with respect to its 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.

12. Time of the Essence. Time is of the essence in this Contract.
13. Waiver of Jury Trial. Each party hereby waives trial by jury in any action, proceeding or counterclaim brought by either party against the other party on any matter arising out of, or in connection with, this contract.
14. 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 Contract, and the consequences of executing this Contract, 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.
15. Approval. This contract is subject to approval by the Chief Administrative Officer of the City of Albuquerque. Once approved and signed by the Chief Administrative Officer, or authorized representative, this Contract shall be binding upon the parties hereto, and upon each of their respective heirs, devisees, executors, administrators, legal representatives, successors and assigns.
16. Effective Date. The effective date of this Contract shall be the date of approval and signature by the Chief Administrative Officer of the City of Albuquerque or his authorized designee ("Effective Date").

BUYER: City of Albuquerque, a New Mexico Municipal Corporation

APPROVED BY:

Robert J. Perry
Chief Administrative Officer

RECOMMENDED BY:

Melissa Lozoya, Acting Director
Department of Municipal Development

Date: _____

(Continued Next Page)

I

Page Intentionally Left Blank

SANDIA: Sandia Foundation, a New Mexico Non-profit Corporation

BY: _____
NAME: Robert M. Goodman
TITLE: President and Chief Executive Officer

DATE: _____

Exhibit A: metes and bounds description of Marble Avenue Property
Exhibit B: metes and bounds description of Retained Parcel
Exhibit C: cash consideration portion of purchase price
Exhibit D: metes and bounds description of Arno Street Property
Exhibit E: allocation of transaction costs, including description of who initially pays costs and who reimburses.

EXHIBIT "A"

[See Attached]

LEGAL DESCRIPTION

That certain parcel of land situate within Section 17, Township 10 North, Range 3 East, New Mexico Principal Meridian, City of Albuquerque, Bernalillo County, New Mexico, comprising a portion of Tract 1, LANDS OF SANDIA FOUNDATION, as the same is shown and designated on the plat entitled, "PLAT OF TRACTS 1 & 2, LANDS OF SANDIA FOUNDATION, SECTION 17, T. 10 N., R. 3 E., N.M.P.M., CITY OF ALBUQUERQUE, BERNALILLO COUNTY, NEW MEXICO, AUGUST 2005", filed August 25, 2005, in Plat Book 2005C, Page 287, records of Bernalillo County, New Mexico, being more particularly described by survey performed by Russ P. Hugg, New Mexico Professional Surveyor No. 9750, using New Mexico State Plane grid bearings, Central Zone (NAD83) using ground distances as follows:

BEGINNING at the Northwest corner of the parcel herein described, also being the Northwest corner of said Tract 1, LANDS OF SANDIA FOUNDATION and a point of tangency on the Southerly right of way of line of Marble Avenue N.E. (a 1/2" rebar & cap stamped "LS 11463", found in place), whence the Albuquerque Control Survey Monument "17-J14" bears S 89° 19' 39" W, 3750.69 feet distant; Thence,

S 80° 35' 16" E, 272.22 feet along said Southerly right of way of line of Marble Avenue N.E., to a point of curvature, (a 1/2" rebar & cap stamped "LS 11463", found in place); Thence,

Southeasterly, 39.35 feet, on the arc of a curve to the right (said curve having a radius of 25.00 feet, a central angle of 90° 10' 38" and a chord which bears S 35° 29' 36" E, 35.41 feet) to a point of tangency on the Westerly right of way line of Arno Street N.E., (a 1/2" rebar & cap stamped "LS 11463", found in place); Thence, along said Westerly right of way line of Arno Street N.E. for the following two courses,

S 09° 36' 04" W, 140.22 feet to a point; Thence,

S 09° 24' 55" W, 148.70 feet to the Southeast corner of the parcel herein describe, (a 5/8" rebar, found in place), also being the Southeast corner of said Tract 1, LANDS OF SANDIA FOUNDATION and the Northeast corner of Lot 1, Block 1, TROTTER ADDITION, as the same is shown and designated on the plat entitled, "PLAT OF THE TROTTER ADDITION TO THE CITY OF ALBUQUERQUE, N.M.", filed August 15, 1931, in Volume A1, Folio 64, records of Bernalillo County, New Mexico; Thence,

N 83° 32' 07" W, 141.94 feet along the Northerly boundary line of said Lot 1, Block 1, TROTTER ADDITION, (a 1/2" rebar & cap stamped "LS 11463", found in place), to a point on the Easterly boundary line of Tract 2, of said LANDS OF SANDIA FOUNDATION; Thence,

N 08° 53' 39" E, 133.06 feet along said Easterly boundary line of Tract 2, LANDS OF SANDIA FOUNDATION, to the Northeast corner of said Tract 2, LANDS OF SANDIA FOUNDATION, (a 1/2" rebar & cap stamped "LS 11463", found in place); Thence,

N 08° 53' 39" E, 18.04 feet to a point; Thence,

N 80° 40' 22" W, 175.43 feet to the Southwest corner of the parcel herein described, a point on curve on the Easterly right of way line of Broadway Boulevard N.E.; Thence, along said Easterly right of way line of Broadway Boulevard N.E. for the following two courses,

Northeasterly, 66.10 feet, on the arc of a curve to the right (said curve having a radius of 997.58 feet, a central angle of 03° 47' 48" and a chord which bears N 07° 07' 04" E, 66.09 feet) to a point of tangency; Thence,

N 09° 00' 48" E, 79.25 feet to a point of curvature; Thence,

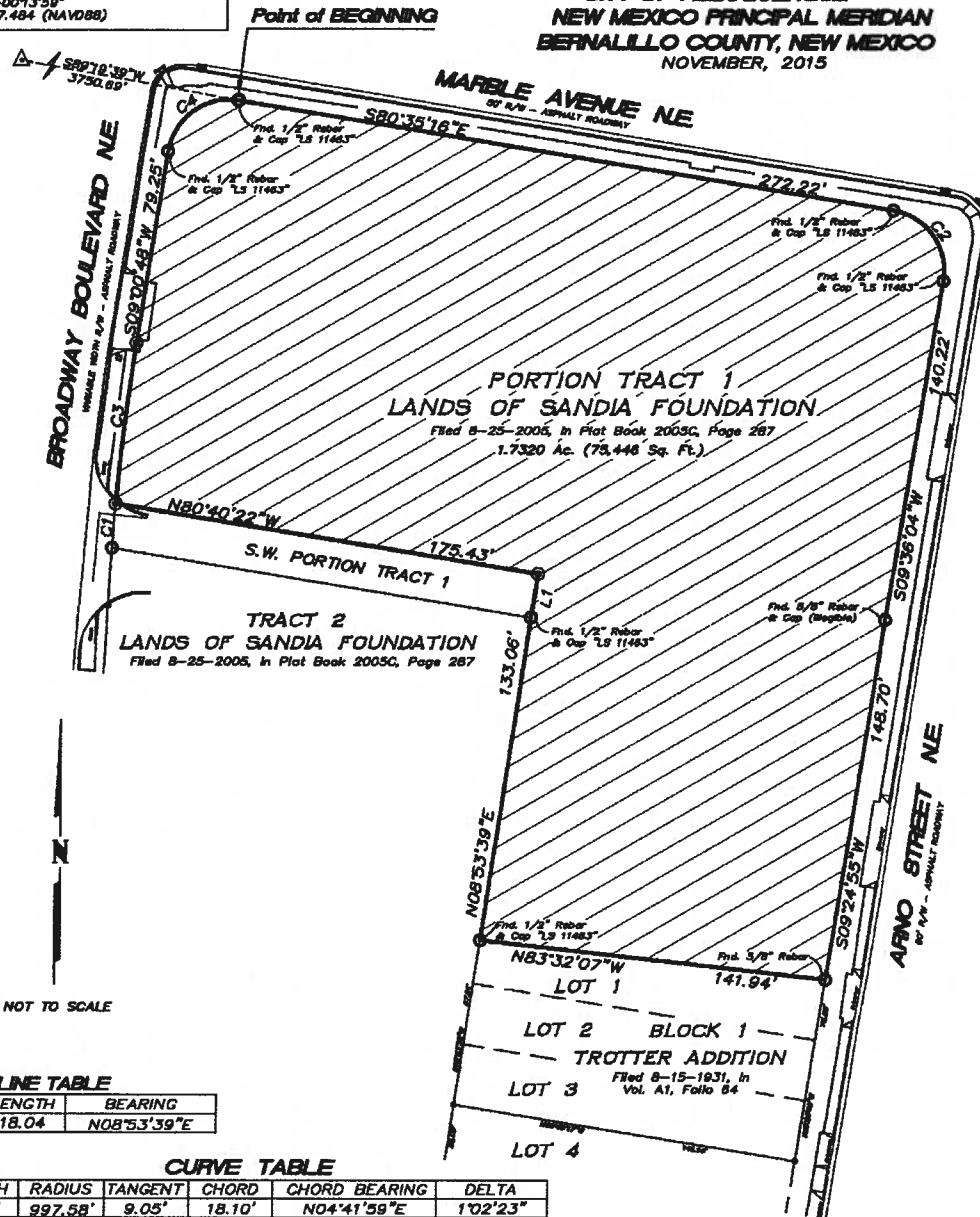
Northeasterly, 39.45 feet, on the arc of a curve to the right (said curve having a radius of 25.00 feet, a central angle of 90° 24' 17" and a chord which bears N 54° 12' 46" E, 35.48 feet) to the point of beginning of the parcel herein described.

Said parcel contains 1.7320 acres (75,446 square feet), more or less.



Albuquerque Control Survey Monument "17-J14"
 New Mexico State Plane Coordinates, Central
 Zone (NAD83) as published:
 Y= 1,488,888.782
 X= 1,518,148.317
 Ground to grid factor= 0.999853811
 Delta Alpha= -00'13"59"
 Elevation= 4957.484 (NAVD88)

EXHIBIT
PORTION OF TRACT 1
LANDS OF SANDIA FOUNDATION
 WITHIN
 CITY OF ALBUQUERQUE
 NEW MEXICO PRINCIPAL MERIDIAN
 BERNALILLO COUNTY, NEW MEXICO
 NOVEMBER, 2015



LINE TABLE

LINE	LENGTH	BEARING
L1	18.04	N08°53'39"E

CURVE TABLE

CURVE	LENGTH	RADIUS	TANGENT	CHORD	CHORD BEARING	DELTA
C1	18.10'	997.58'	9.05'	18.10'	N04°41'59"E	1°02'23"
C2	39.35'	25.00'	25.08'	35.41'	S35°29'36"E	90°10'38"
C3	66.10'	997.58'	33.06'	66.09'	N07°07'04"E	3°47'48"
C4	39.45'	25.00'	25.18'	35.48'	N54°12'46"E	90°24'17"

Page 3
 150779

SURV+TEK, INC.

Consulting Surveyors
 9384 Valley View Dr. N.W. Albuquerque, New Mexico 87114

Phone: 505-897-3386
 Fax: 505-897-3377

EXHIBIT "B"

[See Attached]

LEGAL DESCRIPTION

That certain parcel of land situate within Section 17, Township 10 North, Range 3 East, New Mexico Principal Meridian, City of Albuquerque, Bernalillo County, New Mexico, comprising a Southwesterly portion of Tract 1, LANDS OF SANDIA FOUNDATION, as the same is shown and designated on the plat entitled, "PLAT OF TRACTS 1 & 2, LANDS OF SANDIA FOUNDATION, SECTION 17, T. 10 N., R. 3 E., N.M.P.M., CITY OF ALBUQUERQUE, BERNALILLO COUNTY, NEW MEXICO, AUGUST 2005", filed August 25, 2005, in Plat Book 2005C, Page 287, records of Bernalillo County, New Mexico, being more particularly described by survey performed by Russ P. Hugg, New Mexico Professional Surveyor No. 9750, using New Mexico State Plane grid bearings, Central Zone (NAD83) using ground distances as follows:

BEGINNING at the Southwest corner of the parcel herein described, (a PK nail & brass disc stamped "LS 11463", found in place), also being a Southwest corner of said Tract 1, LANDS OF SANDIA FOUNDATION and the Northeast corner of Tract 2 of said LANDS OF SANDIA FOUNDATION, and a point on the Easterly right of way of Broadway Boulevard N.E., whence the Albuquerque Control Survey Monument "17-J14" bears N 87° 51' 15" W, 3702.16 feet distant; Thence,

Northeasterly, 18.10 feet along said Easterly right of way of Broadway Boulevard N.E, on the arc of a curve to the right (said curve having a radius of 997.58 feet, a central angle of 01° 02' 23" and a chord which bears N 04° 42' 009" E, 18.10 feet) to a point of non-tangency and the Northwest corner of the parcel herein described; Thence,

S 80° 40' 22" E, 175.43 feet to the Northeast corner of the parcel herein described; Thence,

S 08° 53' 39" W, 18.04 feet to Southeast corner of the parcel herein described, (a 1/2" rebar & cap stamped "LS 11463", found in place), and the Northeast corner of said Tract 2, LANDS OF SANDIA FOUNDATION; Thence,

N 80° 40' 22" W, 174.11 feet along the Northerly boundary line of said Tract 2, LANDS OF SANDIA FOUNDATION to the point of beginning of the parcel herein described.

Said parcel contains 0.0724 acres (3,154 square feet), more or less.



MARBLE AVENUE NE.
RT 1/1 - ASPHALT ROADWAY

Filed 8-25-2005, in Plot Book 2005C, Page 287

Δ-4-NBZ5115W 370210

**Point of
BEGINNING**
First PK Malt &
Disc "LS 1148J"

NOT TO SCALE

CURVE	LENGTH	RADIUS	TANGENT	CHORD	CHORD BEARING	DELTA
C1	18.10'	897.58'	9.05'	18.10'	N04°42'00"E	1°02'23"

Marble Arno Pond Project, Owner: Sandia Foundation
Page 24 of 29

Exhibit "C"

MARBLE AVENUE PROPERTY APPRAISED VALUE (assuming 75,446 square feet)
\$965,709.00

which price shall be adjusted (up or down) pro rata if the square footage of the Marble Avenue Property upon replat is different than 75,446 square feet

Less

ARNO STREET PROPERTY APPRAISED VALUE (assuming 5,680 square feet)
\$69,410.00

which price shall be adjusted (up or down) pro rata if the square footage of the Arno Street Property upon replat is different than 5,680 square feet, with the resulting number being the "Total Purchase Price".

EXHIBIT "D"

[See Attached]

LEGAL DESCRIPTION

That certain parcel of land situate within Section 17, Township 10 North, Range 3 East, New Mexico Principal Meridian, City of Albuquerque, Bernalillo County, New Mexico, comprising a Southerly portion of Lot 2 and all of Lot 3, TROTTER ADDITION, as the same is shown and designated on the plat entitled, "PLAT OF TROTTER ADDITION TO THE CITY OF ALBUQUERQUE, N.M.", filed August 15, 1931, in Volume A1, Folio 64, records of Bernalillo County, New Mexico, being more particularly described by survey performed by Russ P. Hugg, New Mexico Professional Surveyor No. 9750, using New Mexico State Plane grid bearings, Central Zone (NAD83) using ground distances as follows:

BEGINNING at the Southwest corner of the parcel herein described, also being the Northwest corner of Lot 4, of said TROTTER ADDITION and a point on the Easterly boundary line of Tract 2, LANDS OF SANIDA FOUNDATION, as the same is shown and designated on the plat entitled, "PLAT OF TRACTS 1 & 2, LANDS OF SANDIA FOUNDATION, SECTION 17, T. 10 N., R. 3 E., N.M.P.M., CITY OF ALBUQUERQUE, BERNALILLO COUNTY, NEW MEXICO, AUGUST 2005", filed August 25, 2005, in Plat Book 2005C, Page 287, records of Bernalillo County, New Mexico, whence the Albuquerque Control Survey Monument "17-J14" bears N 84° 33' 53" W, 3857.64 feet distant; Thence,

N 08° 53' 39" E, 40.20 feet along said Easterly boundary line of Tract 2, LANDS OF SANIDA FOUNDATION, to the Northwest corner of the parcel herein described; Thence,

S 80° 40' 17" E, 141.50 feet to Northeast corner of the parcel herein described, an a point on the Westerly right of way line of Arno Street N.E.; Thence,

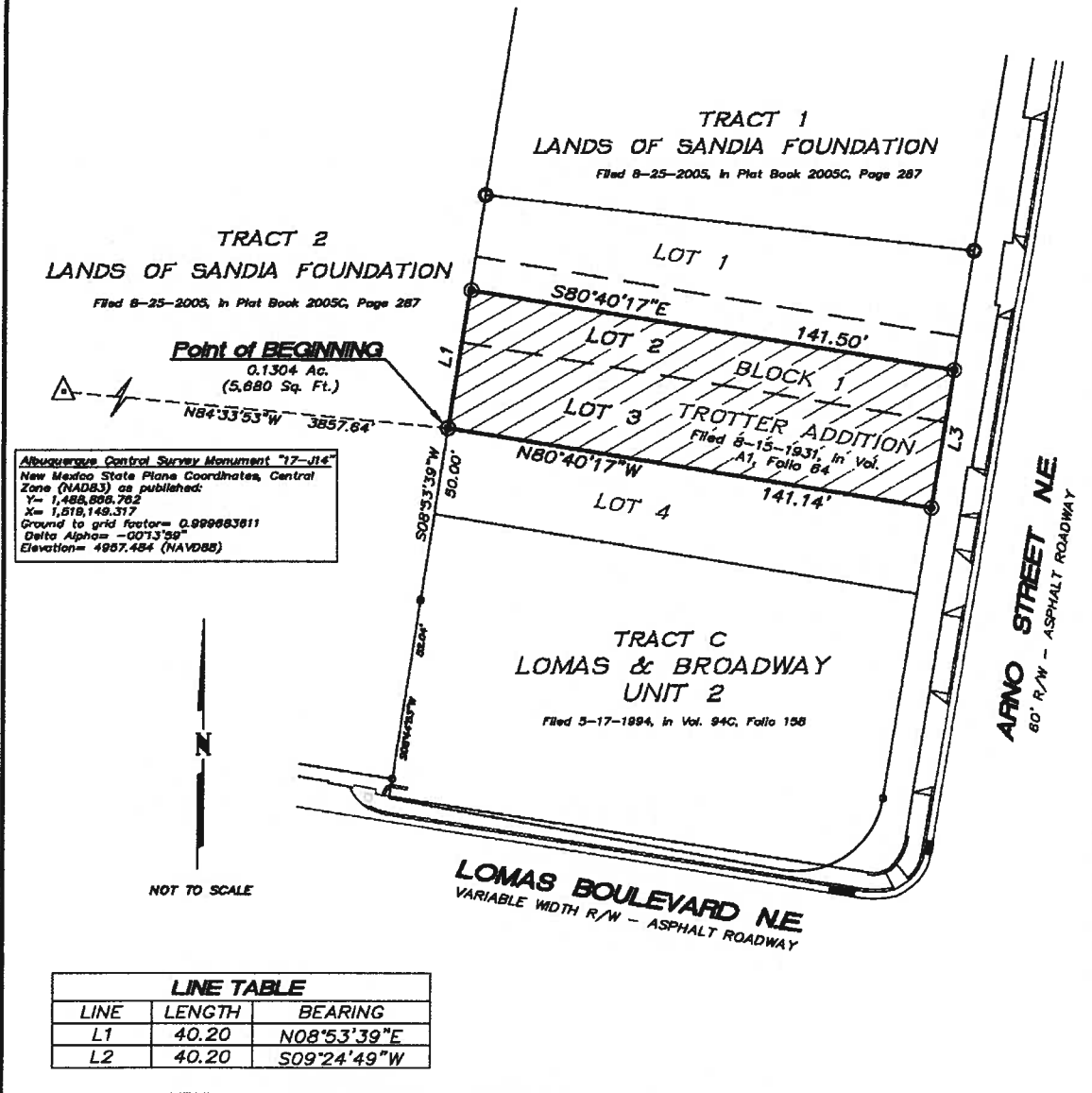
S 09° 24' 49" W, 40.20 feet along said Westerly right of way line of Arno Street N.E., to the Southeast corner of the parcel herein described, also being the Northeast corner of said Lot 4, TROTTER ADDITION; Thence

N 80° 40' 17" W, 141.14 feet along the Northerly boundary line of said Lot 4, TROTTER ADDITION, to the point of beginning of the parcel herein described.

Said parcel contains 0.1304 acres (5,680 square feet), more or less.



EXHIBIT
PORTION LOT 2 AND ALL LOT 3
TROTTER ADDITION
 WITHIN
CITY OF ALBUQUERQUE
NEW MEXICO PRINCIPAL MERIDIAN
BERNALILLO COUNTY, NEW MEXICO
 NOVEMBER, 2015



Page 2
 150779

SURV TEK, INC.

Consulting Surveyors
 9384 Valley View Dr. N.W. Albuquerque, New Mexico 87114

Phone: 505-897-3388
 Fax: 505-897-3377

EXHIBIT "E"

Costs being split between the parties pursuant to the terms of the Contract shall be paid and reimbursed as follows:

- 1. Voluntary remediation actions described in Sections C 6(e) and C 7(e) shall be contracted for by the City and the costs thereof shall be paid initially by the City.**
- 2. Updates to the Phase One Environmental Assessment of the Marble Avenue Property described in Sections C 6(f) and C 7(f) shall be contracted for by the City and the costs thereof shall be paid initially by the City.**
- 3. Replatting as described in Sections C 6(g) and C 7(g) shall be contracted for by Sandia and the costs thereof shall be paid initially by Sandia.**

Reimbursements for the above costs in the amounts owed by the non-contracting party shall be paid the earlier of Closing or within ten (10) days after the date of termination or expiration of the Contract.

REAL PROPERTY REVIEW BOARD MINUTES

December 1, 2015, 11:30 am

BOARD MEMBERS:

Jessica M. Hernandez, City Attorney, Legal Department
Don Britt, Property Manager, Legal Department
Suzanne Lubar, Director, Planning
Lou Hoffman, Director, Department of Finance

OTHERS ATTENDING:

Reylene Garcia, Real Property Agent III
Brandi Salazar, Real Property Agent II
Kevin Daggett, Principal Engineer, Department of Municipal Development
Melissa Lozoya, Acting Director, Department of Municipal Development
Robert Waldman, Assistant City Attorney, Legal Department
Scott Howell, Right of Way Supervisor, Real Property

The Real Property Review Board met on December 1, 2015 to recommend parcel of City owned property to be declared non-essential for municipal purposes.

Portion of Lot 2 and all of Lot 3, Trotter addition- vacant land.

Department of Municipal Development has requested this property be declared non-essential for municipal purposes. The property will be used as part of an exchange for the Marble/Arno Pond.

A MOTION WAS DULY MADE BY Lou Hoffman, SECONDED BY Suzanne Lubar AND PASSED BY THE REAL PROPERTY REVIEW BOARD BY A VOTE OF 4 FOR AND 0 AGAINST TO DECLARE THE PROPERTY IN ITEM 2 NON-ESSENTIAL FOR MUNICIPAL PURPOSES.

The above actions were taken at the December 1, 2015 meeting of the Administrative Real Property Review Board.

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

Don Britt
Don Britt, Property Manager

Lou Hoffman
Lou Hoffman, Director of DFAS

Suzanne Lubar
Suzanne Lubar, Director, Planning



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

Property Address: 807 Arno St. NE & unaddressed parcel at 800 block of Arno St. NE

UPC #'s: 101405844311642305 & 101405844312042306

Legal Description: The entirety of Lot 3 and a southerly portion of Lot 2, Trotter Addition, as the same is shown and designated on the plat thereof filed August 15, 1931 in the office of the County Clerk of Bernalillo County, New Mexico.

Property has not been utilized for a municipal purpose.

Current Zoning Designation: SU-2 / C-3 Heavy Commercial, Martineztown/Santa Barbara Sector Development Plan

Current Use / Allowable Use(s): With certain exceptions outlined with the sector plan, this zone provides suitable sites for retail and wholesale commercial uses, and some light industrial uses which cause no vibration discernible beyond the premises.

Surrounding Zoning and Uses	Zoning	Land Use
North	SU-2 / C-3 Heavy Commercial	Vacant
South	SU-2 / C-3 Heavy Commercial	Vacant
East	Unzoned right-of-way	City street – Arno St. NE
West	SU-2 / M-1 Light Manufacturing	Restaurants with drive-up service windows

Sector Development Plan: Martineztown/Santa Barbara Sector Development Plan

Comprehensive Plan: Central Urban

Brennon Williams, Acting Code Compliance Manager

29. NOV. 2015

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 Luban, Planning Director

11/30/15
Date

Summary of Sandia Foundation/City of Albuquerque Property Exchange
For the Marble Arno Storm Drain Project

2014 Appraised Value Per Square Foot for Sandia Foundation Property Purchase: **\$12.80/Sq. Ft.***

2014 Appraised Value Per Square Foot for City (former McCullough) Property: **\$12.22/Sq. Ft.**

	<u>Sq. Ft.</u>	<u>Adjusted Value</u>
Sandia Foundation Property being conveyed to City (@\$12.80/Sq.Ft.):	75,446	\$965,709
City Property being conveyed to Sandia Foundation (@\$12.22/Sq.Ft.):	5,680	<u>\$ 69,410</u>
Net Cash Owed by City of Albuquerque for Exchange:		\$896,299**

* The \$12.80 per square foot unadjusted value per square foot excludes environmental costs previously determined by the City's contractor. There is a partial offset of environmental costs in the agreement.

**The proposed agreement contemplates cost sharing between the City and Sandia Foundation of environmental and platting costs yet to be determined.

Final Market Data Adjustment Grid

Following is the final grid presenting all applicable adjustments to the comparables:

FINAL MARKET ADJUSTMENT GRID

	Sale 1	Sale 2	Sale 3	Sale 4	Sale 5	Sale 6
Price/SF	\$12.02	\$12.63	\$13.04	\$11.06	\$9.85	\$8.83
Real Property Rights	=	=	=	=	=	=
Financing Terms	=	=	=	=	=	=
Conditions of Sale	=	=	=	=	=	=
Expenditures	=	=	=	=	=	=
Market Conditions	=	=	=	=	=	=
Adjusted Price/SF	\$12.02	\$12.63	\$13.04	\$11.06	\$9.85	\$8.83
Locational Characteristics	=	=	=	=	=	=
Adjusted Price/SF	\$12.02	\$12.63	\$13.04	\$11.06	\$9.85	\$8.83
Physical Characteristics – Size	=	=	=	=	+30%	+30%
Zoning	=	=	=	=	=	=
Final Adjusted Values	\$12.02	\$12.63	\$13.04	\$11.06	\$12.81	\$11.48

RECONCILIATION OF SITE VALUE(S)

After adjustments, the sales indicate a range from \$11.06 to \$13.04 per square foot. The mean is \$12.07, with a median of \$12.33 per square foot. A value of \$12.20 per square foot is indicated. Based on these parameters, and recognizing and weighing the minor, yet present variances of interior versus corner and major corner frontages, an adjustment of plus 5% will be applied across the board. The value is now \$12.81, say \$12.80 per square foot for the subject, assuming a site free and clear of any environmental conditions.

Estimate of Fee Simple Site Value

\$1,006,080 (78,600 SF X \$12.80)

Less the Estimated Environmental Costs Associated with Redevelopment, or \$128,558.36

Net Current Value: \$877,521.64, Rounded to \$877,525

SUMMARY OF IMPORTANT FACTS & CONCLUSIONS

PROPERTY TYPE	Vacant Land
PROPERTY LOCATION	Parcel of vacant land located just north and northeast of the NEC of Lomas & Broadway NE with Broadway/Marble/Arno frontage
LEGAL DESCRIPTION	Tract 1 Plat of Tracts 1 & 2 LANDS OF SANDIA FOUNDATION, containing 1.8044 acres, or 78,600 SF (information obtained from Albuquerque GIS site)
EFFECTIVE DATE OF VALUE	Fee Simple Market Value of Site: August 20, 2014
DATE OF INSPECTION	August 20, 2014
DATE OF REPORT	September 8, 2014
OWNERS OF RECORD	Sandia Foundation
INTEREST VALUED	Fee Simple Estate (The Dictionary of Real Estate Appraisal, Fifth Edition, Page 78): Absolute ownership unencumbered by any other interest or estate, subject only to the limitations imposed by the governmental powers of taxation, eminent domain, police power, and escheat.
PERTINENT DATA	
Site Area	1.8044 acres, or 78,600 square feet
Shape	L-Shape (comprised of 2 contiguous rectangular segments)
Topography	Mostly level & at-grade with surrounding properties
Utilities	Electricity, gas, sewer, water, garbage, and telephone services are available to the site.
Flood Zone	FEMA Map 35001C0334 G (Map 350002, Panel 0334, Suffix G), dated September 26, 2008, the property is within unshaded flood zone "X". Areas within unshaded flood zone "X" are areas determined to be outside the of 0.2% annual chance floodplain.
Zoning	SU-2 Special Neighborhood Zone for M-1 uses; Martineztown/Santa Barbara Sector Plan – this zone allows a mixture of uses controlled by a Sector Development Plan; in this case M-1 uses (light industrial).
HIGHEST & BEST USE	
As Though Vacant	Light Industrial uses.
RECONCILED VALUE ESTIMATE	
<i>Fee Simple Market Value of Entire Site (August 20, 2014)</i> <i>\$877,525 (Eight Hundred Seventy Seven Thousand Five Hundred & Twenty Five Dollars)</i>	
Estimated Marketing Time	1 to 2 years

Summary of City of Albuquerque Property Valuation Adjustment Discussion
For City Council Submittal for Declaration of Non-essential

2014 Appraised Value Per Square Foot for City (former McCullough) Property: **\$12.22/Sq. Ft.***

	<u>Sq. Ft.</u>	<u>Adjusted Value</u>
City Property (@\$12.22/Sq.Ft.):	5,680	\$69,410

*This is an approximately 5,680 square foot portion of the larger 11,543 square foot parcel purchased from prior owner McCullough in 2015 for the Marble Arno Storm Drain Project. The same appraisal/purchase price per unit was applied to the smaller parcel for this analysis to yield the adjusted value.

RECONCILIATION OF SITE VALUE(S)

After adjustments, the sales indicate a range from \$11.06 to \$13.79 per square foot. The mean is \$12.73, with a median of \$12.89 per square foot. A value of \$12.81 per square foot is indicated. Based on these parameters, and recognizing and weighing the minor, yet present variances of interior versus corner and major corner frontages, an adjustment of minus 5% will be applied across the board (note that the subject has no direct corner influence, although it does have good visibility from Lomas Boulevard. The value is now \$12.17, say \$12.20 per square foot for the subject, assuming a site free and clear of any environmental conditions.

Estimate of Fee Simple Site Value

\$140,825 (11,543 SF X \$12.20)

Rounded To...\$141,000

(**\$12.22** per sq. ft. from rounded total)

Marketing Time

I estimate the marketing time (defined as...*an opinion of the amount of time it might take to sell a real or personal property interest at the concluded market value level during the period immediately after the effective date of an appraisal*) to be one to two years.

Exposure Time

I estimate the exposure time (defined as...*the estimated length of time the property interest being appraised would have been offered on the market prior to the hypothetical consummation of a sale at market value on the effective date of the appraisal; a retrospective opinion based on an analysis of past events assuming a competitive and open market*) to be one to two years.

Note that both marketing time and exposure time have been determined to be two years. Justification for the similar time period is due to anticipated consistency in past and future projected market conditions during the time frames concluded.

SUMMARY OF IMPORTANT FACTS & CONCLUSIONS

PROPERTY TYPE	Vacant Land
PROPERTY LOCATION	Parcel of vacant land located on the West Side of Arno Street, NE of the Intersection of Lomas & Broadway NE, Arno Frontage Only
LEGAL DESCRIPTION	Lots 1, 2, & 3 Block 1 TROTTER ADDITION, containing 0.265 acres, or 11,543 SF (information obtained from Albuquerque GIS site)
EFFECTIVE DATE OF VALUE	Fee Simple Market Value of Site: August 20, 2014
DATE OF INSPECTION	August 20, 2014
DATE OF REPORT	September 10, 2014
OWNERS OF RECORD	L N McCullough
INTEREST VALUED	Fee Simple Estate (The Dictionary of Real Estate Appraisal, Fifth Edition, Page 78): Absolute ownership unencumbered by any other interest or estate, subject only to the limitations imposed by the governmental powers of taxation, eminent domain, police power, and escheat.
PERTINENT DATA	
Site Area	0.265 acres, or 11,543 square feet
Shape	Mostly Rectangular
Topography	Mostly level & at-grade with surrounding properties
Utilities	Electricity, gas, sewer, water, garbage, and telephone services are available to the site.
Flood Zone	FEMA Map 35001C0334 G (Map 350002, Panel 0334, Suffix G), dated September 26, 2008, the property is within unshaded flood zone "X". Areas within unshaded flood zone "X" are areas determined to be outside the of 0.2% annual chance floodplain.
Zoning	SU-2 Special Neighborhood Zone for C-3 uses; Martineztown/Santa Barbara Sector Plan – this zone allows a mixture of uses controlled by a Sector Development Plan; in this case C-3 uses (light industrial to heavy commercial zone).
HIGHEST & BEST USE	
As Though Vacant	Light to moderate commercial / industrial uses.
RECONCILED VALUE ESTIMATE	
	<i>Fee Simple Market Value of Site (August 20, 2014)</i> \$141,000 (One Hundred Forty One Thousand Dollars)
Estimated Marketing Time	1 to 2 years

Broadway Blvd

TRACT 2

EXISTING LIGHTS
PROPOSED STD
VALLEY GUTTER

PROPOSED
DIRECTIONAL
HANDICAP RAMP

EXISTING LIGHTS

EXISTING PROPERTY

LOT 1 AND NORTH
LOT 2 AREA 4,737 SF

LOT 1

PROPOSED PROPERTY

12' WIDTH ENTRANCE
AND EXIT

PROPOSED STD
VALLEY GUTTER

PROPOSED 11.5' EXIT ONLY ROAD

PROPOSED 5' SIDEWALK

AREA ACQUIRED BY
SANDIA FOUNDATION
FROM COA 0.694 SF

PROPOSED LIGHTS

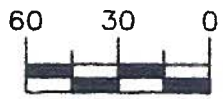
LOT 4

TIE INTO EXISTING
SIDEWALK

LOMAS BOULEVARD NE
(100' RIGHT-OF-WAY)

Arno St.

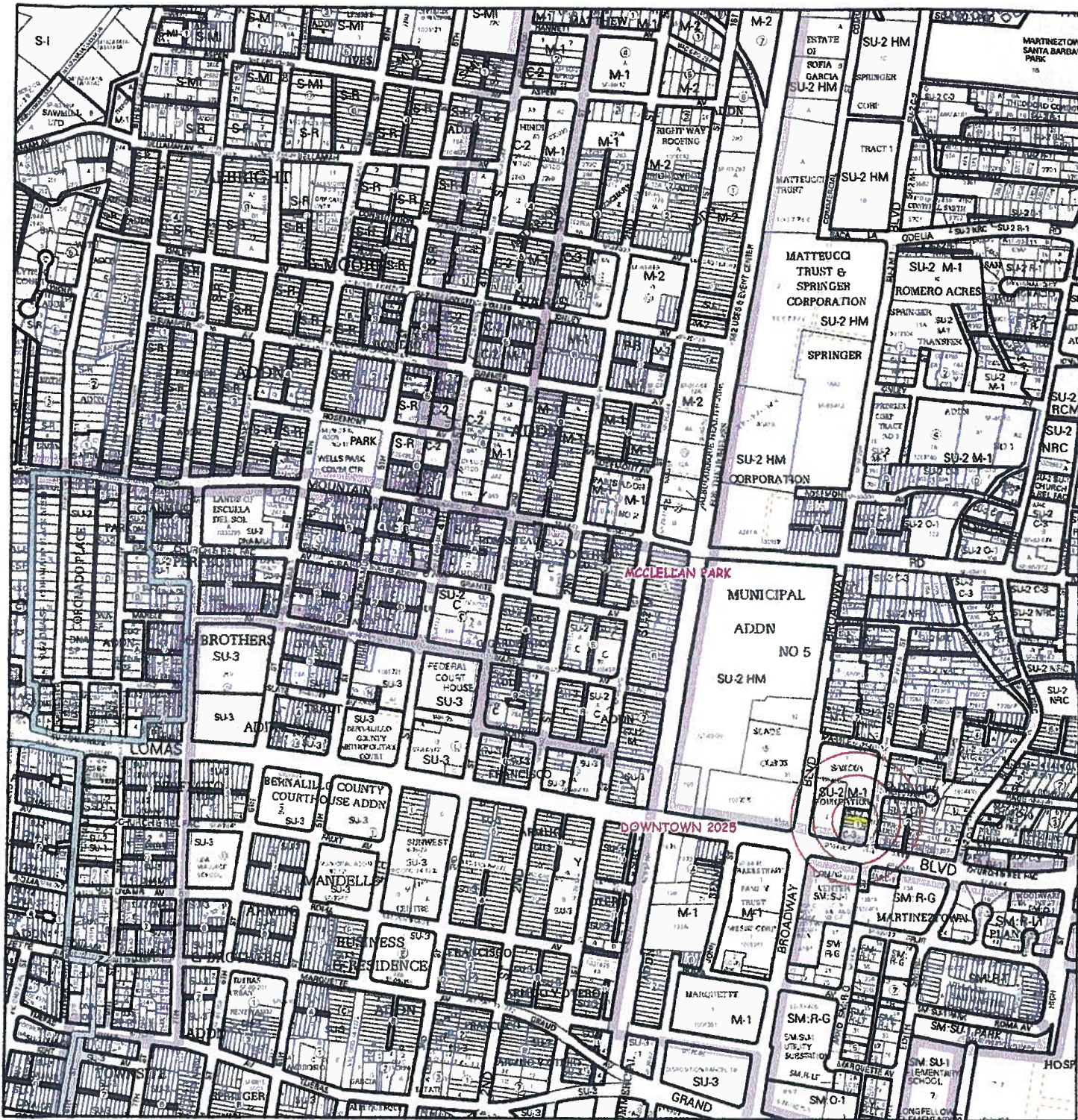
ARNO
(60')



SCALE: 1"=60'

HUGH FLOYD, PE
FLOYD DEVELOPMENT SERVICES, LLC
DEVELOPMENT, ENGINEERING, & WATERSHED
CONSULTING
918 PINEHURST RD SE, SUITE 102
RIO RANCHO, NM 87124
HUGH@DEVELOPNM.COM
505-366-4187

BROADWAY & LOMAS
EXHIBIT FOR SALE OF TRACT 1



For more current information and details visit: <http://www.cabq.gov/gis>

