



**EC-19-466**

**City of Albuquerque**  
**Planning Department**  
Real Property Division

Timothy M. Keller, Mayor

Interoffice Memorandum

August 9, 2019

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

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

**SUBJECT:** Approving Real Estate Sale Agreement for Fire Station 2, Lots numbered One (1), Two (2) and Three (3), in Block Twenty-eight (28) of the Huning Highland Addition Containing (approximately 0.4752 acres)

The above referenced Property was declared Non-Essential for Municipal Purposes on January 1, 2013, City Council EC-12-246. An RFP was issued on the Property for the appraised value of One Hundred Ninety Two Thousand Five Hundred Dollars (\$192,500.00). Hellenic Community of New Mexico, Inc. was the only bidder and submitted a successful bid for One Hundred Ninety Five Thousand Dollars (\$195,000.00). After expenses related to the sale of the Property, the remaining proceeds will go to the Albuquerque Fire Rescue Department.

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


Approved:



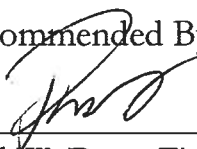
9/3/19

Sarita Nair

Date

 Chief Administrative Officer

Recommended By:



9/13/19

Paul W. Dow, Fire Chief Date

Albuquerque Fire Rescue Department 

Approving Real Estate Sales Agreement for 301 High Street/Fire Station 2

## **Cover Analysis**

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

Approval of Real Estate Sales Agreement for Fire Station 2, Lots numbered One (1), Two (2) and Three (3), in Block Twenty-eight (28) of the Huning Highland Addition Containing approximately 0.4752 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 Albuquerque Fire Rescue Department.

### **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 Albuquerque Fire Rescue Department 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.



# CITY OF ALBUQUERQUE

[Sign In](#)[Council Home](#)[Legislation](#)[Calendar](#)[Boards and Commissions](#)[f](#) [t](#) [+](#) [Share](#) [RSS](#) [Alerts](#)[Details](#)[Reports](#)**File #:** EC-12-310**Type:** Executive Communication**Status:** Approved**File created:** 12/17/2012**In control:** [City Council](#)**Final action:** 1/7/2013**Enactment date:****Enactment #:****Title:** Declaring Fire Station #2 located at 301 High Street SE, including real property Lots 1, 2 and 3, Block 28, Huning Addition, not essential for municipal purposes**Attachments:** 1. [EC-310](#)[History \(3\)](#)[Text](#)

3 records

[Group](#)[Export](#)

Date	Action By	Action	Result	Action Details
1/7/2013	City Council	Approved	Pass	<a href="#">Action details</a>
12/17/2012	City Council	Received		<a href="#">Action details</a>
12/17/2012	President	To be heard at the Council Meeting		<a href="#">Action details</a>



Mayor Richard J. Berry

EC-12-246  
**CITY OF ALBUQUERQUE**


**Albuquerque, New Mexico**

**Office of the Mayor**

**INTER-OFFICE MEMORANDUM**

September 17, 2012

**TO:** Trudy Jones, President, City Council

**FROM:** Richard J. Berry, Mayor 

**SUBJECT:** Declaring Fire Stations # 2 (301 High St.) & Fire Station # 7  
(116 47<sup>th</sup> St.), non-essential for municipal purposes.

The Albuquerque Fire Department has requested that the above referenced property be sold.

Pursuant to the Real Property transaction ordinance § 5-2-2 The Real Property Review Board met on August 31, 2012 and recommended that the properties be declared non-essential for municipal purposes. John F. Howden & Associates, Inc., appraised the properties on July 2, 2012. Fire Station # 2 Four Hundred and Eighty Thousand Dollars (\$480,000.00) & Fire Station # 7 Two Hundred Forty Thousand Dollars (\$240,000.00) City Council approval is requested to declare the properties non-essential for municipal purposes.

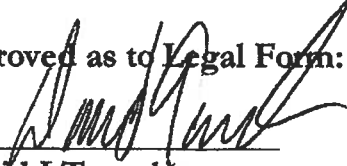
Approved:



Robert J. Perry  
Chief Administrative Officer

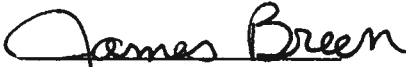
*gje*  
9/17/12

Approved as to Legal Form:



David J. Tourek  
City Attorney

Recommended:



James Breen  
Chief, Fire Department

## **Cover Analysis**

**1. What is it?**

Fire Station # 7 (116 47<sup>th</sup> St.) & Fire Station # 2 (301 High St.)

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

Declaring the property non-essential will allow this property to be sold.

**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 non-essential for municipal purposes will not incur cost to the City's General Fund.

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

Revenue generated will be used for current Fire Station construction.

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

City will retain ownership of the property.

**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.

## REAL PROPERTY REVIEW BOARD MINUTES

August 31, 2012, 3:30 pm

### BOARD MEMBERS:

David J. Tourek, City Attorney, Legal Department  
Lisa Gutiérrez, Acting Division Manager, Real Property  
Suzanne Lubar, Acting Director, Planning  
Lou Hoffman, Director, Finance & Administrative Services

### OTHERS ATTENDING:

Carl A. Corona, Real Property Agent  
Gilbert Santisevan, AFD  
Curtis Green, AFD

The Real Property Review Board met on August 31, 2012 to recommend 3 parcels of City owned property to be declared non-essential for municipal purposes.

#### ITEM 1. Fire Station # 14 (517 98<sup>th</sup> St.) Withdrawn by AFD

The Albuquerque Fire Department has requested this property be declared non-essential for municipal purposes.

A MOTION WAS DULY MADE BY \_\_\_\_\_, SECONDED BY \_\_\_\_\_  
AND PASSED BY THE REAL PROPERTY REVIEW BOARD BY A VOTE OF \_\_\_\_\_ FOR  
AND \_\_\_\_\_ AGAINST TO DECLARE THE PROPERTY IN ITEM 1 NON-ESSENTIAL  
FOR MUNICIPAL PURPOSES.

#### ITEM 2. Fire Station # 2 (301 High St.)


The Albuquerque Fire Department has requested this property be declared non-essential for municipal purposes.

A MOTION WAS DULY MADE BY S. Lubar, SECONDED BY D. Tourek  
AND PASSED BY THE REAL PROPERTY REVIEW BOARD BY A VOTE OF 3 FOR  
AND 0 AGAINST TO DECLARE THE PROPERTY IN ITEM 2 NON-ESSENTIAL  
FOR MUNICIPAL PURPOSES.


#### Item 3. Fire Station # 7 (116 47<sup>th</sup> St.)

The Albuquerque Fire Department has requested this property be declared non-essential for municipal purposes.

A MOTION WAS DULY MADE BY S. Lubar, SECONDED BY L. Gutierrez  
AND PASSED BY THE REAL PROPERTY REVIEW BOARD BY A VOTE OF 3 FOR  
AND 0 AGAINST TO DECLARE THE PROPERTY IN ITEM 3 NON-ESSENTIAL  
FOR MUNICIPAL PURPOSES

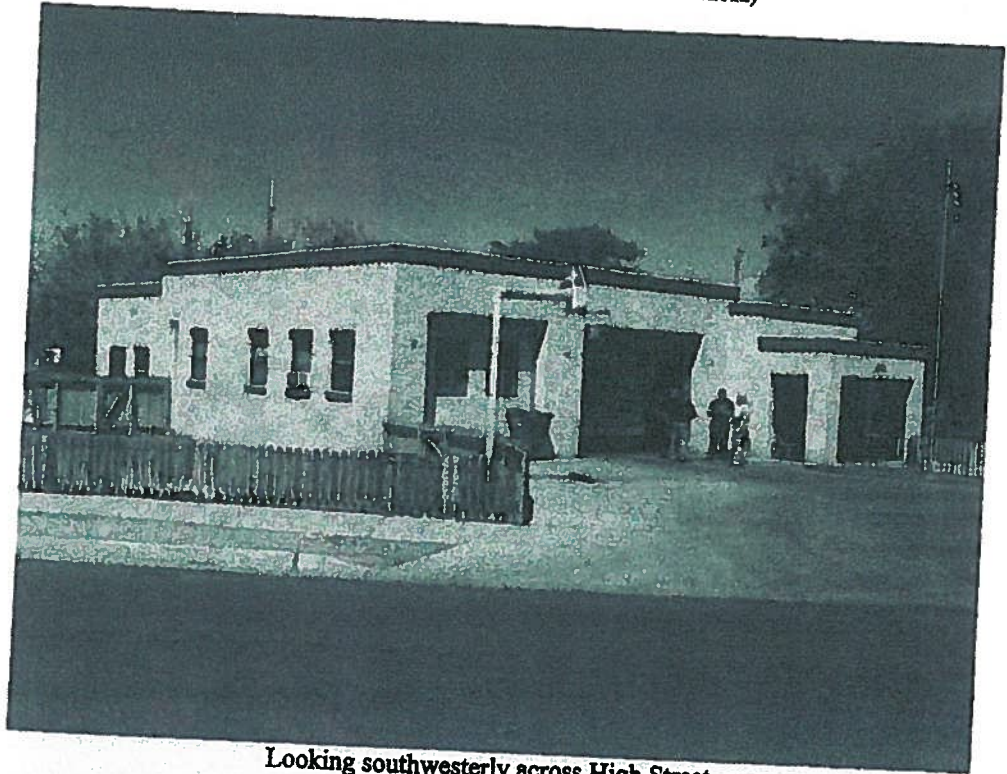
  
David J. Tourek, City Attorney  
Legal Department

Absent  
Lou Hoffman, Director, Finance And  
Administrative Services

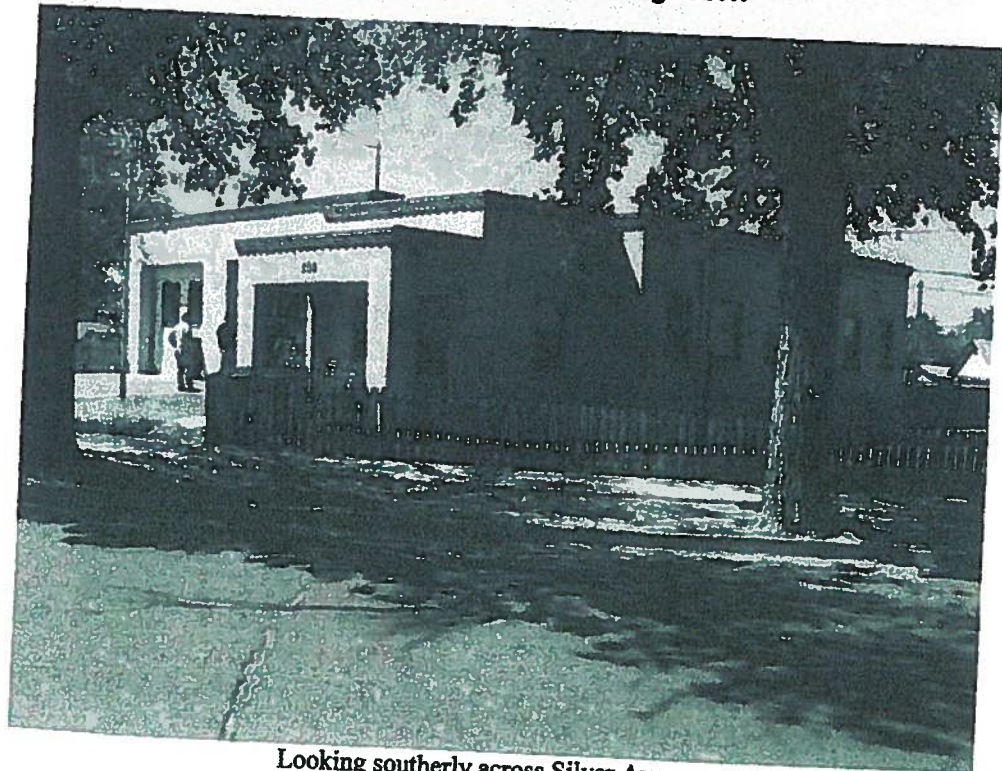
  
Suzanne Lubar, Acting Director  
Planning Department



**SUBJECT PHOTOGRAPHS**  
(Photographs taken by Brady Sartin on 05/22/2012)



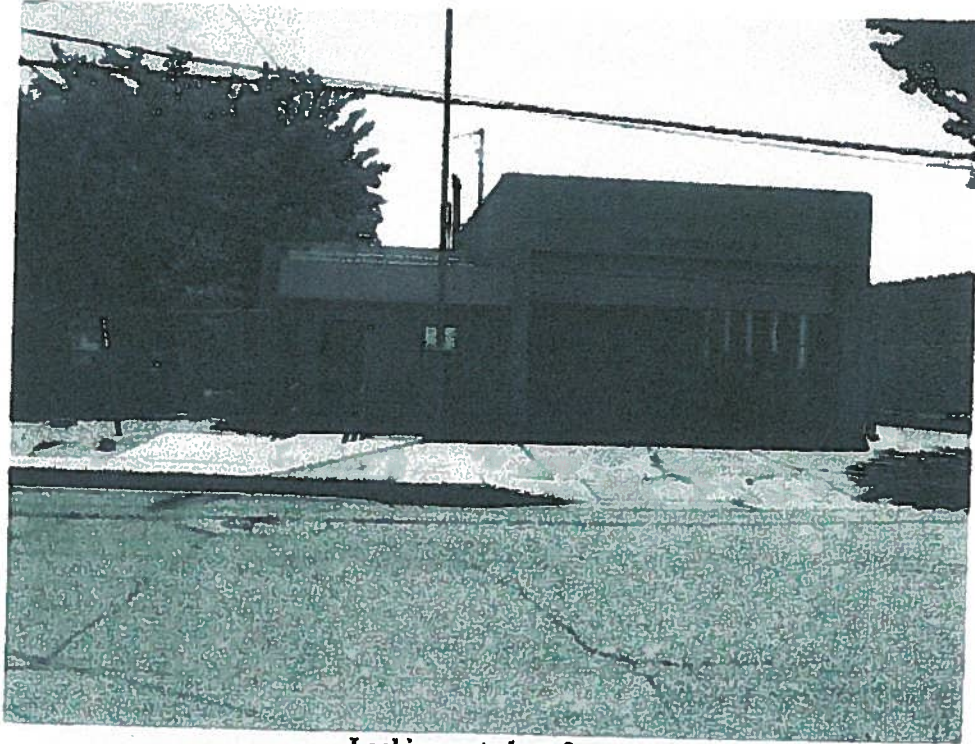
Looking southwesterly across High Street



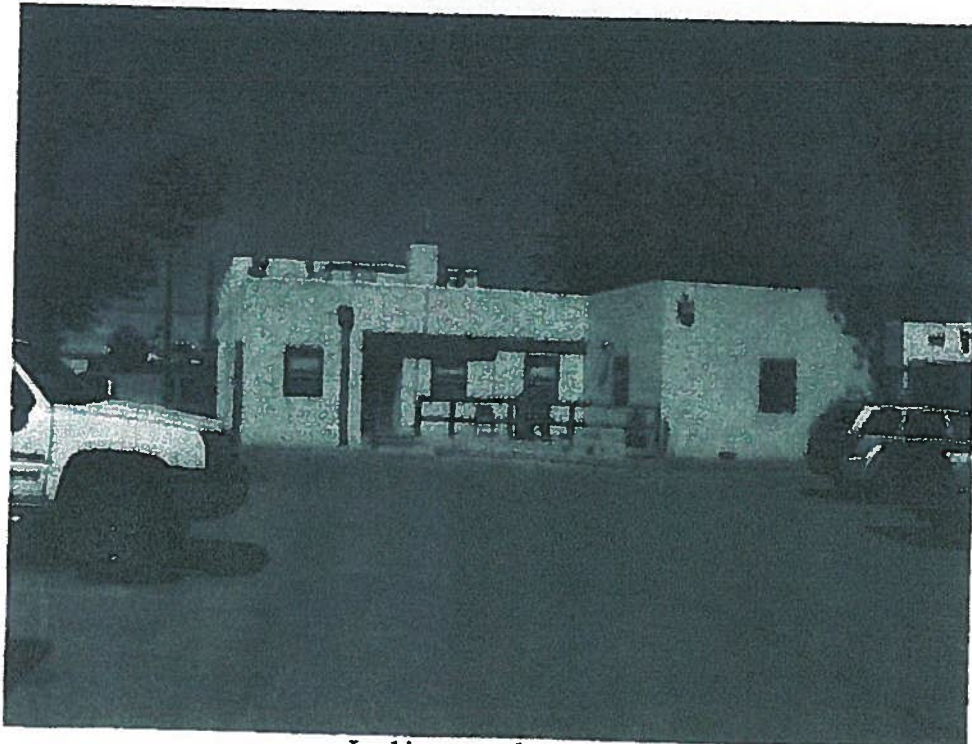
Looking southerly across Silver Avenue



**SUBJECT PHOTOGRAPHS**  
(Photographs taken by Brady Sartin on 05/22/2012)



Looking easterly at front



Looking westerly at back

**REAL ESTATE PURCHASE AGREEMENT  
BETWEEN  
HELLENIC COMMUNITY OF NEW MEXICO, INC.  
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 Hellenic Community of New Mexico, Inc. ("Buyers"), and City of Albuquerque, a New Mexico municipal corporation ("Seller").

WHEREAS, the Seller is the owner of the property known as Lots numbered One (1), Two (2) and Three (3), in Block Twenty-eight (28) of the Huning Highland Addition to the City of Albuquerque, New Mexico, as the same are shown and designated on the map of said Addition, filed in the Office of the Probate Clerk and Ex-Officio Recorder of Bernalillo County, New Mexico on December 11, 1880 and re-recorded May 12, 1887, in Plat Book D1, Folio 14; and,

WHEREAS, the Seller has declared the property not essential for municipal purposes as required by City Ordinance § 5-2-5 on January 7, 2013; and,

WHEREAS, the Buyers are willing to purchase and Seller is willing to sell the property not essential for municipal purposes, generally known as Fire Station 2 on 301 High Street.

NOW, THEREFORE, for mutual consideration, and on the terms set forth herein, the Buyers 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 Buyers shall purchase from Seller that certain 0.48 acres +/- tract of real estate in Bernalillo County, New Mexico, property known as the Fire Station 2, 301 High Street 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 ONE HUNDRED NINETY FIVE THOUSAND DOLLARS and No/100 (\$195,000.00), plus or minus the prorations payable by the Buyers 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 Seller by the Buyers, the receipt of which is hereby acknowledged by the Seller; and,
- B. The balance of the Purchase Price ("Balance Due") and any prorations shall be paid to the Seller 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 Seller shall order a commitment ("Title Commitment") for a policy of title insurance covering the Property from Old Republic Title, 5501 Jefferson St. NE, Suite 100, Albuquerque, NM 87109 (Lisa Ortega, 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 Buyers, upon the recording of a Deed, as described below, conveying title to the Property from the Seller to the Buyers, a standard title policy of title insurance ("Title Policy") in the amount of the Purchase Price and insuring the title of the Buyers 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 the sole cost of Buyers. The Buyers shall pay for any deletions of standard exceptions or additional endorsements desired by Buyers.

### **2. Survey.**

At least thirty (30) days prior to the closing of the Sale, the Buyers and their 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 Buyers, 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 Buyers; 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 Buyers of the Survey or Title Commitment (the "Objection Period"), the Buyers will give written notice to the Seller of any objections the Buyers may have to any matter shown on the Survey or in the Title Commitment ("Objections"). If the Buyers fail 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 Buyers 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 Buyers' Objections (the "Cure Period"), the Seller may attempt to cure, eliminate or modify any or all Objections to the satisfaction of the Buyers, 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 Buyers as to whether or not Seller will satisfy or attempt to satisfy any of the Buyers' Objections. If the Seller is unable to or does not satisfy the Objections upon the expiration of the Cure Period, the Buyers 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 Buyers may agree to an

additional period of time in which the Seller may continue to attempt to satisfy the Objections; (ii) the Buyers 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 Buyers may terminate this Agreement, in which event, the Seller and the Buyers will have no further rights, obligations or liabilities to one another under this Agreement. If the Buyers do 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 Buyers and the Seller shall have no further rights, obligations or liabilities as between the Buyers and the Seller as provided in this Agreement and all obligations and liabilities of Buyers and the 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 Buyers, as provided in this paragraph, are the sole rights and remedies of the Buyers 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 Buyers approve or is deemed to have approved pursuant to this paragraph, and any liens or encumbrances caused or created by the Buyers or the Buyers' employees, agents or contractors, and any unsatisfied objections waived by the Buyers.

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

The Seller shall convey title to the Property to the Buyers by statutory form quitclaim deed ("Deed"), subject only to the Permitted Exceptions.

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

Buyers may conduct at Buyers' sole cost any and all inspections of the Property and Buyers may seek a zone change for the property and Buyers shall have up to six (6) months from the effective date, ("Due Diligence Period") to perform any inspections Buyers feel 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 Buyers, at Buyers' sole discretion, the Buyers may give written notice to Seller and this Agreement shall terminate and the Earnest Money shall be refunded to Buyers. Upon the written request of Buyers and a showing that Buyers 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 Buyers do 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 Buyers written notice of termination.

Buyers 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. Buyers 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 Buyers 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 Buyers' obligation hereunder shall survive closing.

Buyers 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 Buyers and Acceptance of Property.**

Together with Buyer's inspections and zoning due diligence described in the above Article II.6. of this Agreement, the Buyers, at Buyers' 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 Buyers acknowledges and represents, as of the Closing, that the Buyers has independently investigated all matters pertaining to the Property deemed material to the Buyers, the Buyers are purchasing the Property based upon the Buyers' own inspection and knowledge of the Property and the Buyers' development, real estate, legal, environmental and marketing experience, and not based on any representations of Seller. The Buyers 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 Buyers may, at the Buyers' sole risk and expense, provide or acquire any access or utility connections the Buyers deems necessary or desirable to permit the Buyers 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 Buyers acknowledge that the Seller may have provided to the Buyers documents relating to the environmental condition of the Property. The Buyers further acknowledge 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 Buyers to determine the condition of the property. The Buyers 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 Buyers 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, the zoning status and the environmental condition of the Property, the Buyers 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 Buyers may agree in writing. At the Closing, the Seller, the Buyers 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 Buyers, 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 Seller, duly executed by Seller;

Seller shall also execute any document reasonably required by the Title Company in order to delete any standard exceptions from the Title Policy at Buyers' request and expense.

B. Buyers' Duties. On or before the closing date, the Buyers 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 Buyers including the cost of the deletion of any standard exception or additional endorsements to the Title Policy and the cost of the survey. The Buyers' payment shall be made by check of the Buyers' 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 Buyers may agree in writing.

C. Title Company's Duties. To effectuate the closing, unless otherwise instructed by the Seller and the Buyers, 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 Buyers;
- (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 Buyers 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 Buyers 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 Buyers in legal and physical possession of the Property as of the Closing.

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

If 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 Buyers and Seller shall have no further rights, obligations or liabilities as between the Buyers and Seller as provided in this Agreement and all obligations and liabilities of Buyers 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 Buyers and the Seller. If the current figures cannot be obtained, the proration shall be based upon the figures for the last assessment period.

B. Buyers, at Buyers sole cost, will pay all title escrow charges and expenses of the Title Company for closing services.

C. Other Expenses. All other expenses incurred by Seller or Buyers with respect to the Closing, including but not limited to, attorneys' fees of Seller or Buyers, 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.

## **VI. MISCELLANEOUS.**

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

No failure by the Buyers 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 Buyers or Seller is required to perform and no breach thereof will be waived, altered, or modified, except by written instrument executed by the Buyers or Seller. No exercise or failure to exercise any right or power of the Sellers or of the Buyers 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 Buyers at the following addresses, unless either the Seller or the Buyers changes the Seller's or the Buyers' address by giving written notice of the change to the other. The addresses for notices are:

A. Notice to the Seller:  
City of Albuquerque  
Planning Department  
P. O. Box 1293  
Albuquerque, New Mexico 87103  
Attn: Real Property Division Manager

B. Notice to the Buyers:  
Attn: Jim Dountas  
Hellenic Community of New Mexico, Inc.

308 High Street SE  
Albuquerque, NM 87102

**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 Buyers 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 Buyers 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 Buyers.

**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. Attorneys' Fees.**

If either party to this Agreement institutes any action or proceeding in court to enforce any provision hereof, for damages by reason of an alleged breach of any provision of this Agreement, for a declaration of such party's rights or obligations hereunder, or for any other judicial remedy, each party shall be responsible for its own attorneys' fees (including the reasonable fees and disbursements and charges of internal legal counsel) and litigation expenses, including, but not limited to expert witness fees, and service of process fees.

**15. 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.

**16. Headings and Captions.**

Captions of sections and paragraphs are for convenience, not limitation, and are not

to be construed as modifying text

**17. 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.

**18. Public Document.**

Seller is a municipal corporation under the laws of the State of New Mexico. Seller and Buyers 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.

**19. Audits and Inspections.**

Buyers 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.

**20. Authorization to Sign.**

If Buyers execute this Agreement as a corporation or partnership, then Buyers and the person(s) executing this Agreement on behalf of the Buyers 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 Buyers' behalf are duly authorized to execute and deliver this Agreement on Buyers' behalf.

**21. 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: \_\_\_\_\_  
Sarita Nair, Chief Administrative Officer

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

**RECOMMENDED:**

By: \_\_\_\_\_  
Paul W. Dow, Fire Chief  
Albuquerque Fire Rescue Department

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

**BUYER**

**Hellenic Community of New Mexico, Inc.**

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

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

Printed: \_\_\_\_\_

Its \_\_\_\_\_



**EXHIBIT A**



## City of Albuquerque Property Fact Sheet

Report Generated by City of Albuquerque Real Property Division: 1/9/2019 9:13:24 AM

Property ID:	101405749828810708	
Zone Atlas Page:	K-14	City Council District: 2
Address:	301 HIGH, Albuquerque, 87102	
Legal Description:	LOTS 1-3, BLK 28, HUNING HIGHLAND ADDITION	
Acreage:	0.4752	Sq. Feet: 20699.712
Department:	Fire	
Zoning:	SU-1	
Acquisition Price:	\$0.00	Sale Price:
Property Status:	City Owned	Surplus: Yes

Property Map:



*Disclaimer: The City of Albuquerque provides these data for reference and informational purposes only, the data are not intended for legal purposes.*