



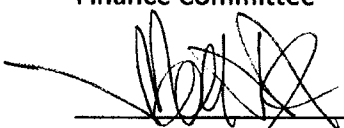
# City of Santa Fe, New Mexico

# memo

DATE: February 13, 2015

TO: Public Works, C.I.P., and Land Use Committee  
Finance Committee

VIA:

  
Matthew S. O'Reilly, P.E.  
Asset Development Director

FROM: Edward J. Vigil, Property Manager  
Asset Development Office



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## ITEM

Request for Concept Approval of the sale of approximately 222 square feet of city-owned real estate adjoining the northern boundary of 319 Sanchez Street by Chaparral, LLC (Matthew O'Reilly/Edward Vigil)

## BACKGROUND

The subject of this request is a small portion of the Acequia de los Pinos right-of-way. The City of Santa Fe acquired ownership of the land by means of a Patent from the United States of America recorded in Deed Book G-1, page 612, records of Santa Fe County, NM. Ronald W. Burg has requested on behalf of Chaparral, LLC to purchase the land from the City as it currently lies within the walled portion of the lot which Chaparral LLC recently acquired.

The Asset Development Office has confirmed with all relevant City departments that the proposed disposal of the real estate will not conflict with City infrastructure and is not needed for City purposes. Staff has also confirmed with Phil Bove of the Acequia Madre Association that this area of land is no longer a part of the acequia system as the acequia has been channeled with rock lining outside the subject land and is separated from the acequia by a cinder block wall.

## RECOMMENDED CONDITIONS

Staff recommends approval of the applicant's request to purchase this portion of the City's property as it will generate revenue at the time of sale, place the land back on the tax rolls, and benefit the property owner by correcting a rear setback issue on their property.

This request will be brought to the Governing Body for final consideration pending conceptual approval of the Public Works, C.I.P., and Land Use Committee and the Finance Committee.

*Memorandum to Public Works Committee & Finance Committee*

*February 13, 2015*

*Page 2*

**REQUESTED ACTION**

Please conceptually approve this request to sell this portion of city-owned property.

Exhibits:      A – Draft Quitclaim Deed;  
                    B – Request by Ronald W. Burg on behalf of Chaparral LLC;  
                    C – Patent to the City of Santa Fe recorded in Deed Book G-1, pg. 612;  
                    D – Survey Plat of parcel at 319 Sanchez St.  
                    E – Copy of NMSA 1978 Section 3-54-1 (1999).

**BUSINESS UNIT/LINE ITEM:**

**21117.460150**

# QUITCLAIM DEED

The City of Santa Fe, a municipal corporation, herein "Grantor", whose address is 200 Lincoln Ave. Santa Fe, NM 87504-0909, for good and adequate consideration paid, quitclaims to Chaparral, LLC, a Minnesota limited liability company, herein "Grantee", whose address is 207 Fifth Ave. N, Minneapolis, MN 55401, the following described real estate within the City and County of Santa Fe, New Mexico, being more particularly described as follows to-wit:

A certain parcel of land lying and being situate within a portion of the Acequia de los Pinos within the City of Santa Fe, Santa Fe County, New Mexico, Projected Section 25, Township 17 North, Range 9 East, NMPM, and being more particularly described as follows:

A more complete legal description shall be provided upon receipt of a current boundary survey.

Subject to reservations, restrictions, easements of record and taxes for the year of 2015 and thereafter.

Further, by this deed, the real estate is subject to the following conditions:

1. The property shall not be considered a legal lot of record for any purpose, but rather shall be consolidated with the adjoining lands commonly known as 319 Sanchez St. by Grantee.
2. Parcel is subject to existing utilities with rights incident thereto.

Witness my hand and seal this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

GRANTOR:  
CITY OF SANTA FE

BY: \_\_\_\_\_  
JAVIER M. GONZALES  
MAYOR

ATTEST:

\_\_\_\_\_  
YOLANDA Y. VIGIL,  
CITY CLERK

APPROVED AS TO FORM:

MDM 2/12/15  
KELLEY BRENNAN,  
CITY ATTORNEY

APPROVED:

\_\_\_\_\_  
OSCAR RODRIGUEZ,  
FINANCE DIRECTOR

21117.460150  
BUSINESS UNIT/LINE ITEM

ACKNOWLEDGEMENT

STATE OF NEW MEXICO    )  
                                      ) SS.  
COUNTY OF SANTA FE    )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_,  
2015 by Javier M. Gonzales, Mayor.

\_\_\_\_\_  
Notary Public

My commission expires:

\_\_\_\_\_  
(seal)

12/8/14

**Land Purchase Request**

**Land Owner** - City of Santa Fe

**Buyer** - Ron Burg, Chaparral, LLC

**Subject Property** - 319 Sanchez St., Santa Fe, NM. 87505

**Representative** - Scott Wong, 505-660-5080

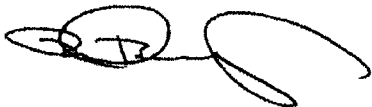
Attention: Ed Vigil

The included boundary survey for Subject Property shows a 222 square foot triangle of land at the back (north) end of the property. This triangle of land is currently within the north wall and a portion of the east wall that surrounds the back yard of the Subject Property.

If possible, Chaparral, LLC would like to purchase this 222 square foot section of land from the City of Santa Fe as outlined on the survey. The Subject Property's north boundary line would move from the current location to the backside of the north wall as shown. The east boundary line would extent approximately 9 feet in a straight line north connecting to the new NE lot corner as shown.

Please let us know how to proceed with a proposal to purchase this land.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ron Burg', with a large, sweeping flourish extending to the right.

Ronald W. Burg  
Chaparral, LLC  
612-870-8277

The United States of America

PATENT

DATED: February 16, 1901

FILED: March 8, 1901

at 10:00 o'clock A.M.

RECORDED: in Book G-1 Deeds

at Page 612

City of Santa Fe, New Mexico

CONSIDERATION: Act of Congress

DESCRIPTION

WHEREAS, it is provided in the Act of Congress approved on the ninth day of April, one thousand nine hundred, entitled "An Act to Settle the titles to real estate in the City of Santa Fe, New Mexico", that the United States of America hereby releases and quitclaims unto the City of Santa Fe, New Mexico, and its successors, all right, claim or interest which the United States may have in or to any and all of the lands embraced within the present survey of the Santa Fe Grant as the same appears on file in the General Land Office in Washington and in the office of the Surveyor General for the District of New Mexico, and approved by H. M. Atkinson, Surveyor General, and the Commissioner of the General Land Office, being a tract containing four square Spanish leagues, having for the center thereof the Soldiers Monument in the center of the plaza of said city and extending one Spanish league therefrom to each of the cardinal points of the compass, and patent from the United States shall issue therefor, this said grant and quitclaim to the City of Santa Fe being to it as a municipal corporation for all parks, streets, alleys, vacant unoccupied lands, or other public places now existing within said limits, and to the said City in trust for the benefit of all persons claiming title to their individual holdings of real estate within such limits, by actual possession or under color of title for the period of ten years prior to the passage of this Act; PROVIDED, That there is expressly reserved from this grant and quitclaim all lands and buildings now occupied or claimed by the United States for its Federal Building, National Cemetery, the Fort Marcy Reservation, and Indian Schools; and also reserving therefrom any private land grants that may have been or may hereafter be confirmed by the Court of Private Land Claims or other authority of the United States.

SEC. 2: That it is hereby made the duty of the mayor and clerk of said city and their successors in office to execute proper deeds of quitclaim to the persons entitled thereto under this Act for their respective holdings of real estate upon such claimants applying therefor and presenting proper deeds for the signatures of such officers, without any expense to the said applicants, and such deeds when executed shall be taken in all courts and places as a relinquishment of any claim or title to the lands therein described on the part of the United States.

SIGNED BY:

By the President, William McKinley

By: F. M. McKean, Secretary

C. H. Brush, Recorder of the

General Land Office

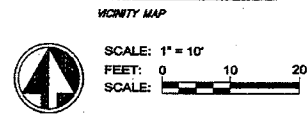
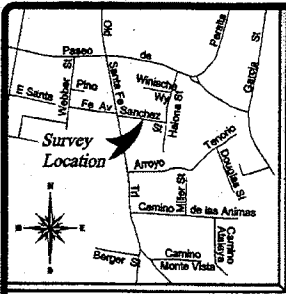
(Seal)

Rec. Vol 26, pp. 231 to 244

City Land

**Boundary Survey Plat**  
for  
**Chaparral, LLC, a Minnesota**  
**Limited Liability Company**  
Lot 4 of the Henry B. Sanchez Subdivision  
within the Santa Fe Grant, projected Section 25,  
T. 17 N., R. 9 E., N.M.P.M.  
Santa Fe, Santa Fe County, New Mexico  
319 Sanchez Street

781031



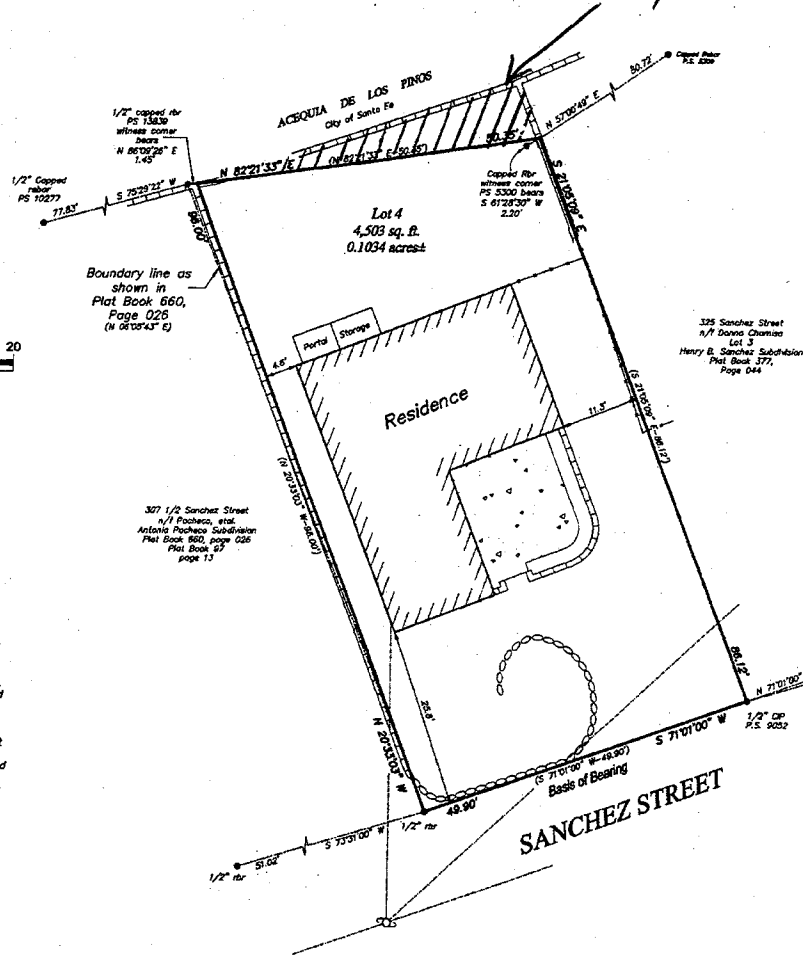
- LEGEND**
- Sanitary sewer manhole.
  - Brass Caps found and used as noted.
  - Points found and used as noted.
  - 1/2" Copied iron pin set this survey.
  - Utility poles, lines and anchors.
  - Utility boxes.
  - Fences.
  - Wells.
  - Concrete.

- NOTES**
- 1.) Basis of bearing was taken between a 3/8" rebar marking the southeast corner of Lot 5 and a 1/2 inch rebar marking the southwest corner of Lot 4 of the Henry B. Sanchez Subdivision as shown on "Plat of Survey for Alice G. Hazard on Lot 5, Sanchez Subdivision", prepared by Sierra Land Surveying and recorded in Plat Book 377, Page 044.
  - 2.) Basis for this survey was taken from Lot 4, Henry B. Sanchez Subdivision, as shown on plat of survey by Morris A. Apodaca for Alice G. Hazard, dated December 19, 1984 and described in a Warranty Deed recorded as Instrument No. 1730,798 Bearings and distances in parenthesis were taken from said plat.
  - 3.) Reference plat: Plat of lands owned by Henry B. Sanchez recorded in Plat Book 2, page 281.
  - 3.) F.L.R.M. Map Number: 35049C0418E, Zone "X". Effective date of December 4, 2012. Property lies outside of a designated flood hazard area.

**CERTIFICATE**

I, David E. Cooper, a duly registered Professional Surveyor in the State of New Mexico hereby certify that this plat represents an actual survey made in the field by me or under my direction, that it meets the minimum standards for surveys in New Mexico and that the information contained herein is true and correct to the best of my knowledge, information and belief.  
This is a boundary survey of an existing tract or tracts and it is not a land division or subdivision as defined by the New Mexico Subdivision Act.

*David E. Cooper*  
David E. Cooper  
November 25, 2014  
P.S. No. 9052



Instrument No. 1752302  
COUNTY OF SANTA FE  
STATE OF NEW MEXICO  
I hereby certify that this instrument was filed for record on the 5<sup>th</sup> day of December A.D. 2014, at 9:31 o'clock A.m., and was duly recorded in Book 781, Page 231 of the records of Santa Fe County.

Witness my Hand and Seal of Office  
Geraldine Salazar  
County Clerk, Santa Fe County, New Mexico  
*Estrella Martinez*  
Deputy

**CITY OF SANTA FE PUBLIC NOTICE**  
The City of Santa Fe has not reviewed this plat of survey before its filing in the Office of the County Clerk. This survey is based on those documents noted herein. City of Santa Fe Staff must approve all documents submitted with an application for building permit and may require additional documentation to prove legal lot of record. This statement does not in any way represent official approval of this plat.

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<b>SIERRA LAND SURVEYING, INC.</b>			
1452 St. Francis Drive	Santa Fe, New Mexico	505-983-5932	
Project No. C-053-1114	Dep. DEC	Ch. DTC	
	Filer. gss	Blk. 100	
INDEXING INFORMATION FOR COUNTY CLERK			
NAME	LOCATION	SUBDIVISION	
Allan H. Greenberg	Proj. Sec. 25, T.17N, R.9E Santa Fe Grant	Henry B. Sanchez	
UPC No. 1-054-058-304-453			



**ARTICLE 54  
SALE OR LEASE OF PROPERTY**

**Section**

- 3-54-1. Authority to sell or lease municipal utility facilities or real property; notice; referendum.**
- 3-54-2. Sale, exchange and gift of property.**
- 3-54-3. Supplemental method for disposing of municipal property.**

**3-54-1. Authority to sell or lease municipal utility facilities or real property; notice; referendum.**

A. A municipality may lease or sell and exchange any municipal utility facilities or real property having a value of twenty-five thousand dollars (\$25,000) or less by public or private sale or lease any municipal facility or real property of any value normally leased in the regular operations of such facility or real property, and such sale or lease shall not be subject to referendum.

B. A municipality may lease or sell and exchange any municipal utility facilities or real property having an appraised value in excess of twenty-five thousand dollars (\$25,000) by public or private sale or lease, subject to the referendum provisions set forth in this section. The value of municipal utility facilities or real property to be leased or sold and exchanged shall be determined by the appraised value of the municipal utility facilities or real property and not by the value of the lease. An appraisal shall be made by a qualified appraiser and submitted in writing to the governing body. If the sale price is less than the appraised value, the governing body shall cause a detailed written explanation of that difference to be prepared, and the written explanation shall be made available to any interested member of the public upon demand.

C. If a public sale is held, the bid of the highest responsible bidder shall be accepted unless the terms of the bid do not meet the published terms and conditions of the proposed sale, in which event the highest bid which does meet the published terms and conditions shall be accepted; provided, however, a municipality may reject all bids. Terms and conditions for a proposed public sale or lease shall be published at least twice, not less than seven days apart, with the last publication no less than fourteen days prior to the bid opening, and in accordance with the provisions of Subsection J of Section 3-1-2 NMSA 1978.

D. Any sale or lease of municipal utility facilities or real property entered into pursuant to Subsection B of this section shall be by ordinance of the municipality. Such an ordinance shall be effective seventy days after its adoption, unless a referendum election is held pursuant to this section. The

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ordinance shall be published prior to adoption pursuant to the provisions of Subsection J of Section 3-1-2 NMSA 1978 and Section 3-17-3 NMSA 1978 and shall be published after adoption at least once within one week after adoption, pursuant to the provisions of Subsection J of Section 3-1-2 NMSA 1978. Such publications shall concisely set forth at least:

- (1) the terms of the sale or lease;
- (2) the appraised value of the municipal utility facilities or real property;
- (3) the time and manner of payments on the lease or sale;
- (4) the amount of the lease or sale;
- (5) the identities of the purchasers or lessees; and
- (6) the purpose for the municipality making the lease or sale.

E. In order to call for a referendum election on a sale or lease ordinance, a petition must be filed with the municipal clerk:

- (1) no later than sixty days after the adoption of the sale or lease ordinance;
- (2) containing the names, addresses and signatures of at least fifteen percent of the qualified electors of the municipality; and
- (3) containing the following heading on each page of the petition reprinted as follows:

ZOOM TO VIEW THE FOLLOWING FORM

"PETITION FOR A REFERENDUM

We, the undersigned registered voters of ..... (insert name of municipality) petition the governing body of ..... (insert name of municipality) to conduct a referendum election on ordinance number ..... Ordinance number ..... would cause a ..... (insert "sale" or "lease") of municipal ..... (insert "real property" or "utility facilities").

Date	Name (printed)	Address
	Signature."	

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F. Section 3-1-5 NMSA 1978 shall apply to all petitions filed calling for a referendum election on a sale or lease ordinance.

G. If the municipal clerk certifies to the municipal governing body that the petition does contain the minimum number of valid names, addresses and signatures required to call a referendum election on the sale or lease ordinance, the municipal governing body shall adopt an election resolution within fourteen days after the date the clerk makes such certification, calling for a referendum election on the sale or lease ordinance. The election resolution shall be adopted and published pursuant to the provisions of the Municipal Election Code [Chapter 3, Articles 8 and 9 NMSA 1978] governing special elections, and shall also concisely set forth:

- (1) the terms of the sale or lease;
- (2) the appraised value of the municipal utility facilities or real property;
- (3) the time and manner of payments on the lease or sale;
- (4) the amount of the lease or sale;
- (5) the identities of all purchasers or lessees; and
- (6) the purpose for the municipality making the lease or sale.

H. The referendum election on the sale or lease ordinance shall be held not later than ninety days after the election resolution is adopted. Such election shall be held at a special or regular municipal election and shall be conducted as a special election in the manner provided in the Municipal Election Code. Any qualified elector of the municipality may vote in such a referendum election.

I. If a majority of the votes cast are to approve the sale or lease ordinance, the sale or lease ordinance shall be effective after the election results have been canvassed and certified. If a majority of the votes cast are to disapprove the sale or lease ordinance, the ordinance shall not be effective.

**History:** 1953 Comp., 3-54-1, enacted by Laws 1983, ch. 115, 1; 1985, ch. 208, 119.

**Cross-references.** - As to lease of parking facilities, see 3-50-8 and 3-51-8 NMSA 1978.

**Repeals and reenactments.** - Laws 1983, ch. 115, 1, repealed former 3-54-1 NMSA 1978, relating to authority to sell or lease

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municipal utility or real property used for municipal purposes, and enacted a new 3-54-1 NMSA 1978.

**"Terms" defined.** - The word "terms" as used in Paragraph (1) of Subsection D refers to the amount, time and manner of payments. *City of Clovis v. Southwestern Pub. Serv. Co.*, 49 N.M. 270, 161 P.2d 878 (1945).

**Am. Jur. 2d, A.L.R. and C.J.S. references.** - 56 Am. Jur. 2d *Municipal Corporations, Counties, and Other Political Subdivisions* 549 to 559.

**Right to lease or convey park, square, or common,** 18 A.L.R. 1259, 63 A.L.R. 484, 144 A.L.R. 486.

**Sufficiency of compliance with condition of sale or lease by municipality of public utility plants,** 52 A.L.R. 1052.

**Mortgage or pledge of property or income therefrom,** 71 A.L.R. 828.

**Lease or sale of municipal plant, or contract therefor, as affecting right of municipality to compete,** 118 A.L.R. 1030.

**Implied or inherent power of municipal corporation to sell its real property,** 141 A.L.R. 1447.

**Constitutional prohibition of municipal corporation lending its credit or making donation as applicable to sale or leasing of its property,** 161 A.L.R. 518.

**Off-street public parking facilities,** 8 A.L.R.2d 373.

**Granting or taking of lease of property by municipality as within authorization of purchase or acquisition thereof,** 11 A.L.R.2d 168.

**Maintenance by municipal corporations of tourist or trailer camps, motor courts or motels,** 22 A.L.R.2d 774.

**Conveyance by municipality as carrying title to center of highway,** 49 A.L.R.2d 982.

**Power of municipality to sell, lease, or mortgage public utility plant or interest therein,** 61 A.L.R.2d 595.

**Ordinance as to sale or other disposition of municipal property as within operation of initiative and referendum provisions,** 72 A.L.R.3d 1030.

**63 C.J.S. Municipal Corporations** 962.

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