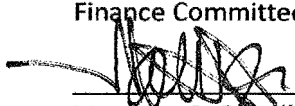



City of Santa Fe, New Mexico

memo

DATE: March 18, 2016

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

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

FROM: Edward Vigil, Property Manager 

ITEM

Request for concept approval of the sale of approximately 280 square feet of city-owned property adjoining the northerly boundary of 607 Miller Street by David W. Dick and Gloria V. Dick, Trustees of the David and Gloria Dick Revocable Family Trust u/a/d August 26, 2011 (Matthew O'Reilly).

BACKGROUND

The subject property is an unused portion of city-owned property portions of which contained a now-abandoned branch of the Acequia Madre ditch. The property was acquired by the city by means of a Patent recorded in Deed Book G-1, page 612, of the records of Santa Fe County, New Mexico.

The David and Gloria Dick, the trustee owners of 607 Miller Street have requested to purchase this real estate from the City. The subject property currently contains encroachments of a boundary wall and storage building associated with 607 Miller Street. The Asset Development Office has confirmed with relevant city departments that the proposed sale of the property will not conflict with City infrastructure and that the property is not needed for any future City purposes.

RECOMMENDATIONS

The Asset Development Office recommends the sale of this portion of city-owned property with conditions placed on the proposed Quitclaim Deed that will obligate the purchaser to consolidate the City land with their adjacent parcel. This sale will benefit the City by generating revenue at the time of sale, partially relieve the City from liability and maintenance responsibility of property, and return the property to the tax rolls. The sale will benefit the purchaser by alleviating issues related to their encroachments onto the City property.

This request is for conceptual approval of the sale of this portion of City-owned property. Prior to final consideration of this sale, the purchaser will be required to provide the City with a legal description of the property prepared by a licensed professional surveyor and an MAI-certified appraisal of the property.

March 18, 2016

Memorandum to Public Works Committee and Finance Committee

Page 2

The Asset Development Office estimates the market value of the property to be approximately \$5,300. However, pursuant to 3-54-1 NMSA 1978, should the appraised value of the property exceed \$25,000, an ordinance must be adopted to complete the sale. Accordingly, a sale ordinance may be required for the final approval of the Governing Body, if conceptual approval of this sale is granted by the Public Works and the Finance Committees

REQUESTED ACTION

Please approve this request for conceptual approval of the sale of this portion of real property.

- Exhibits:
- A – Draft Quitclaim Deed;
 - B – Request by Nancy V. Nieto on behalf of the David and Gloria Dick Revocable Family Trust;
 - C – Plat of Lot 1 for the Swanson Family Trust recorded in Plat Book 788, pg. 16;
 - D – Patent recorded in Deed Book G-1, page 612
 - 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 David W. Dick and Gloria V. Dick, Trustees of the David and Gloria Dick Revocable Family Trust u/a/d August 26, 2011, herein "Grantee", whose address is 5909 Quinta Real Ct., El Paso TX 79912, the following described real estate within the City and County Santa Fe, New Mexico, being more particularly described as follows to-wit:

Those small parcels of real estate lying outside the northeasterly and northwesterly boundaries of Lot 1 and south of the northerly edge of the boundary wall along Arroyo Tenorio right-of-way as shown and delineated on plat entitled "BOUNDARY SURVEY AND LOT CONSOLIDATION SURVEY FOR GARY L. SWANSON AND JANE W. SWANSON TRUSTEES OF THE SWANSON FAMILY TRUST OF 2007..", filed for record as Instrument No. 1765595 in Plat Book 788, page 016, records of Santa Fe County, New Mexico.

A more complete legal description shall be incorporated upon receipt of a current comprehensive survey.

Subject to reservations, restrictions, easements of record and taxes for the year of 2016 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 Lot 1 at 607 Miller Street by Grantee.

Witness my hand and seal this ____ day of _____, 2016.

GRANTOR:
CITY OF SANTA FE

BY: _____
JAVIER M. GONZALES
MAYOR

ATTEST:

YOLANDA Y. VIGIL
CITY CLERK

VIGIL, EDWARD J.

From: OREILLY, MATTHEW S.
Sent: Thursday, October 08, 2015 4:17 PM
To: Nancy V. Nieto
Cc: James S. Rubin; Marsha S. Aitken; VIGIL, EDWARD J.
Subject: RE: 607 Miller Street

Hello Nancy,

Thanks for the follow-up to our meeting last week. We understand the request and will begin the approval process.

Matthew O'Reilly, P.E.
Director of Asset Development
City of Santa Fe
P.O. Box 909
Santa Fe, NM 87504-0909
(505) 955-6213
msoreilly@santafenm.gov

From: Nancy V. Nieto [<mailto:NNieto@cuddymccarthy.com>]
Sent: Thursday, October 08, 2015 3:12 PM
To: OREILLY, MATTHEW S.
Cc: James S. Rubin; Marsha S. Aitken
Subject: RE: 607 Miller Street

Hello Matt,

Thank you for meeting with me the other day. As we discussed Mr. and Mrs. Dick, the owners of 607 Miller Street, who hold title as David W. Dick and Gloria V. Dick, Trustees of the David and Gloria Dick Revocable Family Trust, want to purchase the strip of land from the NE boundary of their property to the other side of the wall along Arroyo Tenario as shown on the attached plat and the small area of land along the adjacent City-owned land identified as Tract A on the attached plat for 424 Arroyo to the other side of the wall. Although, the plat for 424 Tenario shows the boundary with 607 Miller as being located along the outside of the wall surrounding 607 Miller, the plat for 607 Miller shows the boundary as located, in places, as being inside of the wall. You explained that if the purchase of Tract A from the City does forward that boundary discrepancy will be addressed in the resulting Lot Line Adjustment Plat. However, if that is not the case, Mr. And Mrs. Dick want to process an boundary adjustment for the boundary between their property and Tract A that will establish the boundary of 607 Miller as being on the other side of the wall, in all locations. Mr. and Mrs. Miller desire to acquire the land for the purpose of obtaining title to the wall surrounding 607 Miller so that they may maintain the wall. At times the wall is affected by graffiti or other damage and the Dicks want to be able to repair the damage.

If you have any questions, please call me at 954-7308 if you have any questions.

Regards,
Nancy

The United States of America : PATENT
: :
: : DATED: February 16, 1901
: :
T O : 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

ARTICLE 54

Sale or Lease of Property

Sec.

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

Sec.

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 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 who are shown as registered voters within the municipality on the most recently available voter registration lists maintained by the county clerk as of the date the petition is filed; and

Exh E

(3) containing the following heading on each page of the petition reprinted as follows:

"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").

Name Address Signature."

F. Upon receipt of a petition calling for a referendum on a sale or lease ordinance, the municipal clerk shall:

(1) determine the minimum number of names, addresses and signatures which equals fifteen percent of the qualified electors of the municipality who are registered voters within the municipality as shown on the most recently available voter registration lists maintained by the county clerk;

(2) examine the petition and the names, addresses and signatures on the petition, purge from the petition the signature of any person who is not shown as a registered voter of the municipality on the most recently available list of registered voters maintained by the county clerk and purge any signature which is a forgery, is illegible or which cannot be matched to the name, address and signature as shown on the voter registration lists; and

(3) certify to the municipal governing body, within ten days after the petition is filed, whether the petition contains the minimum number of valid names, addresses and signatures required in order to call a referendum election on the sale or lease ordinance.

G. If the municipal clerk certifies that the petition does not contain the minimum number of valid names, addresses and signatures required in order to call a referendum election on the sale or lease ordinance, then the municipal clerk shall:

(1) calculate the total number of people signing the petition, the number purged, the number which were not purged and the minimum number required in order to call a referendum on the sale or lease ordinance;

(2) post in the office of the municipal clerk on the day that the certification is made to the municipal governing body the names, addresses and signatures which were purged from the petition and the calculations made pursuant to Paragraph (1) of this subsection; and

(3) publish, pursuant to the provisions of Subsection J of Section 3-1-2 NMSA 1978, within one week of the certification to the municipal governing body, the names, addresses and signatures which were purged from the petition and the calculations made pursuant to Paragraph (1) of this subsection.

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

H. 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 Subsection J of Section 3-1-2 NMSA 1978 and Section 3-8-2 NMSA 1978 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.

I. 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 general municipal election and shall be conducted in the manner as provided in Sections 3-8-1 through 3-8-19 NMSA 1978. If such an election cannot be scheduled within the time limits established in this section because of a conflict with an election or because the laws governing voter registration prevent voters from registering to vote for the referendum election on the sale or lease ordinance or both, the governing body shall schedule the referendum election not less than sixty days after the conflicting election and in such a manner as to permit voter registration for the referendum election on the sale or lease ordinance. Any registered voter of the municipality may vote in such a referendum election.

J. 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: 1978 Comp., § 3-54-1, enacted by Laws 1983, ch. 115, § 1.

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, repeals former 3-54-1 NMSA 1978, relating to authority to sell or lease municipal utility or real property used for municipal purposes, and enacts the above section.

Emergency clauses. — Laws 1983, ch. 115, § 4, makes the act effective immediately. Approved March 31, 1983.

Temporary provisions. — Laws 1983, ch. 115, § 3, provides that, where a governing body adopts a resolution declaring its intent to enter into negotiations for the sale or lease of municipal utility facilities or real property having an appraised value in excess of \$25,000 and where a sale or lease ordinance is adopted by the governing body pursuant to such a resolution within six months after the adoption of the resolution, 3-54-1 NMSA 1978 shall apply to such lease or sale except that any petition challenging such sale or lease shall contain the signatures of at least 20 percent of the registered voters of the municipality and shall be filed within 30 days after passage of the sale or lease ordinance, and the ordinance shall become effective 50 days after passage unless an election is called pursuant to a valid petition.

"Terms" defined. — The word "terms" as used in Paragraph (1) of Subsection C 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, 161 A.L.R. 504 (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 780.

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.

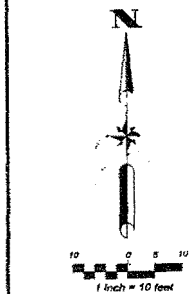
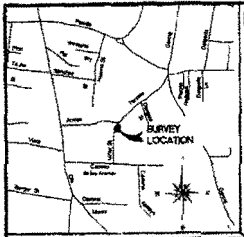
Ordinance as to sale or other disposition of municipal property as within operation of initiative and referendum provisions, 72 A.L.R.3d 1030.

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

3-54-2. Sale, exchange and gift of property.

A. A municipality may sell personal property for cash at public or private sale without notice where it is shown to the governing body that such property does not exceed the value of two thousand five hundred dollars (\$2,500).

B. A municipality may sell personal property having a value of more than two thousand five hundred dollars (\$2,500) at public or private sale. If a private sale is held under this subsection, such sale shall be held only after notice is published at least twice, pursuant to the provisions of Subsection J of Section 3-1-2 NMSA 1978, not less than seven days apart, with the last publication not less than fourteen days prior to the sale.



- LEGEND**
- Sanitary sewer manhole
 - City of Santa Fe Control Monument
 - Plants found and used as noted
 - 1/2" capped iron pin 7.5" 3022 w/c
 - Utility poles and lines
 - Utility boxes
 - Fences
 - Masonry Walls
 - ▨ Concrete

NOTES

- 1) Basis of bearing for this survey was taken Plat entitled "Lot Split Plat for Joan O. Macfarlane" prepared by Sierra Land Surveying, Inc. and recorded in Plat Book 782, page 070
 - 2) This survey is based on a plat entitled "Boundary Survey Plat for Brenda Jean Gleason" recorded in Plat Book 343, page 040. Bearings and distances are from both plats.
- Deed Reference: OGD from Adele Lova Rand to Helen Klein recorded in Book 601, page 484, dated December 31, 1987.
 Plat Reference: Plat of Survey for James R. and Maryann Boyer, 607 Miller Street, Plat Book 28, page 05.

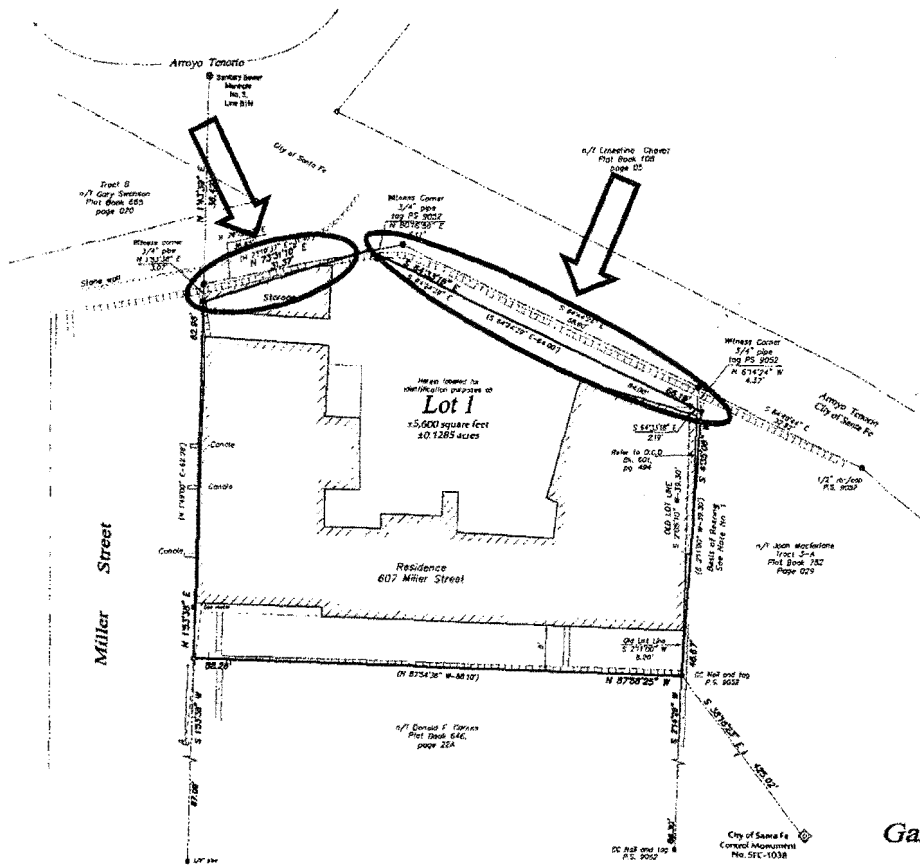
Legal Description:

Lot 1, within projected Section 25, T. 17 N., R. 09 E., N.M.P.M. within the City of Santa Fe, Santa Fe County, New Mexico and being further described as follows:
 Beginning at the southwest corner of the tract herein described in whence a City of Santa Fe Control Monument number SF-C-1038 bears:
 S 38°18'23" E a distance of 425.02 feet, thence from said POINT OF BEGINNING
 N 87°58'25" W a distance of 88.26 feet to a point; thence
 N 01°53'38" E a distance of 62.88 feet to a point; thence
 N 73°31'10" E a distance of 31.37 feet to a point; thence
 S 64°33'16" E a distance of 66.18 feet to a point; thence
 S 04°35'08" W a distance of 60.63 feet to the POINT OF BEGINNING.
 Containing 8,600 square feet or 0.1285 acres more or less.

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.

Final date of Fieldwork: May 19, 2015
 David E. Cooper P.S. No. 3052



Dedication/Affidavit

KNOW ALL BY THESE PRESENTS:
 The foregoing Survey and Lot Consolidation of tracts of land located at 607 Miller Street projected Section 25, T. 17 N., R. 09 E., N.M.P.M. within the Santa Fe, Santa Fe County, New Mexico is made in accordance with the wishes of the undersigned.

[Signature] 5-28-15 Date
 817 Frank Henson Attorney in Fact for Gary L. Swanson and Jane W. Swanson, Trustees of the Swanson Family Trust of 2007

78R01E

STATE OF NEW MEXICO
 COUNTY OF SANTA FE

This instrument was acknowledged before me on this 28 day of May, 2015.
 by Frank Henson Attorney in Fact for Gary L. Swanson and Jane W. Swanson, Trustees of the Swanson Family Trust of 2007
[Signature] 5/28/2015
 My Commission expires _____



CITY OF SANTA FE REVIEW

Diana Zimm 05/28/15 Date
 City Engineer for Land Use
[Signature] 5/28/15 Date
 City Planner

Case No.: 2015-83
 The Swanson Family Trust
 Lot Consolidation
 607 Miller Street

Approval Date: _____

Santa Fe County Approval
[Signature] 5/28/2015 Date
 Santa Fe County Engineer

**Boundary Survey
 and
 Lot Consolidation Survey
 for
 Gary L. Swanson and Jane W. Swanson,
 Trustees of The Swanson Family
 Trust of 2007**

A tract of land located at 607 Miller Street projected Section 25, T. 17 N., R. 09 E., N.M.P.M. Santa Fe, Santa Fe County, New Mexico 8,515 square feet or 0.2184 acres more or less.
 Purpose Statement: To consolidate two tracts of land

Instrument No. 1765595
 COUNTY OF SANTA FE
 STATE OF NEW MEXICO
 I hereby certify that this instrument was filed for record on the 28th day of May, A.D. 2015, at 4:02 o'clock P.M. and was duly recorded in Book 788, Page 16 of the records of Santa Fe County.

Witness my Hand and Seal of Office County Clerk, Santa Fe County, New Mexico
[Signature]
 Deputy



SIERRA LAND SURVEYING, INC.			
1422 State St. France Drive	Santa Fe, New Mexico	505-963-5232	
Project No. D-528-0518	Owner: SWC	CL: DTC	
	Prep: gsc	ERC: TDD	
INDEXING INFORMATION FOR COUNTY CLERK			
NAME	LOCATION	SUBDIVISION	
Gary L. Swanson	Proj. Sec. 25, T17N, R09E, Santa Fe County	SURVEY	
LIC# 1-034-098-355-392			