

City of Las Cruces[®]

PEOPLE HELPING PEOPLE

Council Action and Executive Summary

Item # 5 Ordinance/Resolution# 12-032

For Meeting of _____
(Ordinance First Reading Date)

For Meeting of August 15, 2011
(Adoption Date)

TITLE: A RESOLUTION AUTHORIZING THE CITY OF LAS CRUCES TO ACCEPT DONATION AND TRANSFER OF 10.08 ACRE PROPERTY FROM DOÑA ANA COUNTY.

PURPOSE(S) OF ACTION:

To approve acceptance of donation and transfer of property from Doña Ana County.

| | | |
|--|--|---------------------------|
| COUNCIL DISTRICT: 6 | | |
| Drafter/Staff Contact: Cathy Mathews <i>CM</i> | Department/Section: Facilities <i>Blow</i> | Phone: 541-2592 |
| City Manager Signature: | <i>[Signature]</i> | |

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

Doña Ana County currently holds a patent from the Bureau of Land Management (BLM) (US Land Patent Number 30-76-0006) to a 10.08 acre property on Paseo de Oñate and preserves and maintains the property as a cemetery. The majority of the property is undeveloped with the exception of a graveyard, approximately 5,700 square feet, in the northeast corner. Staff proposes to obtain the property from the County and the BLM to develop a needed neighborhood park on the site. The park is proposed to be a pocket park occupying approximately 1.25 acres mostly along Paseo de Oñate. The remainder of the property is to remain as open space with minor improvements to formalize existing trails. In April 2010, the Facilities Department conducted a public meeting resulting in overwhelming resident support for a park on this property. The graveyard is to remain in place and be maintained by the City. The County no longer needs the property for a cemetery and has declared its willingness and intent to donate and transfer ownership of the property to the City.

On June 14, 2011, the Doña Ana County Commission passed Resolution 2011-43 agreeing to transfer the land to the City upon approval by the New Mexico State Board of Finance at their September 2011 meeting and the United States Secretary of the Interior. The BLM, upon receipt of the County Commission Resolution, this City Council Resolution, the approval of the NM Board of Finance, and the Recreation or Public Purpose Lease Application (see separate resolution for approval), is to provide a Certificate of Approval of Transfer which may be signed by the Secretary of the Interior authorizing the transfer.

SUPPORT INFORMATION:

1. Resolution.
2. Exhibit "A". Agreement for Donation and Transfer of 10.08 Acre Cemetery Property.
3. Exhibit "B". Area Map.
4. Attachment "A". BLM Letter dated April 28, 2011.
5. Attachment "B". Dona Ana County Commission Resolution 2011-43.

SOURCE OF FUNDING:

| | | |
|---|---|---|
| N/A | Is this action already budgeted? | |
| | Yes | <input type="checkbox"/> See fund summary below |
| | No | <input type="checkbox"/> If No, then check one below: |
| | <i>Budget Adjustment Attached</i> | <input type="checkbox"/> Expense reallocated from: |
| | | <input type="checkbox"/> Proposed funding is from a new revenue source (i.e. grant; see details below) |
| | <input type="checkbox"/> Proposed funding is from fund balance in the Fund. | |
| Does this action create any revenue? | Yes | <input type="checkbox"/> Funds will be deposited into this fund: _____ in the amount of _____ for FY__. |
| | No | <input checked="" type="checkbox"/> There is no new revenue generated by this action. |

BUDGET NARRATIVE:

| |
|-----|
| N/A |
|-----|

FUND EXPENDITURE SUMMARY:

| Fund Name(s) | Account Number(s) | Expenditure Proposed | Available Budgeted Funds in Current FY | Remaining Funds | Purpose for Remaining Funds |
|--------------|-------------------|----------------------|--|-----------------|-----------------------------|
| N/A | N/A | N/A | N/A | N/A | N/A |

OPTIONS / ALTERNATIVES:

1. Vote "Yes"; this will approve the Resolution and approve the acceptance of donation of a 10.08 acre property from Doña Ana County.
2. Vote "No"; this will deny the Resolution and will not approve the acceptance of donation of a 10.08 acre property from Doña Ana County. The property will remain under patent to Doña Ana County and will not be available for construction of a City park.
3. Vote to "Amend"; this could delay the agreement approval process until December 2011 or later and could delay development of a needed neighborhood park.

4. Vote to "Table"; this could delay the agreement approval process until December 2011 or later and could delay development of a needed neighborhood park.

REFERENCE INFORMATION:

N/A

RESOLUTION NO. 12-032**A RESOLUTION AUTHORIZING THE CITY OF LAS CRUCES TO ACCEPT DONATION AND TRANSFER OF 10.08 ACRE PROPERTY FROM DOÑA ANA COUNTY.**

The City Council is informed that:

WHEREAS, Doña Ana County owns a parcel of land consisting of an approximately 5,700 square foot graveyard and surrounding vacant real property totaling approximately 10.08 acres, located on Paseo de Oñate, pursuant to United States Land Patent Number 30-76-0006, filed in the Office of the Doña Ana County Clerk on September 22, 1975 at Book 233 and Page 241-43; and

WHEREAS, the property is no longer needed by the County and the County has declared its willingness and intent to donate and transfer ownership of the property to the City for the use and benefit of the neighborhood and the public generally; and

WHEREAS, the City desires to use the property to provide a needed neighborhood park and agrees to maintain the existing graveyard on the site; and

WHEREAS, the City and the County have negotiated an Agreement for Donation and Transfer of 10.08 Acre Cemetery Property, attached hereto; and

WHEREAS, the City Council finds that the terms of the Agreement for Donation and Transfer of 10.08 Acre Cemetery Property, attached hereto, are acceptable to the City.

NOW, THEREFORE, Be it resolved by the governing body of the City of Las Cruces, New Mexico:

(I)

THAT the City of Las Cruces hereby approves the attached Agreement for Donation and Transfer of 10.08 Acre Cemetery Property.

(II)

THAT the City of Las Cruces authorizes the City Manager to sign the agreement on behalf of the City of Las Cruces, conditioned upon the consent of the United States Secretary of the Interior or delegate in the form of a Certificate of Approval of Transfer, in compliance with the terms of the land patent issued to Doña Ana County, and upon approval of the New Mexico State Board of Finance.

(III)

THAT City staff is hereby authorized to do all deeds necessary in the accomplishment of the herein above.

DONE and APPROVED this _____ day of _____, 2011.

ATTEST:

APPROVED:

City Clerk

Mayor

(SEAL)

VOTE:

Mayor Miyagishima: _____

Councillor Silva: _____

Councillor Connor: _____

Councillor Pedroza: _____

Councillor Small: _____

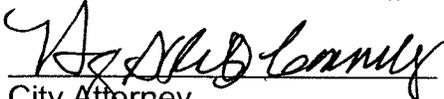
Councillor Sorg: _____

Councillor Thomas: _____

Moved by: _____

Seconded by: _____

APPROVED AS TO FORM:



City Attorney

**AGREEMENT FOR DONATION AND TRANSFER
OF 10.08 ACRE CEMETERY PROPERTY**

THIS AGREEMENT is entered into between Doña Ana County, a political subdivision of the State of New Mexico (hereinafter referred to as "County") and the City of Las Cruces, New Mexico, a New Mexico municipal corporation (hereinafter referred to as "City"), for the purpose of donating and transferring ownership of certain real property commonly referred to as the "Cemetery Property" located within the City of Las Cruces, New Mexico.

WHEREAS, the County owns a parcel of land consisting of an old cemetery and surrounding vacant real property totaling approximately 10.08 acres, located along Paseo de Oñate Street in the City of Las Cruces, New Mexico, pursuant to United States Land Patent Number 30-76-0006, filed in the Office of the Doña Ana County Clerk on September 22, 1975 at Book 233 and Page 241-43; and

WHEREAS, the Cemetery Property is no longer needed by the County; and

WHEREAS, the County has declared its willingness and intent to donate and transfer ownership of the property to the City to enable the City primarily to preserve and maintain the existing cemetery, and secondarily to improve the surrounding vacant acreage as a public park, for the use and benefit of the neighborhood and the public generally; and

WHEREAS, the City has declared its willingness and intent to acquire ownership of the Cemetery Property primarily to preserve and maintain the existing cemetery, and secondarily to improve the surrounding vacant acreage as a public park, for the use and benefit of the neighborhood and the public generally.

NOW THEREFORE, FOR VALUABLE CONSIDERATION, the County and City mutually agree as follows:

1. AGREEMENT TO DONATE AND TRANSFER; ACCEPTANCE

The County hereby agrees to donate and transfer to the City, and the City agrees to accept the donation and transfer from the County, all the County's interest in an approximately 10.08 acre parcel of real property, commonly referred to as the "Cemetery Property", located along Paseo de Oñate in the City of Las Cruces, New Mexico, and more particularly described in United States Land Patent No. 30-76-0006 as New Mexico Principal Meridian, New Mexico T. 23 S., R. 2 E., Sec. 10, Lot 36, as recorded in the Office of the Doña Ana County Clerk on September 22, 1975 at Book 233 and Page 241-43, and as shown on "Exhibit A" attached hereto and incorporated herein.

2. NO MONEY PAYMENT; FORM OF DEED

The County shall transfer the Cemetery Property to the City as a donation without payment by the City of any money consideration. As consideration for the transfer, the City will agree to preserve and maintain the existing cemetery located in the northeast corner of the property and to improve the surrounding vacant acreage as a public park, all at the City's sole expense. Transfer of the Cemetery Property shall be by quitclaim deed from the County to the City.

3. CONDITIONS OF DONATION AND TRANSFER

The City accepts the donation and transfer of the Cemetery Property primarily to preserve and maintain the existing cemetery, and secondarily for improvement and use as a public park for the use and benefit of the general public. As a condition of transfer, the City hereby agrees to preserve and maintain the existing cemetery located in the northeast corner of the property and to improve the surrounding vacant land as a public park, all at the City's sole expense. In addition, the transfer is specifically conditioned upon the City applying for and obtaining consent of the United States Secretary of the Interior, or his delegate, in the form of a Certificate of Approval of Transfer, in compliance with the terms of the Land Patent issued to the County, and upon the County obtaining approval of the New Mexico State Board of Finance.

4. NO REPRESENTATIONS OR WARRANTIES; DISCLOSURES

The County has made no representations or warranties concerning the Cemetery Property to the City. The City accepts donation and transfer of the property "as is, where is." The City is aware that the property contains human burials in unmarked burial grounds and may have historic, archaeological, scientific, or other cultural significance, and that upon transfer of ownership the City shall be responsible for complying with all applicable laws relating to the same. The City is also aware of the limitations on use of the property contained in United States Land Patent Number 30-76-0006 recorded in the Office of the Doña Ana County Clerk on September 22, 1975 at Book 233 and Page 241-43, and acknowledges that any change in use by the City from the current use as a cemetery and vacant land shall require the approval of the United States Secretary of the Interior, or his delegate, and/or the United States Bureau of Land Management. The County does not certify the environmental condition of the property nor does the County warrant the property's suitability for any particular purpose. The City acknowledges that it has been given the opportunity to conduct an inspection of the Cemetery Property.

5. COSTS AND EXPENSES

Unless otherwise specified, each Party shall pay all expenses incurred by that Party, including attorneys' fees, in finalizing this donation and transfer. The City shall pay for the costs of any title commitment and owners' title insurance should the City desire to obtain the same. Any recording fees, for recording the County's deed to the City in the Office of the Doña Ana County Clerk, shall be paid by the City. The City shall obtain and pay for a survey of the Property prior to closing and shall pay all closing

costs. In addition, the City shall be solely responsible for any and all costs associated with the City applying for and obtaining necessary consent/approval of the United States Secretary of the Interior, or his delegate, and/or the United States Bureau of Land Management, including, but not limited to, costs to obtain a Certificate of Approval of Transfer and for any change in use of the property.

6. CLOSING

Closing shall take place at a time and place mutually agreed upon by the Parties and will be dependent upon United States Secretary of the Interior and State Board of Finance approval of the transaction. Possession of the property will transfer to the City at closing by delivery of a quitclaim deed to the City. The City shall be solely responsible for any and all costs associated with the ownership, use, and maintenance of the property upon delivery of the executed deed at closing, and thereafter.

7. RISK OF LOSS; LIABILITY FOR ACTS AND OMISSIONS

The risk of loss, and liability for acts or omissions in connection with the ownership, use, or maintenance of the property, shall be and remain with the County until the closing of the transaction. On and after the closing date, the risk of loss, and liability for acts or omissions in connection with the ownership, use, or maintenance of the property, shall be with the City.

8. NO THIRD PARTY BENEFICIARIES

This Agreement is not intended by any of its provisions to create on behalf of the public, or any person or entity, the status of third party beneficiary, or to authorize anyone not a Party to the Agreement to maintain a suit based upon this Agreement.

9. SOVEREIGN IMMUNITY; TORT CLAIMS ACT

Neither Party shall be responsible for the other Party's acts or omissions in connection with this Agreement, or in connection with the other Party's ownership, use, or maintenance of the Cemetery Property. Any liability incurred in connection with this Agreement, or in connection with the ownership, use, or maintenance of the Property, is subject to the immunities and limitations of the New Mexico Tort Claims Act. Nothing in this Agreement shall be interpreted as a waiver of any sovereign immunity defense, or any other limitation of liability pursuant to law. The provisions of this Agreement are not intended to modify or waive, and shall not be interpreted as modifying or waiving, any provision of the New Mexico Tort Claims Act.

10. STATE BOARD OF FINANCE APPROVAL

The value of the Cemetery Property and the value of the City's commitment to preserve and maintain the cemetery and to improve the vacant acreage as a public park are believed to be in excess of \$25,000 and, therefore, the donation and transfer of the

Property is expressly conditioned upon New Mexico State Board of Finance approval in accordance with NMSA 1978, Sections 13-6-2 and 13-6-2.1.

DOÑA ANA COUNTY

CITY OF LAS CRUCES

By: _____
Brian D. Haines
County Manager
Doña Ana County, New Mexico

By: _____
Robert L. Garza
City Manager
City of Las Cruces, New Mexico

Date: _____

Date: _____

Approved as to Form:

Approved as to Form:

County Attorney



City Attorney

**APPROVED:
STATE BOARD OF FINANCE**

By: _____
Stephanie Schardin Clarke
Interim Director

Date: _____

STATE OF NEW MEXICO)
) ss.
COUNTY OF DOÑA ANA)

The foregoing instrument was acknowledged before me this ____ day of _____, 2011 by Brian D. Haines, Doña Ana County Manager, on behalf of Doña Ana County.

Notary Public

My commission expires:

STATE OF NEW MEXICO)
) ss.
COUNTY OF DOÑA ANA)

The foregoing instrument was acknowledged before me this ____ day of _____, 2011 by Robert L. Garza, City Manager of the City of Las Cruces, a New Mexico municipal corporation, on behalf of said corporation.

Notary Public

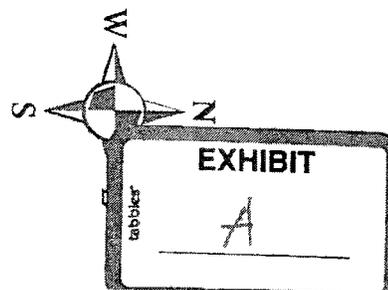
My commission expires:

15.8



PROPOSED CANYON POINT NEIGHBORHOOD PARK SITE

1 inch equals 200 feet



Form 1850-9
(March 1955)
(formerly 4-1042)
New Mexico 18266

The United States of America

To all to whom these presents shall come, Greeting:

W H E R E A S

Board of County Commissioners
Dona Ana County, New Mexico

is entitled to a Land Patent pursuant to the Act of June 24, 1926
(44 Stat. 741), as amended by the Act of June 4, 1954 (40 Stat. 1524
43 U.S.C. 869 Secs. 1-4), for the following described land:

New Mexico Principal Meridian, New Mexico.

T. 23 S., R. 2 E.,

Sec. 10, Lot 26.

Containing 10.08 acres;

NOW KNOW YE, That there is, therefore, granted by the UNITED STATES unto the above named claimant the land above described; TO HAVE AND TO HOLD the said land with all the rights, privileges, immunities, and appurtenances, of whatsoever nature, thereunto belonging, unto the said claimant, its successors and assigns, forever; and

EXCEPTING AND RESERVING TO THE UNITED STATES:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States. Act of August 30, 1890 (26 Stat. 391; 43 U.S.C. 945);
2. All mineral deposits in the lands so patented, and to it, or persons authorized by it, the right to prospect, mine and remove such deposits from the same under applicable law;
3. All the geothermal steam and associated geothermal resources in the land so patented, and to it, or persons authorized by it, the right to prospect for, mine and remove such deposits upon compliance with the conditions and subject to the provisions and

Patent Number

36-76-0000

241

15.10

New Mexico 18266

Limitations of the Act of December 24, 1970

(84 Stat. 1768).

Provided, that, if the patentee or its successor attempts to transfer title to or control over the land to another or the land is devoted to a use other than for a cemetery, without the consent of the Secretary of the Interior or his delegate or the patentee prohibits or restricts, directly or indirectly, or permits its agents, employees, contractors or subcontractors (including without limitation, lessees, sublessees, and permittees), to prohibit or restrict, directly or indirectly, the use of any part of the patented land or any of the facilities thereon by any person because of such person's race, creed, color or national origin, title to the land shall revert to the United States.

If the patentee or its successor in interest does not comply with the provisions of the approved plan of development, filed on March 14, 1973, with the Bureau of Land Management, or with the approved plan of management, filed on August 11, 1975, with the Bureau of Land Management, or by any revision thereof approved by the Secretary of the Interior or his delegate, said Secretary or his delegate, after due notice, and opportunity for a hearing, may declare the terms of this grant terminated in whole or in part. The patentee, by acceptance of this patent, agrees for itself and its successors in interest that such declaration shall be conclusive as to the facts found by the Secretary or his delegate and shall, at the option of the Secretary or his delegate, operate to revert in the United States full title to the lands involved in the declaration. The Secretary, or his delegate, may in lieu of said forfeiture of title require the patentee or its successor in interest to pay the United States an amount equal to the difference between the price paid for the land by the patentee prior to issuance of this patent and 50 per cent of the fair market value of the patented lands, to be determined by the Secretary or his delegate as of the date of issuance of this patent, plus compound interest computed at four per cent beginning on the date this patent is issued. /

Patent Number 30-76-0006

2

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15.11

Form 1960-25
(July 1973)

The grant of the herein described lands is subject to the following reservations, conditions, and limitations:

- (1) The patentee or his (its) successor in interest shall comply with and shall not violate any of the terms or provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 241), and requirements of the regulations as modified or amended, of the Secretary of the Interior issued pursuant thereto (43 CFR 17) for the period that the lands conveyed herein are used for the purpose for which the grant was made pursuant to the act cited above, or for another purpose involving the provision of similar services or benefits.
- (2) If the patentee or his (its) successor in interest does not comply with the terms or provisions of Title VI of the Civil Rights Act of 1964, and the requirements imposed by the Department of the Interior issued pursuant to that title, during the period during which the property described herein is used for the purpose for which the grant was made pursuant to the act cited above, or for another purpose involving the provision of similar services or benefits, the Secretary of the Interior or his delegate may declare the terms of this grant terminated in whole or in part.
- (3) The patentee, by acceptance of this patent, agrees for himself (itself) or his (its) successors in interest (his) a relinquishment of common-law or in part of this grant shall, at the option of the Secretary or his delegate, operate to sever in the United States (all) title in the lands involved in the declaration.
- (4) The United States shall have the right in such judicial enforcement of the requirements of Title VI of the Civil Rights Act of 1964, and the terms and conditions of the regulations, as modified or amended, of the Secretary of the Interior issued pursuant to said Title VI, in the event of their violation by the patentee.
- (5) The patentee or his (its) successor in interest will, upon request of the Secretary of the Interior or his delegate, post and maintain on the property conveyed by this document signs and posters bearing a legend concerning the applicability of Title VI of the Civil Rights Act of 1964 to the area or facility conveyed.
- (6) The reservations, conditions, and limitations contained in paragraphs (1) through (5) shall constitute a covenant running with the land, binding on the patentee and his (its) successors in interest for the period for which the land described herein is used for the purpose for which the grant was made, or for another purpose involving the provision of similar services or benefits.
- (7) The assurances and covenant required by sections (1)-(6) above shall not apply to ultimate beneficiaries under the program for which this grant is made. "Ultimate beneficiaries" are identified in 43 CFR 17.120(c).

IN TESTIMONY WHEREOF, the undersigned authorized officer of the Bureau of Land Management, in accordance with the provisions of the Act of June 17, 1948 (62 Stat. 476), has on the date of the United States, signed these records to be made Patent and the seal of the Bureau to be hereunto affixed.

GIVEN under my hand in SANTA FE, NEW MEXICO, on TWENTY-NINE (29) DAY OF AUGUST, 1975, the year of our Independence the hundred and SEVENTY-FIVE (75) and of the Independence of the United States the two hundred and

By: Michael T. Blaw
Chief, Division of Technical Services

Patent Number

CO-75-0005

STATE OF NEW MEXICO, COUNTY OF DONA ANA, sst

I HEREBY CERTIFY THAT THIS INSTRUMENT WAS FILED FOR RECORD:
Rec. No. bk 233 p 241-43 Records of Dona Ana

RETA TORRES-DONA ANA COUNTY CLERK

By: [Signature] DEPUTY

RETURN TO:
GRANTLE'S OFFICE

DONA ANA COUNTY CLERK

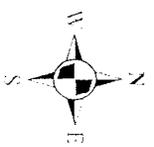
75 SEP 22 AM 11 15

MONDAY SEP 22 1975

15112



PROPOSED
PARK
SITE



PROPOSED PASEO DE ONATE PARK SITE



59
United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Las Cruces District Office
1800 Marquess Street
Las Cruces, New Mexico 88005
www.blm.gov/nm



In Reply Refer To:

NMNM 018266
2720 (L0310)

RECEIVED

APR 28 2011

MAY 2 2011

PROJECT MGMT.

Mr. Brian D. Haines
County Manager
Dona Ana County
845 North Motel Blvd.
Las Cruces, NM 88007

Subject: Transfer of Cemetery Property from Dona Ana County to the City of Las Cruces

Dear Mr. Haines:

This is in response to Dona Ana County's (County) interest to transfer title of Patent 30-76-0006, to the City of Las Cruces (City). The patent was authorized for a cemetery under the Recreation and Public Purpose (R&PP) Act of June 14, 1926, as amended by the Act of June 4, 1954, for the following lands:

T. 23 S., R. 2 E., New Mexico, NMPM
sec. 10, lot 36.

Containing 10.08 acres.

The Bureau of Land Management (BLM) is required to approve the transfer so as not to invoke the reversionary clause attached to the property. The transfer of title can occur so long as the primary use remains as a cemetery and the secondary use is as a park.

In order to initiate the transfer process, a letter from Dona Ana County to the BLM is required. The letter must specify that the County approves transfer of title to the City of Las Cruces. The County must also submit a Resolution approving the transfer.

In addition, the City must concurrently file a R&PP Application (per 43 CFR 2741.4, §2741.6, §2741.8), a plan of development, financial statement, management plan, map, a \$100 non-refundable filing application fee, and a Resolution approving this action. The City must include a statement in the application and plan of development that the primary purpose is the cemetery and secondary use is a park.

In order to expedite the process, we recommend that the City does not request a "Change of Use" at this time; unless, this is their intent. Submitting a request for "Change of Use" would prolong the approval, due to additional requirements for processing the request. The City may request a "Change of Use" for approval by the BLM at a later time. Should the City be interested, they may wish to consider acquiring the reversionary clause of the R&PP Patent 30-76-0006, sometime in the future. Acquisition of the property by the City would be at fair market value. The BLM prefers to sell the property to avoid any potential conditions which would warrant invoking the reversionary clause in the Patent.

The BLM agrees to conditionally approve the transfer process; so long as there is no legal instrument (Quit Claim Deed) recorded until after the BLM has issued a "Certificate of Approval of Transfer." This certificate would require recording with the County prior to any Quit Claim Deed. The same R&PP terms and conditions, reservations, limitations, and patent provisions; including the standard reverter clause will apply to the transfer or any future transfer or change to original Patent 30-76-0006.

Sincerely,



Bill Childress
District Manager

cc:

Mr. Chuck McMahon *DAC*

Mr. Dave Madeiros

Mr. Fred Kennon

Mr. Armando Cordero *DAC*

✓ Ms. Cathy Mathews

Mr. Mike Johnson *CLC*

RESOLUTION NO. 2011- ⁴³

**RESOLUTION APPROVING
AGREEMENT FOR DONATION AND TRANSFER
OF 10.08 ACRE CEMETERY PROPERTY,
AND DELEGATING SIGNATURE AUTHORITY**

WHEREAS, the County owns a parcel of land consisting of an old cemetery and surrounding vacant real property totaling approximately 10.08 acres, located along Paseo de Oñate Street in the City of Las Cruces, New Mexico, pursuant to United States Land Patent Number 30-76-0006, filed in the Office of the Doña Ana County Clerk on September 22, 1975 at Book 233 and Page 241-43; and,

WHEREAS, the cemetery property is no longer needed by the County; and,

WHEREAS, the County has declared its willingness and intent to donate and transfer ownership of the property to the City primarily to enable the City to preserve and maintain the existing cemetery, and secondarily to improve the surrounding vacant acreage as a public park, for the use and benefit of the neighborhood and the public generally; and

WHEREAS, the City has declared its willingness and intent to acquire ownership of the Cemetery Property, to preserve and maintain the existing cemetery and to improve the surrounding vacant acreage as a public park, for the use and benefit of the neighborhood and the public generally; and,

WHEREAS, the County and the City have negotiated an Agreement for Donation and Transfer of 10.08 Acre Cemetery Property, attached hereto; and,

WHEREAS, the Board of County Commissioners finds that the terms of the Agreement for Donation and Transfer of 10.08 Acre Cemetery Property, attached hereto, are acceptable to the County.

NOW, THEREFORE, IT IS RESOLVED that the Board of County Commissioners of Doña Ana County, State of New Mexico, hereby approves the attached Agreement for Donation and Transfer of 10.08 Acre Cemetery Property, authorizes the County Manager to sign the Agreement on behalf of Doña Ana County, and authorizes County Staff to take all steps necessary to transfer the property to the City of Las Cruces, conditioned upon the consent of the United States Secretary of the Interior or his delegate in the form of a Certificate of Approval of Transfer, in compliance with the terms of the Land Patent issued to the County, and upon approval of the New Mexico State Board of Finance.

IT IS FURTHER RESOLVED, that the Board of County Commissioners delegates to the County Manager the authority to sign the quitclaim deed on behalf of Doña Ana County once all conditions for the transfer have been satisfied.

RESOLVED this _____ day of _____, 2011.

**BOARD OF COUNTY COMMISSIONERS OF
DOÑA ANA COUNTY, NEW MEXICO**

Dolores Saldaña-Caviness, Chair, District 2 For / Against

Karen G. Perez, Vice-Chair, District 3 For / Against

Scott Krahling, District 4 For / Against

Leticia Duarte Benavidez, District 5 For / Against

Billy G. Garrett, District 1 For / Against

ATTEST:

**Lynn Ellins
County Clerk**

15.3