

# City of Las Cruces®

PEOPLE HELPING PEOPLE

## Council Action and Executive Summary

Item # 9 Ordinance/Resolution# 12-062

For Meeting of \_\_\_\_\_  
(Ordinance First Reading Date)

For Meeting of October 3, 2011  
(Adoption Date)

**TITLE:** A RESOLUTION APPROVING THE PURCHASE OF A 4,565-SQUARE-FOOT PARCEL OF LAND OWNED BY MISSION SANTA CLARA, LLC, LOCATED AT 4184 LA PURISIMA DRIVE IN THE AMOUNT OF EIGHTEEN THOUSAND, THREE HUNDRED DOLLARS (\$18,300.00), AS PART OF THE LA PURISIMA DRAINAGE PROJECT.

**PURPOSE(S) OF ACTION:**

To approve the purchase of land needed as part of the La Purisima Drainage Project.

<b>COUNCIL DISTRICT: 6</b>		
<b>Drafter/Staff Contact:</b> Michael Q. Hernandez <i>[Signature]</i>	<b>Department/Section:</b> Public Works/Land Management Section	<b>Phone:</b> 528-3124
<b>City Manager Signature:</b>	<i>[Signature]</i>	

**BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:**

The City of Las Cruces, as part of a legal settlement with the Philippou Group, agreed to rectify drainage deficiencies on La Purisima Drive related to the Mission Santa Clara Subdivision.

As part of La Purisima Drainage Project (Attachment "A"), the City of Las Cruces (City) needs to acquire a 4,565-square-foot parcel of land, which will be used by the City to contract channel improvements to alleviate drainage problems in the vicinity of Pella Court and La Purisma Drive. The property to be acquired is owned by Mission Santa Clara, LLC, and is the easterly two-thirds of Lot 4, Block A, of the Mission Santa Clara Subdivision, as shown in Exhibit "B".

The purchase price for the property, as determined by a certified appraisal of Lot 4, dated June 2011, shall be \$4.01 per square foot, for a total of eighteen thousand, three hundred dollars (\$18,300.00).

Section 2-1313 of the City Ordinance for appraisals states that if the purchase or sale price or exchange value is \$25,000.00 or more but less than \$150,000.00, only one appraisal is required by a qualified appraiser.

Mission Santa Clara, LLC, shall execute and deliver a Warranty Deed conveying the property to the City after City Council approval of the resolution authorizing the purchase pursuant to Municipal Code Section 2-1312 et. seq.

The City will process all necessary surveys related to the property transfer. The remaining westerly one-third of Lot 4 not required for the project will be replatted into adjacent Lot 5, also owned by Mission Santa Clara, LLC.

The purchase will be funded through the flood control fund.

**SUPPORT INFORMATION:**

1. Resolution.
2. Attachment "A", Vicinity/Aerial map.
3. Exhibit "A", Real Estate Purchase Agreement.
4. Exhibit "B", Plat of Survey and Description.

**SOURCE OF FUNDING:**

<b>Is this action already budgeted?</b>	Yes	<input checked="" 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.	
<b>Does this action create a revenue?</b>	Yes	<input type="checkbox"/>	Funds will be deposited into this fund: ( ) in the amount of ____ for ____.
	No	<input checked="" type="checkbox"/>	There is no new revenue generated by this action.

**BUDGET NARRATIVE**

Funds have been budgeted in Fund 4205, Special Street Projects, to address the issues with the drainage on La Purisima Drive as part of the Philippou settlement.

**FUND EXPENDITURE SUMMARY:**

Fund Name(s) N	Account Number(s)	Expenditure Proposed	Available Budgeted Funds in Current FY	Remaining Funds	Purpose for Remaining Funds
Special Project Fund	42806230-854121-71054	\$18,300.00	\$89,286.00	\$70,986.00	To construct drainage infrastructure on La Purisima Drive related to the Mission Santa Clara Subdivision.

**OPTIONS / ALTERNATIVES:**

1. Vote "Yes", this action will approve the resolution for the purchase of a 4,565-square-foot parcel owned by Mission Santa Clara, LLC, located at 4184 La Purisima Drive in the amount of eighteen thousand, three hundred dollars (\$18,300.00), as part of the La Purisima Drainage Project.
2. Vote "No", this action will not approve the resolution and reject the purchase of a 4,565-square-foot parcel owned by Mission Santa Clara, LLC, located at 4184 La Purisima Drive in the amount of eighteen thousand, three hundred dollars (\$18,300.00), as part of the La Purisima Drainage Project.
3. Vote to "Amend", this action could modify the terms of the resolution and instruct staff to seek alternative direction. This action could also cause project delays and/or delays in the development of the spillway.
4. Vote to "Table", this action could postpone the resolution per the Council's discretion and direction to staff. This action could also cause project delays and/or delays in the development of the spillway.

**REFERENCE INFORMATION:**

N/A

**RESOLUTION NO. 12-062**

**A RESOLUTION APPROVING THE PURCHASE OF A 4,565-SQUARE-FOOT PARCEL OF LAND OWNED BY MISSION SANTA CLARA, LLC, LOCATED AT 4184 LA PURISIMA DRIVE IN THE AMOUNT OF EIGHTEEN THOUSAND, THREE HUNDRED DOLLARS (\$18,300.00), AS PART OF THE LA PURISIMA DRAINAGE PROJECT.**

The City Council is informed that:

**WHEREAS**, The City of Las Cruces, as part of a legal settlement with the Philippou Group, agreed to rectify drainage deficiencies on La Purisima Drive related to the Mission Santa Clara Subdivision; and

**WHEREAS**, as part of La Purisima Drainage Project, the City of Las Cruces (City) needs to acquire a 4,565-square-foot parcel of land, which will be used by the City for channel improvements to alleviate drainage problems in the vicinity of Pella Court and La Purisima Drive; and

**WHEREAS**, the property to be acquired is owned by Mission Santa Clara, LLC, and is the easterly two-thirds of Lot 4, Block A, of the Mission Santa Clara Subdivision, as shown in Exhibit "B"; and

**WHEREAS**, the purchase price for the property, as determined by a certified appraisal of Lot 4, dated June 2011, shall be \$4.01 per square foot, for a total of eighteen thousand, three hundred dollars (\$18,300.00); and

**WHEREAS**, the City will process all necessary surveys related to the property transfer. The remaining westerly one-third of Lot 4 not required for the project will be replatted into adjacent Lot 5, also owned by Mission Santa Clara, LLC; and

**WHEREAS**, Mission Santa Clara, LLC, shall execute and deliver a Warranty Deed conveying the property to the City after City Council approval of the resolution authorizing the purchase pursuant to Municipal Code Section 2-1312 et. Seq.; and

**WHEREAS**, this portion of land will be purchased through the flood control fund.

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

**(I)**

**THAT** the agreement attached hereto as Exhibit "A" between the City of Las Cruces and Mission Santa Clara, LLC, is hereby approved.

**(II)**

**THAT** the Mayor is hereby authorized to execute the agreement and any other documents necessary to finalize the purchases on behalf of the City.

**(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.

APPROVED:

(SEAL)

ATTEST:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

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 PURCHASE OF REAL ESTATE**

THIS AGREEMENT is entered into on this 29 day of AUGUST, 2011, between **Mission Santa Clara, LLC**, 1155 S. Telshor Blvd., Suite B, Las Cruces, NM 88011, and the **City of Las Cruces**, a New Mexico municipal corporation (hereinafter called "City").

Mission Santa Clara, LLC, in consideration of the mutual covenants herein contained, agrees to sell and convey, and the City agrees to purchase 4,565 square feet of land ("Property") as described, together with all improvements thereon, if any, and all rights, hereditaments, easements and appurtenances thereunto belonging, located in the County of Dona Ana, State of New Mexico more particularly described on Exhibit "A, which is attached for reference purposes for this Agreement.

**TERMS AND CONDITIONS****1. Purchase Price.**

a) The purchase price for the Property, as determined by a certified appraisal, shall be Eighteen Thousand Three Hundred and No Cents (\$18,300.00), payable in cash or equivalent upon conveyance of the Property.

**2. Property Conveyance.**

a) Mission Santa Clara, LLC, shall execute and deliver a Warranty Deed conveying the Property to the City after City Council approval of the resolution authorizing the purchase pursuant to Municipal Code Section 2-1312 et. seq.

b) The subject Property is approximately 2/3 of Lot 4, Block A, Mission Santa Clara Subdivision, and will be used by the City for drainage improvements to reduce drainage problems in the vicinity of Pella Court. The City will process all necessary surveys and replats related to Lot 4 showing the subject Property being conveyed to the City and showing the remaining approximate 1/3 of Lot 4 being replatted as part of adjacent Lot 5 also owned by Mission Santa Clara, LLC.

**3. Risk of Loss.**

All risk of loss or damage to the Property will pass from Mission Santa Clara, LLC, to the City at the time of filing of the Warranty Deed.

**4. Costs and Fees.**

The City shall be responsible for the cost of recording the Warranty Deed in the Doña Ana County records.



**Real Estate Purchase Agreement / Mission Santa Clara, LLC, Property / Page 2**

5. **Possession of Property.**

Possession of the Property will be released to the City upon filing of the Warranty Deed.

6. **Governing Laws.**

This Agreement shall be subject to the laws of the State of New Mexico.

7. **Counterparts.**

This Agreement may be executed in one or more identical counterparts, and all counterparts so executed shall constitute one agreement, which shall be binding on all of the parties.

8. **Notice.**

All notices given pursuant to or in connection with this Agreement shall be made in writing and posted by certified mail, to the City of Las Cruces, ATTN: Michael Q. Hernandez, Real Estate Services Specialist Senior, P.O. Box 20000, Las Cruces, NM 88004; and to Mission Santa Clara, LLC, whose address is at 1155 S. Telshor Blvd., Suite B, Las Cruces, NM 88011, or to such other address as requested by either party. Notice shall be deemed to be received on the fifth day following posting.

**Done and approved on the date first written above.**

CITY OF LAS CRUCES

MISSION SANTA CLARA, LLC

\_\_\_\_\_  
Ken Miyagishima, Mayor

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

Title: MANAGING MEMBER

ATTEST:

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Ass't City Attorney



**City of Las Cruces**

September 1, 2011  
11-S-029 – Pella Ct. Drainage Channel

BOUNDARY DESCRIPTION

A parcel of land being part of Lot 4, Block "A" of Mission Santa Clara subdivision, in the City of Las Cruces, Dona Ana County, New Mexico, the plat thereof filed in the office of the County Clerk of said County on August 1, 2006, in Book 21, Pages 730-734, and being more particularly described as follows:

Beginning at the northeast corner of said Lot 4, being a found #4 rebar; Thence on the northeasterly line of said Lot 4, S 30°40'44" E, a distance of 130.00 feet to the southeast corner of said Lot 4, being a found #4 rebar;

Thence on a non-tangent curve to the left and on the southeasterly line of said Lot 4, a distance of 34.28 feet to a point, said curve having a radius of 2,002.00 feet, a chord bearing and distance of S 58°49'50" W, 34.28 feet;

Thence N 31°23'13" W, a distance of 124.29 feet;

Thence N 54°16'27" W, a distance of 6.19 feet to a point on the northwesterly line of said Lot 4;

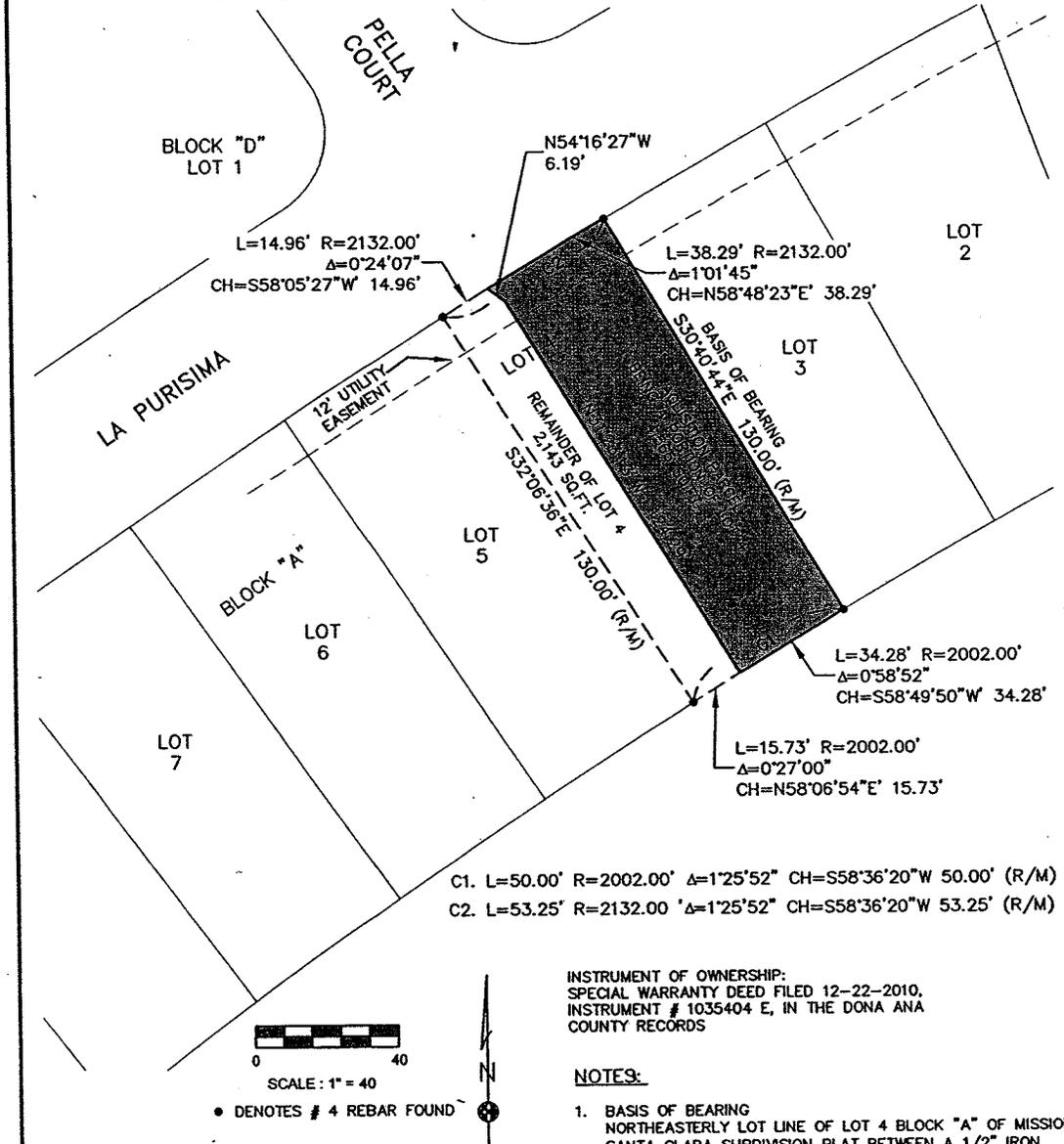
Thence on a non-tangent curve to the right on said northwesterly line of Lot 4, a distance of 38.29 feet to the point of Beginning, said curve having a radius of 2,132.00 feet, a chord bearing and distance of N 58°48'23" E, 38.29 feet.

Said parcel containing 4,565 square feet, more or less.



*Scott T. Farnham*  
9-1-11

**PLAT OF SURVEY**  
 OF A PORTION OF LOT 4, BLOCK "A" OF MISSION SANTA CLARA  
 PLAT FILED AUGUST 1, 2006 IN PLAT BOOK 21 PAGES 730-734  
 IN THE DONA ANA COUNTY RECORDS  
 LOCATED IN THE NE 1/4 OF THE NW 1/4 OF SECTION 3, T.23S., R.2E. N.M.P.M.  
 OF THE USGLO SURVEYS, DONA ANA COUNTY, NEW MEXICO



INSTRUMENT OF OWNERSHIP:  
 SPECIAL WARRANTY DEED FILED 12-22-2010,  
 INSTRUMENT # 1035404 E, IN THE DONA ANA  
 COUNTY RECORDS

- NOTES:**
1. BASIS OF BEARING NORTHEASTERLY LOT LINE OF LOT 4 BLOCK "A" OF MISSION SANTA CLARA SUBDIVISION PLAT BETWEEN A 1/2" IRON ROD FOUND AT THE NORTHEAST CORNER OF LOT 4 BLK. "A" AND A 1/2" IRON ROD FOUND AT THE SOUTHEAST CORNER OF LOT 4 BLK. "A" AS SHOWN HEREON AND BEARING S30°40'44"E 130.00' (RECORD AND MEASURED).
  2. MEASURED (M) BEARINGS AND DISTANCES ARE EQUAL TO RECORD (R) BEARINGS AND DISTANCES AS NOTED HEREON.
  3. INSTRUMENT OF RECORD: MISSION SANTA CLARA SUBDIVISION AS FILED AUGUST 1, 2006 IN PLAT RECORD 21 PGS, 730-734 OF THE RECORDS OF DONA ANA COUNTY, NEW MEXICO.
  4. SUBJECT PROPERTY IS OUTSIDE OF THE 100 YEAR FLOOD PLAIN ACCORDING TO FEMA MAP NO 35013C0519 F, MAP REVISED SEPTEMBER 6, 1995

**SURVEYOR'S STATEMENT:**

I, SCOTT T. FARNHAM, NEW MEXICO PROFESSIONAL SURVEYOR NO. 20095, DO HEREBY CERTIFY THAT THIS SURVEY AND THE ACTUAL SURVEY ON THE GROUND UPON WHICH IT IS BASED WERE PERFORMED BY ME OR UNDER MY DIRECT SUPERVISION; THAT I AM RESPONSIBLE FOR THIS SURVEY; THAT THIS SURVEY MEETS THE MINIMUM STANDARDS FOR SURVEYING IN NEW MEXICO; AND THAT IT IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF. I FURTHER CERTIFY THAT THIS SURVEY IS NOT A LAND DIVISION OR SUBDIVISION AS DEFINED IN THE NEW MEXICO SUBDIVISION ACT AND THAT THIS INSTRUMENT IS A BOUNDARY SURVEY PLAT OF AN EXISTING SUBDIVISION LOT.

SCOTT. T. FARNHAM, PS. NO. 20095

<b>PUBLIC WORKS DEPARTMENT</b> <b>CITY OF LAS CRUCES, NEW MEXICO</b>			
PROJECT TITLE PELLA COURT DRAINAGE CHANNEL			
PROJECT NO. 11-S-029			
SCALE: 1" = 40'	DATE	REVISIONS	SHEET
SURVEYOR SCOTT FARNHAM PE/PS	8-31-11		1
DRAWN BY JUAN R. RODRIGUEZ	8-31-11		OF
CHECKED BY			1