

# City of Las Cruces®

PEOPLE HELPING PEOPLE

## Council Action and Executive Summary

Item # 14 Ordinance/Resolution# 13-033

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

For Meeting of September 4, 2012  
(Adoption Date)

Please check box that applies to this item:

QUASI JUDICIAL       LEGISLATIVE       ADMINISTRATIVE

**TITLE:** A RESOLUTION APPROVING A REAL ESTATE PURCHASE AGREEMENT BETWEEN THE CITY OF LAS CRUCES AND DAVID A. AND SUSANA G. OLGUIN, FOR THE SALE OF AN EXCESS PORTION OF MUNICIPAL-OWNED PROPERTY LOCATED AT THE SOUTHEAST CORNER OF THE INTERSECTION OF 17<sup>TH</sup> STREET AND HADLEY AVENUE; OR ANY OFFER ACCEPTABLE TO THE LAS CRUCES CITY COUNCIL ON ADOPTION OF THIS RESOLUTION.

### PURPOSE(S) OF ACTION:

Approval of Real Estate Purchase Agreement for sale of municipal owned property.

<b>COUNCIL DISTRICT: 4</b>		
<b>Drafter/Staff Contact:</b> Michael Q. Hernandez 	<b>Department/Section:</b> Public Works/ Land Management 	<b>Phone:</b> 528-3124
<b>City Manager Signature:</b> 		

### BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

On July 21, 2003, Council approved Resolution 04-033 establishing the policy for the sale of municipal-owned land, at nominal cost, which no longer serves a public purpose and creates a liability for the City of Las Cruces (City) in maintaining the land.

David A. and Susana G. Olguin, own a tract of land located at 560 N. 17<sup>th</sup> Street. The City owns a tract of land located at the southeast corner of the intersection of 17<sup>th</sup> Street and Hadley Avenue, which is described as Tract 2-A and Lot 18 of the Hadley Avenue/17<sup>th</sup> Street Subdivision, being a portion of said Tract identified as a 25-foot wide irrigation ditch easement that is no longer in use.

On January 3, 2012, David A. and Susana G. Olguin, submitted a proposal to the City to purchase approximately 0.115 acres of the unused and undeveloped portion of the City-owned property, for the amount of \$8,600.00. David A. and Susana G. Olguin, wish to utilize and incorporate the excess land into their adjoining developed property for future building expansion and development.

The attached Statement of Value memo (Attachment "A") to the City Manager supports the justification value of \$8,600.00. City staff reviewed the sale of the strip of land adjacent to the property owned by David A. and Susana G. Olguin, and found no objections to disposing of the property. An agreement for sale of real property is shown as Exhibit "A".

David A. and Susana G. Olguin, shall, at their sole cost and expense, prepare and secure approval for a replat combining 560 N. 17<sup>th</sup> Street and the subject property into a single property in accordance with all City of Las Cruces Community Development regulations. The City will prepare a Quitclaim Deed (Exhibit "B"), for transfer of the property. Upon approval of the replat through the Community Development Department, a Quitclaim Deed will be delivered to David A. and Susana G. Olguin, for filing at the Doña Ana County Clerk's Office along with the replat.

City staff recommends the property be sold to David A. and Susana G. Olguin, for \$8,600.00. This sale will eliminate City liability for the land and will allow the adjoining property owner to place the excess land into productive use by incorporating it into their adjoining property.

Proceeds from this sale will be deposited in the Utility Department account for Other Revenue-WW Oper., account number 5400-54540010-592001.

**SUPPORT INFORMATION:**

1. Resolution.
2. Exhibit "A", Agreement for Sale of Real Property.
3. Exhibit "B", Quitclaim Deed.
4. Attachment "A", Statement of Value.
5. Attachment "B", Description of Property.
6. Attachment "C", Vicinity Map.

**SOURCE OF FUNDING:**

Is this action already budgeted?  N/A	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 checked="" type="checkbox"/>	Funds will be deposited into this fund: 5400-54540010-592001 in the amount of \$8,600.00 for FY 12/13.
	No	<input type="checkbox"/>	There is no new revenue generated by this action.

**BUDGET NARRATIVE**

Payment for this purchase will be deposited in the Utility Department account for Other Revenue-WW Oper., account number 5400-54540010-592001.

**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 offer and sell a portion of municipal-owned property to David A. and Susana G. Olguin.
2. Vote to "No"; this could reject the offer and continue City's ownership of land.
3. Vote "Amend"; this would reject the offer and require City staff to continue negotiation with David A. and Susana G. Olguin, and/or direct staff to seek an alternate course of action.
4. Vote to "Table"; this action would delay the sale of a portion of City owned property, which could result in the buyer abandoning the purchase.

**REFERENCE INFORMATION:**

The resolution(s) and/or ordinance(s) listed below are only for reference and are not included as attachments or exhibits.

1. Resolution No. 04-033

RESOLUTION NO. 13-033

**A RESOLUTION APPROVING A REAL ESTATE PURCHASE AGREEMENT BETWEEN THE CITY OF LAS CRUCES AND DAVID A. AND SUSANA G. OLGUIN, FOR THE SALE OF AN EXCESS PORTION OF MUNICIPAL-OWNED PROPERTY LOCATED AT THE SOUTHEAST CORNER OF THE INTERSECTION OF 17<sup>TH</sup> STREET AND HADLEY AVENUE; OR ANY OFFER ACCEPTABLE TO THE LAS CRUCES CITY COUNCIL ON ADOPTION OF THIS RESOLUTION.**

The City Council is informed that:

**WHEREAS**, on July 21, 2003, Council approved Resolution 04-033 establishing the policy for the sale of municipal-owned land, at nominal cost, which no longer serves a public purpose and creates a liability for the City of Las Cruces (City) in maintaining the land; and

**WHEREAS**, David A. and Susana G. Olguin, own a tract of land located at 560 N. 17<sup>th</sup> Street. The City owns a tract of land located at the southeast corner of the intersection of 17<sup>th</sup> Street and Hadley Avenue, which is described as Tract 2-A and Lot 18 of the Hadley Avenue/17<sup>th</sup> Street Subdivision, being a portion of said Tract identified as a 25-foot wide irrigation ditch easement that is no longer in use; and

**WHEREAS**, on January 3, 2012, David A. and Susana G. Olguin, submitted a proposal to the City to purchase approximately 0.115 acres of the unused and undeveloped portion of the City-owned property, for the amount of \$8,600.00. David A. and Susana G. Olguin, wish to utilize and incorporate the excess land into their adjoining developed property for future building expansion and development; and

**WHEREAS**, the attached Statement of Value memo (Attachment "A") to the City Manager supports the justification value of \$8,600.00. City staff reviewed the sale of the strip of land adjacent to the property owned by David A. and Susana G. Olguin, and

and found no objections to disposing of the property. An agreement for sale of real property is shown as Exhibit "A"; and

**WHEREAS**, David A. and Susana G. Olguin, shall, at their sole cost and expense, prepare and secure approval for a replat combining 560 N. 17<sup>th</sup> Street and the subject property into a single property in accordance with all City of Las Cruces Community Development regulations; and

**WHEREAS**, City staff recommends the property be sold to David A. and Susana G. Olguin, for \$8,600.00. This sale will eliminate City liability for the land and will allow the property owner to utilize and incorporate the excess land into their adjoining developed property for future building expansion and development.

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

**(I)**

**THAT** the City of Las Cruces hereby approves the sale of municipal-owned property with the total compensation of \$8,600.00, subject to the terms and conditions in Exhibit "A", which is attached hereto and made a part of this Resolution.

**(II)**

**THAT** the Mayor of the City of Las Cruces is hereby authorized to approve the Agreement for Sale of Real Property and Quitclaim Deed attached here to as Exhibit "A" and Exhibit "B", respectively.

**(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 \_\_\_\_\_, 2012.

APPROVED:

\_\_\_\_\_  
Mayor

ATTEST:

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

(SEAL)

Moved by: \_\_\_\_\_

Seconded by: \_\_\_\_\_

VOTE:

Mayor Miyagishima: \_\_\_\_\_

Councillor Silva: \_\_\_\_\_

Councillor Smith: \_\_\_\_\_

Councillor Pedroza: \_\_\_\_\_

Councillor Small: \_\_\_\_\_

Councillor Sorg: \_\_\_\_\_

Councillor Thomas: \_\_\_\_\_

APPROVED AS TO FORM:

  
City Attorney

**AGREEMENT FOR SALE OF REAL PROPERTY**

**THIS AGREEMENT** is made and entered into this 6 day of Aug., 2012, by and between the **City of Las Cruces** ("City"), a New Mexico municipal corporation, on behalf of the City of Las Cruces Utilities Department, and **David A. and Susan G. Olguin**, whose address is 560 N. 17<sup>th</sup> Street, Las Cruces, New Mexico 88005.

**BACKGROUND**

1. David A. and Susan G. Olguin, owns a tract of land located at 560 N. 17<sup>th</sup> Street.
2. The City owns of a tract of land located at the intersection of 17<sup>th</sup> Street and Hadley Avenue adjacent to the property at 560 N. 17<sup>th</sup> Street.
3. David A. and Susan G. Olguin, has requested to purchase approximately 0.115 acres of City-owned municipal property, being a portion of Tract 2-A, Lot 18 within the Hadley Avenue/17<sup>th</sup> Street Subdivision for the amount of \$8,600.00 for future building expansion and development.

**AGREEMENT**

The City, in consideration of the mutual covenants herein contained, agrees to sell and convey; and David A. and Susan G. Olguin, agrees to purchase a portion of City-owned property located within the intersection of 17<sup>th</sup> Street and Hadley Avenue; more particularly described on the attached Exhibit "A".

David A. and Susan G. Olguin, shall, at its sole cost and expense, prepare and secure approval for a replat combining the portion of City-owned land and the property located at 560 N. 17<sup>th</sup> Street into a single property in accordance with all City of Las Cruces Community Development regulations.

The purchase price for the portion of City property shall be \$8,600.00, payable in cash or equivalent, upon approval of the replat incorporating the portion of Tract 2-A, Lot 18 within the Hadley Avenue/17<sup>th</sup> Street Subdivision into the David A. and Susan G. Olguin, property.

**Sale of Real Property / Page 2**

If the required replat process is not finalized within twelve (12) months from the date of execution of this Agreement, the Agreement shall be deemed null and void and the City shall have no further responsibility to negotiate with David A. and Susan G. Olguin, for the sale of this property.

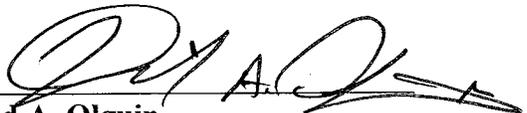
**Execution and Delivery of Deed.**

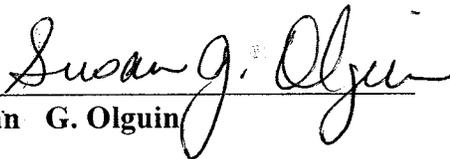
Upon execution of this Agreement, the City shall execute a Quitclaim Deed conveying the property to David A. and Susan G. Olguin, or its assigns, subject to all restrictive covenants, easements, encumbrances and reservations of record. The Quitclaim Deed will be delivered to David A. and Susan G. Olguin, for filing upon final approval of the replat.

**City of Las Cruces**

**Property Owners**

BY \_\_\_\_\_  
Mayor, Ken Miyagashima

By:   
David A. Olguin

By:   
Susan G. Olguin

**APPROVED AS TO FORM:**

\_\_\_\_\_  
City Attorney

**QUITCLAIM DEED**

**CITY OF LAS CRUCES**, a New Mexico municipal corporation, for valuable consideration quitclaims to the **DAVID A. AND SUSANA G. OLGUIN**, a New Mexico corporation whose address is 560 N. 17<sup>TH</sup> Street, Las Cruces, New Mexico, 88004, the following described real estate in Doña Ana County, New Mexico.

A 0.115 acre tract of land situated within the corporate limits of the City of Las Cruces, Doña Ana County, New Mexico being portion of Tract 2-A, Hadley Avenue/17<sup>th</sup> Street Subdivision Replat No. 1 as recorded September 12, 2008, Plat Book 22, pages 555-556, being identical to that portion of said Tract identified as a 25-foot wide irrigation ditch easement of the Doña Ana County records. More particularly described on Exhibit "A", attached hereto.

Subject to all reservations, covenants, easements, and restrictions of record.

WITNESS its hand and seal this \_\_\_\_\_ day of \_\_\_\_\_, 2012

CITY OF LAS CRUCES

APPROVED AS TO FORM:

\_\_\_\_\_  
Ken Miyagashima, Mayor

\_\_\_\_\_  
City Attorney

**ACKNOWLEDGMENT FOR CORPORATION**

State of New Mexico )  
  )ss  
County of Doña Ana )

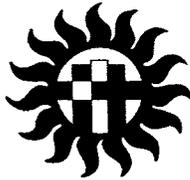
The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2012, by Ken Miyagashima, Mayor of the City of Las Cruces, a New Mexico municipal corporation.

My Commission Expires: \_\_\_\_\_

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

(Seal)

363



# City of Las Cruces<sup>®</sup>

PEOPLE HELPING PEOPLE

**TO:** Robert L. Garza, P.E. City Manager

**FROM:** Michael Q. Hernandez, Real Estate Services Specialist Senior

**DATE:** 7/23/2012 **FILE:** 12-326

**SUBJECT:** Estimated value of an excess portion of City owned property.

On August 20, 2012; City Council will consider a proposal to sell an excess portion of City owned property located at the southeast corner of the intersection of 17th Street and Hadley Avenue. Section 2-131 of the Las Cruces Municipal Code allows that; if the sale price of municipally owned land is valued at \$10,000.00 or less, no formal appraisal shall be required. In this situation, a written opinion from staff as to the estimated value of the property must be incorporated as part of the resolution. This memo represents that required written opinion.

The subject property consists of 0.115 acres (5,009.4 square feet) of excess land located at the intersection of 17th Street and Hadley Avenue. The 0.115 acre of remnant land serves no public purpose. As such, the subject property's best use would be to combine it into the adjoining property and put into productive use.

A request to purchase the remnant property was received from David Olguin, on behalf of David A. and Susana G. Olguin, property owner adjacent to the south of the subject property. David A. and Susana G. Olguin, have offered to pay the City a sum of \$8,600.00 (\$1.72 per square foot). Tax assessor values for the David A. and Susana G. Olguin, property surrounding in the range of \$2.00 per square foot.

Given that the City has no use for this strip of land, the only viable user of this property is for the adjoining David A. and Susana G. Olguin, property to incorporate it into their property. As such, City staff recommends the sale of this property at the offered price of \$1.72 per square foot for a total of \$8,600.00. Transferring ownership of the remnant property will place the property onto the tax rolls, and will eliminate City responsibility and maintenance liability for the property.

cc Bill Hamm, Land Management Administrator  
Loretta Reyes, PE, Public Works Director  
Brian Denmark, Assistant City Manager COO

*PA* 8-15-12



**Del Sur Surveying, LLC**

July 16, 2012

**DESCRIPTION OF A 0.115 ACRE TRACT**

A tract of land situate within the City of Las Cruces, Dona Ana County, New Mexico, being a portion of Tract 2-A, Hadley Avenue/17<sup>th</sup> Street Subdivision Replat No. 1, as recorded September 12, 2008, Plat Book 22, pages 555-556, records of the Dona Ana County Clerk, being identical to that portion of said Tract identified as a 25-foot wide irrigation ditch easement (Longwell Lateral), and being more particularly described as follows:

BEGINNING at the southwest corner of said Tract 2-A and the southwest corner of this tract, said point being an angle point in the easterly right-of-way line of 17<sup>th</sup> Street; WHENCE the northwest corner of Lot 18, Coronado Industrial Park Unit #1, as recorded August 23, 1979, Plat Book 12, pages 281-282, bears S.63°45'12"W., 17.54 feet, said point also being an angle point in the easterly right-of-way line of 17<sup>th</sup> Street;

THENCE along said right-of-way line and west line of Tract 2-A, N.22°34'00"W., 25.05 feet to a ½" rebar with pink cap marked "NMPS 12800" set for the northwest corner of this tract, said point being on the northerly line of the aforementioned 25-foot wide irrigation ditch easement;

THENCE leaving said right-of-way line, and along said irrigation ditch easement line, N.63°45'09"E., 199.82 feet to a ½" rebar with pink cap marked "NMPS 12800" set on the east line of said Tract 2-A for the northeast corner of this tract;

THENCE along the east line of Tract 2-A, S.22°34'00"W., 25.05 feet to a point being identical to the corner common to Tract 2-A and Lot 18 for the southeast corner of this tract;

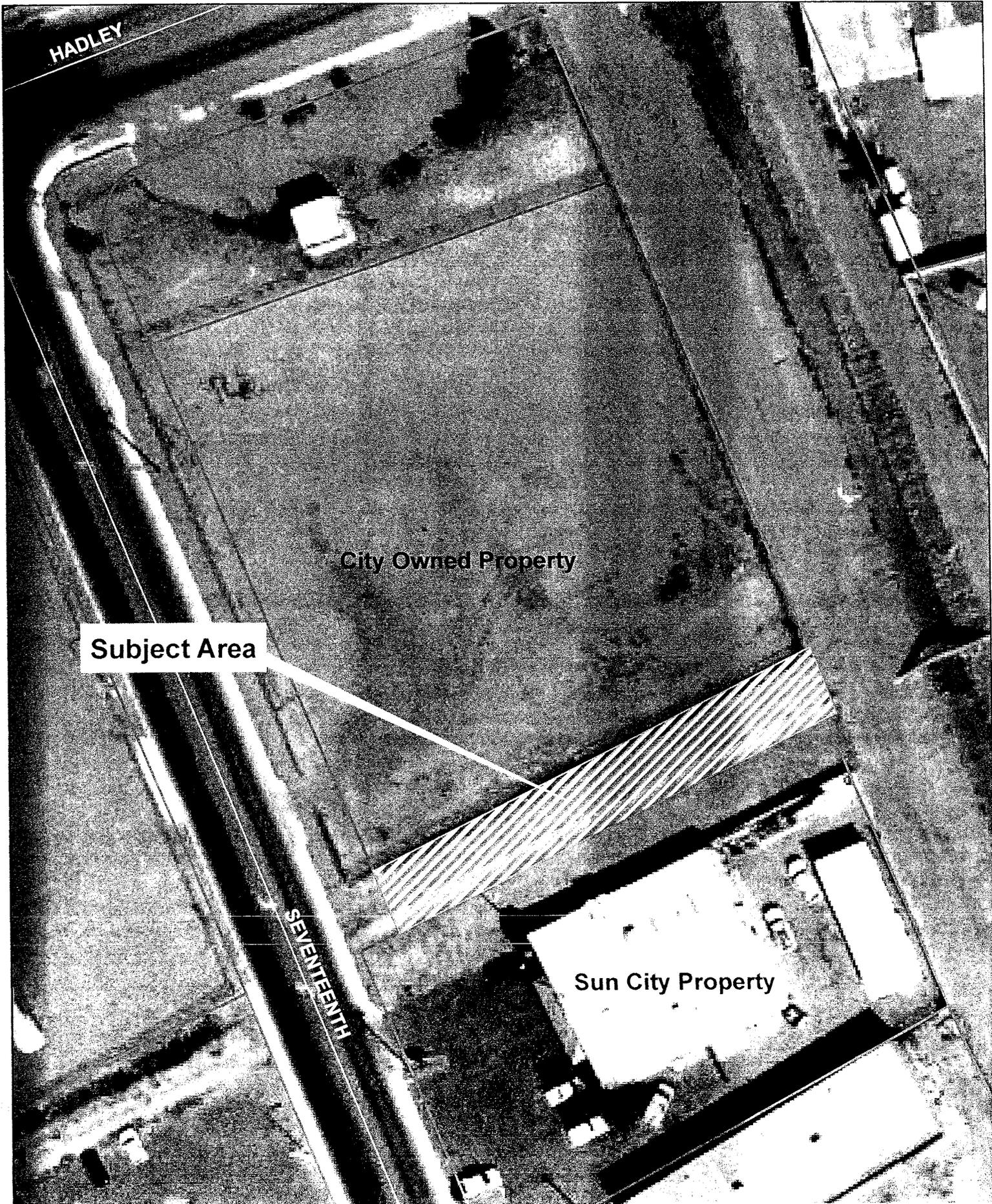
THENCE along the line common to said Tract 2-A and Lot 18, S.63°45'09"W., 199.82 feet to the point of beginning, containing 0.115 acre of land, more or less. Subject to a 10-foot wide El Paso Electric Co. easement lying parallel with and immediately adjacent to the west line of this tract and a 20-foot wide City of Las Cruces utility easement lying parallel with and immediately adjacent to the east line of this tract.

**Preliminary**

Roxanne C. Nimmer, NMPS No. 12800

Date

12-021 Replat/0.115 Ac. Legal Description



HADLEY

City Owned Property

Subject Area

SEVENTEENTH

Sun City Property