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City of Las Cruces[®]
 PEOPLE HELPING PEOPLE

Council Action and Executive Summary

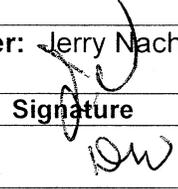
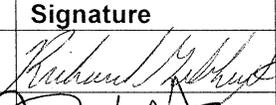
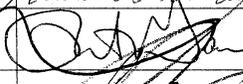
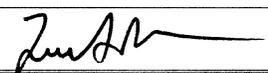
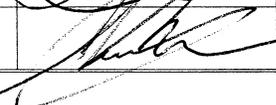
Item # 27 Ordinance/Resolution# 10-165 Council District: N/A

For Meeting of December 21, 2009

(Adoption Date)

TITLE: A RESOLUTION APPROVING THE PURCHASE OF THE PROPERTY AT 1200 POPLAR AVENUE, LAS CRUCES, NEW MEXICO, FOR \$103,000, UNDER THE CITY'S NEIGHBORHOOD STABILIZATION PROGRAM (NSP) FOR USE AS TEMPORARY RELOCATION HOUSING OF CLIENT'S IN THE CITY'S HOME REHABILITATION PROGRAM.

PURPOSE(S) OF ACTION: To approve the purchase of the first property under the City's Neighborhood Stabilization Program (NSP).

Name of Drafter: Jerry Nachison		Department: Community Development		Phone: 528-3208	
Department	Signature	Phone	Department	Signature	Phone
Community Development		528-3067	Budget		541-2281
			Assistant City Manager		541-2271
Legal		541-2128	City Manager		541-2076

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS: In July 2008, President Bush signed the Housing and Economic Recovery Act of 2008 (HERA). HERA was created to provide neighborhood stabilization to communities throughout the United States due to rising foreclosures and abandoned residential properties due to tough economic times. HERA appropriated \$3.92 billion in funding as part of a special allocation of Community Development Block Grant (CDBG) funds for distribution to states and local governments. The State of New Mexico received a total allocation of \$19.6 million. Las Cruces, received \$1.5 million from the State of New Mexico Department of Finance and Administration, Local Government Division.

In summary, the City's NSP Plan primarily focuses through partner agencies in two areas. To (1) acquire, rehab, and resale abandoned or foreclosed properties or build new housing on acquired, vacant parcels for homeownership to serve persons between 50% and 120% of Area Median Income (AMI); and (2) acquire, rehab, and donate to qualified non-profit agencies as rental housing for persons below 50% of AMI, primarily for those with special needs. All properties must be foreclosed and available or vacant, abandoned, blighted and unused, with owners willing to sell.

Staff has been reviewing properties within and near the priority areas designated by the City for the NSP program. A number of offers have not come to fruition. However, our offer for the property at 1200 Poplar Avenue has been accepted. The property, a single family residence owned by Mr. Robert Macias, will be purchased for \$103,000 when the City Council approves

(Continued on Page 2)

this action. The property will be held by the City and used by the Community Development Department's Home Rehabilitation Program (HRP). It will be occupied as necessary by families needing to temporarily relocate while substantial rehabilitation is being done on their homes under the HRP. The budget expense includes the purchase price, plus closing expenses and rehabilitation costs not to exceed \$50,000.

SUPPORT INFORMATION:

Fund Name / Account Number	Amount of Expenditure	Budget Amount
HUD / NSP 20184230-722190-12005	\$103,000	\$103,000

1. Resolution
2. Exhibit "A" – Offer to Purchase the Property
3. Exhibit "B" – Accepted Counteroffer

OPTIONS / ALTERNATIVES:

1. Vote YES and approve the Resolution approving the purchase of the property under the NSP. This will allow City staff to proceed with the purchase, do additional renovation on the property and move in a family as necessary, after completion.
2. Vote NO and disapprove the Resolution, thus not approving the purchase of the property under the City's NSP. This means that staff will need to cancel this offer and move on to locate other properties, subject to any Council guidance.
3. Modify the Resolution and vote YES to approve the modified Resolution. This action will be based on the Council's discretion. It may or may not require the offer to be canceled.
4. Table or Postpone action on the requested Resolution. Direction would be required of the Council to staff. Tabling or postponing the approval means that the offer may expire or the property is purchased by another party. If the offer expires or is otherwise sold, staff will need to move on to locate other properties, subject to any Council guidance.

RESOLUTION NO. 10-165

A RESOLUTION APPROVING THE PURCHASE OF THE PROPERTY AT 1200 POPLAR AVENUE, LAS CRUCES, NEW MEXICO, FOR \$103,000, UNDER THE CITY'S NEIGHBORHOOD STABILIZATION PROGRAM (NSP) FOR USE AS TEMPORARY RELOCATION HOUSING OF CLIENT'S IN THE CITY'S HOME REHABILITATION PROGRAM.

The City Council is hereby informed that:

WHEREAS, the U.S. Department of Housing and Urban Development (HUD) is charged with implementing the Housing and Economic Recovery Act of 2008 (HERA); and

WHEREAS, HERA funds are a special allocation of Community Development Block Grant (CDBG) funds, of which the City of Las Cruces is an entitlement community and HERA creates a national program henceforth called the Neighborhood Stabilization Program; and

WHEREAS, due to the urgency expressed under HERA, the entire allocation of HERA funding were awarded to the State of New Mexico Department of Finance and Administration, Local Government Division, and the City of Las Cruces submitted a plan for use of the Neighborhood Stabilization Program within the corporate limits of the City and

WHEREAS, the City of Las Cruces has received an approved Neighborhood Stabilization Program from the State of New Mexico; and

WHEREAS, the City staff received a waiver to increase the cost limits allowable on each property obtained for the NSP.

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

(I)

THAT the City of Las Cruces' NSP purchase of its first property at 1200 Poplar Avenue, Las Cruces, New Mexico, for use with the Community Development Department's Home Rehabilitation Program as shown in Exhibits "A" and "B," attached hereto and made part of this Resolution, is hereby approved.

(II)

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

DONE and APPROVED this _____ day of _____, 2010.

APPROVED:

(SEAL)

Mayor

ATTEST:

VOTE:

City Clerk

Mayor Miyagishima: _____

Councillor Silva: _____

Councillor Connor: _____

Moved by: _____

Councillor Pedroza: _____

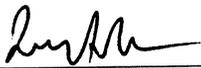
Councillor Small: _____

Seconded by: _____

Councillor Sorg: _____

Councillor Thomas: _____

APPROVED AS TO FORM:



City Attorney

Exhibit "A"



REALTORS® ASSOCIATION OF NEW MEXICO
PURCHASE AGREEMENT – RESIDENTIAL RESALE – 2009
PART I – BROKER DUTIES

Every licensed New Mexico real estate Broker is obligated to disclose Broker Duties. Please acknowledge receipt of this information by signing or initialing at the bottom of this page. Disclosure: The following brokerage relationships are available in the State of New Mexico: (1) transaction broker, (2) exclusive agency, and (3) dual agency (see RANM Form 1401, p.2).

Prior to the time an Associate Broker or Qualifying Broker generates or presents any written document that has the potential to become an express written agreement, the Broker shall disclose in writing to a prospective buyer, seller, landlord or tenant, the following list of Broker Duties that are owed to all Customers and Clients by all Brokers regardless of the brokerage relationship:

- (A) Honesty and reasonable care; as set forth in the provisions of this section;
(B) Compliance with local, state, and federal fair housing and anti-discrimination laws, the New Mexico Real Estate License Law and the Real Estate Commission Rules and Regulations, and other applicable local, state, and federal laws and regulations;
(C) Performance of any and all oral or written agreements made with the Broker's Customer or Client;
(D) Assistance to the Broker's Customer or Client in completing the Transaction, unless otherwise agreed to in writing by the Customer or Client, including (1) Presentation of all offers or counter-offers in a timely manner, and (2) Assistance in complying with the terms and conditions of the contract and with the closing of the Transaction;

If the Broker in a Transaction is not providing the service, advice or assistance described in paragraphs D(1) and D(2), the Customer or Client must agree in writing that the Broker is not expected to provide such service, advice or assistance, and the Broker shall disclose such agreement in writing to the other Brokers involved in the Transaction;

- (E) Acknowledgment by the Broker that there may be matters related to the Transaction that are outside the Broker's knowledge or expertise and that the Broker will suggest that the Customer or Client seek expert advice on these matters;
(F) Prompt accounting for all monies or property received by the Broker.

(G) Prior to the time the Associate Broker or Qualifying Broker generates or presents any written document that has the potential to become an express written agreement, written disclosure of (1) any written Brokerage Relationship the Broker has with any other Parties to the Transaction; (2) any material interest or relationship of a business, personal, or family nature that the Broker has in the Transaction; and (3) other Brokerage Relationship options available in New Mexico;

(H) Disclosure of any adverse material facts actually known by the Broker about the property or the Transaction, or about the financial ability of the Parties to the Transaction to complete the Transaction. Adverse material facts do not include data from a sex offender registry or the existence of group homes;

(I) Maintenance of any confidential information learned in the course of any prior Agency relationship unless the disclosure is with the former Client's consent or is required by law;

(J) Unless otherwise authorized in writing, a Broker shall not disclose to their Customer or Client during the transaction that their Seller Client or Customer has previously indicated they will accept a sales price less than the asking or listed price of a property; that their Buyer Client or Customer has previously indicated they will pay a sales price greater than the price submitted in a written offer; the motivation of their Client or Customer for selling or buying property; that their Seller Client or Customer or their Buyer Client or Customer will agree to financing terms other than those offered; or any other information requested in writing by the Broker's Customer or Client to remain confidential, unless disclosure is required by law.

**REALTORS® ASSOCIATION OF NEW MEXICO
PURCHASE AGREEMENT – RESIDENTIAL RESALE – 2009
PART II**

BROKERAGE RELATIONSHIPS DISCLOSURE: Transaction Broker, Exclusive Agency, and Dual Agency are brokerage relationships available in New Mexico. Brokers may, but are not required to, disclose unwritten agreements with Buyers and Sellers. However, Brokers must disclose written agreements.

1. John Lance Swarengin ("Buyer's Broker") is working with the Buyer in this transaction as a:
- Transaction Broker without a written agreement.
 - Transaction Broker with a written agreement (RANM Form 1206, Buyer Broker Agreement).
 - Agent with a written agreement (RANM Form 1206, Buyer Broker Agreement with Agency Addendum).

2. **IN-HOUSE TRANSACTION:**
- A. Buyer's Broker is licensed under the same Qualifying Broker in the same Brokerage as Seller's Broker. Seller's Broker has a written listing agreement with the Seller as Transaction Broker Agent.
 - B. Buyer's Broker is also Seller's Broker for the property in this Transaction. Seller's Broker has a written listing agreement with Seller as Transaction Broker Agent.

3. **DUAL REPRESENTATION DISCLOSURE AND CONSENT:** Brokerage is representing both Buyer and Seller by means of written agreements with each of them, without creating Dual Agency. If there are two written agreements, Buyer and Seller hereby consent to this dual representation.

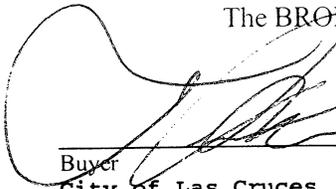
4. **DUAL AGENCY DISCLOSURE:** Brokerage is representing both Buyer and Seller by means of written agency agreements with each of them, and Designated Brokerage has not been chosen by the Qualifying Broker, thus creating Dual Agency. Prior to writing or presenting this offer, Broker must obtain written consent from the Buyer Client and Seller Client (RANM Form 1301, Agency Agreement - Dual).

5. Buyer's Broker does does not have a material interest or relationship of a business, personal or family nature in the transaction, including compensation from more than one party: **Contracted as a Buyers Broker for the City of Las Cruces**

If the Brokerage or Qualifying Broker has a material interest or relationship of a business, personal, or family nature in the transaction, that interest or relationship must also be disclosed separately.

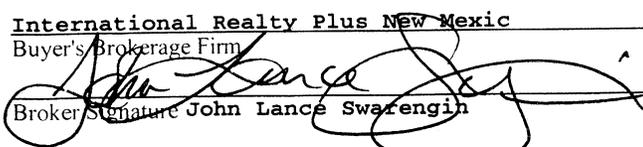
6. Buyer Seller is a licensed New Mexico real estate Broker.

The **BROKERAGE RELATIONSHIPS DISCLOSURE** is acknowledged by the parties below:

	BUYER		SELLER
 Buyer City of Las Cruces	Date 10/31/09	Time 12:58 PM	Seller Date Time

Buyer By Terrance Moore-City Manager	Date Time	Seller Date Time
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BUYER'S BROKER

International Realty Plus New Mexic Buyer's Brokerage Firm  Broker Signature John Lance Swarengin	Broker <input checked="" type="checkbox"/> is <input type="checkbox"/> is not a REALTOR® Date 10.31.09 Time
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SELLER'S BROKER

Seller's Brokerage Firm Broker Signature	Broker <input type="checkbox"/> is <input type="checkbox"/> is not a REALTOR® Date Time
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REALTORS® ASSOCIATION OF NEW MEXICO
PURCHASE AGREEMENT – RESIDENTIAL RESALE – 2009



OFFER DATE: 11.6.09

1. PARTIES. City of Las Cruces, By Terrance Moore-City Manager
("Buyer") agrees to buy from Seller and

("Seller") agrees to sell and convey to Buyer the Property described in paragraph 4 with a Settlement/Signing Date of see addendum #3 (described in paragraph 5 below).

2. PURCHASE PRICE. \$ 115,000.00
A. APPROXIMATE CASH DOWN PAYMENT \$ 1,000.00
(Including Earnest Money referred to in paragraph 3)
B. AMOUNT OF THE LOAN(S) described in paragraph 7 below. \$

3. EARNEST MONEY. Buyer will deliver \$ 1,000.00
Earnest Money in the form of [X] check [] cash [] note dated , to be escrowed upon mutual acceptance of this Agreement by Buyer and Seller with Southwestern Abstract and Title Co , in accordance with New Mexico law. Earnest Money will be applied to Purchase Price and/or closing costs upon Funding Date.

4. PROPERTY.
A. 1200 Poplar Address Las Cruces City NM 88001 State/Zip Code

Legal Description
or see metes and bounds or other legal description attached as Exhibit , Dona Ana County, New Mexico. If the legal description of the Property is not complete or is inaccurate, this Agreement will not be invalid and the legal description will be completed or corrected to meet the requirements of the title company which will issue the title policy.

B. TYPE: [X] site built [] manufactured housing [] modular [] off site built [] other: (See RANM Form 2305 for further information.)

C. Description or explanation of any known mineral or water rights appurtenant to the Property and whether they will be included in the sale: If water or mineral rights are identified as being included in the sale of the Property, Buyer is advised to seek expert and legal advice and assistance to ensure that those rights are properly transferred at closing.

D. The Property will include the following, if existing on the Property, unless excluded below, free of liens: smoke, fire, security and water conditioning systems (if owned by Seller); heating, ventilating and air conditioning systems, landscaping; sprinklers/irrigation equipment; storm windows and doors, screens, window coverings and rods; TV antennas, satellite dishes and receiver with access card (if owned by Seller and if transferable); light fixtures; ceiling fans; range; oven; dishwasher; garbage disposal; attached mirrors; attached floor coverings; awnings; mailboxes; fireplace grate and screen; garage door openers and controls; pool and spa equipment; and outdoor plants and trees (other than in movable containers). The following additional existing personal property, if checked, shall remain with the property:

- [] Refrigerator [] Decorative mirrors above bath vanities
[] Microwave [] Built-in/attached speakers and sub woofers
[] Washer [] TV
[] Dryer [] Audio components
[] Other [] Other

The above additional existing personal property included shall not be considered part of the premises and shall be transferred with no monetary value, and free and clear of all liens and encumbrances.

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PURCHASE AGREEMENT – RESIDENTIAL RESALE – 2009

E. The following items are excluded from the sale: _____

5. CLOSING. "Closing" is defined as a series of events by which Buyer and Seller satisfy all of their obligations in the Agreement. Closing is not completed until all parties have completed all requirements as stated below, as well as completing all other obligations under this Agreement. If either party elects to extend either of the following dates, they must do so in a writing signed by both parties. No extension is binding unless agreed to in writing by both parties. The parties further acknowledge that Seller will not receive the proceeds of sale until all the events stated under "Funding Date" have been completed.

A. Settlement/Signing date: see addendum #3 (as described in paragraph 1)

1. Buyer and Seller agree to sign and deliver to the responsible closing officer all documents required to complete the transaction and to perform all other closing obligations of this Agreement on or before the above date.

2. Buyer and Seller agree to provide for the delivery of all required funds, exclusive of Lender funds, if any, using wired, certified or other "ready" funds acceptable to the closing officer, on or before the above date.

B. Funding Date (Completion of Closing): on or before see addendum #3. The Funding Date is the date that the closing officer has funds available to disburse to all parties after recording all documents required to complete the transaction.

1. It is Buyer's responsibility to ensure that Buyer's lender, if any, makes available to the closing officer, wired certified or other "ready" funds with written instructions to disburse funds, on or before the Funding Date as set forth above.

2. Buyer and Seller acknowledge that possession of the Property will be in accordance with the terms of paragraph 6 below.

Unless otherwise agreed to in writing, failure to perform any of the above items by either party shall constitute a default under this Agreement.

6. POSSESSION.

A. Buyer and Seller agree that Seller will give possession of the Property to Buyer upon:

1. "Funding Date" as set forth above at 5:00 p.m.; or,
2. Other: _____

B. If possession date is other than "Funding Date" as set forth above, then Buyer and Seller shall execute a separate written Occupancy Agreement. (See RANM Forms 2201 and 2202)

7. FINANCED OR CASH PURCHASE.

A. LOANS. This Agreement is contingent upon Buyer's ability to obtain a loan in the amount stated above in paragraph 2B of the following type: Conventional FHA VA Deed of Trust Other: _____

1. Buyer has made written application for a loan, or agrees to make written application for a loan no later than _____ days after the Date of Acceptance ("Loan Application Period"). Buyer agrees to provide Seller with a letter of Preliminary Loan Approval from a lender no later than _____ days after the Date of Acceptance ("Financing Approval Period").

2. Preliminary Loan Approval must stipulate that: (1) a loan application has been made; (2) a credit report has been obtained and reviewed by a lender; (3) a preliminary loan commitment has been secured from the same lender; (4) financing equal to the loan amount provided in paragraph 2B is available to complete the transaction with no contingencies except those provided for in this Agreement.

3. If there are changes to the loan, loan program, financing terms, or a change in lender at any time after the Financing Approval Period which adversely affect Buyer's ability to obtain a loan, increase Seller's costs or delay Closing, Buyer shall have the obligation to notify Seller in writing within 2 days of such occurrence. In that event, within 5 days of receipt of Buyer's notification, Seller may notify Buyer in writing of: (1) Seller's approval of such changes, or (2) Seller's decision to terminate the Agreement. If Seller does not notify Buyer within the 5 day period provided, Seller will be deemed to have waived Seller's right to terminate and shall proceed to Closing.

4. If Buyer cannot obtain Preliminary Loan Approval within the Financing Approval Period, this Agreement shall terminate and the Earnest Money shall be refunded to Buyer unless the parties agree in writing to an extension.

5. Buyer further agrees to provide Seller with written notification of Final Loan Approval from Buyer's lender with all loan contingencies removed _____ days before the Settlement/Signing Date ("Final Loan Approval"). In the event of a written rejection by the lender prior to Final Loan Approval, this Agreement shall terminate and the Earnest Money shall be refunded to Buyer.

REALTORS® ASSOCIATION OF NEW MEXICO
PURCHASE AGREEMENT – RESIDENTIAL RESALE – 2009

B. SELLER FINANCING: The approximate balance of \$ _____ shall be financed by Seller and shall be secured by: Real Estate Contract Mortgage Deed of Trust. Terms and conditions of the above instrument shall be attached as Addendum _____. If RANM Real Estate Contract (RANM Form 2401) is selected, a completed Addendum to Purchase Agreement - Real Estate Contract (RANM Form 2402) shall be attached.

Buyer shall provide Seller with: a current and complete financial statement and/or a current credit report no later than _____ days after the Date of this Agreement. Seller shall have the right to object to either of these documents within _____ days after receipt from Buyer (Financial Review Period). If Seller does not approve Buyer's qualifications during the Financial Review Period, Seller has the option to terminate this Agreement and Earnest Money shall be refunded to Buyer. If Seller does not object in writing to Buyer's qualifications within the Financial Review Period, Seller will be deemed to have waived Seller's right to object to Buyer's qualifications. Seller may not unreasonably withhold approval.

C. CASH PURCHASE: Buyer agrees to purchase the subject property for cash. No later than 59 days after the Date of Acceptance, Buyer agrees to provide Seller with verification of funds and proof satisfactory to Seller that Buyer has in Buyer's possession or control, the funds necessary to complete the transaction. This Agreement shall terminate in the event of failure of Buyer to provide timely proof of funds and Earnest Money shall shall not be refunded to Buyer.

D. CONTINGENT SALE: This Agreement is contingent on the future Closing of Buyer's property.

8. APPRAISAL

A. CONVENTIONAL OR OTHER NON-FHA/VA LOAN: (describe): _____
It is expressly agreed that, notwithstanding any other provisions of this Agreement, Buyer shall not be obligated to complete the purchase of the Property or incur any penalty for forfeiture of Earnest Money if the Purchase Price exceeds the current estimated market value ("Appraisal") as established by a real estate appraiser approved by the lender.

B. FHA: It is expressly agreed that, notwithstanding any other provisions of this contract, Buyer shall not be obligated to complete the purchase of the Property described herein or to incur any penalty by forfeiture of Earnest Money deposits or otherwise unless the Buyer has been given, in accordance with HUD/FHA or VA requirement, a written statement by the Federal Housing Commissioner or a Direct Endorsement Lender setting forth the appraised value of the property, or a VA Certificate of Reasonable Value (excluding closing costs) of not less than \$ _____ (Purchase Price). The appraised valuation is arrived at to determine the maximum mortgage the Department of Housing and Urban Development will insure. HUD does not warrant the value nor the condition of the property. Buyer should satisfy himself that the price and condition of the property are acceptable.

C. VA: It is expressly agreed that, notwithstanding any other provisions of this contract, Buyer shall not incur any penalty by forfeiture of Earnest Money or otherwise be obligated to complete the purchase of the real estate described herein, if the contract Purchase Price or cost exceeds the reasonable value of the real estate established by the Veterans Administration.

D. CASH OR SELLER FINANCED: It is expressly agreed that, notwithstanding any other provisions of this Agreement, Buyer shall not be obligated to complete the purchase of the Property or incur any penalty by forfeiture of Earnest Money if the Purchase Price exceeds the current estimated market value ("Appraisal") as established by a real estate appraiser engaged by and paid by Buyer Seller.

E. In the event the conventional appraisal, the FHA appraisal, the VA certificate of reasonable value, or an appraisal for a cash or seller financed transaction is less than the agreed upon Purchase Price, Buyer may still proceed with the consummation of this Agreement without regard to the amount of appraisal or certificate of reasonable value, provided Buyer delivers written notice to Seller of such election within 3 days of the receipt of said notice of value. If Buyer does not deliver written notice of such election within 3 days, Buyer shall be deemed to have elected not to proceed. If Buyer elects not to proceed, Seller and Buyer may agree to a Purchase Price acceptable to both parties within 5 days after receipt of said notice to both parties. If the parties cannot agree, this Agreement shall terminate and Earnest Money shall be refunded to Buyer.

**REALTORS® ASSOCIATION OF NEW MEXICO
PURCHASE AGREEMENT – RESIDENTIAL RESALE – 2009**

9. **COSTS TO BE PAID.** Buyer or Seller will pay the following marked items:

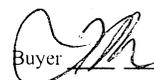
Loan Related Costs and Fees	Buyer	Seller	Not Required	Title Company Closing Costs	Buyer	Seller	Not Required
				Closing Fee	1/2	1/2	
Appraisal Fee	X			Legal Document Preparation	EACH	HIS	OWN
Appraisal Reinspection Fee	X			Special Assessment Search			X
Credit Report			X	Recording Fees			
Loan Assumption/Transfer			X	Buyer	X		
Loan Documentation Preparation			X	Seller		X	
Origination Fee			X	Policy Premiums			
Points - Buydown			X	Title Commitment		X	
Points - Discount			X	Standard Owner's Policy		X	
Tax Service Fee			X	Mortgagee's Policy			X
Underwriting Review Fee			X	Mortgagee's Policy Endorsements			X
Flood Zone Certification		X		Other:			
Other:				Miscellaneous			
Other:				Survey (§ 16C)		X	
Prepays Required by Lender				Impact Fees			X
Flood Insurance			X	Home Warranty contract (§ 17)			X
Hazard Insurance			X	Transfer Fees (e.g. HOA, etc.)			X
Interest			X	Other:			
PMI or MIP			X	Escrow Fees			
Taxes			X	Set up			
Other:				Periodic			
Other:				Close Out			
				Other:			

Buyer agrees to pay all other allowed direct loan costs.

10. IRS 1031 TAX-DEFERRED EXCHANGE. Buyer Seller intends to use this property to accomplish a 1031 tax-deferred exchange. The parties agree to cooperate with one another in signing and completing any documents required. The exchanging party agrees that the other party will bear no additional expense.

11. PRORATIONS. Seller will be responsible for disclosing all applicable property-specific fees, or lease agreements, private memberships and/or association fees or dues, taxes and contract service agreements, all of which are to be prorated through Settlement/Signing Date. Any equipment rental or contract service agreement (e.g. alarm system, satellite system, propane and tank, private refuse collection, road maintenance, etc.) will be handled directly between the Buyer and Seller, and title company will not be responsible for proration thereof.

12. ASSESSMENTS. Buyer will assume all bonds, impact fees and assessments that are part of or paid with the property tax bill. If other bonds, impact fees or assessments are a lien upon the Property, the current installment will be prorated through Settlement/Signing Date. Buyer will assume future installments. This Agreement is conditioned upon both parties verifying and approving in writing the amount of all bonds, impact fees, or assessments to be assumed or paid within **10 days** after receipt of the title commitment ("Approval Date"). In the event of disapproval, the disapproving party may terminate this Agreement by giving written notice to the other on or before the Approval Date. Future assessments for improvements such as, but not limited to, sidewalks, driveway cuts or roads will be paid by Buyer.

Buyer 

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13. EXAMINATION OF TITLE; LIENS; DEED.

A. Buyer Seller shall order a title commitment from Southwestern Abstract and Title Co. (Title Company) within 5 bus days after the Date of Acceptance. Buyer will have 5 bus days ("Review Period") to review and object to title exceptions after receipt of the title commitment and all documents referred to therein. Exceptions to the title, including the standard exceptions, shall be deemed approved unless written objection is delivered to the Seller within this Review Period. If Seller is unwilling or unable to remove such exception before Settlement/Signing Date, Seller shall provide written notice to Buyer within 5 bus days after receipt of Buyer's objections. Buyer may choose to close subject to exceptions, remove them at Buyer's expense or terminate this Agreement. If Buyer terminates this Agreement, the Earnest Money will be refunded to Buyer.

B. Seller will satisfy any judgments and liens, including but not limited to, all mechanics' and materialmen's liens of record on or before Settlement/Signing Date and will indemnify and hold Buyer harmless from any liens filed of record after Settlement/Signing Date and which arise out of any claim related to the providing of materials or services to improve the Property as authorized by Seller or Seller's agents, unless otherwise agreed to by the parties in writing.

C. Seller will convey the Property by General Warranty Deed other deed _____ subject only to any matters identified in the title commitment and not objected to by Buyer as provided in paragraph 13A. The legal description contained in the deed shall be the same legal description contained in the title commitment and any survey required under paragraph 16C.

14. FOREIGN SELLERS. The disposition of a U.S. Real Property interest by a Foreign Person is subject to Foreign Investment in Real Property Tax Act of 1980 (FIRPTA) income tax withholding. FIRPTA applies if Seller is a Foreign Person, Foreign Corporation or Partnership, or non-resident Alien, unless BOTH the purchase price is \$300,000 or less AND Buyer intends to use the property as Buyer's primary residence. Federal Law requires that if Seller is a Foreign Person, then Buyer must withhold ten percent (10%) of the amount realized from the sale of the Property and remit it to the Internal Revenue Service (IRS) within 20 days of Closing unless the Seller provides written confirmation from the IRS that Seller is not subject to withholding. Generally speaking, the "amount realized" is the sales/purchase price of the Real Estate. If Seller is Non-Foreign, the Seller must provide proof of Non-Foreign status by fully executing an Affidavit of Non-Foreign Seller (RANM Form 2303) and deliver it to either the Buyer or to a Qualified Substitute. Under FIRPTA, if Seller is a Foreign Person and Buyer fails to withhold taxes, the Buyer may be held liable for the tax, in addition to other fines and penalties and the Buyer's Broker may be fined up to the amount of their commission.

Buyer's offer is is not contingent upon the Seller completing the FIRPTA response box in the Acknowledgement by Seller Section of this Purchase Agreement, and providing the documents indicated there in no later than 10 days after Date of Acceptance. If Seller is providing an Affidavit of Non-Foreign Seller, Buyer agrees that Seller may, at Seller's option, provide this Affidavit either to Buyer or to a Qualified Substitute as provided by FIRPTA. If a Qualified Substitute is used, Buyer will not receive a copy of Seller's Affidavit.

For further information on FIRPTA, see the FIRPTA Information Sheet (RANM Form 2304), and consult with an attorney and/or tax professional.

15. INSURANCE CONTINGENCY/APPLICATION.

A. Buyer agrees to make application for insurance within _____ days after Date of Acceptance of this Agreement. If Buyer fails to make application within the agreed time, this insurance contingency shall be deemed waived. This Agreement is conditioned upon Buyer's ability to obtain a homeowner's or property insurance binder on the Property at normal and customary premium rates. **Buyer understands that an insurance company may cancel or change the terms of a homeowner's insurance policy/binder for any reason prior to close of escrow or within sixty days after issuance of the homeowner's policy/binder (which generally occurs at close of escrow).**

B. This insurance contingency shall be deemed satisfied, unless within _____ days after Date of Acceptance of this Agreement, Buyer gives notice of inability to obtain a binder for insurance or if Buyer gives notice that Buyer is unable to obtain a homeowner's or property insurance binder on the Property at normal and customary premium rates. If Buyer is unable to obtain such a binder for insurance after making a good faith effort and gives timely notice of such inability, then the Purchase Agreement shall terminate and the Earnest Money shall be refunded to Buyer.

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16. SELLER DISCLOSURE AND OTHER DOCUMENTS AND INSPECTIONS. Any "Deadline" can be expressed either as a calendar date or as a number of days after Date of Acceptance. Delivery Deadlines, Objection Deadlines and Resolution Deadlines may be extended only by a written agreement of both parties.

A. DOCUMENTS. Seller shall deliver the following documents by the Delivery Deadline specified below. "Delivery Deadline" is the date by which Buyer shall receive any documents, reports or surveys as set forth below.

DOCUMENTS	Delivery Deadline	Objection Deadline	Resolution Deadline
Seller's Property Disclosure Statement	2 DAYS AFTER ACCEPTANCE	5 DAYS AFTER ACCEPTANCE	12 DAYS AFTER ACCEPTANCE
Road Documents			
Water Rights Documents			
Well Documents			
Other:			
Other:			

Is any part of this Property a residence built before 1978? Yes No *If the answer is yes, federal law says:*
 Seller cannot legally accept this offer unless Buyer has received, before making this offer, **ALL** of the following:
 1. Lead-Based Paint Addendum to Purchase Agreement (RANM Form 5112) that was first fully completed and signed by Seller and then is signed by Buyer; and
 2. A list of and copies of all reports or information relating to lead-based paint inspections, risk assessments, and hazards; and
 3. A copy of the pamphlet, "Protect Your Family From Lead-Based Paint in Your Home."
 If Buyer received the above items 1, 2, and 3 prior to writing this offer, Buyer's right to a 10 day opportunity to conduct inspections or risk assessments for the presence of lead-based paint and/or lead-based paint hazards will begin on the Date of Acceptance (as defined in the Purchase Agreement).
 If Buyer has not received **ALL** the above items 1, 2 and 3 and had an opportunity to review them before writing this offer, **AND** has not signed the Lead-Based Paint Addendum to the Purchase Agreement, Seller cannot legally accept this offer. Seller should consult an attorney for specific legal advice.

PROPERTY TAX DISCLOSURE.
 Buyer(s) hereby acknowledge receipt of the Estimated Property Tax Levy on the Property, attached as Exhibit 1 and understands that said Estimated Property Tax Levy is based on the LISTING price of the Property.
 Buyer(s) hereby acknowledge that the Estimated Property Tax Levy on the Property is not readily available and does hereby waive the right to receive the Estimated Property Tax Levy prior to submitting this Purchase Agreement. See Estimated Property Tax Levy Disclosure Information Sheet (RANM Form 3275).

SEPTIC SYSTEM. Does the Property include an on-site liquid waste system? Yes No *If the answer is "Yes", the transfer of the Property is subject to Regulations of the New Mexico Environment Department governing on-site liquid waste systems, which require inspection and possible repair, and RANM Form 5120a, Septic System Contingency Addendum, is attached hereto and incorporated by reference.*

B. INSPECTIONS. Seller and Broker strongly recommend that Buyer satisfy any concerns that Buyer may have about the physical condition of the Property. To accomplish this, the parties are encouraged to employ competent (and, where appropriate, licensed) professionals to perform inspections of all conditions of the Property. Buyer has the right to have performed the inspections checked below. Seller Buyer will be responsible for paying any charges required by the utility company to have utilities turned on for inspection purposes, but in no event will Buyer be responsible for charges to repair the property, to bring it up to code, to pay unpaid bills, or for anything other than a turn-on fee.

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Unless otherwise agreed in writing, the Buyer will select the inspector. Whether or not the transaction closes, the following inspections will be paid for by:

INSPECTIONS	Buyer Pays	Seller Pays	Delivery Deadline	Objection Deadline	Resolution Deadline
Home	X		DUE DILIGENCE	DUE DILIGENCE	DUE DILIGENCE
Electrical	X		DUE DILIGENCE	DUE DILIGENCE	DUE DILIGENCE
Heating/Air Conditioning	X		DUE DILIGENCE	DUE DILIGENCE	DUE DILIGENCE
Plumbing	X		DUE DILIGENCE	DUE DILIGENCE	DUE DILIGENCE
Roof	X		DUE DILIGENCE	DUE DILIGENCE	DUE DILIGENCE
Structural	X		DUE DILIGENCE	DUE DILIGENCE	DUE DILIGENCE
Lead-Based Paint Evaluation	X		DUE DILIGENCE	DUE DILIGENCE	DUE DILIGENCE
Risk Assessment	X		DUE DILIGENCE	DUE DILIGENCE	DUE DILIGENCE
Paint Inspection	X		DUE DILIGENCE	DUE DILIGENCE	DUE DILIGENCE
Combination Risk Assessment/Inspection	X		DUE DILIGENCE	DUE DILIGENCE	DUE DILIGENCE
Other:					
Well Equipment (pump, pressure tank, lines)					
Well Water Potability Tests					
Well Water Yield Tests					
Well Water Nitrate Tests					
Pool/Spa/Hot Tub Equipment					
Wood-Destroying Insects		X	DUE DILIGENCE	DUE DILIGENCE	DUE DILIGENCE
Dry Rot	X		DUE DILIGENCE	DUE DILIGENCE	DUE DILIGENCE
Radon	X		DUE DILIGENCE	DUE DILIGENCE	DUE DILIGENCE
Mold	X		DUE DILIGENCE	DUE DILIGENCE	DUE DILIGENCE
Square-Foot Measurement:					
Sewer Line Inspections	X		DUE DILIGENCE	DUE DILIGENCE	DUE DILIGENCE
Ducts (type):	X		DUE DILIGENCE	DUE DILIGENCE	DUE DILIGENCE
Phase One Environmental Inspection					
Soil Test					
Other:					
Other:					

C. SURVEYS OR IMPROVEMENT LOCATION REPORT. Buyer has the right to have performed the item selected below or the right to accept an existing one. Unless otherwise agreed in writing the party paying for the item will select the surveyor and order the survey or report.

SURVEY/IMPROVEMENT LOCATION REPORT	Delivery Deadline	Objection Deadline	Resolution Deadline
Improvement Location	30 DAYS AFTER ACCEPTANCE	32 DAYS AFTER ACCEPTANCE	40 DAYS AFTER ACCEPTANCE
Metes and Bounds Description			
Staked Boundary	30 DAYS AFTER ACCEPTANCE	32 DAYS AFTER ACCEPTANCE	40 DAYS AFTER ACCEPTANCE
American Land Title Association Survey (ALTA)			
Flood Plain Designation	30 DAYS AFTER ACCEPTANCE	32 DAYS AFTER ACCEPTANCE	40 DAYS AFTER ACCEPTANCE
Other:			

Each party is responsible for payment as shown above for any inspection or surveys ordered and performed whether or not the transaction closes.

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D. BUYER'S OBJECTIONS.

1. The Buyer may make any reasonable objections to any report or unsatisfactory condition disclosed by any document (16A), inspections (16B), survey or Improvement Location Report (16C) by submitting them in writing to Seller no later than applicable Objection Deadline. Any objections to any inspection, survey or report must be accompanied by a copy of the report. If Seller is responsible for ordering a report or document, and if Buyer does not receive that report or document by the Delivery Deadline, Buyer and Seller may agree to extend the Objection Deadline and Resolution Deadline or Buyer may terminate the Agreement. If Buyer is responsible for ordering a report or document, and fails to do so in a timely manner, Buyer may not use the failure to receive the report or document as cause to terminate the Agreement.

2. Upon objection, Buyer can request that Seller cure the objections or Buyer can terminate this Agreement. If no written objection or termination is delivered to Seller in writing by Objection Deadline, the contingency shall be deemed removed.

E. RESOLUTION. If Buyer makes specific objections and requests Seller to cure, Buyer and Seller may negotiate a resolution. If the objections are not resolved by the Resolution Deadline, this Agreement shall be terminated.

F. COST OF REPAIRS. Seller agrees to complete or pay for any repairs required by a FHA, VA, conventional lender, or with respect to any objections made by Buyer as a result of the above reports, at an aggregate cost **not to exceed** \$ _____. If the cost to cure the objections exceeds this amount, such excess costs may be negotiated and if no agreement is reached, the Agreement shall terminate.

G. OBJECTIONS COMPLETION. Seller agrees to cure objections not later than _____ days prior to Settlement/ Signing Date.

H. REFUND OF EARNEST MONEY. If this Agreement is terminated pursuant to this paragraph, the Earnest Money will be refunded to Buyer.

I. REASONABLE ACCESS; DAMAGES. Seller agrees to provide reasonable access to Buyer and any inspectors. The party selecting the inspector is responsible for and shall pay for any damages which occur to the Property as a result of such Inspection.

17. HOME WARRANTY CONTRACT. If provided for in paragraph 9, a home warranty service contract will be purchased from _____. The parties acknowledge that the home warranty service contract provides for limited coverage and for only limited components of the Property. In addition, the home warranty service contract contains specific exclusions and/or certain deductibles. Neither the Seller nor the Broker is responsible for home warranty coverage or lack thereof. The parties acknowledge that a home warranty service contract provider may or may not conduct an inspection of the Property. Any inspection report made available by the provider is not meant as a representation as to the condition of the Property, and is only a report used by the provider to determine the conditions under which the Property may be warranted.

18. DISCLAIMER. The Property is sold in its current condition including, but not limited to, the nature, location, amount, sufficiency or suitability of its: current or future value; future income to be derived therefrom or as to its current or future production; condition; size; location of utility lines; location of sewer, water and other utility lines or availability of utility services or the possibility of extending improvements (paving, sewer, water, utilities, access) to the Property; easements with which it is burdened or benefited; lot boundaries; adjacent property zoning; physical and legal access; soil conditions; permits, zoning, or code compliance; lot size or acreage; and improvements or their square footage; and water rights. Broker has not investigated and is not responsible for the foregoing aspects of the Property, among which lot size, acreage, and square footage may have been approximated, but are not warranted as accurate. Buyer will have had full and fair opportunity to inspect and judge all aspects of the Property with professional assistance of Buyer's choosing prior to settlement and is purchasing Property based solely upon Buyer's inspection and judgment and not by reason of any representation made to Buyer by Seller or Broker unless expressly set forth in this Agreement or Disclosure Statements. Buyer and Seller acknowledge that Brokers' only role in this transaction is to provide real estate advice to Broker's client and/or customer and real estate information to the parties. For all other advice or information that may affect this transaction, including but not limited to financial and legal, the parties must rely on other professionals.

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19. RELEASE. The parties hereby release the REALTORS® Association of New Mexico, all local REALTOR® Boards, Broker and the agents and employees of the foregoing from any liability arising out of use of this Purchase Agreement form. Buyer and Seller acknowledge that they are hereby advised to consult their own respective attorneys, accountants, or other advisors as to the legal and tax effect of this Agreement prior to signing.

20. MAINTENANCE. Seller agrees that until Seller gives possession of the Property to Buyer, the heating, air conditioning, electrical, solar, septic systems, well and well equipment, gutters and downspouts, sprinklers, plumbing systems including the water heater, pool and spa systems, as well as appliances and other mechanical apparatus, will be in the same condition as the Date of Acceptance, normal wear and tear excepted. Until the Property is delivered, Seller will maintain all structures, landscaping, grounds and pool. Seller agrees to deliver the Property with all debris and personal belongings removed. The following items are specifically excepted from the above: _____

21. PRE-CLOSING WALK-THROUGH. Within 2 days prior to Settlement/Signing Date, Buyer shall have the right to verify the Property is in the same condition as on the Date of Acceptance, reasonable wear and tear excepted, and all agreed upon improvements have been completed.

22. FLOOD HAZARD ZONE. If the Property is located in an area which is designated as a special flood hazard area, Buyer may be required to purchase flood insurance in order to obtain a loan secured by the Property from any federally regulated financial institution or a loan insured or guaranteed by an agency of the U.S. Government.

23. DEFINITIONS. BROKER includes Buyer's and Seller's brokers. **DAYS** means calendar days excluding weekends and bank holidays, unless otherwise specified. **DATE OF ACCEPTANCE** is the date this Agreement is fully executed and delivered. **DELIVERED** means personally delivered, delivered by facsimile, mailed postage prepaid, or by any method where there is evidence of receipt. The facsimile or e-mail transmission of a copy of this or any related document will constitute delivery of that document. The facsimile, e-mail or electronically transmitted signature shall have the same force and effect as an original signature. Delivery to the real estate Broker who is working with or who represents the Buyer or Seller will constitute delivery to the Buyer or Seller respectively, except if the same Broker works for or represents both Buyer and Seller, in which case, delivery to the principal is required. The **MASCULINE** includes the feminine. The **SINGULAR** includes the plural.

24. RISK OF LOSS. Prior to Funding Date, risk of fire or other casualty will be on Seller, and in the event of loss, Buyer will have the option (to be exercised by written notice to Seller within **5 days** after receipt of notice of loss) of canceling this Agreement and receiving back the Earnest Money or closing and receiving assignment of Seller's portion of the insurance proceeds, if any, at Funding Date. If Buyer fails to timely notify Seller of Buyer's election, Buyer will be deemed to have elected to close.

25. MEDIATION. If a dispute arises between the parties relating to this Agreement, the parties agree to submit the dispute to mediation. The parties will jointly appoint a mediator and will share equally the costs of the mediation. If a mediator cannot be agreed on or mediation is unsuccessful, the parties may enforce their rights and obligations under this Agreement in any manner provided by New Mexico law.

26. EARNEST MONEY DISPUTE. Notwithstanding any termination of this Agreement, in the event that a controversy arises between Buyer and Seller, and the controversy cannot be resolved, the Holder of the Earnest Money may take no action or may choose to file an **Interpleader** action. **Interpleader** is a legal proceeding whereby the Holder of the Earnest Money names Buyer and Seller as defendants and deposits the funds in question with an appropriate court. Once the funds have been disbursed by final determination of the court, the prevailing party and the Holder of the Earnest Money shall be entitled to request recovery of all court costs and reasonable attorneys' fees related to the dispute from the non-prevailing party. Parties to all Earnest Money disputes are urged to review RANM Form 2310, "Earnest Money Dispute Information Sheet," and to consult a licensed attorney to fully understand all their rights and remedies.

27. DEFAULT. Time is of the essence. If any payment or any other condition hereof is not made, tendered or performed by either Seller or Buyer as required, then this Agreement may be terminated at the option of the party who is not in default. If the non-defaulting party elects to treat this Agreement as terminated, the non-defaulting party may elect to retain the Earnest Money and pursue any additional remedies allowable by law. In the event, however, the non-defaulting party elects to treat this Agreement as being in full force and effect, the non-defaulting party will have all rights and remedies available under this Agreement. Buyer and Seller acknowledge and agree that Broker will not in any circumstances be responsible for any breach by either party to this Agreement. Should any aspect of this Agreement result in dispute, litigation, or settlement, the prevailing party of such action including Broker shall be entitled to an award of reasonable attorneys' fees and court costs.

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28. FAIR HOUSING. Seller and Buyer understand that the Fair Housing Act and the New Mexico Human Rights Act prohibit discrimination in the sale or financing of housing on the basis of race, age, color, religion, sex, sexual orientation, gender identity, familial status, spousal affiliation, physical or mental handicap, serious medical condition, national origin or ancestry.

29. COUNTERPARTS. This Agreement may be executed in one or more counterparts, each of which is deemed to be an original, and all of which will together constitute one and the same instrument.

30. GOVERNING LAW. This Agreement will be interpreted in accordance with the laws of the State of New Mexico.

31. ENTIRE AGREEMENT. The parties understand that this offer, if accepted in writing by Seller and delivered to Buyer, constitutes a legally binding contract. This Agreement together with the following addenda and any exhibits referred to in this Agreement contains the entire agreement of the parties and supersedes all prior agreements or representations with respect to the Property which are not expressly set forth herein. This Agreement may be modified or canceled only by a writing signed and dated by both parties.

- | | |
|-----------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------|
| <input type="checkbox"/> Addendum No. _____ (5101) | <input type="checkbox"/> Occupancy Agreement – Buyer/Seller (2201/2202) |
| <input type="checkbox"/> Buyer's Sale Contingency
(Right of First Refusal) Addendum (2503) | <input type="checkbox"/> Real Estate Contract Addendum (2402) |
| <input checked="" type="checkbox"/> Lead-Based Paint Addendum (5112) | <input type="checkbox"/> Residential Resale Condominium Addendum (2302) |
| <input checked="" type="checkbox"/> Other: <u>Addendum #2-Letter</u> | <input type="checkbox"/> Septic System Contingency Addendum (5120a) |
| <input checked="" type="checkbox"/> Other: <u>Addendum #3</u> | <input checked="" type="checkbox"/> Other: <u>Exhibit #1-Tax Levy</u> |
| <input type="checkbox"/> Other: _____ | <input checked="" type="checkbox"/> Other: <u>Exhibit #2-MLIS Document</u> |
| | <input checked="" type="checkbox"/> Other: <u>Exhibit #3-Structural Surve</u> |

32. EXPIRATION OF OFFER. This offer will expire unless acceptance is delivered in writing to Buyer or Buyer's Broker on or before 11.9.09, at 5:00 am pm Mountain Time. If not accepted, this offer can be withdrawn at any time before the expiration date.

33. SEVERABILITY. If any portion of this agreement is found by any court of competent jurisdiction to be invalid or unenforceable, the remainder of this agreement will remain in full force and effect.

OFFER BY BUYER:

Buyer acknowledges that Buyer has read the entire Purchase Agreement and understands the provisions thereof.

Buyer Signature _____	Offer Date	Time
Buyer Signature _____	Offer Date	Time
<u>City of Las Cruces, By Terrance Moore-City Manager</u>	Email Address	
Buyer Names (Print)	<u>Las Cruces</u>	<u>NM 88001</u>
Buyer Address	City	State Zip Code
Buyer Home Phone	Buyer Cell Phone	Buyer Business Phone
		Buyer Fax

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PURCHASE AGREEMENT – RESIDENTIAL RESALE – 2009**

ACKNOWLEDGEMENT BY SELLER:

With regard to Paragraph 14, FOREIGN SELLERS, Seller agrees to;

- Execute an Affidavit of Non-Foreign Seller (RANM Form 2303), or
- Provide written documentation from the IRS that withholding is not required.

If Seller does not provide the Affidavit of Non-Foreign Seller (if applicable) within the time-frame provided, Buyer, in his sole discretion, may choose to terminate this Agreement or to proceed to Settlement/Signing. If Buyer chooses to terminate, Earnest Money will be returned to Buyer. If Seller fails to provide either of the above documents prior to the Settlement/Signing date, Buyer may still proceed with the consummation of this Agreement and may in his sole discretion, instruct the Title Company closing this transaction to withhold ten percent (10%) of the amount realized from the sale of the Property to be remitted to the IRS on Buyer's behalf. Generally speaking, the "amount realized" is the sales/purchase price of the Real Estate.

By signature hereto, Seller hereby acknowledges Buyer's obligations under FIRPTA and in the event Seller fails to provide the necessary documentation as provided for in this Agreement authorizes the Title Company closing this transaction to withhold ten percent (10%) of the amount realized from the sale of the Property to be remitted to the IRS on Buyer's behalf.

Seller acknowledges that Seller has read the entire Purchase Agreement and understands the provisions thereof.

Seller (select one):

- ACCEPTS this Offer and agrees to sell the Property for the price and on the terms and conditions specified in this Agreement.
- REJECTS this Offer and submits a Counteroffer (RANM 5102).
- SUBMITS an Invitation to Offer (RANM 5103).
- REJECTS this Offer.

Seller Signature	Date	Time
Seller Signature	Date	Time
Seller Names (Print)	Email Address	
Seller Address	City	State Zip Code
Seller Home Phone	Seller Cell Phone	Seller Business Phone Seller Fax

BUYER'S BROKER

International Realty Plus New Mexico Buyer's Brokerage Firm	1705 N. Valley Dr. Ste 1, Las Cruces, NM 88007 Address	(575) 522-0487 Office Phone	(575) 524-4252 Fax
By (Print) John Lance Swarengin	Email Address	Broker <input checked="" type="checkbox"/> is <input type="checkbox"/> is not a REALTOR®	

SELLER'S BROKER

Seller's Brokerage Firm	Address	Office Phone	Fax
By (Print)	Email Address	Broker <input type="checkbox"/> is <input type="checkbox"/> is not a REALTOR®	



GARLAND REALTY & DEVELOPMENT, LLC

2970 North Main Street, Las Cruces, NM 88001

Office: 575-524-7266 Fax: 575-524-4820



REALTORS® ASSOCIATION OF NEW MEXICO LEAD-BASED PAINT ADDENDUM TO PURCHASE AGREEMENT - 2009

All parts of this form must be completed in the proper order, including check-boxes, and everyone must sign it before Seller can legally accept an offer from Buyer. It would be a violation of Federal law for Seller to accept an offer from Buyer before Seller and Buyer have complied with each and every provision of the law.

This Disclosure and Acknowledgment will be attached as Addendum No. 1 to the Purchase Agreement between Seller and Buyer, dated July 6, 2009

Relating to the following Property:

1200 poplar

Las Cruces

Address

City

873 Washington heights subdivision, lot 5, blk F

Legal Description

or see metes and bounds description attached as Exhibit _____, Dona Ana County, New Mexico.

1. LEAD WARNING STATEMENT

Every Buyer of any interest in residential real property on which a residential dwelling was built prior to 1978 is notified that such property may present exposure to lead from lead-based paint that may place young children at risk of developing lead poisoning. Lead poisoning in young children may produce permanent neurological damage, including learning disabilities, reduced intelligence quotient, behavioral problems, and impaired memory. Lead poisoning also poses a particular risk to pregnant women. The Seller of any interest in residential real property is required to provide the Buyer with any information on lead-based paint hazards from risk assessments or inspections in the Seller's possession and notify the Buyer of any known lead-based paint hazards. A risk assessment or inspection for possible lead-based paint hazards is recommended prior to purchase.

2. SELLER'S DISCLOSURE

(a) Presence of lead-based paint and/or lead-based paint hazards:

(i) Known lead-based paint and/or lead-based paint hazards are present in the housing (explain):

(ii) Seller has no knowledge of lead-based paint and/or lead-based paint hazards.

(b) Records and reports available to the Seller:

(i) Seller has provided Buyer with all available records and reports pertaining to lead-based paint and/or lead-based paint hazards in the housing. (List documents below.)

(ii) Seller has no reports or records pertaining to lead-based paint and/or lead-based paint hazards in the housing.

REALTORS® Association of New Mexico (RANM) makes no warranty of the legal effectiveness or validity of this form and disclaims any liability for damages resulting from its use. By use of this form the parties agree to the limitations set forth in this paragraph. The parties hereby release RANM, the real estate brokers, their agents and employees from any liability arising out of the use of this form. You should consult your attorney with regards to the effectiveness, validity, or consequences of any use of this form. The use of this form is not intended to identify the user as a REALTOR®. REALTOR® is a registered collective membership mark which may be used only by real estate licensees who are members of the National Association of REALTORS® and who subscribe to the Association's strict Code of Ethics.

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3. BUYER'S ACKNOWLEDGMENT

- (a) Buyer has received copies of all information listed above.
- (b) Buyer has received the pamphlet "Protect Your Family From Lead in Your Home."

4. BUYER'S RIGHTS

Buyer has:

- (a) received a ten day opportunity (or mutually agreed upon period) to conduct a risk assessment or inspection for the presence of lead-based paint and/or lead-based paint hazards; or
- (b) waived the opportunity to conduct a risk assessment or inspection for the presence of lead-based paint and/or lead-based paint hazards.

5. AGENT'S CERTIFICATION

The Seller's Broker and the Buyer's Broker (if paid by the Seller or Seller's Broker) are the "agents" who are required to comply with the Regulations and sign this form, regardless of their brokerage relationships.

A. Agent has informed Seller of Seller's obligations under Sec. 42 U.S.C.A. 4852d to:

- (1) provide Buyer with the federally approved pamphlet, "Protect Your Family from Lead in Your Home;"
- (2) complete this Lead-Based Paint Addendum before giving it to Buyer;
- (3) disclose any known lead-based paint or lead-based paint hazards in the Property;
- (4) deliver to Buyer a list of and copies of all records and reports pertaining to lead-based paint and/or lead based paint hazards in the Property;
- (5) provide Buyer with a ten-day (10) period (or other period mutually agreed in writing by Buyer and Seller) to have the Property inspected;
- (6) retain a completed copy of this Addendum for at least three (3) years following the closing of the sale.

B. Agent is aware of Agent's duty to ensure compliance with the requirements of Sec. 42 U.S.C.A. 4852d.

Warning

Provisions of this form are required by Federal regulations and should not be revised.

Certification

Each of the following parties has reviewed the information above and certifies, to the best of his or her knowledge, that the information provided by that party is true and accurate.

SELLER

Seller Signature	Date	Time
Seller Signature	Date	Time
Robert Macias		
Seller Names (Print)		
Las Cruces		State
Seller Address		Zip Code
Seller Home Phone	Business Phone	Fax
Email Address		

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BUYER

Buyer

Date

Time

Buyer

Date

Time

Buyer Names (Print)

Email Address

Buyer Address

City

State

Zip Code

Buyer Home Phone

Business Phone

Fax

SELLER'S BROKER

Garland Realty & Development LLC

Listing Firm

By (Signature)

Date

Time

Bruce McDougall

By (Print)

Broker is is not a REALTOR®

Address

City

State

Zip Code

Business Phone

Fax

Email Address

BUYER'S BROKER

International Realty Plus New Mexico

Selling Firm

By (Signature)

Date

Time

J. Lance Swarengin

By (Print)

Broker is is not a REALTOR®

1705 N. Valley Dr. Ste 1

Address

Las Cruces

City

NM

State

88007

Zip Code

Business Phone

Fax

Email Address



City of Las Cruces®

ADDENDUM 2

October 28, 2009
L-09-588

Mr. Robert Macias
1200 Poplar
Las Cruces, NM 88001

Dear Mr. Macias:

The City of Las Cruces is interested in acquiring property you own at 1200 Poplar, Las Cruces, NM 88001 for a proposed project which will receive funding assistance from the U.S. Department of Housing and Urban Development (HUD) through the State of New Mexico, Local Government Division (LGD) under the Neighborhood Stabilization Program (NSP).

Please be advised that the City of Las Cruces possesses eminent domain authority to acquire property. However, in the event we cannot reach an amicable agreement for the voluntary purchase of your property, we will not pursue its acquisition under eminent domain. Your property is not a necessary part of the proposed project and is not intended, planned, or in a designated project area where substantially all of the property within the area is to be acquired.

We are offering you \$115,000 to purchase your property (See attached formal offer). We believe this amount represents the Fair Market Value (FMV) of your property. FMV will be confirmed through a formal appraisal after an offer is negotiated or accepted. The FMV price must then be discounted by one percent (1%) to meet the requirements of the NSP at Article IX.C, as amended, of the grant agreement from the State of New Mexico, Local Government Division, to the City of Las Cruces.

If you have any questions about this notice or the proposed project, please contact Jerry Nachison, City of Las Cruces, Community Development Department, Housing Development Coordinator at 575-528-3208 or at his office, 575 S. Alameda, Room 152, in Las Cruces.

Sincerely,

David Weir
Community Development Director

cc: David Dollahon, Neighborhood Services Administrator 
Jerry Nachison, Housing Development Coordinator
Ray Sartin, Home Rehabilitation Coordinator
Grantee file

Seller's Initials



REALTORS® ASSOCIATION OF NEW MEXICO
GENERAL ADDENDUM No. 3 2009

This Addendum is part of the Purchase Agreement Form-2104 Agreement (the "Agreement")
dated , between City of Las Cruces
and Seller relating to the following Property:
1200 Poplar Las Cruces
Address City
Dona Ana NM
County State

Legal Description
or see metes and bounds description attached as Exhibit , County, New Mexico.

The following is added to the Agreement:

- 1. Settlement/Signing Date shall be on or before 59 days of acceptance of the agreement.
2. The Buyer has 21 working days Due Diligence to reach a conclusion on feasibility of purchase of the property.
3. Funding shall be on or before 60 days of acceptance of offer.
4. If Lead Based Paint inspection is positive, Buyer will need an additional 10 working days to determine cost impact on feasibility.
5. The Buyer requests the property owner to complete additional rehabilitation on the property and make it ADA accessible as described in Exhibit #3 as a condition of purchase of the property.

If there is any conflict between the provisions of the Agreement and this Addendum, the provisions of this Addendum will control. The remaining provisions of the Agreement will remain in effect.

Signature Date Time Signature Date Time
City of Las Cruces
Signature Date Time
By Terrance Moore-City Manager

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GARLAND REALTY & DEVELOPMENT, LLC

2970 North Main Street, Las Cruces, NM 88001

Office: 575-524-7266 Fax: 575-524-4820



REALTORS® ASSOCIATION OF NEW MEXICO COUNTY ASSESSOR'S PROPERTY TAX LEVY REQUEST AND CERTIFICATE - 2009

Bruce McDougall - Garland Realty & Dev LLC, Listing Broker, on behalf of Seller requests that the Dana Pina County Tax Assessor furnish the following information for the list price of \$ 105,900 in accordance with the New Mexico Estimated Property Tax Levy Disclosure with respect to the following property:

Property Address 1200 Poplar Ave Parcel ID 02-05476 Legal Description Washington Heights Subd. Blk F Lots

New Mexico law requires that upon request, a County Assessor must furnish in writing an Estimated Property Tax Levy with respect to a residential Property in the County, calculated at a Property value specified by the requestor. The County Assessor must comply with the request by the close of business of the business day following the day the request is received. A County may satisfy this obligation through an internet site or other automated format that allows a user to print the requested Estimated Property Tax Levy.

REQUESTED BY SELLER:

Seller [Signature] Date 8/21/09 Time 9:27 Broker [Signature] Date Time

PLEASE RETURN VIA FAX TO THE ABOVE BROKER AT: Or via email to:

PROPERTY TAX LEVY CERTIFICATE (To be completed by the County Assessor's Office)

The following items are required to be provided by the County Assessor:

Actual amount of Property tax levied for the current calendar year: \$ 445.88 - 09 (or if not available) the amount of Property tax levied for the prior calendar year: \$ 432.90 - 08

The ESTIMATED Property Tax Levy for the year following the current tax year based upon the above list price: \$ 952.54 - 10

The Estimated Property Tax Levy is calculated using the stated price and estimates of the applicable tax rates. The County Assessor is required by law to value the Property at its "current and correct" value, which may differ from the listed price. Further, the estimated tax rate may be higher or lower than those that will actually be imposed. Accordingly, the actual tax levy may be higher or lower than the estimated amount. New Mexico law requires your real estate Broker or agent to provide you an Estimated Property Tax Levy on the Property you have submitted or intended to submit an Offer to Purchase. All real estate Brokers and agents who have complied with these disclosure requirements shall be immune from suit and liability from suit relating to the Estimated Property Tax Levy.

County Tax Assessor Representative [Signature] Date 8/21/09 Time 10:00

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TOTAL P. 002 [Signature]



REALTORS® ASSOCIATION OF NEW MEXICO
CERTIFICATION OF DELIVERY AND ACKNOWLEDGMENT
OF RECEIPT OF ESTIMATED PROPERTY TAX LEVY - 2009

TAX YEAR 2008

Buyer(s) City of Las Cruces, By Terrance Moore-City Manager

Seller(s)

Property Address 1200 Poplar, Las Cruces, NM 88001

Parcel ID 02-05476

[X] COUNTY ASSESSOR'S ESTIMATED PROPERTY TAX LEVY IS ATTACHED.

I, Seller's Broker, provided a copy of the Assessor's response to my request for the Estimated Property Tax Levy on the above-identified Property to [] Buyer [] Buyer's Broker on this ___ day of ___, ___.

Seller's Broker Date

I, Buyer's Broker, do hereby acknowledge that I received an Estimated Property Tax Levy on the above referenced Property from [X] Seller [] Seller's Broker on the 27th day of October, 2009 and that I provided the same to Buyer on the 27th day of October, 2009.

Signature of John Lance Swarengin, Buyer's Broker, and Date 10.31.09

I, Buyer, hereby acknowledge receipt of the Estimated Property Tax Levy provided to me by [X] Buyer's Broker [] Seller's Broker on this 27th day of October, 2009.

Signature of Buyer, City of Las Cruces, By Terrance Moore-City Manager, and Date 10/31/09

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ALL FIELDS DETAIL

Exhibit # 2



MLS #	809277	363	# Bedrooms	3
Status	Active		# Baths	1
Type	House		# Fireplaces	0
Address	1200 POPLAR AVENUE		Year Built	1958
Address 2			Garage Capacity	0
City	LAS CRUCES		Carpport Capacity	1
State	NM			
Zip	88001			
Area	Loma Heights			
Class	RESIDENTIAL			
Asking Price	\$105,900			
Sale/Rent	For Sale			
IDX Include	Yes			

GENERAL

County	Dona Ana	New Vs. Resale	Resale
Agent	BRUCE MCDUGALL - CELL: (575) 642-4485	Listing Office 1	GARLAND REALTY & DEVELOPMENT, LLC., - Main: (575) 524-7266
Listing Agent 2		Listing Office 2	
Entry Only Listing	No	Limited Service Listing	No
Code	3	Listing Date	8/20/2009
Expiration Date	10/31/2009	Owner	MACIAS
Phone Number		Phone Type	
Subdivision	Washington Heights	Type of Structure	Site Built Home
Style	Ranch	How to Show	Vac/LB
Alarm Activated	No	SQFT Source	Public Records
Appx House Sq Footage	875	Bedroom Size	
Kitchen Size		Living Room Size	
Dining Room Size		Family Room Size	
Age	21 years or more	Garage Type	None
Carpport Type	Covered	Lot Size	.25 to .50 AC
Actual Lot Size	6500 sq ft	Actual Lot Size Source	Public Records
Impact Fees	No	Parcel ID	02-05476
Add Parcel ID		Associated Document Count	2
Legal	Washington Heights Subd. Blk F, Lot 5	Landscaping	
Association/Condo Fee	No	Earnest Money Payable To	
3rd Party Approval	No	Short Sale	No
Automated Valuation	Yes	Blogging	Yes
Court Approval	No	Builder	
Cumulative DOM	68	Cumulative DOMLS	68
Mapping		Tax ID	
Update Date	8/21/2009	Status Date	8/20/2009
HotSheet Date	8/20/2009	Price Date	8/20/2009
Input Date	8/20/2009 6:45:00 PM	Off Market Date	
Original Price	\$105,900	Contingency Remarks	
Days On Market	68	Price/Apx SQFT	\$121.03
Days On MLS	68		

FEATURES

POSSESSION

At Funding

SOLD STATUS

How Sold
 Buyer From Location
 Closing Date
 Selling Agent 1
 Selling Agent 2
 Sale Concessions

Buyer Profile
 Contract Date
 Sold Price
 Selling Office 1
 Selling Office 2

DIRECTIONS

Solano East Poplar House on your right

REALTOR INFO

House being remodeled perfect for a first time home buyer. Will be finished September 15, 2009.

PUBLIC INFO

Total remodel in progress

DISCLAIMER

This information was extracted from copyrighted compilations. It is believed reliable but not guaranteed. This data shall not be altered, reproduced, redistributed, sold, or otherwise copied without expressed written consent of MLIS or Listing Broker.

EXHIBIT 3**RE: 1200 Poplar, Las Cruces, NM 88003**

The owner is requested to complete the following additional renovations to the property, in accordance with applicable building codes, permits, and inspections. Final purchase is contingent upon the satisfactory completion of all the following items as determined by the City of Las Cruces.

1. Ensure all rehabilitation on the property done to date has been appropriated permitted, meets applicable building codes, and has passed the appropriate inspections.
2. Replace all windows *. One window in each bedroom must meet egress requirements. Windows in bedrooms must be single hung type to allow for accessibility.
3. Install 1" insulating board to the exterior of the house, stucco entire exterior.
4. Remove the insulation from the existing HVAC duct work, raise the duct up to allow for insulation, seal all joints with mastic then reinstall the insulation. Replace the roof jack and all rusted ductwork. Replace the A/C. Install a programmable thermostat for the furnace and a thermostat switch for the A/C. The HVAC system must be permitted and pass inspection.
5. Replace the water heater * with a new one.
6. Correct the shower valve and piping for the laundry room permit issues and have inspected.
7. Replace all interior doors to allow for a minimum 32" clear opening. A slider or a door opening into the hall will be needed to allow accessibility in the bathroom.
8. Lower kitchen and bathroom cabinets to 34". Move stove away from wall 12".
9. Supply refrigerator and stove *. The location of the range controls shall not require reaching across any burners.
10. Add insulation to attic to provide R-30 minimum.
11. Adjust the height of required receptacle outlets, switches, and operable controls to within one or more of the reach ranges specified in the ICCANSI A117.1 for Type B Dwelling Units.
12. At least one window in each bedroom must have the operable parts placed within one or more of the reach ranges specified in the ICCANSI A117.1 for Type B Dwelling Units.
13. Install backing for grab bars in the frame wall behind the toilet and shower valve.
14. Lower threshold at front door to the 3/4" beveled maximum allowed.
15. Replace toilet with one that is 17-19" tall.
16. Remove storage shed in backyard and landscape. Landscaping must have an area appropriate for children to play and must have minimal maintenance. The landscape design plan is subject to approval by the City of Las Cruces.

* All appliances, heating and cooling equipment, doors and windows must all have Energy Star labels.

Note: All accessible piping and ductwork must be insulated.



Exhibit "B"

GARLAND REALTY & DEVELOPMENT, LLC

2970 North Main Street, Las Cruces, NM 88001

Office: 575-524-7266 Fax: 575-524-4820



REALTORS® ASSOCIATION OF NEW MEXICO COUNTEROFFER NO. 1-one - 2009

This Counteroffer is made a part of the Residential Commercial Vacant Land Farm and Ranch Purchase Agreement dated November 6, 2009 between City of Las Cruces, by, Terrance Moore-City Manager ("Buyer") and Robert Macias-owner of record ("Seller") and relating to the purchase of the following Property:

1200 Poplar Las Cruces
Address City

Washington Heights Blk F Lot 5
Legal Description

or see metes and bounds description attached as Exhibit na, Dona ana County, New Mexico.

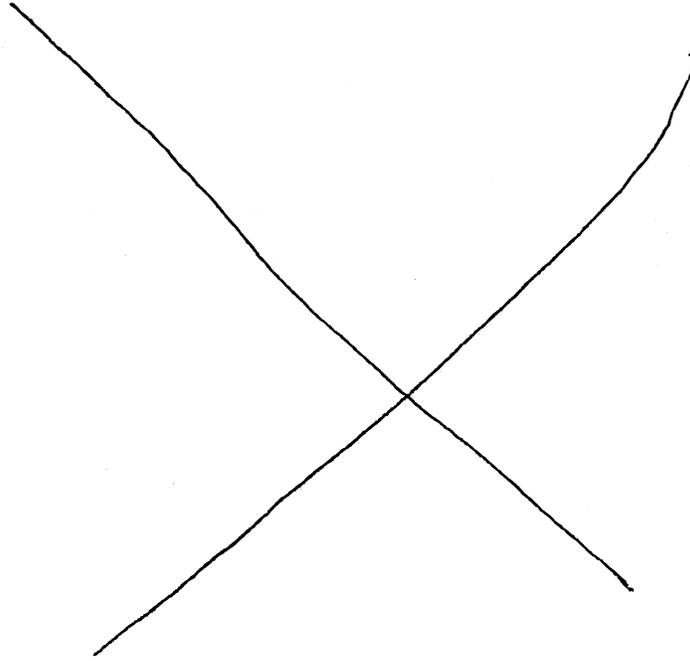
Counteroffers that are not expressly listed here are not incorporated into the Purchase Agreement. Counteroffers na are incorporated by reference into the Purchase Agreement of the parties, except as expressly modified by this Counteroffer.

Buyer and Seller accept the Purchase Agreement, subject to the following changes:

1. Purchase price to be \$103,000.00
2. Seller to furnish existing survey dated 7/20/09
3. Buyer to furnish flood zone cert if required
4. Buyer to furnish termite/wood destroying insect report if required
5. Seller to remove storage shed & landscape as follows:
one color gravel rock (3/8 tan), landscape fabric, drip irrigation to plants, 12 shrubs- 5 gallon, 1- 15 gallon tree, landscape design to be provided to City. Approximate value of landscaping \$4,500-\$5000.

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REALTORS® ASSOCIATION OF NEW MEXICO
COUNTEROFFER NO. 1-one - 2009



All other terms and conditions of the Purchase Agreement remain the same.

This offer will expire unless acceptance is delivered in writing to Buyer or Buyer's Broker or Seller or Seller's Broker on or before 11-10-09 at 5 pm am pm Mountain Time.
If not accepted, this offer can be withdrawn at any time before the expiration date.

It is recommended that the receiving party not sign this Counteroffer if making a subsequent Counteroffer. However, it is recommended the pages be initialed.

BUYER

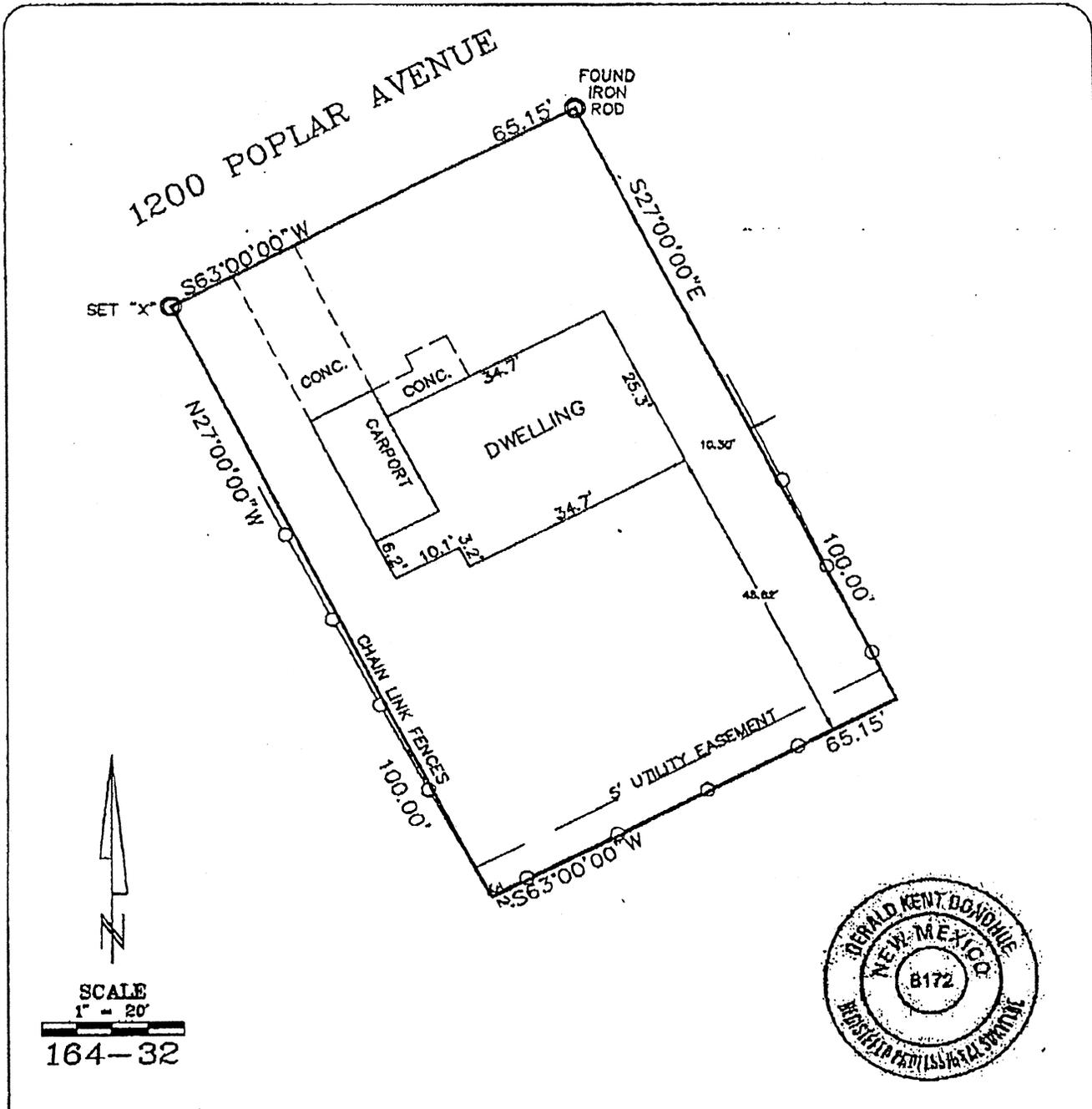
Buyer _____ City of Las Cruces, by _____ Date _____ Time _____

Buyer _____ Terrance Moore-City Manager 12/1/09 8:43 p.m.

SELLER

Seller _____ Robert Macias-owner of record _____ Date _____ Time _____

Seller _____ Date _____ Time _____



**PLAT OF SURVEY OF LOT 5, BLOCK F,
WASHINGTON HEIGHTS**

Not For Construction Purposes
 Filed 7-25-1967 in Bk. 7 Pg. 57
 City of Las Cruces, Dona Ana County,
 New Mexico. Date of Survey 7-20-2009.

I certify, as a licensed surveyor in the State of New Mexico, that this plat meets or exceeds the standards for land surveys in New Mexico.
Gerald K. Donohue
 GERALD K. DONOHUE P.L.S. 8172
 DONOHUE LAND SURVEYS
 100 WYATT DRIVE
 SUITE A
 LAS CRUCES, NM 88005
 1-575-523-1114



City of Las Cruces

**Community Development
Memorandum**

To: Terrence Moore, City Manager

From: Jerry Nachison, Housing Development Coordinator

Through: David Dollahon, Neighborhood Service Administrator *DD*
 David Weir, Community Development Director *DW*

Subject: Acceptance of Counter Offer for 1200 Poplar

Date: November 30, 2009

File No.: M-09-262

Attached to this memorandum is an acceptance of the seller's counter offer for the single family residential property at 1200 Poplar.

1200 Poplar, Las Cruces, NM 88001 is a vacant NSP qualifying property that is not foreclosed. This purchase will be supported by both the NSP and the Department's Housing Rehabilitation Program.

Your signature supports our acceptance of the seller's counter offer, with minor modifications, as follows:

- Completion and approval of all current permitting requirements. i.e., notice for HVAC contractor, irrigation inspection approval, etc.
- Completion of the weather stripping on the exterior doors.
- Adjustment of exterior door onto the carport to ensure complete seal of weather stripping and threshold.
- Ensure all lights and smoke detectors are working properly.
- Removal of the abandoned electrical wiring on the roof.
- Item #5 of the owner's counter offer dated November 6, 2009 form. Please ensure the design is provided to us for review as we are planning an addition.

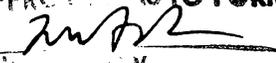
If the seller accepts our conditions, the final agreement will be forwarded to the Las Cruces City Council for approval at the regular scheduled meeting on December 21, 2009. Once approved, we will move to clearing of any conditions, then closing.

If there are any questions, I can be reached at 528-3208. Thank you.


 Approval _____ Date 12/1/09

cc: Grantee and Broker files

~~_____~~ Date _____
 Seller Signature

APPROVED AS TO FORM:

 City of Las Cruces



City of Las Cruces
Community Development
Memorandum

To: Terrence Moore, City Manager
From: Jerry Nachison, Housing Development Coordinator
Through: David Dollahon, Neighborhood Service Administrator
David Weir, Community Development Director
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If there are any questions, I can be reached at 528-3208. Thank you.

Approval Date 12/11/09

Date 12-3-09
Seller Signature

cc: Grantee and Broker files

APPROVED AS TO FORM:

City