

**ACTION SHEET
CITY COUNCIL COMMITTEE MEETING OF 11/12/14
ITEM FROM FINANCE COMMITTEE MEETING OF 11/03/14**

ISSUE:

11. Request for Concept Approval of Sale of Real Estate Containing Approximately 2352 Square Feet within a Portion of the West Alameda Road Right-of-Way Adjoining 131 Sandoval Street; Galisteo Street, Inc. (Edward Vigil)

FINANCE COMMITTEE ACTION: APPROVED AS CONSENT ITEM

Requested concept approval of sale of real estate containing approximately 2352 square feet within a portion of the West Alameda Road Right-of-Way adjoining 131 Sandoval Street with Galisteo Street, Inc. in the approximate amount of \$200,000. Budget is available project fund.

FUNDING SOURCE: 21117.450150

SPECIAL CONDITIONS OR AMENDMENTS

STAFF FOLLOW-UP:

VOTE	FOR	AGAINST	ABSTAIN
COUNCILOR TRUJILLO	X		
COUNCILOR RIVERA	X		
COUNCILOR LINDELL	X		
COUNCILOR MAESTAS	X		
CHAIRPERSON DOMINGUEZ			

3-17-14

**ACTION SHEET
ITEM FROM THE
PUBLIC WORKS/CIP AND LAND USE COMMITTEE MEETING
OF
MONDAY, OCTOBER 27, 2014**

ITEM 10

REQUEST FOR CONCEPT APPROVAL OF SALE OF REAL ESTATE CONTAINING APPROXIMATELY 2352 SQUARE FEET WITHIN A PORTION OF THE WEST ALAMEDA ROAD RIGHT OF WAY ADJOINING 131 SANDOVAL STREET BY GALISTEO STREET INC. (EDWARD VIGIL)

PUBLIC WORKS COMMITTEE ACTION: Approved

FUNDING SOURCE:

SPECIAL CONDITIONS / AMENDMENTS / STAFF FOLLOW UP:

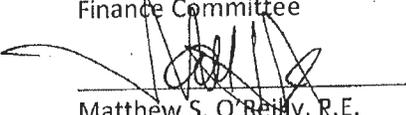
VOTE	FOR	AGAINST	ABSTAIN
CHAIRPERSON TRUJILLO			
COUNCILOR BUSHEE	X		
COUNCILOR DIMAS	Excused		
COUNCILOR DOMINGUEZ	X		
COUNCILOR RIVERA	X		

City of Santa Fe, New Mexico

memo

DATE: October 17, 2014

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

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

FROM: Edward J. Vigil, Property Manager 

ITEM

Request for concept approval of sale of real estate containing approximately 2,352 square feet within a portion of the West Alameda Road right-of-way adjoining 131 Sandoval Street by Galisteo Street, Inc. (Edward Vigil)

BACKGROUND

The subject parcel is a small, right-of-way remnant acquired by the city in 1972 by means of plat dedication as stated on De Vargas Urban Renewal Subdivision Dedication Plat recorded in Plat Book 25, page 11, records of Santa Fe County.

Ajna Seret of Galisteo Street Incorporated, owner of the adjacent property, has requested to purchase the subject parcel. The company has had limited rights to use the parcel since August 28, 2002 through a previously-approved License Agreement which allowed usage only for access and limited landscaping purposes. The proposed use of the parcel would be for vehicular parking and as a staging area to the adjoining business (Seret & Sons) as well as for access and landscaping.

This request was brought before the Public Works, C.I.P., and Land Use Committee on August 26, 2013 and at that time was remanded back to staff to discuss with the City Attorney's Office and the applicant options for use of the property and conditioning on the deed.

RECOMMENDED CONDITIONS

Staff recommends that conditions be placed on the deed requiring that the subject parcel: 1) be consolidated with the purchaser's adjacent parcel; and 2) be subject to existing utility easements. Public Works Department staff has also recommended that there be a reservation by the City of a portion of the subject parcel along its southerly boundary (approximately one foot wide) for the purpose of future widening for the adjacent sidewalk to seven feet to comply with City Code standards.

REQUESTED ACTION

This request is for conceptual approval of the sale of this remnant parcel. The purchaser will be directed to obtain an MAI-certified appraisal of the real estate should conceptual approval of the sale be approved by the Public Works and the Finance Committees. The sale will be brought to the Governing Body for final approval following review of the appraisal by Asset Development and City Attorney staff.

Staff of all relevant city departments have reviewed this request and have stated no objections to the sale and no conditions other than those described in the "Recommended Conditions" section of this memorandum. Staff estimates the sale price of the parcel to be approximately \$200,000.00 and recommends approval of this request.

- Exhibits:
- A – Draft Quitclaim Deed;
 - B – Request by Ajna Seret on behalf of Galisteo Street, Inc.;
 - C – De Vargas Urban Renewal Subdivision Dedication Plat, Plat Book 25, Page 11;
 - D – License Agreement dated 8/28/02;
 - E – Plat of Tract B recorded in Plat Book 581, pg. 12 (city parcel hatched area);
 - F – Copy of NMSA 1978 Section 3-54-1 (1999).

BUSINESS UNIT/LINE ITEM:
21117.460150

QUITCLAIM DEED

The City of Santa Fe, a municipal corporation, herein "Grantor", whose address is 200 Lincoln Ave. Santa Fe, NM 87504-0909, for good and adequate consideration, paid, quitclaims to Galisteo Street Inc., herein "Grantee", whose address is 224 Galisteo Street, Santa Fe, NM 87501, the following described real estate in Santa Fe County, New Mexico, being more particularly described as follows to-wit:

A tract of land lying and being situate within the City of Santa Fe, along the southerly boundary of 131 Sandoval Street and within the W. Alameda Street right of way, Santa Fe, New Mexico and being more particularly described as follows:

Beginning at a point being the southeast corner of the parcel herein described being a HUD Cap Stamped "DVUR 15", thence from said point of beginning, N. 48° 16' 25" W., a distance of 8.20 feet to a point; thence N. 42° 35' 56" W., a distance of 24.60 feet to a point; thence along a curve to the right, Delta of 11° 28' 21", Radius of 136.44 feet, Arc length of 27.32 feet, Chord bearing of N. 34° 50' 40" W. and Chord length of 27.27 feet; thence N. 28° 45' 46" W., a distance of 23.86 feet to a point; thence along a curve to the left, Delta of 16° 30' 03", Radius of 178.65 feet, Arc length of 51.45 feet, Chord bearing of N. 38° 50' 31" W. and Chord length of 51.27 feet to a point being the northwest corner; thence S. 53° 43' 32" E., a distance of 120.49 feet to a point being the northeast corner; thence S. 23° 05' 16" E., a distance of 38.61 feet to the point and place of beginning.

Subject to reservations, restrictions, easements of record and taxes for the year of 2014 and thereafter.

Further, by this deed, the real estate is subject to the following restrictions:

1. The property shall not be considered a legal lot of record for any purpose, but rather shall be consolidated with the adjoining lands commonly known as 131 Sandoval Street by Grantee.
2. This parcel is subject to right of way for utility purposes.

Witness my hand and seal this _____ day of _____, 2014.

GRANTOR:
CITY OF SANTA FE

BY: _____
JAVIER M. GONZALES, MAYOR

Exh. A

ATTEST:

YOLANDA Y. VIGIL,
CITY CLERK

APPROVED AS TO FORM:



KELLEY/BRENNAN,
CITY ATTORNEY

APPROVED:

FINANCE DIRECTOR

21117.460150
BUSINESS UNIT/LINE ITEM

ACKNOWLEDGEMENT

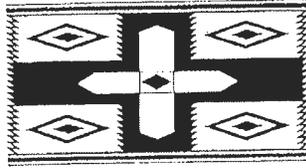
STATE OF NEW MEXICO)
) SS.
COUNTY OF SANTA FE)

The foregoing instrument was acknowledged before me this _____ day of _____,
2014 by Javier M. Gonzales, Mayor.

Notary Public

My commission expires:

(seal)



Seret & Sons
Rugs and Fine Furnishings

October 15, 2014

Edward Vigil, Property Manager
Land Use Department
City of Santa Fe
PO Box 909
Santa Fe, NM 87104

RE: Request to purchase approximately 2352 sq. ft of City of Santa Fe property along Alameda between Galisteo St. and Sandoval St.

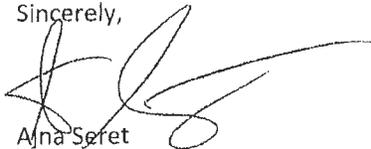
Dear Mr. Vigil,

The purpose of this letter is to formally request from the governing body the purchase of a small portion of property along Alameda St. between Galisteo St. and Sandoval St. consisting of approximately 2352 sq ft. (See Attachment).

As you know, I have a current license agreement with the City for the subject property. Please advise me of what needs to be submitted in order to start the review and approval process.

Thank you in advance for your assistance regarding this request. If you have any questions or comments, please call or write.

Sincerely,



Ajna Seret

Galisteo Street Inc / Seret and Sons

Cell: 505.231.0772

Exh. B.

2197812

**LICENSE AGREEMENT
FOR LANDSCAPING AND PEDESTRIAN ACCESS ENCROACHMENT
WITHIN CITY OWNED LAND**

THIS LICENSE AGREEMENT, made this 28th day of August, 2002
by and between the City of Santa Fe, New Mexico, a Municipal Corporation, (the "City");
and Galisteo Street, Inc., (the "Licensee").

WITNESSETH:

In consideration of Licensee's promises herein, City hereby gives the Licensee a License, revocable and terminable as hereinafter provided, to enter on the property of the City as follows:

1. **PREMISES.** Subject to all of the terms and conditions of this License, the City allows the Licensee to use and occupy that portion of the city owned land along the north side of West Alameda Street (the "Premises"). The area for landscaping and pedestrian access consisting of approximately 2,352 square feet, all as more fully described and shown on Exhibit "A" attached hereto and made a part hereof.
 - a. The City agrees to allow the use of City right-of-way for the purpose of a landscape planter area and pedestrian access only for the building with the address of 213 West Alameda Street for the Seret and Sons Rugs building. No other use of the City right-of-way shall be allowed.
 - b. No further encroachment shall be allowed in any manner beyond those actions necessary to maintain the landscaping by trimming, irrigating or replacing landscape plantings and features within the City owned land.
 - c. Commercial use of the City right-of-way by the Licensee in any manner, including but not limited to sale or display of merchandise, signs or structures shall be prohibited.
 - d. Failure of the Licensee to restrict the use of the Premises as provided herein shall be deemed a substantial breach of this License and shall constitute grounds for immediate termination by the City.
2. **TERM.** This License shall commence on the date entered in this License and continue until this License is terminated as provided in Article 4 herein.
3. **PAYMENT.** For this License, the Licensee shall pay the City the sum of one hundred dollars (\$100), in addition to a development review fee of two hundred dollars (\$200), payable in advance upon execution of this Agreement.

Exh. D

2197813

4. **TERMINATION.** The City may, upon 30 days written notice, revoke this License and the Licensee agrees, in that event, to peaceably and promptly surrender the Premises on the expiration date fixed in said notice, to remove all property placed on the Premises by Licensee and, if requested by the City, to restore the Premises to its original state at the time of Licensee's entry thereon. The Licensee may terminate this Agreement at any time upon 30 days written notice to the City. Upon termination of this license by either party, there shall be no refund of the license fee or any portion thereof.

5. **NO INTEREST CREATED.** The Licensee agrees that no interest or estate of any kind whatsoever in the Premises is conveyed by virtue of this license or occupancy or use hereunder, and no assignment of this license or any interest herein and no sub-license shall be made by the Licensee.

6. **INDEMNIFICATION AND INSURANCE.** The Licensee agrees to defend, indemnify and hold the City harmless from any liability for action, proceedings, claims, demands, damages, costs, losses and expenses resulting from, arising out of, or incidental to the occupation or use of said Premises by the Licensee, as well as that of any employees, agents, representatives or subcontractors of the Licensee.

7. **RECORDING-SHORT FORM MEMO.** This License Agreement shall be recorded in its entirety.

8. **OBLIGATION OF LICENSEE.** The Licensee shall comply with the following conditions:

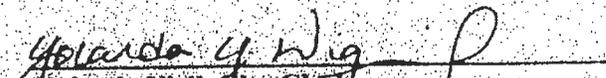
- a. This License is subject to the provisions of SFCC Section 14.8.4 and other applicable City code requirements.
- b. The approval of this License does not constitute issuance of a building permit.
- c. Licensee shall install bollards along the north side of the licensed area.

APPROVED THIS 28th DAY OF August, 2002.

CITY OF SANTA FE


Jim Romero, City Manager

ATTEST:


Yolanda Vigil, City Clerk

APPROVED AS TO FORM:


Bruce Thompson, City Attorney

2197814

LICENSEE:
GALISTEO STREET, INC.

BY: *Ira Seret*
IRA SERET, PRESIDENT

ACKNOWLEDGEMENT FOR NATURAL PERSONS

STATE OF NEW MEXICO)

) ss.

COUNTY OF SANTA FE)

The foregoing instrument was acknowledged before me this 12th August day of March, 2002

2002
1999, by: Ira Seret

(Print Name of Notary)

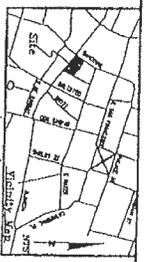
Melissa M. Ainsworth
Notary Public

My Commission Expires: 2-5-03
DATE

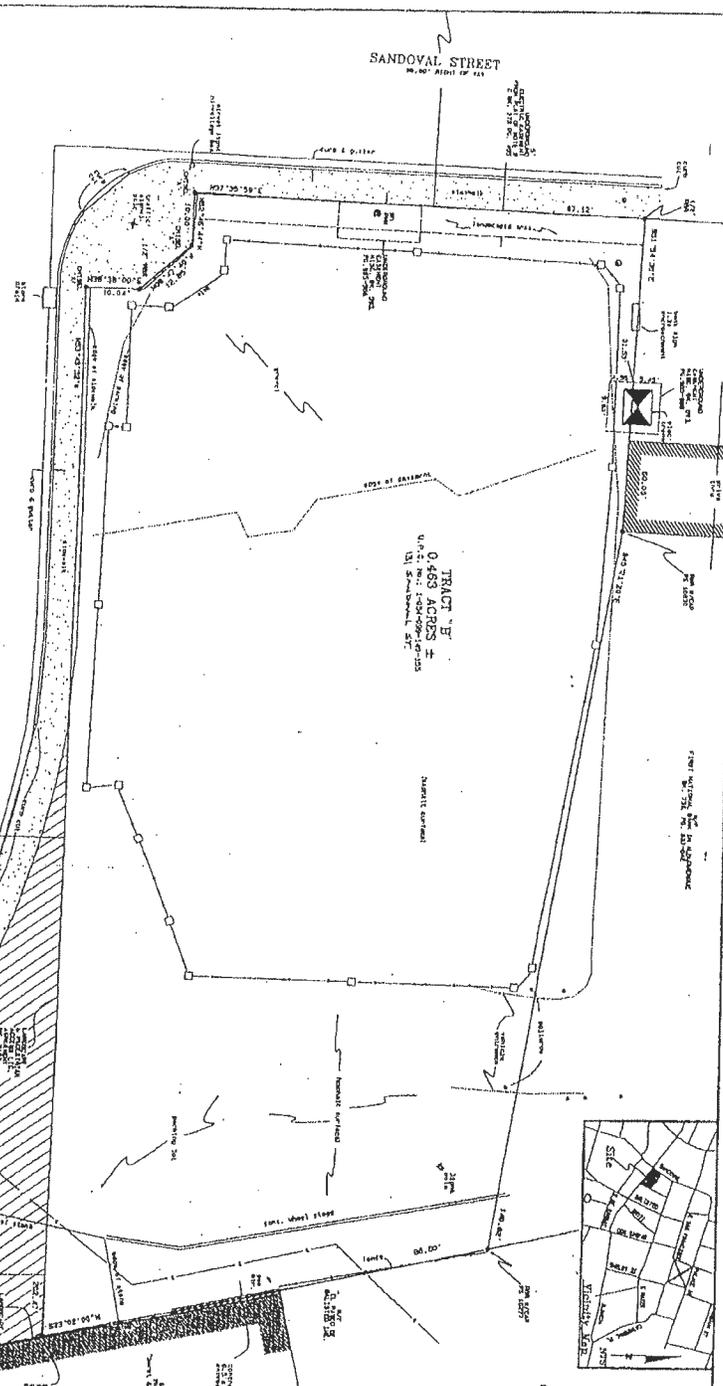


1221 347
COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss.
I hereby certify that this instrument was filed
for record on the 5th day of Aug, A.C.
20 02 at 10:57 o'clock A.m.
and was duly recorded in book 2197
page 812-815 of the records of
Santa Fe County
Witness my Hand and Seal of Office
Rebecca Bustamante
County Clerk, Santa Fe County, N.M.
Rebecca Bustamante
Deputy





Amended
BOUNDARY SURVEY PLAT
TRACT "B"
LITIG & BOUND SURVEY WORK BOOK 1 OF 3 VIGOR QUINN
REDACTED & BOUND SURVEY WORK BOOK 1 OF 3 VIGOR QUINN
A & B VIGOR QUINN, NEW MEXICO
Consulting 6400 Avenue A



City of Santa Fe Amendment Approval
 Date: 1/21/2005
 City Clerk: [Signature]

Special & Enforcement Order
 Date: 1/21/2005
 City Clerk: [Signature]

GENERAL COMMENTS:
 THIS SURVEY WAS CONDUCTED FOR THE PURPOSE OF BOUNDARY SURVEY WORK BOOK 1 OF 3 VIGOR QUINN, NEW MEXICO. THE SURVEY WAS CONDUCTED IN ACCORDANCE WITH THE SURVEYING ACT AND THE RULES AND REGULATIONS OF THE BOARD OF SURVEYING AND MAPPING. THE SURVEY WAS CONDUCTED ON THE DATE INDICATED ABOVE. THE SURVEY WAS CONDUCTED BY THE SURVEYOR INDICATED ABOVE. THE SURVEY WAS CONDUCTED IN ACCORDANCE WITH THE SURVEYING ACT AND THE RULES AND REGULATIONS OF THE BOARD OF SURVEYING AND MAPPING. THE SURVEY WAS CONDUCTED ON THE DATE INDICATED ABOVE. THE SURVEY WAS CONDUCTED BY THE SURVEYOR INDICATED ABOVE.

Amendment Statement
 THE SURVEY OF THIS TRACT BOUNDARY SURVEY WORK BOOK 1 OF 3 VIGOR QUINN, NEW MEXICO, IS TO BE AMENDED IN ORDER TO CORRECT THE BOUNDARY SURVEY WORK BOOK 1 OF 3 VIGOR QUINN, NEW MEXICO, TO BE IN ACCORDANCE WITH THE SURVEYING ACT AND THE RULES AND REGULATIONS OF THE BOARD OF SURVEYING AND MAPPING. THE SURVEY WAS CONDUCTED ON THE DATE INDICATED ABOVE. THE SURVEY WAS CONDUCTED BY THE SURVEYOR INDICATED ABOVE.

Surveyor's Certificate
 I, the undersigned, being a duly licensed and sworn surveyor under the laws of the State of New Mexico, do hereby certify that the foregoing is a true and correct copy of the original survey plat as the same appears in my office. I have compared the same with the original survey plat and find it to be a true and correct copy of the original survey plat as the same appears in my office. I have compared the same with the original survey plat and find it to be a true and correct copy of the original survey plat as the same appears in my office. I have compared the same with the original survey plat and find it to be a true and correct copy of the original survey plat as the same appears in my office.



1700 AVENUE G, SUITE 403
 ALBUQUERQUE, NEW MEXICO 87102
 PHONE: (505) 426-1700
 FAX: (505) 426-1700
 E-MAIL: [Email Address]

NO.	DATE	DESCRIPTION	BY
1	1/21/2005	AMENDED BOUNDARY SURVEY PLAT FOR TRACT B	[Signature]

HIGH DESERT SURVEYING, INC.
 PROFESSIONAL SURVEYING

Tract B

ARTICLE 54
SALE OR LEASE OF PROPERTY

Section	
3-54-1.	Authority to sell or lease municipal utility facilities or real property; notice; referendum.
3-54-2.	Sale, exchange and gift of property.
3-54-3.	Supplemental method for disposing of municipal property.

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

A. A municipality may lease or sell and exchange any municipal utility facilities or real property having a value of twenty-five thousand dollars (\$25,000) or less by public or private sale or lease any municipal facility or real property of any value normally leased in the regular operations of such facility or real property, and such sale or lease shall not be subject to referendum.

B. A municipality may lease or sell and exchange any municipal utility facilities or real property having an appraised value in excess of twenty-five thousand dollars (\$25,000) by public or private sale or lease, subject to the referendum provisions set forth in this section. The value of municipal utility facilities or real property to be leased or sold and exchanged shall be determined by the appraised value of the municipal utility facilities or real property and not by the value of the lease. An appraisal shall be made by a qualified appraiser and submitted in writing to the governing body. If the sale price is less than the appraised value, the governing body shall cause a detailed written explanation of that difference to be prepared, and the written explanation shall be made available to any interested member of the public upon demand.

C. If a public sale is held, the bid of the highest responsible bidder shall be accepted unless the terms of the bid do not meet the published terms and conditions of the proposed sale, in which event the highest bid which does meet the published terms and conditions shall be accepted; provided, however, a municipality may reject all bids. Terms and conditions for a proposed public sale or lease shall be published at least twice, not less than seven days apart, with the last publication no less than fourteen days prior to the bid opening, and in accordance with the provisions of Subsection J of Section 3-1-2 NMSA 1978.

D. Any sale or lease of municipal utility facilities or real property entered into pursuant to Subsection B of this section shall be by ordinance of the municipality. Such an ordinance shall be effective seventy days after its adoption, unless a referendum election is held pursuant to this section. The

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ordinance shall be published prior to adoption pursuant to the provisions of Subsection J of Section 3-1-2 NMSA 1978 and Section 3-17-3 NMSA 1978 and shall be published after adoption at least once within one week after adoption, pursuant to the provisions of Subsection J of Section 3-1-2 NMSA 1978. Such publications shall concisely set forth at least:

- (1) the terms of the sale or lease;
- (2) the appraised value of the municipal utility facilities or real property;
- (3) the time and manner of payments on the lease or sale;
- (4) the amount of the lease or sale;
- (5) the identities of the purchasers or lessees; and
- (6) the purpose for the municipality making the lease or sale.

E. In order to call for a referendum election on a sale or lease ordinance, a petition must be filed with the municipal clerk:

- (1) no later than sixty days after the adoption of the sale or lease ordinance;
- (2) containing the names, addresses and signatures of at least fifteen percent of the qualified electors of the municipality; and
- (3) containing the following heading on each page of the petition reprinted as follows:

ZOOM TO VIEW THE FOLLOWING FORM

"PETITION FOR A REFERENDUM

We, the undersigned registered voters of (insert name of municipality) petition the governing body of (insert name of municipality) to conduct a referendum election on ordinance number Ordinance number would cause a (insert "sale" or "lease") of municipal (insert "real property" or "utility facilities").

Date	Name (printed)	Address
	Signature."	

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

G. If the municipal clerk certifies to the municipal governing body that the petition does contain the minimum number of valid names, addresses and signatures required to call a referendum election on the sale or lease ordinance, the municipal governing body shall adopt an election resolution within fourteen days after the date the clerk makes such certification, calling for a referendum election on the sale or lease ordinance. The election resolution shall be adopted and published pursuant to the provisions of the Municipal Election Code [Chapter 3, Articles 8 and 9 NMSA 1978] governing special elections, and shall also concisely set forth:

- (1) the terms of the sale or lease;
- (2) the appraised value of the municipal utility facilities or real property;
- (3) the time and manner of payments on the lease or sale;
- (4) the amount of the lease or sale;
- (5) the identities of all purchasers or lessees; and
- (6) the purpose for the municipality making the lease or sale.

H. The referendum election on the sale or lease ordinance shall be held not later than ninety days after the election resolution is adopted. Such election shall be held at a special or regular municipal election and shall be conducted as a special election in the manner provided in the Municipal Election Code. Any qualified elector of the municipality may vote in such a referendum election.

I. If a majority of the votes cast are to approve the sale or lease ordinance, the sale or lease ordinance shall be effective after the election results have been canvassed and certified. If a majority of the votes cast are to disapprove the sale or lease ordinance, the ordinance shall not be effective.

History: 1953 Comp., 3-54-1, enacted by Laws 1983, ch. 115, 1; 1985, ch. 208, 119.

Cross-references. - As to lease of parking facilities, see 3-50-8 and 3-51-8 NMSA 1978.

Repeals and reenactments. - Laws 1983, ch. 115, 1, repealed former 3-54-1 NMSA 1978, relating to authority to sell or lease

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municipal utility or real property used for municipal purposes, and enacted a new 3-54-1 NMSA 1978.

"Terms" defined. - The word "terms" as used in Paragraph (1) of Subsection D refers to the amount, time and manner of payments. City of Clovis v. Southwestern Pub. Serv. Co., 49 N.M. 270, 161 P.2d 878 (1945).

Am. Jur. 2d, A.L.R. and C.J.S. references. - 56 Am. Jur. 2d Municipal Corporations, Counties, and Other Political Subdivisions 549 to 559.

Right to lease or convey park, square, or common, 18 A.L.R. 1259, 63 A.L.R. 484, 144 A.L.R. 486.

Sufficiency of compliance with condition of sale or lease by municipality of public utility plants, 52 A.L.R. 1052.

Mortgage or pledge of property or income therefrom, 71 A.L.R. 828.

Lease or sale of municipal plant, or contract therefor, as affecting right of municipality to compete, 118 A.L.R. 1030.

Implied or inherent power of municipal corporation to sell its real property, 141 A.L.R. 1447.

Constitutional prohibition of municipal corporation lending its credit or making donation as applicable to sale or leasing of its property, 161 A.L.R. 518.

Off-street public parking facilities, 8 A.L.R.2d 373.

Granting or taking of lease of property by municipality as within authorization of purchase or acquisition thereof, 11 A.L.R.2d 168.

Maintenance by municipal corporations of tourist or trailer camps, motor courts or motels, 22 A.L.R.2d 774.

Conveyance by municipality as carrying title to center of highway, 49 A.L.R.2d 982.

Power of municipality to sell, lease, or mortgage public utility plant or interest therein, 61 A.L.R.2d 595.

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

63 C.J.S. Municipal Corporations 962.

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