

ORDINANCE NO. 06-03

AN ORDINANCE OF THE CITY OF ROSWELL AUTHORIZING THE SALE OF A TRACT OR PARCEL OF VACANT LAND KNOWN AS 1304 WEST 2ND STREET, ROSWELL, NEW MEXICO. SUBJECT IS APPROXIMATELY .88 ACRE (38,333 SQUARE FEET). SUBJECT PROPERTY TO BE SOLD TO B & B CONSULTANTS AND PROVIDING FOR THE REPEAL OF ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY; AND FIXING AN EFFECTIVE DATE.

WHEREAS, the City of Roswell, New Mexico, has declared the disposition of the parcel of land listed herein for the sum of One Hundred Seventy-two Thousand Eight Hundred Dollars (\$172,800.00) as an equitable exchange in the best interest of the City.

NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY, THE CITY OF ROSWELL, NEW MEXICO, that:

SECTION 1. Description: The municipal property to be sold to B & B Consultants consists of 38,333 square feet (approximately .88 acre) located at the southeast corner of the intersection of 1304 West 2nd Street and North Montana Ave. Subject property is described as:

Portions of Block 13, Lots 1, 2, 3, 4, 5, 6 and 7 of the Wright's Addition, City of Roswell in Chaves County, New Mexico.

SECTION 2. Terms: Buyer agrees to pay cash at closing in the amount of One Hundred Seventy-two Thousand Eight Hundred Dollars (\$172,800.00). Consummation of the sale is contingent on franchisor site and site plan approval; City approval of Buyer's concept and trade-dress, signage (on-site pedestal), and curb cuts; and availability of all requested utilities; the City will provide title commitment and any instruments affecting title within 15 days of open of escrows; standard owner's policy (any additional survey's and/or changes requested by buyer will be at buyer's expense); Feasibility Period of 60 days from open date of escrow to allow Buyer to satisfy itself, according to its discretion, of status of title, survey, environmental status of property, suitability for Buyer's intended purposes, and to obtain franchisor site and site plan approvals and assurances of desired City/State approvals; Closing to occur within latter of 60 days after expiration of Feasibility Period (unless escrow terminated prior to said expiration) or completion of the City of Roswell "Ordinance" process; Earnest money of Five Thousand Dollars (\$5,000.00) due upon open of escrow, non-refundable after expiration of Feasibility Period, but applicable to purchase price at closing, if Buyer has not earlier terminated escrow by written notice to Seller. The City shall have approved the Buyer's proposed site plans and curb cuts (according to Buyer's design), said approval(s) to remain operative through such time, as Buyer shall have completed construction of its intended improvements.

SECTION 3. Value: The value of the municipally owned property has been established by an appraisal dated September 16, 2003. Appraised value was given under two conditions; site cleaned and bare of structures One Hundred Ninety-two Thousand Dollars (\$192,000.00); or if parcel is sold "as-is", One Hundred Eighty-Seven Thousand Dollars (\$187,000.00), approximately \$4.88 per square foot.

SECTION 4. Buyer: B & B Consultants, Inc., a corporation, for the location of a SONIC DRIVE-IN restaurant facility.

SECTION 5. Purpose: 1) To allow for the sale of excess municipally owned property; 2) to promote good in-fill development; 3) to promote economic development and growth in the area.

SECTION 6. Repealer: All ordinances or parts of ordinances in conflict or inconsistent herewith are to be hereby repealed to the extent of such conflict or inconsistency. This repealer shall not be construed to revive any ordinance or part of any ordinance heretofore repealed.

SECTION 7. Severability: If any section, paragraph, clause, or provision of this ordinance for any reason shall be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any other part of this ordinance.


SECTION 8. Effective date: This ordinance shall be effective forty-five days after its adoption, unless a referendum election is held pursuant to Section 3054-1 (E) NMSA 1978. A petition

calling for a referendum election on the sale of this property must be filed no later than thirty days after the adoption of the ordinance and must comply with requirements of Section 3-54-1(E) NMSA 1978. In the event that a referendum election is held, the effective date shall be as prescribed by statute.

SECTION 9. Authorization: On or after the effective date of this ordinance, the Mayor, City Clerk, or other City officials as may be necessary, are hereby authorized to execute the documents of sale and deed in accord with the terms of this agreement.

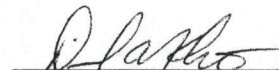
PASSED, ADOPTED, SIGNED AND APPROVED on this 10th day of August, 2006.

CITY SEAL



Sam D. LaGrone, Mayor

ATTEST:



Dave Kunko, City Clerk