January 28, 2013

TO: ACHD Board of Commissioners &
Bruce S. Wong, Director

FROM: Lorie Baird, Right-of-Way Agent/
Real Estate Management Specialist
Real Estate Section

SUBJECT: Public Hearing Declaring Surplus Property and Directing Sale of 12223 W. Cloverwood,
Boise.

AGENDA ITEM – February 6, 2013 Commission Meeting

FACTS & FINDINGS:

(1) The Ada County Highway District ("ACHD") is the owner of real property located in Ada
County, Idaho, more particularly described on Exhibit "A" attached hereto (the "Subject
Property").

(2) The municipal address of the Subject Property is 12223 W. Cloverwood, Boise,
and the site is depicted on Exhibit "B" attached hereto.

(3) The Subject Property is not right-of-way required for any Project or any future planned
expansion of the adjoining ACHD public right-of-way, and in no other respect is it needed by
ACHD in connection with the performance of its highway or other statutory responsibilities.

(4) An independent appraisal of the Subject Property dated September 26, 2012 by
Benchmark Appraisal, set its fair market value at $190,000.00.

(5) Within the meaning of Idaho Code, section 40-1309, the Subject Property is no longer
useful to ACHD and it is surplus property. It is in the best interests of the District that the
Subject Property be sold as surplus property.

(6) Before ACHD can sell or exchange the Subject Property as surplus property, Idaho
Code, section 40-1309, requires that the Commission conduct a public hearing at which any
person may appear and show cause that the subject property is still useful to the District and
that the proposed sale or exchange of the subject property should not be made. If the Commissioners determine that the sale or exchange of the Subject Property is in the best interests of the District, the Commission shall adopt a resolution finding that the Subject Property is no longer useful to ACHD and finding that the Subject Property is surplus property and that it should be sold or exchanged and establishing the procedures for the public sale.

(7) The public hearing on this matter is scheduled for February 6, 2013 at 12:00 pm. Notice of the public hearing was published in accordance with Idaho Code, section 40-206 and is attached hereto as Exhibit “C”.

(8) Absent cause being shown at the scheduled public hearing that the Subject Property is still useful to the District and why the sale of the Subject Property should not be made, after the public hearing is closed staff recommends that the Subject Property be declared surplus with a determined fair market value of $190,000.00 and that it be found to be in the best interests of the ACHD and it patrons that the Subject Property be offered for sale as surplus property.

(9) Before the District disposes of the Subject Property at public sale it must first notify any person who owns real property which is contiguous with the Subject Property that he has first option to purchase the Subject Property for an amount not less than the current determined fair market value of $190,000.00. Staff recommends that if an owner of real property which is contiguous with the Subject Property agrees to purchase the Subject Property for an amount not less than the current determined value of $190,000.00, the Director be authorized and directed to execute the contract of sale and any other documents required to complete the transaction, and the President of the Commission be authorized and directed to execute the Quitclaim Deed without further notice and without further action by the Commission.

(10) If the Subject Property is not purchased by any person who owns real property which is contiguous with the Subject Property and a public sale becomes necessary, staff recommends that the terms and requirements of the public sale should be:

a. the public sale shall be by solicited sealed bids.

b. the minimum bid shall be not less than one hundred percent (100%) of the current determined fair market value of the Subject Property, $190,000.00;

c. the high bidder shall pay to ACHD 10 percent (10%) of the purchase price by cash or cashier’s check drawn on a national or state of Idaho chartered bank, by 4:30pm on the day of the auction with the remainder due at closing, not more than 90 days after the day of the auction;

d. upon receipt of full payment, ACHD will convey title to the Subject Property “as-is” without warranty of any kind, by Quitclaim Deed;

e. ACHD reserves the right to reject any and all bids presented at the auction.

(11) If ACHD is unable to sell the Subject Property to the owner of contiguous property or at the public sale, Staff recommends that the Chief of Staff be authorized and directed to
negotiate the sale of the Subject Property by public or private sale, at a price not less than the determined fair market value, or at a price less than the determined fair market value with Commission approval.

(12) A proposed form of Resolution is attached hereto as Exhibit “D”.

FISCAL IMPACT

ACHD will convert an asset it has no use for into cash that it can use for highway purposes.

ALTERNATIVES:

1. Adopt the attached Resolution Number 1080 finding that the Subject Property is no longer useful to the Ada County Highway District or necessary for its use, and finding that the Subject Property should be sold or exchanged and establishing the procedures for the public sale.

2. Do not find that the Surplus Property is no longer useful to ACHD and/or necessary for its use and take no further action.

RECOMMENDATIONS

Recommend the Board adopt Alternative 1.

ENCLOSURES:

1. Exhibit “A”, Legal description of Subject Property
2. Exhibit “B”, Map showing site location
3. Exhibit “C”, Notice of Public Hearing
4. Exhibit “D”, Resolution Number 1080
EXHIBIT “A”

Project No. 310009
12223 Cloverwood Court, Boise

· Parcel 6 ·
Remainder Parcel Description

A parcel located in the SE ¼ of Section 33, Township 4 North, Range 1 East, Boise Meridian, and being a part of Lot 4 of Block 1 of WILLOW GROVE SUBDIVISION as shown in Book 50 of Plats at Page 4184 in the office of the Recorder, Ada County, Idaho, more particularly described as follows:

Commencing at a brass cap monument marking the southeasterly corner of said SE ¼ from which a 5/8 inch diameter iron pin marking the northeasterly corner of said SE ¼ bears N 0°54'4" E a distance of 2654.71 feet:

Thence N 0°54'04" E along the easterly boundary of said SE ¼ a distance of 238.52 feet to a point;

Thence leaving said easterly boundary N 89°05'56" W a distance of 40.00 feet to the northeasterly corner of said Lot 4;

Thence N 71°35'26" W along the northerly boundary of said Lot 4 a distance of 13.63 feet to the POINT OF BEGINNING;

Thence continuing N 71°35'26" W a distance of 149.69 feet to a point;

Thence continuing along said northerly boundary S 77°15'04" W a distance of 79.89 feet to the northwesterly corner of said Lot 4;

Thence S 15°31'21" W along the westerly boundary of said Lot 4 a distance of 30.71 feet to a point on the right-of-way of Cloverwood Court;

Thence along said right-of-way the following described courses:

Thence N 71°49'32" E a distance of 50.78 feet to a point;

Thence a distance of 69.31 feet along the arc of a 95.00 foot radius curve right, said curve having a central angle of 41°48'00" and a long chord bearing S 87°16’28” E a distance of 67.78 feet to a point;

Thence S 66°22’28” E a distance of 21.25 feet to a point;
Thence a distance of 106.30 feet along the arch of a 45.00 foot radius curve right, said curve having a central angle of $135^\circ20'39"$ and a long chord bearing S $1^\circ17'51"$ W a distance of 83.25 feet to a westerly corner of said Lot 4;

Thence leaving said right-of-way S $37^\circ04'28"$ E along the westerly boundary of said Lot 4 a distance of 32.57 feet to an angle point in said westerly boundary;

Thence continuing along said westerly boundary S $0^\circ15'32"$ W a distance of 97.80 feet to the southwesterly corner of said Lot 4;

Thence S $89^\circ44'29"$ E along the southerly boundary of said Lot 4 a distance of 38.54 feet to a point;

Thence leaving said southerly boundary N $45^\circ34'48"$ E a distance of 47.93 feet to a point;

Thence N $0^\circ54'04"$ E a distance of 169.51 feet to the POINT OF BEGINNING.

This parcel contains 19,089 square feet (0.438 acres) and is subject to any easements existing or in use.
NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN, that the Board of Commissioners of the Ada County Highway District will hold a public hearing in accordance with the provisions of Idaho Code, section 40-1309 and ACHD Policy section 2033.2.2, to consider whether the following described real property ("Subject Property") located in Ada County, Idaho, is no longer useful to the District and is surplus property and should be sold. At the public hearing, any person interested may appear and show cause that the Subject Property is still useful to the District and that the proposed sale should not be made.

Street Address: 12223 W. Cloverwood, Boise

Legal Description:

A parcel located in the SE ¼ of Section 33, Township 4 North, Range 1 East, Boise Meridian, and being a part of Lot 4 of Block 1 of WILLOW GROVE SUBDIVISION as shown in Book 50 of Plats at Page 4184 in the office of the Recorder, Ada County, Idaho, more particularly described as follows:

Commencing at a brass cap monument marking the southeasterly corner of said SE ¼ from which a 5/8 inch diameter iron pin marking the northeasterly corner of said SE ¼ bears N 0°54'4" E a distance of 2654.71 feet:

Thence N 0°54'04" E along the easterly boundary of said SE ¼ a distance of 238.52 feet to a point;

Thence leaving said easterly boundary N 89°05'56" W a distance of 40.00 feet to the northeasterly corner of said Lot 4;

Thence N 71°35'26" W along the northerly boundary of said Lot 4 a distance of 13.63 feet to the POINT OF BEGINNING;

Thence continuing N 71°35'26" W a distance of 149.69 feet to a point;

Thence continuing along said northerly boundary S 77°15'04" W a distance of 79.89 feet to the northwesterly corner of said Lot 4;

Thence S 15°31'21" W along the westerly boundary of said Lot 4 a distance of 30.71 feet to a point on the right-of-way of Cloverwood Court;

Thence along said right-of-way the following described courses:

Thence N 71°49'32" E a distance of 50.78 feet to a point;

Notice of Public Hearing
(8-1-12)
Thence a distance of 69.31 feet along the arc of a 95.00 foot radius curve right, said curve having a central angle of 41°48'00" and a long chord bearing S 87°16'28" E a distance of 67.78 feet to a point;

Thence S 66°22'28" E a distance of 21.25 feet to a point;

Thence a distance of 106.30 feet along the arc of a 45.00 foot radius curve right, said curve having a central angle of 135°20'39" and a long chord bearing S 1°17'51" W a distance of 83.25 feet to a westerly corner of said Lot 4;

Thence leaving said right-of-way S 37°04'28" E along the westerly boundary of said Lot 4 a distance of 32.57 feet to an angle point in said westerly boundary;

Thence continuing along said westerly boundary S 0°15'32" W a distance of 97.80 feet to the southwesterly corner of said Lot 4;

Thence S 89°44'29" E along the southerly boundary of said Lot 4 a distance of 38.54 feet to a point;

Thence leaving said southerly boundary N 45°34'48" E a distance of 47.93 feet to a point;

Thence N 0°54'04" E a distance of 169.51 feet to the POINT OF BEGINNING.

This parcel contains 19,089 square feet (0.438 acres) and is subject to any easements existing or in use.

The public hearing will be held in the auditorium of the Ada County Highway District, 3775 Adams Street, Garden City, Idaho on Wednesday, February 6, 2013, at 12:00 p.m., or as soon thereafter as the matter may be heard, at which hearing any person may appear and show cause why the sale should not be made.

ADA COUNTY HIGHWAY DISTRICT

By:

Bruce S. Wong, Director

Notice of Public Hearing
(8-1-12)
A RESOLUTION FINDING REAL PROPERTY OF THE ADA COUNTY HIGHWAY DISTRICT IS NO LONGER USEFUL TO THE DISTRICT OR NECESSARY FOR ITS USE AND DECLARING SUCH REAL PROPERTY TO BE SURPLUS PROPERTY WITH A VALUE DETERMINED TO BE $190,000.00 AND AUTHORIZING THE SALE OF THE SUBJECT REAL PROPERTY TO AN OWNER OF ADJOINING REAL PROPERTY OR TO THE GENERAL PUBLIC BY LIVE PUBLIC AUCTION OR SEALED BIDS.

WHEREAS, a hearing notice was duly published in accordance with Idaho Code, Sections 40-1309 and 40-206, and District Policy section 2033.2.2, on the 29th day of January, 2013 and on the 30th day of January, 2013, in the Idaho Statesman, a daily newspaper published in Ada County, Idaho, the last day of publication at least five (5) days prior to the hearing; and

WHEREAS, no one appeared at the public hearing to show cause that the subject real property, the municipal address of which is 12223 W. Colverwood, Boise, and the legal description and depiction of which is attached hereto as Exhibit “A”, and a vicinity map of which is hereto attached hereto as Exhibit “B” (“Subject Property”), is still useful to the District or to object to the proposed sale, and no cause was presented which persuades the Ada County Highway District Board of Commissioners that the Subject Property is still useful to the District and that it should not be declared to be surplus property and that it should not be sold; and

WHEREAS, District Real Estate Management Specialist Lorie Baird, presented a District Staff Report dated February 6, 2013, which by this reference is hereby incorporated herein, as supplemented by the oral presentation of Lorie Baird, which presented the requirements for such a sale which are available to the Commission under Idaho Code, section 40-1309; and

WHEREAS, the Board of Commissioners of the Ada County Highway District is fully advised and hereby makes the following findings of fact:

(1) the Subject Property described on Exhibit “A” attached hereto is no longer useful to the Ada County Highway District or necessary for its use; and

(2) the Subject Property is surplus property, with its fair market value determined to be $190,000.00; and

(3) it appears the proposed sale of the Subject Property is in the best interests of the Ada County Highway District and its patrons and the Subject Property should be offered for sale as surplus property of the District.
NOW, THEREFORE, BE IT RESOLVED, in accordance with Idaho Code, Section 40-1309 and District Policy section 2033.2.2, the Ada County Highway District Board of Commissioners declares and directs that the Subject Property be offered for sale to the owner(s) of property which is contiguous with the Subject Property at the determined fair market value of $190,000.00 and upon such terms and conditions as are set forth in District policy and otherwise deemed necessary and advisable. In which case, the Director is hereby authorized and directed to execute such necessary contracts, closing instructions and other documents required to consummate the sale and the President of the Board of Commissioners is hereby authorized and directed to execute and deliver a deed conveying the Subject Property without further action of the Commission.

BE IT FURTHER RESOLVED, that if the District is unable to sell the Subject Property to the owner(s) of property which is contiguous with the Subject Property at the determined fair market value of $190,000.00, the Subject Property shall then be offered for sale by the District by solicitation of sealed bids with the minimum bid price the determined fair market value of $190,000.00, and upon such terms and conditions as are set forth in District policy and otherwise deemed necessary and advisable. Such consideration of sealed bids shall be conducted by the Commission on the 6th day of March, 2013 at 12:00 pm. Notice of such solicitation of sealed bids shall be published at least two (2) consecutive times, with the last notice published not less than ten (10) days prior to the opening of sealed bids.

BE IT FURTHER RESOLVED, that if the Subject Property is unsold after solicitation of sealed, the Chief of Staff may negotiate the sale of the Subject Property at a private sale to a member of the general public in a commercially reasonable manner including a sale price not less than the determined value of $190,000.00 and upon such terms and conditions as are set forth in District policy and otherwise deemed necessary and advisable. In which case, the Director is hereby authorized and directed to execute such necessary contracts, closing instructions and other documents required to consummate the sale and the President of the Board of Commissioners is hereby authorized and directed to execute and deliver a deed conveying the Subject Property without further action of the Commission. Otherwise, the Subject Property may be sold at a price less than the determined value of $190,000.00, and upon such terms and conditions as are set forth in District policy and otherwise deemed necessary and advisable, with Commission approval, following negotiations by the Chief of Staff as directed by the Commission, and upon such approval by the Commission, the Director shall be authorized and directed to execute such necessary contracts, closing instructions and other documents required to consummate the sale and the President of the Board of Commissioners shall be authorized and directed to execute and deliver a deed conveying the Subject Property without further action of the Commission.

ADOPTED AND APPROVED by the Board of Commissioners of the Ada County Highway District on this 6th day of February, 2013.

Resolution, page 2
(8-1-12)
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ADA COUNTY HIGHWAY DISTRICT
BOARD OF COMMISSIONERS

By: ____________________________  Sara M. Baker President
By: ____________________________  John S. Franden, Vice President
By: ____________________________  Rebecca W. Arnold, Commissioner
By: ____________________________  Mitchell A. Jaurena, Commissioner
By: ____________________________  Jim Hansen, Commissioner

ATTEST:

______________________________
Bruce S. Wong, Director

The Ada County Highway District (ACHD) is committed to compliance with Title VI of the Civil Rights Act of 1964 and related regulations and directives. ACHD assures that no person shall on the grounds of race, color, national origin, gender, disability or age, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any ACHD service, program or activity.

Resolution, page 3
(8-1-12)
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