TO: ACHD Commissioners, Director

FROM: David Serdar, Right-of-Way Supervisor

SUBJECT: Resolution No. 2146, ratifying and authorizing the execution of a Real Property Transfer Agreement between City of Kuna and ACHD and accepting a Quitclaim Deed for the transfer of the ACHD property to the City of Kuna.

CONSENT AGENDA – July 13, 2016

FACTS & FINDINGS:

1. ACHD has determined it is in public interest to transfer to the City of Kuna without receipt of financial consideration, a certain parcel of real property, 4.209 acres in size (“ACHD property”), which is located along and into Indian Creek, from Swan Falls Road to Orchard Avenue in Kuna and which is necessary to the City of Kuna as a part of City of Kuna’s Greenbelt Development Project (“Project”).

2. In accordance with Idaho Code, section 67-2322 to 67-2324, ACHD and City of Kuna have drafted a written agreement (Attachment “1” to Resolution Number 2146 which is Exhibit “A” hereto) for the transfer of the City property from ACHD to City of Kuna, without payment of financial consideration to ACHD by City of Kuna.

3. The notices of the terms of the written agreement between City of Kuna and ACHD for the transfer of the County property to City of Kuna pursuant to sections 67-2322 to 67-2324 of the Idaho Code, without financial consideration, and the dates and times of the Ada County Highway District Board of Commissioners and City of Kuna City Council’s regular meetings to consider ratification of the agreement were published in the Idaho Statesman, a daily newspaper published in Ada County, in accordance with section 67-2323 of the Idaho Code. Publication dates are July 1st, 2nd, and 8th, 2016.

4. On July 19th, 2016 the City of Kuna, City Council is scheduled to vote to ratify the written agreement between the City of Kuna and ACHD and execute a Quitclaim Deed transferring the ACHD property to the City of Kuna.

5. Section 67-2323 of the Idaho Code, requires that the Ada County Highway District Board of Commissioners find that the transfer of the County property to City of Kuna is in the public interest, and Section 67-2324 of the Idaho Code requires that the Ada County Highway District Board of Commissioners ratify the agreement between ACHD and the City of Kuna by two-thirds vote of its members.
6. It is in the public interest for the District to ratify the Agreement between the City and District and execute a Quitclaim Deed granting the Property to City.

7. Resolution Number 2146, Exhibit “A” hereto, ratifies and authorizes the execution of the written agreement between ACHD and City of Kuna for the transfer of the District property to City of Kuna without payment of financial consideration by City of Kuna, accepts the Quitclaim Deed transferring the County property to the City of Kuna as real property pursuant to Section 40-202 of the Idaho Code, and directs the official map of the highway district to be amended accordingly.

FISCAL IMPACT:

1. None

RECOMMENDATION:

1. Staff recommends that the Board of Commissioners adopt Resolution Number 2146 (Exhibit “A”) and authorize the execution of the written agreement and accept the Quitclaim Deed from ACHD to City of Kuna referred to in the written agreement.

ATTACHMENTS:

Exhibit “A” - Proposed Resolution Number 2146 with Attachments and Exhibits

cc: City of Kuna
RESOLUTION NUMBER 2146

BY THE ADA COUNTY HIGHWAY DISTRICT BOARD OF COMMISSIONERS:
KENT GOLDSHORPE, SARA M. BAKER, JIM D. HANSEN, REBECCA W. ARNOLD AND
PAUL WOODS.

A RESOLUTION RATIFYING AND AUTHORIZING THE EXECUTION OF AN
INTERAGENCY AGREEMENT FOR SALE AND TRANSFER OF REAL PROPERTY
BETWEEN ACHD AND THE CITY OF KUNA AND AUTHORIZING THE EXECUTION OF A
QUIT CLAIM DEED FOR THE TRANSFER OF THE REAL PROPERTY TO THE CITY OF
KUNA.

WHEREAS, Ada County Highway District (“District”) is a single county-wide highway district
organized and existing under the laws of the State of Idaho with the jurisdiction and authority
over all highways in Ada County, except for State highways and freeways; and

WHEREAS, the City of Kuna (“City”) is a duly formed and existing municipal corporation
pursuant to the laws of the State of Idaho; and

WHEREAS, the District recently vacated the unopened right of way located along and into
Indian Creek, from Swan Falls Road to Orchard Avenue in Kuna, Idaho, identified on the
attached Exhibit “A” to the Attachment “1” as the Vacation Parcel and referred to collectively
hereafter as the “Subject Real Property” and determined said property is not needed for any
purpose of the District and is hereby declared to be surplus property; and

WHEREAS, it is in the public interest to transfer to City of Kuna for their Greenbelt
Development the Subject Real Property, approximately 4.209 acres in size and described in
Exhibit “A” to Attachment “1”; and

WHEREAS, District and City have negotiated a written Interagency Agreement
(“Agreement”) setting forth the agreement of the parties thereto, a copy of which is attached
hereto as Attachment “1”; and

WHEREAS, District and City have entered into an Agreement for Waiver of Costs and Fees
dated October 3, 2012; and

WHEREAS, transfer of the Subject Real Property to City by District as agreed between the
parties is allowed pursuant to sections 67-2322 to 67-2324 of the Idaho Code; and

WHEREAS, notices of the terms of the Agreement between City and District for the transfer
of the Subject Real Property to City pursuant to sections 67-2322 to 67-2324 of the Idaho
Code, and the dates and times of the Kuna City Council regular meeting and the Ada
County Highway District Board of Commissioners regular meeting to consider ratification of
the Agreement were published in the Idaho Statesman, a daily newspaper published in Ada
County, in accordance with section 67-2323 of the Idaho Code July 1st and 2nd, 2016 and
July 8th, 2016; and

RESOLUTION 2146 – RATIFYING AND AUTHORIZING THE EXECUTION OF AN
INTERAGENCY AGREEMENT FOR TRANSFER OF REAL PROPERTY BETWEEN CITY
OF KUNA AND ACHD AND AUTHORIZING EXECUTION OF A QUITCLAIM DEED FOR
THE TRANSFER OF THE PROPERTY TO KUNA.
WHEREAS, section 67-2323 of the Idaho Code, requires that the Ada County Highway District Board of Commissioners find that the sale and transfer of the Subject Real Property is in the public interest, and section 67-2324 of the Idaho Code requires that the Ada County Highway District Board of Commissioners ratify the Agreement between the City and District by two-thirds vote of its members; and

WHEREAS, the Kuna City Council is scheduled on July 19th, 2016, to vote to ratify the Agreement between City and District execute a Quit Claim Deed transferring the Subject Real Property to the City, a copy of which is Exhibit “B” to Attachment “1”; and

WHEREAS, it is in the public interest for the District to ratify the Agreement between the City and District and execute a Quitclaim Deed granting the Property to City.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to section 67-2324 of the Idaho Code, the Ada County Highway District Board of Commissioners hereby ratifies the terms and conditions of the Agreement between District and City, and authorizes the President to execute the Agreement, a copy of which is attached hereto as Attachment “1”; and

BE IT FURTHER RESOLVED, that pursuant to section 67-2323 of the Idaho Code, the Ada County Highway District Board of Commissioners hereby finds that it is in the public interest for Ada County Highway District to execute, and does hereby authorize the President to execute the Quit Claim Deed granting the Subject Real Property to City, a copy of which is Exhibit “B” to Attachment “1” which is attached hereto.

ADOPTED AND APPROVED by the Board of Commissioners of the Ada County Highway District at its regular meeting held on this 13th day of July, 2016.

(Signature page follows)
RESOLUTION 2146 – RATIFYING AND AUTHORIZING THE EXECUTION OF AN INTERAGENCY AGREEMENT FOR TRANSFER OF REAL PROPERTY BETWEEN CITY OF KUNA AND ACHD AND AUTHORIZING EXECUTION OF A QUITCLAIM DEED FOR THE TRANSFER OF THE PROPERTY TO KUNA.
INTERAGENCY AGREEMENT FOR REAL PROPERTY TRANSFER

This Agreement for Real Property Transfer ("Agreement") is made this ____ day of ____________, 2016, between the City of Kuna (hereinafter “City”) and Ada County Highway District (hereinafter “ACHD”), both parties being bodies politic and corporate of the State of Idaho.

WITNESSETH

Section 1. Recitals

WHEREAS, City is a duly formed and existing city pursuant to the laws and Constitution of the State of Idaho; and

WHEREAS, ACHD is a single County-wide highway district organized and existing under the laws of the State of Idaho, with the jurisdiction and authority over all highways in Ada County, Idaho, except for State highways and freeways; and

WHEREAS, The Joint Project Interagency Agreement between ACHD and City of Kuna for their greenbelt project referred to the portion of Indian Creek Street right-of-way near the southeast corner of the intersection of S. Swan Falls Rd. and E. Avalon St. ("Vacation Parcel") and with regard to the Vacation Parcel, the Agreement provided that upon acceptance of Resolution 2126, the ACHD Commission would consider the vacation and abandonment of the Vacation parcel and if so vacated and abandoned, ACHD would convey the Vacation Parcel to the City of Kuna without receipt of compensation. Resolution 2126 is complete and City has expressed its desire to receive the Vacation Parcel from ACHD as described in the attached Exhibit “A” without payment of financial consideration per the Agreement for Waiver of Costs and Fees between City and ACHD dated October 3, 2012 ("Cost & Fee Waiver Agreement"); and
WHEREAS, ACHD is willing to transfer the Vacation Parcel to the City without receipt of financial consideration per the Cost & Fee Waiver Agreement; and

WHEREAS, Idaho Code § 50-301 authorizes the City to acquire real property in the name of the City; and

WHEREAS, Idaho Code § 67-2322 authorizes ACHD to transfer or convey real property to the City without receipt of financial consideration if it is in the best interest of the public; and

WHEREAS, Idaho Code § 67-2323 requires that prior to any conveyance of property, a written agreement shall be made; and

WHEREAS, both City and ACHD desire to enter into such an agreement for the transfer of the Vacation Parcel to City by ACHD.

NOW THEREFORE, in consideration of the premises, mutual covenants and agreements herein contained, and in consideration of the Fee Waiver Agreement, the parties hereto agree as follows:

Section 2. General Provisions

A. ACHD agrees to transfer to City of Kuna, the Vacation Parcel (the “Property”), which is described in Exhibit “A” without receipt of financial consideration, by execution of a Quitclaim Deed, a copy of which is attached hereto as Exhibit “B”.

B. City agrees to accept the transfer of the Property described in Exhibit “A” from ACHD without payment of financial consideration.

C. City and ACHD agree that the Property is transferred "AS IS" and that ACHD does not in any way give any warranties express or implied relating to the Property.
D. ACHD shall publish Notice of the general terms of this Agreement a minimum of two (2) times in a newspaper of general circulation in the Idaho Statesman in accordance with Idaho Code § 67-2323, and such Notice shall give the time and place of the next regular or special meeting of each respective unit at which time the governing board of such unit proposes to consider this Agreement.

E. Pursuant to Idaho Code § 67-2324, the transfer is contingent upon both the City and ACHD’s governing boards’ approval of the terms of this Agreement by two thirds vote of their members.

IN WITNESS WHEREOF, the undersigned have caused this Agreement to be executed the day, month and year first set forth above.

CITY OF KUNA

By: _____________________________
    _____________________________, Mayor

ATTEST:

______________________________
Chris Engels, Kuna City Clerk

ADA COUNTY HIGHWAY DISTRICT

By: _____________________________
    _____________________________, President

ATTEST:

______________________________
Bruce S. Wong, Director
EXHIBIT A to ATT 1

VACATION DESCRIPTION
FOR THE
ADA COUNTY HIGHWAY DISTRICT
INDIAN CREEK STREET

A parcel located in the NW ¼ of the NW ¼ of Section 25, Township 2 North, Range 1 West, and being that part of Indian Creek Street of AVALON ADDITION as shown in Book 5 of Plats at Page 239 in the office of the Recorder, Ada County, Idaho, more particularly described as follows:

Commencing at a 5/8 inch diameter iron pin marking the northwesterly corner of said NW ¼ of the NW ¼, from which a 5/8 inch diameter iron pin marking the southwesterly corner of said NW ¼ of the NW ¼ bears S 0°01’34” W a distance of 1325.38 feet;

Thence S 0°01’34” W along the westerly boundary of said NW ¼ of the NW ¼ a distance of 239.20 feet to a point;

Thence leaving said westerly boundary S 89°58’26” E a distance of 40.00 feet to the southwest corner of INDIAN CREEK SUBDIVISION as shown in Book 35 of Plats at Page 3010 in said office of the Recorder, and the POINT OF BEGINNING;

Thence along the southwesterly boundary of said INDIAN CREEK SUBDIVISION the following described courses:

Thence S 57°16’34” E a distance of 345.64 feet to a point;

Thence S 51°45’34” E a distance of 100.02 feet to a point;

Thence S 67°40’34” E and along the extension of the southerly boundary of WILSON SUBDIVISION as shown in Book 22 of Plats at Page 1402 in said office of the Recorder a distance of 321.27 feet to a point on said southerly boundary;

Thence N 67°42’26” E along said southerly boundary a distance of 87.34 feet to a point;

Thence continuing along said southerly boundary and along the extension of the southeasterly boundary of MONTARA SUBDIVISION as shown in Book 51 of Plats at Page 4302 in said office of the Recorder N 75°18’26” E a distance of 508.50 feet to the southeast corner of said MONTARA SUBDIVISION, said point also being on the westerly right-of-way of Orchard Avenue;

Thence S 0°00’09” E along said westerly right-of-way a distance of 176.83 feet to a point on the boundary of Block 13 of said AVALON ADDITION;
EXHIBIT A to ATT 1

Thence along said boundary the following described courses:

Thence leaving said westerly right-of-way N 49°11'41" W a distance of 14.09 feet to a point; Thence N 76°09'11" W a distance of 48.44 feet to a point;

Thence S 55°00'09" W a distance of 189.35 feet to a point; Thence S 60°01'29" W a distance of 94.13 feet to a point;

Thence S 64°06'49" W a distance of 151.26 feet to a point on the northeasterly right-of-way of the Union Pacific Railroad;

Thence leaving last said boundary N 65°30'11" W along said northeasterly right-of-way a distance of 888.91 feet to a point on the easterly right-of-way of Swan Falls Road;

Thence leaving said northeasterly right-of-way N 0°01'34" E along said easterly right-of-way a distance of 217.80 feet to the POINT OF BEGINNING.

This parcel contains 5.24 acres and is subject to any easements, existing or in use.

LESS AND EXCEPTING:

INDIAN CREEK PARCEL

A parcel being a part of Indian Creek located in the NW ¼ of the NW ¼ of Section 25, Township 2 North, Range 1 West, Boise Meridian, Ada County, Idaho, more particularly described as follows:

Commencing at a brass cap monument marking the northeasterly corner of said NW ¼ of the NW ¼ from which a 5/8 inch diameter iron pin marking the southeasterly corner of said NW ¼ of the NW ¼ bears S 0°00'09" E a distance of 1331.40 feet;

Thence S 0°00'09" E along the easterly boundary of said NW ¼ of the NW ¼ a distance of 530.56 feet to a point;

Thence leaving said easterly boundary S 89°59'51" W a distance of 30.00 feet to a point marking the intersection of the westerly right-of-way of Orchard Avenue and the centerline of Indian Creek and also being the POINT OF BEGINNING;
Thence S 0°00'09" E along said westerly right-of-way a distance of 63.00 feet to a point on the northerly boundary of Block 13 of *AVALON ADDITION* as shown in Book 5 of Plats at Page 239, said boundary also being the northerly boundary of Block 13 as shown on Record of Survey No. 2139 in the office of the Recorder,

Thence along said northerly boundaries the following described courses:

  Thence leaving said westerly right-of-way N 49°11'41" W a distance of 14.09 feet to a point; Thence N 76°09'11" W a distance of 48.44 feet to a point;

  Thence S 55°00'09" W a distance of 189.35 feet to a point; Thence S 60°01'29" W a distance of 94.13 feet to a point;

  Thence S 64°06'49" W a distance of 151.26 feet to a point on the northeasterly right-of-way of the Union Pacific Railroad;

Thence leaving said northerly boundaries N 65°30'11" W along said railroad right-of-way a distance of 113.00 feet to a point on the centerline of said Indian Creek;

Thence along said centerline the following described courses:

  Thence leaving said railroad right-of-way N 64°06'49" E a distance of 197.00 feet to a point; Thence N 55°00'09" E a distance of 190.17 feet to a point;

  Thence N 77°37'34" E a distance of 156.66 feet to point;

  Thence S 76°09'11" E a distance of 48.63 feet to the POINT OF BEGINNING. This parcel contains 1.031 acres and is subject to any easements, existing or in use.

Prepared by: Glenn K. Bennett, PLS
Civil Survey Consultants,
Incorporated April 13, 2016
QUITCLAIM DEED CONVEYING SURPLUS PROPERTY

THIS INDENTURE, made this ____ day of ________________, 2016, Ada County Highway District, a body politic and corporate of the State of Idaho, the "GRANTOR", and City of Kuna, the "GRANTEE";

W I T N E S S E T H:

FOR VALUE RECEIVED, GRANTOR does by these presents convey, remise, release and forever quitclaim unto GRANTEE all right, title and interest of GRANTOR in the real property situated in the COUNTY OF ADA, STATE OF IDAHO, as more particularly described on Exhibit “A” attached hereto and by this reference made a part hereof (hereinafter the “Right-of-Way”).

SUBJECT TO easements of record, statutory rights of utilities and districts to be in the public right-of-way which rights are being exercised in the Right-of-Way as of the date of this Indenture (for sewer, gas, water or similar pipelines and their appurtenances, for electrical and telephone lines and for irrigation and drainage ditches), and subject to licenses for telecommunications lines which are in place in the Right-of-Way as of the date of this Indenture. GRANTEE is responsible for costs of any relocation or replacement of such pipelines, lines and ditches.

TO HAVE AND TO HOLD the same unto the GRANTEE and to Its successors and assigns forever.

The current address of GRANTEE is:

City of Kuna
763 W. Avalon St.
Kuna, Idaho 83634
IN WITNESS WHEREOF, this Quitclaim Deed has been duly executed by and on behalf of GRANTOR this _______ day of ___________________, 2016.

ADA COUNTY HIGHWAY DISTRICT

By___________________________
President

Attest:

_________________________
Bruce S. Wong, Director

State of Idaho )
) ss.
County of Ada )

On this _____ day of ___________________, in the year 2016, before me, ____________________________________________, a Notary Public in and for the State of Idaho, personally appeared ______________________, known or identified to me to be the President of the Board of Commissioners of the Ada County Highway District, and Bruce S. Wong, known or identified to me to be the Director of the Ada County Highway District, the persons who executed this instrument on behalf of said Highway District for the purposes therein stated.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above-written.

________________________________________________________________________
Notary Public for the State of Idaho
Residing at _____________________, Idaho
My Commission expires: ________________