



MEMORANDUM

TO: Mayor and City Council
FROM: John Brunelle, Director, Economic Development
DATE: Oct. 12, 2012
SUBJECT: Sale and Exchange Agreement - Armory

ACTION REQUIRED: Approval of R-370-12

RECOMMENDATION: That Council approve and Mayor sign R-370-12

FISCAL IMPACT/BUDGET IMPLICATIONS: None

BACKGROUND: A lot line adjustment located between Fire Station No. 1 and Armory building results in a minor change to the legal descriptions, requiring revisions to two exhibits in J&M Land/City of Boise Sale and Exchange Agreement. Neither parcel involved in lot line adjustment is increased in size. New configuration is advantageous to both properties.

RESOLUTION NO. _____

BY THE COUNCIL:

CLEGG, EBERLE, JORDAN, MCLEAN,
THOMSON AND QUINTANA

A RESOLUTION APPROVING THE SECOND AMENDMENT TO THE REAL ESTATE SALE AND EXCHANGE AGREEMENT BY AND BETWEEN THE CITY OF BOISE CITY AND J & M LAND, LLC; STRIKING REVISED EXHIBITS D AND E FROM THE AGREEMENT AND REPLACING THEM WITH CORRECTED REVISED EXHIBITS D (REVISION 2) AND E (REVISION 2); AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE AND ATTEST TO THE AMENDMENT ON BEHALF OF BOISE CITY; AND PROVIDING FOR AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF BOISE CITY, IDAHO:

Section 1. That the Second Amendment to the Real Estate Sale and Exchange Agreement by and between the City of Boise City and J & M Land, LLC, in the form attached hereto as **Exhibit A** and incorporated herein by reference, be, and the same is hereby, approved as to both form and content.

Section 2. That Revised Exhibits D and E to the Real Estate Sale and Exchange Agreement be stricken and replaced by Revised Exhibit D (Revision 2) and Revised Exhibit E (Revision 2).

Section 3. That the Mayor and City Clerk be, and they hereby are, authorized to respectively execute and attest said Second Amendment for and on behalf of the City of Boise City.

Section 4. That this Resolution shall be in full force and effect immediately upon its adoption and approval.

ADOPTED by the Council of the City of Boise, Idaho, this ____ day of October, 2012.

APPROVED by the Mayor of the City of Boise, Idaho, this ____ day of October, 2012.

APPROVED:

ATTEST:

David H. Bieter
Mayor

Debbie Broughton
Ex-Officio City Clerk

SECOND AMENDMENT TO REAL ESTATE SALE AND EXCHANGE AGREEMENT entered into this ____ day of October 2012, by and between the City of Boise City, an Idaho municipal corporation (“City”), and J & M Land, LLC (“J & M Land”), an Idaho limited liability company.

RECITALS:

A. City and J & M Land entered into a Real Estate Sale and Exchange Agreement (“Agreement”), which Agreement was approved by the Boise City Council (as Resolution No. 21486) and executed by the Mayor and J & M Land, effective November 9, 2011.

B. The Agreement authorized the parties to extend, modify, waive, or amend the Agreement, and required such extension, modification, waiver, or amendment of the Agreement to be endorsed in writing by both parties.

C. On January 10, 2012 City and J & M Land entered into a First Amendment to Real Estate Sale and Exchange Agreement which Agreement was approved by the City Council as Resolution No. 21558. That First Amendment struck certain exhibits from the Real Estate and Exchange Agreement and replaced them with corrected exhibits.

D. As a part of the City’s due diligence and as a part of closing the Real Estate Sale and Exchange Agreement, the Planning and Development Services Department approved a lot line adjustment for the Armory parcel and Fire Station No. 1, which lies immediately adjacent to the Armory.

E. The lot line adjustment results in a minor change to the legal descriptions of both Fire Station No. 1 and the Armory, requiring that Revised Exhibit D and Revised Exhibit E be stricken from the Agreement and replaced with Revised Exhibit D (Revision 2) and Revised Exhibit E (Revision 2).

NOW, THEREFORE, the Agreement is amended as follows:

1. Revised Exhibit D to the Agreement is stricken from the Agreement.

2. Revised Exhibit D (Revision 2) is inserted into the Agreement in place of Revised Exhibit D. A true and correct copy of Revised Exhibit D (Revision 2) is attached hereto and is incorporated herein by reference.

3. Revised Exhibit E to the Agreement is stricken from the Agreement.

4. Revised Exhibit E (Revision 2) is inserted into the Agreement in the place of Revised Exhibit E. A true and correct copy of Revised Exhibit E (Revision 2) is attached hereto and is incorporated herein by reference.

The amendments identified in this Second Amendment to Real Estate Sale and Exchange Agreement shall be effective immediately upon approval of the Boise City Council and execution by the Mayor and J & M Land, respectively. Each and every amendment, upon approval by the Boise City Council and execution by the parties, shall be incorporated into the Agreement as though the amendments were a part of the Agreement on the Effective Date of the Agreement.

J & M Land:

J & M Land, LLC,
an Idaho limited liability company

By: _____
Michael McCollum
Manager

City:

City of Boise City,
an Idaho municipal corporation

By: _____
David H. Bieter
Mayor

ATTEST:

Debbie Broughton
Ex-Officio City Clerk

REVISED EXHIBIT D (REVISION 2)

New Parcel A - Revised Legal Description

See attached.

EXHIBIT A

LAND DESCRIPTION FOR FIRE STATION *PARCEL A* Revised 10/03/2012

A parcel of land lying in the John Krall's Third Addition to Boise Idaho, according to the plat thereof, filed in Book 2 of Plats at Page 91 and located within the Northwest Quarter of Section 11, Township 3 North, Range 2 East, Boise Meridian, Ada County, Idaho more particularly described as follows:

Beginning at the Center Quarter Corner of Section 11, from which the North Quarter Corner of Section 11 bears North 0°19'51" East 2654.21 feet; thence North 0°19'51" East 1275.01 feet along the easterly boundary of the Northwest Quarter of Section 11; thence South 89°48'00 West 46.75 feet (recorded as N 90°00'00" W 46.81 feet) to the northeast corner of Block 23 of said John Krall's Third Addition to Boise Idaho; thence along the southerly right of way of East Reserve Street South 70°14'41" West 496.44 feet to the **TRUE POINT OF BEGINNING**;

Thence South 0°17'49" East 109.31 feet;
Thence South 89°42'11" West 15.00 feet;
Thence South 0°17'49" East 154.63 feet;
Thence South 89°38'41" West 59.67 feet;
Thence South 1°07'46" East 89.48 feet to the northerly right of way of East Logan Street;
Thence along said right of way South 89°56'16" West 121.40 feet to the westerly boundary of Block 21;

Thence along said westerly boundary North 0°05'41" West 284.52 feet to the southerly right of way of East Reserve Street;

Thence along said southerly right of way North 70°14'41" East 205.50 feet to the **TRUE POINT OF BEGINNING**.

EXCEPTING THEREFROM A parcel of land for public right of way lying in the John Krall's Third Addition to Boise Idaho, according to the plat thereof, filed in Book 2 of Plats at Page 91 and located within the Northwest Quarter of Section 11, Township 3 North, Range 2 East, Boise Meridian, Ada County, Idaho more particularly described as follows:

Beginning at the Center Quarter Corner of Section 11, from which the North Quarter Corner of Section 11 bears North 0°19'51" East 2654.21 feet; thence North 0°19'51" East 1275.01 feet along the easterly boundary of the Northwest Quarter of Section 11; thence South 89°48'00 West 46.75 feet (recorded as N 90°00'00" W 46.81 feet) to the northeast corner of Block 23 of said John Krall's Third Addition to Boise Idaho; thence along the southerly right of way of East Reserve Street South 70°14'41" West 496.44 feet to the **TRUE POINT OF BEGINNING**;

Thence continuing along said southerly right of way South 70°14'41" West 205.50 feet to the northerly prolongation of the westerly boundary of Block 21 of John Krall's Third Addition to Boise, Idaho;

Thence along said westerly boundary South 0°05'41" East 14.71 feet;

Thence North $70^{\circ}08'44''$ East 205.68 feet;
Thence North $0^{\circ}17'49''$ West 14.31 feet to the **TRUE POINT OF BEGINNING**.

Parcel contains 1.15 Acres more or less.

SUBJECT TO a 30.00 feet in width access easement along the northerly 95.00 feet of the easterly boundary and any other easements of record or in use.

REVISED EXHIBIT E (REVISION 2)

New Parcel B - Revised Legal Description

See attached.

EXHIBIT A

LAND DESCRIPTION FOR ARMORY PARCEL *PARCEL B* Revised 10/03/2012

A parcel of land lying in the John Krall's Third Addition to Boise Idaho, according to the plat thereof, filed in Book 2 of Plats at Page 91 and located within the Northwest Quarter of Section 11, Township 3 North, Range 2 East, Boise Meridian, Ada County, Idaho more particularly described as follows:

Beginning at the Center Quarter Corner of Section 11, from which the North Quarter Corner of Section 11 bears North 0°19'51" East 2654.21 feet; thence North 0°19'51" East 1275.01 feet along the easterly boundary of the Northwest Quarter of Section 11; thence South 89°48'00" West 46.75 feet (recorded as N 90°00'00" W 46.81 feet) to the northeast corner of Block 23 of said John Krall's Third Addition to Boise Idaho; thence along the northerly boundary of said Block 23 South 70°14'41" West 199.90 feet (recorded as S 70°14'02" W 199.86 feet) to the **TRUE POINT OF BEGINNING**;

Thence South 0°59'58" West 453.73 feet (recorded as S 1°00'00" W 453.77 feet) to the southerly boundary of Block 24;

Thence along the southerly boundary of Blocks 24 and 21 South 89°56'16" West 342.72 feet;

Thence North 1°07'46" West 89.48 feet;

Thence North 89°38'41" East 59.67 feet;

Thence North 0°17'49" West 154.63 feet;

Thence North 89°42'11" East 15.00 feet;

Thence North 0°17'49" West 109.31 feet to the northerly boundary of Block 22;

Thence along the northerly boundary of said Blocks 22 and 23 North 70°14'41" East 296.54 feet to the **TRUE POINT OF BEGINNING**.

TOGETHER WITH a strip of land situated within the right of way of East Logan Street lying in John Krall's Third Addition to Boise, Idaho, according to the plat thereof, filed in Book 2 of Plats at Page 91 and located within the Northwest Quarter of Section 11, Township 3 North, Range 2 East, Boise Meridian, Ada County, Idaho more particularly described as follows:

Beginning at the Center Quarter Corner of Section 11, from which the North Quarter Corner of Section 11 bears North 0°19'51" East 2654.21 feet; thence North 0°19'51" East 753.63 feet along the easterly boundary of the Northwest Quarter of Section 11 ; thence North 89°46'08" West 38.67 feet to a found 1/2 inch iron pin marking the westerly right of way of North Avenue "H" as described in Warranty Deed Instrument Number 9300518, Records of Ada County; thence North 88°21'13" West 5.05 feet to a found 5/8 inch iron pin marking the southeast corner of Block 24 of John Krall's Third Addition to Boise, Idaho; thence along the southerly boundary of said Block 24 South 89°54'25" West 195.95 feet to a found 5/8 inch iron pin marking the **TRUE POINT OF BEGINNING**;

Thence along said southerly boundary of Block 24 South 89°56'16" West 342.72 feet to a found 5/8 inch iron pin;

Thence leaving said southerly boundary South 1°07'46" East 15.11 feet;
Thence North 89°54'55" East 342.16 feet to a found ½ inch iron pin;
Thence North 0°59'58" East 14.98 feet to the **TRUE POINT OF BEGINNING**.

EXCEPTING THEREFROM A parcel of land for public right of way lying in the John Krall's Third Addition to Boise Idaho, according to the plat thereof, filed in Book 2 of Plats at Page 91 and located within the Northwest Quarter of Section 11, Township 3 North, Range 2 East, Boise Meridian, Ada County, Idaho more particularly described as follows:

Beginning at the Center Quarter Corner of Section 11, from which the North Quarter Corner of Section 11 bears North 0°19'51" East 2654.21 feet; thence North 0°19'51" East 1275.01 feet along the easterly boundary of the Northwest Quarter of Section 11; thence South 89°48'00" West 46.75 feet (recorded as N 90°00'00" W 46.81 feet) to the northeast corner of Block 23 of said John Krall's Third Addition to Boise Idaho; thence along the northerly boundary of said Block 23 South 70°14'41" West 199.90 feet (recorded as S 70°14'02" W 199.86 feet) to the **TRUE POINT OF BEGINNING**;

Thence along the northerly boundary of said Blocks 23 and 22 South 70°14'41" West 296.54 feet;

Thence South 0°17'49" East 14.31 feet;

Thence North 70°08'44" East 296.40 feet;

Thence North 0°59'58" East 13.88 feet (recorded as N 1°00'00" E) to the **TRUE POINT OF BEGINNING**.

Parcel contains 2.77 Acres more or less.

SUBJECT TO a 10.00 feet in width access easement along the northerly 95.00 feet of the westerly boundary and any other easements of record or in use.