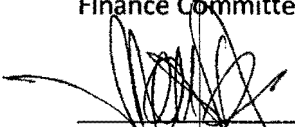



City of Santa Fe, New Mexico

memo

DATE: August 31, 2015

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

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

FROM: Edward J. Vigil, Property Manager 

ITEM

Request for concept approval of the sale and partial vacation of right-of-way over a portion of Madrid Lane containing approximately 7,100 square feet adjoining the westerly boundary of 308 Madrid Lane by "BAHL Revocable Trust U/A dated 9/12/1991". (Matthew O'Reilly)

BACKGROUND

The subject property is a portion of the Madrid Lane right-of-way acquired by the City of Santa Fe by means of plat dedication recorded in Plat Book 2, page 291, records of Santa Fe County, New Mexico. Bryan Biedscheid, on behalf of the "BAHL Revocable Trust U/A dated 9/12/1991", has requested to purchase this portion of right-of-way from the City which is the primary access to the property at 308 Madrid Lane that is owned by the trust. The owners of the trust intend to continue to use the property for access to 308 Madrid Lane but also to maintain a metal driveway gate, gate opener and fence that currently encroach into the right-of-way.

RECOMMENDATIONS

The Asset Development Office has confirmed with relevant city departments that the proposed sale of the property will not conflict with city infrastructure and that the property is not needed for any current or future City purposes.

The Asset Development Office recommends the sale of this portion of right-of-way with conditions placed on the proposed Quitclaim Deed that will obligate the purchaser to consolidate the subject parcel with the trust's adjacent parcel and make the area subject to easements for existing utilities. This sale will benefit the City by generating revenue at the time of sale, partially relieve the City from liability and maintenance responsibility of property, and place the property back on the tax rolls. The sale will benefit the purchaser by increasing the size of their existing parcel and allow for their existing driveway gate and fence to remain in place without a separate agreement with the City.

Memorandum to Public Works Committee and Finance Committee

August 31, 2015

Page 2

This request is for conceptual approval of the sale of this portion of City-owned right-of-way. Prior to final consideration of this sale, the purchaser will be required to provide the City with a legal description of the property prepared by a licensed professional surveyor and an MAI-certified appraisal of the property.

The Asset Development Office estimates the market value of the property to be between \$70,000 and \$100,000. Pursuant to 3-54-1 NMSA 1978, should the appraised value of the property exceed \$25,000, an ordinance must be adopted to complete the sale. Accordingly, a sale ordinance may be required for the final approval of the Governing Body, if conceptual approval of this sale is granted by the Public Works and the Finance Committees

REQUESTED ACTION

Please approve this request for conceptual approval of the sale of this portion of real property.

- Exhibits:
- A – Draft Quitclaim Deed;
 - B – Request by Bryan Biedscheid on behalf of BAHL Revocable Trust;
 - C – Plat of Resubdivision of the Amended Plat of Santa Fe Holding Company's Subdivision No. 1 of the Lovato Grant and Galisteo Subdivision No. 1, recorded in Plat Book 2, Page 291;
 - D - 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 the Trustees of the BAHL Revocable Living Trust U/A dated September 12, 1991, herein "Grantee", whose address is 308 Madrid Lane, Santa Fe NM 87501, the following described real estate within the City and County of Santa Fe, New Mexico, being more particularly described as follows to-wit:

The easterly portion of the Madrid Lane right of way as shown and delineated on plat entitled "PLAT OF RESUBDIVISION OF THE AMENDED PLAT OF SANTA FE HOLDING COMPANY'S SUBDIVISION NO. 1 OF THE LOVATO GRANT AND GALISTEO SUBDIVISION NO. 1" recorded in Plat Book 2, pg. 291, records of Santa Fe County, New Mexico.

A more complete legal description shall be provided upon receipt of a current boundary survey description.

Subject to reservations, restrictions, easements of record and taxes for the year of 2015 and thereafter.

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

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 308 Madrid Lane by Grantee.
2. Parcel is subject to easements for existing utilities with rights incident thereto.

Witness my hand and seal this _____ day of _____, 2015.

GRANTOR:
CITY OF SANTA FE

BY: _____
JAVIER M. GONZALES
MAYOR

ATTEST:

YOLANDA Y. VIGIL, CITY CLERK

VIGIL, EDWARD J.

From: OREILLY, MATTHEW S.
Sent: Friday, July 10, 2015 4:39 PM
To: VIGIL, EDWARD J.
Subject: FW: 308 Madrid Lane

Ed,

FYI – Lets discuss on Monday.

Matthew O'Reilly, P.E.
Director of Asset Development
City of Santa Fe
P. O. Box 909
Santa Fe, NM 87504-0909
(505) 955-6213
msoreilly@santafenm.gov

From: Bryan Biedscheid [<mailto:Bryan@swbpc.com>]
Sent: Friday, July 10, 2015 4:34 PM
To: OREILLY, MATTHEW S.
Subject: 308 Madrid Lane

Good afternoon, Matt:

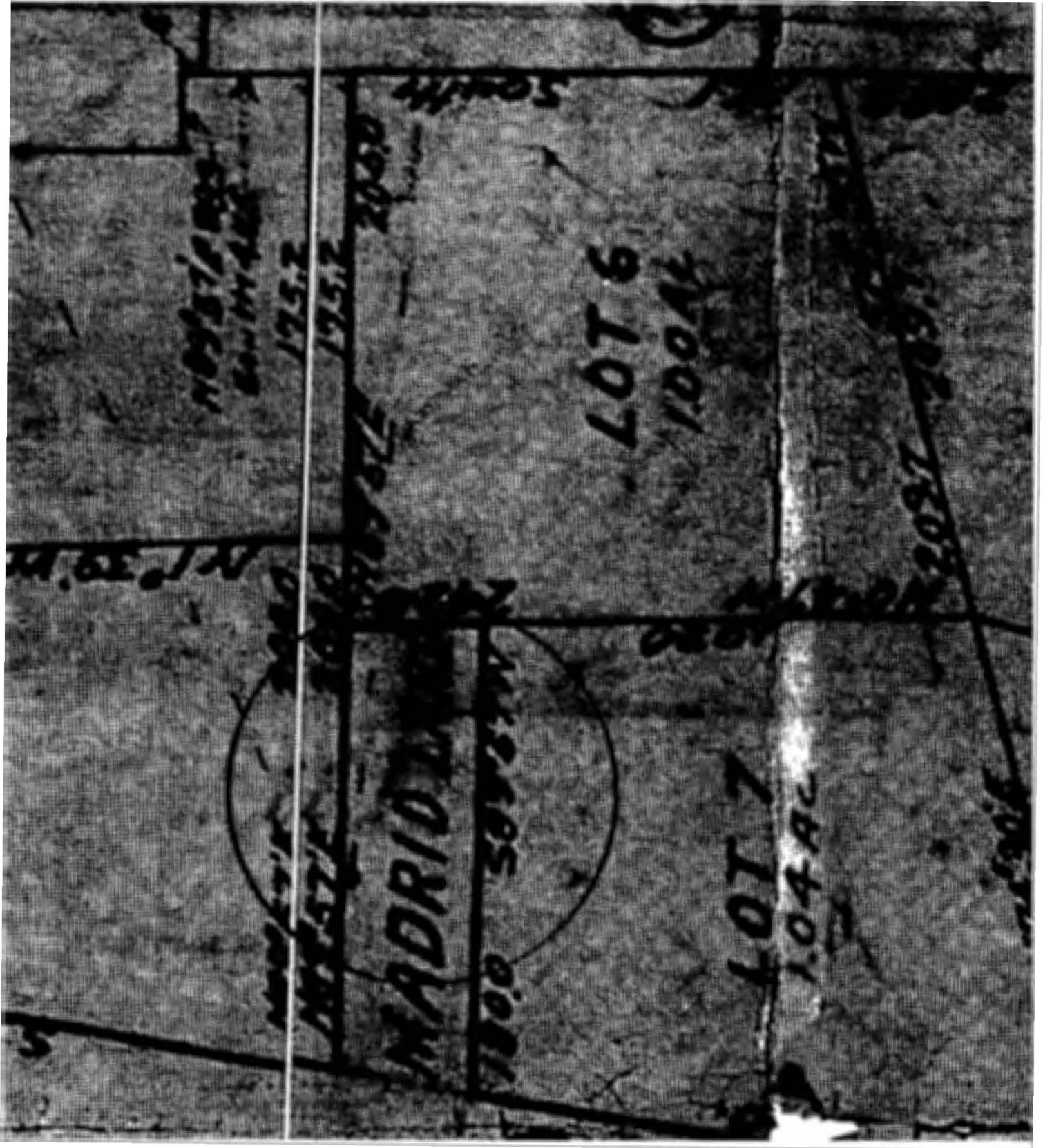
The owner of the 308 Madrid Lane lot/improvements and the claimant to title of Madrid Lane is The BAML Revocable Living Trust U/A Dated September 12, 1991. My client confirms that they wish to proceed with this transaction, subject the process we discussed. Thank you.

Bryan P. Biedscheid, Esq.
Sawtell, Wirth & Biedscheid, P. C.
708 Paseo de Peralta
Santa Fe, New Mexico 87501
(505) 988-1668, ext. 102 - Fax (505) 983-5840
bryan@swbpc.com

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ARTICLE 54

Sale or Lease of Property

Sec.

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

Sec.

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 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 who are shown as registered voters within the municipality on the most recently available voter registration lists maintained by the county clerk as of the date the petition is filed; and

(3) containing the following heading on each page of the petition reprinted as follows:

"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").

Name Address Signature."

F. Upon receipt of a petition calling for a referendum on a sale or lease ordinance, the municipal clerk shall:

(1) determine the minimum number of names, addresses and signatures which equals fifteen percent of the qualified electors of the municipality who are registered voters within the municipality as shown on the most recently available voter registration lists maintained by the county clerk;

(2) examine the petition and the names, addresses and signatures on the petition, purge from the petition the signature of any person who is not shown as a registered voter of the municipality on the most recently available list of registered voters maintained by the county clerk and purge any signature which is a forgery, is illegible or which cannot be matched to the name, address and signature as shown on the voter registration lists; and

(3) certify to the municipal governing body, within ten days after the petition is filed, whether the petition contains the minimum number of valid names, addresses and signatures required in order to call a referendum election on the sale or lease ordinance.

G. If the municipal clerk certifies that the petition does not contain the minimum number of valid names, addresses and signatures required in order to call a referendum election on the sale or lease ordinance, then the municipal clerk shall:

(1) calculate the total number of people signing the petition, the number purged, the number which were not purged and the minimum number required in order to call a referendum on the sale or lease ordinance;

(2) post in the office of the municipal clerk on the day that the certification is made to the municipal governing body the names, addresses and signatures which were purged from the petition and the calculations made pursuant to Paragraph (1) of this subsection; and

(3) publish, pursuant to the provisions of Subsection J of Section 3-1-2 NMSA 1978, within one week of the certification to the municipal governing body, the names, addresses and signatures which were purged from the petition and the calculations made pursuant to Paragraph (1) of this subsection.

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

H. 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 Subsection J of Section 3-1-2 NMSA 1978 and Section 3-8-2 NMSA 1978 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.

I. 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 general municipal election and shall be conducted in the manner as provided in Sections 3-8-1 through 3-8-19 NMSA 1978. If such an election cannot be scheduled within the time limits established in this section because of a conflict with an election or because the laws governing voter registration prevent voters from registering to vote for the referendum election on the sale or lease ordinance or both, the governing body shall schedule the referendum election not less than sixty days after the conflicting election and in such a manner as to permit voter registration for the referendum election on the sale or lease ordinance. Any registered voter of the municipality may vote in such a referendum election.

J. 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: 1978 Comp., § 3-54-1, enacted by Laws 1983, ch. 115, § 1.

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, repeals former 3-54-1 NMSA 1978, relating to authority to sell or lease municipal utility or real property used for municipal purposes, and enacts the above section.

Emergency clauses. — Laws 1983, ch. 115, § 4, makes the act effective immediately. Approved March 31, 1983.

Temporary provisions. — Laws 1983, ch. 115, § 3, provides that, where a governing body adopts a resolution declaring its intent to enter into negotiations for the sale or lease of municipal utility facilities or real property having an appraised value in excess of \$25,000 and where a sale or lease ordinance is adopted by the governing body pursuant to such a resolution within six months after the adoption of the resolution, 3-54-1 NMSA 1978 shall apply to such lease or sale except that any petition challenging such sale or lease shall contain the signatures of at least 20 percent of the registered voters of the municipality and shall be filed within 30 days after passage of the sale or lease ordinance, and the ordinance shall become effective 50 days after passage unless an election is called pursuant to a valid petition.

"Terms" defined. — The word "terms" as used in Paragraph (1) of Subsection C 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, 161 A.L.R. 504 (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 780.

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.

3-54-2. Sale, exchange and gift of property.

A. A municipality may sell personal property for cash at public or private sale without notice where it is shown to the governing body that such property does not exceed the value of two thousand five hundred dollars (\$2,500).

B. A municipality may sell personal property having a value of more than two thousand five hundred dollars (\$2,500) at public or private sale. If a private sale is held under this subsection, such sale shall be held only after notice is published at least twice, pursuant to the provisions of Subsection J of Section 3-1-2 NMSA 1978, not less than seven days apart, with the last publication not less than fourteen days prior to the sale.