

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Notice of Change in Water Right Ownership

RECEIVED

APR 17 2014

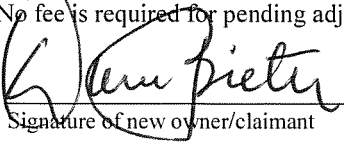
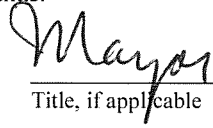
WATER RESOURCES
WESTERN REGION

1. List the numbers of all water rights and/or adjudication claim records to be changed. If you only acquired a portion of the water right or adjudication claim, check "Yes" in the "Split?" column.

PD

Water Right/Claim No.	Split?	Water Right/Claim No.	Split?	Water Right/Claim No.	Split?
63-17653	Yes ☐		Yes ☐		Yes ☐
	Yes ☐		Yes ☐		Yes ☐
	Yes ☐		Yes ☐		Yes ☐
	Yes ☐		Yes ☐		Yes ☐
	Yes ☐		Yes ☐		Yes ☐

2. Previous Owner's Name: Patrick O. Day and Therese D. Day
Name of current water right holder/claimant
3. New Owner(s)/Claimant(s): City of Boise, Department of Parks & Recreation
New owner(s) as listed on the conveyance document Name connector ☐ and ☐ or ☐ and/or
- | | | | |
|------------------------|----------------------------|-----------|--------------|
| <u>1104 Royal Blvd</u> | <u>Boise</u> | <u>ID</u> | <u>83706</u> |
| Mailing address | City | State | ZIP |
| <u>208-7600</u> | <u>bpr@cityofboise.org</u> | | |
| Telephone | Email | | |
4. If the water rights and/or adjudication claims were split, how did the division occur?
- ☐ The water rights or claims were divided as specifically identified in a deed, contract, or other conveyance document.
- ☐ The water rights or claims were divided proportionately based on the portion of their place(s) of use acquired by the new owner.
5. Date you acquired the water rights and/or claims listed above: Dec. 19, 2006
6. If the water right described herein has been rented from the Water Supply Bank, rental proceeds will be disbursed in the following manner regardless of any arrangements between the buyer(s) and seller(s) to the contrary:
- Rental payments will go to the lessor(s) of record at the beginning of the rental season.
 - If a change in ownership is processed by the Department during a rental season, rental payment will be made to the person or entity who is the lessor of record at the beginning of that rental season.
 - New lessor(s) of record will receive payment after the following rental season.
7. This form must be signed and submitted with the following **REQUIRED** items:
- A copy of the conveyance document – warranty deed, quitclaim deed, court decree, contract of sale, etc. The conveyance document must include a legal description of the property or description of the water right(s) if no land is conveyed.
 - Plat map, survey map or aerial photograph which clearly shows the place of use and point of diversion for each water right and/or claim listed above (if necessary to clarify division of water rights or complex property descriptions).
 - Filing fee (see instructions for further explanation):
 - \$25 per *undivided* water right.
 - \$100 per *split* water right.
 - No fee is required for pending adjudication claims.

8. Signature:  Title, if applicable:  Date: 4/9/14

Signature: _____ Title, if applicable: _____ Date: _____

Signature of new owner/claimant Title, if applicable Date

For IDWR Office Use Only:

Received by:  Date: 4/17/14 Receipt No.: W042036 Receipt Amt.: 25

Approved by:  Processed by: J. Strange Date: 6-16-14

NCS-265844

ADA COUNTY RECORDER J. DAVID NAVARRO
BOISE IDAHO 12/20/06 11:31 AM
DEPUTY Neava Haney
RECORDED - REQUEST OF
First American

AMOUNT 27.00 9



Recording requested by
And when recorded returned to
Boise City, Dept. of Parks & Recreation
P.O. Box 500
Boise, Idaho 83701

DEED OF GIFT

THIS INDENTURE is made this 19th day of December, 2006, by and between Patrick O. Day and Dorothy Therese Day, also know as Terry Day, Therese D. Day, Dorothy T. Day, or Dorothy F. Day, husband and wife, the Grantors, and Boise City, an Idaho municipal corporation, the Grantee:

WITNESSETH

SECTION 1. GIFT TO THE GRANTEE. The Grantors do hereby grant and convey to the Grantee, all of the real property situated in the County of Ada, State of Idaho, described on Exhibit 1, as Parcels 1, 2, 3, 4, and 5, attached hereto and by this reference, made a part hereof, hereinafter referred to as the Property.

Together with all and singular the tenements, hereditaments, and appurtenances, thereunto belonging or in any ways appertaining, including but not limited to any and all water rights or shares in a canal or irrigation company.

SUBJECT TO:

1. All taxes and assessments levied and assessed upon the property prorated to December 31, 2006, and each year thereafter.
2. Easements and other restrictions and encumbrances of record or otherwise apparent or visible on the date of this conveyance.
3. The reservation of the life estate, described below.

SECTION 2. LIFE ESTATE. The Grantor hereby retains a life estate in that portion of the property described on Exhibit 2, attached hereto and by this reference made a part hereof, for the remainder of the natural life of Patrick O. Day, hereinafter "the Life Estate Property". During the lifetime of Patrick O. Day, Grantor shall pay all real property taxes and other encumbrances levied and assessed against the Life Estate Property. Upon the death of the Grantor Patrick O. Day or earlier termination of the life estate, fee simple title to the Life Estate Property shall vest in the Grantee, as the owner of the remainder interest in the Life Estate Property, subject to the

terms and conditions of this Deed of Gift and the Donation Agreement, of the same date, between Patrick O. Day and Dorothy Therese Day and the City of Boise.

SECTION 3. CONDITIONS. TO HAVE AND TO HOLD THE PROPERTY unto the Grantee so long as the Grantee shall comply with the following conditions:

(A) Within a period of ten (10) years from the date of the termination of the Life Estate, the Property in its entirety shall be fully and completely developed as a Neighborhood Park, including but not limited to the construction of the memorial to Terry Day, the construction of the fountain as a memorial to Michael Thomas Day, and the construction of the tennis courts and other improvements described in the Donation Agreement.

(B) The Property thereafter shall be maintained and operated at all times and exclusively as a neighborhood public park for the benefit and use of the public generally and no part thereof shall be used for any other purpose, excepting purposes which are reasonably incidental to and contribute directly to the neighborhood park concept, or as provided for in the Donation Agreement. The term, "Neighborhood Park" shall be as defined in the Boise City Code, as it may hereafter be amended. The current definition of a neighborhood park is:

A combination playground and park, designed primarily for non-supervised, non-organized recreation activities. They are generally small in size (3 to 10 acres), and typically serve residents within a half-mile radius. At average residential densities, this amounts to a service area population of about 3,000 to 5,000 residents. Since these parks are located within walking and bicycling distance of most users, the activities they support often become a daily pastime for neighborhood children.

Such use may be further limited, but not expanded by applicable provisions of the Boise City Code, and policies, rules and regulations of the Parks and Recreation Commission and the Department of Parks and Recreation.

(C) At no time and under no circumstances shall the property be utilized or developed for any residential, commercial, industrial or other use that is not consistent with the neighborhood park concept except that the Life Estate Property may be used for residential purposes during the term of the life estate. The Grantee shall not use or permit the use of the park or its facilities for commercial purposes, profit or gain of any individual, by any for-profit entity or for commercial advertising.

(D) Prior to the development of the Property as a neighborhood park as described above, the Property shall remain in its present condition subject, however, to the provisions of Article 4 of the Donation Agreement.

(E) The public park located, maintained and operated upon the Property as required herein shall at all times be identified, known and referred to by the Grantee as **the Terry Day Park**.

(F) Neither the Property nor any part thereof shall ever be transferred or conveyed by the Grantee to any other person or entity. Grantee shall neither create nor permit the creation of any lien or encumbrance to attach to the Property, excepting only those referred to in this Deed of Gift or the Donation Agreement, easements for utilities serving the park and any ad valorem taxes levied and assessed upon the Property.

SECTION 4. DIVESTING OF TITLE.

(A) To insure this Property herein conveyed will be developed and forever used, operated and identified in full compliance with the conditions set forth in Section 3 of this Deed of Gift, it shall be an express condition of this conveyance that at any time in the future should the Property or any part thereof not be developed or cease to be used or identified in full compliance with each condition set forth in Section 3 of this Deed of Gift or that the Grantee shall fail, refuse or neglect in any respect to comply with the conditions set forth in Section 3 of this Deed of Gift, the Grantee shall be divested of the title to the property and in such event the title to the Property shall automatically and without the necessity of any conveyance, pass to and become vested in the Idaho Community Foundation, an Idaho non-profit corporation, if it is then in existence and is then qualified as an exempt organization under the provisions of the Internal Revenue Code §501(c)(3) or the comparable provision of the United States Internal Revenue Code then in force and effect. Should the Idaho Community Foundation not then be in existence, or if for any reason it does not then qualify as an exempt organization under Internal Revenue Code §501(c)(3) or the comparable provision of the United States Internal Revenue Code then in force and effect, or if the Idaho Community Foundation should fail or refuse to accept the transfer of the Property, the title to the Property shall instead pass to and vest in an exempt organization, excepting therefrom any other governmental entity, qualifying as such under the provisions of Internal Revenue Code §501(c)(3) or Internal Revenue Code §170(c)(1) or a comparable provision of the United States Internal Revenue Code then in force and effect created for charitable or public purposes. Such organization shall be designated by Patrick O. Day, or his sons, Bryan P. Day and Alan S. Day, or by a judge of the state court of general jurisdiction for Ada County, State of Idaho.

(B) The provisions of this Deed of Gift may be enforced by Patrick O. Day; by his children, Bryan P. Day and Alan S. Day; by the heirs and devisees of Patrick O. Day and Dorothy Therese Day; by the Idaho Community Foundation if it is then in existence and then qualifies as an exempt organization under the provisions of the Internal Revenue Code §501(c)(3), and by the Attorney General of the State of Idaho.

(C) The fact that the Grantee has ceased to operate, maintain, use and identify the property herein conveyed as a neighborhood park in compliance with the provisions of this Deed of Gift may be established of record by either (i) a certified copy of a resolution by the Mayor and Council of the Grantee of that fact, or (ii) a determination thereof through judgment of a court of competent jurisdiction of the State of Idaho.

SECTION 5. NO REVERSION. In no event shall any interest in the Property, except for the retained life estate, revert to Patrick O. Day, Dorothy Therese Day or their heirs or devisees. Provided however, the City may be divested of the Property as provided for herein. In this event;

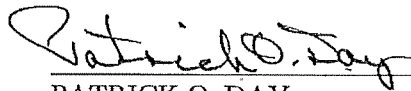
Patrick O. Day may retain the life estate in accordance with the terms and conditions of this Deed of Gift and the Donation Agreement.

SECTION 6. ACCEPTANCE. Through its acceptance of this Deed of Gift and its approval of the Donation Agreement, and by the recordation of this Deed of Gift, the Grantee shall be deemed to have accepted and agreed to comply with the restrictions and conditions set forth in this Deed of Gift and to hold the Property subject to the full performance by it of the provisions of this Deed of Gift and Donation Agreement.

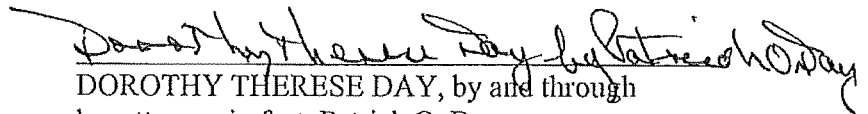
SECTION 7. DONATION AGREEMENT. The Grantor and the Grantee have this day entered into a Donation Agreement. This Deed of Gift shall be construed together with the Donation Agreement. In the event of any conflict between the documents, the Deed of Gift shall control.

SECTION 8. GRANTEE'S ADDRESS. The current address of the Grantee is City of Boise, Post Office Box 500, Boise, Idaho, 83701.

IN WITNESS WHEREOF, this Deed of Gift has been duly executed by the Grantor the day and year hereinabove first written.



PATRICK O. DAY



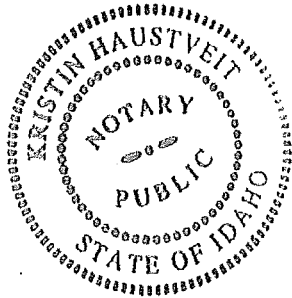
DOROTHY THERESE DAY, by and through
her attorney in fact, Patrick O. Day

CERTIFICATE OF ACKNOWLEDGMENT

STATE OF IDAHO)
)ss.
County of Ada)

On this 19th day of December, 2006, before me, a Notary Public, personally appeared Patrick O. Day, known or identified to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same.

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



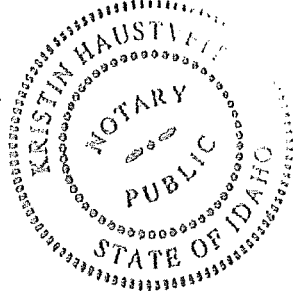
Kristin Haustveit
Notary Public for Idaho
Residing at Ada County
My commission expires: 10/10/09

CERTIFICATE OF ACKNOWLEDGMENT

STATE OF IDAHO)
)ss.
County of Ada)

On this 19th day of December, 2006, before me, a Notary Public, personally appeared Patrick O. Day, known or identified to me to be the person whose name is subscribed to the within instrument as the attorney in fact of Dorothy Therese Day and acknowledged to me that he had subscribed the name of Dorothy Therese Day, as principal and his own name as attorney in fact.

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



Kristin Haustveit
Notary Public for Idaho
Residing at Ada County
My commission expires: 10/10/09

Exhibit 1
Legal Descriptions for Parcels 1, 2, 3, 4 and 5

PARCEL 1

THAT PORTION OF THE EAST ½ OF THE EAST ½ OF LOT 3 OF UPLAND PARK SUBDIVISION RECORDED IN BOOK 2 OF PLATS AT PAGE 76, RECORDS OF ADA COUNTY, IDAHO, LOCATED IN THE SOUTHEAST ¼ OF THE SOUTHWEST ¼ OF SECTION 15, TOWNSHIP 3 NORTH, RANGE 2 EAST, BOISE MERIDIAN, IN THE CITY OF BOISE, COUNTY OF ADA, STATE OF IDAHO, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF THE WEST ½ OF THE EAST ½ OF LOT 3 OF UPLAND PARK SUBDIVISION IN THE CITY OF BOISE, COUNTY OF ADA, STATE OF IDAHO;
THENCE SOUTH 00°32'36" WEST, 200.00 FEET, ALONG THE EAST LINE OF SAID WEST ½ OF THE EAST ½, TO THE POINT OF BEGINNING;
THENCE CONTINUING SOUTH 00°32'36" WEST, 439.37 FEET, ALONG SAID EAST LINE, TO THE SOUTHEAST CORNER THEREOF;
THENCE NORTH 89°37'51" WEST, 91.15 FEET, ALONG THE SOUTH LINE OF SAID WEST ½ OF THE EAST ½, TO THE NORTHEASTERLY RIGHT-OF-WAY LINE OF THE UNION PACIFIC RAILROAD;
THENCE NORTH 20°29'10" WEST, 208.11 FEET, ALONG SAID NORTHEASTERLY RIGHT-OF-WAY LINE, TO THE WEST LINE OF SAID WEST ½ OF THE EAST ½;
THENCE NORTH 00°33'35" EAST, 244.50 FEET, ALONG SAID WEST LINE;
THENCE SOUTH 89°46'00" EAST, 165.76 FEET TO THE POINT OF BEGINNING.

PARCEL 2

A TRACT OF LAND BEING THE EAST 1/2 OF THE EAST 1/2 OF LOT 3 OF THE UPLAND PARK SUBDIVISION, RECORDED IN BOOK 2 OF PLATS AT PAGE 76, RECORDS OF ADA COUNTY, IDAHO, LOCATED IN THE CITY OF BOISE, ADA COUNTY, STATE OF IDAHO MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF THE EAST 1/2 OF THE EAST 1/2 OF LOT 3 OF THE UPLAND PARK SUBDIVISION IN THE CITY OF BOISE, STATE OF IDAHO;
THENCE SOUTH 00°32'17" WEST, 639.77 FEET TO THE SOUTHEAST CORNER OF SAID EAST 1/2 OF THE EAST 1/2 OF LOT 3;
THENCE NORTH 89°37'51" WEST, 166.69 FEET TO THE SOUTHWEST CORNER OF SAID EAST ½ OF THE EAST 1/2 OF LOT 3;
THENCE NORTH 00°32'36" EAST, 639.37 FEET TO THE NORTHWEST CORNER OF SAID EAST 1/2 OF THE EAST 1/2 OF LOT 3;
THENCE SOUTH 89°46'00" EAST, 166.63 FEET TO THE POINT OF BEGINNING.

PARCEL 3

A TRACT OF LAND BEING TRACT "A" OF THE LOVELAND SUBDIVISION, RECORDED IN BOOK 11 OF PLATS AT PAGE 585, RECORDS OF ADA COUNTY, IDAHO, IN THE CITY OF BOISE, STATE OF IDAHO MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF TRACT "A" OF LOVELAND SUBDIVISION IN THE CITY OF BOISE, STATE OF IDAHO;
THENCE SOUTH 00°32'17" WEST, 628.76 FEET TO THE SOUTHEAST CORNER OF SAID TRACT "A";
THENCE NORTH 89°29'43" WEST, 16.46 FEET TO THE SOUTHWEST CORNER OF SAID TRACT "A";

THENCE NORTH 20°29'10" WEST, 672.80 FEET TO THE NORTHWEST CORNER OF SAID TRACT "A";
THENCE SOUTH 89°37'51" EAST, 257.84 FEET TO THE POINT OF BEGINNING.

PARCEL 4

A TRACT OF LAND BEING A PORTION OF LOTS 27 AND 28 AND THE UNNAMED RIGHT OF WAY LYING WEST OF LOTS 27 AND 28 OF HILLCREST SUBDIVISION, RECORDED IN BOOK 6 OF PLATS AT PAGE 284, RECORDS OF ADA COUNTY, IDAHO, IN THE CITY OF BOISE, STATE OF IDAHO MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF THE HILLCREST SUBDIVISION IN THE CITY OF BOISE, STATE OF IDAHO;
THENCE SOUTH 00°32'17" WEST, 379.17 FEET, ALONG THE WEST LINE OF SAID HILLCREST SUBDIVISION;
THENCE SOUTH 89°27'44" EAST, 20.00 FEET;
THENCE NORTH 00°32'17" EAST, 200.00 FEET TO A POINT ON THE WESTERLY PROLONGATION OF THE SOUTH LINE OF SAID LOT 27 AND BEING THE TRUE POINT OF BEGINNING;
THENCE CONTINUING NORTH 00°32'17" EAST, 50.00 FEET TO A POINT ON THE WESTERLY PROLONGATION OF THE NORTH LINE OF SAID LOT 28;
THENCE SOUTH 89°27'44" EAST, 132.10 FEET, ALONG SAID NORTH LINE, TO A POINT ON THE WESTERLY RIGHT OF WAY FEDERAL WAY, SAID POINT BEING ON THE ARC OF A NON-TANGENT 1988.00 FOOT RADIUS CURVE TO THE RIGHT AND A RADIAL BEARING TO SAID POINT BEARS N 58°19'23" E;
THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 01°41'16" A DISTANCE OF 58.56 FEET (THE LONG CHORD BEARS S 30°49'59" E, 58.65') TO A POINT ON THE SOUTH LINE OF SAID LOT 27;
THENCE NORTH 89°27'44" WEST, 162.58 FEET, ALONG SAID SOUTH LINE AND THE PROLONGATION THEREOF, TO THE TRUE POINT OF BEGINNING.

PARCEL 5

A TRACT OF LAND BEING A PORTION OF LOTS 19 AND 20 AND THE UNNAMED RIGHT OF WAY LYING WEST OF LOTS 19 AND 20 OF THE HILLCREST SUBDIVISION, RECORDED IN BOOK 6 OF PLATS AT PAGE 284, AND LOT 2 AND THE UNNAMED RIGHT OF WAY LYING WEST OF LOT 2 OF THE AMENDED PLAT OF HILLCREST SUBDIVISION, RECORDED IN BOOK 8 OF PLATS AT PAGE 373, RECORDS OF ADA COUNTY, IDAHO, IN THE CITY OF BOISE, STATE OF IDAHO MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF THE HILLCREST SUBDIVISION IN THE CITY OF BOISE, STATE OF IDAHO;
THENCE SOUTH 00°32'17" WEST, 379.17 FEET, ALONG THE WEST LINE OF SAID HILLCREST SUBDIVISION;
THENCE SOUTH 89°27'44" EAST, 20.00 FEET TO THE TRUE POINT OF BEGINNING;
THENCE NORTH 00°32'17" EAST, 200.00 FEET TO A POINT ON THE WESTERLY PROLONGATION OF THE NORTH LINE OF SAID LOT 2;
THENCE SOUTH 89°27'44" EAST, 162.58 FEET, ALONG SAID NORTH LINE, TO A POINT ON THE WESTERLY RIGHT OF WAY FEDERAL WAY, SAID POINT BEING ON THE ARC OF A NON-TANGENT 1988.00 FOOT RADIUS CURVE TO THE RIGHT, A RADIAL BEARING TO SAID POINT BEARS N 60°00'39" E;
THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 00°04'17" A DISTANCE OF 2.48 FEET (THE LONG CHORD BEARS S 29°57'12" E, 2.48 FEET);
THENCE SOUTH 29°56'29" EAST, 229.59 FEET, ALONG SAID RIGHT OF WAY, TO A POINT ON THE SOUTH LINE OF SAID LOT 2;
THENCE NORTH 89°27'44" WEST, 280.30 FEET, ALONG SAID SOUTH LINE AND THE

PROLONGATION THEREOF, TO THE TRUE POINT OF BEGINNING.

APN: R-5336-00-0010 - Parcels 1 and 3; R-8843-00-0300 - Parcel 2

APN: R-3638-51-0025 - Parcels 4 and 5

Commonly known as: 2019 W. Kootenai Street, 0000 S. Federal Way, 0000 W. Overland Road,
Boise, ID 83705

Exhibit 2
Tri County Surveying, Inc.

Job No. 06-123
November 8, 2006

Property Description
Life Estate

That portion of the East $\frac{1}{2}$ of the East $\frac{1}{2}$ of Lot 3 of Upland Park Subdivision in the Southeast $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ of Section 15, Township 3 North, Range 2 East, Boise Meridian, in the City of Boise, County of Ada, State of Idaho, described as follows:

Beginning at the northwest corner of the East $\frac{1}{2}$ of the East $\frac{1}{2}$ of Lot 3 of Upland Park Subdivision in the City of Boise, County of Ada, State of Idaho;
Thence South $89^{\circ}46'00''$ East, 106.17 feet, along the north line of said Lot 3;
Thence South $00^{\circ}32'17''$ West, 87.75 feet, parallel to the east line of said Lot 3;
Thence South $88^{\circ}12'17''$ East, 8.90 feet;
Thence South $01^{\circ}09'28''$ West, 41.64 feet;
Thence North $89^{\circ}46'00''$ West, 47.36 feet, parallel to the north line of said Lot 3;
Thence South $00^{\circ}11'15''$ West, 218.15 feet;
Thence North $87^{\circ}19'48''$ West, 12.63 feet;
Thence South $03^{\circ}01'28''$ West, 9.06 feet;
Thence North $89^{\circ}40'36''$ West, 55.61 feet, along a fence line, to the west line of said East $\frac{1}{2}$ of the East $\frac{1}{2}$ of said Lot 3;
Thence North $00^{\circ}32'36''$ East, 356.20 feet, along said west line, to the point of Beginning.

Said tract of land containing therein a calculated area of 0.675 acres, more or less, includes all water and ditch rights appurtenant to or used in connection with the properties being sold or conveyed hereby and is subject to rights-of-way or easements of record or in use.

DONATION AGREEMENT

THIS DONATION AGREEMENT (hereinafter "the Agreement") is entered into this 19th day of December, 2006, by and between Patrick O. Day and Dorothy Therese Day, also known as Terry Day, husband and wife ("the Days") and the City of Boise City, an Idaho municipal corporation, by and through its Department of Parks and Recreation ("the City").

RECITALS

THIS AGREEMENT is made with reference to the following:

1. The Days own certain real property, located in Boise, Ada County, Idaho, consisting of five parcels. The parcels are referred to as Parcels 1, 2, 3, 4 and 5 and are more particularly described on **Exhibit 1** attached hereto and incorporated herein by reference. The five parcels are sometimes referred to collectively as "the Property". The Day family residence is located on Parcel 2, which fronts on Kootenai Street and is commonly known as 2019 Kootenai. A map of the Property is attached hereto as **Exhibit 2**.

2. The Days desire to gift to the City the real property described above, retaining a life estate for their personal residence over a portion of Parcel 2, as the site for the Terry Day Park, subject to the terms and conditions of this Agreement. The property subject to the life estate is described on **Exhibit 3** attached hereto and incorporated herein by reference and is referred to as "the Life Estate Property". Parcels 1, 2 (except for the Life Estate Property), 3, 4 and 5 are sometimes referred to as "the First Phase Property".

3. The City desires to accept the gift of the Property subject to the terms and conditions of this Agreement. This gift will enable the City to provide a neighborhood park to an area of the City that is not currently served by a park and to provide expanded recreational opportunities for the neighborhood, its children and the citizens of Boise.

NOW, THEREFORE, in consideration of the foregoing and the mutual promises and covenants set forth below, the parties hereto agree as follows:

ARTICLE 1. GIFT

1.01 Gift of Property. The Days hereby agree to donate to the City the Property more particularly described on **Exhibit 1**, as a charitable contribution, pursuant to a Deed of Gift, attached hereto as **Exhibit 4**, retaining and subject to a life estate as more particularly described below. The City hereby agrees to accept the Property and to use the Property exclusively for a neighborhood park and related uses in accordance with this Agreement. The transfer shall take place and the deed shall be recorded on or before December 29, 2006.

ARTICLE 2. THE TERRY DAY PARK

2.01 Use of Property by City. Except as otherwise expressly provided herein, the Property shall be maintained and operated at all times and exclusively as a neighborhood park for the benefit and use of the public generally. The term, "Neighborhood Park", is defined in the Boise City Comprehensive Plan as:

A combination playground and park, designed primarily for non-supervised, non-organized recreation activities. They are generally small in size (3 to 10 acres), and typically serve residents within a half-mile radius. At average residential densities, this amounts to a service area population of about 3,000 to 5,000 residents. Since these parks are located within walking and bicycling distance of most users, the activities they support often become a daily pastime for neighborhood children.

In addition, the City may use a portion of the Property for a community or urban garden. Following termination of the life estate, the City may utilize the residence on the Life Estate Property as a neighborhood center or similar public uses so long as the public use is reasonably related to the mission of the Department of Parks and Recreation. No part of the Property shall be used for any other purpose, except for a purpose which is reasonably incidental to and contributes directly to the neighborhood park concept.

2.02 Name of the Park. In consideration of the donation set forth above and in consideration of the significant contributions that Dorothy Therese Day has made to her family and to this community, the Property shall be named the **Terry Day Park**. The Days understand and agree that the City may recognize with plaques or other approved signage the contributions of others to the construction of park improvements on the Property in accordance with the policies of the Parks and Recreation Commission and the Department of Parks and Recreation. The City also may install plaques or other signage recognizing memorial gifts of trees and benches in accordance with its existing or future policies.

2.03 Master Plan. In consultation with Patrick O. Day, the City has prepared a Master Plan for the project. A depiction of the Master Plan is attached hereto as Exhibit 5. The City shall further consult with Patrick O. Day, or his successor, with regard to any changes or refinements in the plan. The Days understand and agree that the Master Plan for the park shall be the subject of one or more neighborhood meetings but that the final Master Plan shall rely substantially on the advice and recommendations of Patrick O. Day or his successor.

2.04 Development of the First Phase Property. During the term of the life estate, the City shall use its best efforts to install a functioning irrigation system, turf, parking, pathways, park sign, power, water and sewer connections, benches, trash receptacles, restrooms and a drinking fountain on the First Phase Property.

2.05 Development of the Property. Within six (6) years from the date of termination of the life estate, the City shall install on the Property a functioning irrigation system, turf, paved parking, pathways, park sign, power, water and sewer connections, benches, playground, trash

receptacles and a drinking fountain. Within ten (10) years from the date of termination of the life estate, the City shall install on the Property all other improvements and park facilities called for by the Master Plan as now existing or as may hereafter be modified, including but not limited to playgrounds, picnic shelter, tennis courts, restrooms, and walking paths.

2.06 Memorial to Terry Day. Within six (6) years from the date of termination of the life estate, the City shall construct and install on the Property a suitable permanent memorial to Terry Day. The memorial shall be located near the site of the residence on the Life Estate Property or at such other location acceptable to Patrick O. Day, or his successor. Patrick O. Day, or his successor, shall approve the final design of the memorial.

2.07 Memorial to Michael Thomas Day. Within ten (10) years from the termination of the life estate, the City shall construct a fountain on the Property as a memorial to Michael Thomas Day, the deceased son of the Days. The site and the design of the fountain shall be approved by Patrick O. Day, or his successor.

2.08 Tennis Courts. Within six (6) years from the termination of the life estate, the City shall construct a minimum of two (2) tennis courts, including at least one back board. If feasible, the tennis courts shall be separated by a walkway or fence between the two courts.

2.09 Use of the Land. The City recognizes that the appropriate use of the land and respect for the natural environment are important to the Days. Therefore, to the extent feasible, a portion of the Property shall be maintained in a natural park-like condition, with an area for peaceful relaxation similar in design and ambience to the natural conditions at Kathryn Albertson Park. The Property shall be managed with due consideration given to the birds and other small wildlife. The City is encouraged to use sustainable land use practices.

2.10 No Basketball or Volleyball Courts. Basketball courts, volleyball courts and similar facilities shall not be installed on the Property.

2.11 Signage. All initial First Phase signage on the Property shall be approved by Patrick O. Day, or his successor. Replacement and additional signage shall be similar to the design, including colors, of the signage approved by the Day Family.

2.12 Maintenance of the Park. The City shall maintain the Park in good order in accordance with Boise City Department of Parks & Recreation maintenance standards and practices and consistent with the terms of this Agreement and the Deed of Gift.

ARTICLE 3. LIFE ESTATE.

3.01 Reservation. The Days hereby reserve a life estate, the right to possess, occupy and control that portion of Parcel 2, which is more particularly described on **Exhibit 3**, during the lifetime of Patrick O. Day. The Days shall use the Life Estate Property for their personal residence. The mother-in-law quarters adjacent to the main residence may be occupied with the consent of the City. The City shall not unreasonably withhold its consent to such occupancy. Upon the death of Patrick O. Day or earlier termination of the life estate, the City shall take title

to the Life Estate Property in fee simple, subject to the terms and conditions of this Agreement. Patrick O. Day may disclaim the life estate by written notice to the City; in this event, the life estate shall terminate.

3.02 Insurance. During the term of the life estate, the Days shall maintain, at their expense, tenant's insurance, insuring the personal property owned by the Days located on the Life Estate Property. City shall maintain, through its program of self-insurance a general liability, casualty and fire insurance policy on the residence and life estate property. The Days shall be named as additional insureds on this policy. During the term of the Life Estate, the City shall maintain general liability insurance on the First Phase Property.

3.03 Property Taxes. The real property taxes assessed against the Property shall be prorated as of December 31, 2006. The Days shall timely pay the real property taxes for the tax year ending December 31, 2006, including the property taxes for the second half of 2006, not due and owing until June 20, 2007. The City shall be responsible for any taxes assessed against the First Phase Property, on or after January 1, 2007. During the term of the life estate, the Days shall pay the property taxes, if any assessed against the Life Estate Property.

3.04 Repairs and Maintenance. The Days shall be responsible for the maintenance of the residence, garage, outbuildings and landscaping located on the Life Estate Property, including the garden area and shall not commit or permit waste or nuisance in or about the Property. The parties recognize that the City intends to remove the garage and other outbuildings upon termination of the life estate and the City may remove the residence also. Therefore, the City waives any claim that it may have against the Days arising out of their failure to maintain the property. The City shall not be obligated to, but may in its discretion, and as a courtesy and accommodation to the Days perform maintenance and repairs to the Life Estate Property, including the residence, garage and other outbuildings. However, the Days shall waive any claim and hold the City harmless from any claim arising out of the performance by the City of such courtesy and accommodation services.

3.05 Utilities. The Days shall be responsible for and timely pay for electrical service, sewer service and other utilities provided to the residence located on the Life Estate Property. The parties recognize that domestic water supplied by United Water is used to sprinkle the lawn areas adjacent to the residence on the Life Estate Property and part of Parcel 2. Therefore, the Days shall pay the charges by United Water or its successor for water service to the Property. The City shall reimburse the Days for 50% of the water charges for the billing periods that include May 1, through October 31, within thirty days after presentation of a written statement from the Days.

3.06 Irrigation Assessment. The Days shall timely pay the assessment of the New York Irrigation District that is due December 20, 2006. Thereafter, the City shall be responsible for and shall timely pay all charges and assessments for irrigation water supplied by the New York Irrigation District to the Property, including but not limited to the installment that is due April 1, 2007. The City shall notify the New York Irrigation District of the change in ownership of the Property and of the City's liability for future assessments.

3.07 No Liens. The Days agree that, during the term of the Life Estate, they shall not permit any liens or encumbrances, including mortgages, deeds of trust, mechanics or materialman's liens, or any other lien or encumbrance to be recorded against the Property. The Days, however, may contest in good faith any mechanic's, materialman's or other lien, so long as they provide adequate security to the City.

3.08 Quiet Enjoyment. The City hereby covenants and warrants to the Days, that, during the term of the Life Estate, that they shall have the quiet enjoyment and use of the Life Estate Property.

3.09 Damage to Improvements. The City shall repair any damage to the residence, outbuildings or other improvements, or to the Property, caused by fire or other casualty loss, if the estimated cost of repair is thirty percent (30%) or less of the estimated replacement costs of all of the improvements. The City may, but shall not be obligated to repair any such damage if the estimated cost of repair is more than thirty percent (30%) of the estimated replacement cost of all of the improvements.

3.10 Removal of Personal Property. Upon termination of the life estate, the City shall grant to the Day Family access to the Life Estate Property, including the residence, for a reasonable period of time, not to exceed 180 days, to remove the personal property of Patrick O. Day and Terry Day.

3.11 Removal of the Residence. Upon termination of the Life Estate, if the City determines that the residence on the Life Estate Property will not be utilized in connection with the Park, the City shall so notify the Day family in writing and the family shall have the option to move the residence from the Property, at its sole cost and expense. The Day family shall have 180 days from the date the City gives notice to the Day family that it will not use the residence for Park purposes to move the residence as provided herein.

ARTICLE 4. MAINTENANCE OF FIRST PHASE PROPERTY BY CITY DURING THE TERM OF LIFE ESTATE.

4.01 Maintenance. Throughout the term of the Life Estate and until commencement of construction of park improvements, the City shall maintain the landscaping on the First Phase Property in good order and appearance consistent with its current condition and appearance. The City in its sole discretion, however, may enhance the current condition and appearance of all or part of the First Phase Property. The City shall cut the grass on Parcel 2, including the Life Estate Property. The City shall irrigate Parcels 1 and 2 and shall maintain the irrigation ditches. The City shall prune the trees and shrubbery on the First Phase Property and may prune the trees and foliage on the Life Estate Property. The City may remove any diseased or dead trees on the First Phase Property, provided, however, the City shall consult with Patrick O. Day, or his successor, before pruning any trees or other shrubs that provide privacy for the Life Estate Property, including the trees and shrubs located either on the Life Estate Property or Parcel 2.

4.02 Storage Building. Following notice in writing to Patrick O. Day or his successor, the City may remove the storage building located on the First Phase Property, allowing Patrick

O. Day or his successor a reasonable time following such notice to remove any personal property stored in the building. If the City elects to retain the storage building on the First Phase Property, the City shall maintain the storage building in a safe and secure manner, including taking reasonable steps to secure the building, its entrances and its windows against unauthorized entrance or use.

4.03 Fence or Buffer and Security Lighting. The City may, and upon request of Patrick O. Day, or his successor, shall construct, at its cost, a fence and or other buffer to provide security and privacy to the Life Estate Property. The City shall consult with Patrick O. Day, or his successor, as to the location, design and construction of the fence or buffer. Upon request of the Patrick O. Day, or his successor, the City at its sole cost and expense shall install, security lighting to provide additional nighttime protection for the Life Estate Property. Electricity for the security lighting may be supplied through the electrical meter serving the Day residence. In such event, the Days shall pay the electrical costs.

ARTICLE 5. REAL ESTATE MATTERS

5.01 ACHD Right of Way. The parties recognize that there may exist a right-of-way easement in favor of the Ada County Highway District and located between Parcel 2 and Parcels 4 and 5. In the event the City seeks a vacation of all or part of any such right of way, it shall do so at its sole cost and expense. The Days hereby quitclaim, waive and release any claim that they may have to the vacated portion of the right of way by reason of the Life Estate retained hereunder or for any other reason and hereby agree to execute any further documents necessary to effectuate such quitclaim, waiver and release.

5.02 Boundary Claim. The City recognizes that the owner or owners of the property that forms the eastern boundary of Parcel 3 may assert a boundary claim arising from an irregularity in the construction and placement of the fence serving as the apparent property line.. The City accepts the Property, subject to such possible claim.

ARTICLE 6. MISCELLANEOUS

6.01 Terry Day. The parties recognize that Terry Day may be incapacitated. Patrick O. Day shall obtain a court order pursuant to Idaho Code §15-5-409 authorizing this transaction and authorizing Patrick O. Day to execute this Agreement and the other documents under a General Power of Attorney dated May 25, 1990. This agreement may be modified or enforced on behalf of Terry Day by her agent under this General Power of Attorney. If Patrick O. Day is not able to act as her agent, Bryan P. Day may act as her successor agent under this General Power of Attorney.

6.02 Enforcement. This Agreement and the Deed of Gift may be enforced by Patrick O. Day or by his children, Bryan P. Day and Alan S. Day, if Patrick O. Day is deceased or incompetent. In addition, this Agreement may be enforced by the Idaho Community Foundation, or another qualified charity or by the Attorney General of State of Idaho, as more particularly described in the Deed of Gift.

6.03 Consultation and Approval. If Patrick O. Day is unable to consult with, or to give his approval (if any approval is required) as provided for in this Agreement, the City shall consult with and/or seek approval from his children, Bryan P. Day and Alan S. Day, sometimes referred to herein as the successor.

6.04 Environmental Studies and Title Insurance. The City, at its cost and expense shall perform such environmental studies on and surveys of the Property, and obtain such title insurance, as it deems necessary.

6.05 Entire Agreement. This Agreement and the Deed of Gift, constitutes the entire agreement between the parties and no warranties, agreements or representations have been made, or shall be binding upon either party, unless set forth in these documents. Unless expressly stated otherwise herein, this Agreement is the final agreement.

6.06 Successors. The Agreement shall be binding upon and shall inure to the benefit of the heirs, personal representatives, successors and assigns of the respective parties hereto.

6.07 Notification. No change or modification of this Agreement shall be valid unless the same is in writing and signed by the parties hereto, or the successors and assigns.

6.08 Recitals. The recitals are part of this Agreement and express the intent of the parties.

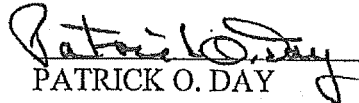
6.09 Attorney's Fees. If either party to this Agreement shall file a lawsuit or institute an arbitration proceeding to interpret or to enforce this Agreement, the unsuccessful party to such litigation or arbitration shall pay to the prevailing party, all costs and expenses, including reasonable attorney's fees, incurred by the prevailing party, including such costs and fees with respect to any appeal.

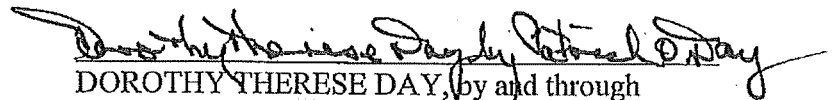
6.10 Construction. This Agreement shall be construed with the Deed of Gift. In the event of any conflict between the documents, the Deed of Gift shall control.

This agreement shall become effective only upon authorization by resolution of the City Council of Boise City and approval by the Mayor.

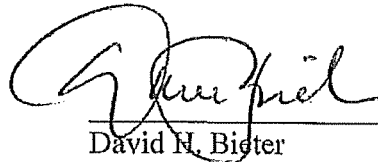
IN WITNESS WHEREOF, the parties have executed this Donation Agreement on the day and year first above written.

FOR THE DONOR:

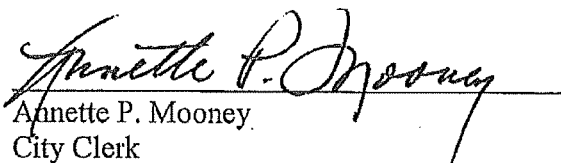

PATRICK O. DAY


DOROTHY THERESE DAY, by and through
her attorney in fact, Patrick O. Day

FOR THE CITY OF BOISE:


David N. Bigler
Mayor

ATTEST:

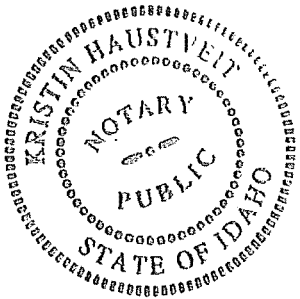

Annette P. Mooney
City Clerk

CERTIFICATE OF ACKNOWLEDGMENT

STATE OF IDAHO)
)ss.
County of Ada)

On this 19th day of December, 2006, before me, a Notary Public, personally appeared Patrick O. Day, known or identified to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same.

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



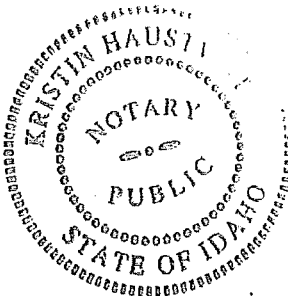
Kristin Haustveit
Notary Public for Idaho
Residing at Ada County
My commission expires: 10/10/09

CERTIFICATE OF ACKNOWLEDGMENT

STATE OF IDAHO)
)ss.
County of Ada)

On this 19th day of December, 2006, before me, a Notary Public, personally appeared Patrick O. Day, known or identified to me to be the person whose name is subscribed to the within instrument as the attorney in fact of Dorothy Therese Day and acknowledged to me that he had subscribed the name of Dorothy Therese Day, as principal and his own name as attorney in fact.

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



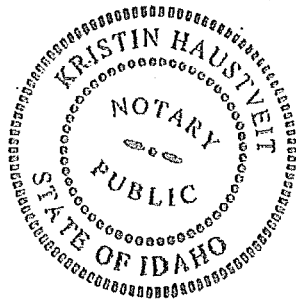
Kristin Haustveit
Notary Public for Idaho
Residing at Ada County
My commission expires: 10/10/09

CERTIFICATE OF ACKNOWLEDGMENT

STATE OF IDAHO)
)ss.
County of Ada)

On this 19th day of December, 2006, before me, a Notary Public, personally appeared David H. Bieter and Annette P. Mooney known to me to be the Mayor and City Clerk of Boise City, Idaho, who executed the within instrument, and acknowledged to me that Boise City executed the same.

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



Kristin Haustveit
Notary Public for Idaho
Residing at Ada County
My commission expires: 10/10/08

Patrick Day

Patrick O. Day
1925 - 2013

Patrick O. Day, 88, of Boise, passed away on Friday, November 1, 2013, All Saints Day, from complications after a fall in his garden. He was born in Twin Falls, Idaho on August 8, 1925, the third son of John and Margret Day.

Pat attended St. Edwards, and Twin Falls High School. His senior year he was a Boy's State representative, and Student Body President. He enlisted in the U.S. Navy in 1943, and served in the Pacific. After the war, he enrolled at the University of Idaho, and graduated in 1949. He immediately joined Albertsons, and stayed until 1971. During his time at Albertsons, Pat met his future wife Terry Owen, made many lifelong friends, and rose to the position of Controller. After Albertsons, he purchased and ran Heating and Cooling Distributors until he retired at the age of 55.

He spent his retirement weekend in Garden Valley, spoiling his granddaughters, accumulating 8 acres of property on Kootenai Street, and gardening. When his beloved wife Terry became ill, he spent five years as her primary care giver. In 2006 he donated 7.1 acres to the City of Boise for a park in honor of his wife. Terry Day Park was officially opened just two weeks ago, on October 15th, 2013.

Pat was a member of Delta Tau Delta Fraternity, The Master Gardeners, The Exchange Club, Junior Achievement, Our Lady of the Rosary Catholic Church, St Jude's parish in Garden Valley, Bishop Kelly Lay Board, The BAA, and was a lifelong fan of the New York Baseball Yankees.

He was preceded in death by his parents; brothers, John and Steve; sister, Margret; wife Terry; infant daughter, Therese; son, Michael, and daughter in law, Denise.

He is survived by his brother, Paul; sons, Bryan and his wife Marie, Alan and his wife Laurie; granddaughters, Molly, Anna, Danielle, Megan, Maddi, Jolie, and Caleigh.

A memorial mass will be held at 11:00 am on Saturday, November 9, 2013 at Our Lady of the Rosary Catholic Church, 1500 E. Wright in Boise.

In lieu of flowers, the family suggests donations be made to the City of Boise Parks and Recreation.

To share memories with the family please visit Pat's memorial webpage at www.cloverdalefuneralhome.com.



Published in Idaho Statesman from Nov. 5 to Nov. 7, 2013
