

GIFT AGREEMENT

This Agreement is entered into by Beverly Bistline ("Donor"), the Idaho State University Foundation, Inc. ("ISUF"), and Idaho State University ("ISU") on the 25th day of August, 2010.

RECITALS

- A. Donor desires to transfer the property described in the attached Exhibit A (the "Property") to ISUF as a gift in part and in part in exchange for value in the form of restricting, as described herein, the use of the ISU property, currently consisting of an eighteen hole Frisbee golf course, as illustrated in the attached Exhibit B (the "Park"). ISU will have a survey conducted, and a formal legal description will be substituted for Exhibit B, when completed.
- B. ISUF desires to accept such transfer and, to the extent such transfer is a gift and as a sign of appreciation, ISU agrees to use its best efforts to secure approval of the State Board of Education (the "State Board"), in accordance with State Board policy, to name the Park the "Beverly Bistline Park at Idaho State University"
- C. ISU desires to recognize the generous and valuable contributions of Donor to ISU and the ISU community and, as the owner of the Park, desires to facilitate the transfer of the Property to ISUF. To the extent that there is exchange for value as set forth herein, ISU agrees to use its best efforts to secure State Board approval to maintain the Park as an open recreational space for such activities as disk golf, hiking, biking, and as a place for ISU students, faculty, staff and the community to enjoy similar outdoor activities and to secure such use in perpetuity through deed restriction or some other means recordable with the Bannock County Recorder's Office.
- D. As described above, ISU, as the owner of the Park, desires to facilitate this transfer as described herein and perceives that in doing so it is not materially altering the value of the land comprising the Park both because ISU has no current intention for using the Park for any purpose other than as a public space, and based upon existing zoning and building ordinances, has no reason to conclude that the Park will ever have a higher value than for use as public open space.
- E. The parties desire to memorialize these recitals in this Agreement.

AGREEMENT

Therefore, incorporating the foregoing Recitals, and in consideration of the mutual agreements contained herein, the parties agree as follows:

1. Donor hereby agrees to transfer the Property by warranty deed to ISUF, without restriction and to be used by ISUF at its sole discretion.

2. ISUF will pay all costs associated with transferring the Property to ISUF, including an ATLA title insurance policy on the Property in favor of ISUF. ISUF will accept the property subject to receiving a satisfactory title report and insurance, and the environmental survey described below. If the title report, insurance, or environmental survey are not satisfactory to ISUF or ISU, either ISUF or ISU may terminate this Agreement by giving written notice to Donor and returning the Property to Donor if already transferred.
3. ISUF will pay for a Phase I environmental survey and a Phase II survey, if warranted by the Phase I survey.
4. Donor represents, warrants, and covenants to the other parties that:
 - a. Donor has fee simple title to the Property;
 - b. The Property is currently in compliance with all city, local, state and federal requirements pertaining to the Property;
 - c. Except as disclosed in the ATLA commitment for title insurance purchased by Donor, there are no encroachments, easements, or rights-of-way pertaining to the Property or any part of the Property;
 - d. All taxes required to be paid by Donor with respect to the Property have been fully paid or will be fully paid on or prior to the transfer of the Property to ISUF;
 - e. No labor has been performed or materials delivered to or for the Property, the cost of which has not been fully paid or which will not be fully paid on or prior to the transfer of the Property to ISUF;
 - f. To the best of Donor's knowledge, there are no, and there have not been, hazardous substances or materials located, generated, released, or stored on or under the Property in violation of any applicable law or regulations, and Donor hereby indemnifies and holds harmless ISUF from and against all claims, damages, or causes of action that may arise therefrom;
 - g. No litigation, administrative, zoning or other proceeding is pending, outstanding or threatened relating to the Property or any portion thereof.
5. ISU represents that it is the fee simple owner of the Park property, and that said property is maintained by various volunteer individuals and organizations, and that it intends to continue maintaining the property in the same manner in the foreseeable future.

6. The foregoing representations, warranties and covenants will be remade as of the date of the transfer of the Property by warranty deed to ISUF and shall survive such transfer.
7. The parties will cooperate in complying with all applicable policies and requirements pertaining to the acceptance of real property gifts by ISUF and the naming of ISU properties.
8. In recognition of the valuable and generous contributions of Donor to ISU and the community over the years, ISU agrees to use its best efforts to obtain approval of the State Board to name the Park the "Beverly Bistline Park at Idaho State University." ISU also agrees to use its best efforts to obtain State Board approval to maintain the Park as an open space park for such activities as disk golf, hiking, biking, and as a place for the enjoyment of ISU students, faculty, staff and the community and to secure such use in perpetuity through deed restriction or some other means recordable with the Bannock County Recorder's Office, which restriction will be subject to the following terms.
 - a. The Park will not be sold, leased or transferred by ISU to any person or entity without first offering the Park for sale or exchange to the City of Pocatello or Bannock County for the uses described herein.
 - b. If the City of Pocatello or Bannock County declines such offer for sale or exchange, the Park may be sold without the restriction on use described above, provided that, if the Park is sold without such restriction, ISU agrees, in its discretion, to pay the sum \$125,000 to Portneuf Greenway Foundation for use in land acquisition or if the Portneuf Greenway Foundation should not exist then to the City of Pocatello for use in public park land acquisition or put similar property owned or acquired by ISU to use as an open space park subject to the same recorded restrictions to be used for such activities as disk golf, hiking, biking, and as a place for the enjoyment of ISU students, faculty, staff and the community.
9. If the State Board of Education does not approve the deed restriction or other recordable means of securing the use of the Park described above, then:
 - a. If ISUF has sold, or entered into an agreement to sell, the Property prior to notification of the State Board's decision, then immediately or upon closing, as the case may be, it shall pay to Donor an amount equal to the proceeds from such sale, less the costs of the environmental surveys, title report and title insurance described above, but in no event shall the amount paid to Donor exceed \$125,000. For example, if the Property sold for \$250,000 and the costs of the environmental surveys, title report, and title insurance equaled \$5,000, ISUF would pay the sum \$125,000 to Donor and would retain the remaining proceeds for use by ISUF without restriction. If, alternatively, the Property sold for \$120,000 and the costs of the environmental surveys, title

report, and title insurance equaled \$5,000, then ISUF would pay the sum \$115,000 to Donor.

- b. If ISUF has not sold, or entered into an agreement to sell, the Property prior to notification of the State Board's decision, it shall, in its discretion, transfer the Property to Donor or pay \$125,000 to Donor.

10. The terms of this Agreement shall survive transfer of the Property to ISUF.

This Gift Agreement is effective on the date first written above. The signatories to this Gift Agreement, below, agree that this Gift Agreement may be executed in any number of counterparts with the same effect as if all the signatories has signed the same document, and all counterparts shall be construed together and shall constitute one written document

DONOR

BEVERLY BISTLINE

Dated: _____

IDAHO STATE UNIVERSITY FOUNDATION, INC.

By Michael J. Byrne
Mike Byrne, as President
Dated: 8-25-10

IDAHO STATE UNIVERSITY

By Arthur C. Vailas
Arthur C. Vailas, as President
Dated: 8-25-10

Approved by the State Board of Education the
_____ day of _____, 201__.

This Gift Agreement is effective on the date first written above. The signatories to this Gift Agreement, below, agree that this Gift Agreement may be executed in any number of counterparts with the same effect as if all the signatories has signed the same document, and all counterparts shall be construed together and shall constitute one written document

DONOR

Bruce S. Bistline for
BEVERLY BISTLINE by POA
Dated: Aug 25, 2010

IDAHO STATE UNIVERSITY FOUNDATION, INC.

By _____
Mike Byrne, as President
Dated: _____

IDAHO STATE UNIVERSITY

By _____
Arthur C. Vailas, as President
Dated: _____

Approved by the State Board of Education the
_____ day of _____, 201__.

EXHIBIT A

**A tract in the Northeast 1/4, Northeast 1/4, S25-T6S-R34E, Tax 76, 13.91 AC Country
property in Pocatello, Bannock County, Idaho**

**Phase I Environmental Site
Assessment for a tract in the NE ¼, NE,
¼ South 25, Township 6 South, Range
34 East, 13.9 Acres along Hospital
Way, Pocatello, Idaho**



October 4, 2010

**Phase I Environmental Site Assessment for a
tract in the NE ¼, NE ¼, South 25, Township 6
South, Range 34 East, 13.9 Acres along Hospital
Way, Pocatello, Idaho**

**Prepared by:
North Wind, Inc.
1425 Higham Street
Idaho Falls, ID 83402**

October 4, 2010

**Prepared for
ISU Foundation**

EXECUTIVE SUMMARY

North Wind, Inc., performed a Phase I Environmental Site Assessment for the ISU Foundation to examine the current recognized environmental conditions at a tract in the NE ¼, NE ¼, Section 25, Township 6 South, Range 34 East, 13.9 Acres along Hospital Way, located within Pocatello, Bannock County, Idaho referred to as the subject property. North Wind, Inc. performed this Phase I Environmental Site Assessment in conformance with the scope and limitations of ASTM Standard E 1527-05, *Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process*. This standard is consistent with the U.S. Environmental Protection Agency's 40 CFR Part 312, "Standards and Practices for All Appropriate Inquiries; Final Rule."

The current owner of the subject property is Beverley Bistline. The subject property is currently undeveloped with no structures. North Wind, Inc., staff observed the subject property during a site reconnaissance on September 23, 2010.

Recognized environmental conditions are defined as "the presence, or likely presence, of any hazardous substances or petroleum products on the property under conditions that indicate an existing release, a past release, or a material threat of a release into structures on the property or into the ground, groundwater, or surface water of the property." *De minimis* (small or insignificant) conditions are excluded, as they do not generally present a material risk of harm to public health or the environment and would not be the subject of enforcement actions by appropriate government agencies.

This assessment has identified no recognized environmental conditions in connection with the subject property.

General Information

Project Number: 900-020-180
Project Name: 13.9 Acres undeveloped land Phase I ESA

Site: Undeveloped land along Hospital Way
Pocatello, Idaho 83204
County: Bannock

Consultant: North Wind, Inc.
P. O. Box 51174
1425 Higham Street
Idaho Falls, Idaho 83402
Phone: 208-528-8718
Fax: 208-528-8714
www.northwind-inc.com

Lat.: 42.87570
Long.: -112.41830
Client: ISU Foundation
Client Rep: Dave Bagley
Racine, Olson, Nye, Budge & Bailey

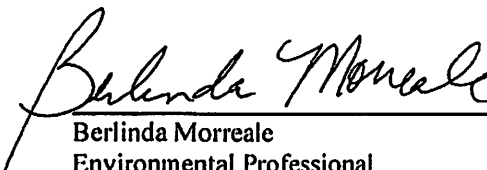
Site Survey Date: September 23, 2010
Report Date: October 4, 2010

Site Rep : Dave Bagley
Racine, Olson, Nye, Budge & Bailey
P. O. Box 1391
Pocatello, Idaho 83204
Phone: 208-232-6101

Environmental Professional: Berlinda Morreale

Senior Reviewer:

I declare that, to the best of my professional knowledge and belief, I meet the definition of Environmental Professional as defined in EPA's 40 CFR 312.10. I have performed a Phase I ESA in conformance with the scope and limitations of ASTM E 1527-05 and EPA's 40 CFR 312 of the subject property. I have the specific qualifications based on education, training, and experience to assess a property of the nature, history, and setting of the subject property. I have reviewed this all appropriate inquiry in conformance with the standards and practices set forth in ASTM E 1527-05 and 40 CFR Part 312.



Berlinda Morreale
Environmental Professional

10/4/10

Date

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21707088

After recording, please mail this deed and future tax statements to:

OFFICIAL RECORD BK# 1015
BANNOCK COUNTY IDAHO

RECORDED AT REQUEST OF
FEE 22 - DEPUTY KD

Idaho State University
921 So. 8th Ave. Stop 8219
Pocatello, Idaho 83209

Joanne
21707088

Hirase - Stacy
2017 MAY 22 P 3:48

CORRECTION DEED

THIS DEED, executed this 2nd day of May, 2017 in order to correct the following error: omission of deed restriction in the WARRANTY DEED, dated October 24, 1995 and recorded November 3, 1995 as Book number 651 No.95016588, in the official land records of Bannock County, Idaho, by the grantor:

Idaho State University Foundation
921 So. 8th Ave.
Pocatello, Idaho 83209

to the grantee:

Idaho State University
921 So. 8th Ave. Stop 8219
Pocatello, Idaho 83209

WITNESSETH, that the said grantor, for \$0.00, does hereby CONFIRM the conveyance effected by the above-cited deed, including all warranties and covenants stated therein, of the following parcel of land in Bannock County, Idaho, legally described as:

See Exhibit A

Commonly known as: Bengal Ridge Golf Course

Parcel Identification: RPCPP111400

Source of title: Being the same property conveyed to the Idaho State University Foundation, Inc., by Special Warranty Deed and recorded on December 6, 1994 in Book 630 No. 94021658, at the recorder's office in Bannock County, Idaho.

TOGETHER WITH all and singular the rights, privileges, tenements, hereditaments, and appurtenances thereunto belonging or in anywise appertaining; TO HAVE AND TO HOLD the same unto the said grantee and the grantee's heirs and assigns forever.

THIS CONVEYANCE is made subject to: a Gift Agreement entered into by Beverly Bistline and the Idaho State University Foundation dated August 25, 2010, to maintain the parcel described in Exhibit A as an open recreational space for such activities as disk golfing, hiking,

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21707088

Brian Hickenlooper

Signature

Brian Hickenlooper

Print name

Grantee, Idaho State University CFO

Capacity

State of Idaho

)

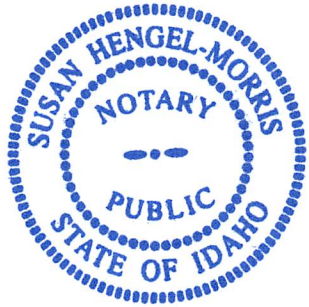
)ss

County of Bannock

)

On this 3rd day of May, in the year 20 17, before me personally appeared, Brian Hickenlooper, known or identified to me and whose name is subscribed to the within instrument, and acknowledged to me that he/she executed the same.

SEAL



Notary Public for Idaho

Signed: Susan Hengel-Morris

Residing in: Pocatello, Idaho

My commission expires: 10/23/2021

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21707088

Exhibit A

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Legal Description

21707088

Township 6 South, Range 35 East, Boise Meridian, Bannock County, Idaho:

Section 30: NW $\frac{1}{4}$ NE $\frac{1}{4}$; N $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$; E $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$; E $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$

Excepting therefrom:

A parcel of land located in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 30, Township 6 South, Range 35 East Boise Meridian, Bannock County, Idaho, and more particularly described as follows:

Beginning at a point at the Northeast corner of the NW $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 30; thence South 89°52'39" East for 130.99 feet to a point on the West right of way boundary of Birdie Drive (Moonlight Road) and thence along the West right of way line of Birdie Drive for the following courses and distances: South 11°19'06" East for 318.30 feet to a P.C.; thence along the arc of a 904.93 foot radius curve to the right for 789.70 feet; thence South 38°40'42" West for 15.45 feet; thence leaving said right of way and proceeding North 0°09'42" West for 1067.34 feet, more or less, to the point of beginning. It is the intent of this description to conform to the West line of the right of way of Birdie Drive and the Grantor's property line.

FA#19356

**SPECIAL
WARRANTY DEED**

For Value Received **LISA BURNINGHAM, an unmarried person and WEST F. PEHRSON and MARGUERITE E. PEHRSON, husband and wife,**

Hereinafter called the Grantor, hereby grants, bargains, sells and conveys unto

ACCEPTED & APPROVED BY 

IDAHO STATE UNIVERSITY FOUNDATION, INC.

whose address is: **ISU BOX 8219 POCATELLO, ID. 83209-8219**

Hereinafter called the Grantee, the following described premises situated in BANNOCK County, Idaho, to-wit:

SEE ATTACHED "ADDENDUM A"

Dated: DECEMBER 3, 1994

LISA BURNINGHAM

WEST F. PEHRSON

MARGUERITE E. PEHRSON

STATE OF IDAHO)
 : ss
COUNTY OF BANNOCK)

On This 3RD day of DECEMBER, in the year 1994, before me, a Notary Public in and for said State, personally appeared WEST F. PEHRSON, known or identified to me to be the person(s) whose name(s) is subscribed to the within Instrument, and acknowledged to me that he executed the same.

Notary Public of Idaho
Residing at Pocatello, Id.
Commission Expires: 10/30/2000

STATE OF TEXAS
COUNTY OF [illegible]

1900

[illegible text]

[illegible text]

[illegible text]

[illegible text]

[illegible text]

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[illegible text]

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[illegible text]

[illegible text]

[illegible text]

[illegible text]

[illegible text]

[illegible text]

STATE OF UTAH)
 : SS
COUNTY OF _____)

On This _____ day of DECEMBER, in the year 1994, before me, a Notary Public in and for said State, personally appeared LISA BURNINGHAM, known or identified to me to be the person(s) whose name(s) is subscribed to the within Instrument, and acknowledged to me that she executed the same.

Notary Public of UTAH
Residing at _____
Commission Expires: _____

STATE OF UTAH)
 : SS
COUNTY OF _____)

On This _____ day of DECEMBER, in the year 1994, before me, a Notary Public in and for said State, personally appeared MARGUERITE E. PEHRSON, known or identified to me to be the person(s) whose name(s) is subscribed to the within Instrument, and acknowledged to me that she executed the same.

Notary Public of UTAH
Residing at _____
Commission Expires: _____

"ADDENDUM A"

Township 6 South, Range 35 East, Boise Meridian, BANNOCK COUNTY, IDAHO:

Section 30: $NW\frac{1}{4}NE\frac{1}{4}$; $N\frac{1}{2}SW\frac{1}{4}NE\frac{1}{4}$; $E\frac{1}{2}SE\frac{1}{4}NW\frac{1}{4}$; $E\frac{1}{2}NE\frac{1}{4}NW\frac{1}{4}$

EXCEPTING THEREFROM:

A parcel of land located in the $NE\frac{1}{4}NW\frac{1}{4}$ of Section 30, Township 6 South, Range 35 East, Boise Meridian, BANNOCK COUNTY, IDAHO, and more particularly described as follows:

Beginning at a point at the Northeast Corner of the $NW\frac{1}{4}NE\frac{1}{4}NW\frac{1}{4}$ of Section 30; thence South $89^{\circ}52'39''$ East for 130.99 feet to a point on the West right of way boundary of Birdie Drive (Moonlight Road) and thence along the West right of way line of Birdie Drive for the following courses and distances: South $11^{\circ}19'06''$ East for 318.30 feet to a P.C.; thence along the arc of a 904.93 foot radius curve to the right for 789.70 feet; thence South $38^{\circ}40'42''$ West for 15.45 feet; thence leaving said right of way and proceeding North $0^{\circ}09'42''$ West for 1067.34 feet, more or less, to the POINT OF BEGINNING. It is the intent of this description to conform to the West line of the right of way of Birdie Drive and the Grantor's property line.

ALSO EXCEPTING THEREFROM that portion of Subject Property lying within the boundaries of Birdie Drive, described as follows:

A tract in the $E\frac{1}{2}NE\frac{1}{4}NW\frac{1}{4}$, Section 30, Township 6 South, Range 35, E., B.M., BANNOCK COUNTY, IDAHO, said right of way being over a strip of land 100.00 feet wide, 50.00 feet each side of the following described centerline, the full width of right of way starting adjacent to the West line of the $E\frac{1}{2}NE\frac{1}{4}NW\frac{1}{4}$, Section 30:

Beginning at a point on the West line of the $E\frac{1}{2}NE\frac{1}{4}NW\frac{1}{4}$, Section 30 said point being North $00^{\circ}09'27''$ West, 160.51 feet from the Southwest corner of said $E\frac{1}{2}NE\frac{1}{4}NW\frac{1}{4}$, Section 30; thence North $38^{\circ}40'42''$ East, 77.66 feet; thence along an arc of a circular curve to the left with a radius of 954.93 feet through a central angle of $50^{\circ}00'00''$ for a distance of 833.33 feet; thence North $11^{\circ}19'18''$ West, 308.20 feet to a point on the North line of said $E\frac{1}{2}NE\frac{1}{4}NW\frac{1}{4}$, Section 30, said point being North $89^{\circ}51'00''$ West, 477.66 feet from the Northeast corner of the $NE\frac{1}{4}NW\frac{1}{4}$, Section 30, Township 6 South, Range 35 East, B.M., the full width of the right of way extending to the North line of said $NE\frac{1}{4}NW\frac{1}{4}$, Section 30.