

**IDAHO DEPARTMENT OF PARKS & RECREATION**

*“To improve the quality of life in Idaho through outdoor recreation and resource stewardship”*

**Special Board Meeting**

**March 8, 2024**

**IDPR Headquarters**

**5657 Warm Springs Avenue**

**Boise, ID 83716**

**Topic: Special Board Meeting**

**Time: March 8, 2024, at 9:00 AM Mountain Time (US and Canada)**

Join Zoom Meeting

<https://us02web.zoom.us/j/89834490773?pwd=RzhkZ1k3WWQ4eGNybkVjeG1YZ2xzdz09>

Meeting ID: 898 3449 0773

Passcode: 620210

One tap mobile

+12532158782,,89834490773#,,,,\*620210# US (Tacoma)

+13462487799,,89834490773#,,,,\*620210# US (Houston)

Dial by your location

- +1 253 215 8782 US (Tacoma)
- +1 346 248 7799 US (Houston)
- +1 669 444 9171 US
- +1 669 900 6833 US (San Jose)
- +1 719 359 4580 US
- +1 253 205 0468 US
- +1 507 473 4847 US
- +1 564 217 2000 US
- +1 646 931 3860 US
- +1 689 278 1000 US
- +1 929 205 6099 US (New York)
- +1 301 715 8592 US (Washington DC)
- +1 305 224 1968 US
- +1 309 205 3325 US
- +1 312 626 6799 US (Chicago)
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Meeting ID: 898 3449 0773

Passcode: 620210

Find your local number: <https://us02web.zoom.us/u/kbMJ6bSbre>

## AGENDA

Friday, March 8, 2024

9:00 A.M. (MST) 8:00 A.M. (PTD)

Periodic breaks will be taken during the meeting at the discretion of the Chairman

- 9:00 A.M. (MST) - 8:00 A.M. (PTD) Call to Order - Chairman Beckley
  - Roll Call
  - Welcome and Introductions - Chairman Beckley
- Bear Lake County Property Acquisition - **Action Item** – Director Susan Buxton and Adam Zaragoza
- Board Comments
- Old/New Business
- Public Comment

\* Under authority of Idaho Code 74-206. Executive sessions -- When authorized. (1) An executive session at which members of the public are excluded may be held, but only for the purposes and only in the manner set forth in this section. The motion to go into executive session shall identify the specific subsections of this section that authorize the executive session. There shall be a roll call vote on the motion and the vote shall be recorded in the minutes. An executive session shall be authorized by a two-thirds (2/3) vote of the governing body. An executive session may be held:

*(b) "To consider the evaluation, dismissal or disciplining of or to hear complaints or charges brought against a public officer, employee, staff member or individual agent or public-school student."*

*(c) "To acquire an interest in real property not owned by a public agency."*

- Executive Session\*
  - (b) Personnel
  - (c) Interest in real property
  
- **ADJOURN**

This agenda is subject to change in accordance with the provisions of the Idaho Open Meeting Law. Items may be addressed in a different order than appears on this agenda. Individual items may be moved from one place on the agenda to another by the Board. Time frames designated on this agenda are approximate only. The Board will continue its business in the event that an agenda item is resolved in less than the allotted time.

IDAPA RULE                       IDAPA FEE                       BOARD ACTION REQUIRED  
 BOARD POLICY                       INFO ONLY, NO ACTION REQUIRED

**SPECIAL BOARD MEETING AGENDA ITEM**  
**Idaho Park and Recreation Quarterly Meeting**  
**March 8, 2024**  
**Boise, Idaho**

**AGENDA ITEM:**                      Bear Lake County Property Acquisition

**ACTION REQUIRED:**                      Board Acceptance of Real Property

**PRESENTER:**                      Susan E. Buxton - Director

**BACKGROUND INFORMATION:**

The Idaho Parks and Recreation Board (“Board”) may “acquire in the name of the State of Idaho by gift, devise, purchase, agreement, or otherwise, such land as in its judgment may be necessary, suitable and proper for roadside picnic, recreational or park purposes and to control, develop and maintain such land and all existing state parks...” Idaho Code § 67-4224.

The purpose of this agenda item is for the Board to enter into a Property Acquisition Agreement and to accept title to an approximate 28-acre parcel of land in Bear Lake County. IDPR desires to acquire Parcel Nos. RP15S43E357500 and RP15S43E365700 from J & S Real Estate Holdings, LLC so that it can be used to provide recreational tourism opportunities as a unit of Bear Lake State Park.

The purchase price for the Property shall be the sum of TWO MILLION FIVE HUNDRED THOUSAND DOLLARS (\$2,500,000.00). Sufficient funds have been appropriated in IDPR’s budget.

IDPR Staff and the Attorney General’s office have worked together to draft the recommended provisions for the Purchase and Sale Agreement and Warranty Deed. Staff is seeking Board approval to proceed with the acquisition, close on or before March 15, 2024, and accept the property into IDPR’s system upon receipt of a warranty deed acceptable to IDPR.

**STAFF RECOMMENDATIONS:**

*Motion 1.*                      Staff recommends a roll call vote of the Board to accept the property and authorize the Director to sign the Purchase and Sale Agreement. Staff further recommends that upon receipt of an executed Warranty Deed acceptable to IDPR, that parcels RP15S43E357500 and RP15S43E365700 are real property owned and managed within the Idaho Department of Parks and Recreation System.

*Motion 2.*                      Staff recommends a roll call vote of the Board to authorize the Director to sign the In Lieu Fee Agreement to Bear Lake County, Idaho.

*Enc.                      Purchase and Sales Agreement, to be presented to the Board  
                                 In Lieu Fee Agreement  
                                 Warranty Deed*

**PURCHASE AND SALES AGREEMENT**  
*(To be presented)*

## PURCHASE AND SALE AGREEMENT

This Purchase and Sale Agreement (“**Agreement**”) is entered into by and between J & S REAL ESTATE HOLDINGS, LLC, a Utah limited liability company, whose mailing address is 80 Green Canyon Road, Saint Charles, Idaho 83272 (“**Seller**”), and the STATE OF IDAHO, IDAHO PARK AND RECREATION BOARD, whose administrative agent is the IDAHO DEPARTMENT OF PARKS AND RECREATION, with its administrative offices at 5657 Warm Springs Ave, Boise, Idaho 83716 (“**Buyer**”) (collectively, Seller and Buyer are the “**Parties**”), for the purchase and sale of all Seller’s interest in that certain real property accessed from US Highway 89, Fish Haven, Idaho 83272, consisting of two separate parcels located in Bear Lake County, Idaho (the “**Property**”), and legally described as follows:

**See “Exhibit A” attached hereto and incorporated herein by reference.**

The separate parcels are also identifiable by Bear Lake County Tax Assessor Parcel Nos. RP15S43E357500 and RP15S43E365700. This Agreement also includes any personal property located on the Property consisting of all existing utility infrastructure, buildings and other facilities, fixtures, improvements, all associated water rights, if any, and certain water shares.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements of the Parties herein contained, the Parties agree as follows:

- 1. Agreement to Sell and to Purchase.** Seller hereby agrees to sell the Property to the Buyer and Buyer hereby agrees to purchase the Property for the price and subject to the terms and conditions set forth in this Agreement.
- 2. Purchase Price.** The total purchase price for the Property is Two Million and Five Hundred Thousand Dollars (\$2,500,000.00) (“**Purchase Price**”), to be paid with cash at Closing.
- 3. Included Items.** All easement rights, mineral rights, littoral rights, water shares, and other appurtenances to or used on the Property.
- 4. Contingencies.**

**4.1 Conditions to Buyer’s Obligation to Close.** Buyer’s obligation to complete the purchase shall be subject to, and conditioned upon, the following:

- a) Seller shall provide to Buyer a title report for the Property from the Closing Agent at least fourteen (14) calendar days prior to closing;
- b) Buyer review and acceptance of the title commitment;
- c) Seller shall provided title insurance acceptable to Buyer;
- d) Buyer completes and accepts a satisfactory Phase I Environmental Site Assessment;

- e) Buyer review and acceptance of legal access to the Property;
- f) Seller shall provide any and all historical and current surveys of the Property for the Buyer to review,
- g) Buyer review and acceptance of Seller's current leases, easements, encumbrances, and ongoing contract obligations, if any;
- h) Buyer review and acceptance of any limitations or encumbrances on Seller's mineral estate status;
- i) Buyer review and acceptance of the current status of known plant or animal Endangered Species Act issues;
- j) Buyer's offer and final Closing subject to approval by the Idaho Park and Recreation Board;
- k) Seller shall pay the total taxes due and owing for the taxable year 2023 and all assessed taxes for the taxable year 2024;
- l) Seller shall assign to Buyer twenty-one (21) water shares with the St. Charles Irrigation Company and pay all associated transfer fees and costs;
- m) Seller to convey title with a Warranty Deed acceptable to Buyer;
- n) Buyer's discovery of any material defect in the Property, or any condition or matter that is materially inconsistent with any of the representations, covenants, or warranties of Seller contained in this Agreement or any conveyance document contemplated hereby.

## **5. Closing.**

5.1 Notice of Idaho Park and Recreation Board's Action on Agreement. Buyer shall deliver to Seller notice of the Board's final approval or disapproval of this Agreement within three (3) business days of the Board meeting to be held in March 2024.

5.2 Escrow. The purchase and sale of the Property shall be conducted through Northern Title Company, as closing agent ("Closing Agent"), at the Closing Agent's office located at 680 N 4th Street, Montpelier, Idaho, 83254 who may utilize electronic signature software for authorized signatures of the Parties.

5.3 Time for Closing. The sale shall be closed on or before March 15, 2024, unless otherwise agreed to by the Parties.

5.4 Closing Prerequisites. At Closing, Buyer and Seller shall deposit in escrow, with Closing Agent, all instruments, documents, and monies necessary to complete the sale in

accordance with this Agreement. As used herein, "Closing" or "date of Closing" means the date on which all appropriate documents are recorded, and proceeds of sale are available for disbursement to Seller. Funds held in reserve accounts pursuant to escrow instructions shall be deemed, for purposes of this definition, as available for disbursement to Seller.

5.5 Escrow Instructions. The Parties shall promptly execute and deliver to Closing Agent such additional instructions, resolutions, and other documents as Closing Agent may reasonably require that are not inconsistent with or contrary to the provisions hereof. In the event of any inconsistency or conflict between said instructions and the provisions of this Agreement, this Agreement shall control.

5.6 Closing Agent. At Closing, Closing Agent shall do the following: (1) record the Warranty Deed; (2) deliver to Buyer any documents which Seller is to deliver and Buyer is to receive hereunder through Escrow; (3) deliver to Seller any documents which Buyer is to deliver and Seller is to receive hereunder through Escrow; and (4) disperse to Seller, a check in the amount of the Purchase Price. Closing Agent's performance of the foregoing actions shall be deemed to occur simultaneously.

5.7 Closing Costs.

- a) Closing Costs and Expenses. The escrow Closing fee(s), if any, shall be paid by Seller.
- b) Seller shall pay any real estate excise tax or other transfer taxes due on the transfer of the Property.
- c) Seller shall pay the costs to record the Warranty Deed.
- d) Buyer shall pay any amount due Seller for prorations, if any.
- e) Seller shall be responsible for all real property taxes and assessments, incurred or applicable to the Property payable in prior years or related to Seller's ownership. Seller shall be solely responsible for any assessments, taxes, expenses, or contract obligations pertaining to the Property arising, accruing, or incurred prior to Closing.

5.8 Possession. Buyer shall be entitled to possession of the Property upon Closing.

5.9 Documents to be delivered by Seller at Closing. At Closing, Seller shall have executed, or caused to be executed, and delivered to the Closing Agent the following documents, if required by Buyer, in a form reasonably acceptable to Buyer and Seller:

- a) Warranty Deed;
- b) No-Lien affidavit (as provided in Section 9.2 of this Agreement); and
- c) Any other instruments or documents reasonably requested by Buyer.

**6. Conveyance of Title.** At Closing, Seller shall execute and deliver to Buyer a Warranty Deed conveying good and marketable title to the Property consisting of real property, and including all appurtenances thereto free and clear of any and all defects of title, including, but not limited to, any and all liens and encumbrances with the exception of the specifically named exceptions (“Permitted Exceptions”), identified in the title commitment issued by Northern Title Company, attached hereto as “**Exhibit B**” and incorporated herein by reference.

**7. Title Insurance.** Seller shall deliver or cause to be delivered to Buyer as soon as practicable after Closing, a standard form policy of owner’s title insurance, effective as of the date of Closing, in the full amount of the Purchase Price, and showing title to the Property vested in Buyer, subject to no special exceptions other than the Permitted Exceptions.

**8. Risk of Loss; Condemnation.** Risk of loss of or damage to the Property shall be borne by Seller through March 15, 2024, or an earlier date of Closing if otherwise agreed to by the Parties. Thereafter, Buyer shall bear the risk of loss. In the event of material loss of or damage to the Property prior to the date upon which Buyer assumes the risk of loss, Seller shall not be obligated to restore the Property nor pay damages to Buyer by reason of such loss or damage, and Buyer may terminate this Agreement by giving notice of such termination to Seller and Closing Agent, and such termination shall be effective within ten (10) days thereafter; provided however, that such termination shall not be effective if Seller agrees in writing within such ten (10) day period to restore the Property substantially to its present condition by the Closing date; and provided further that Buyer may elect to purchase the Property in the condition existing on the date of Closing, and on Closing, Seller shall assign to Buyer the proceeds of any condemnation proceeding, or if Buyer, at its option, agrees to accept from Seller an agreed upon cash sum sufficient to cover the loss or damage.

**9. Seller's Representations and Warranties.** In addition to other representations contained in this Agreement and in “**Exhibit C**” attached hereto and incorporated herein by reference, Seller represents and warrants to Buyer as of the date of Closing that:

9.1 Authority. Seller and all persons signing on behalf of Seller, have full power and authority to execute this Agreement and perform Seller's obligations hereunder;

9.2 Parties in Possession; Liens. The Property is not subject to any leases, deeds of trust, security agreements, financing statements, mortgages, tenancies, or rights of persons in possession except as have been disclosed to Buyer in writing. Prior to Closing, Seller shall execute and deliver to the Closing Agent and Buyer an executed No-Lien Affidavit confirming the nonexistence of any liens or financial encumbrances, or rights to any liens or financial encumbrances, on the Property; and

9.3 No Hazardous Waste; Indemnity. Seller is unaware of, and has not received notification of any kind from any agency, suggesting that the Property is or may be targeted for a Superfund cleanup. To the best of Seller's knowledge, neither the Property nor any portion thereof is or has been used as a landfill, waste storage or disposal site, or for the storage or disposal of any chemicals, petroleum or oil products, or hazardous or dangerous wastes or substances. Seller agrees to indemnify and hold Buyer harmless from and against any and all loss, damage, claims, penalties, liability, suits, costs and expenses (including, without limitation, reasonable attorney



fees), and also including without limitation, costs of remedial action or cleanup, suffered or incurred by Buyer arising out of or related to Seller's use of the Property, or portion thereof, occurring prior to the conveyance to Buyer, about which Seller knew or reasonably should have known prior to Closing.

9.4 Survival of Representations and Warranties. Except as otherwise set forth in this Agreement, or in the documents delivered at Closing, Buyer and Seller make no representations or warranties, express or implied, in connection with the transactions contemplated herein. The representations and warranties set forth in Sections 9 and 10, applicable to the Property, shall survive the Closing. All other representations and warranties set forth in this Agreement shall survive the Closing for a period of one (1) year from the Closing. All covenants and obligations of the Parties set forth herein shall survive the Closing and shall not be merged in the Warranty Deed delivered at the Closing.

**10. Buyer's Authority.** Buyer represents and warrants to Seller that at the date of the execution hereof and at the date of Closing, Buyer, and all persons signing on behalf of Buyer, have full power and authority to execute this Agreement, and to perform Buyer's obligations hereunder.

**11. Condition of Property.** Buyer is purchasing the Property on an "as is" basis without any warranties, express or implied, from Seller, except as provided in this Agreement. Buyer further acknowledges that Buyer is not relying upon any statement or representation by any broker or any representative of any broker or Seller which are not expressly set forth in this Agreement.

**12. Notice.** Notices required or contemplated under this Agreement shall be in writing. Notices shall be mailed by certified mail, postage prepaid, to the respective Parties at their following respective addresses, or such other addresses as the Parties hereto may, by notice, designate. Any such notice may, in the alternative, be sent by both electronic transmission to the below-designated facsimile number and email address or to such other facsimile number or email address as may, by notice, be designated:

Buyer

Idaho Department of Parks and Recreation  
c/o Susan E. Buxton, Director  
P.O. Box 83720  
Boise, ID 83720-0065  
susan.buxton@idpr.idaho.gov

Seller

J & S Real Estate Holdings, LLC  
80 Green Canyon Road  
Saint Charles, Idaho 83272

**13. Survival of Warranties.** The terms, covenants, representations and warranties shall not merge in the deed of conveyance, but shall survive Closing.

**14. Commissions.** Seller shall be responsible for, and shall pay at Closing, any and all real estate broker or agent fees and commissions incurred by any broker or agent of Seller, if any; and Buyer shall be responsible for, and shall pay at Closing, any and all real estate broker or agent fees or commissions incurred by any broker or agent of Buyer, if any.

**15. Counterparts.** This Agreement may be executed in any number of counterparts for the convenience of the Parties, all of which, when taken together and after execution by all Parties hereto, shall constitute one and the same Agreement.

**16. General.** This is the entire agreement of Buyer and Seller with respect to the matters covered hereby and supersedes all prior agreements between them, written or oral. This Agreement may be modified only in writing, signed by Buyer and Seller. Any waivers hereunder must be in writing. No waiver of any right or remedy in the event of default hereunder shall constitute a waiver of such right or remedy in the event of any subsequent default. This Agreement shall be governed by the laws of Idaho. This Agreement is for the benefit only of the Parties and shall inure to the benefit of and bind the heirs, personal representatives, successors and assigns of the Parties. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision hereof.

**17. General Indemnity.** Seller shall indemnify, defend, and hold Buyer harmless from all claims, liabilities, obligations, damages, penalties, fines, costs and expenses (including reasonable attorney fees) (each of the foregoing, a "Claim"), that arise out of or relate to: (i) subject to the limitations set forth in Section 9.4 hereof, any breach or inaccuracy of any of the representations and warranties made by Seller in or pursuant to this Agreement; (ii) any failure by Seller to carry out, perform, satisfy and discharge any of its covenants, agreements, undertakings or obligations in this Agreement, or under any of the documents or related materials executed and delivered or to be executed and delivered by Seller pursuant to this Agreement.

**18. Additional Provisions.** Any additional provisions are set forth in the Addendum to this Agreement, which Addendum is attached hereto and made a part hereof.

**19. Exhibits.** All Exhibits, attached hereto, are incorporated herein as if fully set forth.

**20. Sufficient Appropriation By Legislature Required.** This Agreement shall in no way or manner be construed so as to bind or obligate Buyer beyond the term of any particular appropriation of funds by the State legislature as may exist from time to time. Buyer shall have and reserves the right to terminate this Agreement if the legislature of the State of Idaho fails, neglects, or refuses to appropriate sufficient funds as may be required for Buyer to meet any obligation under this Agreement. All future rights and liabilities of the Parties shall thereupon cease within thirty (30) days after written notice to Seller.

**21. Officials, Agents, and Employees Not Personally Liable.** No director, official, officer, employee or agent of the State of Idaho shall be in any way liable or responsible for any covenant or agreement herein contained, whether expressed or implied, nor for any statement, representation or warranty made herein or in any way connected with this Agreement. In particular, and without limitation of the foregoing, no full-time or part-time agent or employee of Buyer shall have any personal liability or responsibility hereunder, and the sole responsibility and liability for the

performance of this Agreement, and all of the provisions and covenants herein contained pertaining to Buyer shall rest in and be vested with Buyer.

IN WITNESS WHEREOF, the Parties have executed this Purchase and Sale Agreement the day and year last written below.

**SELLER**  
J & S REAL ESTATE HOLDINGS, LLC

By: \_\_\_\_\_  
Joshua N. Mower, Manger

Date: \_\_\_\_\_

**SELLER**  
J & S REAL ESTATE HOLDINGS, LLC

By: \_\_\_\_\_  
Spencer K. Bailey, Manager

Date: \_\_\_\_\_

**SELLER**  
J & S REAL ESTATE HOLDINGS, LLC

By: \_\_\_\_\_  
Emma C. Mower, Member

Date: \_\_\_\_\_

**BUYER**  
IDAHO DEPARTMENT OF PARKS AND  
RECREATION

By: \_\_\_\_\_  
Susan E. Buxton, Director

Date: \_\_\_\_\_

**EXHIBIT A  
TO PURCHASE AND SALE AGREEMENT**

**A PARCEL OF LAND LOCATED IN SECTIONS 35 AND 36, TOWNSHIP 15 SOUTH, RANGE 43 EAST, BOISE MERIDIAN, BEAR LAKE COUNTY, IDAHO AND FURTHER DESCRIBED AS FOLLOWS:**

**Beginning at the Southeast Corner of said Section 35, from which the South Quarter Corner of Section 35 bears South 89° 49' 35" West 2637.10 feet;**

**Thence North 37° 19' 09" West 1164.20 feet to a 5/8" rebar with cap labeled, "A.A. Hudson, PLS 13173", set on the East right of way line of Highway 89, the TRUE POINT OF BEGINNING;**

**Thence North 00° 45' 47" West 774.80 feet along the said East right of way line to a found highway right of way monument;**

**Thence North 00° 42' 37" West 542.02 feet along the said East right of way line to a found 5/8" rebar with cap;**

**Thence North 88° 29' 17" East 667.15 feet along a fence line to a found 5/8" rebar with cap set at a fence line angle point;**

**Thence North 89° 11' 18" East 283.42 feet along a fence line to a found 5/8" rebar with cap set on the High Water Line of Bear Lake (UP&L elevation 5923.65);**

**Thence along the said High Water Line the following 8 courses:**

**Thence South 22° 40' 02" West 173.85 feet;**

**Thence South 07° 33' 07" East 201.30 feet;**

**Thence South 05° 28' 43" West 334.54 feet;**

**Thence South 13° 03' 30" East 204.51 feet;**

**Thence South 17° 24' 34" East 169.53 feet;**

**Thence South 01° 22' 00" East 55.51 feet;**

**Thence South 14° 02' 25" West 106.26 feet;**

**Thence South 03° 22' 34" West 143.24 feet;**

**Thence North 88° 55' 59" West 924.99 feet (North 88° 37' 15" West by record) along the North line of the parcel of land owned by Mathew W. and Diane B. Homolik, which parcel is described in Instrument # 169537 in the official records of Bear Lake County, to the True Point of Beginning.**

**Less and excepting therefrom any portion lying Easterly of the High Water Line of Bear Lake (UP&L elevation 5923.65).**

**Containing 28.0 acres of land, more or less.**

**EXHIBIT B**  
**TO PURCHASE AND SALE AGREEMENT**

Updated Title Commitment will be inserted at, or prior to, Closing.

**EXHIBIT C**  
**TO PURCHASE AND SALE AGREEMENT**

**Additional Representations and Warranties**

**Seller's Representations and Warranties.** In addition to other representations set forth in this Agreement, Seller represents and warrants to Buyer as of the date of Closing that:

1. **Access.** Legal access to the Property.
2. **Boundary Disputes and Adverse Possession.** To the best of Seller's knowledge, there are no boundary disputes, and no encroachments affecting any of the Property or portion thereof, or any person adversely possessing or using the Property or any portion thereof.
3. **Other Laws.** To the best of Seller's knowledge: (i) there are no violations or claimed violations of federal, state, or local laws, rules, regulations, or ordinances, which violation would have a material adverse effect on the use of any of the Property; nor (ii) has there been any material failure by Seller to comply with the order of any court of appropriate jurisdiction or governmental authority or agency pertaining to any of the Property, or the use, occupancy, or condition thereof; nor (iii) is there any pending order, finding, decree, judgment, order, litigation, threatened litigation, or proceeding, including, without limitation, eminent domain proceedings, public improvement assessment proceedings, condemnation or zoning actions, or notice of revocation of any permit or application, pertaining to any of the Property that would have a material adverse effect on the value of the Property; nor (iv) is there any pending change in the application of any zoning, land classification, environmental, or land use law or ordinance to the Property that would have a material adverse effect on the value of the Property.
4. **Timber Harvest.** Seller shall not cut, remove, or permit any cutting or removal of any timber on the Property.
5. **Contracts Pertaining to the Property.** To the best of Seller's knowledge, except for the Permitted Exceptions, there are no current contracts, liens, agreements, easements, license, encumbrances, leases, or tenancies affecting or pertaining to the Property or any portion thereof.
6. **Encumbrances.** To the best of Seller's knowledge, none of the following has arisen by, through, or under Seller, nor, to the best of Seller's knowledge do any of the following exist with respect to the Property or any portion thereof: (i) rights reserved in federal patents or state deeds; (ii) oil, gas, mineral or fossil rights, reservations, exceptions, or conveyances; (iii) easements and rights of way for public or private roads and utilities heretofore established and existing on the Property; (iv) any specific claim as to ancestral rights of descendants of tribal members to occupy, use, or possess any portion of the Property, as reserved by treaties, understandings, practice, statutes, or judicial decisions, for food gathering, shelter, religious ceremonies, social and economic gatherings, battlefields, or burial sites; (v) a specific claim of an interest by any owner of neighboring tracts for water line across, or right to appropriate water, from any portion of the Property; or (vi) a specific claim of any interest by any owner of any neighboring tract for vehicular access across any portion of the Property.

## **IN LIEU FEE AGREEMENT**

## IN LIEU FEE AGREEMENT

This In Lieu Fee Agreement ("Agreement") is entered into by and between the Idaho Department of Parks and Recreation, whose mailing address is P.O. Box 83720, Boise, ID 83720-0065 ("IDPR"); and the Bear Lake County Board of Commissioners, whose mailing address is 30 N. Main St. Paris, ID 83261 ("County Commissioners") (collectively the "Parties").

### RECITALS

WHEREAS, IDPR anticipates becoming the fee simple owner of real property in Bear Lake County identifiable by Bear Lake County Tax Assessor as Parcel Nos. RP15S43E357500 and RP15S43E365700 (collectively "the Property").

WHEREAS, as an executive agency of the State of Idaho, IDPR is exempt from paying property taxes under Idaho Code §§ 63-602 and 63-602A, with such exemption not requiring application or approval by the County Commissioners;

WHEREAS, under Idaho Code § 67-4243, IDPR must consult with the County Commissioners to determine the impact of the acquisition, and IDPR is to consider an in lieu fee to the county as if the lands had continued to be subject to assessment of property tax; and

WHEREAS, although IDPR is not obligated to pay an in lieu fee to the county it recognizes the impact of its acquisition on the property tax base of the county; has discussed the same with the County Commissioners; and, with an adequate appropriation, intends on remitting an in lieu fee.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements of the Parties herein contained, the Parties agree as follows:

A. Within thirty (30) days of closing on its purchase of the Property, IDPR will remit to Bear Lake County a one-time payment of \$55,780.00 as the in lieu fee to lessen the impact on the county's tax base.





## **WARRANTY DEED**

*RECORDING REQUESTED BY AND  
WHEN RECORDED RETURN TO:*

State of Idaho  
Idaho Dept. of Parks and Recreation  
5657 Warm Springs Ave  
Boise, Idaho 83716

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(Space Above for Recorder's Use)

### **WARRANTY DEED**

THIS WARRANTY DEED is made by J & S REAL ESTATE HOLDINGS, LLC, a Utah limited liability company ("Grantor"), whose mailing address is 80 Green Canyon Road, Saint Charles, Idaho 83272, to the STATE OF IDAHO, DEPARTMENT OF PARKS AND RECREATION, an agency of the State of Idaho, for and on behalf of the IDAHO PARK AND RECREATION BOARD (collectively "Grantee") with its administrative offices at 5657 Warm Springs Ave, Boise, ID 83716.

WITNESSETH, that Grantor for and in consideration of the sum of TWO MILLION FIVE HUNDRED THOUSAND DOLLARS (\$2,500,000.00) lawful money of the United States of America, and other good and valuable consideration to Grantor in hand paid by Grantee, the receipt and sufficiency of which is hereby acknowledged, has granted, bargained, sold, and by this Warranty Deed does grant, bargain, sell, convey, and confirm unto Grantee, and to Grantee's successors and assigns forever, all of the following described property situated in the County of Bear Lake, State of Idaho, to wit:

**See "Exhibit A" attached hereto and  
incorporated herein by reference.**

TOGETHER WITH the tenements, hereditaments, and appurtenances thereunto belonging or in any way appertaining, including any and all ditch and ditch rights; littoral rights; crops and timber growing thereon; surface and subsurface sand, gravel, hydrocarbons, geothermal, and mineral rights of any kind; grazing rights; and with any other reversions, remainders, rents, issues and profits therefrom; and all estate, right, title and interest in and to the property, as well in law as in equity, of Grantor.

TO HAVE AND TO HOLD the property and the appurtenances unto Grantee, and to Grantee's heirs and assigns forever. Grantor shall warrant and forever defend the above-conveyed property in the quiet and peaceable possession of Grantee and Grantee's heirs and assigns, against Grantor and Grantor's heirs and assigns, and against every person whomsoever may lawfully hold (or who later lawfully claims to have held) rights in the whole property, or any part of the property, as of the date of this Warranty Deed.





**EXHIBIT A  
TO WARRANTY DEED**

**A PARCEL OF LAND LOCATED IN SECTIONS 35 AND 36, TOWNSHIP 15 SOUTH, RANGE 43 EAST, BOISE MERIDIAN, BEAR LAKE COUNTY, IDAHO AND FURTHER DESCRIBED AS FOLLOWS:**

Beginning at the Southeast Corner of said Section 35, from which the South Quarter Corner of Section 35 bears South 89° 49' 35" West 2637.10 feet;

Thence North 37° 19' 09" West 1164.20 feet to a 5/8" rebar with cap labeled, "A.A. Hudson, PLS 13173", set on the East right of way line of Highway 89, the TRUE POINT OF BEGINNING;

Thence North 00° 45' 47" West 774.80 feet along the said East right of way line to a found highway right of way monument;

Thence North 00° 42' 37" West 542.02 feet along the said East right of way line to a found 5/8" rebar with cap;

Thence North 88° 29' 17" East 667.15 feet along a fence line to a found 5/8" rebar with cap set at a fence line angle point;

Thence North 89° 11' 18" East 283.42 feet along a fence line to a found 5/8" rebar with cap set on the High Water Line of Bear Lake (UP&L elevation 5923.65);

Thence along the said High Water Line the following 8 courses:

Thence South 22° 40' 02" West 173.85 feet;

Thence South 07° 33' 07" East 201.30 feet;

Thence South 05° 28' 43" West 334.54 feet;

Thence South 13° 03' 30" East 204.51 feet;

Thence South 17° 24' 34" East 169.53 feet;

Thence South 01° 22' 00" East 55.51 feet;

Thence South 14° 02' 25" West 106.26 feet;

Thence South 03° 22' 34" West 143.24 feet;

Thence North 88° 55' 59" West 924.99 feet (North 88° 37' 15" West by record) along the North line of the parcel of land owned by Mathew W. and Diane B. Homolik, which parcel is described in Instrument # 169537 in the official records of Bear Lake County, to the True Point of Beginning.

**Less and excepting therefrom any portion lying Easterly of the High Water Line of Bear Lake (UP&L elevation 5923.65).**

**Containing 28.0 acres of land, more or less.**