

RELEASE AND SETTLEMENT AGREEMENT

Patrick S. Dougherty and Kathleen M. Romito, husband and wife, v. City of Boise,
Case No. CV01-25-10442

THIS RELEASE AND SETTLEMENT AGREEMENT (“**Agreement**”) is made and entered into by and between Patrick S. Dougherty and Kathleen M. Romito, husband and wife (hereinafter “**Plaintiffs**”) and the city of Boise City (hereinafter collectively referred to as “**Defendant**”) and is effective as of the date executed below. Plaintiffs are represented in this matter by attorney Michael E. Band of Davison, Copple, Copple & Copple, LLP, and Defendant is represented by Deputy City Attorney, Christian D. Collins. Plaintiffs and Defendant are collectively referred to herein as the “**Parties.**”

RECITALS

The Parties acknowledge the following facts and circumstances that give rise to the execution of this Agreement.

A. Certain disputes and differences have arisen between Plaintiffs and Defendant related to the noise associated with pickleball play on the Defendant’s pickleball courts at the Willow Lane Park and Sports Complex, located at 4623 W. Willow Lane, Boise, Idaho 83703 and better described on **Exhibit “A”** hereto (“**Defendants’ Property**”), which is adjacent to the Plaintiffs’ property located at 844 N. River Path Ln., Boise, Idaho 83703 which is better described on **Exhibit “B”** hereto (“**Plaintiffs’ Property**”). The Parties have been engaged in civil litigation captioned, *Patrick S. Dougherty and Kathleen M. Romito, husband and wife v. City of Boise*, currently pending in the District Court of the Fourth Judicial District, Case No. CV01-25-10442 (the “**Action**”).

B. The Parties desire to settle the Action and to resolve all disputes among and between them according to the provisions of this Agreement.

TERMS AND CONDITIONS

In consideration for the mutual covenants and conditions contained herein and the final compromise and settlement of the above-referenced Action, the Parties agree as follows:

1. Consideration

(a) The Defendant shall pay to Plaintiffs a total sum of \$7,000.00 (seven thousand dollars) (the “**Settlement Proceeds**”) The Settlement Proceeds will be paid by check made payable to “Davison Copple Trust Account”, noting “Romito/Dougherty Settlement” in the memo line, within 30 days of the full execution of this Agreement..

(b) Defendant agrees to reconvert the six Willow Lane Pickleball courts to two tennis courts and restripe the courts from pickleball to tennis configuration. The reconverted courts will be dedicated for tennis use only and will be locked and allocated exclusively for tennis league play and programing to prevent unauthorized access by pickleball players or other users. Defendant shall post clear and conspicuous signage indicating that the courts are for tennis use only and that pickleball play is specifically prohibited. Defendant shall undertake such reasonable efforts as may, from time to time, be necessary to maintain the lock requirement and enforce the prohibition against pickleball play on the courts. Defendant shall not reconvert the courts back to pickleball, nor permit any other activity that has a substantially similar repetitive, impulsive noise level and profile as pickleball. The aforescribed conversion of the courts to tennisuse only shall be completed no later than December 1, 2025. If the Defendant is unable to complete the conversion by December 1, 2025, the courts will be locked and all play there will be prohibited until the conversion is completed. The Parties acknowledge that the foregoing deadline is material. Nothing in this agreement prevents the Defendant, at some point in time in the future, from removing the courts entirely or changing their use to something other than tennis, so long as that

new use does not have a substantially similar repetitive, impulsive noise level and profile as pickleball.

2. Plaintiffs' Remedies for Defendant's Non-Performance

In the event that Defendant fails to perform any obligation under this Agreement, including those stated in Section 1(b), Plaintiffs' remedies shall include, without limitation, the right to seek injunctive relief compelling Defendant's specific performance of its obligations hereunder.

3. Tax Obligations

Plaintiffs shall be solely responsible for the payment of any and all taxes that may be due or payable as a result of the payment of the Settlement Proceeds. Further, Plaintiffs agree to defend, indemnify and hold the Defendant harmless from any claim or demand of tax liability of any kind or any disputes with, challenges by, or other action with the Internal Revenue Service, the state of Idaho and/or any other taxing authority in which it is established that Plaintiffs have failed to make payment of relevant taxes, penalties or interest related to their receipt of the Settlement Proceeds. Plaintiffs acknowledge that the Defendant has not made, and did not make, any warranties or assurances of any kind, express or implied, concerning any kind of expected tax treatment by the Internal Revenue Service or any other taxing authority of the Settlement Proceeds.

4. Other Obligations

Plaintiffs agree to satisfy out of the Settlement Proceeds any and all unsatisfied or subrogated interests, claims, liens, debts, obligations or judgments of any party or entity, and to defend, indemnify, and hold Defendant harmless from any and all such subrogated interests, claims, liens, debts, obligations or judgments presently in existence or which may accrue in the future arising out of or related to the events described in the Action, including without limitation any conditional payer obligations they may have to Centers for Medicare & Medicaid Services

("CMS") or any other governmental entity related to their claims against Defendant. Plaintiffs retain all rights and defenses to such obligations, including waiver, compromise, redetermination, and appeal.

Plaintiffs warrant that they are not aware of any claim on the part of Medicaid, Medicare or the State of Idaho for payment of any medical expenses related in any way to the events alleged in the Action, and shall indemnify and defend Defendant on any future actions by Medicaid, Medicare and/or the State of Idaho on any claim arising from these events. Defendant and its agents, representatives, insurers, and counsel are relieved from all obligations, liens, claims, demands, damages, actions, and rights of action of whatever kind or nature, now existing or which may hereafter arise out of, in consequence of, or relating to 42 U.S.C. § 1395y(b) of the Social Security Act, Medicare Secondary Payer and corresponding federal regulations, 42 C.F.R. 411.20, *et seq.*.

The Parties have attempted to resolve this action in compliance with both state and federal law and it is believed that the terms of this Agreement adequately consider all governmental interests. The Parties have not attempted to shift responsibility to Medicare in contravention of 42 U.S.C. § 1395y(b) of the Social Security Act, Medicare Secondary Payer. The Parties acknowledge and understand that any present or future action or decision on Plaintiffs' eligibility or entitlement to Medicare or Medicaid payments will not render this Agreement void or ineffective, or in any way affect the finality of this Agreement.

5. Mutual Release

(a) Plaintiffs, for themselves, and their heirs, spouses, personal representatives, administrators, successors, executors and assigns, insurers, and agents hereby fully and irrevocably release and forever discharge the Defendant and any of its heirs, officials, successors, executors,

assigns, insurers, agents, and employees (collectively referred to herein as “**Defendant Releasees**”) from any and all past or present claims, demands, damages, causes of action or suits of any kind or nature whatsoever, whether known or unknown, which Plaintiffs now have or claim to have or which may hereafter accrue against Defendant Releasees, arising from, or related to, whether directly or indirectly, Plaintiffs’ claims against Defendant Releasees. This release includes, but is not limited to, claims under 42 U.S.C. § 1983, any other federal or state law, claims in contract or tort, and any other claim arising under common law.

(b) Plaintiffs and Defendant acknowledge this Agreement contains a general release of any and all claims they each may have against each other, and this Agreement is a complete and final settlement of all claims they each may have against each other, including the above-referenced Action. Thus, Plaintiffs and Defendant each expressly waive and assume the risk of any and all claims or damages which exist and have not been raised, whether through ignorance, oversight, error, negligence, or otherwise, and which, if known, would have materially affected their respective decisions to enter into this Agreement.

6. Costs and Attorney Fees

Except as otherwise provided herein, the Parties to this Agreement shall bear their own costs and attorney fees. However, in the event of any suit or action to enforce the terms of this Agreement, the prevailing party shall be entitled to an award of attorney fees and costs.

7. Non-admission of Liability

Neither this Agreement, payments made pursuant hereto, nor any provision hereof shall be construed as an admission of liability, directly or indirectly, by the Defendant, and the same is hereby denied.

8. Miscellaneous

(a) This Agreement shall be binding upon and inure to the benefit of the Parties, their spouses, their personal representatives, heirs, employees, agents, officers, directors, successors, and assigns.

(b) Plaintiffs hereby represent and warrant that no other known person or entity has or has had any interest in the claims, demands, obligations or causes of action referred to in this Agreement; that Plaintiffs have the sole and exclusive right to receive the consideration specified herein and to compromise their claims; and that Plaintiffs have not sold, assigned, transferred, conveyed or otherwise disposed of any of the claims, demands, obligations, or causes of action referred to in this Agreement. Plaintiffs further represent and warrant that there exists no physical or mental condition known to them that would preclude them from executing this Agreement.

(c) This Agreement is the result of negotiations between the Parties, each of whom has participated in the negotiating and drafting of this Agreement through their respective attorneys. The language of the Agreement shall not be presumptively construed in favor of or against any of the Parties.

(d) Each Party to this Agreement agrees that such Party will not take any action that would interfere with the performance of this Agreement by any other Party to this Agreement or that would adversely affect any of the rights provided for in the Agreement.

(e) Plaintiffs acknowledge that they have entered into this Agreement as a free and voluntary act, and that they have not entered into this Agreement under the influence of or in reliance upon any statement or representation of the Defendant, or any attorney, representative, agent or other person acting for, through or on behalf of the Defendant. Plaintiffs further acknowledge that they have not been coerced or threatened into signing this Agreement and have

not been promised anything else in exchange for signing this Agreement. Plaintiffs have completely read this Agreement and have had an opportunity to consult with legal counsel regarding its execution to the extent desired.

(f) The Parties understand that if issues arise in the future with the aforescribed court conversion and use, that the Plaintiffs contact point with the Defendant to address those issues is the Department of Parks and Recreation Director.

(g) The person signing on behalf of the City, Bryan Knox, Public Safety Division Senior Manager Legal, hereby represents that he has full settlement authority for Defendant.

9. Dismissal of Action

The Parties hereto specifically authorize and hereby direct their respective counsel to execute a stipulation for the dismissal with prejudice of the Action and, upon the payment of the Settlement Proceeds, to file said stipulation and a proposed order for dismissal in the District Court of the Fourth Judicial District of Idaho. The dismissal is with prejudice, and neither Party may bring any further action related to the issues described in the Action. The foregoing shall not be construed to prohibit any Party from bringing an action to enforce the provisions of this Agreement.

10. Governing Law

This Agreement shall be interpreted, applied, and enforced in accordance with the laws of the State of Idaho, except to the extent federal law applies.

11. Severability

The provisions of this Agreement are severable, and if any part of it is found to be unenforceable, the other provisions shall remain fully valid and enforceable.

12. Entire Agreement; Amendments


This Agreement constitutes the entire agreement between the Parties. Any agreement hereafter shall be ineffective to change, modify, or discharge this Agreement in whole or in part, unless such agreement is agreed to in writing and signed by the Parties hereto.


13. Execution in Counterparts

This Agreement may be executed and delivered in two (2) or more counterparts, each of which, when so executed and delivered, shall be an original, but such counterparts shall together constitute but one and the same instrument and agreement.


WHEREFORE, the parties hereto have executed this Agreement as of the date signed below.

PLAINTIFFS


Patrick S. Dougherty
Date Signed: AUG 18, 2025


Kathleen M. Romito
Date Signed: AUG 18, 2025

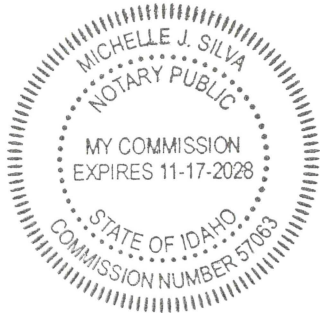
DEFENDANT

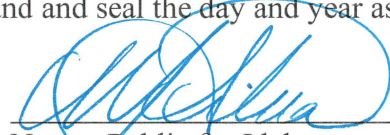
By: 
Bryan Knox
Public Safety Division Sr. Manager – Legal
Date Signed: 8/28/25

STATE OF IDAHO)
): ss.
County of Ada)

On the 18th day of August 2025, before me, the undersigned Notary Public, personally appeared PATRICK S. DOUGHERTY, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have set my hand and seal the day and year as above written.






Notary Public for Idaho
Residing at Meridian, Id.
Commission Expires: 11-17-28

STATE OF IDAHO)
): ss.
County of Ada)

On the 18th day of August 2025, before me, the undersigned Notary Public, personally appeared KATHLEEN M. ROMITO, known to me to be the persons whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same.

IN WITNESS WHEREOF, I have set my hand and seal the day and year as above written.





Notary Public for Idaho
Residing at Meridian, Id.
Commission Expires: 11-17-28

STATE OF IDAHO)
) : ss.
County of Ada)

On the 20th day of August 2025, before me, the undersigned Notary Public, personally appeared BRYAN KNOX, Public Safety Division Sr. Manager – Legal of the CITY OF BOISE, Defendant herein, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same in such capacity and that he was authorized to do so.

IN WITNESS WHEREOF, I have set my hand and seal the day and year as above written.



Alison Berriochoa
Notary Public for Idaho
Residing at Boise, Idaho
Commission Expires: June 29, 2029

Exhibit "A"

Legal Description of Defendant's Property

Two parcels of real property in Ada Couty, Idaho, both having the address 4623 W. Willow Ln. Boise, Id. 83703. Better described as follows:

- 1.) Ada County Parcel No. S0632212600, consisting of 2.450 acres, Section 32, Township 4N, Range 2E, Assessor ID: PAR #2600 OF NW4 IN SEWER SEC 32 4N 2E #S0632231250R.



- 2.) Ada County Parcel No. S0632233800, consisting of 52.000 acres, Section 32, Township 4N, Range 2E, Assessor ID: PAR #3800 OF SEC 32 4N 2E #S0632231235- 51-1350 #S0632242220R.



Exhibit “B”
Legal Description of Plaintiffs’ Property

Real property in Ada County, Idaho, having the address 844 N River Path Ln, Boise, Idaho 83703, Ada County Parcel No. R5138910130, consisting of 0.17 acres, more or less, and better described as follows:

LOT 13, BLK 1, LANEY GREENS SUB, SECTION 32, TOWNSHIP 4N, RANGE 2E