

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:

Ada County
200 W. Front Street
Boise, ID 83702

Above Space Reserved for Recorder's Use Only

EASEMENT FOR CITY OF MERIDIAN FIVE MILE PATHWAY

THIS EASEMENT for the City of Meridian's Five Mile Pathway Improvement at Ustick and Linder is made and entered into this 14th day of December, 2021, by and between ADA COUNTY EMERGENCY MEDICAL SERVICES DISTRICT, a duly formed and existing ambulance district pursuant to the laws of the State of Idaho ("Grantor"), and CITY OF MERIDIAN, an Idaho Municipal Corporation ("Grantee").

RECITALS

WHEREAS, Grantor is the owner of real property located at 3195 N. Linder Road, Meridian, Idaho 83646 on a portion of which the City of Meridian desires to establish a public pathway; and

WHEREAS, Grantor desires to grant an easement to establish a public pathway and provide connectivity to present and future portions of the pathway; and

WHEREAS, Grantee shall construct the pathway improvements upon the easement described herein; and

WHEREAS, Grantor and Grantee now wish to make an agreement that will be recorded to document the location of the easement and document the parties' mutual understanding regarding the easement.

AGREEMENT

1. Grant of Easement. On the terms and conditions set forth herein, Grantor hereby grants to Grantee a nonexclusive Easement to be used solely for the limited purpose of construction, operation, and maintenance of Grantee's Five Mile Pathway on property as described in **Exhibit A** (1 page, legal description)

and **Exhibit B** (1 page drawing and photographs) attached hereto and by reference incorporated herein as if set forth in full.

2. Term. The term of this Easement is perpetual. If Grantee fails to use the Easement for the Five Mile Pathway for a continual period of one (1) year or more, the Easement herein granted shall automatically terminate without it being necessary for the Grantor to take any affirmative action to terminate this Easement.

3. Continuing Liability. Termination of this Easement shall not release the Grantee from any liability or obligation hereunder resulting from any acts, omissions or events happening prior to the termination of the Easement and restoration of Grantor's property to its prior condition as required herein.

4. Easement Not Exclusive. This Easement does not extend to Grantee the right to use the Easement to the exclusion of Grantor for any use within Grantor's authority and discretion.

5. No Representations by Grantor. Grantee acknowledges that Grantor has made no representations with respect to the Grantor property or its condition, and that the Grantee is not relying on any representations of Grantor or Grantor's agents with respect to the use or condition of the property. This Easement grants the Grantee the rights and privileges to access and use the property in its present conditions "as is" without any warranties.

6. Grantee's Use of the Easement Property. This nonexclusive Easement shall be for the use and benefit of Grantee, for the limited purpose of construction, operation, and maintenance of Grantee's Five Mile Pathway, together with a perpetual right of ingress and egress, and all rights and privileges that are necessary or incidental to the reasonable and proper use. In its use and enjoyment of the area covered by the Easement provided herein, Grantee shall exercise its best efforts to avoid disruption of Grantor's use of 3195 N. Linder Road, Meridian, Idaho 83646 to provide emergency medical services. Notwithstanding this Easement, Grantee expressly acknowledges and agrees that Grantor reserves a right of continuous access to 3195 N. Linder Road, Meridian, Idaho 83646 through the ingress and egress driveway from the property on to N. Linder Road. During the construction of the Grantee's Five Mile Pathway on the Easement, Grantee shall ensure at all times that there is at least a width of sixteen (16) drivable feet on Grantor's ingress and egress driveway from 3195 N. Linder Road, Meridian, Idaho 83646 on to N. Linder Road to ensure that emergency medical vehicles may enter and exit the property at any time without obstruction or delay. After construction of the Grantee's Five Mile Pathway on the Easement

is completed, Grantor's right of continuous access shall extend along the entire width of the ingress and egress driveway from 3195 N. Linder Road, Meridian, Idaho 83646 on to N. Linder Road, and the only use of that ingress and egress that shall be permitted under this Easement is crossing over the ingress and egress while traveling from one side of the Five Mile Pathway to the other side of said Pathway.

7. Protection of Public. Grantee is solely responsible for erecting and maintaining barricades, canopies, guard, lights and warning signs to the extent required for protection of the public during construction, repair, or maintenance of the Five Mile Pathway, and restoration of Grantor's property.

8. Restoration of Property. Upon completion of the construction of Grantee's Five Mile Pathway on the Easement, Grantee shall, at its sole cost and expense, restore Grantor's property, including, but not limited to, landscaping, lighting, and water system, to a condition as good or better than existed prior to the construction of the Pathway. In the event that Grantee fails to restore Grantor's property to its prior condition within 30 calendar days after completion of construction, or a different period of time subsequently agreed to by the Grantor and Grantee in writing, Grantor may proceed with such restoration work at the expense of Grantee.

9. No Fee. There is no fee for this Easement.

10. Binding Effect. Each and every one of the benefits and burdens of this Easement shall inure to and be binding upon the Grantor and the Grantee, and shall be covenants running with the land.

11. Assignment and Licenses. Grantee shall not assign this Easement without the prior written consent of Grantor. Grantee shall have the right to allow contractors to use the Easement area on a temporary basis for purposes of construction, operation, repair, and maintenance of Grantee's Five Mile Pathway on the terms and conditions permitted herein.

12. Interpretation/Severability. If any clause, provisions, subparagraph, or paragraph set forth in this Easement is illegal, invalid, or unenforceable under present or future applicable laws, it is the intention of Grantor and Grantee that the remainder of this Easement shall not be affected thereby.

13. Choice of Law and Venue. The terms and provisions contained in this Easement shall be governed and construed in accordance with the laws of the State of Idaho. For the resolution of any dispute arising from this Easement, venue shall be in the courts of the County of Ada, State of Idaho.

14. Attorney's Fees and Costs. In any suit, action or appeal therefrom to enforce or interpret this Easement, the prevailing party shall be entitled to recover its costs incurred therein, including reasonable attorneys' fees.

15. Authority. The Grantor and Grantee represent to the other that such party has full power and authority to execute, deliver and perform this Easement, that the individuals executing this Easement on behalf of said party have been and are fully empowered and authorized by all requisite action to do so; and this Easement constitutes a valid and legally binding obligation of said party enforceable against such party in accordance with this Easement.

16. Complete Agreement. This Easement, and Exhibit A and Exhibit B, attached hereto, embody the complete agreement between the Grantor and Grantee and no additional or different oral representation, promise or agreement shall be binding on any of the parties hereto with respect to the subject matter of this Easement. This Easement cannot be modified, altered, amended, or terminated except by the written agreement of Grantor and Grantee.

17. Permit. If any proposed construction, relocation, or maintenance of the Easement requires Grantee to obtain a permit, Grantee shall first obtain such permit before commencing such work, pay the required fees, and otherwise comply with the conditions set forth therein.

18. No Costs to Grantor. Any and all costs and expenses associated with Grantee's construction, use, restoration, repair, or maintenance on the Easement shall be at the sole cost and expense of Grantee.

19. Indemnification. To the extent allowed by Idaho law, including, without limitation, Article VIII, section 3, of the Idaho Constitution, Grantee hereby agrees to defend, indemnify and hold Grantor, its officers, agents, and employees harmless from and against any and all claims, losses, actions, damages, judgments, costs, expenses, including, without limitation, reasonable attorney fees and costs, for injuries to persons or property arising out of the failure or neglect of Grantee and its officers, employees, contractors, subcontractors or agents to properly use, repair, or maintain the Easement and the path constructed thereon. In the event that Grantor is alleged to be liable on account of any activities, acts, or omissions of Grantee, its officers, agents, or employees, then Grantee shall defend such allegations through counsel chosen by Grantor and Grantee shall bear all costs, fees, and expenses of such defense, including but not limited to, all attorney fees and expenses, court costs, and expert witness fees and expenses. Nothing in this Agreement shall extend Grantee's responsibility or liability

beyond that required by the Idaho Tort Claims Act, Idaho Code section 6-901, *et seq.*

20. Compliance with Law; Waste and Nuisances Prohibited. In connection with Grantee's use of the Easement, Grantee covenants and agrees to: (i) comply and observe in all respects any and all federal, state and local statutes, ordinances, policies, rules and regulations, including, without limitation, those relating to traffic, bicycle and pedestrian safety, the Clean Water Act, and/or to the presence, use, generation, release, discharge, storage or disposal in, on or under the Easement of any Hazardous Materials (defined as any substance or material defined or designated as hazardous or toxic waste, material or substance, or other similar term, by any federal, state, or local environmental statute, regulation or occurrence presently in effect or that may be promulgated in the future); (ii) obtain any and all permits and approvals required by Grantor or any other unit of government; and (iii) commit no waste or allow any nuisance on the Easement. Grantee covenants and agrees to indemnify and hold Grantor harmless from and against any and all claims, demands, damages license, liabilities and expenses (including, without limitation, reasonably attorneys' fees) arising directly or indirectly from or in any way connected with the breach of the foregoing covenant.

21. Notice. Any notice under this Agreement shall be in writing and be delivered by certified mail, return receipt requested. All notices shall be addressed to the parties at the addresses contained herein.

Grantor:

Ada County Emergency Medical
Services District
200 W. Front Street
Boise, Idaho 83702

Grantee:


City of Meridian
Attn: City Clerk
33 E. Broadway Avenue
Meridian, Idaho 83642

22. Recording. This Easement shall be recorded in the real property records of Ada County, Idaho.

GRANTOR:


Board of Ada County Emergency Medical Services District

By: 
Rod Beck, Commissioner

By: 
Ryan Davidson, Commissioner

By: 
Kendra Kenyon, Commissioner

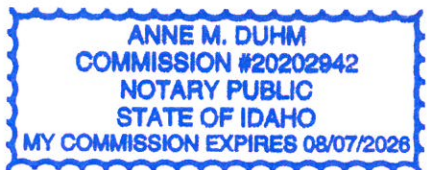
ATTEST:



Phil McGrane, Ada County Clerk
by **Katie Reed, Assistant Deputy Clerk**

STATE OF IDAHO)
) ss.
County of Ada)

On this 14th day of December, 2021, before me, Anne Duhm, a Notary Public in and for said State, personally appeared Rod Beck, Ryan Davidson, and Kendra Kenyon, known or identified to me to be the members of the Board of Ada County Emergency Medical Services District, who executed the instrument on behalf of Ada County Emergency Medical Services District, and acknowledged to me that the Ada County Emergency Medical Services District executed the same.

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




Notary Public for Idaho
Residing at Boise ID
My commission expires 8/7/26

GRANTEE:

City of Meridian

Robert E. Simison, Mayor

Attest by Chris Johnson, City Clerk

STATE OF IDAHO)
) ss.
County of Ada)

On this _____ day of _____, 2021, before me, _____, a Notary Public in and for said State, personally appeared Robert E. Simison and Chris Johnson, known or identified to me to be the Mayor and City Clerk of the City of Meridian, respectively, who executed the instrument on behalf of the City of Meridian, and acknowledged to me that the City of Meridian executed the same.

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

Notary Public for Idaho
Residing at _____
My commission expires _____

EXHIBIT A

EASEMENT FOR CITY OF MERIDIAN FIVE MILE PATHWAY – EXHIBIT A



October 7, 2021
Project No.: 210249

EXHIBIT "A"
N. Linder Pathway at Ustick
Permanent Easement

A 5 foot wide easement located in the Northeast Quarter of Section 2, Township 3 North, Range 1 West, Boise Meridian, Ada County, Idaho, being more particularly described as follows:

COMMENCING at the Northeast corner of said Sections 2, from which the East One-Quarter corner of said Section 2 bears S.00°01'02"E., 2699.10 feet; thence, along the east line of said Section 2,

- A. S.00°01'02"E., 86.34 feet; thence,
- B. S.89°58'58"W., 50.00 feet to the west right-of-way of N. Linder Road being the **POINT OF BEGINNING**; thence, along said west right-of-way the following three courses:
 - 1) S.44°37'59"E., 7.12 feet; thence,
 - 2) S.00°01'02"E., 389.29 feet; thence,
 - 3) S.56°34'21"W., 5.99 feet; thence, leaving said west right-of-way, along a line parallel with and 50.00 feet west of the east line of said Section 2,
 - 4) N.00°01'02"W., 397.65 feet to the **POINT OF BEGINNING**.

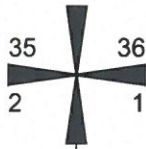
The above-described strip of land **CONTAINS** 0.045 acres, more or less.



EXHIBIT B

EXHIBIT "B"

LOCATED IN THE NORTHEAST QUARTER OF SECTION 2,
TOWNSHIP 3 NORTH, RANGE 1 WEST, BOISE MERIDIAN, ADA COUNTY, IDAHO
2021



SEC. COR.
CP&F INST. NO.
109109699

W USTICK RD



LINE TABLE		
LINE	BEARING	DISTANCE
L1	S00°01'02"E	86.34'
L2	S89°58'58"W	50.00'
L3	S44°37'59"E	7.12'
L4	S44°37'59"E	14.24'

N00°01'02"W 414.39'
S00°01'02"E 397.65'
S00°01'02"E 389.29'

N LINDER RD



PERMANENT EASEMENT (PE), 0.045 AC



TEMPORARY LICENSE (TL), 0.093 AC

5.00' PE
10.00' TL

S00°01'02"E 2699.10'
BASIS OF BEARINGS



S56°34'21"W 11.98'
S56°34'21"W 5.99'

2 1

QTR. COR.
CP&F INST. NO.
108044955



T-O ENGINEERS

2471 S. TITANIUM PLACE
MERIDIAN, IDAHO 83642

PHONE: (208) 323-2288

WWW.TO-ENGINEERS.COM

E-FILE: 210493-V-Exhibit.dwg

DATE: 10/27/21

JOB: 210493