

**MEMORANDUM OF AGREEMENT BETWEEN  
ADA COUNTY HIGHWAY DISTRICT AND CITY OF MERIDIAN  
FOR PATHWAY SEGMENT DESIGN AND CONSTRUCTION**

This MEMORANDUM OF AGREEMENT BETWEEN ADA COUNTY HIGHWAY DISTRICT AND CITY OF MERIDIAN FOR PATHWAY SEGMENT DESIGN AND CONSTRUCTION (“Agreement”), is made and entered into this \_\_\_ day of \_\_\_\_\_, 2022, by and between the Ada County Highway District, a highway ACHD organized under the laws of the State of Idaho (“ACHD”), and the City of Meridian, a municipal corporation organized under the laws of the State of Idaho (“City”) (collectively, “Parties”).

**WHEREAS**, ACHD plans to build a maintenance facility at 3764 W. Ustick Road, Meridian, Ada County Parcel no. S0434438600 (“Property”);

**WHEREAS**, City, by and through its Parks and Recreation Department, and pursuant to its Pathways Master Plan, intends to design and construct a multi-use public pathway running along Fivemile Creek from just east of Ninemile Creek to N. Grand Lake Way. (“Pathway”);

**WHEREAS**, a segment of the Pathway traverses the north side of the Property (“Pathway Segment”);

**WHEREAS**, ACHD is required by its April 19, 2022 Development Agreement with City (recorded in Ada County as Instrument no. 2022-038673) to install the Pathway Segment;

**WHEREAS**, City and ACHD have an opportunity to cooperate in design and construction of the Pathway Segment;

**NOW, THEREFORE**, for and in consideration of the covenants, agreements and conditions hereinafter set forth, the Parties mutually agree as follows:

**I. PARTIES’ RESPONSIBILITIES.**

**A. Contacts.** City shall designate an individual to serve as City Contact, which individual shall consult with ACHD upon ACHD’s request and as specified in this Agreement. ACHD shall designate an individual to serve as ACHD Contact, which individual shall consult with City upon City’s request and as specified in this Agreement. The Contacts shall each be authorized to make communications on behalf of their respective agencies.

**B. Pathway design.** City has engaged design professionals to design and prepare construction plans for the Pathway, pursuant to the specifications established by City’s Pathways Master Plan. City shall pay the design professionals in full, shall bear all expenses associated with design of and preparation of the construction plans for Pathway, and shall manage all aspects of the design of and preparation of the construction plans for the Pathway.

- C. Pathway bid.** Following completion of design of and preparation of the construction plans for the Pathway, City shall, pursuant to City's Procurement Policy, issue a request for bids for construction of the Pathway, with alternate scopes of work for 1) construction of the Pathway with the Pathway Segment, and 2) construction of the Pathway without the Pathway Segment. City shall manage all aspects of the request for bids and selection of the contractor, and shall bear all expenses associated with selection of the contractor.
- D. ACHD option.** Following City's selection of a contractor, City Contact shall provide to ACHD Contact the bid for the scope of work for construction of the Pathway with the Pathway Segment. ACHD Contact shall seek input from ACHD, determine whether ACHD will partner with City to build the Pathway Segment as part of construction of the Pathway, and communicate the decision to City Contact. If ACHD elects not to partner with City for such purpose, this Agreement shall automatically terminate upon ACHD Contact's written communication of such decision to City Contact.
- E. Pathway construction and reimbursement.** If ACHD does elect to partner with City to build the Pathway Segment as part of construction of the Pathway, City shall construct the Pathway, including the Pathway Segment. Within thirty (30) days of completion of construction of the Pathway and receipt of final invoice from the contractor for construction of the Pathway and Pathway Segment, City shall issue to ACHD an invoice for the proportionate cost of constructing the Pathway Segment in conjunction with the City's construction of the Pathway. ACHD shall pay City in full for such costs within thirty (30) days of City's issuance of the invoice.

**II. GENERAL PROVISIONS.**

- A. City and ACHD Contacts.** The Parties hereby designate the following individuals to serve as the City Contact and ACHD Contact, respectively:

<b>City Contact:</b>	<b>ACHD Contact:</b>
Mike Barton, Parks Superintendent	Heather Friddle, Superintendent
mbarton@meridiancity.org	hfriddle@achdidaho.org
208-884-5533	208-509-2031

- B. Notice.** Communication between City Contact and ACHD Contact may occur via e-mail or telephone. All other notices required to be given by either of the Parties hereto shall be in writing and be deemed communicated when personally served, or mailed in the United States mail, addressed as follows:

<b>If to City:</b>	<b>If to ACHD:</b>
City Clerk, City of Meridian	Ada County Highway District
33 E. Broadway Avenue	3775 Adams Street
Meridian, Idaho 83642	Garden City, Idaho 83714

- C. Non-appropriation.** Notwithstanding any other provision of this Agreement, City shall not be obligated by any provision of this Agreement unless and until the Meridian City Council appropriates adequate funds for this Agreement in the City's budget for the applicable fiscal year. In the event that funds are not appropriated necessary to meet obligations contemplated

by this Agreement, then this Agreement shall terminate. City shall notify ACHD of any such non-appropriation of funds at the earliest practicable date.

- D. Assignment.** Neither party shall assign or sublet all or any portion of its respective interest in this Agreement or any privilege or right hereunder, either voluntarily or involuntarily, without the prior written consent of the other party. This Agreement and each and all of the terms and conditions hereof shall apply to and are binding upon the respective organizations, legal representative, successors, and assigns of the Parties.
- E. No agency.** For purposes of or in furtherance of this Agreement, neither party nor its respective employees, agents, contractors, officials, officers, servants, guests, and/or invitees shall be considered agents of the other in any manner or for any purpose whatsoever.
- F. Hold harmless.** For purposes of or in furtherance of this Agreement, each party and each of its employees, agents, contractors, officials, officers, servants, guests, and/or invitees, shall save and hold harmless the other party from and for any and all losses, claims, actions, judgments for damages, or injury to persons or property and losses and expenses caused or incurred by either party or any employee, agent, contractor, official, officer, servant, guest, and/or invitee thereof.
- G. Compliance with laws.** In performing the scope of services required hereunder, City and ACHD shall comply with all applicable laws, ordinances, and codes of Federal, State, and local governments.
- H. Termination.** This Agreement may be terminated by either Party upon mailing of notice of termination.
- I. Construction and severability.** If any part of this Agreement is held to be invalid or unenforceable, such holding will not affect the validity or enforceability of any other part of this Agreement so long as the remainder of the Agreement is reasonably capable of completion.
- J. Non-waiver.** Failure of either party to promptly enforce the strict performance of any term of this Agreement shall not constitute a waiver or relinquishment of any party's right to thereafter enforce such term, and any right or remedy hereunder may be asserted at any time after the governing body of either party becomes entitled to the benefit thereof, notwithstanding delay in enforcement.
- K. Approval required.** This Agreement shall not become effective or binding until approved by the respective governing bodies of both City and ACHD. The Parties signatory hereto represent and warrant that each is duly authorized to bind, respectively, City and ACHD to this Agreement in all respects.
- L. Entire Agreement.** This Agreement contains the entire agreement of the Parties and supersedes any and all other agreements or understandings, oral or written, whether previous to the execution hereof or contemporaneous herewith.

**IN WITNESS WHEREOF**, the Parties shall cause this Agreement to be executed by their duly authorized officers to be effective as of the day and year first above written.

**ADA COUNTY HIGHWAY DISTRICT:**

**ADA COUNTY HIGHWAY DISTRICT:**

By: \_\_\_\_\_  
Mary May  
President, Board of Commissioners

By: \_\_\_\_\_  
Bruce Wong  
Director

**CITY OF MERIDIAN:**

**ATTEST:**

By: \_\_\_\_\_  
Robert E. Simison  
Mayor

By: \_\_\_\_\_  
Chris Johnson  
City Clerk