

AGREEMENT

AGREEMENT, made and entered into this ____ day of _____, 2022, by and between NAMPA & MERIDIAN IRRIGATION DISTRICT, an irrigation district organized and existing under and by virtue of the laws of the State of Idaho, hereinafter referred to as the “District,” and

THE CITY OF MERIDIAN, a political subdivision and
municipality of the State of Idaho

hereinafter referred to as the “City,”

W I T N E S S E T H:

WHEREAS, the parties hereto entered into a Master Pathway Agreement For Developing and Maintaining Pathways for public use along and across some of the District’s ditches and within some of the District’s easements and fee title lands dated December 19, 2000, recorded as Instrument No. 100102999, records of Ada County, Idaho, hereinafter referred to as the “Master Pathway Agreement;” and,

WHEREAS, the District and the City intended by entering the Master Pathway Agreement to accomplish the following in a manner that is consistent with their respective legal and fiduciary responsibilities; to enhance the City’s pathway planning through early consultation between the City and the District; to establish a process for the City’s submission of pathway requests and the District’s consideration of such requests; and to provide the general conditions for the District’s approval and authorization of pathway requests affecting the District’s ditches, property, operations and maintenance; and,

WHEREAS, the District grants to the City the right develop pathways to encroach within the District’s easements along and across the District’s ditches, canals and easements therefor upon the terms and conditions of said Master Pathway Agreement and after the execution of an agreement for each proposed crossing and encroachment; and,

WHEREAS, the City is the owner of the real property easement / right of way (burdened with the easement/property of the District hereinafter mentioned) particularly described in the “Legal Description” attached hereto as Exhibit A and by this reference made a part hereof; and,

WHEREAS, the District controls the irrigation/drainage ditch or canal known as the FIVE MILE DRAIN (hereinafter referred to as “ditch or canal”) together with the real property and/or easements to convey irrigation and drainage water, to operate and maintain the ditch or canal, and which crosses and intersects said described real property of the City as shown on Exhibit B attached hereto and by this reference made a part hereof; and,

WHEREAS, the City desires approval to construct, install, operate and maintain a pedestrian bridge and paved pathway within the District's property/easement for the Five Mile Drain under the terms and conditions of said Master Pathway Agreement and those hereinafter set forth,

NOW, THEREFORE, for and in consideration of the premises and of the covenants, agreements and conditions hereinafter set forth and those set forth in said Master Pathway Agreement, the parties hereto agree as follows:

1. The City may construct, operate, maintain and repair a 53-foot prefabricated steel truss bridge, pedestrian sidewalk and a 10 foot wide pathway within the District's real property and/or easement for the Five Mile Drain located on the east side of McDermott Road in, Meridian, Ada County, Idaho. The bridge, sidewalk and pathway are being constructed by the Idaho Transportation Department (ITD) as part of the Highway 16 project and the District is entering into an agreement with ITD for said construction and the bridge, sidewalk and pathway will be assigned to the City upon completion.

2. Any construction, widening or crossing of said ditch or canal shall be performed in accordance with the "Special Conditions" stated in Exhibit C, attached hereto and by this reference made part thereof.

3. The permitted hours of use of the pathway shall be from one half hour before sunrise and one half hour after sunset.

4. The parties hereto incorporate in and make part of this Agreement all the covenants, conditions, and agreements of said Master Pathway Agreement unchanged except as the result of the provisions of this Agreement.

The covenants, conditions and agreements herein contained and incorporated by reference shall constitute covenants to run with, and running with, all of the lands of the City described in said Exhibit A, and shall be binding on each of the parties hereto and on all parties and all persons claiming under them or either of them, and the advantages hereof shall inure to the benefit of each of the parties hereto and their respective successors and assigns.

IN WITNESS WHEREOF, the District has hereunto caused its corporate name to be subscribed by its officers first hereunto duly authorized by resolution of its Board of Directors and the City has hereunto subscribed its corporate name to be subscribed and its seal to be affixed thereto, all as of the day and year herein first above written.

NAMPA & MERIDIAN IRRIGATION DISTRICT

By _____
Its President

ATTEST:

Its Secretary

THE CITY OF MERIDIAN

By _____

ATTEST:

STATE OF IDAHO)
) ss:
County of Canyon)

On this _____ day of _____, 2022, before me, the undersigned, a Notary Public in and for said State, personally appeared Donald Barksdale and Michael Comeskey, known to me to be the President and Secretary, respectively, of NAMPA & MERIDIAN IRRIGATION DISTRICT, the irrigation district that executed the foregoing instrument and acknowledged to me that such irrigation 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 _____, Idaho
My Commission Expires: _____

STATE OF IDAHO)
) ss:
County of Ada)

On this _____ day of _____, 2022, before me, the undersigned, a Notary Public in and for said State, personally appeared _____ and _____, known to me to be the _____ and _____, respectively, of The CITY OF MERIDIAN, the entity that executed the foregoing instrument and acknowledged to me that such entity 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 _____
Residing at _____, _____
My Commission Expires: _____

EXHIBIT A
Legal Description

A right-of-way/easement within the NW 1/4 of Section 33, Township 4 North, Range 1 West, B.M., Ada County, Idaho as more particularly described in the description attached hereto as **Exhibit A-1** and by this reference incorporated herein.

EXHIBIT B
Location of Property/Drain

See Exhibit C-1 attached hereto.

EXHIBIT C
Special Conditions

a. The location and construction of the pathway shall be in accordance with **Exhibit C-1**, attached hereto and by this reference made a part hereof.

b. In the locations referenced herein and where pathway is proposed, the District owns fee title to a portion of the real property adjacent to the Five Mile Drain. However, to the extent the District does not own the property in fee, the District's easement along this section of the Five Mile Drain includes a sufficient area of land to convey irrigation and drainage water, to operate, clean, maintain and repair the Five Mile Drain, and to access the Ten Mile Drain for said purposes and is a minimum of 100 feet, 50 feet to either side of the centerline.

c. Construction shall be completed one year from the date of this agreement. Time of the essence.