

AGREEMENT BETWEEN OWNER AND CONTRACTOR FOR CONSTRUCTION CONTRACT (STIPULATED PRICE)

This Agreement is by and between **The City of Meridian** ("Owner") and **Mountain Companies, LLC** ("Contractor").

Terms used in this Agreement have the meanings stated in the General Conditions and the Supplementary Conditions.

Owner and Contractor hereby agree as follows:

ARTICLE 1—WORK

- 1.01 Contractor shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows: **The construction of a 10-ft wide asphalt pathway with 2-foot gravel shoulders. The construction of pedestrian ADA compliant ramps at the crossing of E Broadway Ave. The construction of irrigation improvements involve; a concrete headwall, irrigation structures, piping the Rutledge Lateral, and partial piping of the Nine-Mile Creek.**

ARTICLE 2—PROJECT

- 2.01 The Project, of which the Work under the Contract Documents is a part, is generally described as follows: **The City has a need for services involving the construction of a 10' wide multi-use pathway to provide access to non-motorized or multi-modal users and will increase access between communities. The project will construct a multi-use pathway between NW 3rd Street and 89th Street South of Broadway Avenue. Project actions also include piping the Rutledge Lateral within the project limits, and part of the Nine-Mile Creek.**
- 2.02 This is a Davis Bacon project, funded by Transportation Alternatives Program (TAP) from Federal Highways (FHWA) and administered by the Local Highway Technical Assistance Council (LHTAC). Federal testing, compliance, and environmental requirements must be followed.
- 2.03 Compliance with Laws:

In performing the scope of work required hereunder, the Contractor must comply with all applicable laws, ordinances, and codes of Federal, State, and local governments. This agreement will be governed by and construed and enforced in accordance with the laws of the State of Idaho, and the ordinances of the City of Meridian.

ARTICLE 3—ENGINEER

- 3.01 The Owner has retained **Keller Associates** (“Engineer”) to act as Owner’s representative, assume all duties and responsibilities of Engineer, and have the rights and authority assigned to Engineer in the Contract.
- 3.02 The part of the Project that pertains to the Work has been designed by “Engineer”.

ARTICLE 4—CONTRACT TIMES

4.01 *Time is of the Essence*

- A. All time limits for Milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.

4.02 *Contract Time*

- A. Refer to the ITD Special Provisions for Contract Time details.

4.04 *Milestones*

- A. Parts of the Work must be substantially completed on or before the following Milestone(s):
1. Milestone 1: Substantial Completion **July 15th, 2026**

4.05 *Liquidated Damages*

- A. Contractor and Owner recognize that time is of the essence as stated in Paragraph 4.01 above and that Owner will suffer financial and other losses if the Work is not completed and Milestones not achieved within the Contract Times, as duly modified. The parties also recognize the delays, expense, and difficulties involved in proving, in a legal or arbitration proceeding, the actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of requiring any such proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty):
1. *Substantial Completion:* Contractor shall pay Owner **\$250** for each day that expires after the time (as duly adjusted pursuant to the Contract) specified above for Substantial Completion, until the Work is substantially complete.
 2. *Completion of Remaining Work:* After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Times (as duly adjusted pursuant to the Contract) for completion and readiness for final payment, Contractor shall pay Owner **\$250** for each day that expires after such time until the Work is completed and ready for final payment.
 4. Liquidated damages for failing to timely attain Milestones, Substantial Completion, and final completion are not additive, and will not be imposed concurrently.
- B. If Owner recovers liquidated damages for a delay in completion by Contractor, then such liquidated damages are Owner’s sole and exclusive remedy for such delay, and Owner is precluded from recovering any other damages, whether actual, direct, excess, or consequential, for such delay, except for special damages (if any) specified in this Agreement.

4.06 *Special Damages*

- A. Contractor shall reimburse Owner (1) for any fines or penalties imposed on Owner as a direct result of the Contractor's failure to attain Substantial Completion according to the Contract Times, and (2) for the actual costs reasonably incurred by Owner for engineering, construction observation, inspection, and administrative services needed after the time specified in Paragraph 4.02 for Substantial Completion (as duly adjusted pursuant to the Contract), until the Work is substantially complete.
- B. After Contractor achieves Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Times, Contractor shall reimburse Owner for the actual costs reasonably incurred by Owner for engineering, construction observation, inspection, and administrative services needed after the time specified in Paragraph 4.02 for Work to be completed and ready for final payment (as duly adjusted pursuant to the Contract), until the Work is completed and ready for final payment.
- C. The special damages imposed in this paragraph are supplemental to any liquidated damages for delayed completion established in this Agreement.

ARTICLE 5—CONTRACT PRICE

5.01 Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents, the amounts that follow, subject to adjustment under the Contract:

- B. For all Unit Price Work, an amount equal to the sum of the extended prices (established for each separately identified item of Unit Price Work by multiplying the unit price times the actual quantity of that item).

Unit Price Work					
Item No.	Description	Unit	Estimated Quantity	Unit Price	Extended Price
202-005A	SELECTIVE REM OF TREES INCLUDING STUMPS	EACH	10	\$1,200	\$12,000.00
203-003A	REMOVAL OF OBSTRUCTIONS – RCP, IRRIGATION	FT	163	\$40	\$6,520.00
203-060A	REMOVAL OF CONCRETE SIDEWALK	SY	12	\$14	\$168.00
203-070A	REMOVAL OF CURB & GUTTER	FT	48	\$5	\$240.00
203-080A	REMOVAL OF GUARDRAIL	FT	19	\$75	\$1,425.00
203-122A	REMOVAL OF MISCELLANEOUS ITEMS – IRRIGATION BOX	EACH	1	\$3,500	\$3,500.00
203-122B	REMOVAL OF MISCELLANEOUS ITEMS – CONCRETE HEADGATE	EACH	1	\$2,000	\$2,000.00
205-005A	EXCAVATION	CY	720	\$26	\$18,720.00
205-030A	BORROW	CY	1417	\$28	\$39,676.00
205-060A	WATER FOR DUST ABATEMENT	MG	50	\$1	\$50.00
212-011A	FIBER WATTLE	FT	4119	\$7	\$28,833.00
212-060A	STABILIZED CONSTRUCTION ENTRANCE	EACH	2	\$4,500	\$9,000.00

Unit Price Work					
Item No.	Description	Unit	Estimated Quantity	Unit Price	Extended Price
212-105A	WATER AND POLLUTION	CA	2000	\$1	\$2000.00
301-005A	GRANULAR SUBBASE	TON	1340	\$24	\$32,160.00
405-240A	MISCELLANEOUS PAVEMENT	SY	17	\$60	\$1,020.00
604-025A	12" IRRIGATION PIPE – RCP	FT	22	\$200	\$4,400.00
604-035A	18" IRRIGATION PIPE – RCP	FT	21	\$220	\$4,620.00
604-065A	36" IRRIGATION PIPE – RCP	FT	1591	\$202	\$321,382.00
604-105A	60" IRRIGATION PIPE – RCP	FT	207	\$550	\$113,850.00
605-455A	MANHOLE TYPE A – SIZE 48"	EACH	1	\$5,000	\$ 5,000.00
609-025A	MINOR STR – IRRIGATION BOX, SIZE 5'X5'	EACH	4	\$13,000	\$52,000.00
609-025B	MINOR STR – IRRIGATION BOX, SIZE 15'X5'	EACH	1	\$22,000	\$22,000.00
609-025C	MINOR STR – IRRIGATION BOX, SIZE 8'X8'	EACH	1	\$19,000	\$19,000.00
609-025D	MINOR STR – IRRIGATION STEEL GRATE	EACH	1	\$2,500	\$2,500.00
609-025E	MINOR STR – IRRIGATION BOX, SIZE 6'X6'	EACH	1	\$18,000	\$18,000.00
614-015A	SIDEWALK	SY	115	\$36	\$4,140.00
614-025A	CURB RAMP – PERPENDICULAR	SY	13	\$107	\$1,391.00
614-025B	CURB RAMP – PARALLEL	SY	14	\$107	\$1,498.00
615-490A	CURB & GUTTER – ROLLED	FT	47	\$30	\$1,410.00
616-010A	SIGN TYPE B-1	SF	25	\$25	\$625.00
616-040J	STEEL SIGNPOST E-1	FT	40	\$45	\$1,800.00
626-010A	TEMPORARY TRAFFIC CONTROL SIGNS	SF	85	\$5	\$425.00
626-035A	BARRICADE TYPE 2	EACH	2	\$120	\$240.00
626-050A	DRUMS	EACH	20	\$28	\$560.00
630-010A	T,W,S,A PAVEMENT MARKINGS – PREFORMED THERMOPLASTIC	SF	162	\$14	\$2,268.00
S637-10A	AGGREGATE BASE FOR SHARED-USE PATH	TON	684	\$32	\$21,888.00
S637-15A	PLANT MIX FOR SHARED-USE PATH	TON	364	\$115	\$41,860.00
S900-50A	CONTINGENCY AMOUNT – MISCELLANEOUS WORK	CA	5000	\$11	\$5,000.00
S901-05A	SP CONNECT TO EXISTING IRRIGATION BOX	EACH	2	\$5,000	\$10,000.00
S901-05B	SP CONCRETE HEADWALL	EACH	1	\$25,000	\$25,000.00
S901-05C	SP 12" CANAL GATE (C-10)	EACH	1	\$2,000	\$2,000.00

Unit Price Work					
Item No.	Description	Unit	Estimated Quantity	Unit Price	Extended Price
S901-05D	SP DETECTABLE WARNING DOMES	EACH	1	\$1,500	\$1,500.00
S901-05E	SP PERMANENT BARRICADE	EACH	1	\$600	\$600.00
S904-05A	SP DRAIN BYPASS AND DEWATERING	LS	1	\$15,000	\$15,000.00
Z629-05A	MOBILIZATION	LS	1	\$92,000	\$92,000.00
Total of all Extended Prices for Unit Price Work (subject to final adjustment based on actual quantities)					\$949,269.00

The extended prices for Unit Price Work set forth as of the Effective Date of the Contract are based on estimated quantities. As provided in Paragraph 13.03 of the General Conditions, estimated quantities are not guaranteed, and determinations of actual quantities and classifications are to be made by Engineer.

ARTICLE 6—PAYMENT PROCEDURES

6.01 *Submittal and Processing of Payments*

- A. Contractor shall submit Applications for Payment in accordance with Article 15 of the General Conditions. Applications for Payment will be processed by Engineer as provided in the General Conditions.

6.02 *Progress Payments; Retainage*

- A. Owner shall make progress payments on the basis of Contractor's Applications for Payment on or about the **5th** day of each month during performance of the Work as provided in Paragraph 6.02.A.1 below, provided that such Applications for Payment have been submitted in a timely manner and otherwise meet the requirements of the Contract. All such payments will be measured by the Schedule of Values established as provided in the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no Schedule of Values, as provided elsewhere in the Contract.
 - 1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments previously made and less such amounts as Owner may withhold, including but not limited to liquidated damages, in accordance with the Contract.
 - a. **95** percent of the value of the Work completed (with the balance being retainage).
 - 1) If 50 percent or more of the Work has been completed, as determined by Engineer, and if the character and progress of the Work have been satisfactory to Owner and Engineer, then as long as the character and progress of the Work remain satisfactory to Owner and Engineer, there will be no additional retainage; and
 - b. **95** percent of cost of materials and equipment not incorporated in the Work (with the balance being retainage).

- B. Upon Substantial Completion, Owner shall pay an amount sufficient to increase total payments to Contractor to **100** percent of the Work completed, less such amounts set off by Owner pursuant to Paragraph 15.01.E of the General Conditions, and less **200** percent of Engineer's estimate of the value of Work to be completed or corrected as shown on the punch list of items to be completed or corrected prior to final payment.

6.03 *Final Payment*

- A. Upon final completion and acceptance of the Work, Owner shall pay the remainder of the Contract Price in accordance with Paragraph 15.06 of the General Conditions.

6.04 *Consent of Surety*

- A. Owner will not make final payment, or return or release retainage at Substantial Completion or any other time, unless Contractor submits written consent of the surety to such payment, return, or release.

6.05 *Interest*

- A. All amounts not paid when due will bear interest at the rate of **6.0** percent per annum.

ARTICLE 7—CONTRACT DOCUMENTS

7.01 *Contents*

- A. The Contract Documents consist of all of the following:
 - 1. This Agreement.
 - 2. Bonds:
 - a. Performance bond (together with power of attorney).
 - b. Payment bond (together with power of attorney).
 - 3. General Conditions.
 - 4. Supplementary Conditions.
 - 5. Specifications as listed in the table of contents of the project manual (copy of list attached).
 - 6. Drawings listed on the attached sheet index.
 - 8. Addenda 1, inclusive).
 - 9. The following which may be delivered or issued on or after the Effective Date of the Contract and are not attached hereto:
 - a. Notice to Proceed.
 - b. Work Change Directives.
 - c. Change Orders.
 - d. Field Orders.
 - e. Warranty Bond, if any.
- B. The Contract Documents listed in Paragraph 7.01.A are attached to this Agreement (except as expressly noted otherwise above).

- C. There are no Contract Documents other than those listed above in this Article 7.
- D. The Contract Documents may only be amended, modified, or supplemented as provided in the Contract.

ARTICLE 8—REPRESENTATIONS, CERTIFICATIONS, AND STIPULATIONS

8.01 *Contractor's Representations*

- A. In order to induce Owner to enter into this Contract, Contractor makes the following representations:
 - 1. Contractor has examined and carefully studied the Contract Documents, including Addenda.
 - 2. Contractor is familiar with all Laws and Regulations that may affect cost, progress, and performance of the Work.
 - 3. Contractor has considered the information known to Contractor itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Contract Documents; and the Technical Data identified in the Supplementary Conditions or by definition, with respect to the effect of such information, observations, and Technical Data on (a) the cost, progress, and performance of the Work; (b) the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor; and (c) Contractor's safety precautions and programs.
 - 4. Based on the information and observations referred to in the preceding paragraph, Contractor agrees that no further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract.
 - 5. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.
 - 6. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and of discrepancies between Site conditions and the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.
 - 7. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.
 - 8. Contractor's entry into this Contract constitutes an incontrovertible representation by Contractor that without exception all prices in the Agreement are premised upon performing and furnishing the Work required by the Contract Documents.
 - 9. The Contractor is an appropriately licensed public works contractor per Idaho Cod Section 54-1902.
 - 10. Contractor shall comply with all Laws and Regulations applicable to the performance of the Work. Except where otherwise expressly required by applicable Laws and

Regulations, neither Owner nor Engineer shall be responsible for monitoring the Contractor's compliance with any Laws or Regulations.

8.02 *Contractor's Certifications*

- A. Contractor certifies that it has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for or in executing the Contract. For the purposes of this Paragraph 8.02:
1. "corrupt practice" means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in the bidding process or in the Contract execution.
 2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process or the execution of the Contract to the detriment of Owner, (b) to establish Bid or Contract prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition.
 3. "collusive practice" means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish Bid prices at artificial, non-competitive levels; and
 4. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.
- B. Contractor certifies that it is not currently engaged in and will not, for the duration of this Agreement, engage in a boycott of goods or services from Israel or territories under its control pursuant to Idaho Code Section 67-2346. The provisions of this statute do not apply to contracts less than one hundred thousand dollars (\$100,000) or to contractors with fewer than ten (10) employees.
- C. Pursuant to Idaho Code 67-2359 and 67-2346, Contractor hereby certifies:
1. The Contractor is not currently owned or operated by the government of China and will not, for the duration of this contract, be owned or operated by the government of China.
 2. The Contractor is not currently engaged in and will not for the duration of the contract engage in, a boycott of goods or services from Israel or territories under its control.
 3. The Contractor is not currently engaged in, and will not for the duration of the contract engage in a boycott of any individual or company because the company engages in or supports the exploration, production, utilization, transportation, sale, ore manufacture of fossil fuel-based energy, timber, minerals, hydroelectric power, nuclear energy, or agriculture; or Engages in or supports the manufacture, distribution, sale, or use of firearms, as defined in section 18-3302(2)(d), Idaho Code.

8.03 *Standard General Conditions*

- A. Owner stipulates that if the General Conditions that are made a part of this Contract are ISPMC Division 100, Standard General Conditions for the Construction Contract, published by the Engineers Joint Contract Documents Committee, and if Owner is the party that has furnished said General Conditions, then Owner has plainly shown all modifications to the standard wording of such published document to the Contractor, through a process such as highlighting or "track changes" (redline/strikeout), or in the Supplementary Conditions.

IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement.

This Agreement will be effective on **December 2, 2025** (which is the Effective Date of the Contract).

Guidance Notes—Signing and Dating Agreement:

1. See Article 20 of the Instructions to Bidders and correlate procedures for format and signing of the documents.
2. The Effective Date of the Contract stated above and the dates of any construction performance bond ISPMC 00610 (~~EJCDC® C-610~~, Performance Bond ~~(2018)~~ or other) and construction payment bond (ISPMC 00615 ~~EJCDC® C-615~~, Payment Bond ~~(2018)~~ or other) should be the same, if possible. In no case should the date of any bonds be earlier than the Effective Date of the Contract.

Owner:

City of Meridian

(typed or printed name of organization)

By:

(individual's signature)

Date:

(date signed)

Name: Keith Watts

(typed or printed)

Title: Procurement Manager

(typed or printed)

Attest:

(individual's signature)

Title:

(typed or printed)

Address for giving notices:

City of Meridian

33 East Broadway Ave., Ste 106

Meridian, ID 83642

Designated Representative:

Name: Kimberly Warren

(typed or printed)

Title: Pathways Project Manager

(typed or printed)

Address:

City of Meridian, Parks & Recreation

33 East Broadway, Ave., Ste. 206

Meridian, ID 83642

Phone: 208-489-0553

Contractor:

Mountain Companies, LLC

(typed or printed name of organization)

By:

(individual's signature)

Date:

(date signed)

Name: Jessee Rosin

(typed or printed)

Title: Owner

(typed or printed)

(If [Type of Entity] is a corporation, a partnership, or a joint venture, attach evidence of authority to sign.)

Attest:

(individual's signature)

Title:

(typed or printed)

Address for giving notices:

Mo

P.O. Box 191285

Boise, ID 83719

Designated Representative:

Name: Kevin Seely

(typed or printed)

Title: Financial Manager

(typed or printed)

Address:

Mountain Companies, LLC

839 E. Fairview Ave., Ste. 100

Meridian ID, 83642

Phone: 208-861-1699

Email: kwarren@meridaincity.org

(If [Type of Entity] is a corporation, attach evidence of authority to sign. If [Type of Entity] is a public body, attach evidence of authority to sign and resolution or other documents authorizing execution of this Agreement.)

Email: kevin@mtncompanies.com

License No.: 053533
(where applicable)

State: ID