

**LICENSE AGREEMENT FOR TEMPORARY ACCESS AND CONSTRUCTION
BY AND BETWEEN THE ADA COUNTY EMERGENCY SERVICES DISTRICT
AND THE CITY OF MERIDIAN**

This License Agreement for Temporary Access and Construction ("License Agreement") is made and entered into 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 ("Licensor"), and the City of Meridian, a duly formed and existing Idaho Municipal Corporation ("Licensee").

RECITALS

1. Licensor is owner of certain real property located at 3195 N. Linder Road, Meridian, Idaho 83646.
2. Licensee desires to construct a multi-use pathway along Linder Road as part of Licensee's Five Mile Pathway Improvement at Ustick and Linder.
3. For purposes of constructing the pathway and restoration of Licensor's property upon completion of construction, Licensor desires to provide Licensee with temporary access to and use of that portion of 3195 N. Linder Road, Meridian, Idaho 83646 designated as "Temporary License" on **Exhibit B** attached hereto, subject to the terms and limitations set forth herein.
4. In conjunction with this License Agreement and for the purpose of constructing the path and the eventual use of the pathway by the public upon completion of construction, Licensor has granted a permanent easement to Licensee on that portion of 3195 N. Linder Road, Meridian, Idaho 83646 designated as "Permanent Easement" on **Exhibits A and B** attached hereto.

NOW, THEREFORE, the parties to this License Agreement, in consideration of good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, agree as follows:

AGREEMENT

1. Grant of License. Licensor hereby grants to Licensee, its employees, contractors, subcontractors and agents responsible for the construction of the path and any and all work related thereto, the license, privilege and permission to temporarily access and use that portion of 3195 N. Linder Road, Meridian, Idaho 83646 designated as "Temporary License" on **Exhibit B** attached hereto, subject to the terms and limitations set forth herein. This license shall be for the limited purposes of accessing the construction site, delivery of construction materials, storage of construction materials and

equipment, performing construction activities, and restoring Licensor's property upon completion of construction.

2. Term. This license shall commence on the date of the Licensor's execution of this license and, unless terminated earlier as provided in Section 3, the license shall terminate after Licensee has completed: (a) the construction that portion of the pathway located on that portion of 3195 N. Linder Road, Meridian, Idaho 83646 designated as "Permanent Easement" on **Exhibit B** attached hereto, *and* (b) restoration of Licensor's property.

3. Revocable Licenses and Termination. Notwithstanding any improvements made by the Licensee to Licensor's property or any sums expended by Licensee in furtherance of this License Agreement, the licenses granted herein are revocable and may be terminated by either party, with three (3) business days' written notice if the other party violates the provisions of the License Agreement or fails to properly fulfill its obligations hereunder. Licensor reserves the right to immediately terminate this License Agreement in the event of an emergency or when necessary, in the Licensor's sole discretion, to protect the health, welfare or safety of the public.

4. Continuing Liability. No termination or revocation of this License Agreement shall release the Licensee from any liability or obligation hereunder resulting from any acts, omissions or events happening prior to the termination or revocation of this License Agreement and restoration of Licensor's property to its prior condition as required herein.

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

6. Use of License Area and Right of Continuous Access. In its use and enjoyment of the area covered by the licenses provided herein, Licensee shall exercise its best efforts to avoid disruption of Licensor's use of the property to provide emergency medical services. Notwithstanding this license, Licensee expressly acknowledges and agrees that Licensor reserves a right of continuous access to its property through the ingress and egress driveway from the property on to N. Linder Road. Licensee shall ensure at all times that there is at least a width of sixteen (16) drivable feet on Licensor's ingress and egress driveway from the property on to N. Linder Road to ensure that emergency medical vehicles may enter and exit the property at any time without obstruction or delay.

7. Protection of Public. Licensee 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 of the path and restoration of Licensor's property.

8. Indemnification. To the extent allowed by law, including, without limitation, Article VIII, section 3, of the Idaho Constitution, Licensee hereby agrees to defend, indemnify and hold Licensor, 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 or in connection with the licenses and/or use of the licenses by Licensee and its officers, employees, contractors, subcontractors or agents. In the event that Licensor is alleged to be liable on account of any activities, acts, or omissions of Licensee, its officers, agents or employees, then Licensee shall defend such allegations through counsel chosen by Licensor and Licensee 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.

9. Restoration of Property. Upon completion of the construction of that part of the pathway located on that portion of 3195 N. Linder Road, Meridian, Idaho 83646 designated as "Permanent Easement" on **Exhibits A and B** attached hereto, or at the termination of this License Agreement, Licensee shall, at its sole cost and expense, restore Licensor's property, including landscaping, lighting, and water system, to a condition as good or better than existed prior to Licensee accessing and using Licensor's property under the licenses granted in this License Agreement. In the event that Licensee fails to restore Licensor's property to its prior condition within 30 calendar days after completion of construction or termination of this License Agreement, or a different period of time subsequently agreed to by the Licensor and Licensee in writing, Licensor may proceed with such restoration work at the expense of Licensee.

10. Binding Effect. These terms of this License Agreement are binding on Licensor, its successors and assigns and Licensee, and its successor and assigns.

11. Severability. If any clause, provision, subparagraph, or paragraph set forth in this License Agreement is determined by a court of competent jurisdiction to be illegal, invalid, or unenforceable under present or future applicable laws, the remainder of this License Agreement shall not be affected thereby.

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

13. No Third Party Beneficiary Rights. Nothing contained herein shall create, or be interpreted to create, privity or any other contractual relationship between any persons or entities other than Licensors and Licensees. Nothing contained in this License Agreement shall create or give to third parties any claim or right of action against Licensors or Licensees.

14. No Waiver. A party's failure to insist upon strict performance of any of the terms, covenants, conditions or agreements contained herein shall not be deemed a waiver of any rights or remedies that said party may have and shall not be deemed a waiver of any subsequent breach or default in the performance of any of the terms, covenants, conditions or agreements contained herein by the same or any other party hereto.

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

16. Exhibits. The Exhibits are incorporated into this License Agreement by this reference as if fully set forth herein.

17. Complete Agreement. This License Agreement embodies the complete agreement between the Licensors and Licensees 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 License Agreement. This License Agreement cannot be modified, altered, amended, or terminated except by the written agreement of Licensors and Licensees.

18. Permit. If any proposed construction, reconstruction, relocation or maintenance conducted under this License Agreement requires Licensee to obtain a permit, Licensee shall first obtain such permit before commencing such work, pay the required fees, and otherwise comply with the conditions set forth therein.

19. No Costs to Licensors. Any and all costs and expenses associated with Licensee's construction, use, restoration, repair, or maintenance on the property shall be at the sole cost and expense of Licensee.

20. Compliance with Law; Waste and Nuisances Prohibited. In connection with Licensee's temporary, revocable license to use Licensors' property, Licensee 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 and pedestrian safety, the Clean Water Act, and/or to the presence, use, generation, release, discharge, storage or disposal in, on or under the Licensors' property 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 Licensor or any other unit of government; and (iii) commit no waste or allow any nuisance on Licensor's property. Licensee covenants and agrees to indemnify and hold Licensor harmless from and against any and all claims, demands, damages license, liabilities and expenses (including, without limitation, reasonably attorney fees) arising directly or indirectly from or in any way connected with the breach of the foregoing covenant.

21. Authority. Licensor and Licensee each represent that such party has full power and authority to execute, deliver and perform this License Agreement; that the individuals executing this License Agreement on behalf of said party have been and are fully empowered and authorized by all requisite action to do so; and that this License Agreement constitutes a valid and legally binding obligation of said party.

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto on the 14th day of December 2021.

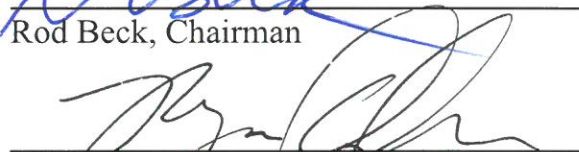
LICENSOR:

**Board of Ada County Emergency Medical Services
District**

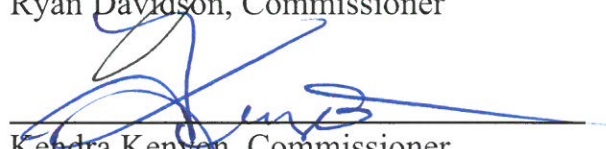
By:


Rod Beck, Chairman


By:


Ryan Davidson, Commissioner

By:


Kendra Kenyon, Commissioner

ATTEST:


Phil McGrane, Ada County Clerk

by Katie Reed, Assistant Deputy Clerk

LICENSEE:
City of Meridian

Robert E. Simison, Mayor

ATTEST:

Chris Johnson, City Clerk

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,

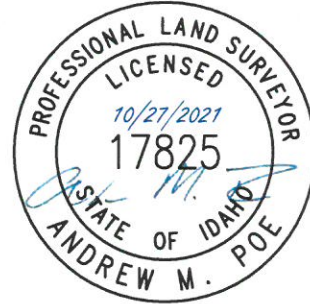
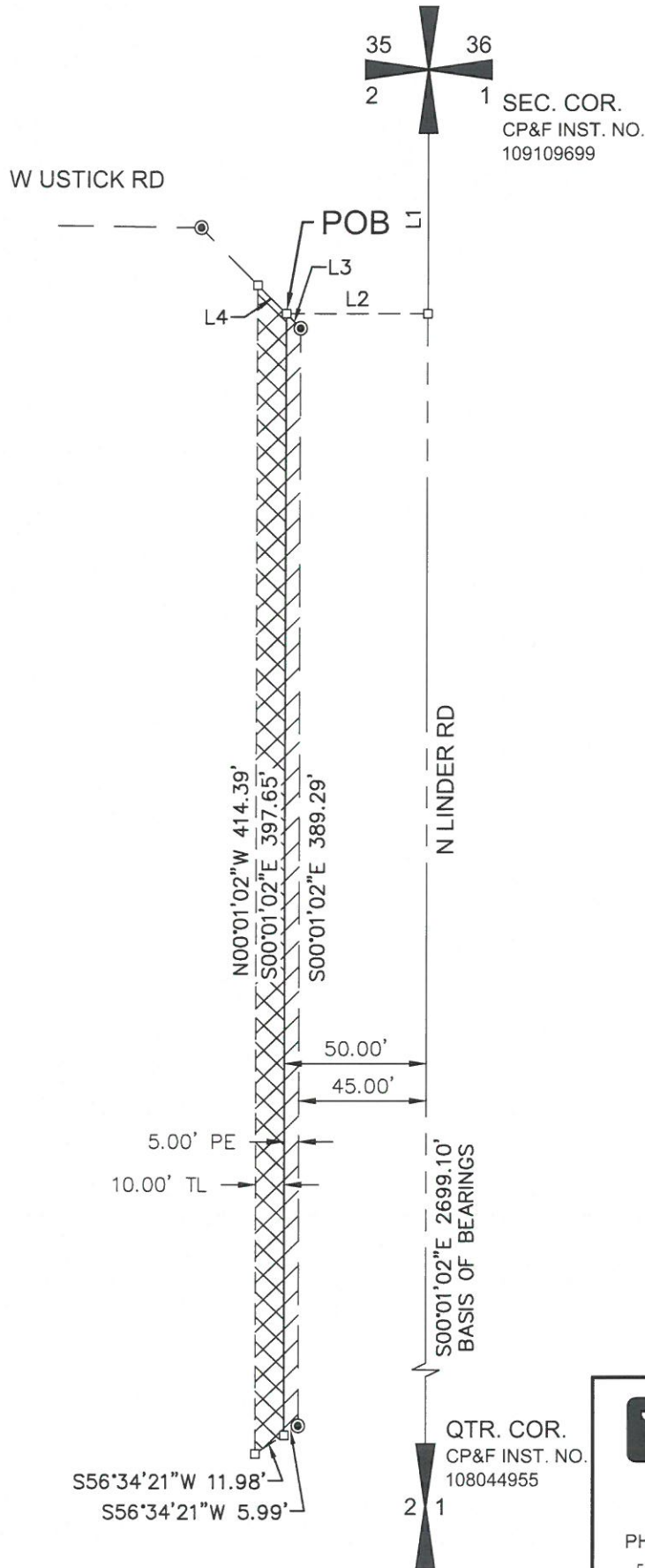
- A. S.00°01'02"E., 86.34 feet; thence,
B. S.89°58'58"W., 50.00 feet to the west right-of-way of N. Linder Road being the **POINT OF BEGINNING**; thence, along said west right-of-way the following three courses:
- 1) S.44°37'59"E., 7.12 feet; thence,
 - 2) S.00°01'02"E., 389.29 feet; thence,
 - 3) S.56°34'21"W.,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

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



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'



PERMANENT EASEMENT (PE), 0.045 AC



TEMPORARY LICENSE (TL), 0.093 AC



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