

**FIRST AMENDMENT to  
MERIDIAN SENIOR CENTER GROUND LEASE**

This FIRST AMENDMENT to MERIDIAN SENIOR CENTER GROUND LEASE ("First Amendment") is entered into this \_\_\_\_ day of \_\_\_\_\_, 2023, by and between the City of Meridian, a municipal corporation organized under the laws of the State of Idaho ("Landlord"), and the Meridian Area Senior Citizens Association, Inc., a non-profit organization organized under the laws of the State of Idaho, doing business as Meridian Senior Center ("Tenant") (together, "Parties").

**WHEREAS**, the Parties seek by this First Amendment to modify the Meridian Senior Center Ground Lease entered into by the Parties on September 14, 2010 ("Lease"), a copy of which is attached hereto as *Exhibit A*;

**NOW, THEREFORE**, in consideration of the mutual covenants of the parties, the Parties agree as follows:

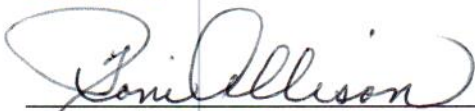
**A. TERM MODIFIED.** Section 8.4 of the of the Lease shall be modified to read as follows:

8.4 Tenant shall reimburse Landlord for Landlord reasonable parking lot maintenance expenses for the share of spaces used by Tenant for its Senior Center patrons in the annual amount of ~~1,500.00~~ \$2,000.00. ~~The first payment pursuant to section 8.4 shall be due within thirty days of the one year anniversary of Tenant occupancy of the Leased Premises for use as a public Senior Center and annually thereafter.~~ Tenant shall pay this amount annually to Landlord by September 30 of each year. This sum shall be effective until September 30, 2033, ~~for the first ten 10 years of this Lease~~ at which point the parties shall review and establish a new amount for ~~each~~ the subsequent ten-year period which in any event shall not exceed 5,000.00 per year.

**B. NO ADDITIONAL PROVISIONS.** The Parties agree that except as expressly modified by this First Amendment, all provisions of the original Lease shall remain in full force and effect. No other understanding, whether oral or written, whether made prior to or contemporaneously with this First Amendment shall be deemed to enlarge, limit or otherwise affect the operation of the Lease or this amendment thereto.

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

**TENANT:**

  
\_\_\_\_\_  
Toni Allison, President  
Meridian Area Senior Citizens Association, Inc.

**CITY OF MERIDIAN:**

BY: \_\_\_\_\_

Robert E. Simison  
Mayor

Attest: \_\_\_\_\_

Chris Johnson  
City Clerk

# Exhibit A

## MERIDIAN SENIOR CENTER GROUND LEASE

THIS GROUND LEASE ("Ground Lease") is made between the **CITY OF MERIDIAN**, an Idaho Municipal Corporation (herein referred to as "Landlord") and the **MERIDIAN AREA SENIOR CITIZENS ASSOCIATION, INC.**, an Idaho non-profit corporation, dba **MERIDIAN SENIOR CENTER** located in Meridian, Ada County, Idaho (herein referred to as "Tenant").

### 1. Definitions.

The following terms as used in this Ground Lease shall have the meanings hereinafter set forth:

**1.1 "Landlord":** the City of Meridian, an Idaho municipal corporation.

**1.2 "Tenant":** the Meridian Area Senior Citizens Association, Inc, an Idaho non-profit corporation, dba Meridian Senior Center.

**1.3 "Leased Premises":** That portion of real property upon which sits the Meridian Senior Center, located in the Julius M. Kleiner Memorial Park within Ada County parcel #4800 at the Northeast Corner of SW4 SEC 04 3N 1E, City of Meridian, Ada County, Idaho as generally depicted on **Exhibit "A"** attached hereto and incorporated herein by this reference.

**1.4 "Building":** the improvements to be constructed on the leased premises pursuant to Article 5.1.

**1.5 "Senior Center":** The Meridian Area Senior Citizens Association, Inc, which is a multipurpose community facility with regular operating hours and staff that provide for a broad spectrum of health, social, nutritional, educational, and recreational services for older persons.

**2. Lease of Ground.** In consideration of the rents and covenants herein stipulated to be paid and performed, Landlord hereby leases to Tenant and Tenant hereby leases from Landlord, the Leased Premises. Title to the Leased Premises at the effective date of this Agreement shall be free of all liens, encumbrances, easements, restrictions, rights and conditions of record or known to Landlord except those approved by Tenant in writing.

### 3. Term.

**3.1** Landlord leases and Tenant rents the Leased Premises for a primary term of Fifty (50) consecutive years commencing upon the "Effective Date" as defined in Section 20 of this Agreement and terminating on the Fiftieth (50th) anniversary of the commencement date of the primary term.

**3.2** Provided that this Lease shall be in full force and effect and that Tenant shall not be in default under any of the terms or conditions hereof, Tenant shall have an option to extend the term of this Lease for up to two (2) additional consecutive terms of Twenty Five

(25) years each to commence upon the expiration of the Original Term or the prior renewal term, as applicable. Such option(s) to renew shall be exercised automatically unless Tenant gives written notice thereof to Landlord at least one hundred twenty (120) days prior to the expiration of the then current term of Tenant's desire to not renew the Lease.

**3.3 Holding Over.** Holding over is prohibited; provided, however, that the Parties understand and agree that any holding over by Tenant of the Leased Premises at the expiration, termination or cancellation of this Lease, for any reason, including, but not limited to, default for any reason or natural expiration, shall operate and be construed as a tenancy from month-to-month. If Tenant holds over beyond the term of this Lease or any extension or renewal hereof, Tenant shall be liable to Landlord for all costs, including a reasonable attorney fee, which may be incurred by Landlord for an action for unlawful detainer or for any appropriate action to recover possession of the Leased Premises against Tenant. No receipt or acceptance of money by Landlord from Tenant after the expiration or cancellation of this Lease or after the service of any notice, after the commencement of any suit, or after final judgment for possession of the Premises, shall reinstate, continue or extend the terms of this Lease or affect any such notice, demand or suit or imply consent for any action for which Landlord's consent is required or operate as a waiver of any right of the Landlord to retake and resume possession of the Premises.

#### **4. Rent.**

**4.1** Tenant agrees to pay Landlord rent in the amount of \$1.00 per year. The entire rent due for the initial term of 50 years, in the amount of \$50.00, shall be paid in advance at the execution of this Lease, and whose receipt is hereby acknowledged by Landlord.

**4.2** Rent payments shall be mailed to the attention of the Department of Finance, 33 E Broadway Ave, Meridian, Idaho 83642 unless Landlord notifies Tenant in writing of a different location. Landlord shall provide Tenant written notice of any failure to pay rent and provide 30 days from said notice to allow Tenant to cure the same.

**4.3** In the event this Ground Lease is terminated pursuant to the provisions of this Lease prior to the end of the primary term or additional term then in effect, Rent shall be prorated to the date of termination, and Landlord shall refund to Tenant any rent paid and unearned as of the date of termination, together with any other sums paid by Tenant for periods beyond the date of termination.

#### **5. Improvements on the Leased Premises.**

**5.1.** Tenant may construct or have constructed such improvements on the Leased Premises as may be reasonably suitable for use of the Leased Premises for the purposes outlined in this Lease. Landlord shall not be obligated to construct any improvements on the Leased Premises for any reason.

**5.2** The cost of installation of all landscaping and exterior features of the Leased Premises prior to the effective date of this Agreement shall be borne by the Julius M. Kleiner Memorial Park Trust. The cost of installation of landscaping after the effective date of

this Agreement shall be borne by Landlord. The cost of maintenance of all landscaping shall be borne by Landlord.

**5.3** After completion of the construction of the Building, Tenant may, without the further consent of Landlord, make such further improvements or alterations to the interior of the Building as Tenant may from time to time deem necessary or convenient in connection with its use and occupancy of the Premises.

**5.4** Any improvement, alteration, removal, or expansion of the exterior of the Building must be consistent with the architectural theme of the other structures in the Kleiner Memorial Park and shall require the prior written approval of Landlord, which approval shall not be unreasonable conditioned, withheld, or delayed with the exception of any expansion that enlarges the building footprint, the approval of which shall be at the sole discretion of Landlord. Tenant shall pay all costs and expenses in connection with such alterations, and all proposed construction by Tenant and any such alterations shall be in accordance with all applicable State and local codes and laws.

**5.5** Tenant shall not permit the lien of any contractor, subcontractor, mechanic, labor or materialman, or any other lien of any kind or nature to be imposed upon the Leased Premises, and shall promptly cause the same to be removed if any lien is imposed. Tenant shall not make any general assignment for the benefit of creditors.

**5.6** Tenant shall not place or allow to be placed any mortgage or deed of trust or other encumbrance on any improvements on the Leased Premises or on Tenant's interest in the Leased Premises without the prior approval of Landlord. Said approval by Landlord shall be evidenced by a unanimous vote of the City Council and shall be subject to any and all conditions Landlord may require regarding said encumbrance.

**5.7** Fee title to all improvements constructed on the Leased Premises by Tenant and all additions, alterations and improvements thereto made by Tenant, even though a part of the realty, shall be and remain in Tenant during the term of this Ground Lease or any extension thereof.

**5.8** Upon the termination or expiration of this Ground Lease or any extensions thereof, Tenant shall at once peacefully surrender and deliver the whole of the above-described Leased Premises together with all improvements (except all trade fixtures, furniture, and equipment) thereon to the Landlord, Landlord's agents or assigns. Upon such termination, fee title to all improvements then located on the Leased Premises shall pass to and vest in Landlord, and Tenant shall execute and deliver to Landlord a good and sufficient quitclaim deed of the Tenant's interest in this Agreement and the leased premises.

## **6. Use.**

**6.1** The Leased Premises shall be used only as a location for a Senior Center comprised primarily of a community facility with regular operating hours and staff that provide for a broad spectrum of health, social, nutritional, educational, and recreational services for older persons and its ancillary uses and compliant with all rules and regulations of the Meridian Senior Center.

**6.2** Tenant shall at all times comply with the Declaration of Restrictions recorded as Ada County Instrument Number 108087271, the text of which is attached hereto as

"Exhibit B" and any modifications thereto, unless such Declaration is terminated or revoked.

**6.3** Tenant shall use the Leased Premises in continued operations and shall not abandon the Leased Premises during the lease term or any extensions thereof.

**6.4** Tenant shall, at all times, obtain and comply with all of such permits, licenses and approvals of any government agency, and keep the same in full force and effect, and, where applicable, renew or extend all of such licenses, permits or approvals, all at Tenant's sole cost and expense.

**6.5** Tenant shall, in conducting any activity or business on the Leased Premises, comply with all environmental laws. If the Tenant fails to comply with any applicable environmental laws, the Landlord may enter the premises and take all reasonable and necessary measures, at the Tenant's expense, to insure compliance with environmental laws, after providing Tenant 30 days prior written notice of Landlord's intent to do so which identifies Tenant's specific failures to comply as alleged by Landlord. In the event of a release or a threatened release of hazardous materials, hazardous wastes or other contaminants into the environment relating to or arising out of the Tenant's use or occupancy of the Leased Premises, or in the event of any third party claim, demand, action or notice is made against the Tenant regarding the Tenant's failure or alleged failure to comply with any environmental laws, the Tenant immediately shall notify the Landlord in writing and shall provide the Landlord with copies of any written claims, demands, notices or actions, so made. The Tenant shall undertake such steps to remedy and remove any hazardous materials or hazardous wastes and any other environmental contamination caused by the Tenant on or under the Leased Premises, as are necessary to protect the public health and safety and the environment from actual or potential harm and to bring the Leased Premises into compliance with all environmental laws.

**6.6** Landlord covenants that so long as no default has occurred, Tenant shall have quiet and peaceful possession of the Leased Premises free and clear of any person claiming by, through or under Landlord, and subject to all matters and rights of record appearing on the land or known to Tenant as of the effective date of this Ground Lease.

**6.7** While no such taxes or assessments may be validly imposed at this time against the Tenant by any governmental entity, if, in the future such taxes or assessments are allowed and upheld as valid against the Tenant, then Tenant shall pay any such ad valorem tax or assessment which may be lawfully and validly assessed against Tenant's interest in the Leased Premises, Tenant's improvements, or any of Tenant's personal property located on the Leased Premises.

**6.8** Tenant's signage on the Building shall comply in all respects with the requirements for signs contained in the Meridian City Code. All signage shall be consistent with the architectural theme of the other signage in the Kleiner Memorial Park and the design and location of all signs shall require the specific written approval of Landlord, which approval shall not be unreasonable conditioned, withheld, or delayed. Aside from the Senior Center directional signs installed pursuant to the park directional signage plan, no freestanding or monument signs external to the Building shall be allowed without prior written approval of Landlord.

**6.9** Tenant may obtain additional phone, electrical or other services consistent with any recorded utility easement obtained by the Tenant. If necessary, Tenant shall seek and obtain from Landlord all appropriate utility easements which are not now the subject of an existing and legally sufficient utility easement, which easements shall be recorded

as provided by law. Landlord shall cooperate with Tenant and utility service provider. Tenant shall pay for any and all costs resulting from the installation, maintenance or operation of utilities in connection with its use of the Premises.

**6.10** Tenant shall endeavor to communicate all facility uses with Landlord's Department of Parks and Recreation in an effort to minimize conflicts with events taking place in the adjacent public park.

**6.11** At all times during the term of this Lease and any extensions thereof, Tenant shall maintain their qualification as a tax-exempt entity for IRS purposes. Proof or documentation of tax exempt status as of the date of the execution of this Lease has been attached hereto as "Exhibit C".

**6.12** At all times during the term of this Lease or any extensions thereof, Tenant shall remain financially solvent. Tenant shall be deemed to be insolvent if it has ceased to pay its debts in the ordinary course of business or cannot pay its debts as they become due, whether it has committed an act of bankruptcy or not, and whether insolvent within the meaning of Federal Law or not.

**6.13** In order to mutually support the sources of revenue necessary for Tenant to successfully operate and maintain its Senior Center operations upon the Premises the parties hereto agree that at all times during the term of this Lease and any extensions thereof Landlord shall not itself or through a third party provide or allow services to be provided or goods to be sold in any a building built upon the pad adjacent to the Senior Center in the location generally depicted in Exhibit "D" which would compete with three fundraising activities of the Senior Center: a thrift shop, licensed bingo/gaming services, or a catering kitchen, without the prior approval of Tenant. All competing uses within the public park or any of its public shelters shall be permitted. For purposes of this section, the term "catering kitchen" shall be defined as a commercial grade kitchen facility that is available for rent and/or used for the preparation or serving of food products for public consumption on or off of the Premises. The definition of "catering kitchen" shall not include that type of facility used to prepare or serve park concessions including but not limited to soft drinks, candy, hot dogs, snow cones, ice cream, popcorn and the like. This limitation on competing uses shall not prevent users of the future facility depicted in Exhibit "D" from using catering services other than those provided by the Senior Center catering kitchen.

**7. Utility Charges.** Tenant shall pay, prior to delinquency, all water, gas, sewer, power and electric current, garbage collection and/or compacting, and other similar utilities or services used by the Leased Premises during the term of this Ground Lease.

**8. Maintenance and Repair.**

**8.1** Tenant shall, at Tenant's sole cost and expense, maintain the Leased Premises and Building in good repair and condition. Tenant agrees to maintain any improvements upon the Leased Premises in a good state of repair and condition, including the appearance of the improvements. Such maintenance, repairs and replacements shall be made promptly as and when necessary. Tenant's duty to repair and replace is comprehensive and shall include all elements of the Building, including but not limited to the structural components,

roof, HVAC system, fire protection system and plumbing systems. Landlord shall not be obligated to maintain, replace, or rebuild any improvements constructed on the Leased Premises.

**8.2** Should Tenant seek to install additional landscaping on the Premises, such installation shall meet Landlord's specifications for landscaping and shall be with the written consent of the City, which consent will not be unreasonably denied, withheld or delayed.

**8.3** Tenant shall make suitable arrangements for the storage, collection, and removal of all trash, garbage and other refuse resulting from Tenant's activities on the Leased Premises. Tenant shall provide appropriate, covered, commercial-type receptacles for such trash, garbage, and other refuse, and will maintain these receptacles, screened from view from adjoining properties or public streets, in an attractive, safe, and sanitary manner.

**8.4** Tenant shall reimburse Landlord for Landlord's reasonable parking lot maintenance expenses for the share of spaces used by Tenant for its Senior Center patrons in the annual amount of \$1,500.00. The first payment pursuant to section 8.4 shall be due within thirty days of the one year anniversary of Tenant's occupancy of the Leased Premises for use as a public Senior Center, and annually thereafter. This sum shall be effective for the first ten (10) years of this Lease, at which point the parties shall review and establish a new amount for each subsequent ten year period, which in any event shall not exceed \$5,000.00 per year.

**8.5** During hours when the Senior Center is closed, all vehicles used in association with Senior Center Operations (such as transport vans, busses, and meals on wheels delivery vans and the like) must be parked in the maintenance yard identified on exhibit "A" (in the far northeasterly corner of the park) so long as available space is maintained and allocated for Tenant to comply with this requirement. If a parking garage or storage building (enclosed space) is constructed in the maintenance yard, Tenant must utilize said structure for vehicle parking so long as available space is maintained and allocated for Tenant to comply with this requirement. So long as Tenant remains in compliance with this section 8.5 Tenant shall also be permitted to use its allocated enclosed space as storage for Senior Center non-vehicular equipment and supplies to the extent that such use does not preclude the use of the enclosed space for vehicle parking and to the extent that stored items are not visible when the door(s) to the enclosed space are shut.

## **9. Liability of Parties and Insurance.**

**9.1** Landlord will defend Tenant against any claims that arise solely from wrongful acts, omissions or negligence of Landlord in the course of performance of this Agreement, but does not assume responsibility for the acts, omissions or negligence of the Tenant or its officials, employees, agents, volunteers and invitees. Tenant will defend Landlord against any claims that arise solely from wrongful acts, omissions or negligence of Tenant in the course of performance of this Agreement, but does not assume responsibility for the acts, omissions or negligence of the Landlord or its officials, employees, agents, volunteers and invitees. Each party shall promptly notify the other of any claim arising under this Agreement and shall cooperate fully with the defending party or its representatives in the defense of such claim.

**9.2** **Liability Insurance.** Tenant, at its own expense, shall keep and maintain in full force and effect a policy of commercial general liability insurance including a contractual liability endorsement covering Tenant's obligations under this Agreement, insuring Tenant's

activities upon, in and about the Leased Premises and the Building against claims of bodily injury or death or property damage or loss with a limit of not less than One Million Dollars combined single limit per occurrence and in the aggregate (per policy year).

**9.3 Property Insurance.** At all times during the Term, Tenant, at its sole cost and expense, shall cause the Premises to be fully and adequately insured with a Causes of Loss-Special Form in an amount not less than the full replacement cost of the Premises, with a standard inflation guard endorsement or, in the event the parties have agreed upon a fixed amount of insurance, with a fixed amount endorsement. Such insurance policy shall name both Landlord and Tenant as insureds, as their interests may appear.

**10. Condemnation.** In the event of a partial or total taking of the Leased Premises by condemnation, eminent domain or any transfer thereof, this Ground Lease shall terminate. Tenant shall be entitled to all awards for taking of Tenant's Building and/or Improvements on the Leased Premises, and any payments as may be due from the Condemning Authority for the interruption and relocation of Tenant's business.

**11. Assignment, Subletting.** Neither Tenant nor Landlord shall assign this Ground Lease or sublet the whole or any part of the Leased Premises.

**12. Default and Termination.**

**12.1** In the event of a monetary default consisting of the failure to pay rent or other money due Landlord from Tenant, Tenant shall be in default immediately upon the day such payment is due and not made, subject to Landlord's compliance with Section 4.2 herein. In addition to any other remedy, Landlord may exercise a remedy of terminating this Ground Lease in the event of a monetary default thirty (30) days after Landlord gives written notice of Tenant's monetary default if such default is not fully cured within such thirty (30) day period. Any failure by Tenant to pay sums due under this Ground Lease shall be deemed a material default.

**12.2** In the event of a default other than a monetary default, either party shall be deemed to be in default and subject to termination upon the expiration of thirty (30) days from the receipt of written notice from the other party specifying the particulars in which the party has failed to perform the obligations of this Ground Lease, unless that party, prior to the expiration of said thirty (30) days, has rectified the particulars specified in the notice. However, such party shall not be in default if such failure cannot be rectified within the thirty (30) day period, provided such default will not cause the loss of any of the governmental permits, licenses or approvals authorizing operations on the Leased Premises, and provided such party is using good faith and commercially reasonable efforts to rectify the particulars.

**12.3** The failure of a party to insist upon a strict performance of any of the terms, conditions and covenants 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 of the terms, conditions and covenants herein contained.

**13. Compliance with Laws.**

**13.1** Tenant shall comply with and cause the Leased Premises to be in compliance with all laws, statutes, acts, ordinances, orders, judgments, decrees, injunctions, rules, regulations, permits, licenses, authorizations and requirements of and agreements with all governments, departments, commissions, boards, courts, authorities, agencies and officials which now or at any time hereafter may be applicable to the Leased Premises or any part thereof, or any construction upon, use or condition of the Leased Premises or any part thereof, and all contracts, agreements, easements, encumbrances, covenants, conditions and restrictions existing at the commencement of the Term or thereafter consented to by Tenant in writing affecting the Leased Premises or the ownership, occupancy or use thereof or construction thereon.

**13.2** Tenant, for itself and its successors in interest and assigns, as part of the consideration hereof, does hereby covenant and agree that no person on the grounds of race, creed, color, sex or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said Senior Center facilities. Specifically, Tenant hereby certifies and agrees that Tenant will comply with Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, Title IX of the Education Amendments of 1972, where applicable, Title 43, part 17 of the Code of Federal Regulations Subparts A and B, and the Americans with Disabilities Act of 1990, to the end that no persons shall, on the grounds of race, creed color, national origin, political affiliation, marital status, sex, age or disability, be subjected to discrimination under the privileges and use granted by this Agreement or under any project, program or activity supported by this Agreement.

**13.3** Tenant certifies and agrees that all persons employed thereby, are and shall be treated equally without regard to or because of race, creed, color, national origin, political affiliation, marital status, sex, age or disability and in compliance with all federal and state laws prohibiting discrimination in employment, including but not limited to, the Federal Civil Rights Act of 1964; the Unruh Civil Rights Act; the Cartwright Act; and the State Fair Employment Practices Act.

**14. Notices.** Any notices required or desired to be given under this Ground Lease shall be in writing and personally served or given by mail. Postal notices shall be deemed to be given on the date deposited with the United States Postal Service. Any notice given by mail shall be sent first class, postage prepaid, return receipt requested, addressed to the party to receive it at the following address or at such other address as the party may from time to time direct in writing.

**Landlord:**

City of Meridian  
Office of the City Clerk  
33 E Broadway Ave  
Meridian, Idaho 83642

**Tenant:**

Meridian Senior Citizens Association, Inc.  
Attn: Director  
P.O. Box 606  
Meridian, Idaho 83680

With copy to:  
Joseph W Borton  
Borton Law Offices, PLLC  
1310 N Main St.  
Meridian, Idaho 83642

15. **Attorneys' Fees.** If either party to this Ground Lease is required to initiate or defend litigation in any way connected with this Ground Lease, the prevailing party in such litigation, in addition to any other relief which may be granted, whether legal or equitable, shall be entitled to reasonable attorneys' fees. If either party to this Ground Lease is required to initiate or defend litigation with a third party because of the violation of any term or provision of this Ground Lease, or obligation of the other party to this Ground Lease, then the party so litigating shall be entitled to reasonable attorneys' fees from the other party to this Ground Lease. Attorneys' fees shall include attorneys' fees on any appeal. In addition, a party entitled to attorneys' fees shall be entitled to all other reasonable costs for investigating such action, taking depositions and the discovery, travel and all other necessary costs incurred in such litigation. All such fees shall be deemed to have accrued on commencement of such action and shall be enforceable whether or not such action is prosecuted to judgment.

16. **Time is of the Essence.** Time is and shall be deemed of the essence in respect to the performance of each provision of this Lease.

17. **Article Headings.** The article headings of the Ground Lease are inserted only for reference and do not affect the terms and provisions hereof.

18. **Authorized Insurance Companies and Certificates of Insurance.** Any insurance policy shall be written by insurance companies authorized to do business in the State of Idaho and shall be written by companies approved by Landlord, and such approval shall not be unreasonably withheld. Certificates of insurance shall be delivered to Landlord at least ten (10) days prior to the effective date of the insurance policy for which the certificate is issued. Each such certificate shall contain (a) a statement of the coverage provided by the policy; (b) a statement certifying the Landlord to be listed as an additional insured in the policy; (c) a statement of the period during which the policy is in effect, and (d) a statement that the annual premium or the advance deposit premium for such policy has been paid in advance.

19. **General Provisions.**

19.1 All of the provisions contained in this Ground Lease shall be binding upon and inure to the benefit of the heirs, personal representatives, successors and assigns of the parties hereto.

19.2 In the event of any violation or threatened violation by any person of any of the easements, covenants or restrictions contained in this Ground Lease, Landlord and Tenant shall each have the right to enjoin such violation or threatened violation in a court of competent jurisdiction. The right of injunction shall be in addition to all other remedies set forth in this Ground Lease.

**19.3** If any term, covenant, condition or agreement of this Ground Lease or the application of it to any person or circumstance shall to any extent be invalid or unenforceable, the remainder of this Ground Lease or the application of such term, covenant, condition or agreement to persons or circumstances, other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each term, covenant, condition or agreement of this Ground Lease shall be valid and shall be enforced to the extent permitted by law.

**19.4** This Ground Lease contains the entire agreement between the parties hereto and supersedes all prior agreements, oral or written, with respect to the subject matter hereof. The provisions of this Ground Lease shall be construed as a whole and not strictly for or against any party.

**19.5** In construing the provisions of this Ground Lease and whenever the context so requires, the use of a gender shall include all other genders, the use of the singular shall include the plural, and the use of the plural shall include the singular.

**19.6** The provisions of this Ground Lease are not intended to create, nor shall they be in any way interpreted or construed to create, a joint venture, partnership, or any other similar relationship between the parties. This Ground Lease is not intended to create, nor shall it be in any way interpreted or construed to create, any third party beneficiary rights in any person not a party hereto unless otherwise expressly provided herein.

**19.7** This Ground Lease or a "Memorandum of Ground Lease" shall be executed and acknowledged by the parties and may be recorded in Ada County, Idaho. Such Memorandum of Ground Lease shall include a recitation of the effective date of this Ground Lease and a recitation of the date of Tenant's occupancy of the Leased Premises for use as a public Senior Center.

## **20. Effective Date.**

**20.1** Effective Date. The "effective date" for this Ground Lease shall be date when both of the following contingencies have been satisfied: (a) the legal gifted transfer to, and acceptance and receipt by Tenant of, clear title to and ownership of an acceptable completed Senior Center building which is to be constructed by the Kleiner Trust upon the Leased Premises and which shall have at that time all required approvals necessary for immediate occupancy and use as a Senior Center, and (b) the completion of transfer of legal recorded title to the Landlord of the Leased Premises and adjacent lands for a public park.

Executed this 14<sup>th</sup> <sup>September</sup> day of ~~July~~, 2010.

**TENANT:**

**The Meridian Area Senior Citizens Association**

By: Pauline Lough

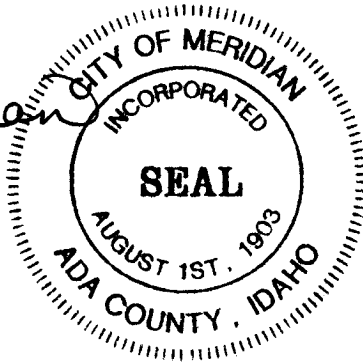
**LANDLORD:**

**City of Meridian**

By: Tammy de Weerd  
Tammy de Weerd  
Mayor

Attest:

Jaycee L. Holman  
Jaycee L. Holman - City Clerk



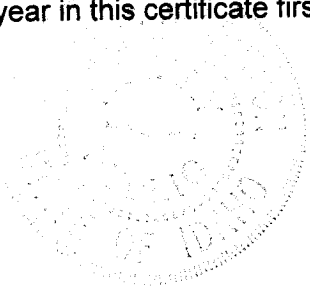
STATE OF IDAHO )

) ss.

County of Ada )

On this 13<sup>th</sup> day of September, 2010, before me, the undersigned, a Notary Public in and for said state, personally appeared Pauline Hough, known or identified to me to be the \_\_\_\_\_ of the Meridian Area Senior Citizen's Association, Inc, and the person who executed the instrument on behalf of said corporation and acknowledged to me that such corporation 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.



Michelle Albertson  
Notary Public for Idaho  
Residing at Boise, ID  
My commission expires: 3-23-16

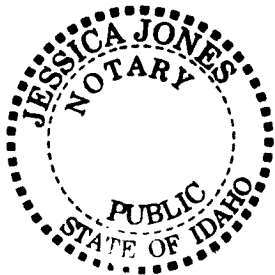
STATE OF IDAHO )

) ss.

County of Ada )

On this 14<sup>th</sup> day of September, 2010, before me, the undersigned, a Notary Public in and for said state, personally appeared TAMMY DE WEERD and JAYCEE L. HOLMAN known or identified to me to be the Mayor and City Clerk, respectively, for the City of Meridian, and the persons who executed the instrument on behalf of said City, and acknowledged to me that such City 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.



Jessica Jones  
Notary Public for Idaho  
Residing at Meridian, Idaho  
My commission expires: Jan 4, 2014

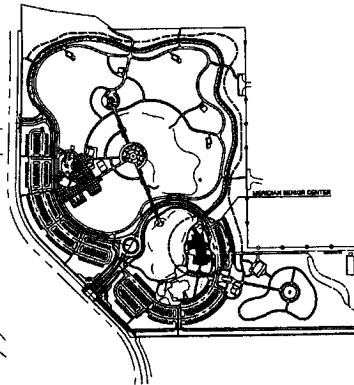
# Exhibit "A" Site Plan



3 SITE PLAN (FOR REFERENCE ONLY)  
1" = 100'-0"



1 VICINITY MAP  
NOT TO SCALE



2 OVERALL SITE PLAN - KLEINER PARK  
1" = 300'-0"

## GENERAL NOTES

1. SEE ALL DIMENSIONS AND NOTES ON ALL SHEETS.
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## PARKING REQUIREMENTS

SEE ALL DIMENSIONS AND NOTES ON ALL SHEETS.

## SHEET NOTES

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Johnson Architects



Johnson Architects  
1000 N. 10th St.  
Meridian, ID 83452  
Phone: 208.333.1111  
Fax: 208.333.1112  
www.johnsonarchitects.com

A New Building for the  
**MERIDIAN SENIOR CENTER**  
Julius M. Kline Memorial Park  
Meridian, Idaho

| NO. | DESCRIPTION | DATE    |
|-----|-------------|---------|
| 1   | PRELIMINARY | 10/1/00 |
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SITE PLAN  
(FOR REFERENCE)

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**Exhibit "B"**

2 NCS-549811-5

**Declarations**

ADA COUNTY RECORDER J. DAVID NAVARRO  
BOISE IDAHO 07/31/08 01:46 PM  
DEPUTY Danielle Boulette  
RECORDED-REQUEST OF  
First American

AMOUNT 39.00 13



Recording Requested By and  
When Recorded Return to:

Richard D. Herndon  
Griffin Fletcher & Herndon LLP  
3500 Red Bank Road  
Cincinnati, Ohio 45227  
513/421-1313

SPACE ABOVE THIS LINE FOR RECORDER'S USE ONLY

**DECLARATION OF RESTRICTIONS**

THIS DECLARATION OF RESTRICTIONS ("Declaration") is entered into this 31<sup>st</sup> day of July, 2008 by EUGENE M. KLEINER AND MICHAEL E. HUTER, CO-TRUSTEES of THE JULIUS M. KLEINER MEMORIAL PARK TRUST, UTA DATED APRIL 5, 2007 ("Declarant") under the following circumstances:

A. Pursuant to various agreements, including without limitation, an agreement between Declarant and Meridian CenterCal, L.L.C., a Delaware limited liability company ("CenterCal"), Declarant is the sole owner of the real property described in Exhibit A attached hereto and made a part hereof (the "Park Parcel") and CenterCal is the sole owner of the real property described in Exhibit B attached hereto and made a part hereof (the "CenterCal Parcel").

B. As part of the consideration for various transfers between Declarant and CenterCal, Declarant has agreed to impose certain use restrictions against the Park Parcel for the benefit of the CenterCal Parcel as contained herein.

NOW, THEREFORE, in consideration of the above premises and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by Declarant, Declarant hereby declares and covenants as follows:

1. The Park Parcel shall be held, sold, transferred, encumbered, leased, used, occupied and improved subject to the terms of this Declaration. The Park Parcel shall be used solely as a public park for public recreational purposes, which uses may include, but are not limited to, a caretaker's house, a non-commercial fitness center, swimming pool, aquarium, sports complex which may include but is not limited to soccer, football, lacrosse, baseball and softball fields, senior center, community center, outdoor concerts, and/or library (all of which

DECLARATION OF RESTRICTIONS - 1

shall be allowed to charge nominal user fees which will allow the City of Meridian, Idaho or any other governmental agency operating such facilities to recover its operating costs as permitted by Idaho law and sell or provide to the public, using such facilities, refreshments, snacks and meals), seasonal concession stands selling or renting, as the case may be, those products generally sold or rented in public parks, including but not limited to soft drinks, candy, hot dogs, snow cones, ice cream, popcorn and bike, kite and skate rentals and other similar non-commercial community uses. No indoor or outdoor movie screens on the Park Parcel shall be used to show commercial contemporary movies and no ice skating rink shall be operated on the Park Parcel without CenterCal's or its successor's or assigns, prior written consent, which consent may be withheld in CenterCal's sole and absolute discretion. No portion of the Park Parcel shall be used for any residential, private commercial or retail uses, except for the above-described ancillary uses in connection with public recreational purposes.

2. The restrictions and covenants contained herein shall be construed as covenants running with the land and shall be binding upon all persons with any right, title and/or interest in the Park Parcel, and shall be a benefit appurtenant to the CenterCal Parcel and any and all real property located adjacent to or nearby the CenterCal Parcel which is or may be owned by CenterCal or any of its affiliates.

3. Declarant acknowledges that the restrictions contained herein are a material part of the consideration for CenterCal completing certain real estate transactions with Declarant, and, in the event of breach or threatened violation of the restrictions contained herein, CenterCal shall be entitled to institute proceedings for full and adequate relief from the consequences of said breach or threatened breach, by pursuing any and all legal and equitable remedies available as a result of such breach or threatened breach. Declarant specifically acknowledges that damages may not be an adequate remedy for CenterCal in the event of a violation of the restrictions contained herein, and agrees that CenterCal may seek temporary and permanent injunctions, specific performance and any other equitable remedies available to enforce these restrictions.

4. Declarant shall be responsible for paying the reasonable legal fees and expenses incurred by CenterCal or any of its successors and assigns in enforcing the restrictions contained herein immediately upon demand by CenterCal. In addition, each owner, by accepting a deed to any portion of the Park Parcel, agrees that in the event CenterCal, its successors and assigns files suit to enforce this Declaration, CenterCal, its successors and assigns, shall have the right to recoup from such owner all expenses incurred in the enforcement action, including, but not limited to, attorneys' fees and costs, both as to the original action and any appeals.

5. This Declaration and the restrictions contained herein shall be binding upon Declarant, its beneficiaries and their respective heirs, representatives, successors and assigns, and shall inure to the benefit of and be enforceable by CenterCal or any of its successors and assigns. In addition to the CenterCal Parcel described in Exhibit B, CenterCal shall have the right from time to time, to add additional adjacent and nearby real property to the definition of the

#### DECLARATION OF RESTRICTIONS - 2

CenterCal Parcel as it or its affiliates acquire such real property, in which event all such additional real property shall benefit from the restrictions contained herein.

6. It is understood and agreed that this Declaration (including exhibits) may be modified or canceled only by the then owner of the CenterCal Parcel.

7. Unless otherwise canceled or terminated, all of the restrictions created as contemplated by this Declaration shall continue in perpetuity.

8. No waiver of any provision hereof or of any violation of any of the restrictions contained herein shall be deemed to imply or constitute a further waiver thereof, any other provision set forth herein or of any other violation of any of the restrictions contained herein.

9. Should any provision hereof be declared invalid by a legislative, administrative or judicial body of competent jurisdiction, the other provisions hereof shall remain in full force and effect and shall be unaffected by same and shall be enforceable to the fullest extent permitted by law.

10. This Declaration shall be governed by and construed in accordance with the laws of the State of Idaho.

*[end of text]*

**Exhibit "C"**  
**Documentation of Tax Exempt Status**

**Internal Revenue Service**  
**District Director**

**Department of the Treasury**

Date: OCT 24 1979

BP/EO:II:PLK  
Employer Identification Number:  
82-0340544  
Accounting Period Ending:  
June 30  
Form 990 Required: ☒ Yes ☐ No

Meridian Area Senior Citizens  
Association, Inc.  
133 W. Broadway Ave.  
Meridian, ID 83642

Person to Contact:  
John Sutton  
Contact Telephone Number:  
(206) 442-5106  
SEA:EO:80-156

Dear Applicant:

Based on information supplied, and assuming your operations will be as stated in your application for recognition of exemption, we have determined you are exempt from Federal income tax under section 501(c)(3) of the Internal Revenue Code.

We have further determined that you are not a private foundation within the meaning of section 509(a) of the Code, because you are an organization described in section 509(a)(1) & 170(b)(1)(A)(vi).

If your sources of support, or your purposes, character, or method of operation change, please let us know so we can consider the effect of the change on your exempt status and foundation status. Also, you should inform us of all changes in your name or address.

Generally, you are not liable for social security (FICA) taxes unless you file a waiver of exemption certificate as provided in the Federal Insurance Contributions Act. If you have paid FICA taxes without filing the waiver, you should contact us. You are not liable for the tax imposed under the Federal Unemployment Tax Act (FUTA).

Since you are not a private foundation, you are not subject to the excise taxes under Chapter 42 of the Code. However, you are not automatically exempt from other Federal excise taxes. If you have any questions about excise, employment, or other Federal taxes, please let us know.

Donors may deduct contributions to you as provided in section 170 of the Code. Bequests, legacies, devises, transfers, or gifts to you or for your use are deductible for Federal estate and gift tax purposes if they meet the applicable provisions of sections 2055, 2106, and 2522 of the Code.

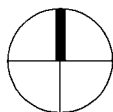
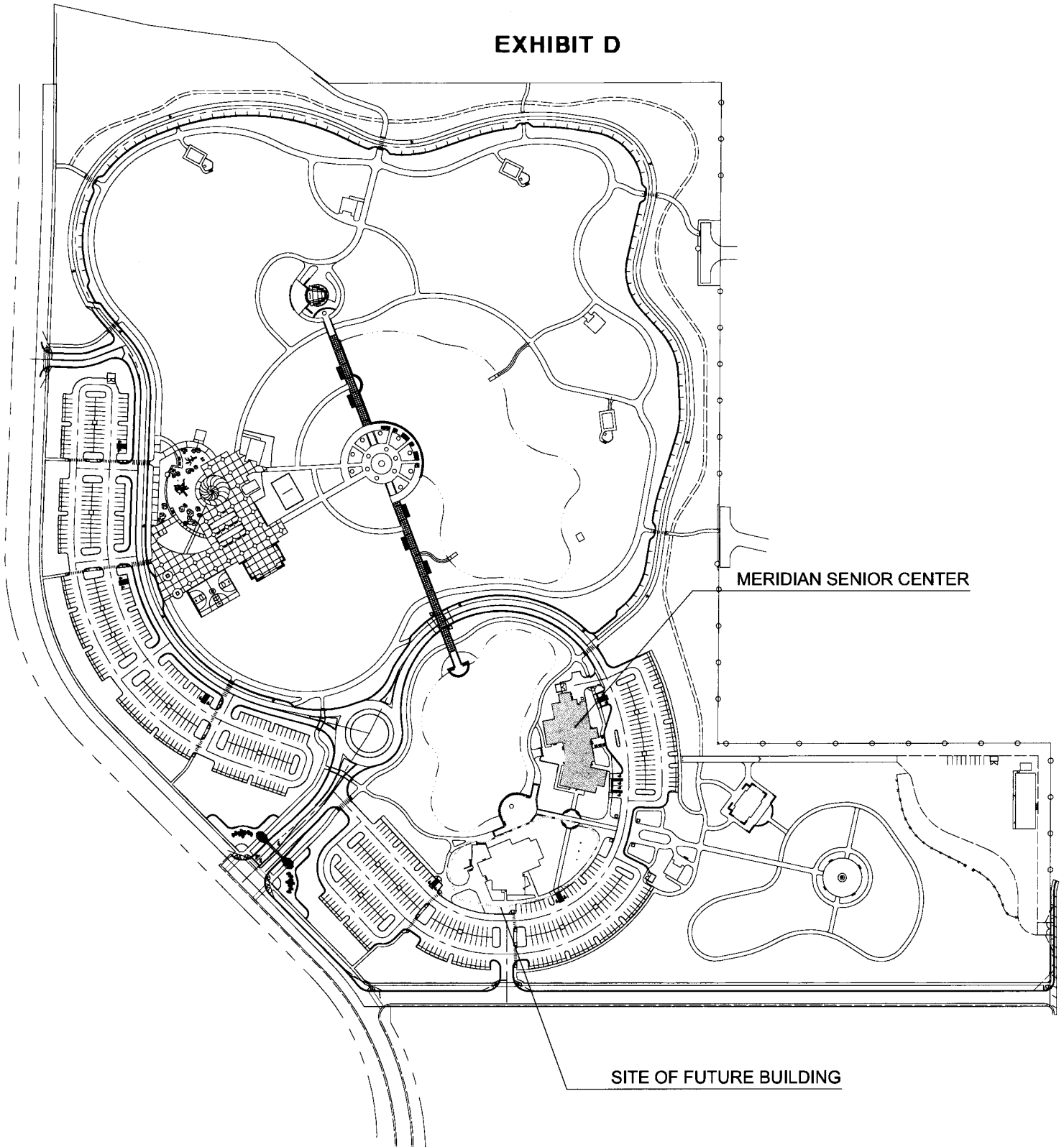
The box checked in the heading of this letter shows whether you must file Form 990, Return of Organization Exempt from Income tax. If Yes is checked, you are required to file Form 990 only if your gross receipts each year are normally more than \$10,000. If a return is required, it must be filed by the 15th day of the fifth month after the end of your annual accounting period. The law imposes a penalty of \$10 a day, up to a maximum of \$5,000, when a return is filed late, unless there is reasonable cause for the delay.

P.O. Box 21224, Seattle, Washington 98111

(over)

Letter 947(DO) (5-77)

# EXHIBIT D



## 1 OVERALL SITE PLAN - KLEINER PARK

NOT TO SCALE