

INTERAGENCY LICENSE AGREEMENT FOR ACHD'S INSTALLATION OF PEDESTRIAN HYBRID BEACON ON CITY PROPERTY

This INTERAGENCY LICENSE AGREEMENT FOR ACHD'S INSTALLATION OF PEDESTRIAN HYBRID BEACON ON CITY PROPERTY ("Agreement") is made and entered into this 11th day of December, 2024 ("Effective Date"), by and between the Ada County Highway District, a body politic and corporate of the state of Idaho ("Licensee"), and the City of Meridian ("Licensor"), a municipal corporation of the state of Idaho (together, "Parties").

WHEREAS, Idaho Code § 67-2332 provides that public agencies may enter into agreements with each other to perform any governmental activity or undertaking which each public agency entering into the agreement is authorized by law to perform, and each Party hereto is authorized by their respective enabling statutes to perform the actions contemplated by this Agreement;

WHEREAS, Licensor owns real property at 3245 N. Meridian Road, located in Meridian, Idaho, known as Meridian Settler's Park, and is willing to allow Licensee to install infrastructure at the location depicted on *Exhibit A* and labeled as Project Location ("Licensed Area"), and is authorized by Idaho Code section 50-1401 to manage its use;

WHEREAS, Licensee seeks to utilize the Licensed Area for the purpose of installing a pole, electrical wiring, and associated equipment for a pedestrian hybrid beacon, also known as a high-intensity activated crosswalk or HAWK signal, as depicted on *Exhibit A* ("PHB");

WHEREAS, the City Council of the City of Meridian hereby finds that allowing Licensee's joint use of the Licensed Area for the installation and operation of a PHB serves the public interest in protecting pedestrian crossings at this location, and hereby authorizes the licensing of the Licensed Area to Licensee for such purpose;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged and agreed, and in consideration of the mutual promises and covenants herein contained, and in consideration of the recitals above, which are incorporated herein, Licensee and Licensor agree as follows:

- A. **Nature of license.** Pursuant to the terms, conditions and limitations of this Agreement, Licensor hereby grants to Licensee an exclusive license to utilize a portion of the Licensed Area to install the PHB in the location and pursuant to the plans depicted in *Exhibit A*. Further, Licensor hereby grants to Licensee an exclusive license to operate, maintain, and repair the PHB in the Licensed Area. Licensee shall register all underground facilities with Digline, Inc. and shall comply with any and all requirements related thereto.
- B. **Term of license; termination.** This license will commence on the Effective Date, and will continue until terminated by Licensor or its successors or assigns or by Licensee. Licensor or Licensee may terminate this license anytime, with or without cause, upon giving the other party ninety (90) days' written notice of termination.
- C. **Ownership.** Licensee acknowledges that the Licensed Area is owned by Licensor, and Licensee waives any claim to ownership of the Licensed Area, whether in fee, adverse possession, or any

other right, title or interest therein, other than as established pursuant to the terms of this Agreement. This Agreement does not extend to Licensee the right to use the Licensed Area to the exclusion of Licensor for any use desired by Licensor. This Agreement is not intended to, and shall not, preclude or impede the ability of Licensor to maintain and improve Licensed Area as Licensor determines, in its sole discretion, is appropriate.

- D. **Acceptance as is.** Licensee acknowledges that Licensee has inspected the Licensed Area and does hereby accept same as being in good and satisfactory order, condition, and repair. It is understood and agreed that Licensor makes no warranty or promise as to the condition, safety, usefulness or habitability of the Licensed Area, and Licensee accepts the Licensed Area as is, where is, and with any and all faults. By granting this license, Licensor makes no warranty or representation to Licensee of any kind, express or implied, regarding the Licensed Area's suitability of or compliance with any applicable laws or standards for the PHB. Licensee has made an adequate investigation and inspection of the Licensed Area, has made its own determination regarding its suitability for installation and maintenance of the PHB, and is satisfied with its condition, fitness, and order. Installation of the PHB onto the Licensed Area by Licensee shall be conclusive evidence that Licensee finds the Licensed Area to be satisfactory for such purpose.
- E. **License fees.** Licensor shall charge Licensee no license fee, in accordance with the June 9, 2010 ACHD-Meridian Interagency Governmental Agreement for Waiver of Costs and Fees.
- F. **No cost to Licensor.** Any and all costs and expenses associated with Licensee's authorized use of the Licensed Area, or any construction or installation of cable therein, or the repair and maintenance thereof, or the restoration of the Licensed Area and surrounding property at the termination of this Agreement, shall be at the sole cost and expense of Licensee.
- G. **Maintenance of PHB.** At Licensee's sole cost and expense, Licensee shall maintain the PHB installed in Licensed Area in good condition and repair and as required to comply with sound engineering practices and applicable laws. Following reasonable notice to Licensor, Licensee shall have access to Licensed Area for the purposes of accomplishing necessary repair and maintenance of the PHB. If the Licensed Area is damaged as a result of Licensee's installation of the PHB; the performance by Licensee of maintenance of the PHB; Licensee's failure or neglect to perform such maintenance; Licensee's design or installation of the PHB; and/or Licensee's use of the Licensed Area, regardless of cause, Licensee shall correct such deficiency and restore the Licensed Area to the same condition it was in prior thereto, at Licensee's sole cost and expense. If Licensee shall fail or neglect to commence such correction and restoration within twenty-four (24) hours of notification thereof, Licensor may proceed to do so, in which event Licensee agrees to reimburse Licensor for the costs and expenses thereof. Notwithstanding the provisions of this paragraph, should an emergency exist related to the Licensee's use of this license which threatens the stability or function of the Licensed Area or public safety, Licensor shall have the right to immediately perform any necessary emergency repairs on Licensee's behalf and at Licensee's sole expense.
- H. **Removal of PHB.** It is agreed that upon the termination of this Agreement, Licensee shall promptly remove the PHB and all associated materials and equipment placed in the Licensed Area by Licensee and return the Licensed Area as nearly as practical to the condition that it was in before any use by Licensee, at no cost or expense to Licensor. Should Licensee fail to promptly comply with this provision upon termination, Licensor may remove such materials and equipment

placed in the Licensed Area and/or cause the property to be returned to the same condition it was in before the grant of this license and send an invoice to Licensee for any and all related costs. It is further agreed that should Licensee fail to remove all materials and equipment placed in the Licensed Area upon termination of this Agreement, ownership thereof will pass to Licensor.

- I. **Assignment.** It is expressly agreed and understood by and between the parties hereto, that Licensee shall not have the right to assign, transfer, hypothecate or sell any of its rights under this License Agreement except upon the prior express written consent of Licensor.
- J. **Hold harmless and indemnification.** Licensee will, to the extent permitted by law, indemnify, defend and hold harmless Licensor, from any loss, liability, claim, judgment, or action for damages or injury to Licensee, to Licensee's personal property or equipment, or to Licensee's employees, agents, guests or invitees arising out of or resulting from the condition or use of the Licensed Area or any lack of maintenance or repair thereon and not caused by or arising out of the tortious conduct of Licensor or its employees. Licensee further agrees to indemnify and hold Licensor harmless from any loss, liability, claim or action from damages or injuries to persons or property in any way arising out of or resulting from the use and occupancy of the Licensed Area by Licensee or by Licensee's agents, employees, guests or business invitees and not caused by or arising out of the tortious conduct of Licensor or its employees. If any claim, suit or action is filed against Licensor for any loss or claim described in this paragraph, Licensee, at Licensor's option, shall defend Licensor and assume all costs, including attorney's fees, associated with the defense or resolution thereof, or indemnify Licensor for all such costs and fees incurred by Licensor in the defense or resolution thereof, or any other liability or damages to which Licensor may be subjected as a result or consequence of granting this license. Licensee's obligations pursuant to this paragraph shall survive the termination of this License Agreement. Licensee acknowledges and agrees that use of the Licensed Area may carry risks, some of which are unknown, and with such knowledge does and shall assume all such risks and associated liabilities.
- K. **Waiver.** Licensee waives and releases, on behalf of Licensee and Licensee's heirs, executors, administrators, assigns, and/or personal representatives, any and all claims and recourse against Licensor, including the right of contribution for loss and damage to persons or property arising from, growing out of, or in any way connected with or incident to Licensee's actions under this Agreement, whether such loss or damage may be attributable to known or unknown conditions, except for liability arising out of concurrent or sole negligence of Licensor or its officers, agents or employees.
- L. **Attorneys' fees.** Licensee shall be liable to Licensor for all damages and costs, including legal expenses and attorneys' fees, suffered or incurred by City in the enforcement of any of the terms, covenants or conditions of this Agreement.
- M. **Binding on successors.** This Agreement and all terms and conditions hereof shall apply to and are binding upon the heirs, legal representative, successors and assigns of the Parties.
- N. **Third-party beneficiaries.** This Agreement is not intended to create, nor shall it in any way be interpreted or construed to create, any third-party beneficiary rights in any person or entity not a party hereto.

O. **Notices.** All notices to be provided under this Agreement shall be in writing and addressed as follows:

If to Licensee: Ada County Highway District
3775 Adams Street
Garden City, Idaho 83714

If to Licensor: City Clerk, City of Meridian
33 E. Broadway Avenue
Meridian, Idaho 83642

Notices shall be in writing and either personally delivered or sent by U.S. mail, postage prepaid. Notice shall be deemed to have been given upon deposit in the U.S. mail, or upon personal delivery to the party above specified.

P. **Entire agreement; amendment.** This Agreement contains the entire agreement of the parties and supersedes any and all other agreements, leases, or understandings, oral or written, whether previous to the execution hereof or contemporaneous herewith. This Agreement may only be amended by mutual written agreement of the parties.

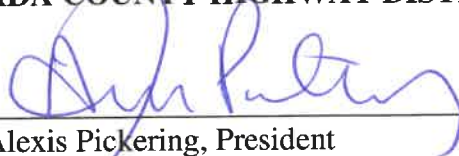
Q. **Severability.** If any provision of this Agreement is found by a court of competent jurisdiction to be illegal, invalid, or unenforceable, the remainder of this Agreement shall not be affected, and shall continue in full force and effect.

R. **Exhibits.** All exhibits attached hereto and the recitals contained herein are incorporated herein as if set forth in full herein.

S. **Approval required.** This Agreement shall not become effective or binding until approved by the respective governing bodies of the Parties.

IN WITNESS WHEREOF, the undersigned have caused this Agreement to be executed on the Effective Date first set forth above.

ADA COUNTY HIGHWAY DISTRICT:



Alexis Pickering, President

CITY OF MERIDIAN:

Attest:



Ryan Head, Director

Attest:

BY: _____
Robert E. Simison, Mayor

Chris Johnson, City Clerk