

**PROFESSIONAL SERVICES AGREEMENT FOR
HISTORIC PRESERVATION PLAN PREPARATION**

This PROFESSIONAL SERVICES AGREEMENT FOR HISTORIC PRESERVATION PLAN PREPARATION (“Agreement”) is made this ___ day of _____, 20___ (“Effective Date”), by and between the City of Meridian, a municipal corporation organized under the laws of the State of Idaho (“City”), and J-U-B Engineers, Inc., a general business corporation organized under the laws of the State of Idaho (“Consultant”). (City and Consultant may hereinafter be collectively referred to as “Parties.”)

WHEREAS, City seeks to update the Meridian Historic Preservation Plan (“Project”), and to that end, has obtained from the Idaho State Historic Preservation Office an Idaho Certified Local Government Grant for the purpose of partially funding this work;

WHEREAS, Consultant is qualified to undertake the Project, and has been selected to do so in accordance with the proposal attached here as *Exhibit A* (“Proposal”);

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, the Parties agree as follows:

I. SCOPE OF SERVICES.

Consultant shall complete the Project, and all related tasks, in accordance with the methodology, timetable, scope, and budget set forth in the Proposal. Further, Consultant shall timely provide to City all deliverables as set forth in the Proposal.

II. COMPENSATION.

- A. **Total amount.** The total payment to Consultant for Deliverables and all related services provided under this Agreement shall be seventeen thousand, four hundred and ninety-six dollars (\$17,496.00). This amount shall constitute full compensation for any and all services, travel, materials, deliverables, and all use rights and copyrights of all final deliverables.
- B. **Method of payment.** Consultant shall provide to City invoices for services and/or materials provided pursuant to the payment schedule set forth in the “Proposed Cost” section of the Proposal, which City shall pay within thirty (30) days of receipt. City shall not withhold any federal or state income taxes or Social Security tax from any payment made by City to Consultant under the terms and conditions of this Agreement. Payment of all taxes and other assessments on such sums shall be the sole responsibility of Consultant.
- C. **Payment schedule.** Consultant shall be paid pursuant to the following benchmarks, as described in the Proposal:

1. **Phase 1:** \$3,412.00 shall be paid to Consultant following completion of Phase 1, Project Management and Administration.
2. **Phase 2:** \$5,883.00 shall be paid to Consultant following completion of Phase 2, Historic Resource and Preservation Program Evaluation.
3. **Phase 3:** \$3,544.00 shall be paid to Consultant following completion of Phase 3, Goals, Objectives, Strategy Setting.
4. **Phase 4:** \$4,657.00 shall be paid to Consultant following completion of Phase 4, Delivery of draft Historic Preservation Plan and Adoption of the Plan.

III. TIME OF PERFORMANCE.

- A. **Timeline.** Consultant shall complete all services and provide all deliverables to City in accordance with the timeline set forth in the Proposal. Consultant shall deliver to City the final Historic Preservation Plan no later than 5:00 p.m. on October 31, 2025.
- B. **Time of the essence.** The Parties acknowledge that services provided under this Agreement shall be performed in a timely manner. The Parties acknowledge and agree that time is strictly of the essence with respect to this Agreement, and that the failure to timely perform any of the obligations hereunder shall constitute a breach of, and a default under, this Agreement by the party so failing to perform.

IV. INDEMNIFICATION, WAIVER, AND INSURANCE.

- A. **Indemnification.** Consultant shall indemnify and hold harmless the City and any and all of its employees, agents, volunteers, and/or elected officials from any and all losses, claims, and judgments for damages or injury to persons or property, and from any and all losses and expenses to the extent caused or incurred by negligent acts, errors, or omissions committed by or attributable to Consultant or Consultant's servant(s), agent(s), employee(s), guest(s), and/or business invitee(s) in the performance of services in the course of this Agreement.
- B. **Waiver.** Consultant waives any and all claims and recourse against City, 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 Consultant's performance of 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 City or its officers, agents or employees.
- C. **Insurance to be obtained by Consultant.** Consultant acknowledges and understands that City shall not provide insurance or benefit coverage of any kind for injury, death, or illness related to Consultant's provision of services under this Agreement. Consultant shall obtain and shall maintain, at Consultant's own expense, throughout the course of

this Agreement, insurance in an amount necessary to insure Consultant's insurable interests, including:

1. **General liability insurance.** General liability insurance with a limit of not less than one million dollars (\$1,000,000.00) per each occurrence, combined single limit bodily injury and property damage, covering the actions and omissions of Consultant, including coverage for owned, non-owned, and hired vehicles, as applicable.
2. **Workers' compensation insurance.** Workers' compensation insurance, in an amount required by Idaho law, to cover any and all persons employed by Consultant.

V. **TERMINATION.**

- A. **Termination for cause.** If City determines that Consultant has failed to comply with any term or condition of this Agreement, violated any of the covenants, agreements, and/or stipulations of this Agreement, falsified any record or document required to be prepared under this Agreement, engaged in fraud, dishonesty, or any other act of misconduct in the performance of this Agreement; or if either Party willfully or negligently defaults in, or fails to fulfill, its material obligations under this Agreement; the other Party shall have the right to terminate the Agreement by giving written notice to the defaulting party of its intent to terminate, and shall specify the grounds for termination. The defaulting party shall have fourteen (14) days after receipt of such notice to cure the default. If the default is not cured within such period, this Agreement shall be terminated upon mailing of written notice of such termination by the terminating party.
- B. **Termination without cause.** City may terminate this Agreement for any reason at any time by providing fourteen (14) days' notice to Consultant.
- C. **Termination by City.** In the event of termination by City, City shall compensate Consultant for work actually delivered by Consultant prior to the date of written notice of termination and any verified additional services and materials actually performed or supplied prior to the date of written notice of termination, less payments of compensation previously made, not to exceed the total amount of compensation allowed hereunder.
- D. **Termination by Consultant.** In the event of termination for non-performance or default by Consultant, all finished and unfinished photographs and/or any and all other work products prepared and submitted or prepared for submission under this Agreement shall, at City's option, become City's property. Notwithstanding this provision, Consultant shall not be relieved of any liability for damages sustained by City attributable to Consultant's default or breach of this Agreement. City may reasonably withhold payments due until such time as the exact amount of damages due to City from Consultant is determined. Consultant shall not be relieved of liability to City for damages sustained by City by virtue of any breach or default of this Agreement by Consultant. This provision shall survive the termination of this Agreement and shall not relieve Consultant of liability to City for damages.

- E. **Non-waiver of breach.** A waiver of any breach or default of any provision of this Agreement shall not be construed as a waiver of a breach of the same or any other provision hereof.

VI. CERTIFIED LOCAL GOVERNMENT GRANT REQUIREMENTS.

- A. Consultant shall complete all work related to the Project in accordance with the most recent version(s) of all applicable United States Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation.
- B. All billable costs from the Consultant for reimbursement by the Certified Local Government funds shall be allowable under the most recent version of the United States National Park Service Historic Preservation Grants Manual.
- C. Consultant shall complete all work related to this project in accordance with the most recent version(s) of all applicable guidance documents from the Idaho State Historic Preservation Office, including, but not limited to: Consulting with the Idaho SHPO; IHSI Manual of Instruction for Data Entry; ASI Manual of Instruction for Data Entry; the Idaho Certified Local Government Grants Manual; and any other appropriate guidance documents as identified by the Idaho State Historic Preservation Office.
- D. Consultant shall complete all work related to the Project in accordance with the Grant Agreement between the Certified Local Government and the Idaho State Historic Preservation Office.
- E. Consultant shall make all revisions or modifications to submitted project materials as required by the Idaho State Historic Preservation Office.

VII. GENERAL PROVISIONS.

- A. **Relationship of Parties.** It is the express intention of Parties that Consultant is an independent contractor and neither Consultant nor any officer, employee, subcontractor, assignee, or agent of Consultant shall be deemed an employee, agent, joint venturer, or partner of City in any manner or for any purpose. Nothing in this Agreement shall be interpreted or construed as creating or establishing the relationship of employer and employee between Consultant and City or between Consultant and any official, agent, or employee of City. Both parties acknowledge that Consultant is not an employee of City. Consultant shall retain the right to perform services for others during the term of this Agreement. Specifically, without limitation, Consultant understands, acknowledges, and agrees:
 - 1. Consultant is free from actual and potential control by City in the provision of services under this Agreement.
 - 2. Consultant is engaged in an independently established trade, occupation, profession, or business.
 - 3. Consultant has the authority to hire subordinates.

4. Consultant owns and/or will provide all major items of equipment necessary to perform services under this Agreement.
- B. **Compliance with law.** Throughout the course of this Agreement, Consultant shall comply with any and all applicable federal, state, and local laws.
 - C. **Subcontracting or assignment of obligations.** Consultant shall not subcontract or assign any of Consultant's obligations under this Agreement without City's prior written approval. Any and all subcontractors or assignees shall be bound by all the terms and conditions of this Agreement.
 - D. **Non-Discrimination.** Throughout the course of this Agreement, Consultant shall not discriminate against any person as to race, creed, religion, sex, age, national origin, sexual orientation or any physical, mental, or sensory handicap.
 - E. **Entire Agreement.** This Agreement constitutes the entire understanding between the Parties. This Agreement supersedes any and all statements, promises, or inducements made by either party, or agents of either party, whether oral or written, whether previous to the execution hereof or contemporaneous herewith. The terms of this Agreement may not be enlarged, modified or altered except upon written agreement signed by both parties hereto.
 - F. **Costs and attorneys' fees.** If either party brings any action or proceedings to enforce, protect or establish any right or remedy under the terms and conditions of this Agreement, the prevailing party shall be entitled to recover reasonable costs and attorneys' fees, as determined by a court of competent jurisdiction, in addition to any other relief awarded.
 - G. **Agreement governed by Idaho law.** The laws of the State of Idaho shall govern the validity, interpretation, performance and enforcement of this Agreement. Venue shall be in the courts of Ada County, Idaho.
 - H. **Cumulative Rights and Remedies.** All rights and remedies herein enumerated shall be cumulative and none shall exclude any other right or remedy allowed by law. Likewise, the exercise of any remedy provided for herein or allowed by law shall not be to the exclusion of any other remedy.
 - I. **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.
 - J. **Successors and Assigns.** All of the terms, provisions, covenants and conditions of this Agreement shall inure to the benefit of, and shall be binding upon, each party and their successors, assigns, legal representatives, heirs, executors, and administrators.

- K. **State of Idaho requirements.** The following provisions are included solely to comply with the laws of the State of Idaho.
1. Pursuant to Idaho Code § 67-2346, as applicable, Consultant certifies that Consultant 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 Israel's control.
 2. Pursuant to Idaho Code § 67-2359, as applicable, Consultant certifies that Consultant is not a company currently owned or operated by the government of China and will not for the duration of this Agreement be owned or operated by the government of China.

L. **Notice.** Any and all notice required to be provided by either of the Parties hereto, unless otherwise stated in this Agreement, shall be in writing and shall be deemed communicated upon mailing by United States Mail, addressed as follows:

<u>Consultant:</u> Sheri F. Freemuth, Project Manager J-U-B Engineers, Inc. 2760 W. Excursion Lane, Suite 400 Meridian ID 83642	<u>City:</u> Cassandra Schiffler Arts and Culture Coordinator Parks and Recreation Department 33 E. Broadway Ave. Meridian ID 83642
---	--

Either party may change its address for the purpose of this provision by giving written notice of such change in the manner herein provided.

M. **Exhibits.** All exhibits to this Agreement are incorporated by reference and made a part of hereof as if the exhibits were set forth in their entirety herein.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the Effective Date first written above.

CONSULTANT:



Timothy Blair, P.E.
Area Manager, J-U-B Engineers, Inc.

CITY OF MERIDIAN:

Attest:

Robert E. Simison, Mayor

Chris Johnson, City Clerk

EXHIBIT A
CONSULTANT'S PROPOSAL