

PROFESSIONAL SERVICES AGREEMENT FOR PREPARATION OF PUBLIC ART PLAN

This PROFESSIONAL SERVICES AGREEMENT FOR PREPARATION OF PUBLIC ART PLAN (“Agreement”) is made this ____ day of _____, 2025 (“Effective Date”), between Via Partnership, LLP, a limited liability partnership registered under the laws of the state of Missouri (“Consultant”), and the City of Meridian, Idaho, a municipal corporation organized under the laws of the state of Idaho (“City”) (collectively, “Parties”).

WHEREAS, City has determined the need to identify the strategies and goals for the planning and installation of public art in the City of Meridian, and to that end seeks to prepare a public art master plan; and

WHEREAS, Consultant is specially trained, experienced, and skilled in the provision of services necessary to prepare a public art master plan, and has agreed to provide, such services;

NOW, THEREFORE, in consideration of the mutual promises, covenants, terms and conditions hereinafter contained, the Parties do mutually agree as follows:

- A. **Scope of Work.** Consultant agrees to perform all work specified in the Scope of Work set forth in *Exhibit A*. Consultant shall perform the Scope of Work and provide all deliverables in a timely manner, pursuant to all mutually agreed-upon schedules, deadlines and/or threshold meeting dates. Consultant shall produce the deliverables referenced in *Exhibit A* in a timely and professional manner, consistent with industry standards and practices for the profession or professions that are used in the performance of this Agreement.
- B. **Term.** Consultant shall perform services under this Agreement by September 1, 2026. City shall make every reasonable effort to support Consultant in meeting the mutually agreed-upon schedules, deadlines and/or threshold meeting dates set forth in *Exhibit C*. The Parties acknowledge and agree that time is strictly of the essence with respect to this Agreement, and that the failure of either party 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.
- C. **Payment.** For services rendered under this Agreement, the City will pay the Consultant in accordance with the fee schedule specified in *Exhibit B*, not to exceed thirty thousand dollars (\$30,000.00). This amount shall constitute full compensation for any and all services performed, materials furnished, and costs incurred by Consultant, including travel and lodging expenses. To receive payment for services rendered, Consultant shall provide to City a completed W-9 form, and detailed invoices itemizing services rendered and stating the amount of payment due for such services. City shall remit payments to Consultant for services rendered under this Agreement within thirty (30) days of receipt of invoice. Payment of all taxes and other assessments on monies received under this Agreement shall be the sole responsibility of Consultant. Except as expressly provided in this Agreement, Consultant shall not be entitled to receive from City any additional consideration, compensation, salary, wages, or other type of remuneration for services rendered under this Agreement.

D. Coordination and approval.

1. City shall make its staff, information and premises available to Consultant on an as-needed basis, on/at mutually agreed-upon dates/times necessary to complete the Scope of Work set forth in *Exhibit A*. City Contact shall provide support, as needed, in terms of organizing meetings and public communications.
2. City shall establish a protocol for its internal acceptance and approval of the deliverables enumerated in *Exhibit A*.
3. City shall provide Consultant the name, e-mail address, and telephone number of specific City personnel ("City Contact") who shall serve as the liaison between City and Consultant for all matters requiring coordination and approval. Communication between Consultant and City Contact shall occur via e-mail or telephone.
4. Except as otherwise specified in *Exhibit A*, the Consultant shall be available via teleconference for presentations to City and the Meridian Arts Commission as necessary to secure acceptance and approval of deliverables enumerated in *Exhibit A*.

- E. **Notice.** All other notices required to be given by either of the Parties shall be in writing and be deemed communicated when sent via e-mail, personally served, or mailed via United States mail, to the following personnel and address:

If to Consultant:

Via Partnership, LLP
Attn: Meridith McKinley
6677 Delmar Boulevard, Suite 200
St. Louis MO 63130
mckinley@viapartnership.com

If to City:

City of Meridian
Attn: City Clerk
33 E. Broadway Avenue
Meridian ID 83642
cityclerk@meridiancity.org

- F. **Ownership.** All rights, title and interest in and to all work drafted, prepared, produced, or developed by Consultant under or pursuant to this Agreement shall become the exclusive property of City for use and/or distribution as may be deemed appropriate by City. Should the City distribute any of the work produced by Consultant in whole or in part, for promotional, educational or any other purposes, the City shall provide full credit to the Consultant as author, where feasible.

- G. **Indemnification.** Consultant shall, and hereby does, indemnify and hold harmless City, and its volunteers, officers, directors, employees and agents from any and all claims, losses, liabilities, damages, expenses and costs (including attorneys' fees and court costs) which result from the Consultant's performance of work under this agreement and not caused by or arising out of the tortious conduct of City, regardless of the manner by which such claim may be brought. Consultant acknowledges that rendering services under this Agreement presents risks, some of which are unknown, and agrees to assume all risks associated with the fulfillment of the terms of this Agreement.

- H. **Insurance to be obtained by Contractor.** Contractor acknowledges and understands that City shall not provide insurance or benefit coverage of any kind for injury, death, or illness related to Contractor's provision of services under this Agreement. Contractor may, at Contractor's sole election, obtain and maintain, at Contractor's sole expense, throughout the term of this Agreement, insurance in an amount adequate to cover any of Contractor's insurable interests or assets, in Contractor's sole discretion.
- I. **Public records.** It is acknowledged by the Parties that City is a public agency. As such, City is subject to the Idaho Public Records Act, which states, inter alia, that all documents in City's possession are public records. The records prepared by Consultant in the performance of this Agreement are public records and, shall be available for inspection and copying by any person, unless exempt from disclosure, in City's sole discretion.
- J. **Independent contractor.** As an independent contractor, neither Consultant nor any agent or employee thereof is a bona fide employee(s) or agent of City in any manner or for any purpose. The parties agree that no deductions for withholding taxes, worker's compensation, insurance, or other fringe benefits will be made by City and will be the sole responsibility of the Consultant and its agents and employees. 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.
 5. Neither Consultant nor City shall be liable to the other for a peremptory termination of the business relationship described under this Agreement.
- K. **Subcontracting and assignment.** Consultant staff shall perform all work specified in this agreement, except that which the City and Consultant mutually agree may be performed by a subcontractor. Consultant may not subcontract or otherwise delegate its obligations under this agreement without City's prior written consent. City shall provide adequate staffing to support the development of the deliverables set forth in the Scope of Work and to support the Coordination and Approval conditions described below. This Agreement shall not be assigned or subcontracted by Consultant, whether in whole or in part, without City's written consent. Any attempted assignment without City's written consent shall be void and of no effect.
- L. **Termination.** The City shall have the right to terminate this agreement immediately, for any reason or no reason, upon written notice to the Consultant at the above address. Upon any such termination, Consultant shall be entitled to retain sums paid for any phase of the work that has been delivered pursuant to the terms of *Exhibit A*.

- M. **Amendment.** Neither this Agreement nor any term or exhibit hereof may be verbally changed, discharged, terminated or waived. This Agreement may be amended only by a mutually-agreed writing, specifically referencing this Agreement, and duly executed by both Parties.
- N. **Applicable law.** The validity, interpretation, performance and enforcement of this Agreement shall be governed by the laws of the State of Idaho, including, without limitation, Article VIII, Section 3, of the Idaho Constitution.
- O. **Non-Appropriation.** Consultant acknowledges that City is a governmental entity, and the validity of this Agreement is based upon the availability of public funding under the authority of City's statutory mandate. Notwithstanding anything in this Agreement to the contrary, City's obligations under this Agreement to provide payment to Consultant as described herein shall be subject to and dependent upon appropriations being made by City Council for such purpose.
- P. **Choice of forum.** Venue shall be in the courts of Ada County, Idaho. No party may commence any action, litigation, or proceeding against the other party in any way arising from or relating to this Agreement or any related transaction, including equity, tort, fraud, and statutory claims, in any forum other than the courts of the state of Idaho sitting in Ada County, and any appellate court from any thereof. Each party irrevocably and unconditionally submits to the exclusive jurisdiction of such courts and shall bring any such action, litigation, or proceeding only in such courts.
- Q. **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.
- R. **Construction and severability.** If any part of this Agreement is held to be invalid or unenforceable, such holding will not affect the validity or enforceability of any other part of this Agreement so long as the remainder of the Agreement is reasonably capable of completion.
- S. **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. The failure of either party to insist, in any one or more instances, upon the performance of any of the terms, covenants, or conditions of this Agreement or to exercise any right hereunder, shall not be construed as a waiver or relinquishment of the future performance of any rights, and the obligations of the party with respect to such future performance shall continue in full force and effect.

- T. **Force majeure.** No Party will be liable for failure to perform any duty under this Agreement where such failure is due to or made impracticable by unforeseeable causes beyond the Parties' control and without fault or negligence, including, but not restricted to: acts of God or the public enemy, fire, flood, natural disaster, epidemic, strike, or order of any court or authorized agency.
- U. **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.
- V. **Non-Discrimination.** Throughout the course of this Agreement, Contractor shall not discriminate against any person as to race, creed, religion, sex, age, national origin, sexual orientation or any physical, mental, or sensory disability.
- W. **Compliance with laws.** In performing the scope of services required hereunder, Consultant shall comply with all applicable laws, ordinances, and codes of Federal, State, and local governments.
- X. **State of Idaho requirements.** The following provisions, as applicable, are required by Idaho law. The terms used shall have the definitions as set forth in the respective Idaho Code provisions.
1. Pursuant to Idaho Code § 67-2346, Contractor certifies that Contractor 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 § 18-8703, as applicable, Contractor certifies that it is not, and will not for the duration of this Agreement become, an abortion provider or an affiliate of an abortion provider.
 3. Pursuant to Idaho Code § 67-2359, Contractor certifies that Contractor is not, and for the duration of this Agreement will not be, a company currently owned or operated by the government of China.
 4. Pursuant to Idaho Code § 67-2347A, Contractor certifies that Contractor is not currently engaged in, and will not for the duration of this Agreement engage in, a boycott of any individual or company because that individual or company engages in or supports the exploration, production, utilization, transportation, sale, or manufacture of fossil fuel-based energy, timber, minerals, hydroelectric power, nuclear energy, or agriculture.
 5. Pursuant to Idaho Code § 67-2347A, Contractor certifies that Contractor is not currently engaged in, and will not for the duration of this Agreement engage in, a boycott of any individual or company because that individual or company engages in or supports the manufacture, distribution, sale, or use of any firearm.
- Y. **Entire agreement.** This Agreement contains the entire agreement between the parties, and 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. This Agreement may not be enlarged, modified or altered except upon written agreement signed by both parties hereto.

Z. Advice of attorney. Each party warrants and represents that in executing this Agreement, it has received independent legal advice from its attorney or waived the opportunity to seek such advice.

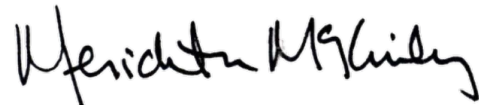
AA. Exhibits. All exhibits to this Agreement are incorporated by reference and made a part of hereof as if the exhibits were set forth in their entirety herein.

BB. City Council approval required. This Agreement shall not become effective or binding until approved by the Meridian City Council and signed by the Mayor of the City of Meridian.

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

Consultant:

Via Partnership, LLP



Meredith McKinley, Partner

City:

City of Meridian, Idaho

Robert E. Simison, Mayor

ATTEST:

Chris Johnson, City Clerk