

## TEMPORARY ACCESS AND EASEMENT AGREEMENT

This Temporary Access and Easement Agreement (this “Agreement”) is made effective this \_\_\_\_ day of \_\_\_\_\_, 2017, by and between the Joint School District No. 2, doing business as West Ada School District, an Idaho school district and body politic and corporate of the State of Idaho (“Grantor”), and Idaho College of Osteopathic Medicine, LLC, an Idaho Limited Liability Company (“Grantee”). The Grantor and Grantee may be collectively referred to as the parties.

### RECITALS:

WHEREAS, Grantor is the owner of certain property located in the City of Meridian, Idaho (“Grantor’s Property”); and

WHEREAS, Grantor desires to grant and Grantee desires to receive a temporary easement for ingress and egress across those certain portions of Grantor’s Property depicted on *Exhibit A* (the “Easement Area”) under the terms and conditions outlined hereafter; and

WHEREAS, in accordance with the terms and conditions hereof, Grantee will make certain improvements as set forth in *Exhibit B* (the “Improvements”), all at no cost to Grantor;

### AGREEMENT:

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

**1. Grant.** Grantor hereby grants to Grantee and its agents, representatives or invitees including, but not limited to Engineered Structures, Inc. (“ESI”), a non-exclusive easement over, on, across, and through the Easement Area for ingress, egress and construction of the Improvements (“Easement”).

**2. Purpose and Term.** The Easement shall be used only for ingress and egress and construction of the Improvements as depicted in Exhibit B. The term of this Agreement and Easement (the “Term”) shall commence upon the full execution and delivery of this Agreement and shall continue until the execution and delivery of an expanded easement agreement to provide for construction staging, craft parking, storage, ingress and egress during the construction of Grantee’s Osteopathic Medical School, or such earlier date on which Grantee surrenders sole possession of the Easement Area to Grantor in substantially the same or better condition than it was on the date this Agreement was executed. However, it is understood that the Improvements shall remain. In the event that Grantee shall not obtain the necessary approvals to construct the Osteopathic Medical School, this easement shall terminate, and Grantee shall restore Grantor’s property to substantially the same condition with the exception of the Improvements made to the Hunter Lateral, which shall remain the sole property of the Grantor.

The Improvements shall be constructed by Grantee and its agents in a workmanlike manner and in accordance with the terms of the License Agreement between Grantor and the Nampa & Meridian Irrigation District (“NMID”) which authorizes the Improvements to be located in NMID’s irrigation easement (the “License Agreement”).

**3. Fees and Costs.** The Grantee agrees to pay the attorney fees and engineering fees charged by the attorney for the Grantor and/or by the engineers for the Grantor in connection with the negotiation and preparation of this Agreement. In addition, Grantee shall pay all amounts owing by Grantor to NMID, if any, arising from the License Agreement.

**4. Attorneys' Fees.** Should either party incur costs or attorney fees in connection with efforts to enforce the provisions of this Agreement, whether by institution of suit or not, the party rightfully enforcing or rightfully resisting enforcement of the provisions of this Agreement, or the prevailing party in case suit is instituted, shall be entitled to reimbursement for its costs and reasonable attorney fees from the other party.

**5. Insurance.** At all times during the term of this Agreement, Grantee or its agent responsible for constructing the Improvements, at their own expense, shall keep in full force and effect the following insurance policies issued by companies licensed to engage in the insurance business in the State of Idaho, and shall provide Grantor with certificates evidencing such insurance coverage:

- a. Workers' Compensation Insurance as mandated by state and federal law.
- b. Commercial General Liability Insurance with limits of liability of not less than \$2,000,000.00 each occurrence, naming the Grantor as an additional insured.
- c. Automobile Liability Insurance for bodily injury and property damage (including owned, non-owned, and hired vehicles) with limits of liability of not less than \$2,000,000.00 each accident (combined single limit).

Grantee shall provide Grantor with at least thirty (30) days prior written notice of any cancellation or material alteration of the policies set forth in the certificates of insurance.

**6. Counterparts.** This Easement may be executed in counterparts, each part being considered an original document, all parts being but one document.

**7. Indemnification.** Grantee shall defend, indemnify and hold harmless the Grantor, and Grantor's trustees, officers, agents and employees, and the State of Idaho, from and against any and all demands, suits, actions, claims, loss or damage of any kind, character or description, whether or not meritorious, costs, or expenses, including, without limitation, attorneys' and other professional fees and disbursements, in conjunction with any loss of life, personal injury and/or property damage arising out of or relating to the occupancy or use by Grantee of the Grantor's Property, any part of the Grantor's facilities and/or grounds occasioned wholly or in part by any act or omission of Grantee or its officers, contractors, licensees, agents, servants, employees, guests, invitees or visitors, except for such claim resulting solely from the negligence or otherwise wrongful act or omission of the Grantor. This indemnification of Grantor by Grantee shall include any claims made by NMID against Grantor arising out of the License Agreement.

**8. Waiver.** The waiver by either party of the performance of any covenant, condition or term herein shall not invalidate this Agreement, nor shall the same be considered as a waiver by such party of any breach or other covenant, condition or term herein.

**9. Remedies.** In the event of a breach hereunder by any party, the non-breaching party shall have all remedies available at law or in equity, including the availability of injunctive relief. In any suit, action or appeal therefrom to enforce or interpret this Agreement, the prevailing party shall be entitled to recover its costs incurred therein, including reasonable attorneys' fees and disbursements.

**10. Incorporation of Recitals.** All of the recitals hereof are incorporated by this reference and are made a part hereof as though set forth at length herein.

**11. Easement Obstructions.** Grantee, or its agents or representatives shall be permitted to fence or erect other barriers within or across the Easement Area as reasonably necessary for security and/or safety purposes in connection with the purpose of the Easement, including, but not limited to, construction, reconstruction, repair and maintenance of improvements, including the Improvements.

**12. Notices.** All notices, demands and requests required or desired to be given under this Agreement must be in writing and shall be deemed to have been given as of the date such writing is (i) delivered to the party intended, (ii) delivered to the then current address of the party intended, or (iii) rejected at the then current address of the party intended, provided such writing was sent prepaid. The initial address of the signatories hereto is:

Grantee: Idaho College of Osteopathic Medicine  
1311 E. Central Drive  
Meridian, ID 83642

With Copy to:  
Engineered Structures, Inc.  
3330 E. Louise Dr. Ste. 300  
Meridian, ID 83642

Grantor: Joint School District No. 2  
1303 E. Central Drive  
Meridian, ID 83642

Upon at least ten (10) days' prior written notice, each party shall have the right to change its address to any other address within the United States of America.

[end of text; signature page follows]

IN WITNESS WHEREOF, the undersigned have caused this Easement to be executed the day and year first written above.

**GRANTOR:**

**JOINT SCHOOL DISTRICT NO. 2**

\_\_\_\_\_  
Dr. Mary Ann Ranells, Superintendent

STATE OF IDAHO    )  
                                  ) ss:  
County of \_\_\_\_\_)

I HEREBY CERTIFY that on this \_\_\_\_\_ day of \_\_\_\_\_, 2017 before the undersigned, a Notary Public in the State of Idaho, personally appeared **Mary Ann Ranells**, proven to me to be the person who executed the said instrument who executed the instrument on behalf of Joint School District No. 2, and acknowledged to me that Joint School District No. 2 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.

\_\_\_\_\_  
Notary Public for Idaho  
Residing at \_\_\_\_\_, Idaho  
My Commission Expires: \_\_\_\_\_

**GRANTEE:**  
**IDAHO COLLEGE OF OSTEOPATHIC MEDICINE, LLC:**

BY: \_\_\_\_\_  
Robert Hasty, DO  
Founding Dean and Chief Academic Officer

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

STATE OF IDAHO                    )  
  : ss  
County of Ada                    )

I HEREBY CERTIFY that on this \_\_\_\_\_ day of \_\_\_\_\_, 2017 before the undersigned, personally appeared **Robert Hasty**, known or identified to me, who executed the instrument on behalf of the Idaho College of Osteopathic Medicine, LLC, and acknowledged to me that the Idaho College of Osteopathic Medicine, LLC executed the same.

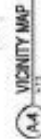
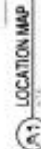
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

\_\_\_\_\_  
Notary Public for Idaho  
Residing at \_\_\_\_\_, Idaho  
My Commission Expires: \_\_\_\_\_

**(Easement Area)**



## February - 2017



**CIVIL ENGINEERS**  
KELLER ASSOCIATES, INC.  
121 200 20 Avenue, Suite A  
Irvine, CA 92614  
CONTACT: Lynn Morgan P.E.  
PHONE: 949 261 1902



**KELLER  
ASSOCIATES**  
121 1st Ave. North, Suite 4  
Minneapolis, MN 55401  
(612) 286-1500



**Engineered Structures,  
Inc. (ESI)**  
3336 S. Valley Dr. #200  
Mesa, AZ 85204

ICOM CONSTRUCTION ACCESS

INSTRUMENT NO.	217018-01
INSTRUMENT NO.	C-001

## GENERAL CONSTRUCTION

- ## References

AND THE BOWLING PIN

- [illegible]

**KELLER**  
ASSOCIATES  
225 209 2400 • Fax 209 240 1111  
Memphis, TN 38102  
(Toll-Free 1-800-451-1411)

Engineered Structures,  
Inc. (ESI)  
1100 E. Laramie Dr. 1000,  
Windsor, CO 80550

217018-000  
C-002

GENERAL NOTES



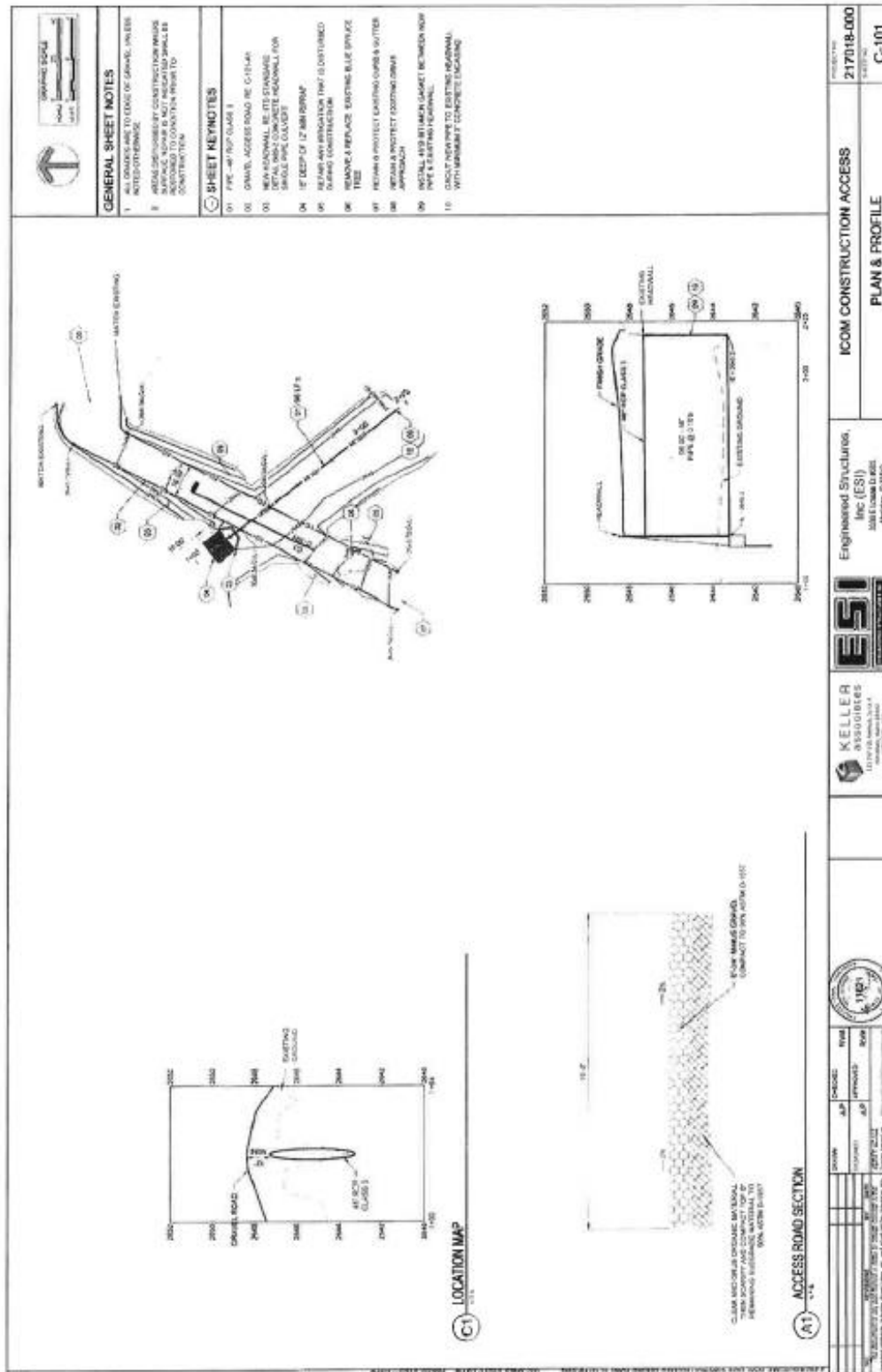


Exhibit B, page 3