

MEMORANDUM OF UNDERSTANDING FOR IFDDC PARKING PROGRAM BETWEEN
CITY OF IDAHO FALLS, IDAHO AND IDAHO FALLS DOWNTOWN DEVELOPMENT
CORPORATION

THIS MEMORANDUM OF UNDERSTANDING FOR IFDDC PARKING PROGRAM BETWEEN CITY OF IDAHO FALLS, IDAHO AND IDAHO FALLS DOWNTOWN DEVELOPMENT CORPORATION (hereinafter "MOU") is entered into this day _____ of _____, 2020, by and between City of Idaho Falls, Idaho, a municipal corporation of the State of Idaho, whose address is P.O. Box 50220, Idaho Falls, Idaho 83405 (hereinafter "CITY"), and the Idaho Falls Downtown Development Corporation, a 501(c)(3) Idaho non-profit corporation, 381 Shoup Ave., Ste. 207, Idaho Falls, Idaho, 83402 (hereinafter "IFDDC").

WHEREAS, the downtown area in Idaho Falls is a vital, vibrant, and important part of our community; and

WHEREAS, the commercial and business establishments in downtown thrive when there is efficient and effective and predictable parking usage; and

WHEREAS, CITY wishes to promote the downtown area and to explore a different way to manage the availability of on-street and off-street parking in the area depicted in Exhibit "A" incorporated in this MOU; and

WHEREAS, the Idaho Falls Downtown Development Corporation ("IFDDC") is dedicated to the improvement and sustaining of the downtown area for commercial, business, and residential purposes; and

WHEREAS, CITY and IFDDC are of the opinion that IFDDC has the proper interest, organization, and staffing to regulate on-street and off-street parking in the downtown area; and

WHEREAS, CITY and IFDDC desire to allow IFDDC to regulate downtown parking for the term of this MOU in order to have an effective downtown parking program.

THEREFORE, in consideration of the mutual promises below, CITY and IFDDC agree as follows:

1.0 IFDDC'S OBLIGATIONS

1.1 Scope of IFDDC's Authority

IFDDC shall administer permits and enforcement of IFDDC pilot parking program on CITY streets and public rights-of-way within the area in and around downtown Idaho Falls and as identified on the map incorporated into this MOU as Exhibit "A," including both sides of the streets that form

the borders of the area illustrated in Exhibit "A." Upon mutual written agreement, CITY and IFDDC may amend Exhibit "A."

1.2 IFDDC's Parking Regulations

IFDDC shall apply all relevant state and local on-street and off-street parking regulations on City streets and public right-of-ways in the downtown area, as identified on the map appropriated as Exhibit "A" through the term of this MOU. Such include parking regulations in Idaho Code Title 49 and Idaho Falls City Code (especially IFCC Title 9).

1.3 Dedicated CITY Streets

IFDDC acknowledges that this MOU is not intended to be construed in any way to void, limit, or restrict CITY's jurisdiction, control, or authority over dedicated CITY streets or public rights-of-way.

1.4 Collections and Use of Revenue

CITY agrees to pay IFDDC forty-five thousand dollars (\$45,000) per year, during the term of this MOU, for management and enforcement of on-street and off-street parking in the area illustrated in Exhibit "A." IFDDC shall collect revenues associated with regulation and enforcement of the IFDDC Parking Program, including collection of administrative fines and penalties related to enforcement as described in this MOU, on dedicated CITY streets, parking lots, and public rights-of-way in the area shown in Exhibit "A." IFDDC agrees that revenues generated from parking enforcement, encompassed by this MOU, shall be specifically accounted for and used exclusively on public transportation or maintenance and improvement of CITY streets, public rights-of-way, public parking facilities, and public property, as directed by CITY. In the event that IFDDC's costs exceed, forty-five thousand dollars (\$45,000), IFDDC may deduct reasonable costs directly attributable to enforcement or collection of parking revenue from the amount of revenue collected for and in behalf of CITY.

Nothing in this MOU precludes IFDDC from retaining monies collected in excess of IFDDC pilot program expenses as reserve funds for future downtown parking enhancements.

1.5 Parking and Traffic Control Signs

CITY shall install and maintain traffic and parking control devices on designated CITY streets and public rights-of-way described in accordance with the Manual on Uniform Traffic Control Devices and applicable State and local laws. CITY Director of Public Works shall approve regulatory traffic and parking devices on CITY streets and public rights-of-way before being posted by IFDDC. IFDDC shall correct any inadequate or improper signage or markings at the direction of CITY's Director of Public Works. Any additional signage requested by IFDDA related to this MOU shall be approved by CITY Director of Public Works.

1.6 Liability Coverage Provisions

CITY is a governmental entity subject to statutory and constitutional restrictions concerning the acceptance of liability. CITY's liabilities are further governed by the Idaho Tort Claims Act. It is

the intention of the Parties that each will be responsible for its own acts and omissions and those of its officers and employees acting within the course and scope of their employment and will not be responsible for the other Parties risks or liabilities.

1.6.1 Each Party to this MOU shall be responsible for the negligent acts or omissions of its own employees, officers, or agents in the performance of this MOU. Neither Party shall be considered the agent of the other and neither Party assumes any responsibility to the other Party for the consequences of any act or omission of any person, firm, or corporation not a party to this MOU.

1.6.2 Subject to the limits of CITY liability specified in Idaho Code Sections 6-901 through 6-929, known as the Idaho Tort Claims Act, IFDDC shall indemnify and hold CITY and its agents and assigns harmless from and/or against any and all claims, damages, and liabilities (including reasonable attorney's fees) that may be suffered or incurred and that arise as a direct result of and which are caused by IFDDC's performance under this MOU.

1.6.3 Indemnitee shall promptly notify the IFDDC of any such claim of which it has knowledge and shall cooperate fully with IFDDC or its representatives in the defense of the same, to the extent allowed by Idaho Code and Idaho County Risk Management Program (ICRMP).

1.6.4 IFDDC's shall maintain Automobile Insurance, Workmen's Compensation Insurance coverage, Employer's Liability, and Comprehensive General Liability Insurance coverage. The Comprehensive General Liability Insurance shall have a minimum limit of liability of one million dollars (\$1,000,000.00) Combined Single Limits. IFDDC shall provide to CITY, upon request, proof of insurance for any required coverage under this paragraph.

1.6.5 IFDDC shall indemnify, defend and hold CITY harmless from and against any and all claims, losses, damages, injuries, liabilities and all costs, including attorney's fees, court costs and expenses and liabilities incurred in or from any such claim, arising from any breach or default in the performance of any obligation on IFDDC's part to be performed under the terms of this MOU, or arising from any act, negligence or the failure to act of IFDDC, or any of its agents, subcontractors, employees, invitees or guests. IFDDC, upon notice from CITY, shall defend CITY at IFDDC's expense by counsel reasonably satisfactory to CITY. IFDDC, as a material part of the consideration of CITY, hereby waives all claims in respect thereof against CITY.

1.7 Reporting Obligations

1.7.1 Claim Reporting. IFDDC shall provide a report to CITY of any liability or negligence claim of which it has knowledge, and shall cooperate fully with CITY or its representatives in the defense of the same.

1.7.2 Activity Reporting. On or before June 1, 2021; IFDDC shall provide an annual report to CITY summarizing the following:

- a. number of parking permits sold for CITY streets and public rights-of-way;
- b. revenue from permits sold for CITY streets and public rights-of-way;
- c. revenue generated from collection of administrative fines and penalty tickets;
- d. locations and amount of each ticket for parking violations on CITY streets, public property, public parking lots, and public rights-of-way; and
- e. percentage of total IFDDC parking ticket revenue collected from tickets for CITY streets, public property, public parking lots, and public rights-of-way.

2.0 Grant of Authority

IFDDC employees are hereby granted the authority to issue permits and tickets or citations and to enforce CITY parking regulations on all CITY streets and public rights-of-way shown on Exhibit "A" in the manner as outlined in the Idaho Falls City Code.

3.0 GENERAL TERMS

3.1 Additional Acts

Except as otherwise provided herein, the Parties to this MOU shall perform, execute and/or deliver, or cause to be performed, executed and/or delivered, any and all such further acts and assurances as any Party to this MOU may reasonably require to execute the promises in this MOU.

3.2 Notices

Any notice under this MOU shall be in writing and be delivered in person or by public or private courier services (including U.S. Postal Service Express Mail), or certified mail with return receipt requested, or by facsimile. All notices shall be addressed to the Parties at the following addresses or at such other addresses as the Parties may from time to time direct in writing:

IFDDC: Executive Director
381 Shoup Avenue, Ste. 207
Idaho Falls, ID 83402

CITY: Director of Community Development Services Department
P.O. Box 50220
Idaho Falls, ID 83405
(208) 612-8256

3.3 Term

The term of this MOU shall commence on October 1, 2020, and shall end September 31, 2021. This MOU shall renew annually unless notification of termination is provided subject to paragraph 3.4, Termination.

3.4 Termination

Either Party may terminate this MOU by providing written notice six (6) months in advance of the proposed termination. Monies and resources paid to or collected by IFDDC shall be apportioned pro rata, at the termination of this MOU. IFDDC shall remit City a detailed accounting of amounts paid to IFDDC from City, IFDDC's costs directly incurred by IFDDC's parking management, amounts collected by IFDDC, and any money withheld by IFDDC for its costs or retained as reserve funds for future downtown parking enhancements.

3.5 Open Records and Retention

IFDDC agrees that all records created as part IFDDC's day-to-day business performance of this MOU shall be treated as public records, as that term is defined in Idaho Code Title 74 Chapter 1. All public records shall be subject to and disclosed pursuant to Title 74, Chapter 1, of the Idaho Code (the Idaho Public Records Act). In addition, IFDDC agrees to retain public records in accordance with Idaho Code § 50-907 and City's Retention Policy, Resolution No. 2016-22.

3.6 Modification

This MOU may be modified or amended by mutual agreement of the Parties. Such amendments shall not be binding unless they are in writing and signed by personnel authorized to bind each of the Parties.

3.7 Headings

The headings contained in this MOU are for reference purposes only and shall not in any way affect the meaning or interpretation hereof.

3.8 Entity Authority

Each individual executing this MOU on behalf of a Party hereto represents and warrants that he or she is duly authorized to execute and deliver this MOU on behalf of said Party in accordance with duly adopted organizational documents or agreement and, if appropriate, a Resolution of the Party, and that this MOU is binding upon said Party in accordance with its terms.



Kathy Hampton, City Clerk

CITY OF IDAHO FALLS

By: _____

Rebecca L. Noah Casper, Mayor

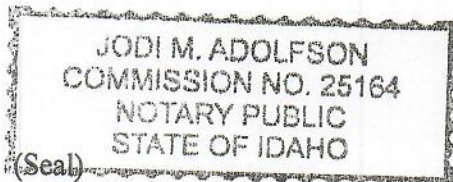
IFDDC

By: Catherine Smith
Catherine Smith

STATE OF IDAHO)
) ss.
County of Bonneville)

On the 10 day of SEPTEMBER, 2020, before me, the undersigned, a notary public for Idaho, personally appeared Rebecca L. Noah Casper, known to me to be the Mayor of the City of Idaho Falls, Idaho, the municipal corporation that executed the foregoing document, and acknowledged to me that he is authorized to execute the same for and on behalf of said City.

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

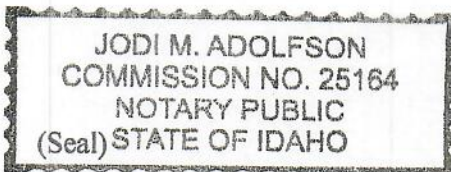


Jodi M. Adolfson
Notary Public for State of Idaho
Residing at Idaho Falls, Idaho
My Commission Expires: 5/20/2024

STATE OF IDAHO)
) ss.
County of Bonneville)

On the 15th day of September, 2020, before me, the undersigned, a notary public in and for said State, personally appeared Catherine Smith, known or identified to me to be the person whose name is subscribed to the within instrument and acknowledged to me that she 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.



Jodi M. Adolfson
Notary Public for State of Idaho
Residing at Idaho Falls, Idaho
My Commission Expires: 5/20/2024

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