

**MEMORANDUM OF AGREEMENT BETWEEN CITY OF MERIDIAN  
AND MERIDIAN DOWNTOWN BUSINESS ASSOCIATION FOR CONTRIBUTION TO  
TOUR BUDDY COMPUTER APPLICATION**

This MEMORANDUM OF AGREEMENT ("Agreement") is made this 23<sup>rd</sup> day of January, 2018 ("Effective Date"), by and between the City of Meridian's Historic Preservation Commission ("HPC"), on behalf of the City of Meridian, a municipal corporation organized under the laws of the State of Idaho ("City"), and Meridian Downtown Business Association ("MDBA"), an organized association of businesses primarily located in the downtown business district of the City of Meridian (collectively, "Parties").

**WHEREAS**, the Parties desire that a partnership be formed between the City, HPC, and the MDBA to create and supply for public use a Computer Application through the company Tour Buddy ("Tour Buddy App") to provide an historical walking tour experience with parallel marketing of MDBA member businesses;

**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. CITY'S RESPONSIBILITIES.**

- A. Tour Buddy App production.** Between the effective date of this Agreement and September 30, 2018, City agrees to provide MDBA with administrator access to Tour Buddy App to allow them to upload their content to the downtown business marketing component of the Tour Buddy App.
- B. Invoice MDBA.** City shall pay for all costs of constructing and release of the Tour Buddy App, including both the historical walking tour and downtown business marketing components, through September 30, 2017. Upon acceptance of this Agreement, City shall provide one (1) invoice to MDBA by March 1 of each year, in the amount of fifty percent (50%) of the annual maintenance fee for the continuation of Tour Buddy App. It is estimated that in March of 2018 such amount will be approximately five hundred dollars (\$500.00). City shall communicate to MDBA any increase in the cost of the maintenance prior to issuance of the annual invoice to MBDA by March 1 of each year.

**II. MDBA'S RESPONSIBILITIES.**

- A. Reimbursement.** Within thirty (30) days of receipt of City's invoice, MDBA shall provide payment to City in the amount invoiced, not to exceed fifty percent (50%), of the annual maintenance fee for the continuation of Tour Buddy App.
- B. Monitor content.** MDBA shall ensure that the content provided by MDBA and its members for the downtown business marketing component of the Tour Buddy App will not contain profane, obscene, indecent, violent, or pornographic content and/or language; content that promotes, fosters or perpetuates discrimination on the basis of race, creed, color, age, religion, gender, or national origin; defamatory or personal attacks; threats to any

person or organization; content that promotes, fosters or perpetuates conduct in violation of any federal, state or local law; content that encourages or incites illegal activity; information that may tend to compromise the safety or security of the public or public systems; or content that violates a known legal ownership interest, such as a copyright, of any party.

### **III. GENERAL TERMS.**

A. **Term.** It is acknowledged by the parties that the Tour Buddy App was launched in May 2017. This Agreement begins immediately upon execution and shall remain in effect through September 30, 2018. Subject to City's appropriation of funds, this Agreement shall automatically be renewed from year to year thereafter unless written notice of termination is given by either party to the other in the manner set forth herein.

B. **Ownership of Tour Buddy App and content.** The Tour Buddy App and all content provided by HPC for use in the historical walking tour component thereof shall be owned by the City. City has the right to continue or discontinue use and/or support of the historical walking tour component of the Tour Buddy App at its sole choosing, with or without the MDBA as a partner, in accordance with the termination clause below. The downtown business marketing component of the Tour Buddy App and all content provided by MDBA for use therein shall be owned by MDBA. MDBA has the right to continue or discontinue use and/or support of the historical walking tour component of the Tour Buddy App at its sole choosing, with or without the City as a partner, in accordance with the termination clause below. Each party agrees that it will modify, edit, remove, or replace only the content that appears in its respective component of the Tour Buddy App, and shall assume no responsibility for or association with the content appearing on the other's component. MDBA shall assume complete and sole responsibility for, and shall indemnify and save and hold harmless City from, any and all liabilities, losses, claims, actions, judgments for damages, expenses, or injury to any person or to property arising as a result of any infringement by MDBA or its members of or upon any intellectual property rights, whether intentional or unintentional, known or unknown, including any copyright, trademark, or patent, arising out of the reproduction or use in any manner of any images, designs, information, or other material created or used by MDBA or its members in the downtown business marketing component of the Tour Buddy App.

C. **Notice.** Notice required to be provided by either of the parties under this Agreement shall be in writing and be deemed communicated when mailed by United States Mail, addressed as follows:

City: City of Meridian	MDBA: Meridian Downtown Business Association
City Clerk	Nick Grove, Board President
Attn: Hillary Bodnar	PO Box 1393
33 E. Broadway Avenue	Meridian ID 83642
Meridian ID 83642	

Either party may change its address for the purpose of this paragraph by giving formal notice of such change to the other in the manner herein provided.

D. **Entire agreement; modification.** This Agreement embodies the entire agreement and understanding between the parties pertaining to the subject matter of this Agreement, and

supersedes all prior agreements, understandings, negotiations, representations, and discussions, whether verbal or written, of the parties pertaining to that subject matter. The Agreement may not be changed, amended, or superseded unless by means of writing executed by both Parties hereto.

- E. **Termination.** Either party may terminate this Agreement in whole, or in part, due to convenience, non-appropriation, or when either or both parties agree that the continuation of this Agreement is not in the parties' best interest, by providing thirty (30) days written notice. If MDBA is the terminating party, City shall be entitled to receive reimbursement for payments made for services provided to the date of termination. If City is the terminating party, MDBA shall be entitled to reimbursement of a negotiated pro-rata share of MDBA's contribution for any services that have not been provided at the time of termination.
- F. **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. The invalidity or unenforceability of any particular provision of this Agreement shall not affect the other provisions, and this Agreement shall be construed in all respects as if any invalid or unenforceable provision were omitted.
- G. **Applicable Law.** The Agreement shall be governed by the laws of the State of Idaho and jurisdiction for any disputes arising hereunder shall be in the Fourth Judicial District, Ada County, Idaho.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on this 23 day of JANUARY, 2018.

**MERIDIAN DOWNTOWN BUSINESS ASSOCIATION**

Nick Grove  
SIGNATURE

Nick Grove, President  
BY (PRINT NAME, TITLE)

**CITY OF MERIDIAN:**

Tammy de Weerd  
Tammy de Weerd, Mayor



Attest:

C. Jay Coles  
C. Jay Coles, City Clerk