

Administrative Committee



Regular Meeting ~Agenda~

www.ci.moscow.id.us

Laurie M. Hopkins
City Clerk

208-883-7015

Monday, August 9, 2021

4:00 PM

**Council Chambers
206 E. Third St.**

The Moscow Mayor, City Council and Staff welcome you to today's meeting. The meeting is open to the public but due to the continued presence of COVID-19 cases in our area, we encourage those that have not received the COVID-19 vaccination, to continue to keep 6-foot physical distance from non-household members and wear face coverings when distance is unable to be maintained. We appreciate and encourage public participation. For regular agenda items, an opportunity for public comment is sometimes provided after the staff report. However, the formality of procedures varies with the purpose and subject of the agenda item and limitations may be placed on the time allowed for comments. If you plan to address the Committee, you will find a list of "Tips for Addressing the Council" in the door pocket outside the City Council Chambers. Citizens wishing to comment on business on the agenda may also communicate with the City Council through email (council@ci.moscow.id.us). Please note that Council Committee meetings are televised, videotaped and/or recorded. The meeting is streamed on YouTube and Spectrum Cable 1301. A link to stream the meeting can be found on the City website (www.ci.moscow.id.us). Thank you for your interest in City government.

REGULAR AGENDA

- 1. Approval of July 26, 2021 Administrative Committee Minutes (ACTION ITEM) - Taylor Riedner**
- 2. Renewal of Intermodal Transit Center Lease with SMART Transit (ACTION ITEM) - Gary J. Riedner**

The City currently leases space in the Intermodal Transit Center to Regional Public Transportation (RPT) dba SMART Transit. The initial lease was executed on September 4, 2012, and the term was three years, expiring on September 30, 2015. In 2016, an amendment extended the term of the original lease for an additional five (5) years, expiring on September 20, 2020. Due to an oversight on the part of both the City and SMART, the lease was not renewed prior to expiration. SMART has been occupying the Intermodal Transit Center under the terms of the prior lease, pending the negotiation of a new lease. The attached lease has been updated and prepared by the City Attorney and reviewed by SMART Transit Executive Director Ben Aiman and the SMART Transit Board.

PROPOSED ACTIONS: Recommend approval of the Lease Agreement Between Regional Public Transportation (dba SMART Transit) and the City of Moscow, and approve of the Resolution authorizing said Lease, or provide staff further direction.

- 3. Open Container Ordinance Revisions for Downtown Events (ACTION ITEM) – Gary J. Riedner / Mia Bautista**

The City of Moscow has sponsored and approved community events such as Art Walk, and the Vandal Town Block Party, as well as the expansion of sidewalk cafés, and has approved events in downtown Moscow and in Moscow's parks where the City Council passed resolutions allowing for the vending and responsible consumption of beer and/or wine under certain conditions during an event. As the City Council wants to foster a vibrant downtown community atmosphere, and encourage and promote downtown businesses to collaborate in making these events successful, staff has been requested to review the process for the creation of an Entertainment District. Within the Entertainment District,

community events could be held, and upon adoption of a resolution of the City Council, the sale and responsible consumption of beer and wine could occur. In order to allow the consumption of beer and wine outside of sidewalk cafés or a beer garden, the City would have to create an exemption to Moscow City Code 10-1-12, commonly known as the "open container" ordinance, which prohibits the possession of alcoholic beverages while present in a public place or a place where the public has permitted access, including public streets and/or public rights-of-way in the City except in accordance with specific regulations adopted by the Council by Resolution.

The attached draft Ordinance contains necessary revisions to the Moscow City Code to allow the creation of an Entertainment District to be defined by the map attached to the draft Ordinance and to allow the inclusion of the Entertainment District as an additional exemption to the open container prohibition.

PROPOSED ACTIONS: Recommend adoption of the Ordinance creating the Entertainment District and including the Entertainment District as an additional exemption to the open container prohibition, or provide staff further direction.

REPORTS

Staff Report (if needed)

ADJOURN

NOTICE: Moscow City Council and committee meetings are televised, videotaped and/or recorded. Individuals attending the meeting who require special assistance to accommodate physical, hearing, or other impairments, please contact the City Clerk, at (208) 883-7015 or TDD 883-7019, as soon as possible so that arrangements may be made.

Administrative Committee



Regular Meeting ~Minutes~

Laurie M. Hopkins
City Clerk

www.ci.moscow.id.us

208.883.7015

Monday, July 26, 2021

4:00 PM

**Council Chambers
206 E. Third St.**

REGULAR AGENDA

PRESENT: Maureen Laflin, Gina Taruscio, Sandra Kelly

OTHERS: Mayor Bill Lambert, Council Member Art Bettge

STAFF: Gary Riedner, David Schott, Tyler Palmer, Bill Belknap, Jen Pfiffner, Mia Bautista

1. Approval of July 12, 2021 Administrative Committee Minutes (ACTION ITEM) - Taylor Riedner

The minutes were approved as presented.

2. Personnel Policy Updates, Discipline, Grievance, Name Clearing Sections (ACTION ITEM) - Jen Pfiffner

Updates to the City of Moscow Personnel Policies continue. Discipline, Grievance, Name Clearing Sections include updates to current policies and a new proposed policy. Updates to language throughout are included in the presented drafts. A new proposed Name Clearing Policy is also included for consideration.

Policy sections will continue to be presented for review. As policies are approved they will be compiled into an updated document to be implemented at one time. Timeline for completion for all policies to be updated, reviewed and approved is estimated to be completed by September 2021.

PROPOSED ACTIONS: Recommend approval of the proposed personnel policy or provide staff further direction.

Pfiffner introduced the item by reviewing changes made in two existing policies and reviewed a new policy. The Discipline and Grievance Policies are pre-existing, and Name Clearing is the new policy. The Discipline and Grievance Policies now include forms to provide consistency, guidance, and better recording practices. Changes to the Discipline Policy include an updated description of the progressive disciplinary process. In every disciplinary instance, the City does its best to support and assist the employee with meeting expectations. Employees have access to these records in their personnel files and are considered during the AMPS process. All City employees receive an introductory period of six months when they start a new job, are transferred, or receive a promotion. During this time, an employee may not apply for any other position or transfer. The same applies if an employee is on a performance improvement plan through AMPS.

The Grievance Policy assists in any harassment, discrimination, safety, and any other instance the employee feels they are not being treated fairly. The City will typically perform an investigation to determine the root cause. An investigation may not occur with every instance if there is another way to resolve the issue, such as counseling. Employees also can reach out to sources outside of their department and utilize the forms available to express their grievances. In extreme situations, the City will outsource legal advice to take action in protecting the employee.

The new Name Clearing policy also referred to as Opportunity To Be Heard, is a recommendation by ICRMP and allows individuals to be fully transparent. This practice is used in instances where an employee felt discrimination which ended in termination or demotion. These discussions would be held directly with the City Supervisor and HR Manager. Many states are beginning to adopt the Name Clearing process.

These policies start with a draft from HR followed by a review from the Risk Management Team, City Supervisor, Employee Advisory Committee, and the Legal department. Discussion ensued regarding placement on the Council agenda. With no recommendation, the Committee placed the item on Council consent agenda.

3. ~~Beer/Wine Garden request for Grace Agenda Block Party (ACTION ITEM) - Amanda Argona~~

~~The Grace Agenda Block Party is requesting alcohol use for a Beer/Wine Garden as part of their community event on Saturday, August 14. The applicant has submitted all required paperwork and the event has been reviewed and approved by City staff. In accordance with alcohol use requests in the Downtown Central Business Zoning District, a Resolution has been drafted to allow for a Beer/Wine Garden with the Permitted Event.~~

~~**PROPOSED ACTIONS:** Recommend approval of the Resolution permitting a Beer/Wine Garden for Grace Agenda Block Party, or provide staff further direction.~~

Item removed and application withdrawn.

REPORTS

Water Conservation and Parks Irrigation - David Schott

Schott shared the proposed Strategic Irrigation Program regarding water conservation, specifically through irrigation systems in parks. Total water usage has seen a reduction in 2017 even though acreage has been added since then. The parks crew has improved efficiencies through training that the City has invested in. However, the City's water supply is declining at an unstable rate. The staff has reviewed places throughout the City where water usage could be reduced. The proposed areas include 8th St Reservoir, Virginia Triangle, WRRF, Milton Arthur Park, Alturas Park, Vista Park, south triangle zone of Ghormley Park, the south lower section of Anderson Frontier Park, Fire Station 2, and the Bridge Street Property. By reducing the watering in these areas from 1.5 inches per week to .5 inches every two weeks, the City will save nearly 27,000 gallons of water over a span of 23 weeks. These locations were classified as Tier 1 based on amenities, trees, shelters, and playgrounds. Tier 2 parks include typical parks with playgrounds and shelters. Tier 3 has athletic fields, high-use areas, new parks, and areas of high visibility. Irrigation to these parks will not be shut off. Tiers 2 and 3 will not be included in this program. Instead, the amount of water used in these areas to keep the turf dormant and still stay alive. Spokane is also providing the same program to lead their citizens by the example of "goldening." The City is also looking at ways to encourage citizens of "goldening" their lawns to help reduce water usage.

Staff Report (if needed)

ADJOURN

The meeting adjourned at 4:43 p.m.

COMMITTEE STAFF REPORT

DATE: Monday, August 9, 2021



RESPONSIBLE STAFF

Gary Riedner, City Supervisor

ADDITIONAL PRESENTER(S)

OTHER RESOURCES

AGENDA ITEM TITLE

Renewal of Intermodal Transit Center Lease with SMART Transit (ACTION ITEM) - Gary J. Riedner

DESCRIPTION

The City currently leases space in the Intermodal Transit Center to Regional Public Transportation (RPT) dba SMART Transit. The initial lease was executed on September 4, 2012, and the term was three years, expiring on September 30, 2015. In 2016, an amendment extended the term of the original lease for an additional five (5) years, expiring on September 20, 2020. Due to an oversight on the part of both the City and SMART, the lease was not renewed prior to expiration. SMART has been occupying the Intermodal Transit Center under the terms of the prior lease, pending the negotiation of a new lease. The attached lease has been updated and prepared by the City Attorney and reviewed by SMART Transit Executive Director Ben Aiman and the SMART Transit Board.

STAFF RECOMMENDATION

Recommend approval of the Lease Agreement Between Regional Public Transportation (dba SMART Transit) and the City of Moscow.

PROPOSED ACTIONS

PROPOSED ACTIONS: Recommend approval of the Lease Agreement Between Regional Public Transportation (dba SMART Transit) and the City of Moscow, and approve of the Resolution authorizing said Lease, or provide staff further direction.

FISCAL IMPACT

PERSONNEL IMPACT

ATTACHMENTS

1. 2021 Draft ITC Agreement_CLEAN
2. Resolution 2021- ITC Lease

INTERMODAL TRANSIT CENTER FACILITY LEASE AGREEMENT
BETWEEN REGIONAL PUBLIC TRANSPORTATION, INC. (dba SMART)
AND CITY OF MOSCOW, IDAHO

THIS INTERMODAL TRANSIT CENTER FACILITY LEASE AGREEMENT BETWEEN REGIONAL PUBLIC TRANSPORTATION, INC. (dba SMART) AND CITY OF MOSCOW, IDAHO (hereinafter "Facility Lease") is entered into as of the ____ day of _____ 2021 by and between Regional Public Transportation, Inc., a Corporation of the State of Idaho, 1006 Railroad, Moscow, Idaho 83843 ("RPT") and the City of Moscow, Idaho, a municipal corporation of the State of Idaho, 206 East Third Street, Moscow, Idaho 83843 ("CITY").

I. BASIC PROVISIONS.

The following basic provisions are a part of this Facility Lease:

A. Lessee. Regional Public Transportation, Inc. (RPT) is the LESSEE. RPT's current mailing address is PO Box 3854, Moscow, Idaho 83843.

B. Lessor. City of Moscow is the LESSOR. CITY's current mailing address is P O Box 9203, Moscow, Idaho, 83843.

C. Leased Premises, Common Space, and Exterior Common Space. The leased premises are a portion of the Moscow Intermodal Transit Center ("ITC Facility") located at 1006 Railroad Street, Moscow, Idaho and comprise approximately one thousand five hundred fifty two (1,552) square feet of space exclusively provided to RPT under the terms of this Facility Lease ("Premises") and shared use of approximately two thousand one hundred seventy seven (2,177) additional square feet to be used for public waiting areas, restrooms, hallways and building systems ("Common Space"), as well as exterior public transportation facilities which includes passenger boarding platforms, seven (7) employee parking spaces, eight (8) bus parking spaces and associated walking areas and vehicular access routes ("Exterior Common Space"), all as shown on the attached Exhibit "A", incorporated herein.

D. Permitted Use. The use of Premises by RPT permitted under this Facility Lease shall be limited to dedicated office and storage space and external parking space for the purposes of operating RPT's public transportation services, and Common Space to provide public waiting areas, restrooms, hallways and building systems associated with RPT's uses.

E. Initial Term and Commencement Date. This Facility Lease shall commence upon October 1, 2020 (the "Commencement Date") and shall end on September 30, 2025 ("Initial Term").

F. Rent. CITY shall provide Premises and associated Common Space with the payment of rent as specified herein. RPT shall pay CITY the monthly amounts as detailed in Section IV of this Facility Lease.

II. GRANT OF PREMISES AND POSSESSION.

A. Grant of Premises. CITY leases to RPT and RPT leases from CITY the Premises subject to the terms and conditions of this Facility Lease.

B. Possession. CITY shall deliver possession of the Premises (including the rights, privileges, benefits, rights-of-way and easements now or in the future appurtenant to the Premises) to RPT on the Commencement Date. During the Initial Term, CITY covenants on behalf of itself and its respective successors and assigns to provide quiet and peaceable possession of the Premises to RPT, subject to the express provisions of this Facility Lease.

III. INITIAL TERM AND RENEWAL TERM.

This Facility Lease shall commence upon October 1, 2020 and shall terminate upon September 30, 2025. Six (6) months prior to the termination of this Facility Lease, CITY shall notify RPT of the forthcoming termination of this Facility Lease and shall request written notice of RPT's intent to extend the term of this Facility Lease for an additional five (5) year period from the date of termination of the Initial Term. Such extended term shall be referred to as the "Renewal Term" and all relevant provisions of the Initial Term shall be in force and effect for such Renewal Term.

In the case where the term of this Facility Lease has expired and the CITY has failed to provide notice as required by the preceding paragraph, this Facility Lease shall be deemed renewed for a period of one (1) year from the date of expiration of this Facility Lease, and RPT shall be allowed to remain in possession of the Premises until September 30th of the year following the expiration.

IV. PAYMENT OF OPERATING AND FACILITY COSTS.

A. Rent. RPT agrees to pay CITY, rent in the amount of one thousand four hundred seventy-four dollars and thirty cents (\$1,474.30) per month. The rent amount shall be increased annually in the amount equal to the average of the preceding three (3) years value for the month of March of the Consumer Price Index for All Urban Consumers (CPI-U): West Side B/C. This annual rate increase shall be effective upon October 1st of each year of the Initial Term for the following twelve (12) month period, to account for increased cost for janitorial, utility and building maintenance services and supplies incurred by CITY. If said Consumer Price Index is replaced by a new federal statistic, said new statistic shall be used in determining rental adjustments. This rent adjustment method shall continue through the Renewal Term.

B. Date and Form of Payments. Rent payments shall be paid monthly and shall be due by the 20th day of each month. All payments shall be made payable to "City of Moscow", and mailed to the attention of "Finance Department, PO Box 9203, Moscow, Idaho, 83843" or such different address or person as CITY shall provide to RPT by written notice.

V. OPERATION OF PREMISES.

A. RPT's Use of Premises. The Premises shall be occupied and used by RPT only for

the Permitted Use and for no other purpose. RPT shall not commit waste on or in the Premises, Common Space or Exterior Common Space, or disfigure or deface any part of the building, grounds, or any other part or portion of the Premises, including fixtures, carpeting, or wall coverings (painted surfaces of the Premises). RPT further covenants that it will repair and maintain the furnishings, fixtures and equipment exclusively occurring within the Premises (but not including components, systems, and equipment that serve the overall ITC Facility, such as portions of mechanical, electrical and plumbing systems that serve the ITC Facility outside the Premises) at RPT's effort and expense throughout the Initial Term.

B. CITY's Obligations.

1. CITY shall provide repair, maintenance, and replacement materials and services to ITC Facility, Common Space and Exterior Common Space. CITY is not obligated or authorized to perform such work on or within the Premises, except by separate written agreement with RPT describing scope and cost assignment (if agreed upon by both parties to this Facility Lease).

2. CITY shall provide telecommunications services to RPT including the provision of local telephone service, telephone devices, telephone support services, and internet services. RPT shall be responsible for long distance calling charges for which CITY shall bill RPT on a monthly basis for actual long-distance calling costs incurred by RPT.

C. Utilities and Custodial Services. CITY shall be responsible for and shall promptly pay all charges to provider, when due, for water, natural gas, electricity, sanitation collection and disposal, custodial or other service (excluding television services) if used upon or furnished to the Premises or Common Space or Exterior Common Space. Unless caused by the negligent or intentional acts or omissions of CITY or its representatives, CITY shall not be liable in damages or otherwise for any failure or interruption of (i) any utility service being furnished to the Premises; or (ii) the heating, ventilating and air conditioning system. No such failure or interruption, whether resulting from a casualty or otherwise, shall entitle RPT to abate the payments RPT is required to make under this Facility Lease.

D. CITY shall be responsible for snow removal from sidewalks surrounding the ITC Facility, see Exhibit "B", in an as needed basis.

E. Sign. No permanent signs affixed to the Premises shall be installed, replaced or improved by RPT without CITY's prior written consent. All such installation, replacement, improvement or maintenance of signs shall be at RPT's sole expense.

F. Modification to Premises by RPT. RPT shall neither make nor undertake any modification or improvement to the Premises unless -CITY has given its prior written consent, which consent may be withheld, delayed or conditioned as CITY may elect in CITY's discretion. Such modification of the Premises shall comply with all of the following requirements:

1. RPT shall supply CITY with a complete set of construction drawings for CITY's review and approval at least sixty (60) days prior to RPT's proposed commencement of any construction work; and

2. RPT may perform construction as provided by Section V.E. or RPT shall retain a licensed and bonded contractor, approved in writing by CITY, to perform any construction work (for alterations, repair of fire or casualty, or other construction). The contractor shall carry public liability and property damage insurance, standard fire and extended coverage insurance, with vandalism and malicious mischief endorsements, during the period of construction.

G. Hazardous Material Use. RPT and CITY shall not cause or permit any Hazardous Material to be brought upon, kept, used, disposed, or discharged, in, on, from or about the Premises, Common Space, or Exterior Common Space by their agents, employees, contractors, customers, clients, guests or invitees except for typical motor vehicle fluids necessary for daily public transit vehicle operation and maintenance as incidental to RPT's permitted use of the Premises or CITY's maintenance, repair or other obligations for the Premises, and only in quantities that are less than the quantities that are required to be reported to governmental or other authorities under applicable law or regulations. RPT and CITY shall comply with all applicable laws and regulations regulating the use, reporting, storage, discharge and disposal of Hazardous Material. As used in this Facility Lease, the term "Hazardous Material" means any hazardous or toxic substance, material or waste that is or becomes regulated by any federal, state or local governmental authority or political subdivision. The term "Hazardous Material" includes, without limitation, any material or substance that is (i) defined as a "hazardous substance" under applicable law; (ii) petroleum; (iii) asbestos; (iv) polychlorinated biphenyl ("PCB"); (v) designated as a "hazardous substance" pursuant to Section 311 of the Federal Water Pollution Control Act (33 U.S.C. § 1321); (vi) defined as a "hazardous waste" pursuant to Section 1004 of the Solid Waste Disposal Act (42 U.S.C. § 6903); (vii) defined as a "hazardous substance" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. § 9601); (viii) defined as a "regulated substance" pursuant to Section 9001 of the Solid Waste Disposal Act (Regulation of Underground Storage Tanks), 42 U.S.C. § 6991; (ix) considered a "hazardous chemical substance and mixture" pursuant to Section 6 of the Toxic Substance Control Act (15 U.S.C. § 2605); or (x) defined as a "pesticide" pursuant to Section 2 of the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. § 136).

H. Covenant Against Liens. RPT shall not directly or indirectly create or cause to be created or to remain, and shall promptly discharge, at RPT's sole expense, any mechanics' lien or similar lien against the Premises which RPT created or caused to be created by RPT's work on the Premises. RPT has no authority or power to cause or permit any mechanics' lien or similar lien created by act of RPT, operation of laws, or otherwise to attach to or be placed upon CITY's title or interest in the Premises. Any lien against RPT shall attach only to RPT's leasehold interest in the Premises. RPT may contest, at RPT's sole expense, any lien, and the lien may remain, pending resolution of the challenge. RPT shall indemnify and hold CITY harmless from any and all loss, damage or expense occasioned by the lien challenge and shall provide such security as CITY may reasonably demand. If the lien is adjudged to be valid, the challenging party shall promptly pay and discharge the lien. CITY will not directly or indirectly create or cause to be created or to remain, and will promptly discharge, at CITY's sole expense, any mechanics' lien or similar lien against the Premises which CITY created or caused to be created by CITY's work on the Premises.

I. CITY's Right of Entry. After providing written notice to RPT not less than twenty-four (24) hours prior to an intended entry or with RPT's verbal consent, CITY and CITY's agents may enter the Premises to inspect the general condition and state of repair of the Premises. CITY's entry may be supervised by RPT. In the event of an emergency arising within the Premises that endangers property or persons, the notice requirement is waived by RPT.

VI. CHANGES IN THE PARTIES.

A. Relationship of Parties. Nothing contained in this Facility Lease shall be construed as creating the relationship of principal or agent, partnership or joint venture. Neither the assignment of rent nor any other provision of this Facility Lease, nor any act of the parties, shall be deemed to create any relationship other than that of CITY and RPT.

B. Successors and Assigns. This Facility Lease shall benefit and bind the successors and permitted assigns of CITY and RPT.

C. Prohibition on RPT Assignment. RPT may not assign all or a part of this Facility Lease unless RPT first obtains the written consent of CITY.

VII. LOSS AND DAMAGE TO PREMISES.

A. RPT's Possession at Own Risk. RPT covenants and agrees that neither CITY nor its agents shall be liable in any way for personal injuries or property damages sustained by RPT, its employees, visitors, or by any occupant of the Premises, or by any other persons or organizations claiming through RPT, resulting from the condition, state of repair, or use of the Premises, Common Space or Exterior Common Space, or any part thereof, or of any equipment therein or appurtenances thereto, or resulting directly or indirectly from any act or negligence of RPT or of any other person or persons excepting the CITY or its agent. Neither CITY nor its agents shall be liable for damage to RPT's personal property or for any loss suffered by RPT caused in any manner whatsoever.

B. Insurance. CITY shall insure the ITC Facility, including the Premises, Common Space and Exterior Common Space through CITY's policy with the Idaho Counties Risk Management Program (ICRMP) in the same or substantially similar fashion as CITY insures its other buildings. RPT shall have no obligation to obtain or pay for such insurance.

C. RPT's Insurance. No insurance is provided by CITY for RPT's personal property or for RPT's permitted business operations. RPT shall insure and be solely responsible for any and all lines of insurance coverage for business operations, and for personal property, of every kind or nature, which is not part of the Premises. RPT shall, at RPT's sole cost and expense, either obtain the insurance RPT and CITY deem advisable, or shall be deemed to be self-insured. RPT waives all rights on any insurance purchased by, or risk funding arrangements of, CITY.

D. Effect of One Party's Actions on Other Party's Insurance. Neither party shall do or permit to be done anything that shall invalidate any insurance carried by the other party.

E. Damage or Destruction of Premises. In the event of damage to, or destruction of the improvements to the Premises by fire or other casualty, CITY shall either (a) promptly repair such damage or cause such damage to be repaired, in which event the Facility Lease shall continue in full force and effect, or, if agreeable to RPT (b) terminate the Facility Lease upon written concurrence from RPT within ninety (90) days of the damage. In the event the damage is caused by the negligence or willful act or omission of the RPT, RPT shall be obligated to provide insurance proceeds to the extent such proceeds are available to repair, restore or rebuild and RPT shall deliver all insurance proceeds and/or assign any causes of action it may possess against any person or entity to CITY. If RPT elects to proceed under subsection (a) above, during the period of damage, distribution, repair, restoration or rebuilding, this Facility Lease shall remain in effect.

VIII. DEFAULT BY RPT OR CITY.

A. Default by RPT. RPT shall be in default under this Facility Lease if any of the following occur: (i) RPT fails to pay when due any payment required to be paid by RPT under this Facility Lease; (ii) RPT fails to perform or observe any other covenant, agreement or condition which RPT is required to perform or observe and the failure shall not be cured within thirty (30) calendar days after delivery of written notice to RPT of the failure (or, if the cure cannot be effected within the thirty (30) day period, then within the additional period of time as may be required to cure the default provided RPT is diligently and continuously pursuing the cure to completion).

B. Remedies of CITY. In the event of RPT's default as set forth in Section VIII.A., CITY shall have the remedies set forth in this Facility Lease by the giving of prior written notice to RPT at any time during the continuance of the event of default. CITY's remedies are cumulative and not alternative remedies.

1. Legal and Equitable Remedies. CITY shall have all remedies available at law or in equity.

2. Termination of Lease. In the event of a RPT default, in addition to all other rights and remedies available to CITY in law and equity, CITY may (i) change the locks and lock the doors to the Premises and exclude RPT from the Premises; (ii) enter the Premises and remove all persons and property therefrom without being liable for prosecution or any claim for damages for the removal; (iii) declare the Facility Lease terminated; (iv) commence litigation for any amounts due CITY and to become due under the Facility Lease, and for any damages sustained by CITY; or (v) hold RPT liable for the reasonable cost of obtaining possession of the Premises.

3. Advance. In the event of RPT's default, CITY may remedy the default for the account and at the expense of RPT. If CITY at any time, by reason of the default, is compelled to pay, or elects to pay, any money or do any act which will require the payment of any money, or is compelled to incur any expense, including attorneys' fees, in instituting or prosecuting any action or proceeding to enforce CITY's rights under this Facility Lease, the money paid by

CITY, with interest from the date of payment, shall be additional rent and shall be due from RPT to CITY as rent.

C. Default by CITY. CITY shall be in default under this Facility Lease if CITY fails to perform or observe any covenant, agreement or condition which CITY is required to perform or observe and the failure shall not be cured within sixty (60) calendar days after delivery of written notice to CITY by RPT of the failure (or, if the cure cannot be effected within the sixty (60) day period, then within the additional period of time as may be required to cure the default provided CITY is diligently and continuously pursuing the cure to completion).

D. Remedies of RPT. In the event of CITY's default as set forth in Section VIII.C., RPT shall have all rights provided at law or in equity, except RPT expressly waives any right to the abatement or withholding of Operating or Facility Costs payable to CITY under this Facility Lease (because such costs represent reimbursement for actual costs incurred by CITY for services and material provided to RPT). RPT's obligation to pay Operating and Facility Costs is independent of all other rights, and RPT may not withhold payment of such costs from CITY or pay to other parties or into any escrow or holding account because of the default or alleged default of CITY.

IX. TERMINATION OF FACILITY LEASE.

A. Events of Termination. This Facility Lease shall terminate upon the occurrence of one (1) or more of the following events: (i) by mutual written agreement of CITY and RPT; (ii) by CITY pursuant to the express provisions of this Facility Lease; (iii) upon expiration of the Initial Term or Renewal Term; (iv) by reason of Section VII.F. relating to destruction of the Premises; or (v) RPT may unilaterally terminate this Facility Lease by notifying CITY of early termination in writing not less than six (6) months prior to the noticed early termination date.

B. Surrender of Possession. In the event of early termination resulting from default by RPT, RPT will immediately surrender possession of the Premises to CITY. If possession is not immediately surrendered, CITY may, in compliance with the laws of the State of Idaho, re-enter and repossess the Premises and remove all persons or property. RPT shall restore the Premises to a broom clean and functional condition, with the exception of (i) ordinary wear and tear; and (ii) alterations, improvements and additions which CITY approved in writing prior to installation and which CITY has not directed RPT in writing to remove. If RPT fails to properly restore the Premises, CITY, at RPT's expense, may restore the Premises in any reasonable manner that CITY may choose. In the event of termination for any other reason, RPT shall have no obligation to surrender Premises.

X. CLAIMS AND DISPUTES.

A. Rights and Remedies Cumulative. Except as expressly provided in this Facility Lease, each party's rights and remedies described in this Facility Lease are cumulative and not alternative remedies.

B. Nonwaiver of Remedies. A waiver of any condition stated in this Facility Lease shall

not be implied by any neglect of a party to enforce any remedy available by reason of the failure to observe or perform the condition. A waiver by a party shall not affect any condition other than the one specified in the waiver and a waiver shall waive a specified condition only for the time and in the manner specifically stated in the waiver. The acceptance by CITY of payment previously due from RPT after termination of the Facility Lease or after termination of RPT's right of possession, shall not alter, diminish, affect or waive the Facility Lease termination, termination of possession, default or remedy.

C. Indemnification and Insurance. CITY is considered a Governmental entity under the Idaho Tort Claims Act (Idaho Code §§ 6-901 through 6-929). CITY's liability coverage is provided through Idaho Counties Risk Management Program (ICRMP). Limits of liability, CITY's indemnification hereunder, with respect to claims covered by the Idaho Tort Claims Act, are five hundred thousand dollars (\$500,000) Combined Single Limits, which amount is CITY's limit of liability under the Idaho Tort Claims Act. Nothing in this Facility Lease shall be construed to expand the liability of CITY beyond the limit of liability under the Idaho Tort Claims Act for any claims covered by such Act.

1. Indemnification between CITY and RPT:

- a. Unless otherwise determined by a condition of Federal Transit Administration Tiger II Grant No. ID-79-0001 Key No. 12905, CITY waives any and all claims and recourse against RPT, 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 RPT's performance hereunder, except for liability arising out of the sole negligence of RPT or its officers, agents, or employees. RPT shall indemnify, hold harmless, and defend CITY against any and all claims, demands, damages, costs, expenses, or liability arising out of RPT's performance of this Facility Lease, except for liability arising out of the sole negligence of CITY or its officers, agents, or employees.

If CITY is determined to be solely negligent by a final decision in a court of law and such sole negligence by CITY directly results in judgment(s), costs, and/or expenses to RPT, then CITY shall reimburse RPT for the portion of such judgment(s), costs and/or expenses attributed to CITY as a result of such determination of CITY's sole negligence.

- b. Unless otherwise required by a condition of Federal Transit Administration Tiger II Grant No. ID-79-0001 Key No. 12905, RPT 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 CITY's performance hereunder, except for liability arising out of the sole negligence of CITY or its officers, agents, or employees. Further, subject to the limits of liability specified in Idaho Code §§ 6-901 through 6-929, known as the Idaho Tort Claims Act, CITY shall indemnify, hold harmless, and defend RPT against any and all claims, demands, damages, costs, expenses, or liability arising out of CITY's performance of this Facility Lease,

except for liability arising out of the sole negligence of RPT or its officers, agents, or employees.

If RPT is determined to be solely negligent by a final decision in a court of law and such sole negligence by RPT directly results in judgment(s), costs, and/or expenses to CITY, then RPT shall reimburse CITY for the portion of such judgment(s), costs and/or expenses attributed to RPT as a result of such determination of RPT's sole negligence.

2. Insurance Requirements for RPT. RPT shall obtain or require subtenants or contractors to obtain insurance of the types and in the amounts described below:

- a. Commercial General and Umbrella Liability Insurance. RPT (or subtenant and/or contractor) shall maintain Commercial General Liability (CGL) and, if necessary, commercial umbrella insurance with a limit of not less than \$1,000,000 each occurrence and in the aggregate. If such CGL insurance contains a general aggregate limit, it shall apply separately to the Premises and shall not be less than \$1,000,000. CGL insurance shall be written on standard ISO occurrence form (or a substitute form providing equivalent coverage) and shall cover liability arising from Premises, operations, independent contractors, products-completed operations, personal injury and advertising injury, and liability assumed under an insured contract including the tort liability of another assumed in a business contract. CITY shall be named as an Additional Insured. Commercial Auto Insurance. RPT (or subtenant and/or contractor) shall maintain a Commercial Auto policy with a Combined Single Limit of \$1,000,000; Underinsured and Uninsured Motorists limit of \$1,000,000; Comprehensive; Collision; and a Medical Payments limit of \$5,000. Coverage shall include Non-Owned and Hired Car coverage. CITY shall be named as an Additional Insured.
- b. Personal property. RPT (or subtenant and/or contractor) shall purchase insurance to cover RPT's (or subtenant's or contractor's) personal property. In no event shall CITY be liable for any damage to or loss of personal property sustained by RPT (or subtenant and/or contractor), whether or not insured, even if such loss is caused by the negligence of RPT, its employees, officers or agents.
- c. Workers' Compensation. Where required by law, RPT (or subtenant and/or contractor) shall maintain all statutorily required coverages including Employer's Liability. Notification. CITY and RPT shall promptly notify the other party of any claim arising under, or otherwise related to, the provisions hereof. CITY and RPT shall cooperate with the other party in defense of such claims.
- d. RPT shall provide a Certificate of Insurance for the Insurance Requirements of this Facility Lease, evidencing coverage pursuant to this Facility Lease. Notice of claim or incident shall be given to the

representative for the party by the party receiving such claim or incident.

3. Insurance by Third Parties.

During the Initial Term (and any Renewal Term) of this Facility Lease, subtenants or contractors of RPT shall be required to carry the types and limits of insurance shown in this Facility Lease Section C. Indemnification and Insurance, and to provide CITY with a Certificate of Insurance showing compliance thereto. At any time, CITY reserves the right to amend insurance requirements or require a security bond, if circumstances warrant such action. Additionally, and at its sole option, CITY may request certified copies of required policies and endorsements of RPT's subtenants and/or contractors. Such copies shall be provided within ten (10) days of CITY's request. All insurers shall have a Best's rating of AV or better and be licensed and admitted in Idaho. RPT shall furnish CITY with a certificate of insurance executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements set forth below. All policies required shall be written as primary policies and not contributing to nor in excess of any coverage CITY choose to maintain. All certificates shall provide for thirty (30) days' written notice to CITY prior to cancellation or material change of any insurance referred to therein. All policies shall contain waiver of subrogation coverage or endorsements, and shall list CITY as an additional insured.

Failure of CITY to demand such certificate or other evidence of full compliance with these insurance requirements or failure of CITY to identify a deficiency from evidence that is provided shall not be construed as a waiver of RPT's obligation to maintain such insurance. Failure to maintain the required insurance may result in termination of this Facility Lease at CITY's option. By requiring insurance herein, CITY does not represent that coverage and limits will necessarily be adequate to protect RPT, and such coverage and limits shall not be deemed as a limitation on RPT's liability under the indemnities granted to CITY in this Facility Lease. RPT shall require any subtenants or contractors to comply with the insurance provisions of this Facility Lease. In the event RPT is not occupying space and is enforcing the subtenant's compliance with these insurance provisions, RPT shall not be responsible, as a requirement of this Facility Lease, to maintain the specific insurance required for subtenants and contractors of this Facility Lease.

D. Hazardous Material Indemnification

1. By CITY. During and after the Initial Term of this Facility Lease, CITY shall indemnify and hold RPT harmless from any and all costs (including costs of remediation or cleanup and any proceedings related thereto), claims, judgments, damages, penalties, fines, liabilities or losses (including, without limitation, diminution in value of the Premises, damages for the loss or restriction on use of rentable or useable space or any amenity of the Premises, damages arising from any adverse impact on marketing of space, and sums paid in settlement of claims, attorneys' fees, consultant fees and expert fees) which arise during or after the Initial Term as a result of CITY's breach of the obligations stated in Section V.F. regarding Hazardous Material. This indemnification of RPT by CITY includes, without limitation, costs incurred in connection with any investigation of

site conditions or any cleanup, remedial, removal, or restoration work required by any federal, state, or local governmental agency or political subdivision because of Hazardous Material present in the soil or ground water on or under the Premises. Without limiting the preceding, if the presence of any Hazardous Material on the Premises caused or permitted by CITY results in any contamination of the Premises, CITY shall promptly take all actions at CITY's sole expense as are necessary to return the Premises to the condition existing prior to the introduction of any Hazardous Material to the Premises.

2. By RPT. During and after the Term of this Facility Lease, RPT shall indemnify and hold CITY harmless from any and all costs (including costs of remediation or cleanup and any proceedings related thereto), claims, judgments, damages, penalties, fines, liabilities or losses (including, without limitation, diminution in value of the Premises, damages for the loss or restriction on use of rentable or useable space or any amenity of the Premises, damages arising from any adverse impact on marketing of space, and sums paid in settlement of claims, attorneys' fees, consultant fees and expert fees) which arise during or after the Term as a result of RPT's breach of the obligations stated in Section V.F. regarding Hazardous Material. This indemnification of CITY by RPT includes, without limitation, costs incurred in connection with any investigation of site conditions or any cleanup, remedial, removal, or restoration work required by any federal, state, or local governmental agency or political subdivision because of Hazardous Material present in the soil or ground water on or under the Premises. Without limiting the preceding, if the presence of any Hazardous Material on the Premises caused or permitted by RPT results in any contamination of the Premises, RPT shall promptly take all actions at RPT's sole expense as are necessary to return the Premises to the condition existing prior to the introduction of any Hazardous Material to the Premises.

E. Dispute Resolution. If the parties disagree regarding the performance of this Facility Lease, then the parties agree to engage in direct discussions to settle the dispute. If the disagreement cannot be settled by direct discussions, the parties may agree to attempt to settle the disagreement in an amicable manner by mediation. Thereafter, any unresolved disagreement arising from or relating to this Facility Lease or a breach of this Facility Lease shall be resolved as provided by law. The provisions of this Section X.F. shall not apply to disputes arising from RPT's default in the performance of any obligation to make Operating or Facility Cost payments as provided herein.

F. Attorney Fees and Costs. If a party is in default under this Facility Lease, then the defaulting party shall pay to the other party attorney fees and costs (i) incurred by the other party after default and referral to an attorney; and (ii) incurred by the prevailing party in any litigation (including any attorney fees on appeal).

G. Jurisdiction and Venue. It is agreed that this Facility Lease shall be construed under and governed by the laws of the State of Idaho. In the event of litigation concerning it, it is agreed that proper venue shall be the District Court of the Second Judicial District of the State of Idaho, in and for the County of Latah.

H. Interpretation. The law of the State of Idaho shall govern this Facility Lease. The

courts in the State of Idaho shall have exclusive jurisdiction. The invalidity of any portion of this Facility Lease shall not affect the validity of any other portion of this Facility Lease. This Facility Lease constitutes the entire, completely integrated agreement regarding the lease of Premises from CITY to RPT and supersedes all prior memoranda, correspondence, conversations and negotiations in regard to such Facility leasing. Whenever the consent of either party is required to an action under this Facility Lease, consent shall not be unreasonably withheld or delayed.

XI. GENERAL PROVISIONS.

A. Notices. All notices under this Facility Lease shall be in writing and shall be deemed to be delivered on the date of delivery if delivered in person or by fax, or on the date of receipt if delivered by U.S. Mail or express courier. Proof of delivery shall be by affidavit of personal delivery, machine generated confirmation of fax transmission, or return receipt issued by U.S. Postal Service or express courier. Notices shall be addressed to the address set forth below:

RPT:
Regional Public Transportation dba SMART
PO Box 3854
Moscow, ID 83843

CITY:
City of Moscow
PO Box 9203
Moscow, ID 83843

B. No Brokers. Each party hereto represents and warrants to the other party that the representing party has no arrangement with any realtor, broker or agent in connection with the negotiations of this Facility Lease. Each party agrees to defend, indemnify and hold the other party harmless from any cost, expense or liability for any compensation, commission or charges claimed by any realtor, broker or agent arising out of the actions of the indemnifying party with respect to this Facility Lease.

C. Non-recording. This Facility Lease shall not be recorded. A Memorandum of Lease executed by both parties hereto may be recorded.

D. Time is of the Essence. Time is of the essence with respect to the obligations to be performed under this Facility Lease. RPT and CITY understand that the Premises has been funded in whole or in part with funds from the Federal Transit Administration (FTA), U.S. Department of Transportation. As such, the following provisions apply:

(1) Nondiscrimination - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the RPT and CITY agree that they will not discriminate against any person in the United States from participating in, denied the benefits of or otherwise subject that person to discrimination under the use, benefit, participation, enjoyment or treatment of the subject Premises, or an employee or applicant for employment, because of race, color, creed, national origin, sex, age, or disability. In addition, the RPT and CITY agree to comply with applicable Federal implementing regulations and other

implementing requirements FTA may issue.

(2) Equal Employment Opportunity - The following equal employment opportunity requirements apply to the underlying contract:

(a) Race, Color, Creed, National Origin, Sex - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the RPT and CITY agree to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect the lease of the Premises during the course of this Facility Lease. RPT and CITY agree to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, RPT and CITY agree to comply with any implementing requirements FTA may issue.

(b) Age - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 623 and Federal transit law at 49 U.S.C. § 5332, RPT and CITY agree to refrain from discrimination against present and prospective employees for reason of age. In addition, RPT and CITY agree to comply with any implementing requirements FTA may issue.

(c) Disabilities - In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, RPT and CITY agree that they will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, RPT and CITY agree to comply with any implementing requirements FTA may issue.

(3) RPT and CITY also agree to include these requirements in each sublease issued on the Premises.

E. Non-use of Names and Trademarks. No party to this Facility Lease shall, without express written consent in each case, use any name, trade name, trademark, or other designation of any other party hereto (including contraction, abbreviation, or simulation) in advertising, publicity, promotional, or similar activities or context.

XII. SIGNATURES

RPT

CITY

Regional Public Transportation, Inc.
dba SMART

City of Moscow, Idaho

Bill Lambert, Mayor

ATTEST:

Laurie M. Hopkins, City Clerk

Date: _____

ACKNOWLEDGMENT

STATE OF _____)
County of _____) ss.

On this _____ day of _____, 2021, before me, a Notary Public in and for said State, appeared _____, known to me to be the person named above and acknowledged that he/she executed the foregoing document as the duly authorized representative for Regional Public Transportation, Inc. dba SMART, with authority to bind SMART to the terms of this Agreement.

Notary Public for the State of _____
My commission expires _____

Exhibit A

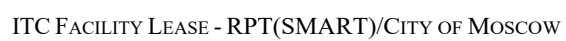


Exhibit B



RESOLUTION NO. 2021 –

A RESOLUTION OF THE CITY OF MOSCOW, IDAHO, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO, TO AUTHORIZE THE LEASE OF THE INTERMODAL TRANSIT CENTER FACILITY TO REGIONAL PUBLIC TRANSPORTATION, INC. (dba SMART).; PROVIDING THIS RESOLUTION BE EFFECTIVE UPON ITS PASSAGE, APPROVAL, AND PUBLICATION ACCORDING TO LAW.

WHEREAS, the City of Moscow owns the Intermodal Transit Center Facility with the purpose of facilitating public transportation within the City; and

WHEREAS, the City of Moscow initially leased the Intermodal Transit Center Facility to Regional Public Transportation, Inc. (dba SMART) on September 4, 2012 to use as a base for their public transportation services; and

WHEREAS, the initial lease was for a three-year term which was renewed for one additional five-year term only; and

WHEREAS, the lease renewal terminated on September 30, 2020; and

WHEREAS, Regional Public Transportation, Inc. (dba SMART) has consistently and satisfactorily operated the Intermodal Transit Center Facility in accordance with the terms of the initial lease and the renewal for the entirety of the past nine years and desires to enter into a new lease; and

WHEREAS, the City of Moscow desires to continue leasing the Intermodal Transit Center Facility to Regional Public Transportation, Inc. (dba SMART); and

WHEREAS, Idaho Code §50-1407 authorizes the Mayor and City Council to lease City-owned property that is not otherwise needed for city purposes, by resolution;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Moscow as follows:

That the Lease of the Intermodal Transit Center Facility to Regional Public Transportation, Inc. (dba SMART) as attached is determined to be just and equitable and is hereby approved.

EFFECTIVE DATE. This Resolution shall be effective upon its passage and approval.

PASSED AND APPROVED by the Mayor and City Council of the City of Moscow, Idaho, this ____ day of _____, 2021.

Bill Lambert, Mayor

CERTIFICATION. I hereby certify that the above is a true copy of a Resolution passed at a regular meeting of the City Council, City of Moscow, held on _____, 2021.

ATTEST:

Laurie M. Hopkins, City Clerk

DRAFT

COMMITTEE STAFF REPORT

DATE: Monday, August 9, 2021



RESPONSIBLE STAFF

ADDITIONAL PRESENTER(S)

OTHER RESOURCES

AGENDA ITEM TITLE

Open Container Ordinance Revisions for Downtown Events (ACTION ITEM) – Gary J. Riedner / Mia Bautista

DESCRIPTION

The City of Moscow has sponsored and approved community events such as Art Walk, and the Vandal Town Block Party, as well as the expansion of sidewalk cafés, and has approved events in downtown Moscow and in Moscow's parks where the City Council passed resolutions allowing for the vending and responsible consumption of beer and/or wine under certain conditions during an event. As the City Council wants to foster a vibrant downtown community atmosphere, and encourage and promote downtown businesses to collaborate in making these events successful, staff has been requested to review the process for the creation of an Entertainment District. Within the Entertainment District, community events could be held, and upon adoption of a resolution of the City Council, the sale and responsible consumption of beer and wine could occur. In order to allow the consumption of beer and wine outside of sidewalk cafés or a beer garden, the City would have to create an exemption to Moscow City Code 10-1-12, commonly known as the "open container" ordinance, which prohibits the possession of alcoholic beverages while present in a public place or a place where the public has permitted access, including public streets and/or public rights-of-way in the City except in accordance with specific regulations adopted by the Council by Resolution.

The attached draft Ordinance contains necessary revisions to the Moscow City Code to allow the creation of an Entertainment District to be defined by the map attached to the draft Ordinance and to allow the inclusion of the Entertainment District as an additional exemption to the open container prohibition.

STAFF RECOMMENDATION

Recommend adoption of the Ordinance creating the Entertainment District and including the Entertainment District as an additional exemption to the open container prohibition.

PROPOSED ACTIONS

PROPOSED ACTIONS: Recommend adoption of the Ordinance creating the Entertainment District and including the Entertainment District as an additional exemption to the open container prohibition, or provide staff further direction.

FISCAL IMPACT

PERSONNEL IMPACT

ATTACHMENTS

1. Ordinance 2021- Amending Open Containers Code_final

ORDINANCE NO. 2021 –

AN ORDINANCE OF THE CITY OF MOSCOW, IDAHO, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO; PROVIDING FOR THE AMENDMENT OF MOSCOW CITY CODE TITLE 9, CHAPTERS 6 AND 8 AND TITLE 10, CHAPTER 1; PROVIDING FOR THE INCLUSION OF AN ADDITIONAL EXEMPTION TO THE OPEN CONTAINER PROHIBITION; PROVIDING FOR THE PROVISIONS OF THIS ORDINANCE TO BE DEEMED SEVERABLE; AND PROVIDING FOR THIS ORDINANCE TO BE IN FULL FORCE AND EFFECT FROM THE DATE OF ITS PASSAGE, APPROVAL AND PUBLICATION ACCORDING TO LAW.

WHEREAS, Moscow City Code Section 10-1-12 prohibits the possession of alcoholic beverages while present in a public place or a place where the public has permitted access, including public streets and/or public rights-of-way in the City of Moscow, Idaho (hereinafter “City”) except in accordance with specific regulations adopted by the Council by Resolution; and

WHEREAS, the City of Moscow has sponsored or approved community events such as Art Walk, and the Vandal Town Block Party, as well as the expansion of Sidewalk Cafés, and has approved of events in downtown Moscow and in Moscow’s parks where the City Council passed resolutions allowing for the vending and responsible consumption of beer and/or wine under certain conditions during an event; and

WHEREAS, the City of Moscow wants to encourage and promote downtown businesses and revitalizing our community atmosphere; and

WHEREAS, Council believes the revision of the regulations herein balance the health and safety concerns of citizens, with the desire to promote downtown businesses and revitalize our community;

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF MOSCOW, IDAHO, AS FOLLOWS:

SECTION 1: That Moscow City Code Title 9, Chapter 6 be amended as follows:

...

Sec. 6-35. Public Places.

It shall be unlawful for any person to sell, serve, give away, dispense, consume or carry any beer in open containers on or in any public street, highway, alley, lane, sidewalk, public or private parking lot, conveyance, primary and secondary school facilities, except on the premises of a licensed retail beer establishment or licensed sidewalk café or is otherwise authorized or permitted by City. It shall be unlawful for any person to sell, serve, give away, dispense, consume or carry any beer in open containers except on or in public parks, events in City rights-of-way or City buildings and University of Idaho facilities in accordance with specific regulations, including any permit fee, adopted by the Council by resolution.

(Ord. 2004-33, 08/16/04; 2007-09, 08/20/2007)

...

SECTION 2: That Moscow City Code Title 9, Chapter 8 be amended as follows:

...

Sec. 8-17. Public Places.

It shall be unlawful for any person to sell, serve, give away, dispense, consume or carry any wine in open containers on or in any public street, highway, alley, lane, sidewalk, public or private parking lot conveyance, primary and secondary school facilities, except on the premises of a licensed retail wine establishment or licensed sidewalk café or is otherwise authorized or permitted by City. It shall be unlawful for any person to sell, serve, give away, dispense, consume or carry any wine in open containers except on or in specified public parks, events in City rights-of-way or City buildings and University of Idaho facilities, in accordance with specific regulations, including any permit fee, adopted by the Council by resolution.
(Ord. 2004-33, 08/16/04; 2007-09, 08/20/2007)

...

SECTION 3: That Moscow City Code Title 10, Chapter 1 be amended as follows:

...

Sec. 1-12. Alcoholic Beverages.

A. Open Containers Prohibited.

It shall be unlawful for any person to transport or have physical possession or control of any alcoholic or intoxicating beverage in an open or unsealed container of any kind on or in any public place or place to which the public has or is permitted to have access, including, but not limited to, any place, structure, or conveyance, except in accordance with specific regulations as detailed herein, adopted by the Council by Resolution for events in the Moscow Central Business (CB) zoning district; in the Moscow Motor Business (MB) zoning district for any eating and/or drinking establishment located within the MB zone where business is adjacent to a public right of way of a street designated as a local street on the 2010 City of Moscow Functional Classification Map; in City Parks; pursuant to a Sidewalk Café license; or as otherwise authorized or permitted by City.

B. Exemption to Open Containers Prohibition.

1. The City Council may, by Resolution, permit beer and wine for events in the Entertainment District. The Entertainment District is defined as the following boundary beginning at the intersection of the southerly right-of-way of Lewis Street and the east right-of-way of Washington Street; then continuing north along the east right-of-way of Washington Street to the north right-of-way of A Street; then west along the north right-of-way of A Street to the west right-of-way of the alley located between Main Street and Washington Street; then north along said west alley right-of-way to the north right-of-way of D Street; then west along said north right-of-way to the west right of way of Jackson Street; then south along said right-of-way to the north right-of-way of Sixth Street; then west along said north right-of-way to the easterly right-of-way of Deakin Street; then south across Deakin Street to the south right-of-way of Sixth Street; then east along said south right-of-way to the west right-of-way of Jackson Street; then south and southeasterly along said right-of-way to a point on said right-of-way in

alignment with a westerly projection of the south right-of-way of Lewis Street; then east along said projection and the south right-of-way of Lewis Street to the point of beginning (illustrated in Exhibit 'A').

2. This Ordinance shall not be in effect between the hours of 10:00 a.m. and 10:00 p.m. in any place located within 6th Street to the nNorth, South Rayburn to the eEast and south, and Perimeter Drive to the wWest and sSouth, on days when the University of Idaho has home football games, provided that any alcoholic beverage is held in an opaque plastic or paper container that is not labeled or branded by an alcohol manufacturer or distributor.
(Ord. 98-38, 11/16/98; 2007-09, 08/20/2007; 2015-05, 03/16/2015; 2016-13, 09/19/2016; 2017-08, 08/07/2017)

...

SECTION 4: SEVERABILITY. Provisions of this Ordinance shall be deemed severable and the invalidity of any provision of this Ordinance shall not affect the validity of remaining provisions which can be given effect without the invalid provision. The remaining sections of Titles 9 and 10 shall be in full force and effect.

SECTION 5: EFFECT ON OTHER ORDINANCES AND LAWS. Where the definitions contained in this Ordinance are in conflict with relevant portions of the City of Moscow, Idaho, Municipal Code, the definitions contained within those portions of the Moscow Municipal Code will be unaffected until such time, if any, as they are amended to be consistent with this Ordinance. The amendments in this ordinance are not intended to waive other laws and regulations applicable to the sale and consumption of alcohol.

SECTION 6: EFFECTIVE DATE. This Ordinance shall be effective upon its passage, approval, and publication according to law.

PASSED by the City Council and APPROVED by the Mayor this ____ day of _____, 2021.

Bill Lambert, Mayor

CERTIFICATION. I hereby certify that the above is a true copy of an Ordinance passed at a regular meeting of the City Council, City of Moscow, held on _____, 2021.

ATTEST:

Laurie M. Hopkins, City Clerk

Exhibit 'A' - Entertainment District Boundary

