

Certified Partner Agreement

THIS AGREEMENT (“**Agreement**”) is made and entered into on _____, _____ between the City of Sacramento (“**City**”) and _____ (“**Owner**”).

BACKGROUND

- A. City operates a website (“**City Website**”) that allows users to find and reserve parking spaces electronically, using a computer or a mobile phone.
- B. Owner owns and operates parking facility(s) located at _____ (“**Parking Lots**”).
- C. City and Owner desire City to market and sell parking within the Parking Lots through the City Website.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and agreements to be kept and performed on the part of the parties hereby agree as follows:

1. **Inventory.** During the Term, Owner shall provide City with the available inventory of parking spaces at the Parking Lots for each event.
2. **Services to Be Performed by City.** City shall market and sell parking spaces in the Parking Lots on the City Website. City shall collect and manage all parking fees paid for the parking spaces in the Parking Lots (“**Parking Fees**”) that are booked through the City Website. City shall produce individual confirmation codes to ensure that each booking is unique and legitimate, and City shall use commercially reasonable efforts to address all customer service issues surrounding the use of City’s services at the Parking Lots.
3. **Fees.** In consideration for its services, City shall receive the following service fees which will be deducted from the total monthly Parking Fees collected from the Parking Lots:
 - A) 15% of total Parking Fees.
 - B) \$200 per month (“**Marketing Fee**”). Marketing Fee will not be charged the first three months of this Agreement.
 - C) \$0.07 fee per transaction completed through the City Website (“**Credit Card Transaction Fee**”).

After deducting the above fees, City shall pay to Owner the remaining Parking Fees within 35 days of the end of each calendar month in which such parking services were provided. Each payment will be accompanied by the appropriate report of income and expenses. All payments to Owner will be sent to the following address or such updated address as the Owner may from time to time specify by notice pursuant to this sentence:

Owner:

Owner shall collect and remit to the appropriate authority any applicable parking taxes due from the Parking Fees collected under this Agreement.

4. Accounting. City shall keep complete and accurate records of all financial transactions relating to its performance under this Agreement. Accounting periods shall be on a monthly basis.

5. Parking Lots. Owner may adjust the available number of parking spaces and prices at the Parking Lots for any given day at any time directly from its account on the City Website provided, however, that: 1) Owner shall not be permitted to reduce the available number of spaces for any given day to a number less than the number of spaces previously reserved by customers for such day; and 2) Owner shall not be permitted to increase the price for spaces that have already been reserved by City customers for a given day. Owner shall make available inventory in the Parking Lots each day to City customers that have reserved parking for such day. Owner shall train employees of the Parking Lots how to handle reservations from the City Website to ensure the smooth operation of the parking experience.

6. Lot Operations. City shall provide Owner “Best Practices” operating procedures for operating Parking Lots. Owner acknowledges receipt of Best Practices and agrees to implement all procedures in its daily operation of Parking Lots. Failure to adhere to Best Practices may result in termination of this Agreement per Section 10.

7. Termination. This Agreement may be terminated by either party upon thirty (30) days’ written notice to the other party. Owner shall honor any parking space bookings booked through the City Website prior to such termination, and City shall remit all Parking Fees incurred prior to such termination in accordance with this Agreement so long as such bookings are honored by Owner.

8. Assumption of Risk. Parking at the Parking Lots shall be at the sole risk of the customer, and neither City nor the Owner shall bear any responsibility for any loss suffered by pass holder to his/her personal property (including but not limited to the pass holder’s motor vehicle) or any special, incidental or consequential damages of any kind while such property is on the premises.

All passes issued by City in connection with this Agreement shall contain language notifying the pass holder of the provisions of this section.

9. Representations and Warranties.

a) City represents and warrants to Owner that: (i) City possesses authority to enter into this Agreement and to fulfill its obligations in the Agreement; (ii) in performing its efforts under this Agreement, City will not knowingly violate, infringe or misappropriate any proprietary or intellectual property rights of any third party; and (iii) the performance of this Agreement and of City's obligations in the Agreement will not breach any separate agreement by which City is bound.

b) Owner represents and warrants to City that: (i) Owner possesses full power and authority to enter into this Agreement and to fulfill its obligations hereunder; (ii) in performing its efforts under this Agreement, Owner will not knowingly violate, infringe or misappropriate any proprietary or intellectual property rights of any third party; and (iii) the performance of this Agreement and of Owner's obligations hereunder will not breach any separate agreement by which Owner is bound.

10. Default. In the event that either party fails to perform any material terms and conditions specified herein, the other party must provide written notice to the responsible party. If the offending party has not corrected said failure within thirty (30) days, or such additional time as is reasonably necessary, of its receipt of written notice, the non-breaching party may terminate the Agreement. In the event of such termination, this Agreement shall terminate immediately.

11. Indemnity. Owner hereby agrees to indemnify, defend and hold City, including City's employees, officers, directors and agents, harmless from any expenses (including, but not limited to, court costs and reasonable attorneys' fees), loss, cost, damage, claim or liability paid, suffered or incurred as the result of any breach by Owner or its agents, servants, employees, or contractors of any condition of this Agreement, and any and all claims, actions, damages, liability and expense (including, but not limited to, court costs and reasonable attorneys' fees) in connection with loss of life, personal and/or bodily injury and/or damage to property arising from or out of occasioned wholly or in part by any negligent or intentional act or omission of Owner or its agents, servants, employees, or contractors, provided, however, that this indemnification shall not apply to any such injury, loss, damage or liability arising solely from the negligence, or willful misconduct on the part City or City's agents, servants, employees or contractors.

12. Final Agreement. This Agreement is intended by the parties as the final expression of their agreement and as a complete and exclusive statement of the terms between the parties. This Agreement has been fully negotiated between two knowing parties and shall be construed without regard to any presumption or rule of law regarding construction of this Agreement against the party causing this Agreement to be drafted or prepared. No course of prior dealings between the parties or their affiliates shall be relevant or admissible to determine the meaning of any of the terms of this Agreement. No representations, understandings or agreements have been made or relied upon in the making of this Agreement other than those specifically set forth herein. This Agreement can only be modified by a writing signed by all of the parties hereto or their duly authorized agents.

13. Severability. If any term, covenant or condition of this Agreement or the application thereof to any person or circumstance shall be held invalid or unenforceable, the remainder of this Agreement or the application of such term, covenant or condition to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each term, covenant or condition of this Agreement shall be valid and enforced to the fullest extent permitted by law.

14. Assignment. Neither party may assign or delegate this Agreement, in whole or in part, to any third party without the written consent of the other party, except that either party may assign this Agreement to a successor in interest in connection with a merger, acquisition, or sale of all or substantially all of such party's business or assets to which this Agreement pertains. Any attempted assignment in violation of the foregoing is void.

15. Notices. Any notices under this Agreement will be sent to the recipient party's address set forth below (or such updated address as the recipient may from time to time specify by notice pursuant to this sentence) and will be deemed to be effective upon receipt.

to City:
Parking Services Division
300 Richards Blvd.
2nd Floor
Sacramento, CA 95811

to Owner:

16. No Agency. This Agreement does not create or imply any partnership, agency or joint venture.

Signed:

CITY OF SACRAMENTO

OWNER

By

By

Name

Name

Title

Title

APPROVED AS TO FORM

Deputy City Attorney

ATTEST

City Clerk