

☐ IDAPA RULE ☐ IDAPA FEE ☒ BOARD ACTION REQUIRED
☐ BOARD POLICY ☐ INFO ONLY, NO ACTION REQUIRED

AGENDA ITEM
Idaho Park and Recreation Quarterly Meeting
October 28, 2024
2885 West Kathleen Ave,
Coeur d'Alene, ID 83815

AGENDA ITEM: Draft Memorandum of Agreement with Department of Lands
ACTION REQUIRED: Authorize Director to Sign Memorandum of Agreement
PRESENTER: Adam R Zaragoza, Management Services Administrator

PRESENTATION

BACKGROUND INFORMATION:

Since October 2021, IDPR and the Idaho Department of Lands (IDL) have been contemplating recreation opportunities on state endowment lands (non IDPR owned). Statewide, the public have been utilizing these public lands for various recreating options, and, IDPR is willing to help manage those areas generally near our State Parks.

With assistance from the Attorney Generals' office, staff have drafted the attached MOU. The Idaho Land Board had an opportunity to review and comment on this draft at their September 17, 2024 meeting.

STAFF RECOMMENDATIONS:

Staff recommends the Board authorize the IDPR Director to sign the Memorandum of Agreement with the Idaho Department of Lands contingent upon any final edits that the agencies may agree upon.

Attachment: Draft Memorandum of Understanding (MOU)

MEMORANDUM OF AGREEMENT
between
IDAHO DEPARTMENT OF PARKS AND RECREATION
and
IDAHO DEPARTMENT OF LANDS
for
ENDOWMENT LANDS RECREATION DEVELOPMENT AND MANAGEMENT

THIS MEMORANDUM OF AGREEMENT ("Agreement") is made and entered into by and between the State of Idaho, Department of Parks and Recreation (herein referred to as "IDPR") and the State of Idaho, Department of Lands (herein referred to as "IDL"). IDL and IDPR are collectively referred to herein as the "Parties" and individually as a "Party".

WHEREAS, IDL manages endowment lands for endowment beneficiaries, some of which are widely used at no cost to outdoor recreation users;

WHEREAS, IDL has identified a need to make expenditures of capital in order to develop "managed recreational opportunities" as a means to generate revenue, protect the endowment land assets, and promote public recreational values;

WHEREAS, pursuant to the authorities in Title 58, Chapter 1, including §§ 58-104 and 58-115, IDL is authorized to enter into agreements with other agencies of the State of Idaho and is directed by the Land Board Recreation Policy to partner with other State agencies for the development of managed recreation opportunities on endowment lands;

WHEREAS, pursuant to the authorities in Title 67, Chapter 42, Idaho Code, including §§ 67-4219 and 67-4223(2) and (7), IDPR is authorized to plan, enter into agreements with other agencies of the State of Idaho, and manage for the protection, operation, maintenance, development and wise use, areas of scenic beauty, recreational utility, and historic, archaeological or scientific interest, to the end that the health, happiness, recreational opportunities and wholesome enjoyment of life of the people may be encouraged;

WHEREAS, IDPR possesses the expertise, authority, and experience necessary to design, construct, operate, maintain, and administer public recreation infrastructure and activities on owned and contracted lands under its control; and

WHEREAS, the Parties have mutually identified the need to coordinate efforts to develop managed recreation opportunity projects on endowment lands.

NOW THEREFORE, in consideration of the covenants and conditions set forth in this Agreement, the Parties mutually agree, as follows:

1. IDL and IDPR will, together, do the following:
 - a. No later than November 1, 2024, the Parties will meet and draft a development and management plan for each mutually agreeable managed recreation opportunity on endowment lands ("D&M Plan"). The D&M Plans will be organized according to the IDPR State Park and IDL Supervisory Area in which the recreation development and management will occur. In order to allow each Party to properly plan and prepare for future activities and needs, multiple meetings may be needed and may occur on location, at a Supervisory Area office, and virtually to include all necessary agency staff.
 - b. The Parties will thereafter meet annually prior to November 1 to review the D&M Plans, and update if necessary. The objective of this meeting is to determine each Party's resource requirements for the upcoming fiscal year.
2. IDPR will:
 - a. Provide technical assistance to IDL on recreation development, including site evaluation, infrastructure and facility recommendations, design, construction implementation, and maintenance of mutually agreeable managed recreation opportunity on endowment lands.
 - b. Prepare, solicit, contract, and procure goods and services necessary for each D&M Plan, within reasonable timeframes as agreed to by the Parties.
 - c. Once constructed, incorporate each managed recreation opportunity into the related State Park's regular operations and management, including the application of IDAPA 26.01.20 and utilization of IDPR's web-based reservation system to manage bookings for each managed recreation opportunity.
 - d. Incorporate each managed recreation opportunity into its advertising portfolio, including in all virtual and printed platforms as well as promotional materials.
 - e. Complete the necessary accounting and billing and provide IDL with copies of relevant contracts, invoices, receipts, revenues, and contractor correspondence as requested by IDL, or as described in the individual D&M Plans.

- f. Supply IDL with an annual, detailed invoice for all work completed under each D&M Plan. This invoice may be itemized based on completed tasks, permanent and temporary personnel costs and operational expenses as described in the individual D&M Plans.
- g. Supply IDL with a detailed account of all gross receipts for revenues from each managed recreation opportunity managed by IDPR as described in the individual D&M Plans.
- h. Distribute annually to IDL the revenues generated in addition to IDPR's base fee rates, as specified in each D&M Plan, that will be charged to users of the managed recreation opportunity facilities ("IDL Fee").

3. IDL will:

- a. Provide clear and written development and management objectives to IDPR for each proposed managed recreation opportunity project.
- b. Review all D&M Plans, proposals, designs, and other work products provided by IDPR. If clarification is needed, the Parties will work collaboratively to complete necessary changes.
- c. Provide adequate personnel, equipment, and financial resources for all managed recreation opportunities.
- d. Advise IDPR of the rates for each IDL Fee that will be added to IDPR's base fee rate(s) for each D&M Plan. The IDL Fee must be set before IDPR sets its annual base fee rates.
- e. Reimburse IDPR for expenses incurred by IDPR for each managed recreation opportunity.
- f. Provide a "Recreation Advisor" for each managed recreation opportunity whose duties include coordinating and consulting with IDPR during all phases of a D&M Plan.
- g. Coordinate for and represent IDL in any public forum as necessary regarding the respective managed recreation opportunities.

4. Additional Provisions:

- a. Nothing in this Agreement shall be construed as obligating either Party, or the State of Idaho, in the expenditure of funds or future payment of money more than appropriations authorized by state law.
- b. Nothing in this Agreement shall be construed to relinquish or transfer any of IDL's management authority for endowment lands, nor shall it be construed as requiring IDPR to undertake any activities more than its statutory authorities and agency resources.
- c. Nothing in this Agreement shall authorize IDL to allow a third party any access through or utilization of IDPR owned or contracted lands comprising any State Park without IDPR's express written agreement, the terms of which will be wholly discretionary with IDPR. This provision will survive the termination of this Agreement.
- d. State's Insurance. IDL and IDPR are both agencies of the State of Idaho and are provided a comprehensive liability plan through the Risk Management Program established under Idaho Code § 67-5773 et seq., funded and in effect subject to limitation on liability of the Tort Claims Act, Idaho Code § 6-901 et seq.
- e. Apportionment of Liability. IDL and IDPR shall be responsible only for the acts, omissions or negligence of such agency's own employees. The term "employee" is defined for the purposes of this section as set forth in Idaho Code § 6-902. The parties acknowledge that both IDL and IDPR participate in the State of Idaho Risk Management Program comprehensive liability plan utilizing the Retained Risk Account ("Risk Program"). Each of the Parties is obligated to notify the Division of Risk Management and the other Party upon receipt of notice or in the event it has knowledge of any claim or damage arising out of this Agreement.
 - i. Nothing in this Agreement shall extend the tort responsibility or liability of either IDL or IDPR beyond that required by the Idaho Tort Claims Act, Idaho Code § 6-901 et seq. Any covered third-party tort liability claim, suit or loss arising from this Agreement shall be allocated to one or both Parties by the Division of Risk Management for purposes of the respective loss experiences and subsequent allocation of self-insurance assessments.
 - ii. Each Party shall be responsible for damage to property of the other Party caused by its employees in the performance of the Agreement. If property damage arises in the performance of this Agreement and is

covered by the Risk Program, the Division of Risk Management shall charge the damage or loss to the responsible Party's loss history, and the responsible Party shall pay the deductible, if any.

- iii. If a claim or damage is not covered by the Risk Program, the responsible Party shall pay the costs arising from such claim or damage. If a claim or damage arises from both Parties' performance of the Agreement or is not allocable to either Party, each Party shall pay the costs to such Party arising from the claim or damage.
- f. Amendment. This Agreement may be amended by mutual consent of the Parties in writing, and as often as necessary to maintain the objectives and requirements of the Parties.
- g. Financials. Any managed recreation opportunity project costs and IDL Fees will be mutually agreed upon and itemized on a per project basis in the individual D&M Plans. IDPR will submit a written cost estimate to IDL for approval prior to budgeted expenditure.
 - a. Reimbursement schedule: May 15th – Reimbursement for additional expenses incurred. Warrant payment will be routed through LUMA.
 - b. Accept revenues from IDL Fees collected by IDPR.
- h. Duration and Termination of Agreement. This Agreement shall remain in effect from the date of final signature through as long as any D&M Plan is active. This Agreement may be terminated by either Party upon ninety days' written notice to the other Party.

[Remainder of this page intentionally left blank.]

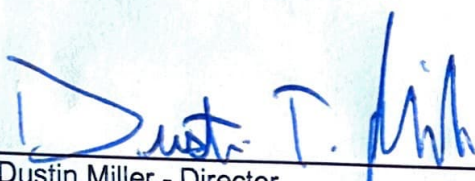
IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year of final signature, below.

IDAHO DEPARTMENT OF PARKS AND RECREATION:

Susan E. Buxton - Director

Date: _____

IDAHO DEPARTMENT OF LANDS:



Dustin Miller - Director

Date: 10-22-24