

**THIS DOCUMENT PREPARED
BY AND RETURN TO:**

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200 South Orange Avenue
Suite 2300
Orlando, Florida 32801
(407) 649-4000

**PILOT PAYMENT AGREEMENT FOR THE DOWNTOWN SOUTH
NEIGHBORHOOD IMPROVEMENT DISTRICT**

THIS PILOT PAYMENT AGREEMENT FOR THE DOWNTOWN SOUTH NEIGHBORHOOD IMPROVEMENT DISTRICT (this “**Agreement**”), dated as of the ____ day of _____, 2014, is made and entered into by and between the **CITY OF ORLANDO, FLORIDA** (the “**City**”), a municipal corporation organized and existing under the laws of the State of Florida, whose address for purposes of this Agreement is c/o City Clerk, 400 South Orange Avenue, Orlando, Florida 32801, the **DOWNTOWN SOUTH NEIGHBORHOOD IMPROVEMENT DISTRICT**, a special dependent district of the City of Orlando, established pursuant to Part IV, Chapter 163 of the Florida Statutes, whose address for purposes of this Agreement 400 South Orange Avenue, Orlando, Florida 32801 (the “**DSNID**”), and **ORLANDO HEALTH, INC.** (“**Orlando Health**”), a not for profit corporation organized and existing under the laws of the State of Florida, whose address for purposes of this Agreement is whose address is 1414 Kuhl Avenue, Orlando, Florida, 32806.

RECITALS

WHEREAS, pursuant to ordinance 2011-3 (the “**Enabling Ordinance**”), the City adopted Chapter 40, Code of the City of Orlando, the Neighborhood Improvement District Code, enabling the creation of neighborhood improvement districts in the City of Orlando consistent with the Safe Neighborhood Act, Part IV, Chapter 163, Florida Statutes, whereby the Florida Legislature authorized the creation of neighborhood improvement districts by municipal and county governments in Florida for the purpose of planning, designing, financing, constructing, operating, maintaining, and otherwise providing important public goods and services to the business and residential neighborhoods of the state; and

WHEREAS, pursuant to ordinance 2011-28 (the “**DSNID Ordinance**”), the City amended Chapter 40, Code of the City of Orlando, Florida to create the DSNID in accordance with Chapter 163, Florida Statutes; and

WHEREAS, subsection 163.506(1)(c), Florida Statutes, authorizes local government neighborhood improvement districts to levy an ad valorem tax on real and personal property of up to two (2) mills annually; and

WHEREAS, pursuant to Subsection 40.14(1) of the Orlando City Code, the DSNID is authorized to levy an ad valorem tax on real and personal property of up to two (2) mills

annually if approved by referendum of the property owners in the district (the “**Referendum**”); and

WHEREAS, pursuant to Figure 40.12-1 of the Orlando City Code, the DSNID established its boundaries to include that certain real property within the jurisdictional limits of the City of Orlando, Florida, and being more particularly described and depicted in **Exhibit “A”** attached hereto and incorporated herein by this reference (the “**District Boundary**”); and

WHEREAS, the Orlando Health Downtown Orlando Campus has been in operation since 1918 (the “**Downtown Campus**”) and is a community facility located within the District Boundary that accommodates the Orlando Regional Medical Center, the UF Health Cancer Center, the Arnold Palmer Hospital for Children, and the Winnie Palmer Hospital for Women and Babies; and further that the Orlando Regional Medical Center is the community’s only Level 1 trauma center, the community’s primary provider of health care to the indigent and a community hospital serving the health care needs of the citizens of the District, the City, and its surrounding areas; and

WHEREAS, as a part of the Downtown Campus, Orlando Health is the owner of certain real property located within the jurisdictional limits of the City of Orlando, Florida, generally located at 1414 Kuhl Avenue, Orlando, Florida 32806, and more particularly described and depicted in **Exhibit “B”** attached hereto and incorporated herein by this reference (the “**Orlando Health Property**”); and

WHEREAS, the City and Orlando Health have cooperated to create the DSNID through the Enabling Ordinance and the DSNID Ordinance and have jointly invested its resources to support continued development and redevelopment within the District Boundary; and

WHEREAS, since the adoption of the DSNID Ordinance, Orlando Health has, pursuant to a letter of commitment dated July 8, 2011, and addressed to Mayor Buddy Dyer from Mr. Karl Hodges, Vice President, Business Development, Orlando Health (the “**Letter of Financial Commitment**”), provided a financial commitment to the DSNID in an amount up to ONE HUNDRED SEVENTY FIVE THOUSAND AND NO/100 DOLLARS (\$175,000.00) per annum; and

WHEREAS, pursuant to the Letter of Financial Commitment, actual voluntary financial contributions to the DSNID made by Orlando Health will be credited against Orlando Health’s payment in lieu of taxes made in accordance with this Agreement (the “**Orlando Health Credit Contribution**”); and

WHEREAS, the purpose of Orlando Health’s Letter of Financial Commitment was to provide necessary operational funding to the DSNID until the DSNID could hold the Referendum; and

WHEREAS, based upon Orlando Health’s current not-for-profit business entity structure, Orlando Health is exempt from the payment of ad valorem taxes for many of its real

property holdings collected by the Orange County Tax Collector through ad valorem tax procedures; and

WHEREAS, notwithstanding the fact that Orlando Health is exempt from ad valorem taxes for many of its real property holdings, it desires to voluntarily pay the equivalent ad valorem tax levied by the DSNID on the Orlando Health Property through the form of a payment in lieu of tax (known as a “PILOT” payment) in an amount of up to \$175,000 in the first DSNID tax year (the “**Orlando Health PILOT**”); and

WHEREAS, in connection with the adoption of the DSNID Ordinance, Orlando Health formally committed to make the Orlando Health PILOT payment if a Referendum were approved permitting the DSNID to levy ad valorem taxes; and

NOW, THEREFORE, in consideration of the mutual covenants and agreements of the parties and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and in order to set forth the rights, duties and powers of the parties for the purpose of the foregoing, the City, the DSNID and the Orlando Health hereby covenant and agree as follows:

1. **Recitals**. The above Recitals are true and correct and their terms and provisions are incorporated herein for all purposes.

2. **Orlando Health PILOT Payment**. Upon the successful passage of the Referendum, Orlando Health hereby agrees to make the Orlando Health PILOT payment in a manner and amount that is consistent with the millage established by the Referendum, and as set each budget year by the DSNID, for the Orlando Health Property and to be invoiced and collected by either the Orange County, Florida, Tax Collector in the same manner ad valorem taxes are invoiced and collected or by the DSNID. Orlando Health shall make the Orlando Health PILOT payment in accordance with the terms and conditions stated herein and as long as Orlando Health is exempt from payment of ad valorem taxes on the Orlando Health Property. In the event that Orlando Health or its successor in interest should ever not be exempt from the payment of ad valorem taxes on the Orlando Health Property, the requirements set forth herein shall become null and void as to those newly taxable parts of the Orlando Health Property.

3. **Orlando Health Contribution**. Upon successful passage of the Referendum, and in the event that the DSNID chooses to levy less than two (2) mills of ad valorem taxes in any given tax year, Orlando Health hereby agrees to make an annual contribution to the DSNID in an amount up to what the tax assessment would have been if it were levied at two (2) mills, but in no case shall the Orlando Health PILOT payment and contribution exceed an amount greater than an amount equal to a two (2) mill levy on the Orlando Health Property.

4. **Repayment of the Orlando Health Credit Contribution**. The City, the DSNID, and Orlando Health have agreed and hereby ratify the Letter of Financial Commitment wherein that upon the successful passage of the Referendum, Orlando Health shall receive a credit in the amount of the Orlando Health Credit Contribution previously paid to the DSNID (in cash or in-kind) to be applied to the Orlando Health PILOT payments as set forth herein. Within ninety (90) days of the successful passage of the Referendum, Orlando Health shall provide an

accounting of the total Orlando Health Credit Contribution for review and approval by the DSNID Advisory Council (the “**Accounting**”). Following the approval of the Accounting of the total Orlando Health Credit Contribution by the DSNID Advisory Council, Orlando Health shall be entitled to receive a credit to be applied to the Orlando Health Pilot and/or the total Orlando Health Contribution spread out pro-rata over the course of the Term (defined below). By way of example, if the Orlando Health Credit Contribution were to be \$150,000, Orlando Health would receive a credit in the amount of \$10,000 per year to be applied to the Orlando Health PILOT payment during the course of the fifteen (15) year Term of this Agreement.

5. **Term**. The term of this Agreement shall be fifteen (15) years from the Effective Date hereof.

6. **Financial Records**. The Parties hereby recognize that they all have financial records associated with the DSNID. The Parties shall cooperate in good faith and upon the reasonable written request from the others, provide an accounting associated with the Orlando Health Pilot payment, the Orlando Health Contribution and/or the Orlando Health Credit Contribution.

7. **Contract**. The execution of this Agreement has been duly authorized by the appropriate body or official(s) of the City, DSNID and Orlando Health. The City and the DSNID have complied with all applicable requirements of law and has the full power and authority to comply with the terms and provisions of this Agreement. This Agreement shall be deemed to be and shall constitute a valid and binding contract between the City, the DSNID and Orlando Health and shall not be amended except in writing.

8. **Assignment**. Neither this Agreement, nor any interest or obligation therein, shall be assigned to or transferred in any manner by either party without the prior written consent of the other.

9. **Notices**. Notices shall be deemed to have been duly given if hand-delivered or mailed, first class, postage prepaid, as follows:

<u>To the City:</u>	City of Orlando c/o Kyle Shephard 400 South Orange Avenue Orlando, FL 32801 Facsimile No. (407) 246-3342
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With a copy to: City Clerk
City Hall, 2nd Floor
400 South Orange Avenue
Orlando, FL 32801
Facsimile No. (407) 246-3613

To the DSNID: DSNID Advisory Council
Attn: Rex McPherson, Chair
400 South Orange Avenue
Orlando, FL 32801
Facsimile No. (407) 246-3342

With a copy to: Richard Crotty Consulting Group
Attn: Richard Crotty
P.O. Box 590072
Orlando, FL 32859

To Orlando Health: Orlando Health, Inc.
1414 Kuhl Avenue
Orlando, Florida 32806
Attn: Karl Hodges, Vice President Business
Development
Telephone: (321) 841-5124
Facsimile: (407) 237-6328

With a Copy to: Orlando Health, Inc.
1414 Kuhl Avenue
Orlando, Florida 32806
Attn: Mildred Beam, Vice President/General
Counsel
Telephone: (321) 841-3371
Facsimile: (321) 843-6707

With a Copy to: Baker & Hostetler, LLP
200 South Orange Avenue
Suite 2300
Orlando, Florida 32801
Attn: Gregory D. Lee, Esq.
Telephone: (407) 649-4096
Facsimile: (407) 841-0168

10. **Severability.** If any one or more of the covenants, agreements or provisions of this Agreement shall be held to be contrary to any express provision of law or contrary to any policy of express law, although not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such covenants, agreements or provisions shall be null

and void and shall be deemed separate from the remaining covenants, agreements or provisions of this Agreement.

11. **Covenant Running With the Land; Successors and Assigns.** This Agreement shall constitute a covenant by Orlando Health running with the title to the Orlando Health Property and shall be binding upon Orlando Health its successors and assigns. The Orlando Health PILOT may be enforced by the Orange County Property Appraiser in the same manner it enforces the obligations to collect ad valorem property taxes. Upon execution hereof, this Agreement shall be recorded in the Orange County Public Records at Orlando Health's expense.

12. **Controlling Law.** All covenants, stipulations, obligation and agreements of the City and Orlando Health contained in this Agreement shall be deemed to be covenants, stipulations, obligations and agreements of each of the City, the DSNID and Orlando Health to the fullest extent provided by the Constitution and laws of the State of Florida. Any and all provisions of this Agreement and any proceedings seeking to enforce or challenge any provision of this Agreement shall be governed by the laws of the State of Florida. Venue for any proceeding pertaining to this Agreement shall be Orange County, Florida.

13. **Recording.** Upon mutual agreement by the parties hereto, this Agreement may be filed with the Clerk of the Circuit Court of Orange County, Florida, and recorded among the Public Records of Orange County, Florida.

14. **Headings.** The various section headings used in this Agreement are for convenience of reference only and are not to be used to interpret, construe, apply or enforce its substantive provisions.

15. **Entire Agreement; Amendment.** This Agreement (including the exhibits hereto and any written amendments hereof executed by the Parties) constitutes the entire agreement between the Parties related to Orlando Health Pilot and the Orlando Health Contribution. This Agreement may not be amended or modified except by an instrument in writing signed by the Parties.

16. **Effective Date.** The Parties hereto agree that this Agreement shall be effective on the date of execution by the last of the Parties to this Agreement to execute the same and approval by the City Council (the "Effective Date").

CITY OF ORLANDO, FLORIDA

Attest:

Mayor/Pro Tem

City Clerk

APPROVED AS TO FORM AND LEGALITY
for use and reliance by the City of Orlando, Florida,
only.

Assistant City Attorney

State of Florida)
County of Orange)

The foregoing instrument was acknowledged before me this ____ day of _____,
2014, by _____ and _____, as the _____ and
City Clerk of the **City of Orlando**, Florida, and who have acknowledged that they executed the
same on behalf of the City of Orlando, Florida and that each was authorized to do so. Each is
personally known to me or has produced Orlando Health as identification.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Notary Public, State of Florida
Printed Name: _____

**DOWNTOWN SOUTH NEIGHBORHOOD
IMPROVEMENT DISTRICT**

By: _____

Name: Rex McPherson, Chair

Title: Chair, Advisory Council

State of Florida)
County of Orange)

The foregoing instrument was acknowledged before me this ____ day of _____, 2014, by Rex McPherson, as Chair of the Downtown South Neighborhood Improvement District Advisory Council, a _____ and who has acknowledged that he executed the same. He is personally known to me or has produced _____ as identification.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Notary Public, State of Florida
Printed Name: _____

ORLANDO HEALTH, INC.,
a corporation not-for-profit

By: _____
Name: _____
Title: _____

WITNESSES:

Print Name: _____

Print Name: _____

State of Florida)
County of Orange)

The foregoing instrument was acknowledged before me this ___ day of _____, 2014, by _____, as _____ of **Orlando Health, Inc.**, a corporation not-for-profit and who has acknowledged that he executed the same. He is personally known to me or has produced _____ as identification.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Notary Public, State of Florida
Printed Name: _____

EXHIBIT "A"

District Boundary

EXHIBIT “B”

OH Property