

## FUNDING AGREEMENT

THIS AGREEMENT , effective as of October 1, 2021 (the “Effective Date”), is made and entered into by and between the South of Downtown Orlando Main Street, Inc., a Florida not-for-profit corporation (“Main Street”) and the Downtown South Neighborhood Improvement District, a local government neighborhood improvement district created pursuant to Chapter 163, Part IV Florida Statutes and the Orlando Neighborhood Improvement District Code, codified at Chapter 40, Code of the City of Orlando, Florida (hereinafter referred to as “DSNID”).

WHEREAS, the Downtown South Neighborhood Improvement District (the "DSNID or District") was created and chartered on July 25, 2011, by City of Orlando Ordinance #2011-28; and

WHEREAS, the district was created and chartered pursuant to the Safe Neighborhoods Act, codified at Part IV, Chapter 163, Florida Statutes (the “Act”), and the Orlando Neighborhood Improvement District Code, codified at Chapter 40, Code of the City of Orlando, Florida (the "Orlando City Code"); and

WHEREAS, the DSNID is a "local government neighborhood improvement district" pursuant to and as described at section 163.506, Florida Statutes, and sections 40.4(1)(a) and 40.11, Orlando City Code; and

WHEREAS, the DSNID is a "dependent special district" within the meaning of the Uniform Special District Accountability Act, codified at Chapter 189, Florida Statutes, and for the purposes of preparing and considering tentative and final budgets, and a final budget, pursuant to Chapter 200, Florida Statutes; and

WHEREAS, Main Street is a Florida not-for-profit corporation and a participant in the Orlando Main Street Program; and

WHEREAS, in accordance with section 163.516, Florida Statutes, the District adopted a Safe Neighborhood Improvement Plan (“Plan”) which contemplates within its action plan the District’s providing funding of MAIN STREET to brand, market and promote the District and its efforts to bring the entire District, businesses and residents, together; and

WHEREAS, by locating its offices within the District at 918 South Orange Avenue, the MAIN STREET is able to conduct collaborative events and initiatives within the District; and

WHEREAS, the District desires to have Main Street assist it in fulfilling its Plan goals by providing certain programs and conducting certain activities within the District as contemplated by this Agreement; and

WHEREAS, the DSNID finds and declares it is in the public’s best interest to assist MAIN STREET by providing funding to MAIN STREET in the amount of thirty thousand dollars (\$30,000.00) contingent upon MAIN STREET meeting the performance standards set forth in Exhibit “B” attached hereto, and incorporated herein, by reference.

NOW, THEREFORE, in consideration of the premises and mutual covenants hereinafter contained, the parties do agree as follows:

1. Incorporation of Premises: The preamble of this Agreement set forth above is true and correct and is incorporated herein as if fully set out below. All exhibits to this Agreement are hereby deemed a part hereof.

2. Term: The term of this Agreement shall commence on October 1, 2021, and shall, unless sooner terminated as provided herein, automatically terminate on September 30, 2022.

3. Obligations of Main Street: MAIN STREET will operate its offices and provide programs within the District as generally described in Exhibit "A". MAIN STREET shall use the funds provided by the DSNID pursuant to section 5 below only for the purposes described in this Agreement, including the exhibits attached hereto. MAIN STREET shall remain in compliance with the performance standards set forth in Exhibit "B" at all times during the term of this Agreement.

4. DSNID's Obligations:

a. The DSNID shall pay Main Street a fixed amount of thirty thousand dollars (\$30,000.00) (the "Funds") to be paid pursuant to the terms and conditions set forth herein.

b. The DSNID's obligation to make any payment under this Agreement is expressly contingent upon MAIN STREET's compliance at all times with the performance standards outlined in Exhibit "B". Provided the DSNID has determined that MAIN STREET has complied with the terms and conditions of this Agreement, including compliance with the performance standards in Exhibit "B", the DSNID shall make the appropriate payments as provided in subsection c below.

c. The payments shall be paid by the DSNID to MAIN STREET in two (2) equal installments during the DSNID's Fiscal Year (FY) 2021-2022, each within thirty (30) days of the DSNID's receipt of a written invoice from MAIN STREET. The MAIN STREET shall submit the first written invoice for payment at any time during the term of this Agreement after submittal of the first report required under section five below, and the second invoice at any time during the term of this Agreement and after submittal of the third report required under section 5 below.

d. MAIN STREET expressly understands that the total amount to be paid by the DSNID under this Agreement shall not exceed thirty thousand dollars (\$30,000.00).

5. Progress and Financial Reporting: MAIN STREET shall submit quarterly progress and summary financial reports to the DSNID. The first report, for the period from October 1, 2021-December 31, 2021, shall be provided to the DSNID by January 15, 2022. The second report shall include information from the January 2022-March 2022 time frame and shall be provided to the DSNID by April 15, 2022. The third report shall include information from the April 2022-June 2022 time frame and shall be provided to the DSNID by July 15, 2022. The final report shall include year-end information as well as information from July 2022-September 2022 and shall be provided to the DSNID by September 30, 2022. Progress reports shall be submitted in a form acceptable to the DSNID Project Manager and shall include

an evaluation of MAIN STREET's programs, demonstrated compliance with the performance standards in Exhibit "B", and the amount or level of programs provided. The reports should be sent by regular mail to the Downtown South Neighborhood Improvement District, Attn: Marty Hudson, Project Manager, 400 South Orange Avenue, 6<sup>th</sup> floor, Orlando, Florida 32801. Moreover, the reports shall be consistent with the programs and services described in Exhibit "A". Failure to comply with the requirement for submission of such reports shall constitute grounds for termination of this Agreement and may result in the ineligibility of MAIN STREET to receive the Funds from the DSNID.

6. Books and Records/Audit:

a. MAIN STREET shall maintain books, records, and other evidence relating to MAIN STREET's use of the Funds provided by the DSNID hereunder (hereinafter referred to as the "Books and Records") in accordance with generally accepted accounting principles, procedures and practices, which documents the incubation program in a manner that fulfills the requirements of this Agreement.

b. MAIN STREET expressly acknowledges that the DSNID shall have the right to audit the Books and Records from time to time for compliance by MAIN STREET with the terms, conditions, limitations, restrictions and requirements of this Agreement, which shall extend for a period of three (3) years after the term of this Agreement.

c. The DSNID shall, upon reasonable notice, have full access during normal business hours for inspection, review and audit of the Books and Records.

7. Repayment of Funds. MAIN STREET shall be liable for repayment of any Funds dispersed under the terms of this Agreement, which may be deemed by the DSNID to have been dispersed in error, or which are used by MAIN STREET in violation of this Agreement.

8. Monitoring: MAIN STREET shall permit the DSNID to monitor the operation of the Downtown facility by MAIN STREET to ensure compliance with the terms of this Agreement. MAIN STREET shall, to assist monitoring of its program, provide to the DSNID or the DSNID's designee access to all client records and such other information as the DSNID may deem necessary.

9. Termination.

a. If MAIN STREET breaches any material term of this Agreement and such breach remains uncured, the DSNID may terminate the whole or any part of this Agreement. Before the DSNID may exercise its right of termination, the DSNID shall provide written notice to MAIN STREET of MAIN STREET's breach or default and MAIN STREET shall have thirty (30) days thereafter within which to cure the breach or default.

b. Waiver by the DSNID of breach of any of the provisions of this Agreement shall not be deemed a waiver of any other or subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

c. In the event of termination of this Agreement by the DSNID for MAIN STREET's breach, MAIN STREET shall return to the DSNID all unused Funds as of the date of termination.

d. If the DSNID breaches any material term of this Agreement and such breach remains uncured, MAIN STREET may terminate the whole or any part of this Agreement. Before MAIN STREET may exercise its right of termination, MAIN STREET shall provide written notice to the DSNID of the DSNID's breach or default and the DSNID shall have thirty (30) days thereafter within which to cure the breach or default.

e. Waiver by MAIN STREET of breach of any of the provisions of this Agreement shall not be deemed a waiver of any other or subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

f. In the event of termination of this Agreement by MAIN STREET for the DSNID's breach, the DSNID shall reimburse MAIN STREET for all reasonable and provable costs incurred by MAIN STREET as of the date of termination that MAIN STREET would have paid with the Funds but for the termination, provided that any unused Funds previously paid to MAIN STREET shall be applied to such reimbursement, and any unused Funds thereafter shall be returned to the DSNID.

10. Indemnification: MAIN STREET agrees to indemnify, defend and hold harmless the DSNID, City, their employees, agents and elected and appointed officials, from and against any and all liability, claims, demands, damages, expenses, fees, fines, penalties, suits, proceedings, actions and cost of actions, including attorneys' fees for trial and on appeal, of any kind and nature arising or growing out of or in any way connected with any or all of the following: (1) the acts or omissions of MAIN STREET, its employees, officers, directors, or agents related to this Agreement, (2) the operation of MAIN STREET's Downtown facility, or (3) the mere existence of this Agreement itself.

11. Insurance: MAIN STREET shall have in force during the Term of this Agreement the insurance coverage listed below. MAIN STREET will provide valid Certificates of Insurance to the DSNID, within ten (10) days of the effective date of this Agreement to verify such coverage. For Commercial General Liability and Commercial Automobile Coverage, the insurance coverage shall contain a provision that any company issuing an insurance policy for the Services shall provide not less than thirty (30) days advance written notice to the DSNID prior to cancellation, termination, or material change of any policy of insurance (except for notice of non-payment of premium for which not less than ten (10) days advance notice in writing shall be required). In addition, MAIN STREET shall immediately provide written notice to the DSNID upon receipt of notice of cancellation of an insurance policy or a decision to terminate an insurance policy. All certificates of insurance shall clearly state that all applicable requirements have been satisfied, including certification that the policies are of the "occurrence" type. All insurance coverages furnished expect workers' compensation and employers' liability shall include the City and DSNID and their officers, elected officials, and employees as additional insured with respect to the provision of the programs described in Exhibit "A". The City and DSNID shall not by reason of their inclusion under these policies incur liability to the insurance carrier for payment of premium for these policies. MAIN STREET shall require their insurance carriers, with respect to all insurance policies, to waive all rights of subrogation against the City and DSNID and their officers, elected officials, agents and employees.

a. Commercial General Liability – MAIN STREET will provide and maintain a commercial general liability policy ("occurrence" type policy) with limits of not less than \$1,000,000 Combined Single Limit (CSL) each occurrence bodily injury and property damage, or its equivalent.

b. Commercial Automobile Liability -- MAIN STREET will provide coverage for all owned, non-owned and hired vehicles for limits of not less than \$1,000,000 Combined Single Limit (CSL) each occurrence bodily injury and property damage, or its equivalent.

c. Workers' Compensation and Employer's Liability -- MAIN STREET will provide full and complete Workers' Compensation coverage as required by Florida state law, as well as Employer's Liability coverage of not less than \$100,000 each occurrence.

12. Force Majeure: The parties shall use reasonable diligence to ultimately fulfill the intent of this agreement but shall not be liable to each other, or their successors or assigns, for damages, costs, attorney's fees (including costs or attorney's fees on appeal) for breach of contract, or otherwise for failure, suspension, diminution, or other variations of services occasioned by any cause beyond the control and without the fault of the parties. Such causes may include but shall not be limited to, Acts of God, or of the public enemy, acts of other government (including regulatory entities or court) in its sovereign or prior contractual capacity, fires, floods, epidemics, quarantines, restrictions, strikes, or failure or breakdown of transmission or other facilities.

13. Non-assignability: MAIN STREET may not assign its rights hereunder without the prior written consent of the DSNID, which assignment may be agreed to, denied, or conditioned in part or in whole as DSNID deems appropriate in its sole discretion. A successor agency does not automatically have any rights to the Funds disbursed under this Agreement by its position as a successor. A successor agency must receive prior approval from the DSNID before it can receive Funds. Failure to comply with this section may result in immediate termination of this Agreement.

14. Controlling Laws:

a. This Agreement and the provisions contained herein shall be construed, controlled, and interpreted according to the laws of the State of Florida, and all duly adopted ordinances, regulations, and policies of the City of Orlando and the DSNID now in effect and those hereinafter adopted.

b. The location for settlement of any and all claims, controversies, or disputes, arising out of or relating to any part of this Agreement, or any breach hereof, shall be Orange County, Florida.

15. Miscellaneous:

a. MAIN STREET warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for them, to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual for firm, other than a bona fide employee working solely for them, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of this Agreement.

b. MAIN STREET warrants and represents that all of its employees are treated equally during employment without regard to race, color, religion, disability, sex, age, national origin or marital status.

c. This Agreement constitutes the entire agreement between the parties with respect to the specific matters contained herein and supersedes all previous discussions, understandings, and agreements. Amendment to or waivers of the provisions herein shall be made by the parties in writing.

d. This Agreement is solely for the benefit of the parties signing hereto and no right, nor any cause of action shall accrue to or for the benefit of any third party.

e. If any sentence, phrase, paragraph, provision or portion of this Agreement is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed an independent provision and such holding shall not affect the validity of the remaining portion hereto.

f. It is mutually understood and agreed that nothing contained in this Agreement is intended, or shall be construed, as in any way creating or establishing the relationship as partner or joint venturers between the parties hereto or as constituting MAIN STREET as the agent or representative of the City for any purpose or in any manner whatsoever.

16. Notices: Any notices required or allowed herein under shall be in writing and given by certified mail, return receipt requested, or in person with proof of delivery to the addresses below or such other addresses either party shall have specified by written letters to the other party delivered in accordance herewith:

DSNID: Project Manager  
Downtown South Neighborhood Improvement District  
400 South Orange Avenue, 6<sup>th</sup> Floor  
Orlando, FL 32801

AND

Office of Economic Development Department Director  
City of Orlando  
400 South Orange Avenue, 6<sup>th</sup> Floor  
Orlando, FL 32801

MAIN STREET: Executive Director  
918 South Orange Avenue  
Orlando, FL 32801

IN WITNESS WHEREOF, the parties hereto have executed these presents and have set their hands and seals each upon the date so indicated.

**SIGNATURES ON FOLLOWING PAGE**

**SOUTH OF DOWNTOWN ORLANDO  
MAIN STREET, INC.**

By \_\_\_\_\_

**WITNESSES:**

(1) \_\_\_\_\_

(2) \_\_\_\_\_

Print Name: \_\_\_\_\_

Print Name: \_\_\_\_\_

STATE OF FLORIDA        }

COUNTY OF \_\_\_\_\_ }

The foregoing instrument was acknowledged before me by means of  physical presence or  online notarization, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_ (name of person) as \_\_\_\_\_ (type of authority, (e.g., officer, trustee, attorney in fact, etc.) for \_\_\_\_\_ (name of entity/party on behalf of whom instrument was executed).

\_\_\_\_\_  
Signature of Notary Public – State of Florida  
Print, Type, or Stamp Notary Name: \_\_\_\_\_

(Affix Notary Stamp or Seal Above)

\_\_\_ Personally Known or \_\_\_ Produced Identification  
Type of Identification Produced \_\_\_\_\_

**DOWNTOWN SOUTH NEIGHBORHOOD  
IMPROVEMENT DISTRICT BOARD OF DIRECTORS**

By: \_\_\_\_\_  
Buddy Dyer, Chairman

**ATTEST:**

By: \_\_\_\_\_  
Board Secretary

STATE OF FLORIDA        }

COUNTY OF ORANGE       }

The foregoing instrument was acknowledged before me by means of  physical presence or  online notarization, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by Buddy Dyer and Stephanie Herdocia as the Chairman and Secretary, respectively, of the Downtown South Neighborhood Improvement District.

\_\_\_\_\_  
Signature of Notary Public – State of Florida  
Print, Type, or Stamp Notary Name: \_\_\_\_\_

(Affix Notary Stamp or Seal Above)

APPROVED AS TO FORM AND LEGALITY  
for the use and reliance of the  
DSNID, only.  
\_\_\_\_\_, 2021.

\_\_\_\_\_  
Assistant City Attorney  
Orlando, Florida



## Exhibit “A”

Vision: A vibrant residential and local business community embracing innovation and our vintage roots.

Mission: To improve our community by design, empower local businesses and residents to collaborate, and create a vibrant atmosphere to live, work, and play.

### Initiatives

#### Economic Development

- Coffee Club
- Cleanup Amtrak
- Home and historic location tours in addition to tours of available real-estate

#### Creative & Environment

- Artistic bike racks
- Multiple art installations by professional artists
  - May include – Vertical Artwork that is a Garden
  - Fabrication Project
  - Art boxes, Flower boxes

#### Marketing & Branding

- Branding/Marketing Items
- Light Up SODO
- Additional events-family fun
- Business Networking events
- Squeeze of the Month/Signs for each business
- Resident Event (Annual networking event)

Exhibit “B”  
Performance Standards

- MAIN STREET will have an office presence in the District with regular and consistent office hours
- MAIN STREET will maintain a digital district business directory and operate a business of the month program
- MAIN STREET will hold a coffee club and provide recurring community progress updates
- MAIN STREET will produce a “State of the District” annual report in accordance with the City of Orlando’s Main Street requirements
- MAIN STREET will continue to paint and enhance utility boxes within the District
- MAIN STREET will provide business vitalization efforts
- MAIN STREET will provide a Amtrak green-up/clean-up initiative
- MAIN STREET will provide tours of available real estate, house tours, and historic locations
- MAIN STREET will provide artistic improvements in the district
- MAIN STREET host Light-Up SODO
- MAIN STREET will plan and host community events including family fun event(s)
- MAIN STREET will host business networking events on a regular and recurring basis