SERVICES AGREEMENT – CITY/DDB

THIS AGREEMENT, effective as of October 1, 2014, is made and entered into by and between the City of Orlando, Florida, a municipal corporation (hereinafter referred to as "CITY" or "the CITY") and the Downtown Development Board of the City of Orlando, an agency of the City of Orlando created by referendum in December 1972 under the Orlando Central City Neighborhood Development Board Act, Chapter 71-810, Laws of Florida, codified in Chapter 18 of the Charter of the City of Orlando ("Act"), hereinafter referred to as "DDB").

WHEREAS, pursuant to the Act, the DDB is charged with planning for the redevelopment of the Downtown Development Area; and

WHEREAS, the CITY and the DDB are keenly interested in maintaining and revitalizing the DDB area as a visibly attractive, economically viable, and socially desirable area of the CITY; and

WHEREAS, the CITY has professional staff employed by CITY; and

WHEREAS, CITY staff time and expertise in various matters, including administration, personnel, engineering, finance, law, purchasing, public works and planning, can be beneficially utilized in DDB's; and

WHEREAS, CITY is willing to make available to the DDB, in accordance with the terms and conditions set forth in this Agreement, professional staff and administrative support;

NOW, THEREFORE, in consideration of the mutual promises and conditions contained in this Agreement and other good and valuable consideration, the receipt of which is acknowledged, CITY and DDB agree as follows:

ARTICLE 1

PREAMBLE

In order to establish the background, context and frame of reference for this Agreement and to generally express the objectives and intentions of the respective parties herein, the following statements, representations and explanations shall be accepted as predicates for the undertakings and commitments included within the provisions which follow and may be relied upon by the parties as essential elements of the mutual considerations upon which this Agreement is based.

1.1 Recitals. That each WHEREAS clause set forth above is true and correct and herein incorporated by this reference.

1.2 CITY Approval. On _____ the City Council, by motion, authorized the proper CITY officials to execute this Agreement.

1.3 DDB Approval. On _____ the DDB by motion, authorized the proper DDB officials to execute this Agreement.

ARTICLE 2

SERVICES

The CITY agrees to perform the following functions and duties in accordance with established procedures or in the absence of same, as provided for by CITY in the conduct of its own affairs.

2.1 The CITY shall provide financial services which shall include, but not be limited to, management of DDB fiscal accounts, investment of DDB assets, payroll, accounting, monthly and annual reporting, federal income and social security tax reporting, sales tax reporting, if any, and other fiscal needs in accordance with City Policies and Procedures related thereto. The Chief Financial Officer of the CITY shall act as the DDB Treasurer.

2.2 The CITY shall, when requested by the DDB, provide personnel services which shall include, but not be limited to, staff recruitment, record retention with respect to personnel actions and such other personnel services as may be needed.

2.3 The CITY shall provide legal, engineering and planning services to advise and assist the DDB.

2.4 The DDB will be permitted to utilize the services of the CITY's Purchasing Division with respect to purchasing services and goods necessary for the operation of DDB activities, including Fleet Management.

2.5 The DDB will be permitted to utilize the services of the CITY's Public Works Department with respect to design services and construction services necessary for the operation of DDB activities, with the exception of project management services, for which a separate fee will be paid by the DDB.

2.6 The CITY may make available public officials liability insurance and other forms of insurance deemed necessary by the CITY. Said insurance is to be determined at the sole discretion of the CITY.

2.7 The DDB may request the CITY to provide other specia1 services on occasion not initially set forth in this Agreement, subject to the CITY's agreeing to do so.

ARTICLE 3

METHOD OF REIMBURSEMENT AND COMPENSATION

3.1 Reimbursement to CITY. In consideration of providing the services described in Article 2 hereof by the CITY commencing from October 1, 2014, the DDB will compensate the

CITY, to the extent funds of the DDB are budgeted and available and eligible for payment in accordance with the Act, four hundred forty six thousand one hundred forty eight dollars ($446,148.00) as consideration for services provided to the DDB during fiscal year 2013-2014 by the CITY as outlined in the City of Orlando, Florida Full Cost Allocation Plan dated May 2013. The DDB's payment obligations under this Agreement constitute an obligation to pay and indebtedness in accordance with the Act.

3.2 Method of Payment. The parties agree that the DDB's obligation to compensate the CITY pursuant to Section 3.1 hereinabove shall be made to CITY in accordance with the DDB approved budget. It is recognized and acknowledged that full compensation to the CITY by the DDB may, during the term of this Agreement be waived, reduced, deferred or a combination thereof. Provided, however, any outstanding payment obligation not waived shall be budgeted by the DDB and made available to the CITY prior to any termination of the DDB.

3.3 Annual Statement and Payment. The CITY shall prepare and present to the DDB an annual statement in time for the preparation and submission of the DDB annual budget. The annual statement shall reflect current year anticipated costs and all unpaid obligations from prior periods. Any amounts contained in the approved DDB budget for payment to CITY shall be paid by the DDB prior to September 30, 2015, the end of fiscal year 2014-2015.

ARTICLE 4

MISCELLANEOUS

4.1 Continued Cooperation. This Agreement assumes the close coordination and cooperation between the DDB and essential CITY staff and CITY functions particularly regarding financial administration, reporting, and auditing; and administration and implementation of projects.

4.2 Term and Termination.

4.2.1 This Agreement shall take effect October 1, 2014, and shall continue in effect through September 30, 2015, unless either party seeks to renegotiate or terminate this Agreement prior to said expiration date.

4.2.2 This Agreement may be terminated by CITY or the DDB upon at least thirty (30) days' advance written notice to the other party. After termination of the Agreement, the CITY shall transfer to the DDB copies of any documents, data, and information requested by the DDB relating to the services accomplished herein. Regardless of the termination of this Agreement, the DDB shall pay to the CITY and outstanding statements or statements for costs incurred but not billed as of the termination date.

4.3 Records. CITY and DDB shall keep records and accounts which shall be available at all reasonable times for examination and audit by DDB and shall be kept for a period of three (3) years after the completion of all work to be performed pursuant to this Agreement.

4.4 Sovereign immunity. Nothing in this Agreement shall be deemed to affect the rights, privileges and immunities of the CITY as set forth in Section 768.28, Florida Statutes.

4.5 Independent Contractor. The CITY is an independent contractor under this Agreement. Personal services provided by the CITY shall be by employees of the CITY and subject to supervision by the CITY, and not as officers, employees, or agents of the DDB. Personnel policies, tax responsibilities, social security, health insurance, employee benefits, purchasing policies and other similar administrative procedures applicable to services rendered under this Agreement shall be those of the CITY.

4.6 Assignments and Amendments.

4.6.1 This Agreement or any interest herein, shall not be assigned, transferred or otherwise encumbered, under any circumstances, by DDB or CITY, without the prior written consent of the other party.

4.6.2 It is further agreed that no modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith.

4.7 Notice. Whenever any party desires to give notice unto any other party, it must be given by written notice, sent by registered United States mail, with return receipt requested, or by hand-delivery with a written receipt of delivery, addressed to the party for whom it is intended and the remaining party, at the place last specified, and the places for giving of notice shall remain such until they shall have been changed by written notice in compliance with the provisions of this Article. For the present, the parties designate the fol1owing as the respective places for giving of notice:

CITY: Chief Administrative Officer
City of Orlando
400 S. Orange Avenue
Orlando, FL 32801

With a copy to:

City Attorney
City of Orlando
400 S. Orange Avenue
Orlando, FL 32801

DDB: Downtown Development Board
400 S. Orange Avenue
Orlando, FL 32801
Attention: Executive Director

With a copy to:

City Attorney
City of Orlando
400 S. Orange Avenue
Orlando, FL 32801

4.8 Binding Authority. Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to a11 provisions contained in this Agreement.

4.9 Severability. If any provision of this Agreement or the application thereof to any person or situation shall to any extent, be held invalid or unenforceable, the remainder of this Agreement, and the application of such provisions to the persons or situations other than those as to which it shall have been held invalid or unenforceable shall not be effected thereby, and shall continue in full force and effect, and be enforced to the fullest extent permitted by law.

4.10 Governing Law. This Agreement shall be governed by the law of the State of Florida with venue lying in Orange County.

4.11 Entire Agreement. This Agreement embodies the entire agreement between the parties. It may not be modified or terminated except as provided herein. It is further understood and agreed that this document incorporates and includes all prior negotiations, correspondence, conversations, agreements, or understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements, or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representation or agreements, whether oral or written.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed as of the day and year first written above.

CITY OF ORLANDO

By:_____
Mayor

ATTEST:

_____
Alana C. Brenner, City Clerk

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

_____, 2014.

_____
Assistant City Attorney

STATE OF FLORIDA
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me this ____ day of _____, 2014, by Buddy Dyer and Alana Brenner, to me known to be the Mayor and City Clerk, respectively, of the City of Orlando, Florida, and who acknowledged before me that they executed the foregoing instrument for the purposes therein expressed, and that they were duly authorized so to do.

WITNESS my hand and official seal this _____ day of _____, 2014.

_____
Notary Public
My Commission Expires

DOWNTOWN DEVELOPMENT BOARD

By: _____
Chair

ATTEST:

_____
Thomas C. Chatmon, Jr.
Executive Director

STATE OF FLORIDA
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me this ____ day of _____, 2014, by Roger Chapin and Thomas C. Chatmon, Jr., to me known to be the Chair and Executive Director, respectively, of the City of Orlando's Downtown Development Board, and who acknowledged before me that they executed the foregoing instrument for the purposes therein expressed, and that they were duly authorized so to do.

WITNESS my hand and official seal this _____ day of _____, 2014.

_____
Notary Public
My Commission Expires