

AGREEMENT FOR PARTICIPATION IN THE
ORLANDO MAIN STREET PROGRAM
BETWEEN THE CITY OF ORLANDO AND
SOUTH OF DOWNTOWN ORLANDO MAIN STREET, INC.
d/b/a DOWNTOWN SOUTH

THIS AGREEMENT is made and entered into this ___ day of _____, 2016, between the **City of Orlando, Florida**, a municipal corporation existing by virtue of the Laws of the State of Florida (hereinafter referred to as “the City”), the address of which is Orlando City Hall, 400 S. Orange Avenue, Orlando, Florida 32801, and the participating neighborhood commercial district, **South of Downtown Orlando Main Street, Inc. d/b/a Downtown South** (hereinafter referred to as “Downtown South” or “the district”), a Florida not-for-profit organization, the address of which is P.O. Box 568952, Orlando, Florida 32856.

WITNESSETH

WHEREAS, in accordance with the Resolution adopted by the City Council, the City’s Economic Development Department developed a new citywide program with the goal of helping to develop stronger and more vibrant neighborhood commercial districts; and

WHEREAS, in conjunction with assistance from the National Main Street Center, the City established the Orlando Main Street Program, which offers designated neighborhood commercial districts training, technical assistance, and staff support in order to promote and achieve a successful neighborhood commercial district; and

WHEREAS, the National Main Street Center has appointed the City of Orlando as the citywide coordinating agency to administer the Orlando Main Street Program on their behalf; and

WHEREAS, this Agreement is for the purpose of Downtown South to participate in the Orlando Main Street Program (hereinafter referred to as “OMS Program”) for FY 2016-2017, and receive certain funding and support to facilitate participation and success in the OMS Program;

NOW, THEREFORE, in consideration of the foregoing and mutual covenants and agreements contained herein, the parties have agreed to the following terms and conditions:

Section I: Duties and Responsibilities of the City.

1. Preamble. The above recitals are true and correct and represent the determinations and findings of the City Council of the City of Orlando, Florida, and are incorporated herein and made a meaningful part of this Agreement.

2. Funding. The City has appropriated funds for the period commencing October 1, 2016 and ending September 30, 2017, the total sum of Thirty-Five Thousand Dollars and No Cents (\$35,000.00) to be administered and disbursed to Downtown South solely for the purposes set forth herein (hereinafter “Funds”).
3. Payments. Under the terms and conditions of this Agreement, the City agrees to contribute the Funds to Downtown South in four (4) equal installments of \$8,750.00 on a quarterly basis, beginning on October 30, 2016, unless otherwise approved and authorized in writing by the Chief Administrative Officer and the Chief Financial Officer of the City. Payments by the City shall be contingent upon the following:
 - (a) Receipt and approval by the City of the reports specified in Section II, paragraph 10 of the Agreement;
 - (b) Continued utilization of the Main Street Four Point Approach and Guiding Principles with a goal of achieving National Main Street Accreditation annually;
 - (c) Compliance with the terms and conditions of the Agreement;
 - (d) Continuing faithful and timely performance of all of the provisions of this Agreement by Downtown South.
4. OMS Basic Training. The City shall conduct an OMS Basic Training for all staff, volunteers, board members, committee members, and municipal government representatives of Downtown South and provide all necessary materials related to training.
5. OMS Orientation. The City shall conduct an orientation for all staff of Downtown South upon any staff turnover.
6. Training. The City shall conduct training opportunities for Downtown South, and one on-site training session in the community entitled “Program of Work,” which will provide for the development of goals, objectives and annual work planning. The City shall conduct this on-site session during the term of the original Agreement and shall conduct such additional sessions as it deems appropriate. The City shall also provide guidelines and other materials designed to assist in the educational process.
7. Workshops. The City shall conduct meetings and workshops to further develop and refine the skills of staff, board members, committee members, and municipal government representatives of Downtown South.
8. Assistance. The City shall provide advice, technical assistance, limited design assistance, and on-site visits to Downtown South on a continuing basis, as requested by Downtown South. The City shall also facilitate and promote ongoing press coverage of Orlando Main Streets and its individual programs. Further, the

City shall provide access to resource materials, including audio-visual and published materials relating to district revitalization on a loan basis.

9. Evaluation. The City shall conduct an annual program review to evaluate Downtown South's progress for the prior 12-month period. The review shall include an on-site visit, utilizing the criteria for accreditation from Main Street America. The evaluation will be done in accordance with the deadline requirements of the National Main Street Center.

Section II: Duties and Responsibilities of Downtown South

1. Expectation. Downtown South acknowledges that, as a Main Street district, it is expected to conduct itself in a cooperative manner with other main street districts. The intent of the district is to promote economic vitality not only in the district, but in the City as a whole.
2. Staff. Downtown South shall employ paid professional staff, including an Executive Director, who will be responsible for its day-to-day administration. The City's Administrator will participate in the hiring process of the director of Downtown South in a consulting and advisory capacity. The director of Downtown South must be paid for a minimum of 40 hours per week. No third party contracts for management services will be permitted. In the event the Executive Director's position is vacated during the term of this Agreement, Downtown South agrees to fill the position with assistance from the City's Administrator within one hundred twenty (120) days of the date of vacancy.

Downtown South shall also have a phone number for the district that shall belong to and stay with the district in the event the Executive Director is no longer employed by Downtown South. The Executive Director shall also provide the district with all email addresses and other collateral, digital, and electronic materials related to his or her employment upon expiration of his or her employment. Downtown South shall provide access to the Internet and email for all of its staff members.

3. Nondiscrimination. Downtown South agrees to employ its staff without regard to race, color, creed, sex, age, national origin, disability, sexual orientation or marital status and in compliance with Chapter 57 of the Code of the City of Orlando, Title VII of the Civil Rights Act of 1964 as amended, and any and all other applicable federal, state, or local laws, rules or regulations, whether presently existing or hereafter promulgated. Downtown South agrees that compliance with this provision constitutes a condition to continued receipt of Funds. Downtown South further agrees that all contractors, subcontractors, or others with whom it arranges to provide services to participants or employees in connection with any of its programs and activities are not discriminating against those participants or employees in violation of this provision. Upon receipt of evidence of such discrimination, the City reserves the right to immediately terminate this Agreement.

4. OMS Orientation. Downtown South shall send its staff members to Orlando Main Streets Orientation at the first available session offered by the City.
5. Maintenance. Downtown South shall raise and expend funds and in-kind services to support its continued participation in the OMS Program, including but not limited to maintaining an office with the necessary travel and operating budget. Downtown South shall present its budget and financial statement to the City at the time of the City's annual evaluation specified in Section I, paragraph 9 of this Agreement.
6. Work Plan. Downtown South shall implement a comprehensive approach to district revitalization following the Four-Point Approach recommended by the National Main Street Center and Orlando Main Streets. This includes the development of annual written or electronic work plans for Downtown South and the establishment of a strong, broad-based organizational system to include but not limited to the following committees: organization, promotion, design, and economic vitality. Downtown South shall submit its work plan to the City for review at the time of the City's annual evaluation specified in Section I, paragraph 9 of this Agreement.
7. Evaluation. Downtown South agrees to participate in the City's evaluation process as set forth in Section I, paragraph 9 of this Agreement and failure to so do shall result in a breach of this Agreement under Section III, paragraph 4 of this Agreement.
8. Target Area/Boundaries. Downtown South shall concentrate the OMS Program activities within the boundaries of the Target Area that are designated by Downtown South and approved by the City. The boundaries are for the purpose of public improvement projects within the City's right-of-way and will have no bearing on the district's membership. A map of the district's Target Area is attached hereto and incorporated herein by reference.
9. Public Improvement Projects. Downtown South agrees to submit in writing to the City's Main Street Administrator for City approval any public improvement project that is or will be located in a public right-of-way. Submission shall be made prior to the commencement of any work on the project.
10. Reports. Downtown South shall maintain data for monitoring its progress, submit quarterly progress reports using formats provided by the City, and provide such other information as requested by the City on or before the deadlines provided by the City. **Failure to submit quarterly progress reports may jeopardize standings with Orlando Main Streets and Main Street America, and will result in quarterly payments being withheld.**
11. Accounting and Audit: Downtown South shall utilize and maintain such records and practices regarding receipts and disbursements of the Funds as to be in accordance with generally accepted accounting principles. All such records shall be open to inspection and audit by the City or by the City's designee during normal business hours during the term hereof and for a period of three (3) years after the termination of this Agreement. Any cost incurred by Downtown South as a result

of a City audit shall be the sole responsibility of and shall be borne by Downtown South. In addition, should Downtown South provide any or all of the Funds to sub-recipients, then and in that event Downtown South shall include in written agreements with such sub-recipients a requirement that records of the sub-recipient be open to inspection and audit by the City or the City's designee to the same extent as those of Downtown South.

12. Meetings. Each participating neighborhood commercial district will be required from time to time to host all participating districts at an on-site meeting with the City. If Downtown South is hosting such a meeting, it shall be responsible for scheduling and arranging such meeting at the office of Downtown South or other agreed upon sites. Any materials required for the meeting must be submitted to the City at a reasonable time prior to the meeting. If food and beverage is required, it shall be Downtown South's responsibility to arrange and provide for it.
13. Information. Downtown South shall keep the City well informed regarding ongoing activities by providing the City with one (1) copy of any materials and/or publications relating to the Downtown South's Program, sent via Internet correspondence. Materials include board meeting minutes, committee meeting minutes, approved budgets, local training flyers, newsletters, and other promotional materials, program of work, and lists of district membership and Board membership.
14. Acknowledgment. Downtown South shall acknowledge being an official Orlando Main Street on all printed materials and websites by adding the tag line, "An Orlando Main Street". Downtown South must discontinue any further use of the Main Street™ name at such time Downtown South or the City terminate this agreement pursuant to the National Main Street Center's Use of the Name Policy.
15. Training. Downtown South shall comply with the City's training and networking requirements.
16. Insurance. Downtown South shall have in force the following insurance coverage, and shall provide the City's Main Street Administrator with Certificates of Insurance within thirty (30) days of the effective date of this Agreement to verify such coverage. The insurance coverage shall contain a provision which forbids any cancellation, changes or material alternations in the coverage without providing thirty (30) days written notice to the City:
 - (a) Commercial General Liability – Downtown South shall provide commercial general liability coverage for all operations including, but not limited to, Contractual, Products and Completed Operations, and Personal Injury. The limits will not be less than \$500,000 Combined Single Limit (CSL) bodily injury and property damage, or its equivalent. The City of Orlando shall be named as an additional insured.
 - (b) Commercial Automobile Liability – If Downtown South's activities include or require the hiring of a vehicle, Downtown South shall provide coverage for all owned, non-owned and hired vehicles

utilized in the performance of this Agreement for limits of not less than \$500,000 Combined Single Limit (CSL) bodily injury and property damage, it its equivalent.

(c) Workers' Compensation – Downtown South shall provide Workers' Compensation coverage for all employees in accordance with Florida law at the site location and, in case any work is subcontracted, will require the subcontractor to provide Workers' Compensation for all its employees. The limits will be statutory for Workers' Compensation and \$100,000 for Employer's Liability.

(d) Employee's Honesty Insurance – Downtown South shall provide not less than \$10,000 coverage limit. The City of Orlando shall be named as an additional insured.

17. Matching. Downtown South is required to match the City's contribution of Funds and provide to the City the necessary financial documents showing such match no later than September 30, 2017. If Downtown South fails to meet this requirement, it shall be removed from the Orlando Main Street Program and this Agreement will be terminated immediately.

18. Board Members. Downtown South shall provide at least one (1) non-voting membership on its board of directors for a City representative for the duration of this Agreement. The City may make recommendations for this board membership to Downtown South's President or Executive Director. Any and all recommendations will be presented to Downtown South's board of directors for approval. The City representative shall be a non-elected member of City staff and shall enjoy the same rights and privileges with regard to discussion on issues before the board as other general members of the Downtown South board. City staff shall not serve as officers of the Board of Directors.

19. Neighborhood Support Areas. If Downtown South decides to make improvements in a neighborhood support area that is located adjacent to the district's Target Area, Downtown South shall obtain a letter of support from an established neighborhood association listed in the City of Orlando's neighborhood organization database for that neighborhood support area if one exists. The City's administrator will provide this information upon request.

Section III: Miscellaneous.

1. Term. The term of this Agreement shall be for one year, beginning October 1, 2016 and ending September 30, 2017.

2. Renewal. Subject to approval and allocation of funding for the OMS Program by City Council, this Agreement shall be renewed under the same terms and conditions contained herein by the first day of October of each fiscal year, unless written notice of termination is received by either party thirty (30) days prior to the date of expiration of this Agreement.

3. Termination. In the event funds anticipated for continued fulfillment of the Agreement are, at any time, not forthcoming or insufficient, either through the

failure of the City Council to appropriate funds for continuation of the Agreement, or discontinuance or material alteration of the OMS Program for which funds were provided, then the City shall have the right to amend or terminate this Agreement without penalty by giving Downtown South not less than fifteen (15) days written notice.

4. Default. The following shall constitute an Event of Default under this Agreement:
 - (a) Downtown South's failure to comply with the requirements of the OMS Program in accordance with the terms and conditions of this Agreement;
 - (b) Downtown South makes a material representation in any certification or communication submitted by Downtown South to the City in an effort to induce the contribution of the Funds or the administration thereof that is later determined by the City to be false, misleading, or incorrect in any material manner; or
 - (c) Downtown South's failure to comply with any of the terms and conditions in this Agreement.

Upon the occurrence of any Event of Default, or any other breach of this Agreement, the City shall have the authority to terminate this Agreement and discontinue the Funds by giving fifteen (15) days notice and/or exercise all rights and remedies available to it under the terms of this Agreement under statutory law, or under common law.

5. Indemnity. Downtown South agrees to indemnify, hold harmless, and defend the City, including its agents, employees, and elected and appointed officials, from and against any and all claims, liabilities, losses, or causes of action, which may arise from any negligent act, or omission of Downtown South, including its agents, servants, or employees.
6. Nonprofit Status. Downtown South shall maintain its non-profit status in the State of Florida throughout the term of this Agreement. If Downtown South should, during the term of this Agreement, lose its non-profit status, it shall immediately notify the City within ten (10) days of the event. Upon such an event, the City reserves the right to immediately terminate this Agreement and discontinue distribution of Funds to Downtown South. Downtown South shall provide to the City Administrator copies of the requisite documentation filed annually with the state and federal governments to maintain non-profit status.
7. Nonassignability. Downtown South may not assign its rights hereunder without the prior written consent of the City. Failure to comply with this section may result in immediate termination of this Agreement.
8. No Joint Venture. 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 ventures between the parties hereto or as constituting Downtown South as the agent or representative of the City for any purpose or in any manner whatsoever.

9. Governing Law. The laws of the State of Florida shall govern this Agreement, and the venue for any dispute or cause of action arising from operation of this Agreement shall be had in Orange County, Florida. Downtown South agrees to comply with all provisions of applicable law, including the Orlando City Code.
10. Savings Clause. If any term or provision of this Agreement is held to be invalid or unenforceable by a court of competent jurisdiction, the remainder shall remain in full force and effect.
11. Merger and Amendment. The City and Downtown South agree that this Agreement sets forth the entire understanding and agreement between the parties as it relates to the subject matter found herein. Amendment to this Agreement shall be by written instrument executed by the parties hereto.
12. Notices. All notices required or anticipated under this Agreement shall be sent certified mail, return receipt requested, and to the following respective offices:

City: City of Orlando
 Business Development Division
 Orlando City Hall
 400 S. Orange Avenue
 Orlando, Florida 32801

District: South of Downtown Orlando Main Street, Inc.
 d/b/a Downtown South
 Attn: Charlotte Manley
 P.O. Box 568952
 Orlando, Florida 32856

IN WITNESS WHEREOF, the City of Orlando, Florida and South of Downtown Orlando Main Street, Inc. have caused their hands and seals to be affixed below, and have duly executed this Agreement on the date and year first above written.

CITY OF ORLANDO, FLORIDA

By: _____
 Mayor/Mayor Pro Tem

ATTEST:

 Orlando City Clerk

APPROVED as to form and legality,
 for the use and reliance of the
 City of Orlando, Florida only.

_____, 2016.

Assistant City Attorney
City of Orlando

**South of Downtown Orlando Main Street,
Inc. d/b/a Downtown South**
a Florida non-profit corporation,

By: _____

Title: _____

WITNESS:

STATE OF FLORIDA
COUNTY OF ORANGE

Personally appeared before me, the undersigned authority, _____, who is the _____ of South of Downtown Orlando Main Street, Inc., d/b/a Downtown South and acknowledged before me that they executed the foregoing instrument on behalf of said corporation as its true act and deed, and that they were duly authorized so to do. He/she is personally known to me or has produced _____ as identification and did/did not take an oath.

WITNESS my hand and official seal in the County and State last aforesaid this ____ day of _____, 2016.

NOTARY PUBLIC
Print Name: _____
My Commission Expires:

MAP OF TARGET AREA