

**DOWNTOWN ORLANDO, INC. / CITY OF ORLANDO COMMUNITY REDEVELOPMENT
AGENCY FUNDING AGREEMENT**

THIS AGREEMENT , effective as of October 1, 2018 (the “Effective Date”), is made and entered into by and between the, **DOWNTOWN ORLANDO, INC., d/b/a DOWNTOWN ORLANDO PARTNERSHIP** (“DOP”), a Florida not-for-profit corporation and the **CITY OF ORLANDO COMMUNITY REDEVELOPMENT AGENCY** (“CRA”), an entity created pursuant to Part III of Chapter 163, Florida Statutes.

W I T N E S S E T H:

WHEREAS, the CRA was created as a public body corporate and agency of the City of Orlando for the purpose of, among others, carrying out the community redevelopment purposes of Ch. 163, Part III, Florida Statutes; and

WHEREAS, the City Council initially adopted a community redevelopment plan on July 12, 1982, which has most recently been amended on May 4, 2015, pursuant to resolution of City Council (the “Redevelopment Plan”); and

WHEREAS, the CRA notes the importance of Downtown Orlando being “an active community recognized as the premier destination of choice for business, community and culture” as contemplated by DOP’s Vision; and

WHEREAS, DOP has established five strategic priorities of arts, sports and entertainment, technology, lodging and dining, real estate and development, and quality of life, and such strategic priorities align with the priorities set forth in the Redevelopment Plan; and

WHEREAS, one of the Redevelopment Plan’s goals is encouraging and promoting a variety of events within the Downtown Orlando Redevelopment Area (the “Area”); and

WHEREAS, the Redevelopment Plan notes the importance of providing downtown workers the opportunity to connect and sets a specific goal of encouraging more special events and activities to keep workers Downtown after business hours; and

WHEREAS, the Redevelopment Plan establishes goals of supporting “clean and safe” programming within the Area and holding annual volunteer events; and

WHEREAS, by locating its offices within the Area at 100 South Eola Drive, Suite 200, the DOP is able to conduct collaborative events and initiatives within the Area; and

WHEREAS, the CRA desires to have the DOP assist the CRA in fulfilling its Redevelopment Plan goals by providing certain programs and conducting certain activities within the Area as contemplated by this Agreement; and

WHEREAS, the CRA finds and declares it is in the public's best interest to assist DOP by providing funding to DOP in the amount of twenty-five thousand dollars (\$25,000.00) contingent upon the DOP 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, 2018, and shall, unless sooner terminated as provided herein, automatically terminate on September 30, 2019.

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

4. CRA's Obligations:

a. The CRA shall pay DOP a fixed amount of twenty-five thousand dollars (\$25,000.00)(the "Funds") to be paid pursuant to the terms and conditions set forth herein.

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

c. The payments shall be paid by the CRA to DOP in two (2) installments during the CRA's Fiscal Year (FY) 2018-2019, each within thirty (30) days of the CRA's receipt of a written invoice from DOP. The DOP 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. DOP expressly understands that the sum total amount to be paid by the CRA under this Agreement shall not exceed twenty-five thousand dollars (\$25,000.00).

5. Progress and Financial Reporting: DOP shall submit quarterly progress and summary financial reports to the CRA. The first report, for the period from October 1, 2018-December 31, 2018, shall be provided to the CRA by January 15, 2019. The second report shall include information from the January 2019-March 2019 time frame and shall be provided to the CRA by April 15, 2019. The third

report shall include information from the April 2019-June 2019 time frame and shall be provided to the CRA by July 15, 2019. The final report shall include year-end information as well as information from July 2019-September 2019 and shall be provided to the CRA by September 30, 2019. Progress reports shall be submitted on the form attached as Exhibit "C" hereto and shall include an evaluation of DOP'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 Community Redevelopment Agency, Attn: Executive Director, 400 South Orange Avenue, 6th 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 DOP to receive the Funds from the CRA.

6. Books and Records/Audit:

a. DOP shall maintain books, records, and other evidence relating to DOP's use of the Funds provided by the CRA 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. DOP expressly acknowledges that the CRA shall have the right to audit the Books and Records from time to time for compliance by DOP 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 CRA 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. DOP shall be liable for repayment of any Funds dispersed under the terms of this Agreement, which may be deemed by the CRA to have been dispersed in error, or which are used by DOP in violation of this Agreement.

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

9. Termination.

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

b. Waiver by the CRA 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 CRA for DOP's breach, DOP shall return to the CRA all unused Funds as of the date of termination.

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

e. Waiver by DOP 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 DOP for the CRA's breach, the CRA shall reimburse DOP for all reasonable and provable costs incurred by DOP as of the date of termination that DOP would have paid with the Funds but for the termination, provided that any unused Funds previously paid to DOP shall be applied to such reimbursement, and any unused Funds thereafter shall be returned to the CRA.

10. Indemnification: DOP agrees to indemnify, defend and hold harmless the CRA, 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 DOP, its employees, officers, directors, or agents related to this Agreement, (2) the operation of DOP's Downtown facility, or (3) the mere existence of this Agreement itself.

11. Insurance: DOP shall have in force during the Term of this Agreement the insurance coverage listed below. DOP will provide valid Certificates of Insurance to the CRA, 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 CRA 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, DOP shall immediately provide written notice to the CRA 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 CRA 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 CRA shall not by reason of their inclusion under these policies incur liability to the insurance carrier for payment of premium for these policies. DOP shall require their insurance carriers, with respect to all insurance policies, to waive all rights of subrogation against the City and CRA and their officers, elected officials, agents and employees.

- a. Commercial General Liability – DOP 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 -- DOP 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 -- DOP 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. Nonassignability: DOP may not assign its rights hereunder without the prior written consent of the CRA, which assignment may be agreed to, denied, or conditioned in part or in whole as CRA 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 CRA 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 CRA 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. DOP 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. DOP 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 DOP 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:

CRA: Executive Director
City of Orlando Community Redevelopment Agency
400 South Orange Avenue, 6th Floor
Orlando, FL 32801

AND

Office of Economic Development Director
City of Orlando
400 South Orange Avenue, 6th Floor
Orlando, FL 32801

DOP: Executive Director
100 South Eola Drive, Suite 200
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.

DOWNTOWN ORLANDO, INC.

By _____

WITNESSES:

(1) _____

(2) _____

Print Name: _____

Print Name: _____

STATE OF FLORIDA
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me this _____ day of _____, 2018, by _____ as the _____ of the Downtown Orlando Partnership. He/She is personally known to me or has produced a valid (State) _____ Driver's License as identification.

Notary Public
My Commission Expires:

**CITY OF ORLANDO COMMUNITY
REDEVELOPMENT AGENCY**

By: _____
Buddy Dyer
Chairman

ATTEST:

By: _____
Thomas C. Chatmon, Jr.
Executive Director

STATE OF FLORIDA
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me this _____ day of _____, 2018, by Buddy Dyer and Thomas C. Chatmon, Jr., well known to me and known by me as the Chairman and Executive Director, respectively, of the City of Orlando Community Redevelopment Agency, who are personally known to me or has produced a valid (State) _____ Driver's License as identification.

Notary Public
Commission Expires:

APPROVED AS TO FORM AND LEGALITY
for the use and reliance of the
CRA, only.

_____, 2018.

Assistant City Attorney
Orlando, Florida

Exhibit “A”

The mission of the Downtown Orlando Partnership (DOP) is to enhance business and community relationships through collaborative events and initiatives. The DOP strives to see Downtown Orlando become an active community that is recognized as the premier destination of choice for business, community and culture. The strategic priorities of the DOP include 1) Arts, Sports and Entertainment, 2) Lodging and Dining, 3) Real Estate and Development, 4) Technology and 5) Quality of Life. Our activities reflect that purpose and are outlined below:

Events/Initiatives

- Downtown Orlando Food Tours
- Monthly 3rd Thursday Business Networking Events
- Quarterly Lunch & Learn Events
- Golden Brick Award Luncheon
- Annual ConnectDTO class
- State of Downtown Reception
- Annual Deck the Downtown Initiative
- Monthly DO-Pop-Up Events

Board/Volunteers

- Monthly Board Meetings
- Quarterly Events Committee Meetings
- Quarterly Engagement Committee Meetings
- Quarterly Communication Committee Meetings
- Quarterly Governance Committee Meetings
- Bi-Monthly Governmental Affairs Committee Meetings
- Quarterly Downtown Business Council Meetings

Exhibit “B”
Performance Standards

- DOP will uphold its mission to enhance business and community relationships through collaborative events and initiatives and seek to achieve its vision of “Downtown Orlando is an active community recognized as the premier destination of choice for business, community and culture.”
- DOP will have an office presence in the Area with regular and consistent office hours of at least 8:00 a.m. to 5:00 p.m. Monday-Friday.
- DOP will host at least 10 Third Thursday networking events.
- DOP will host events related to its strategic priorities (Art, Sport and Entertainment, Technology, Lodging and Dining, Real Estate and Development, Quality of Life).
- DOP will help promote events held by the downtown Main Street Districts (Church Street and Thornton Park) and downtown technology and art related groups, as well as City/DDB/CRA sponsored events and other relevant events.
- DOP will collaborate with the CRA to assist, as appropriate, in implementing the Redevelopment Plan (Project DTO findings).
- DOP will coordinate with the DDB to determine a manner in which to assist the DDB/CRA’S Downtown Information Center in welcoming new businesses to the Area.
- DOP will assist the CRA in clean-up/beautification initiatives.
- Offer affordable and/or sponsored membership opportunities for Parramore businesses.
- DOP will host quarterly lunch and learn sessions or equivalent events.
- DOP will conduct the Golden Brick Awards and host the related luncheon.
- DOP will host the State of Downtown reception.
- DOP will provide the DDB with opportunities to participate in all of the DOP hosted events listed above and will recognize the DDB as sponsors of the events and display the DDB logo on all event related marketing materials, including spotlights in social media and newsletters. DDB will also be provided a table at the Golden Brick Awards luncheon, a table at the State of Downtown reception, 2 tickets to each lunch and learn event, 10 food tour tickets, complimentary admission for one staff member to attend the ConnectDTO class. Additionally, DDB will be given a minimum of two tickets to each DOP event for DDB staff to attend the event as part of DDB staff’s role in oversight of downtown activities and events.

Exhibit “C”

Downtown Orlando Partnership FY2018/2019 Funding Agreement Benchmarks Report

Term: October 1, 2018 to September 30, 2019

Submitted By: _____

Date Submitted: _____

Reporting Quarter (circle one):

1st

2nd

3rd

4th

<u>Program Benchmarks</u>	<u>Circle one</u>		<u>How? Why? Event. Details.</u>
DOP enhanced business and community relationships through collaborative events & initiatives that seek to achieve the vision of making downtown Orlando the premier destination of choice for business & community relationships.	Yes	No	
DOP had an office presence in the downtown CRA and consistent office hours of at least 8am to 5pm, Monday through Friday.	Yes	No	
DOP hosted Third Thursday partnership events (at least 10 for year).	Yes	No	
DOP hosted major events per strategic priority (Art, Sport & Entertainment, Technology, Lodging & Dining, Real Estate & Development, Quality of Life).	Yes	No	
DOP helped promote downtown Mainstreet Districts, tech, art, City/DDB sponsored events, and other related events.	Yes	No	
DOP collaborated with the CRA to assist, as appropriate, in implementing the Redevelopment Plan (Project DTO findings).	Yes	No	
DOP assisted the DDB/CRA's Downtown Information Center in welcoming new businesses to the area.	Yes	No	
DOP offered affordable and/or sponsored membership opportunities to Parramore businesses.	Yes	No	
DOP hosted quarterly lunch and learn sessions.	Yes	No	
DOP conducted the Golden Brick Awards and hosted the related luncheon.	Yes	No	
DOP hosted the State of the Downtown reception.	Yes	No	
DOP conducted downtown food tours.	Yes	No	
DOP provided the DDB with opportunities to participate in all of the DOP hosted events listed above and recognized the DDB as sponsors of the events and displayed the DDB logo on all event related marketing materials, including spotlights in social media and newsletters.	Yes	No	

DOP provided DDB a table at the Golden Brick Awards luncheon.	Yes	No
DOP provided DDB a table at the State of the Downtown reception.	Yes	No
DOP provided DDB with 2 tickets to each lunch and learn event.	Yes	No
DOP provided DDB with 10 food tour tickets.	Yes	No
DOP provided complimentary admission for one DDB staff member to attend the ConnectDTO class.	Yes	No
DOP provided DDB with a minimum of 2 tickets to each DOP event for DDB staff to attend the event as part of the DDB staff's role in oversight of downtown activities and events.	Yes	No