

SERVICES AGREEMENT-CITY/DSNID

THIS AGREEMENT, effective as of October 1, 2023, 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 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") 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 adopting a final budget, pursuant to Chapter 200, Florida Statutes; and

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

WHEREAS, in accordance with section 163.516, Florida Statutes, the DSNID adopted a Safe Neighborhood Improvement Plan ("Plan") which contemplates within its action plan the District's funding of its administrative expenses; 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 the planning and implementation of the Plan; and

WHEREAS, CITY is willing to make available to the DSNID, 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 DSNID 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 DSNID Approval. On _____ the DSNID Board of Directors by motion, authorized the proper DSNID officials to execute this Agreement.

ARTICLE 2

SERVICES

2.1 General Services. The CITY, through various departments, 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.

2.1.1 The CITY shall provide financial services which shall include, but not be limited to, management of DSNID fiscal accounts, investment of DSNID 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 DSNID Treasurer.

2.1.2 The CITY shall, when requested by the DSNID, 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.

2.1.3 The CITY shall provide legal, real-estate, engineering and planning services to advise the DSNID and to assist in the implementation of the Plan.

2.1.4 The DSNID will be permitted to utilize the services of the CITY's Procurement and Contracts Division with respect to purchasing services and goods necessary for the operation of DSNID activities.

2.1.5 The DSNID will be permitted to utilize the services of the CITY's Public Works Department with respect to design services necessary for the operation of DSNID activities, with the exception of construction services and project management services by the Capital

Improvements Division of the Public Works Department, for which a separate fee will be paid by the DSNID.

2.1.6 The CITY shall provide administrative and reception services to the DSNID for the DSNID offices and records management and other related services through the City Clerk's office.

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

2.2 Project Based Services. The CITY agrees to perform the following project related services in accordance with established procedures, or in the absence of same, as provided for by the CITY in the conduct of its affairs.

2.2.1 The DSNID may utilize the design and construction related services of the Capital Improvements Division of the Public Works Department.

2.2.2 The DSNID may utilize the services of the Fleet and Facilities Management Division of the Office of Business and Financial Services.

2.2.3 The DSNID may utilize the services of the Housing and Community Development Department.

2.2.4 The DSNID may utilize the services of the Transportation Department.

2.3 Insurance. 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.

ARTICLE 3

METHOD OF REIMBURSEMENT AND COMPENSATION

3.1 Reimbursement to CITY. In consideration of providing the services described in Section 2.1 (excluding 2.1.7) hereof by the CITY commencing from October 1, 2023, the DSNID will compensate the CITY, to the extent funds of the DSNID are budgeted and available and eligible for payment in accordance with Section 163.5151 Florida Statutes the amount set forth in the City of Orlando, Florida Full Cost Allocation Plan dated Summer 2023 as consideration for services provided to the DSNID during fiscal year 2023-2024 by the CITY, estimated to be nineteen thousand seven hundred ten dollars (\$19,710.00). In consideration of providing the services described in Section 2.2 hereof by the CITY, the DSNID shall pay fees for work performed as billed on an hourly basis and in an amount agreed to by the Project Manager of the DSNID and the Department Director responsible for oversight of such service as stated in Section 2.2 above.

The DSNID's payment obligations under this Agreement constitute an obligation to pay and indebtedness in accordance with the Act.

3.2 Method of Payments. The parties agree that the DSNID's obligation to compensate the CITY pursuant to Section 3.1 hereinabove shall be made to CITY in accordance with the DSNID approved budget. It is recognized and acknowledged that full compensation to the CITY by the DSNID 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 DSNID and made available to the CITY.

3.3 Annual Statement and Payments. The CITY shall prepare and present to the DSNID an annual statement in time for the preparation and submission of the DSNID annual budget. The annual statement shall reflect current year anticipated costs and all unpaid obligations from prior periods. Any amounts contained in the approved DSNID budget for payment to CITY shall be paid by the DSNID prior to September 30, 2024, the end of fiscal year 2023-2024. Payments for work performed on an hourly basis pursuant to Section 2.2 hereof shall be paid within 30 days of receipt of a proper invoice.

ARTICLE 4

MISCELLANEOUS

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

4.2 Term and Termination.

4.2.1 This Agreement shall take effect October 1, 2023, and shall continue in effect through September 30, 2024, 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 DSNID upon at least thirty (30) days' advance written notice to the other party. After termination of the Agreement, the CITY shall transfer to the DSNID copies of any documents, data, and information requested by the DSNID relating to the services accomplished herein. Regardless of the termination of this Agreement, the DSNID 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 DSNID shall keep records and accounts which shall be available at all reasonable times for examination and audit by DSNID 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 DSNID. 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 DSNID 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 following 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

DSNID: Downtown South Neighborhood Improvement District
400 S. Orange Avenue
Orlando, FL 32801
Attention: Project Manager

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 all 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:

Stephanie Herdocia, City Clerk

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 Mayor and City Clerk, respectively, for the City of Orlando.

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 _____

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

_____, 2023.

Assistant City Attorney

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

By: _____
Buddy Dyer, Chairman

ATTEST:

Stephanie Herdocia, 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, for 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.
_____, 2023.

Assistant City Attorney
Orlando, Florida