

AN ORDINANCE APPROVING A PUBLIC SERVICE AGREEMENT BY AND BETWEEN DOWNTOWN LEE'S SUMMIT MAIN STREET AND THE CITY OF LEE'S SUMMIT, MISSOURI, FOR SERVICES TO BE PROVIDED TO THE CITY AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE SAME BY AND ON BEHALF OF THE CITY.

WHEREAS, Downtown Lee's Summit Main Street (hereinafter "DLSMS") is a nonprofit corporation which has demonstrated evidence of its tourism marketing abilities and has provided tourism marketing services to the City of Lee's Summit, Missouri (the "City") in the past; and,

WHEREAS, the City, by Ordinance No. 4611, did levy a license tax on certain gross receipts of hotels, motels and similar places of business, the proceeds of which were to be used to promote the general economic welfare of the City, including, but not limited to, the attraction and retention of business and industry to the community and/or the promotion and provision of facilities for tourism, conventions, and visitors; and,

WHEREAS, the City has determined that it is in the best interests of the City, and important to the promotion of the general economic welfare of the City, to allocate proceeds from the license tax to DLSMS as compensation for the performance of various tourism marketing related services to be provided to the City; and,

WHEREAS, the Public Service Agreement attached hereto as Exhibit A and incorporated herein by reference as though fully set forth, outlines the scope of services expected of DLSMS in exchange for payment by City, as well as various other provisions memorializing the agreement between the City and DLSMS; and,

WHEREAS, the City and DLSMS desire to enter into the Public Service Agreement in order to formalize the agreement between the parties.

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LEE'S SUMMIT, MISSOURI, AS FOLLOWS:

SECTION 1. That the Public Service Agreement by and between the City of Lee's Summit, Missouri and Downtown Lee's Summit Main Street for the provision of marketing services, a true and accurate copy being attached hereto as Exhibit A and incorporated herein by reference be and hereby is approved.

SECTION 2. That the City Manager is hereby authorized to execute said Public Service Agreement by and on behalf of the City.

SECTION 3. That this ordinance shall be in full force and effect from and after the date of its passage and approval.

SECTION 4. That should any section, sentence, or clause of this ordinance be declared invalid or unconstitutional, such declaration shall not affect the validity of the remaining sections, sentences or clauses.

PASSED by the City Council of Lee's Summit, Missouri, this 1st day of June, 2017.



Mayor Randall L. Rhoads

ATTEST:



City Clerk Denise R. Chisum

APPROVED by the Mayor of said city this 6th day of June, 2017.



Mayor Randall L. Rhoads

ATTEST:



City Clerk Denise R. Chisum

APPROVED AS TO FORM:



Chief Counsel of Management & Operations/Deputy City Attorney
Jackie McCormick Heanue

**PUBLIC SERVICE AGREEMENT
BY AND BETWEEN
THE CITY OF LEE'S SUMMIT
AND
DOWNTOWN LEE'S SUMMIT MAIN STREET, INC.**

This Agreement, made and entered into this 28 day of June, 2017, is by and between Downtown Lee's Summit Main Street Inc., a Missouri nonprofit corporation ("Main Street"), and the City of Lee's Summit, Missouri, a Missouri constitutional charter city ("City").

WITNESSETH:

WHEREAS, Main Street was created to assist the City in developing a public-private effort to revitalize the City's Central Business District; and

WHEREAS, the City has determined that it is in the best interests of the City, and important to the promotion of the general economic welfare of the City, to compensate Main Street for the performance of services pursuant to this Agreement.

NOW, THEREFORE, in consideration of mutual undertakings and mutual benefits from the services set forth herein, the City and Main Street agree as follows:

I. SCOPE OF SERVICES

Main Street will provide the following services ("Services"):

A. Organization

Main Street shall continue to provide unified management and coordination for the Downtown Core Area through Main Street's interaction with its investors, volunteers, the City, downtown businesses, downtown property owners and community partners to continue to contribute toward the economic revitalization of Old Lee's Summit as defined in the Old Lee's Summit Development Master Plan.

B. Marketing and Promotion

Main Street shall continue to develop and update a consistent marketing and promotion program for the Downtown Core Area that will bring the City's brand alive and elevate the image of downtown and the community. Marketing and promotion includes producing quality marketing pieces, coordinating advertisements and organizing annual events/activities that attract visitors to the Downtown Core Area.

C. Design

Main Street shall continue to initiate and develop design proposals for façade, signage, lighting, landscaping, historic preservation and the overall aesthetic look of the Downtown Core Area. Main Street will assist City staff with the implementation and education of the City's Design Standards for the Downtown Core Area.

D. Economic Enhancement

Main Street shall continue to strengthen the existing economic assets of the Downtown Core Area while diversifying its economic base, including recruiting new businesses, assisting with expansion of existing businesses, facilitating redevelopment, marketing available or underutilized commercial space, and strengthening the management capabilities and competitiveness of individual businesses. Main Street tracks key statistics, including job growth and new businesses in the Downtown Core Area and hosts businesses development seminars based on the needs of the downtown business community. Main Street serves as the key point of contact for interested parties looking to invest in the Downtown Core Area.

II. TERM AND TIME OF PERFORMANCE

The term of this Agreement shall be from July 1, 2017 to June 30, 2018, and shall be eligible for up to two (2) additional automatic one year renewals, unless notification is given of intent not to renew by either party in writing, no less than thirty (30) days, prior to the date of automatic renewal, and subject to appropriation by the City Council as contemplated herein. It is contemplated that the parties may enter into similar agreements for successive years, and to that end there shall be a review of Downtown Lee's Summit Main Street's performance by the City Manager. The City Manager's review shall be completed no later than April 1, 2020. To facilitate the review, Downtown Lee's Summit Main Street shall submit a copy of its annual budget each year by March 1, meet regularly with the City Manager, and provide reports of activity, at least quarterly, to the City Manager. The City Manager shall inform the Downtown Lee's Summit Main Street by April 30 of the results of the City Manager's review.

III. COMPENSATION AND METHOD OF PAYMENT

The City hereby agrees to compensate Main Street for the Services as outlined in Section I (A-D) in a lump sum amount of \$60,000 for FY18; \$60,000 for FY19; and \$60,000 for FY20. All compensation for the Services is subject to annual appropriation by the City. With the adoption of the annual City budget, the

X. INDEPENDENT CONTRACTOR

Main Street is not authorized or empowered to make any commitments or incur any obligation on behalf of the City, but merely to provide the Services provided for herein as an independent contractor.

XI. INDEMNIFICATION

Main Street shall indemnify, release, defend, become responsible for and forever hold harmless the City, its officers, agents, employees, elected officials, and attorneys, each in their official and individual capacities, from and against all lawsuits, suits, actions, costs, claims, demands, damages, disability, losses, expenses, including reasonable attorney's fees and other defense costs or liabilities, of any character and from any cause whatsoever brought because of bodily injury or death received or sustained, or loss or damage received or sustained, by any person, persons, or property arising out of or resulting from any act, error, omission, or intentional act of Main Street or its agents, employees, or subcontractors, arising out of or in any way connected with the subject matter of this Agreement or the work or operations expressly authorized herein; provided, however, that Main Street need not save harmless the City from claims, demands, losses and expenses arising out of the sole negligence of the City, its employees or agents. In addition, the City shall not be liable or responsible in any manner to any subcontractor with whom Main Street has contracted for additional services under the terms of the Agreement.

XII. CANCELLED, TERMINATION OR SUSPENSION

A. This Agreement may be terminated at any time by written, mutual agreement of the parties. The City may terminate the Agreement immediately if funds are not appropriated for the Services described herein. The City shall have the right to terminate this Agreement in the event that Main Street is in default or violation of the terms or provisions of this Agreement and fails to cure such default or violation in the manner specified in subsection 'B' below.

B. In the event of such default or violation by Main Street, the City shall send to Main Street by certified mail a Notice Demand to Cure Default, explaining the specific nature and extent of the default or violation. Main Street shall cure or remedy said violation or default within twenty (20) working days after receipt of said Notice, unless a longer time is agreed upon by both parties in writing. In case the default is not cured or remedied within twenty (20) working days or a longer period of time if agreed upon, the City may exercise its option to terminate this Agreement upon five (5) days written notice thereafter. Main Street shall not be relieved of liability to the City for damages sustained by the City by virtue of any breach of this Agreement by Main Street.

C. In the event of termination, Main Street shall refund to the City a pro-rated portion of the compensation paid pursuant to section III above. The pro-rated amount shall be determined by dividing the annual payment recited in section III by 365, and multiplying this daily amount by the number of days remaining in the year from and after the effective date of termination. Main Street shall refund the pro-rated amount to the City within 30 days of the effective date of termination.

XIII. NOTICE

Any notice required by this contract is deemed to be given if it is mailed by United States certified mail, postage prepaid, and addressed as hereinafter specified.

Notice to the City shall be addressed to:

City Manager
City of Lee's Summit, Missouri
220 S.E. Green Street
Lee's Summit, Missouri 64063

Notice to Main Street shall be addressed to:

Executive Director
Downtown Lee's Summit Main Street Inc.
226 SE Douglas Street, Ste 203
Lee's Summit, MO 64063

XIV. AMENDMENTS

In order to provide necessary flexibility for the most effective execution of this Agreement, whenever both the City and Main Street mutually agree, changes to this Agreement may be effected by placing them in written form and incorporating them into this Agreement as an amendment.

XV. SEVERABILITY

It is mutually agreed that in case any provision of this Agreement is determined by a court of law to be unconstitutional, illegal, or unenforceable, it is the intention of the parties that all the other provisions of this Agreement shall remain in full force and effect.

XVI. ENTIRE AGREEMENT


This Agreement constitutes the entire agreement between the parties with respect to its subject matter and any prior agreements, understandings, or other

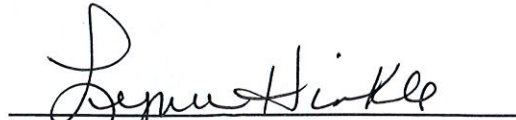
matters, whether oral or written, are hereby merged into and made a part hereof, and are of not further force or affect.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year first above written.

CITY OF LEE'S SUMMIT, MISSOURI
A Missouri constitutional charter city

DOWNTOWN LEE'S SUMMIT
MAIN STREET INC.
A Missouri nonprofit corporation


Stephen A. Arbo, City Manager


President

ATTEST:


Denise R. Chisum, City Clerk

ATTEST:


Secretary

Approved as to Form


City Attorney's Office