

AGREEMENT

THIS ECONOMIC DEVELOPMENT AGREEMENT is made and entered into in the City of San Luis Obispo on _____, by and between the DOWNTOWN SLO, a 501(c)(6) non-profit corporation organized under the laws of the State of California, with a place of business at 1135 Chorro Street, San Luis Obispo, California 93401 ("DSLO"), and the CITY OF SAN LUIS OBISPO, a municipal corporation and charter city ("City").

WITNESSETH:

WHEREAS, on October 6, 1975, the City Council adopted, and subsequently amended on various occasions, Ordinance 649 (1975 Series) (collectively, "the Ordinance") creating the Downtown Parking and Business Improvement Area ("BIA") in the downtown area of San Luis Obispo, and levying the authorized assessment on all businesses within that area; and

WHEREAS, the City and DSLO have benefited from a close working relationship for the benefit of business and tourism in the downtown area of San Luis Obispo since the inception of the Downtown Parking and Business Improvement Area in 1975 and desire to continue their relationship for the betterment of tourism and business; and

WHEREAS, DSLO is uniquely qualified to provide the promotional activities services contemplated under this contract due to its intimate knowledge of downtown, unique connection to businesses in the downtown, and its long experience producing and providing promotional services for the benefit of DSLO members; and

WHEREAS, DSLO has historically added substantial value to the events produced under contract with the City by utilizing the financial resources of its membership and dedication of its staff that in total far exceed the BIA assessment revenues; and

WHEREAS, DSLO brings experienced and competent management of the subcontractors that it hires for the contracted events; and

WHEREAS, both parties acknowledge that the Thursday Night Farmers' Market, Concerts in the Plaza, and Holiday Activities are unique events that activate the downtown city streets and public areas and draw visitors; and

WHEREAS, having determined that promotional activities to benefit business and tourism activities in the downtown area of San Luis Obispo are an appropriate use of BIA assessment proceeds since such activities are expected to maintain and increase revenues derived by the City from the downtown area and to preserve and enhance the unique character of the downtown for the special benefit of downtown area businesses, and further, having determined that DSLO is able to conduct such promotional activities, the City Council desires to contract with DSLO to conduct promotional activities in the downtown area of San Luis Obispo using BIA assessment proceeds; and

WHEREAS, the City is authorized to enter into a contract to provide services to the members of the BIA and to administer the assessment collected for that purpose; DSLO, a 501(c)(6) organization, wishes to enter into this contract with the City to provide agreed upon services to the BIA members.

NOW THEREFORE, in consideration of their mutual promises, obligations, and covenants hereinafter contained, the parties hereto agree as follows:

1. **Scope of Services.** DSLO will conduct promotional activities to benefit business, cultural, and tourism activities in the downtown area of the City, more specifically set forth in this Agreement as the Scope of Services, attached hereto as Exhibit A and incorporated as if fully set forth herein, as limited by State law and the Ordinance, and subject to any modifications approved in writing by the City Manager.

During the term of the contract, the Scope of Services, Exhibit A may be amended by mutual consent of the parties. The City Manager is hereby authorized to approve periodic amendments to Exhibit A without further consent by Council to the extent that any such amendments do not result in the elimination of required Special Events, as set forth in Exhibit A.

2. **Financial Reporting.** DSLO will prepare and file with City, consistent with City policy, quarterly financial reports within 60 days after the end of the quarter showing qualifying expenditures made by DSLO and shall, upon request by City, produce supporting invoices, receipts, vouchers and statements showing how the BIA revenues have been expended consistent with this Agreement. Such financial reports shall include a line-item schedule that matches expenditures with specific, budgeted amounts and activities. The reports will be filed with the City Finance Director consistent with the City's financial reporting policies and practices, and as reasonably requested by the Finance Director.

In addition to interim quarterly reports, DSLO shall contract with an independent certified public accountant to prepare an annual compilation of DSLO's financial operations related to qualifying revenues and expenses. Said compilation shall be completed every year, at the end of the contract period and shall show the purposes to which the BIA funds were applied by providing the name and date of the event and the allocation of BIA funds relative to the costs of the event. The compilation shall be conducted in accordance with accounting standards generally accepted in the United States. The objective of a compilation is to assist management in presenting financial information in the form of financial statements without undertaking to obtain or provide any assurance that there are no material modifications that should be made to the financial statements. DSLO's fiscal year shall be July 1 to June 30; and the compilation shall be completed and submitted to the City's Finance Director within 180 days of the fiscal year end. The City reserves the right to request an audit of DSLO financial statements and DSLO agrees to comply with such a request, in intervals no more often than every four years nor less often than every six years.

3. **Quarterly Activity Reports.** At the time the interim quarterly financial reports are filed, DSLO will also file with the City Manager a report of the activities of DSLO and its subcontractors and the respective accomplishments of each during the period specified in the financial report.
4. **Term.** The term of this Agreement will commence July 1, 2021 ending on June 30, 2023 to match the two-year budget cycle of the City. The contract may be renewed upon approval of the Agreement, including the Scope of Services, by the City Council. The City or DSLO may terminate this Agreement and any rights, duties, and liabilities accruing in this Agreement at any time by giving written notice of election to terminate to the other party with at least thirty (30) days written notice.
5. **BIA Funding Restrictions.** The parties acknowledge that BIA funds shall be used exclusively for activities within Exhibit A and that all BIA funds allocated by the City shall be subject to the restrictions imposed on BIA monies by the Ordinance and State law.
6. **Limited Use of BIA Funds.** DSLO will not use funds received pursuant to this Agreement for any purpose not enumerated in the Ordinance, including but not limited to, any expense (including administration and overhead) in support of a DSLO Political Action Committee or any other political entity or activity. The City recognizes that DSLO may engage in such activities on behalf of its members, independent of its contract with the City and does not attempt through this Agreement to limit those activities, so long as such activities do not utilize BIA funds.
7. **Accounting for BIA Assessments.** BIA funds may be used to finance fund-raising activities intended to generate additional revenue for use by DSLO. However, the sum of all BIA funds used for this purpose shall be accounted for and proceeds from the fundraiser equal to that sum shall be used for purposes stated in the Ordinance and conforming to the purposes of the assessment as defined by State law. Further, such use of BIA funds shall be specifically described in the periodic reports described in paragraph 2 of this Agreement.
8. **City Support for DSLO Activities.** The City will continue to provide staff support and services in accordance with DSLO's Scope of Services attached hereto as Exhibit A. DSLO shall pay to the City the sum of One Hundred Forty-Five Dollars and 15/100 (\$145.15) per market for set up and removal of barricades during the 2021-22 fiscal year. Said sum shall be adjusted each July 1 by the All-Urban Consumer Price Index, Los Angeles Area April to April twelve month average as published annually in May by the Bureau of Labor Statistics.

It is also agreed that DSLO will reimburse City for all costs incurred by City in providing services during the term of this Agreement relating to other DSLO events or promotional services not addressed in this contract. These costs will be determined and certified in accordance with City policies applicable to other nonprofit organizations and City will provide DSLO with invoices for such services, which will be due and payable by DSLO consistent with standard City policies and practices.

9. **Monthly Remittance of BIA Funds to DSLO.** The City will cause to be paid to DSLO the total amount of BIA funds collected by the City during each month within thirty (30) days of the end of the month. The City recognizes that DSLO relies on the City to collect the assessment and to enforce the payment of the assessment via its business license process. To ensure compliance with the Business Tax and License rules, the City and DSLO collaborate to encourage compliance. All businesses within the City are subject to the same rules and same enforcement procedures.
10. **Monthly and Quarterly Remittance of Business Reports.** The City will provide to DSLO monthly New Business Lists and Complete Business Lists (active licenses), Transient Occupancy Tax (TOT) Reports, and quarterly Sales Tax Updates and Sales Tax Reports specific to the downtown.
11. **City Council Member and City Staff Rights to Attend DSLO Board Meetings.** DSLO shall continue to notify the City via the City Manager or his/her appointed representative of all regular meetings of the Board of Directors and shall have the right to attend all such regular meetings.
12. **Independence of DSLO.** Neither the City nor any of its officers or employees will have any control over the conduct of DSLO or any of its employees, except as provided above, it being distinctly understood that DSLO is and at all times will remain as to the City, an independent contractor, and the obligations of DSLO to the City is solely as prescribed by this Agreement.
13. **Electricity and Tree Lighting Program.** The City and DSLO have agreed to work toward accomplishing additional goals set forth in Exhibit B relating to electricity for Downtown SLO Farmers' Market and tree lighting. These provisions are separate and distinct from the Exhibit A Scope of Services for which BIA funds are provided.
14. **Banner Program.** The City and DSLO have agreed to work toward accomplishing additional goals set forth in Exhibit C relating to streetlight banner arm installation and banner displays. These provisions are separate and distinct from the Exhibit A Scope of Services for which BIA funds are provided.
15. **Farmers' Market Encroachment Permit.** By no later than June 30, 2021, DSLO shall obtain from City an encroachment permit for its Farmers' Market. At all times thereafter, DSLO shall have an encroachment permit for its Farmers' Market activity. The encroachment permit will be valid for one year and may be extended by City upon DSLO submitting proof of adequate insurance.
16. **Dispute Resolution between DSLO and its Subcontractors.** DSLO shall include a dispute resolution clause in all contracts with subcontractors furnishing services related to contracted events. The dispute resolution clause shall provide a clear and concise process for resolution of disputes that arise between DSLO and its subcontractors.

17. **Assignment.** This Agreement contemplates that DSLO will render special services that it is uniquely able to provide, and it is recognized by the parties that an inducement to City for entering into this Agreement was, and is, the ability of DSLO to render these special services. Neither this Agreement nor any interest in this Agreement may be assigned by DSLO, except that DSLO may, on written consent of the City Manager or designee obtained in advance, assign any moneys due, or to become due, to DSLO for purposes consistent with this Agreement. DSLO agrees not to subcontract any portion of the performance contemplated and provided for in this Agreement, except that DSLO may enter into subcontracts for the sole purpose of carrying out promotional activities within the scope of the Ordinance with the consent of City. Nothing contained in this Agreement is intended to or will be construed as preventing DSLO from employing or hiring as many employees as it may deem necessary for the proper and efficient execution of this Agreement.
18. **Insurance.** DSLO shall obtain and maintain insurance as set forth in Exhibit D hereto, the requirements of which are incorporated herein. Each insurance policy shall be endorsed to state that coverage shall not be suspended, voided or canceled by either party except after thirty (30) days' prior written notice to City, and shall be primary and not contributing to any other insurance or self-insurance maintained by City.

DSLO shall deliver to City certificates of insurance and original endorsements for approval as to sufficiency and form prior to the start of performance hereunder. The certificate and endorsements for each insurance policy shall contain the original signature of a person authorized by that insurer to bind coverage on its behalf. "Claims made" policies of insurance are not acceptable unless the City Risk Manager determines that "occurrence" policies are not available in the market for the risk being insured. If a "claims made" policy is accepted, it must provide for an extended reporting period of not less than one hundred eighty (180) days. Such insurance as required herein shall not be deemed to limit DSLO's liability relating to performance under this Agreement. City reserves the right to require complete certified copies of all said policies at any time. Any modification or waiver of the insurance requirements herein shall only be made with the approval of the City Risk Manager. The procuring of insurance shall not be construed as a limitation on liability or as full performance of the indemnification provisions of this Agreement.

To the extent that DSLO subcontracts certain activities pursuant to paragraph 14 of this Agreement, DSLO may comply with the requirements of this paragraph 15 by providing certificates of insurance naming DSLO and the City of San Luis Obispo as separate "additional insured" under the subcontractor's insurance, providing that the subcontractor's insurance meets or exceeds the insurance requirements of this paragraph 15, all subject to the approval of the City Risk Manager.

19. Hold Harmless and Indemnification.

- a. Non-design, non-construction Professional Services: To the fullest extent permitted by law (including, but not limited to California Civil Code Sections 2782 and 2782.8), DSLO shall indemnify, defend, and hold harmless the City, and its elected officials, officers, employees, volunteers, and agents ("City Indemnitees"), from and against any and all causes of action, claims, liabilities, obligations, judgments, or damages, including reasonable legal counsels' fees and costs of litigation ("claims"), arising out of DSLO's performance or DSLO's failure to perform its obligations under this Agreement or out of the operations conducted by DSLO, including the City's active or passive negligence, except for such loss or damage arising from the sole negligence or willful misconduct of the City. In the event the City Indemnitees are made a party to any action, lawsuit, or other adversarial proceeding arising from DSLO's performance of this Agreement, DSLO shall provide a defense to the City Indemnitees or at the City's option, reimburse the City Indemnitees their costs of defense, including reasonable legal fees, incurred in defense of such claims.
- b. To the fullest extent permitted by law (including, but not limited to California Civil Code Sections 2782 and 2782.8), City shall indemnify, defend, and hold harmless DSLO, and its officers, employees, volunteers, and agents ("DSLO Indemnitees"), from and against any and all causes of action, claims, liabilities, obligations, judgments, or damages, including reasonable legal counsels' fees and costs of litigation ("claims"), arising out of the City's performance or City's failure to perform the obligations as set forth in Exhibit A, Paragraph 4 titled City Services in Support of Special Events under this Agreement or out of the operations conducted by DSLO. In the event DSLO Indemnitees are made a party to any action, lawsuit, or other adversarial proceeding arising from City's performance of obligations as set forth in Exhibit A, Paragraph 4 titled City Services in Support of Special Events under this Agreement, the City shall provide a defense to DSLO Indemnitees, reimburse DSLO's Indemnitees their costs of defense, including reasonable legal fees, incurred in defense of such claims.
- c. The review, acceptance or approval of the City's or DSLO's work or work product by any indemnified party shall not affect, relieve or reduce the indemnification or defense obligations. This Section survives completion of the services or the termination of this contract. The provisions of this Section are not limited by and do not affect the provisions of this contract relating to insurance.

20. **Notice.** Any notices to be given under this Agreement, or otherwise, may be given by enclosing the same in a sealed envelope, addressed to the party intended to receive the same, at its address and by depositing the same in the U. S. Postal Service as regular mail, postage prepaid. When so given, notice will be effective from the time of mailing of the notice. For these purposes, unless otherwise provided in writing, the address of the City and DSLO and the proper persons to receive any notices on its behalf are the following:

Derek Johnson, City Manager
City of San Luis Obispo
990 Palm Street
San Luis Obispo, CA 93401

Bettina Swigger, CEO
Downtown SLO
1135 Chorro Street
San Luis Obispo, CA 93401
bettina@downtownslo.com

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on _____.

CITY OF SAN LUIS OBISPO

SAN LUIS OBISPO DOWNTOWN
ASSOCIATION, a 501(c)(6) Corporation

By: _____

Heidi Harmon, Mayor
City of San Luis Obispo

By: _____

Bettina Swigger, CEO
Downtown SLO

ATTESTATION:

By: _____

Teresa Purrington, City Clerk

APPROVED AS TO FORM:

By: _____

J. Christine Dietrick, City Attorney

EXHIBIT A

SCOPE OF SERVICES

Special Events & Activations in Public Space

Notes:

- A. Due to the COVID-19 pandemic, alterations to these programs will be made as public health information changes and the emergency evolves. For the duration of this agreement, additions/replacements may be made, and events will be reevaluated for compliance with public health regulations and guidance. These decisions will be made in consultation with City Staff and subject to approval of the City Manager or designee.

The events and/or activities set forth and defined below are Special Events the continuation of which the City considers integral to the fulfillment of DSLO's obligations under the Agreement. As such, the City agrees to continue to provide, at the mutually agreed cost to DSLO, the enumerated municipal services that have traditionally been provided to DSLO in conjunction with the events/activities as set forth below and DSLO shall continue to provide the following Special Events and related services to the downtown:

1. **Specific COVID-19 Initiatives:** Work closely with City staff to implement initiatives within as needed to facilitate COVID-19 Recovery.
 - a. Assist businesses with resources and disseminate timely information related to the COVID-19 Emergency and Recovery, including City, County, State and Federal relief information.
 - b. Actively engage in and support the "Support SLO" initiative coordinated by the PCC.
 - c. Continue to support "Open SLO" and other COVID related activations like "Pop-Ups in the Plaza" as it relates to the Downtown business community.

The events and/or activities set forth and defined below are Special Events the continuation of which the City considers integral to the fulfillment of DSLO's obligations under the Agreement. As such, the City agrees to continue to provide, at the mutually agreed cost to DSLO, the enumerated municipal services that have traditionally been provided to DSLO in conjunction with the events/activities as set forth below and DSLO shall continue to provide the following Special Events and related services to the downtown:

2. **Holiday Activities:** Holiday Activities include some of the County's most popular holiday events including:
 - a. **Annual Holiday Parade**, a free event that features nearly 100 entries and winds its way through the Downtown streets early in the holiday season;
 - b. **Santa's House in Mission Plaza**, a free service opening the day after Thanksgiving and operating through Christmas Eve. Thousands of children visit the House from all over the county and beyond;

- c. **Classic Carousel in Mission Plaza**, a contracted activity by the downtown Association. Each year, an independent operator brings in a full-sized carousel that is set up adjacent to Santa's House and operates the same hours as the House.
 - d. **Light up Downtown Holiday program**, management of the program and agreement lights and other activities occurring in Downtown for the holidays, not including the zig-zag street lighting. This will include securing private funding to attain matching contributions from the City.
- 3. **Concerts in the Plaza:** Concerts in the Plaza are held in Mission Plaza showcasing local and California bands, providing the highest level of quality in all aspects of the production such as stage and sound, promotional marketing materials, a high level of staffing and security, dozens of volunteers and quality food and beverage vendors. DSLO will be given priority in Mission Plaza for the Friday night concert series beginning the first Friday in June and ending on the fourteenth contiguous Friday hence, subject to the following:
 - a. In those instances, where the concert conflicts with Mission College Preparatory School graduation activities that take place in Mission Plaza, the series will begin on the second Friday in June allowing Mission College Preparatory School priority use of the plaza for graduation.
 - b. In years when the series starts on the second Friday in June, it will still run the full fourteen contiguous Fridays.
- 4. **Dining in the Plaza:** Continued promotion and monitoring of the Dining in the Plaza activities as long as the activity is continued and supported by the City. While the City will be responsible for the set up and tear down of the tables and chairs, DLSO can assist as needed in the set up and tear down and by reporting any damage to the table and chairs to the Parks and Recreation contact.
- 5. **Downtown SLO Farmers' Market: (DSLOFM):** An event that showcases downtown and downtown businesses to visitors, both locals and tourists, and offers opportunities for downtown businesses, other eligible non-downtown businesses, produce vendors, nonprofit organizations and other community groups to sell their products and services, fundraise, or provide information. DSLOFM is also often generically referred to as "Farmers' Market," "the Market," or other various combinations of those names.
- 6. **City Services in Support of Special Events:** City services in support of the above events have traditionally included the following, which will continue uninterrupted:
 - a. Public safety support at levels determined appropriate by the City, including holiday parade escort.
 - b. Placement and removal of street barricades and coordination of street closures for holiday activities and DSLOFM.
 - c. Placement and removal of City-owned portable restrooms for DSLOFM.
 - d. Placement and removal of the tables and chairs used for Dining in the Plaza and other support as determined appropriate by the City.

- e. Banner placement and advertising at 50% of standard City fees. (Note: DSLO shall retain its priority position with regard to the placement of street banners that promote activities that benefit tourism and business in the district, in addition to the Special Events above, within the scope of the Agreement, but shall be charged fees consistent with City policy for the placement of such banners).
 - f. Special Events Permit processing at 50% of standard City fees.
 - g. Street clean-up following Special Events.
 - h. Free rental of Mission Plaza for placement of Santa's House and carousel and for Concerts in the Plaza.
 - i. Up to \$150,000 in funding for the "Light Up Downtown" holiday program. Up to \$50,000 may be used as matching funding subject to private funds being raised by DSLO. Final details will be subject to an additional agreement between the City and DSLO.
7. **DSLO Services in Support of Special Events:** DSLO services in support of the above events have traditionally included the following, which will continue to enhance the success of the events:
- a. Booth space at DSLOFM for City departments at no cost subject to space availability
 - b. Noticing via meter flyers for DSLOFM
 - c. Marketing and coordination of City-related events at DSLOFM at no cost including but not limited to:
 - Arbor Day activities
 - Fire Prevention Night
 - Law Enforcement Night
 - Public Works Night
 - City of San Luis Obispo Parks and Recreation activities
 - City of San Luis Obispo Utilities activities
 - City of San Luis Obispo Tourism activities
 - City of San Luis Obispo Transit activities
 - d. Solid waste collection and public facing recycling options and bike valet for all events expecting 300 or more attendees in accordance with Policy 2.13 of the City's Bicycle Transportation Plan
8. **Ongoing Services**

In addition to the Special Events set forth above, DSLO shall provide, as needed, the following Ongoing Services to the Downtown. The costs of any City services required or requested in support of these Ongoing Services shall be allocated to DSLO consistent with City policies applicable to other not for profit entities and pursuant to the terms of the Agreement.

9. **Parking/Transportation**

- a. Distribute employee and customer parking brochures to targeted groups.

- b. Work closely with City staff to analyze and make recommendations to the City Council on ways to address employee parking issues.
- c. Work closely with City staff on the development of downtown construction public information programs.
- d. Work closely with City staff on parking management plan and any parking and access programs that benefit the community.

10. Downtown Maintenance

- a. Work closely with City staff to give input on sidewalk scrubbing schedule.
- b. Disseminate cleanliness and safety information to members through publications and presentations.
- c. Work with City staff to get trash and recycling receptacles cleaned and to have waste wheelers put away after collection per City Municipal Code.
- d. Continue Downtown Forester program in assisting with tree maintenance.

11. Economic Development Issues

- a. Work closely with City staff to implement initiatives within the 2021-23 Major City Goal of “Economic Recovery, Resiliency and Fiscal Sustainability”.
- b. Lead the “Vibrancy and Vacancy task force” including the update and maintenance of the vacancy data base.
- c. Work closely with City staff to implement the City’s Economic Development Strategic Plan to maintain downtown retail health.
- d. Work closely with City staff on issues related to undesirable and/or criminal behaviors in the downtown, such as aggressive panhandling, graffiti, and drunk- in-public behaviors.
- e. Continue to coordinate with City and SLO Chamber of Commerce to get information to visitors on downtown retail/shopping opportunities.
- f. Continue collaboration efforts with the Chamber of Commerce and other business and visitor groups to increase effectiveness of local and regional marketing.
- g. Get word out to downtown retailers and restaurants when conferences/events are in town and encourage them to do direct marketing/outreach as provided to DSLO via the City’s tourism efforts.

12. Organizational Capacity

Keep the City apprised of and included in the process of any update to DSLO’s long term strategy for the fiscal sustainability, including strategies to:

- a. Maintain economic vitality and independence of the organization.
- b. Identify options for development of other funding sources to be considered, pursued, and/or secured to supplement the organization’s activities.
- c. Evaluate internal organization, and committee structure, and allocation of resources to identify changes needed to most effectively implement DSLO’s mission and goals.

EXHIBIT B

ELECTRICITY AND TREE LIGHTING

Electrical Wiring in Higuera and Garden Streets for Future Electrical Connections

In 2008 and 2012 the City facilitated the installation of electrical conduit and service connections in Higuera Street to provide electrical connections for use by DSLOFM vendors. Further capital will be required to facilitate additional conduit placement. The City and DSLO have agreed to work toward accomplishing the connections over the term of the Agreement. However, the parties recognize that the completion of such a project will require additional funding and the parties agree that the cost allocation relating to the provision of such connections and post-installation maintenance issues, such as electrical service costs, are subject to further negotiation.

Tree Lighting Program

In 2012, in return for the City's issuance of a temporary revocable encroachment permit, DSLO executed an agreement for encroachment within the public right-of-way for DSLO Tree Lighting and Power Project. Furthermore, on June 14, 2012, the City and DSLO amended their contract for services dated July 1, 2011, under which DSLO was allowed to conduct a Tree Lighting and Power Project consisting of installation of string lights in trees, installation of electrical boxes to provide the lights with electricity per City standards, and installation a commemorative plaque to acknowledge tree lighting donors. A further capital project in 2018 facilitated additional connections on Garden Street.

The Tree Lighting and Power Project shall meet the following requirements:

1. The Tree Lighting and Power Project will be allowed on street trees along Higuera Street between Morro and Garden Streets (the "Project Area"). All areas outside the Project Area are reserved for the City's commemorative tree program as established per Resolution No. 10151 (2010 Series) until such time as the commemorative tree program is eliminated or the Project Area modified.
2. Trees in the Project Area that have commemorative plaques granted prior to June 14, 2012, in accordance with the City's planting and commemorative plaque program, are excluded from the Tree Lighting and Power Project unless written approval of the commemorative donor to allow inclusion in the Tree Lighting and Power Program has been obtained by DSLO.
3. DSLO may charge a fee to cover the costs of installing, maintaining, operating (including electricity) and replacing the lighting and plaques otherwise administering the Tree Lighting Project.

4. DSLO will be entirely responsible for all costs associated with the Tree Lighting and Power Project and shall comply with the following conditions:
 - a. Install, maintain, operate, replace, and remove tree lighting in the Program Area upon revocation of the encroachment permit issued for the Tree Lighting and Power Project (unless otherwise agreed in writing by City);
 - b. Purchase, place, maintain, and remove all plaques associated with its Program upon revocation of the encroachment permit issued for the Tree Lighting and Power Project (unless otherwise agreed in writing by City);
 - c. Remove any damaged or hazardous plaques when needed or upon request by the City; and
 - d. Provide lighting of the existing commemorative trees in the Program Area.
 - e. Plaques shall be no larger than 5" x 6" and shall have wording appropriate to a public location.
 - f. All tree lighting shall be placed in accordance with guidance of the City Arborist to minimize impacts to pruning and other maintenance operations.
 - g. Any expansion of the Program Area requires the prior written approval of City before implementation by DSLO.

EXHIBIT C

BANNERS AND BANNER ARMS

Beginning in 2018, the City started the removal of large cobra-head style light poles throughout Downtown and began the installation pedestrian style light poles. Through the community placemaking and beautification work of the City's Promotional Coordinating Committee (PCC) and in partnership with DSLO, the PCC directed the installation of pedestrian banner arms throughout Downtown to maintain banner display areas in the Downtown core.

Additionally, the PCC created a portfolio of 4-series banner artwork to be displayed on pedestrian, cobra and companion banner arms, referred to as the "City Established Banner Series". The PCC also created a Banner "style guide" document in collaboration with DSLO's Cultural Arts Committee and under the terms of the City's Flag Policy, for the use of DSLO's in the implementation of the Banner Program and work with other agency's use of the banner displays.

City Established Banners Series

1. For the term of this agreement, the City will supply four complete banner sets of the City Established Banner Series for display throughout downtown. The City will be responsible for replacing damaged banners as needed within these series.
2. For the term of this agreement, the capital and coordination required to facilitate the City Established Banner Series rotation will be managed by the City directly with the designated banner installation contractor.
 - a. The schedule of the City Established Banner Series for the term of this agreement is outlined below. Changes to the schedule below, will be provided to DSLO in writing.

City Established Banner Series	FY 2021-22	FY 2022-23
Series 4 – Explore	July 21 -September 21	June 22 – August 22
Series 1 – Cultural	October 21 – Mid-November 21	September 22 - Mid-November 22
Series 2 – Holiday	Mid-November 21 – Mid-February 22	Mid-November 22 – Mid-February 23
Series 3 – Reconnection	Mid-February 22 – May 22	Mid-February 23 – May 23
Series 4 – Explore	June 22 – August 22	June 23 – August 23

Banner Program

As referenced in the City adopted [Flag Policy](#), Flags (referred to as "Banners" for the purpose of this agreement) in the Downtown core fall under the sole jurisdiction of DSLO and are subject to the guidelines described within the Flag Policy.

For the term of this agreement, DSLO will be responsible for the implementation and management of a comprehensive Downtown Banner Program in alignment with the City's Flag Policy.

The Banner Program shall meet the following requirements:

1. The Banner Program will be allowed on streetlights with existing banner arm infrastructure including cobra head and pedestrian light posts along Palm, Monterey, Higuera and Marsh Streets between the blocks of Santa Rosa and Nipomo Streets (the "Project Area").
 - a. Any expansion of the Program Area or banner arm infrastructure requires the prior written approval of City before implementation by DSLO.
2. The Banner Program includes the use of all existing banner arm infrastructure within the Project Area for various banner sizes as defined as "cobra head", "companion" and "pedestrian" size banners.
3. With the exception of the City Established Banner Series, DSLO will be entirely responsible for the management associated with the Banner Program including administering the "SLO Downtown Association Flag Contract" provision as outlined in the City's Flag Policy, and shall comply with the following conditions:
 - a. Provide consistent banner displays in the Project Area; and
 - b. Incorporate the City Established Banner Series seasonally into the banner rotation for a minimum of 30 consecutive days within the 90-day specified quarter subject to the written approval of the City; and
 - c. Utilize and maintain the Banner Style Guide provided by the City in the administration of the Banner Program; and
 - d. Establish and provide a process for qualified organizations to participate.
 - a. DSLO may charge a fee to contracted organizations to cover the costs in the administration of the Banner Program.
4. DSLO is responsible for coordinating with the City on the installation of new banner arm infrastructure or the maintenance, replacement, or removal of damaged or not needed banner arm infrastructure in the Project Area.
 - a. Pedestrian banner arms: The City will be responsible for all costs associated with the installation and maintenance of all pedestrian banner arm infrastructure in the Project Area during the contract term of FY 21-23. DSLO will assume the maintenance responsibility of the pedestrian banner arm infrastructure in the Project Area after FY 22-23.
 - b. Cobra head and companion banner arms: DSLO is responsible for all cost and management associated with all cobra head and companion banner arm infrastructure installation, maintenance, replacement, and removal in the Project Area. DSLO will remove and replace any damaged banner arms and banners when needed or upon request by the City.

EXHIBIT D

INSURANCE REQUIREMENTS

Downtown SLO ("Contractor") shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the work hereunder by the Contractor, its agents, representatives, employees or subcontractors.

Minimum Scope of Insurance. Coverage shall be at least as broad as:

1. Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001).
2. Insurance Services Office form number CA 0001 (Ed. 1/87) covering Automobile Liability, code 1 (anyauto).
3. Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.

Minimum Limits of Insurance. Contractor shall maintain limits no less than:

1. General Liability: \$1,000,000 per occurrence for bodily injury, personal injury, and property damage. If Commercial General Liability or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
2. Automobile Liability: \$1,000,000 per accident for bodily injury and property damage.
3. Employer's Liability: \$1,000,000 per accident for bodily injury or disease.

Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by the City. At the option of the City, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officers, officials, employees and volunteers; or the Contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

Other Insurance Provisions. The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

1. The City, its officers, officials, employees, agents and volunteers are to be covered as insureds as respects: liability arising out of activities performed by or on behalf of the Contractor; products and completed operations of the Contractor; premises owned, occupied or used by the Contractor; or automobiles owned leased, hired or borrowed by the Contractor. The coverage shall contain no special limitations on the scope of protection afforded to the City, its officers, official, employees, agents or volunteers.

2. For any claims related to this project, the Contractor's insurance coverage shall be primary insurance as respects the City, its officers, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, agents or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.
3. The Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
4. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the City.

Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII.

Verification of Coverage. Contractor shall furnish the City with a certificate of insurance showing required coverage. Original endorsements effecting general liability and automobile liability coverage are also required by this clause. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. All endorsements are to be received and approved by the City before work commences.

Subcontractors. Contractor shall include all subcontractors as insured under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.