

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF DENTON AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH THE TEXAS HISTORICAL COMMISSION TO PARTICIPATE IN THE TEXAS MAIN STREET PROGRAM DEMONSTRATING THE CITY OF DENTON'S COMMITMENT TO CONTINUE AS A "SUSTAINING LEVEL OFFICIAL MAIN STREET CITY" AND AUTHORIZING PAYMENT OF THE ANNUAL FEE IN THE AMOUNT OF \$2,600; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, since 1990, the City of Denton (City) has administered a Downtown Development Program ("Program"), using the National Main Street methodology, in conjunction with the Texas Historical Commission; and

WHEREAS, the Program emphasizes downtown economic revitalization through preservation and rehabilitation of historic buildings in order to provide the necessary image for the downtown area and serve as a unifying factor to encourage area merchants and building owners to reinvest in downtown; and

WHEREAS, the attached Texas Main Street Locally Designated Program Contract (the "Agreement"), sets out the City's responsibilities as well as the additional advantages including group procurement, training, use of trademarks, network and staff assistance from the state level that are part of participation as a Sustaining Level Official Main Street City member; NOW, THEREFORE,

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1. The attached agreement representing the City's commitment to continue as a "Sustaining Level Official Main Street City" for 2024-2025 is hereby approved.

SECTION 2. The City Manager or their designee is hereby authorized to execute the Agreement between the City of Denton and the Texas Historical Commission, to take any actions that may be required or permitted to be performed by the City of Denton under the Agreement, and the expenditure of funds pursuant to the Agreement is hereby authorized.

SECTION 3. This ordinance shall become effective immediately upon its passage and approval.

The motion to approve this Ordinance was made by \_\_\_\_\_ and seconded by \_\_\_\_\_; the Ordinance was passed and approved by the following vote [\_\_ - \_\_]:

	<b>Aye</b>	<b>Nay</b>	<b>Abstain</b>	<b>Absent</b>
Mayor Gerard Hudspeth:	_____	_____	_____	_____
Vicki Byrd, District 1:	_____	_____	_____	_____
Brian Beck, District 2:	_____	_____	_____	_____

Suzi Rumohr, District 3:

\_\_\_\_\_

Joe Holland, District 4:

\_\_\_\_\_

Brandon Chase McGee, At Large Place 5:

\_\_\_\_\_

Jill Jester, At Large Place 6:

\_\_\_\_\_

PASSED AND APPROVED this the \_\_\_\_\_ day of \_\_\_\_\_, 2025.

\_\_\_\_\_  
GERARD HUDSPETH, MAYOR

ATTEST:

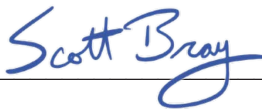
LAUREN THODEN, CITY SECRETARY

BY: \_\_\_\_\_

APPROVED AS TO LEGAL FORM:

MACK REINWAND, CITY ATTORNEY

BY: \_\_\_\_\_



Scott Bray  
Deputy City Attorney

## Texas Main Street Locally Designated Program 2025 Contract

### I. PARTIES TO THE CONTRACT

This contract and agreement concerning **Denton Main Street Program** (“Agreement”) is entered into between the **City of Denton**, (hereinafter referred to as “Participant”) and the **Texas Historical Commission** (hereinafter referred to as “THC”). **Denton Main Street Program** (hereinafter referred to as “Local Program”) is part of a larger program within the **Texas Main Street Program** (hereinafter referred to as “TMSP”), as defined in 13 TAC sec. 19.3(1), wherein the Participant qualifies as a **Texas Main Street Urban City**, as defined in 13 TAC sec. 19.3. The purpose of the Local Program is to assist Participant with the development, revitalization, restoration, and preservation of its historic downtown or commercial neighborhood districts in accordance with the national Main Street Approach. This Agreement shall be governed by Texas Government Code, Section 442.014, and Texas Administrative Code, Title 13, Part 2, Chapter 19.

### II. NATIONAL MAIN STREET CENTER BRAND AND NETWORK

This Agreement constitutes a designation of Participant as an official Texas Main Street City (as defined in 13 TAC sec. 19.3(2)) and allows the use of the National Main Street Center, Inc. brand, including MAIN STREET AMERICA™ controlled by National Main Street Center, Inc. 53 West Jackson Blvd., Suite 350 Chicago IL 60604. If Participant’s participation in the TMSP ceases, Participant may no longer use the term ‘Main Street’ to describe its local development, restoration, and preservation program; nor utilize or display the trademarks or branding of the National Main Street Center, Inc. The designation as a Texas Main Street City allows for full participation in the TMSP network, which includes eligibility to receive Texas Main Street publications and participate in Texas Main Street networking opportunities. Designated Texas Main Street Cities, such as Participant, shall execute and submit to the TMSP office the National Main Street Center’s Trademark Sublicense Agreement (“TM Sublicense Agreement”), which grants the right to use the registered trademark, logos and brand of National Main Street Center’s membership program - MAIN STREET AMERICA™. Participant hereby agrees to, and shall comply with, all terms and conditions of the TM Sublicense Agreement, which is attached hereto as Exhibit A, and incorporated herein by reference. Additionally, Participant acknowledges and agrees that in the event National Main Street Center develops and/or releases an updated TM Sublicense Agreement (“Updated TM Sublicense Agreement”) during the Term of this Agreement, Participant shall be required to execute, and comply with, the Updated TM Sublicense Agreement or otherwise be subjected to termination pursuant to the terms of VII. (B) below. In the event National Main Street Center develops and/or releases an Updated TM Sublicense Agreement, THC will provide Participant with sixty (60) days’ notice for Participant to consider, prepare and execute an updated Sublicense Agreement. Furthermore, the parties acknowledge and agree that the execution of such Updated TM Sublicense Agreement shall not require amendment of this Agreement and shall become part of this Agreement upon its execution. In the event of conflict between multiple TM Sublicense Agreements, the most recently executed version shall control.

### III. RESPONSIBILITIES OF THE PARTICIPANT AND LOCAL PROGRAM

#### A. Local Program Staffing and Leadership.

In operation of the Local Program, Participant shall employ a full-time paid program manager who will attend at least two professional development segments annually as outlined in subsection B below. A Texas Main Street Urban City (as defined by 13 TAC 19.3(4)) shall additionally employ a full-time assistant program manager who shall also participate in the professional development under subsection B below.

If necessary and subject to TMSP approval, a Texas Main Street Small City may, after the first three years of participating in the TMSP, permit the program manager position to also perform specific economic development, tourism, and other relevant duties while remaining as a full-time paid program manager.

For the purposes of this Agreement, full-time employment means that the program manager works at least forty (40) hours per week dedicated toward the Local Program and downtown revitalization. Employees of the Participant shall be subject to the sole control and direction of the Participant. Participant shall move forward in an efficient manner to fill a program manager vacancy. Participant shall notify the TMSP immediately upon vacancy, identify an interim Local Program contact, and keep TMSP apprised monthly of progress in filling vacancies. Lengthy periods of staff vacancies may demonstrate a failure to adequately staff the program per Stipulation E Probation.

Participant shall establish and maintain a Main Street local advisory board to direct priorities of the program, provide human and fiscal support to program planning and activities, and advocate for the livelihood of the local program. The board will have a chair who is the primary spokesperson for the board and the primary point of contact for program manager. Make-up and duties of this board are to be defined locally by Participant with consultation from local program stakeholders.

#### B. Professional development.

The program manager will attend at least two professional development opportunities in their entirety, per year, from the list below:

Preferred Options (at least one training each year must be from these options):

1. TMSP annual professional development retreat for all program managers.
2. National Main Street Now Conference.
3. TMSP New Manager Training, typically held annually on the day before the TMSP annual professional development retreat
4. Real Places: Preserving Texas History Conference of the THC.

Additional Options (request must be made to TMSP in writing explaining why attendance at one of the preferred options is not possible):

5. Certification programs of MAIN STREET AMERICA™.
6. Texas Downtown Conference of the Texas Downtown organization.
7. PastForward Conference of the National Trust for Historic Preservation.

With prior THC approval, program managers with more than two years' experience as a Main Street Manager may request to substitute an equivalent historic preservation, downtown revitalization, or economic development course, for one of the above opportunities.

New program managers shall complete the TMSP new manager training within their first year of employment. If there is an assistant Main Street employee in addition to the program manager/s referenced above, that person should also attend at least one segment of Main Street professional development annually. In addition to the annual TMSP new manager training, new managers will be provided by TMSP with self-paced information and training when onboarding in their new role. The new manager should complete a review of this information and all tasks within the first three (3) months of hire.

If a replacement program manager is hired during this contract period who has not previously attended TMSP basic training or without significant Main Street knowledge and experience as determined by TMSP, the manager is required to complete one TMSP basic training orientation series. A \$500 training fee shall be charged to the Participant for the training series required under these circumstances.

To help ensure an effective Local Program, board members and volunteers are encouraged to attend TMSP educational opportunities or to contact TMSP for on-site training. No training fee is charged for their participation.

Additional abbreviated Professional Development managers are expected to be involved in, but do not count toward the requirements above, include:

- Quarterly Virtual Network Meetings
- Regional Virtual Meetings
- Monthly New Manager Virtual Trainings
- Regional Design Workshops
- Monthly Virtual Design Check-ins
- Biennial Accreditation Site Visit
- Virtual meetings for Managers offered by Main Street America
- Topic based virtual trainings (i.e. – December 2023's Accreditation Platform Training)

### **C. Commitment.**

Participant agrees to carry out their Local Program work according to the Main Street Approach as promulgated by the National Main Street Center and displayed at <https://www.mainstreet.org/mainstreetamerica/theapproach>. Participant agrees to incorporate into their Local Program work, the following Main Street Community Accreditation Standards:

1. Broad-based Community Commitment
2. Leadership & Organizational Capacity
3. Diverse and Sustainable Funding
4. Strategy-Driven Programming
5. Preservation-Based Economic Development
6. Demonstrated Impact & Result

#### **D. Reporting.**

To measure progress, Participant shall track reinvestment statistics and quarterly activity in an approved format submitted to the TMSP office by the 10<sup>th</sup> of the month following the end of each calendar quarter. If the 10<sup>th</sup> falls on a holiday or a weekend, the report will be due the first business day after the holiday or weekend. Even if there has not been reinvestment or activity in a quarter, Participant shall still submit a report noting such.

Dates quarterly reports must be submitted by are:

- April 10<sup>th</sup> – Quarter 1
- July 10<sup>th</sup> – Quarter 2
- October 10<sup>th</sup> – Quarter 3
- January 10<sup>th</sup> – Quarter 4

Additionally, Participant shall submit an annual accreditation report that includes an evaluation of the Local Program implementation of the Main Street Community Accreditation Standards outlined in Section III. C. above for the previous calendar year.

#### **E. Probation.**

Participant agrees that their Local Program may be placed on probation, which may result in the suspension of TMSP services or possible removal from the TMSP, for any of the following reasons:

1. Failure to submit an annual accreditation report pursuant to Section III. D above.
2. Failure to achieve accreditation objectives more than two (2) consecutive years.
3. Failure to submit activity/reinvestment reports for more than two (2) consecutive quarters.
4. Failure to employ a full-time Main Street Manager.
5. Failure to adequately staff, per this contract, or fund the program.
6. Failure to hire for a Main Street Manager vacancy within six (6) months of the previous manager's departure.
7. Adding additional roles or titles beyond Main Street responsibilities to a manager without prior Main Street experience before their two (2) year anniversary in the role.
8. Failure of an experienced Main Street Manager (in the role greater than two (2) years) to spend a minimum of 75% of their time on Main Street Program work.
9. Failure to have an active Board that is solely focused on the TMSP approved Main Street District.
10. Failure of a community to employ Historic Preservation Codes and Ordinances or to actively advocate for them.
11. Failure to abide by this Agreement.

THC shall notify Participant in writing prior to implementing probation in accordance with Texas Administrative Code, Title 13, Part 2, Chapter 19. In the case of probation, Participant will work with the THC's State Coordinator or delegate to overcome any deficiencies. THC may terminate the Local Program's participation in the TMSP if Participant fails to remediate identified deficiencies within a reasonable time. No fees will be refunded in cases of probation and any outstanding fees under this Agreement will

remain due. During probationary status, the stipulations called for in sections III and IV of this Agreement may be temporarily altered or suspended upon THC's discretion.

**F. National Main Street America™ membership.**

Participant shall budget for and maintain membership in the National Main Street Center.

**IV. SERVICES TO BE PERFORMED BY TMSP**

**A. On-site visits and technical expertise.**

TMSP services are available to designated Texas Main Street Cities in good standing and will be delivered in accordance with Texas Administrative Code, Title 13, Part 2, Chapter 19 subject to available THC resources. Services may include, but are not limited to consultations, training, or site visits to address design, organization, promotion, economic vitality, and historic preservation.

**B. Assistance Securing a Main Street Manager.**

Should a replacement program manager be needed, the TMSP office can assist with elements of the hiring process, including job description examples, job posting options, and interview questions. Upon Participant's request, the TMSP office may assist in the hiring process; however, the responsibility for selection, salary, employment and employee-related legal matters will remain with Participant. The Participant is responsible for, and shall hold THC and TMSP harmless from, all the acts and omissions of its managers and all of its employees, agents, representatives, contractors and/or subcontractors.

**V. GENERAL TERMS AND RESPONSIBILITIES.**

**A. Confidentiality and Public Information Act.**

Notwithstanding any provisions of this Agreement to the contrary, Participant and THC will comply with the Texas Public Information Act, Texas Government Code, Chapter 552, as interpreted by judicial opinions and opinions of the Attorney General of the State of Texas. THC and Participant agree to notify each other in writing within a reasonable time from receipt of a request for information related to Participant's work under this Agreement. Participant and THC will cooperate in the production of documents responsive to the request. Participant will notify THC within twenty-four (24) hours of receipt of any third-party requests for information that was provided by the State of Texas for use in performing the Agreement. This Agreement and all data and other information generated or otherwise obtained in its performance may be subject to the Texas Public Information Act. Subject to the Texas Public Information Act, Participant agrees to maintain the confidentiality of information received from the State of Texas during the performance of this Agreement, including information which discloses confidential personal information.

**B. Dispute Resolution.**

The dispute resolution process provided for in Texas Government Code, Chapter 2260, shall be used by THC and Participant to resolve any dispute arising under the Agreement.

If Participant's claim for breach of Agreement cannot be resolved in the ordinary course of business, it shall be submitted to the negotiation process provided in Chapter 2260. To initiate the process, Participant shall submit written notice, as required by Chapter 2260, to the individual identified in the Agreement for receipt of notices. Compliance by Participant with Chapter 2260 is a condition precedent to the filing of a contested case proceeding under Chapter 2260.

The contested case process provided in Chapter 2260 is Participant's sole and exclusive process for seeking a remedy for an alleged breach of Agreement by THC if the parties are unable to resolve their disputes as described above.

Compliance with the contested case process provided in Chapter 2260 is a condition precedent to seeking consent to sue from the Legislature under Chapter 107, Civil Practices and Remedies Code. Neither the execution of the Agreement by Participant and THC nor any other conduct of any representative of the Participant or THC relating to the Agreement shall be considered a waiver of sovereign immunity to suit by THC or any governmental immunity to which Participant is otherwise entitled under Texas law.

### **C. Indemnification.**

TO THE EXTENT ALLOWABLE BY LAW, PARTICIPANT SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS THE STATE OF TEXAS AND THC, AND/OR THEIR OFFICERS, AGENTS, EMPLOYEES, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES FROM ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED COSTS, ATTORNEY FEES, AND EXPENSES ARISING OUT OF, OR RESULTING FROM ANY ACTS OR OMISSIONS OF PARTICIPANT OR ITS AGENTS, EMPLOYEES, SUBCONTRACTORS, ORDER FULFILLERS, OR SUPPLIERS OF SUBCONTRACTORS IN THE EXECUTION OR PERFORMANCE OF THE AGREEMENT AND THE TM SUBLICENSE AGREEMENT AND/OR UPDATED TM SUBLICENSE AGREEMENT. THE DEFENSE SHALL BE COORDINATED BY PARTICIPANT WITH THE OFFICE OF THE ATTORNEY GENERAL ("OAG") WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND PARTICIPANT MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM OAG. PARTICIPANT AND THC AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.

TO THE EXTENT ALLOWABLE BY LAW, PARTICIPANT SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS THE STATE OF TEXAS, THC AND/OR THEIR EMPLOYEES, AGENTS, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES FROM ANY AND ALL THIRD PARTY CLAIMS INVOLVING INFRINGEMENT OF UNITED STATES PATENTS, COPYRIGHTS, TRADE AND SERVICE MARKS, AND ANY OTHER INTELLECTUAL OR INTANGIBLE PROPERTY RIGHTS IN CONNECTION WITH THE PERFORMANCES OR ACTIONS OF PARTICIPANT PURSUANT TO THIS AGREEMENT AND/OR UPDATED TM SUBLICENSE AGREEMENT. PARTICIPANT AND THC AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM. PARTICIPANT SHALL BE LIABLE TO PAY



ALL COSTS OF DEFENSE INCLUDING ATTORNEYS' FEES. THE DEFENSE SHALL BE COORDINATED BY PARTICIPANT WITH THE OAG WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND PARTICIPANT MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM OAG.

**D. Independent Contractor.**

Participant or Participant's employees, representatives, agents and any subcontractors shall serve as an independent contractor in providing goods or services. Participant or Participant's employees, representatives, agents and any subcontractors shall not be employees of THC. Should Participant subcontract any of the services required in this Agreement, Participant expressly understands and acknowledges that in entering such subcontract(s), THC is in no manner liable to any subcontractor(s) of Participant. In no event shall this provision relieve Participant of the responsibility for ensuring that the services rendered under all subcontracts are rendered in compliance with this Agreement and the TM Sublicense Agreement or Updated TM Sublicense Agreement.

**E. Ownership of Intellectual Property.**

For the purposes of this Agreement, the term "Work Product" is defined as all reports, analyses, work papers, work products, materials, approaches, designs, specifications, systems, documentation, methodologies, concepts, knowledge, know-how, ideas, improvements, plans, advice, research, materials, intellectual property or other property developed, produced, or generated in part or in full by THC and/or in cooperation with Participant, in connection with this Agreement. Work Product specifically excludes pre-existing material owned by Participant, or material developed during the Term of this Agreement independently and exclusively by Participant without any THC involvement or contribution, and that does not include or incorporate any Work Product or Work Product components ("Independent Participant Material"). All Work Product generated pursuant to this Agreement is made the exclusive property of THC. All right, title and interest in and to said Work Product shall vest in THC upon creation and shall be deemed to be, and is expressly intended by the parties to be, a work made for hire and made in the course of the services rendered pursuant to this Agreement. To the extent that title to any such Work Product may not, by operation of law, vest in THC, or such Work Product may not be considered a work made for hire, all rights, title and interest therein are hereby irrevocably assigned to THC. THC shall have the right to obtain and to hold in its name any and all patents, copyrights, registrations or such other protection as may be appropriate to the Work Product subject matter, and any extensions and renewals thereof.

Furthermore, if and to the extent THC provides Participant any Work Product and/or other property owned by THC ("THC Property") to assist Participant to further the Local Program and the purpose of this Agreement, THC hereby grants Participant, commencing upon the date that Participant is designated as a Texas Main Street City, a nonexclusive, revocable, worldwide, fully paid, royalty-free, license, for the Term of this Agreement while Participant remains designated as a Texas Main Street City, to reproduce, modify, distribute, publicly perform, publicly display and use the THC Property only to the extent such use is in furtherance of the Local Program. To the extent Participant provides any Independent Participant Material to THC in connection with this Agreement, Participant hereby grants THC, and THC accepts, a nonexclusive, perpetual, irrevocable, worldwide, fully paid,

royalty-free license to use, reproduce, copy, modify distribute, publicly perform, publicly display, store, post on the Internet and creative derivative works of such Independent Participant Material, and to sublicense and transfer such Independent Participant Material to third parties to use in accordance with these license terms for THC purposes.

#### **F. State Auditor.**

In addition to and without limitation on the other audit provisions of this Agreement, and to the extent applicable, pursuant to Section 2262.154 of the Texas Government Code, the State Auditor's Office may conduct an audit or investigation of Participant or any other entity or person receiving funds from the State directly under this Agreement or indirectly through a subcontract under this Agreement. The acceptance of funds by Participant or any other entity or person directly under this Agreement or indirectly through a subcontract under this Agreement acts as acceptance of the authority of the State Auditor's Office, under the direction of the Legislative Audit Committee, to conduct an audit or investigation in connection with those funds. Under the direction of the Legislative Audit Committee, Participant or other entity that is the subject of an audit or investigation by the State Auditor's Office must provide the State Auditor's Office with access to any information the State Auditor's Office considers relevant to the investigation or audit. Participant further agrees to cooperate fully with the State Auditor's Office in the conduct of the audit or investigation, including providing all records requested. Participant shall ensure that this paragraph concerning the authority to audit funds received indirectly by subcontractors through Participant and the requirement to cooperate is included in any subcontract it awards. The State Auditor's Office shall at any time have access to and the right to examine, audit, excerpt, and transcribe any pertinent books, documents, working papers, and records of Participant related to this Agreement.

#### **G. Assignment.**

Participant may not assign this Agreement, in whole or in part, and may not assign any right or duty required under it, without the prior written consent of THC. Any attempted assignment in violation of this provision is void and without effect.

### **VI. CONTRACT AMOUNT**

In accordance with the Texas Government Code, sec.442.014(d) and 13 TAC sec.19.5(d), Participant shall pay THC a fee in the amount of \*\* **\$2,600.00** to defray cost of staff time and expenses for services provided under the Local Program. THC shall invoice for the fee and Participant shall tender payment within 60 days.

## **VII. TERM and TERMINATION**

### **A. Term.**

This Agreement begins upon the latest date the Agreement becomes fully executed by individuals who have the authority to bind the party on whose behalf he or she is signing (“Effective Date”) and shall expire on December 31, 2025, unless terminated at an earlier date pursuant to subsection B below.

### **B. Termination.**

1. Either party shall have a right to terminate all performances to be rendered under this Agreement by notifying the other party in writing at least ten (10) days in advance of the termination date.
2. In the event Participant refuses or fails to execute any Updated TM Sublicense Agreement pursuant to the terms of Section II. above within sixty (60) days of receipt thereof, THC shall have the right to immediately terminate this Agreement by written notice to the Participant.
3. Upon termination of this Agreement under subsections 1 and 2 above, Participant will no longer be designated as an official Texas Main Street City (as defined in 13 TAC sec. 19.3(2)), and will no longer be allowed the use of any Work Product or THC Property, as defined herein, or the registered trademark, logos and brand of National Main Street Center’s membership program MAIN STREET AMERICA™. In such event, Participant agrees to return to THC any Work Product and THC Property in its possession.
4. No funds paid under Section VI. The above shall be refunded in any case of termination.

## **VIII. CHANGES AND AMENDMENTS**

Any alterations, additions, or deletions to the terms of this Agreement shall be in writing and signed by both parties.

## **IX. APPLICABLE LAW AND VENUE; NO WAIVER; SEVERABILITY**

This Agreement shall be governed by and construed in accordance with the laws of the State of Texas. The venue of any suit arising under this Agreement is fixed in any court of competent jurisdiction of Travis County, Texas.

Nothing in this Agreement shall be construed as a waiver of THC’s sovereign immunity or any governmental immunity to which Participant is entitled under Texas law. This Agreement shall not constitute or be construed as a waiver of any of the privileges, rights, defenses, remedies, or immunities available to Participant, THC or the State of Texas. The failure to enforce, or any delay in the enforcement, of any privileges, rights, defenses, remedies, or immunities available to Participant, THC or the State of Texas under this Agreement or under applicable law shall not constitute a waiver of such privileges, rights, defenses, remedies, or immunities or be considered as a basis for estoppel.

In the event that any provision of this Agreement is later determined to be invalid, void, or unenforceable, then the remaining terms, provisions, covenants, and conditions of this Agreement shall remain in full force and effect, and shall in no way be affected, impaired, or invalidated.

#### **X. PROHIBITED FOREIGN BUSINESSES**

In accordance with Texas Government Code, Chapter 2252, Subchapter F, Participant hereby represents and warrants that it is not a company identified on the lists prepared and maintained under Texas Government Code §§ 806.051 (companies with business operations in Sudan), 807.051 (companies with business operations in Iran), or 2252.153 (companies known to have contracts with or provide supplies or services to a foreign terrorist organization).

Notwithstanding the foregoing, a company that the United States government affirmatively declares to be excluded from its federal sanctions' regime relating to Sudan, Iran, or to a foreign terrorist organization, is not subject to contract prohibition under this clause. A company claiming such exemption must submit the official copy of the declaration.

#### **XI. FORCE MAJEURE**

THC shall not be responsible for performance under this Agreement should it be prevented from performance by an act of war, order of legal authority, act of God, or other unavoidable cause not attributable to the fault or negligence of THC.

Participant shall not be liable to THC for non-performance or delay in performance of a requirement under this Agreement if such non-performance or delay is due to one of the following occurrences, which occurrence must not be preventable through the exercise of reasonable diligence, be beyond the control of Participant, cannot be circumvented through the use of alternate sources, work-around plans, or other means and occur without its fault or negligence: fire; flood; lightning strike; weather damage; earthquake; tornado; hurricane; snow or ice storms; equipment break down; acts of war, terrorism, riots, or civil disorder; strikes and disruption or outage of communications, power, or other utility.

In the event of an occurrence under the above paragraph, Participant will be excused from any further performance or observance of the requirements so affected for as long as such circumstances prevail, and Participant continues to use commercially reasonable efforts to recommence performance or observance whenever and to whatever extent possible without delay. Participant shall immediately notify the THC's State Coordinator by telephone (to be confirmed in writing within five (5) calendar days of the inception of such occurrence) and describe at a reasonable level of detail the circumstances causing the non-performance or delay in performance.

#### **XII. NOTICES.**

Any notices and/or documents required hereunder shall be deemed to have been duly provided if in writing and delivered personally or by pre-paid guaranteed overnight delivery service, or sent postage prepaid by United States certified mail, return receipt requested. Any such notice shall be effective on the date of delivery if delivered personally, on the next business day following delivery to the guaranteed overnight delivery service if the notice was so delivered and the charges were prepaid, or on the date the recipient signed for the notice if sent by certified mail.

Notices shall be addressed as follows, or at such other address as any party hereto shall notify the other of in writing:

If to THC.:  
Texas Historical Commission  
P.O. Box 12276  
Austin, TX 78711

If to Participant:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

THE UNDERSIGNED PARTIES BIND THEMSELVES TO THE FAITHFUL  
PERFORMANCE OF THIS AGREEMENT.

\_\_\_\_\_  
Authorized Signature  
(City Manager, Mayor, or Board Chair)  
  
Signer title: \_\_\_\_\_  
  
Signer printed name: \_\_\_\_\_  
  
Signer address: \_\_\_\_\_  
  
Signer phone: \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_  
Amy Hammons, State Coordinator  
Texas Main Street Program  
P.O. Box 12276 Austin, TX 78711  
512-463-5758 amy.hammons@thc.texas.gov

Date: \_\_\_\_\_

\_\_\_\_\_  
Bradford Patterson, Deputy Executive Director for  
Preservation Programs  
Texas Historical Commission  
P.O. Box 12276 Austin, TX 78711  
512-463-6100

Date: \_\_\_\_\_

## TRADEMARK SUBLICENSE AGREEMENT

This Trademark Sublicense Agreement (“Sublicense Agreement”) is entered into between \_\_\_\_\_ (“**Coordinating Program**”) and City of Denton (“**Sublicensee**”), effective as of the last date written below. For good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties agree as follows:

### 1. Background.

A. The National Main Street Center, Inc. (“NMSC”) operates a membership program called MAIN STREET AMERICA™. As a part of that program, MAIN STREET AMERICA™ Coordinating Program membership is available to statewide, regional or citywide organizations that oversee multiple local downtown and neighborhood programs within their service area and work to preserve and revitalize commercial districts (“Local Programs”). Local Program membership in the MAIN STREET AMERICA™ program is available at the Affiliate or Accredited levels to individual programs or organizations that satisfy the membership eligibility criteria described on the NMSC website (currently located at: [https://higherlogicdownload.s3.amazonaws.com/NMSC/390e0055-2395-4d3b-af60-81b53974430d/UploadedImages/Join/Main Street America Tier System Overview - 2019 Update.pdf](https://higherlogicdownload.s3.amazonaws.com/NMSC/390e0055-2395-4d3b-af60-81b53974430d/UploadedImages/Join/Main%20Street%20America%20Tier%20System%20Overview%202019%20Update.pdf)).

B. Organization is a Coordinating Program member of NMSC in good standing and has entered into a Trademark License Agreement with the NMSC which grants to the Coordinating Program the right to sublicense to its Local Programs the use of the NMSC name and trademarks described below.

C. Sublicensee is a Local Program Member in good standing of the MAIN STREET AMERICA™ program at the Accredited level. Sublicensee is also located within the Coordinating Program’s geographic service area. Therefore, Sublicensee has the opportunity to enter into this Sublicense Agreement, which grants certain rights to use the NMSC’s name and trademarks, including MAIN STREET AMERICA™ and MAIN STREET®, as described below.

D. The NMSC’s parent entity, the National Trust for Historic Preservation (“National Trust”), owns the following registered trademarks, which it has delegated to the NMSC the right to sublicense. NMSC and Coordinating Program have entered into a Trademark Licensing Agreement which grants the Coordinating Program the right to sublicense the following registered trademarks:

Mark	U.S. Registration Number
MAIN STREET	Reg. No. 3,365,568
NATIONAL MAIN STREET CENTER	Reg. No. 5,370,135

These registered trademarks owned by the National Trust, together with the MAIN STREET AMERICA™ word marks and logos referred to below, and any other trademarks owned by the National Trust, or the NMSC, which the NMSC may grant the Coordinating Program and Sublicensee permission to use from time to time, are referred to herein as the “Trademarks.”

E. The Trademarks are well known and recognized by the general public and associated in the public mind with the NMSC and the National Trust. The Coordinating Program and the Sublicensee recognize the mutual benefits that accrue from the Sublicensee’s use of the Trademarks in accordance with the terms and conditions of this Sublicense Agreement, including the recognition and credibility brought to the Sublicensee through its use of these Trademarks and the benefit to the Coordinating Program and NMSC from association with high-performing Local Programs.

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**2. Grant of Sub-License.**

A. Subject to the terms and conditions of this Sublicense Agreement, the Coordinating Program hereby grants to the Sublicensee the non-exclusive right and license to use the Trademarks to identify and promote its participation in the MAIN STREET AMERICA™ program, as well as its relationship and association with the Coordinating Program and NMSC, in connection with the following activities:

- i. **MAIN STREET AMERICA™ word and logo marks.** The Sublicensee's right to use the MAIN STREET AMERICA™ word mark and the following MAIN STREET AMERICA logo is limited to Sublicensees which are members in good standing at the Accredited membership level of the MAIN STREET AMERICA™ program:

For use by Local Programs who are Designated Members at the Accredited Level:



*As a Main Street America™ Accredited program, INSERT NAME HERE is a recognized leading program among the national network of more than 1,200 neighborhoods and communities who share both a commitment to creating high-quality places and to building stronger communities through preservation-based economic development. All Main Street America™ Accredited programs meet a set of National Accreditation Standards of Performance as outlined by the National Main Street Center.*

- ii. **NATIONAL MAIN STREET CENTER® word mark.** The Sublicensee's right to use the NATIONAL MAIN STREET CENTER® word mark solely and exclusively to indicate its association with the National Main Street Center.
- iii. **MAIN STREET® word mark.** The Sublicensee's right to use the MAIN STREET trademark is limited to use made to identify Sublicensee and/or its activities, including as part of the name of the Sublicensee at the Accredited level, in connection with commercial district revitalization and related consultation, education, and training.

**3. Scope of and Limitations on Use.** Use of the Trademarks by the Sublicensee will be subject to the following limitations:

A. Sublicensee must display the Accredited level MAIN STREET AMERICA membership mark on their website. All uses of the MAIN STREET AMERICA word mark and logo by Sublicensee must follow the specific mark, color, and character usage set forth in the Brand Guidelines attached as Exhibit A, which are incorporated by reference as if fully set forth herein. Sublicensee will not use or develop any different logos or designs (including any symbols or stylized presentations), in connection with the MAIN STREET AMERICA mark or logo. Use of the MAIN STREET AMERICA word mark and logo by Sublicensee is a mandatory condition of membership in the MAIN STREET AMERICA program.

B. The MAIN STREET mark, as part of the name and identity of Sublicensee's organization, programs, and activities, can be used on materials designed to promote the work of Sublicensee (e.g.,

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website, brochures, newsletter, letterhead or other printed promotional materials). The right to use the MAIN STREET mark by the Sublicensee is an optional benefit of membership in the MAIN STREET AMERICA program.

C. All uses of the NATIONAL MAIN STREET CENTER word mark by Sublicensee must follow the requirements set forth in the Brand Guidelines attached as Exhibit A, which are incorporated by reference as if fully set forth herein. Sublicensee will not use or develop any different logos or designs (including any symbols or stylized presentations) in connection with the NATIONAL MAIN STREET CENTER mark. Use of the NATIONAL MAIN STREET CENTER mark by Sublicensee is an optional benefit of membership in the MAIN STREET AMERICA program.

D. This Sublicense Agreement is subject to the terms, conditions, and limitations of the Trademark License Agreement between NMSC and the Coordinating Program.

E. Sublicensee will not apply to register any of the Trademarks, or any other trademark that incorporates any part of the Trademarks or "National Trust for Historic Preservation." Sublicensee will not state or imply that it owns any such trademarks.

F. Sublicensee will not use the Trademarks in combination with or in juxtaposition with other trademarks except as may be approved in writing by the NMSC. The Sublicensee will apply and display the ® symbol and the ™ symbol next to or with respect to the Trademarks as directed by the Coordinating Program.

G. Other than as specifically provided herein, Sublicensee is not granted any other rights to use, license or sublicense the Trademarks.

**4. Term.** This Sublicense Agreement will become effective immediately upon the date of last signature below, and, unless terminated early under Sections 5 or 10, will be effective through May 31, 2026, at which time it may be renewed by mutual written agreement of the parties hereto.

**5. Conditions.** This Sublicense Agreement between Coordinating Program and Sublicensee is conditioned upon Sublicensee having an active MAIN STREET AMERICA membership at the Accredited level with NMSC. The requirements of this membership are currently available at: [https://higherlogicdownload.s3.amazonaws.com/NMSC/390e0055-2395-4d3b-af60-81b53974430d/UploadedImages/Join/Main Street America Tier System Overview - 2019 Update.pdf](https://higherlogicdownload.s3.amazonaws.com/NMSC/390e0055-2395-4d3b-af60-81b53974430d/UploadedImages/Join/Main%20Street%20America%20Tier%20System%20Overview%202019%20Update.pdf), and are incorporated herein by reference.

**6. Acknowledgment of Ownership.** Use of the Trademarks indicates acknowledgment by the Sublicensee of the NMSC's and the National Trust's rights and title to the Trademarks, (i.e. MAIN STREET AMERICA, NATIONAL MAIN STREET CENTER, and MAIN STREET), and that Sublicensee will not at any time do, or permit to be done, any act or thing that will in any way impair the rights of the NMSC or the National Trust. All use of the Trademarks by the Sublicensee will inure to the benefit of the NMSC and the National Trust.

**7. Goodwill and promotional value.** Sublicensee recognizes and acknowledges the value of goodwill associated with the Trademarks and agrees that it will not conduct any activity, provide any service, or produce or distribute goods which in any way damages or reflects adversely upon the NMSC or the National Trust.

**8. Non-assignment.** This Sublicense Agreement is personal to the Sublicensee, and may not be assigned to any other individual, program, organization, or agency. Any attempted assignment will be null and void.



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**9. Compliance Verification.** It is the responsibility of the Sublicensee to verify compliance with the terms of this Sublicense Agreement, and to provide complete and accurate usage reports to the Coordinating Program. If the Coordinating Program or the NMSC has reason to believe that the Sublicensee is in violation of this Sublicense Agreement, the Coordinating Program or NMSC shall have the right to make inquiries with Sublicensee as necessary to determine compliance. In such case, the Sublicensee will cooperate with the Coordinating Program and/or NMSC in its investigation and provide in a timely fashion any and all information that is requested.

**10. Termination.**

A. Coordinating Program may terminate this Sublicense Agreement if the Sublicensee violates any of the provisions of this Sublicense Agreement or fails to satisfy the membership criteria established by the NMSC for Accredited Local Programs. Such termination will be effective thirty (30) calendar days after the Coordinating Program sends written notice of such termination to Sublicensee. During this thirty (30) day period, Sublicensee may attempt to cure such violation. If the violation is not cured during this period, the termination will be effective upon the expiration of the thirty (30) calendar day period.

B. This Sublicense Agreement will automatically terminate immediately without any notice required, notwithstanding the above paragraph, if the Coordinating Program or NMSC determines, in their sole discretion: (i) that Sublicensee's actions could negatively affect the goodwill, image, or reputation of the NMSC, the National Trust, the Coordinating Program, or any of the Trademarks; (ii) the Sublicensee discontinues all or a significant portion of its business; (iii) the National Trust terminates, revokes, or fails to renew the NMSC's rights to use, license, or sublicense the Trademarks; or (iv) the NMSC terminates, revokes or fails to renew the Coordinating Program's rights to use, license or sublicense the Trademarks.

C. Upon the expiration or early termination of this Sublicense Agreement, the Sublicensee will discontinue use of the Trademarks and will promptly destroy and delete tangible and electronic documents and files containing any such marks, except for a limited number of copies retained for archival purposes only.

**11. Governing Law.** This Sublicense Agreement is entered into in the District of Columbia and will be governed by and construed in accordance with the laws of the District of Columbia, USA, without giving effect to conflict of laws provisions.

**12. Annual Report, Notices, Other Communication.** Upon request by the Coordinating Program or NMSC, Sublicensee shall submit samples of any materials on which the Trademarks licensed under this agreement were used during the year. Such samples shall be submitted within ten (10) business days of receipt of a written request from the Coordinating Program or NMSC.

**13. Notices.** Any notices which either party is required or may desire to serve upon the other party shall be in writing and may be served either personally or by depositing the same in the mail (first class postage prepaid, certified and return receipt requested) or with a reputable overnight express delivery service (with confirmed delivery, charge prepaid or billed to shipper), addressed to the party to be served as follows, unless a different address is designated in writing by the party to be served. Notice shall also be required to be given by electronic mail on the same date as deposited in the mail. Notice given by mail alone shall not be sufficient.

**To Coordinating Program:**

Name:

Address:

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\_\_\_\_\_  
Phone: \_\_\_\_\_  
Email: \_\_\_\_\_

**To Sublicensee:**  
City of Denton  
Name: \_\_\_\_\_  
Address: 401 N. Elm  
Denton, TX 76201  
Phone: 940.349.7531  
Email: Sara.hensley@cityofdenton.com

**14. Successors.** This Sublicense Agreement shall be binding upon, and will inure to the benefit of, the parties and their respective permitted successors and assigns.

**15. Modification.** No amendment or modification of the terms or conditions of this Sublicense Agreement will be valid unless in writing and signed by both parties.

**16. Waiver.** The failure of either party to partially or fully exercise any right or the waiver by either party of any breach, shall not prevent a subsequent exercise of such right or be deemed a waiver of any subsequent breach of the same or any other term of this Sublicense Agreement. No waiver shall be valid or binding unless in writing and signed by the waiving party.

**17. Severability.** If any provision of this Sublicense Agreement or the application of any provision hereof to any person or circumstances is held to be void, invalid, or inoperative, the remaining provisions of this Sublicense Agreement shall not be affected and shall continue in effect and the invalid provision shall be deemed modified to the least degree necessary to remedy such invalidity.

**18. Hold Harmless.** The Sublicensee will be responsible at all times for the supervision and management of its activities under this Sublicense Agreement. To the extent possible in accordance with state law, the Sublicensee agrees to hold harmless the Coordinating Program, the NMSC, the National Trust, and their respective directors, trustees, officers, employees, and agents, from any and all liability, loss, damages, costs or expenses which arise out of the negligent acts or omissions of the Sublicensee, its directors, officers, employees, and agents, while acting in the scope of their employment and/or in the course of their involvement with the Sublicensee's activities.

**19. Insurance.** The Sublicensee shall obtain and maintain one or more policies of insurance to ensure Sublicensee's performance of its obligations under this Sublicense Agreement and to provide adequate protection for the Coordinating Program, the NMSC, and the National Trust, against any and all claims, demands, causes of action or damages, including attorney's fees, arising out of the performance of this Sublicense Agreement. Nothing herein shall prevent the Sublicensee from self-insuring the terms of coverage or from contracting with an insurance company to provide substantially equivalent coverage.

**20. Relationship of the Parties.** The Sublicensee is an independent contractor. Nothing in this Sublicense Agreement shall be construed to create or constitute a partnership, joint venture, or any other agency or employment relationship between the parties hereto. Neither party is authorized to enter into any agreement on behalf of, assume any obligation for, or otherwise bind the other party financially or otherwise; nor is either party responsible for the obligations of the other party, including but not limited to obligations to the other's own employees, their wage/salaries, benefits, vacation pay, and the like.

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**21. Entire Agreement.** This Sublicense Agreement is the entire agreement between the parties with respect to the matters referred to herein and it supersedes and replaces all prior and contemporaneous oral and written understandings pertaining to the subject matter hereof.

IN WITNESS WHEREOF, the parties enter into this Sublicense Agreement effective as of the last date written below.

**Coordinating Program**

**Sublicensee**

By: \_\_\_\_\_

By: \_\_\_\_\_

City Manager

Date: \_\_\_\_\_

Date: \_\_\_\_\_

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**EXHIBIT A**

**BRAND GUIDELINES**

# BRAND

# *Guidelines*





# HOW WE DESCRIBE OURSELVES

IT IS IMPORTANT THAT WE ALL TELL THE SAME STORY ABOUT *MAIN STREET AMERICA* TO HELP DISTINGUISH AND REINFORCE OUR BRAND. TO DO THAT, WE HAVE THREE LEVELS OF INCREASING DETAIL: TAGLINE, DESCRIPTOR, AND POSITIONING STATEMENT.

## TAGLINE

The tagline is our simplest statement about what Main Street America stands for. We can use it in written materials but to help establish consistency, we should not alter the words.

**Nationally recognized. Locally powered.**

## DESCRIPTOR

The descriptor was developed to be a concise statement about Main Street America to be used in such applications as press releases, announcements, and promotional materials. While it can be altered if necessary for specific circumstances, we encourage using it intact for most applications.

***Main Street America™* has been helping revitalize older and historic commercial districts for more than 35 years. Today it is a network of more than 1,600 neighborhoods and communities, rural and urban, who share both a commitment to place and to building stronger communities through preservation-based economic development. Main Street America is a program of the nonprofit National Main Street Center, a subsidiary of the National Trust for Historic Preservation.**



# OUR POSITIONING

## POSITIONING STATEMENT

The positioning statement provides more detail about *Main Street America* and what makes our program both unique and effective. It can be used in its entirety, or parts can be extracted, as a source of language for a variety of communication needs.

**Main Street America™ is a movement.** Main Street America has been helping revitalize older and historic commercial districts for more than 35 years. It is the leading voice for preservation-based economic development and community revitalization across the country. Made up of small towns, mid-sized communities, and urban commercial districts, Main Street America represents the broad diversity that makes this country so unique. Working together, the programs that make up the Main Street America network help to breathe new life into the places people call home.

**Main Street America is a mark of distinction.** It is a seal, recognizing that participating programs, organizations, and communities are part of a national movement with a proven track record for celebrating community character, preserving local history, and generating impressive economic returns. Since 1980, over 2,000 communities have been part of Main Street, bringing renewed energy and activity to America's downtowns and commercial districts, securing \$61 billion in new investment creating more than 525,000 net new jobs and rehabilitating 251,000 buildings.

**Main Street America is a time-tested strategy.** Main Street America communities are encouraged to make use of a time-tested approach, known as the Main Street Approach. The Main Street Approach is rooted in a commitment to broad-based community engagement, a holistic understanding of the factors that impact the quality of life in a community, and strategic focus on the core principles of downtown and neighborhood revitalization: Economic Vitality, Quality Design, Effective Promotion, and Sustainable Organization.



## OUR LOGO

THE MAIN STREET AMERICA™ NAME AND ALL ASSOCIATED LOGOS ARE TRADEMARKS OF THE NATIONAL MAIN STREET CENTER AND MAY BE USED ONLY WITH PERMISSION OF NMSC.

Three brand treatments—each associated with a different level of membership with Main Street America—are available to accommodate communication needs and establish consistency across the network. All Main Street America members who have signed licensing or sub-licensing agreements are required to include the appropriate logo and membership language on their websites, and are encouraged to use them across other communications and branding platforms.







# LOGO USAGE

IT IS IMPERATIVE THAT A LOGO IS PRESENTED CONSISTENTLY, CLEARLY AND CORRECTLY.

There are a few rules to keep in mind when using our logo:

## BE CONSISTENT

Place the logo on a white background. Do not place on dark, photographic, or illustrative backgrounds.

## KEEP IT CLEAR

Make sure the logo has enough space around it so that it is legible. Do not place other elements within this “clear space.”

## USE CORRECTLY

Use approved logo files as they are provided, do not alter them in any way.



Always maintain an area of “clear space” around the logo to ensure legibility. That space is equal to the height of “MAIN STREET”: . DO NOT place anything inside of the gray dotted box.



DO NOT resize parts of the logo  
DO NOT omit parts of the logo



DO NOT change the color of the logo  
DO NOT add effects such as drop shadows to the logo



DO NOT stretch or distort the logo



DO NOT alter the placement of the parts of the logo



DO NOT rotate the logo



DO NOT place the logo on patterns or photos

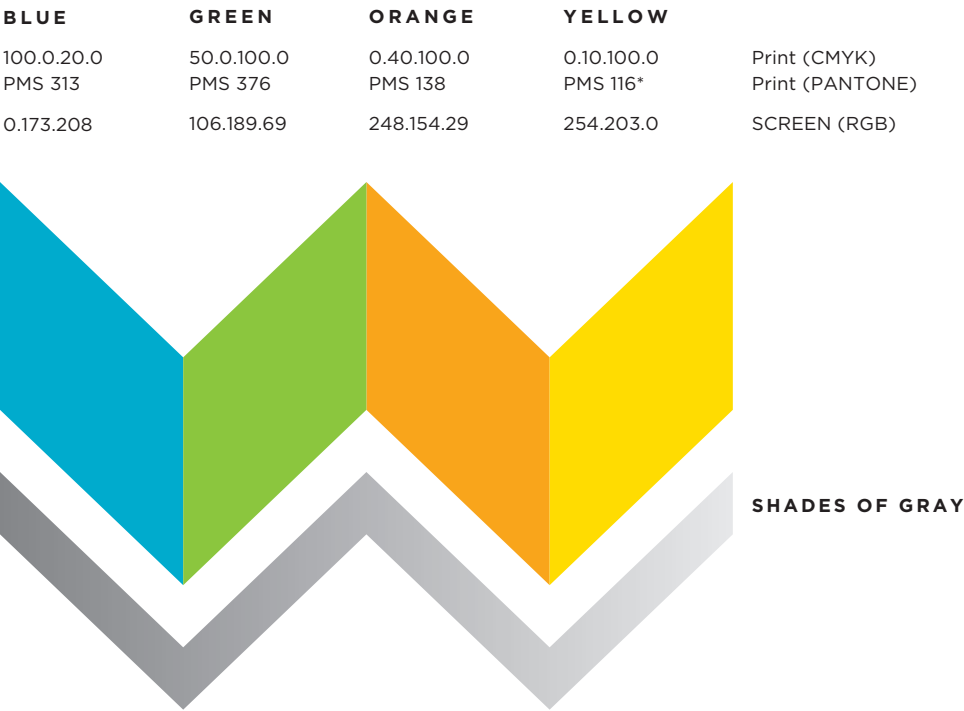


# OUR COLORS

A COLOR PALETTE IS AN ESSENTIAL INGREDIENT IN ESTABLISHING A STRONG AND DISTINCTIVE BRAND PRESENCE.

The icon of our logo is comprised of four colors with black text. Along with shades of gray, these are the only acceptable colors to be used in our communications. The logo should always command the most visual attention, and color should be used to support but never overwhelm the logo. Additionally, when appropriate, color may be used to highlight the Main Street Four Point Approach®; each area has an assigned color:

ECONOMIC VITALITY // QUALITY DESIGN // EFFECTIVE PROMOTION // SUSTAINABLE ORGANIZATION



\* Pantone Color Values vary between Coated, Uncoated and Matte finishes. While these variations are typically nominal, please use PMS 114 on Uncoated paper instead of PMS 116 because it's the better overall match.



## FILE USAGE

### OUR LOGO IS AVAILABLE IN A VARIETY OF FILE FORMATS.

The appropriate format should be selected based on how it will be used.  
Please refer to the list below for guidance.

#### EPS

Created in Adobe Illustrator, logo files are EPS vector files and resolution-independent, meaning they can be scaled an infinite amount without any loss of quality. Use EPS files for print, broadcast and specialty items.

#### JPEG

A raster graphic image file created by choosing from a range of compression qualities, therefore making it smaller in size and easier to email. Usually for broadcast, MS Word or web use, JPEGs can only be used for print reproduction if they have high enough resolution.

#### PNG

A raster graphic image file that supports lossless data compression. This format provides background transparency, perfect for use in MS PowerPoint presentations.