

AN ORDINANCE OF THE CITY OF BRANSON, MISSOURI, AUTHORIZING THE MAYOR TO ENTER INTO A COOPERATIVE AGREEMENT WITH THE 76 ENTERTAINMENT COMMUNITY IMPROVEMENT DISTRICT FOR COOPERATIVE EFFORTS TO OPERATE AND ADMINISTER THE DISTRICT, AND TO OPERATE, MAINTAIN, FUND, AND FINANCE COMMUNITY IMPROVEMENT DISTRICT IMPROVEMENTS.

WHEREAS, on March 8, 2016, the Board of Aldermen adopted Ordinance No. 2016-0016, pursuant to which the City approved the Petition to Establish the 76 Entertainment Community Improvement District (the "Petition"), which was filed by property owners within the proposed district boundaries, and established the 76 Entertainment Community Improvement District (the "District") for the purposes set forth in the Petition by using the revenue generated from a CID sales tax on sales in the District (as described in the Petition); and

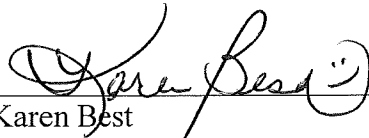
WHEREAS, the City and the Community Improvement District's Board of Directors desire to enter into a contract with the City with regard to cooperative efforts to operate and administer the District and to provide for the maintenance, funding, and financing of District improvements.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF BRANSON, MISSOURI, AS FOLLOWS:

- Section 1: The Cooperative Agreement between the City of Branson, Missouri, and the 76 Entertainment Community Improvement District ("Cooperative Agreement") a copy of which is attached hereto as **Exhibit A**, is hereby approved and adopted.
- Section 2: The Mayor is authorized to execute the Cooperative Agreement for and on behalf of the City of Branson.
- Section 3: If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.
- Section 4: This ordinance shall be in full force and effect upon and after its passage and approval.

Read this first time on this 27th day of March, 2018.

Read, this second time, passed and truly agreed to by the Board of Aldermen of City of Branson, Missouri this 10th day of April, 2018.



Karen Best
Mayor

ATTEST:



Lisa K. Westfall
City Clerk

APPROVED AS TO FORM:

Signature on Following Page

Joe Lauber
Lauber Municipal Law

Read this first time on this ____ day of _____, 2018.


Read, this second time, passed and truly agreed to by the Board of Aldermen of City of Branson, Missouri this ____ day of _____, 2018.

Karen Best
Mayor

ATTEST:

APPROVED AS TO FORM:

Lisa K. Westfall
City Clerk



Joe Lauber
Lauber Municipal Law

EXHIBIT A

COOPERATIVE AGREEMENT

COOPERATIVE AGREEMENT

among the

CITY OF BRANSON, MISSOURI,

and

76 ENTERTAINMENT COMMUNITY IMPROVEMENT DISTRICT

dated as of

_____, 2018

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Exhibits:

- Exhibit A Segment 3 Map
- Exhibit B Map of Full CID Project
- Exhibit C-1 Estimated CID Project Costs (Segments 1-6)
- Exhibit C-2 City Reimbursement Request
- Exhibit D Concept Plan- 6 Layer Program Summary
- Exhibit E Construction Schedule
- Exhibit F Operation and Maintenance Services Descriptions and Anticipated Levels of Service/Budget
- Exhibit G CID Service Level Assurance Mechanisms
- Exhibit H Road Maintenance Standard

COOPERATIVE AGREEMENT

THIS COOPERATIVE AGREEMENT ("Agreement"), is entered into as of this _____ day of _____, 2018, among the **CITY OF BRANSON, MISSOURI**, a municipal corporation and a political subdivision of the State of Missouri (the "City"), and the **76 ENTERTAINMENT COMMUNITY IMPROVEMENT DISTRICT**, a Missouri political subdivision (the "CID"), (the City, and CID are collectively referred to herein as the "Parties" and individually as "Party," as the context so requires).

RECITALS

A. The City and stakeholders along Highway 76 have initiated a visionary redevelopment of Branson through a public/private partnership to create a vibrant, dynamic, fun, attractive, and efficient promenade and multi-modal thoroughfare that is designed to enhance visitor experience, stay-time, and return trips;

B. The City, at the request of certain stakeholders, has formed the CID in connection with the above-described project;

C. The initial boundaries of the CID are identified in Exhibit A ("Segment 3"), attached hereto and incorporated herein; the final CID is anticipated to generally encompass an area along Highway 76 from Highway 65 on the east, extending westward approximately five miles to Shepherd of the Hills Parkway (the "Project") as identified on the map included as Exhibit B ("Project Map") that will be incorporated into the District in one or more phases;

D. On December 3, 2015, a Petition to Establish the 76 Entertainment Community Improvement District (the "CID Petition") was filed with the City Clerk in accordance with the Missouri Community Improvement District Act, Sections 67.1401 to 67.1571, RSMo (the "CID Act"), for the purposes set forth in the CID Petition and as they relate to the initial phase of the Project. It is anticipated that when other phases of the Project are designed and constructed, the CID Petition will be amended in accordance with the CID Act to include those additional areas;

E. The CID is authorized under the CID Act to impose a district-wide sales tax (the "CID Sales Tax"), the revenues of which will be utilized to pay the costs of public improvements, certain services, on-going operation and maintenance costs, and formation costs, as further described herein;

F. On February 23, 2016 the Board of Aldermen of the City held a public hearing to consider the CID Petition and on March 8, 2016 adopted Ordinance No. 2016-0016 that approved the CID Petition and formed the CID;

G. On _____, 2018, the Board of Aldermen passed Ordinance No. _____, pursuant to which the City authorized the execution of this Agreement, and further found that the use of CID Sales Tax Revenues will serve the public purposes described herein;

H. On December 18, 2017, the CID adopted Resolution No. 2017-11, pursuant to which the CID authorized the execution of this Agreement; and

I. The Parties desire to set forth through this Agreement their respective duties and obligations with respect to the administration, enforcement, and operation of the CID Sales Tax and the funding of the CID therefrom.

NOW, THEREFORE, for and in consideration of the premises, and the mutual covenants herein contained, the Parties agree as follows:

Article 1 RECITALS, EXHIBITS, AND DEFINITIONS

Section 1.1 Recitals and Exhibits

The representations, covenants, and recitations set forth in the foregoing recitals and the exhibits attached to this Agreement are material to this Agreement and are hereby incorporated into and made a part of this Agreement as though they were fully set forth in this Section, and the appropriate exhibits are incorporated into each section of this Agreement that makes reference to an exhibit.

Section 1.2 Definitions

In addition to words and terms defined by the CID Act, the following words and terms shall have the meanings ascribed to them in this Section 1.2:

- a. "Administrative Fee" means that amount of the CID Sales Tax Revenue which shall be payable to the City to cover services it provides to the CID as described in Sections 3.2.c and 3.2.h herein.
- b. "Applicable Laws and Requirements" means any applicable constitution, treaty, statute, rule, regulation, ordinance, order, directive, code, interpretation, judgment, decree, injunction, writ, determination, award, permit, license, authorization, directive, requirement, or decision of or agreement with or by any unit of government.
- c. "Board of Aldermen" means the governing body of the City.
- d. "Board of Directors" means the governing body of the CID.
- e. "CID" means the 76 Entertainment Community Improvement District.
- f. "CID Act" means the Missouri Community Improvement District Act, RSMo, §§ 67.1401, *et seq.*, as amended.
- g. "CID Administration Services" mean those services necessary to ensure the continuing viability of the CID as a political subdivision of the State of Missouri, including, but not limited to, holding meetings, obtaining an annual independent financial audit of the CID Sales Tax

Revenue Receipts and disbursements, annual reporting requirements, Missouri Sunshine Law compliance, notices, records retention, and budgeting.

- h.** "CID Project Area" means that area identified in Exhibit A that is anticipated to ultimately generally encompass an area along Highway 76 from Highway 65 on the east, extending westward approximately five miles to Shepherd of the Hills Parkway as identified in Exhibit B.
- i.** "CID Project Costs" means all actual and reasonable costs and expenses that are incurred by or at the direction of the City on or after September 1, 2016, with respect to establishing the CID, expanding the CID boundaries (as enumerated in Exhibit C-2), and the planning, design, and construction of the CID Project as identified in Exhibit C-1, including the actual and reasonable cost of labor and materials payable to contractors, builders, suppliers, vendors and materialmen in connection with the construction contracts awarded for the CID Project that is constructed or undertaken by the City, plus all actual and reasonable costs to plan, finance, develop, design and acquire the CID Project and pay for the Operation and Maintenance Services, including but not limited to the following:

 - (1) Actual and reasonable fees and expenses of architects, appraisers, attorneys, surveyors, and engineers for estimates, surveys, soil borings and soil tests, and other preliminary investigations and items necessary to the commencement of construction, financing, preparation of plans, drawings and specifications and supervision of construction, Operation and Maintenance Services, as well as for the performance of all other duties of architects, appraisers, attorneys, surveyors and engineers in relation to the CID Project and Operation and Maintenance Services and all actual and reasonable costs for the oversight of the completion of the CID Project and Operation and Maintenance Services; provided that the City may be reimbursed for legal fees it incurred both before and after September 1, 2016, in relation to the CID; and
 - (2) The City's costs incurred through a separate agreement with Olsson Associates, which addresses the drafting, circulation, and submission of a petition to annex property to the CID by its subsidiary Ochsner, Hare, & Hare.
 - (3) All other items of expense not elsewhere specified in this definition which may be necessary or incidental to the review, approval, acquisition, construction, improvement, and financing of the CID Project and the continued Operation and Maintenance Services and which may lawfully be paid or incurred under the CID Act.

- j.** "CID Project" the public improvements that are funded by the City and CID within the CID Project Area.
- k.** "CID Sales Tax" means the sales tax levied by the CID on the receipts from the sale at retail of all eligible tangible personal property or taxable services at retail within its boundaries pursuant and subject to the CID Act in the amount not to exceed one percent (1%).
- l.** "CID Sales Tax Revenue" means the proceeds of the CID Sales Tax actually received by the CID, pursuant to this Agreement and the CID Act, from the imposition of the CID Sales Tax.
- m.** "CID Sales Tax Revenue Fund" means the fund established by the City for deposit of the CID Sales Tax Revenue.
- n.** "City" means the City of Branson, Missouri.
- o.** "City Funds" means funds allocated by the City as contribution to payment of the Project.
- p.** "Debt Service" means the principal of, premium (if any), and interest becoming due on Obligations.
- q.** "DOR" means the Missouri Department of Revenue.
- r.** "Event of Default" means any event specified in Section 7.1 of this Agreement.
- s.** "Excusable Delays" means delays due to acts of terrorism, acts of war or civil insurrection, strikes, riots, floods, earthquakes, fires, tornadoes, casualties, acts of God, labor disputes, governmental restrictions or priorities, embargoes, national or regional material shortages, failure to obtain regulatory approval from any Federal or State regulatory body, unforeseen site conditions, material litigation by parties other than a Party and not caused by any Party's failure to perform, or any other condition or circumstances beyond the reasonable or foreseeable control of the applicable Party using reasonable diligence to overcome which prevents such Party from performing its specific duties or obligation hereunder in a timely manner.
- t.** "Financing Costs" means those costs incurred as a result of issuing one or more series of Obligations to pay all or any portion of CID Project Costs incurred or estimated to be incurred, including but not limited to loan fees, capitalized interest, legal fees, financial advisor fees, broker fees or discounts, printing, bond insurance, interest and other costs related to such financing.

- u.** "Legal Requirements" means any applicable constitution, treaty, statute, rule, regulation, ordinance, order, directive, code, interpretation, judgment, decree, injunction, writ, determination, award, permit, license, authorization, directive, requirement or decision of or agreement with or by any and all jurisdictions, entities, courts, boards, agencies, commissions, offices, divisions, subdivisions, departments, bodies or authorities of any nature whatsoever of any governmental unit (federal, state, county, district, municipality, city or otherwise), whether now or hereafter in existence and specifically including but not limited to all ordinances, rules and regulations of the City, such as zoning ordinances, subdivision ordinances, building codes, and property maintenance codes.
- v.** "Obligations" means loans, debentures, bonds, notes, special certificates, or other instruments issued to: (1) pay for all or any portion of CID Project Costs incurred or estimated to be incurred; (2) pay for Financing Costs; (3) establish reserves to refund or secure Obligations; (4) finance the interest costs associated with such Obligations, or (5) refund, redeem, or defease outstanding Obligations.
- w.** "Operating Costs" means the actual, reasonable expenses that are necessary to fund CID Administration Services.
- x.** "Operation and Maintenance Services" means the on-going maintenance and operation of: (1) Highway 76 within the CID area in order to reduce the deterioration of the roadway and ensure vehicular mobility in accordance with the standard provided in Exhibit H; and (2) all Public Improvements within the CID area.
- y.** "Pedestrianway" means that portion of the CID Project Area that is paved and designed to provide pedestrians a means of access across the frontage of a grantor's property.
- z.** "Petition" means the Petition to the City of Branson, Missouri for Establishment of the 76 Entertainment Community Improvement District, approved by the City on March 8, 2016.
- aa.** "Public Improvements" means any building or improvement (including but not limited to landscaping, irrigation facilities, and benches), such as the Pedestrianway or stormwater system, that is constructed as part of the CID Project that is under the control of a governmental entity and is paid for in whole or in part with CID Sales Tax or Obligation funds, including a building or improvement constructed or operated jointly with any other public or private agency.

- bb.** "Private Improvements" means those additional design element improvements that are: (1) located within the CID Project Area; (2) open for public use; and (3) owned by the private property owner.
- cc.** "Project" see CID Project.
- dd.** "Project Area" means the area within individual public easements between five feet (5') wide and twenty-five feet (25') wide provided across private property for the purposes of construction that portion of the Project adjacent to the easement grantor's property.
- ee.** "Project Budget" means the City-approved design and construction expenditures for the Project, and shall also include an amount not to exceed ten thousand dollars (\$10,000.00) per year, to be budgeted to a Discretionary Funds Account in the Project Budget and appropriated by the Board of Directors for any lawful purpose.
- ff.** "Segment" means each subpart of the CID Project Area identified on the map attached as Exhibit E.
- gg.** "Stakeholder" means i) the individual or individuals or entity or entities who own a fee interest in real property that is located within the CID or their legally authorized representative, or ii) for business organizations and other entities located within the CID, the Stakeholder shall be deemed to be the individual who is legally authorized to represent the business organization/entity.

Article 2 REPRESENTATIONS

Section 2.1 Representations by the CID

- a. The CID represents that:**
 - (1) The CID is a community improvement district and political subdivision, duly organized and existing under the laws of the State of Missouri, including particularly the CID Act.
 - (2) The CID has authority to enter into this Agreement and to carry out its obligations under this Agreement. By proper action of its Board of Directors, the CID has been duly authorized to execute and deliver this Agreement, acting by and through its duly authorized officers.
 - (3) The execution and delivery of this Agreement, the consummation of the transactions contemplated by this Agreement and the performance of or compliance with the

terms and conditions of this Agreement by the CID will not conflict with or result in a breach of any of the terms, conditions or provisions of, or constitute a default under, any mortgage, deed of trust, lease or any other restriction or any agreement or instrument to which the CID is a party or by which it or any of its property is bound, or any order, rule or regulation of any court or governmental body applicable to the CID or any of its property, or result in the creation or imposition of any prohibited lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the CID under the terms of any instrument or agreements to which the CID is a party.

- (4) There is no litigation or proceeding pending or threatened against the CID affecting the right of the CID to execute or deliver this Agreement or the ability of the CID to comply with its obligations under this Agreement or which would materially adversely affect its financial condition.
- (5) The CID acknowledges that the funding, construction, and ongoing operation and maintenance of the CID Project are of significant value to the CID, the property within the CID and the general public. The CID finds and determines that the CID Project and the Operation and Maintenance Services will serve a public purpose by promoting the economic welfare and the development of the City of Branson and the State of Missouri through: (i) the creation of temporary and permanent jobs; (ii) stimulating additional development in the area near the CID Project; (iii) increasing local and state tax revenues; (iv) providing necessary public improvements in the CID Project Area; and (v) assisting in the operation and maintenance of the CID Project. Further, the CID finds that the CID Project and the ongoing Operation and Maintenance Services conform to the purposes of the CID Act.

Section 2.2 Representations by the City

a. The City represents that:

- (1) The City is duly organized and existing under the Constitution and laws of the State of Missouri, as a fourth-class city.
- (2) The City has authority to enter into this Agreement and to carry out its obligations under this Agreement, and the Mayor has been duly authorized to execute and deliver this Agreement.
- (3) The execution and delivery of this Agreement, the consummation of the transactions contemplated by this Agreement, and the performance of or compliance with the

terms and conditions of this Agreement by the City will not conflict with or result in a breach of any of the terms, conditions or provisions of, or constitute a default under, any mortgage, deed of trust, lease or any other restriction or any agreement or instrument to which the City is a party or by which it or any of its property is bound, or any order, rule or regulation of any court or governmental body applicable to the City or any of its property, or result in the creation or imposition of any prohibited lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the City under the terms of any instrument or agreement to which the City is a party.

- (4) The City acknowledges that the funding, construction and on-going operation and maintenance of the CID Project are of significant value to the City, the property within the CID and the general public. The City finds and determines that the CID Project and the Operation and Maintenance Services will serve a public purpose by promoting the economic welfare and the development of the City of Branson and the State of Missouri through: (i) the creation of temporary and permanent jobs; (ii) stimulating additional development in the area near the CID Project; (iii) increasing local and state tax revenues; (iv) providing necessary public improvements in the CID Project Area; and (v) assisting in the operation and maintenance of the CID Project. Further, the City finds that the CID Project and the ongoing Operation and Maintenance Services conform to the purposes of the CID Act.
- (5) There is no litigation or proceeding pending or threatened against the City affecting the right of the City to execute or deliver this Agreement or the ability of the City to comply with its obligations under this Agreement.
- (6) By approving and authorizing execution of this Agreement, the Board of Aldermen acknowledge that even though the CID has not sought a separate determination that any portion of the CID area is blighted pursuant to Section 67.1461.2, RSMo, the CID is not prohibited from utilizing blight powers for any property that lies within the CID area that is subject to a separate blight finding by the City during the existence of the CID; further that the implementation and completion of the CID Project in accordance with this Agreement is reasonably anticipated to remediate any blighting conditions within the CID and will serve a public purpose.

Article 3 CID AND CITY DUTIES AND RESPONSIBILITIES

Section 3.1 CID Duties and Responsibilities

a. Maintain the Sales Tax

- (1) On May 24, 2016, the qualified voters approved the CID Sales Tax in the amount of an additional one-percent (1%) sales tax to be levied on the sale at retail of all tangible personal property or taxable services within the CID. Except as provided in this Agreement, the Board of Directors will not decrease or abolish the 1% CID Sales Tax.
- (2) Once all outstanding Obligations have been retired, upon mutual agreement with the Board of Aldermen, the Board of Directors may adopt a resolution decreasing the CID Sales Tax below one-percent (1%) to a levy rate, in an amount as allowed by the CID Act, that is established to fund the on-going, established levels of Operation and Maintenance Services and administration and operation of the CID.

b. Fund the CID Project

- (1) The CID Sales Tax Revenues shall be used to both fund the construction of the CID Project in a pay-as-you-go manner and to cover the principal, interest, and costs of Obligations issued in regards to construction of the CID Project.
- (2) Subject to annual appropriation by the Board of Directors, CID Revenues (except those necessary to fund the Discretionary Funds Account, and pay the cost of the City's Administrative Fee, and the CID's Operating Costs, in accordance with the approved annual budget) shall be pledged to pay the annual debt service due for Obligations incurred to pay project costs associated with Segment 3. The City and CID shall follow the same format as provided in subsections (3) through (5) below regarding Obligations to pay for Segment 3
- (3) The City agrees to develop a specific plan of finance (including but not limited to general type, basic terms, proposed issuer, and estimated interest), explaining how the remaining Segments of the CID Project will be funded, and present such plan to the Board of Directors within a reasonable timeframe prior to the proposed closing date on any of the financing components that would allow the CID Board an opportunity to consider the proposal, and provide meaningful input.

- (4) The City's presentation of the plan of finance, or amended plan of finance to the CID Board should not occur less than 30 days prior to the proposed closing date for any of the financing components, nor should the CID Board's input on the plan of finance be communicated back to the City later than 15 days after presentation.
- (5) The CID agrees to consider, within the context of the plan of finance, requests for pledging its CID Sales Tax Revenues, and such pledge shall not be unreasonably withheld. The specific allocation of the CID Sales Tax Revenues shall be determined by the annual budget of the CID.

c. Operation and Maintenance Services

- (1) To the extent that City Funds are not available to fund any specific Operation and Maintenance Service costs, the Board of Directors may elect to pay for specific Operation and Maintenance Service costs if the CID has unallocated funds available.
- (2) At such time as the CID Sales Tax Revenues exceed annual Debt Service obligations, the Board of Directors shall meet with the City to determine whether the CID's income is sufficient to warrant CID assumption of some or all Operation and Maintenance Service costs and/or early debt pay-off.
- (3) At such time as the Debt Service obligations end, the Board of Directors shall meet with the City to determine whether the CID should assume some or all Operation and Maintenance Service costs.

d. CID Administration Services

- (1) The CID shall provide, or cause to be provided, the CID Administration Services described in this section.
 - (a) Board of Directors Meetings. The CID shall prepare and, as applicable, shall post and distribute the following documents for Board of Directors meetings in compliance with Legal Requirements:
 - (i) Notices
 - (ii) Agendas

- (iii) Reports summarizing requested Board of Directors' action (i.e., a staff report to the Board of Directors)
 - (iv) Resolutions
 - (v) All other documents necessary for the proper administration of the CID in compliance with Legal Requirements.
- (b) CID Annual Budget
- (i) The CID shall prepare an annual budget for the CID's fiscal year that shall be submitted to the City Administrator in accordance with Section 67.1471.2, RSMo and the CID's Bylaws. Each budget for the CID shall generally be prepared in accordance with all applicable state statutes including Section 67.010, RSMo, as amended.
 - (ii) For each subsequent fiscal year of the CID, the CID shall, no earlier than 180 days and no later than 90 days prior to the first day of each fiscal year, submit a proposed budget for the upcoming fiscal year to the City Administrator. The City Administrator shall forward the proposed budget to the Mayor and Board of Aldermen for review and approval within the time frame set forth above.
 - (iii) The Board of Directors shall not approve the budget without the prior written consent of the Board of Aldermen. Any amendments to the CID's annual budget shall be subject to the approval of the Mayor and Board of Aldermen as described in this Section.
- (c) CID Annual State Auditor's Report
- (i) The CID, at its cost, shall prepare, or cause to be prepared, a report that complies with 15 CSR 40-3.030, and submitted to the State Auditor's Office within the timeframes set forth by 15 CSR 40-3.030.
 - (ii) Copies of the report of the CID shall be provided to the City, and any such other interested party as may be required by the documents for the Obligations, if any are issued.
- (2) The cost of providing CID Administration Services shall not exceed two percent per year of annual CID Sales Tax

Revenues unless mutually agreed by Board of Directors and the Board of Aldermen. Notwithstanding the foregoing, CID expenses related to legal and accounting/audit services shall not be subject to the two percent cap until such time as the full CID Project, as depicted in **Exhibit B**, has been added to the boundaries of the CID. Thereafter, and notwithstanding the foregoing, special legal services and special accounting/audit services shall not be subject to, or included in the calculation for, the two percent per year limitation. Special legal services include litigation matters and similar matters; but do not include typical services provided for day to day and year to year operation of the CID. Likewise, special accounting/audit services include fraud audits and similar matters, but do not include typical services provided for day to day and year to year operation of the CID. The amount available for CID Administration Services may also be limited by mutual agreement of the Board of Aldermen and Board of Directors in the documents related to the issuance of any Obligations.

e. CID Elective Responsibilities

Subject to the other provisions of this Agreement and available funding, and provided there are revenues available after all other distributions of CID Revenue have been made pursuant to Section 4.3 of this Agreement, the CID may provide any services permitted by the CID Act.

f. CID Public Improvements

- (1) The Board of Directors shall have the opportunity to review and approve, to the extent described in this subsection, all concept plans for CID Public Improvements prior to submittal of such plans to the Board of Aldermen. Concept plans are hereby defined within the context of the six (6) layer program as presented by City's staff and consultants at the April 6, 2017 Board of Aldermen Study Session meeting, an excerpt of which is attached as **Exhibit D**. Concept plans that are subject to CID review and approval are those that relate to the Creative Development aspect of program layer 2, and the Gateways and Icons, program layer 6. Program layers 1 (underground utilities), 2 (essential improvements), 3 (enhanced improvements) except as provided herein related to the Creative Development aspect, 4 (distinctive upgrades), and 5 (technology), are not subject to CID review and approval.
- (2) The CID shall not undertake CID Public Improvements without the prior approval of the Board of Aldermen.

- (3) Subject to this Agreement and the documents authorizing Obligations, the CID may use CID Sales Tax Revenue, as such revenues are available, to pay project costs for new CID Public Improvements that have been approved in accordance with the CID Act and the Board of Aldermen, but only to the extent that all other distributions of CID Revenue been made pursuant to Section 4.3 of this Agreement.

Section 3.2 City Duties and Responsibilities

a. Collection, Implementation, and Enforcement of the Sales Tax

- (1) The CID Sales Tax shall be collected by the DOR as provided in the CID Act. The Parties acknowledge that the DOR may deduct its own collection and administrative fee for collection of the CID Sales Tax. The Parties shall cooperate with DOR as necessary for the collection of the CID Sales Tax.
- (2) While any Obligations are outstanding, the City shall perform all functions incident to the administration, collection, enforcement and operation of the CID Sales Tax not performed by DOR. In the event that Obligations are not outstanding, the CID Board may request the City to perform the functions listed in the forgoing sentence. The Board of Directors will enact resolutions that: (i) authorize the City to perform all functions incident to the administration, enforcement and operation of the CID Sales Tax not performed by DOR; (ii) prescribe any required forms and administrative rules and regulations for reporting the CID Sales Tax; and (iii) provide for notification to the DOR that the CID Sales Tax Revenue shall be deposited with the City as the agent of the CID and the City shall receive from the DOR the CID Sales Tax Revenue, which shall be deposited by the City in a special trust account and shall be used to make those payments set forth in Section 4.2, in the order of priority set forth in Section 4.3.
- (3) Once all outstanding Obligations have been retired, the City shall relinquish its duties to administer, collect, enforce and operate the CID Sales Tax to the CID, unless the Board of Directors and Board of Aldermen agree that the City will maintain such duties.

b. Enforcement of the CID Funding Mechanisms

- (1) The City or Board of Directors shall report all violations to the DOR. If the DOR refuses to enforce the CID Sales Tax while any outstanding Obligations exist, the CID authorizes the City,

to the extent permitted by law, to take all actions necessary for collection and enforcement of the CID Sales Tax and the City agrees to use its reasonable best efforts to collect and enforce the same, provided that no action or lawsuit shall be filed in the CID's name by the City unless approved by the Board of Directors. To the extent required by the DOR, the City may, in its own name, or in the name of the CID if the Board of Directors approves, prosecute or defend an action, lawsuit or proceeding or take any other action involving third persons which the City deems reasonably necessary in order to secure the payment of the CID Sales Tax.

- (2) The CID hereby agrees to cooperate fully with the City and to take all action necessary to effect the substitution of the City for the CID, as appropriate, in any such action, lawsuit or proceeding if the City shall so request; provided, however, that the City or CID shall not be required to undertake any enforcement action if the cost of such enforcement is reasonably expected to exceed the amount of revenues sought to be collected.
- (3) Any costs incurred by the City or CID in an attempt to enforce and/or collect the CID Sales Tax pursuant to this Section shall be paid out of a fund established and funded pursuant to Section 4.3.e.

c. City Collection, Implementation and Enforcement Fee

- (1) From the effective date of this Agreement until the expiration of the CID, the City shall receive for its actual costs incurred of up to two percent (2%) of the CID Sales Tax Revenues as its Administrative Fee in performance of the City's following administrative duties.
 - (a) Administration, collection, enforcement, and operation of CID Sales Tax Revenue in accordance with this Agreement;
 - (b) Notification to the DOR in writing when a new business applies for a City business license within the CID and provide a copy of such notification to the CID (each such notification shall include: (a) name of the business; (b) address of the business location; (c) state tax identification number of the business; (d) anticipated opening date of the business; and (e) such other information as may be required by the DOR to register the business with the state); and
 - (c) Preparation and maintenance of records and reports in accordance with Sections 3.2.d and Article 6.

- (2) In the event that there are insufficient CID Sales Tax Revenue funds in any fiscal year to pay the actual costs incurred by the City with respect to the administration of the CID Sales Tax, any unpaid Administrative Fee or portion thereof shall be carried over to subsequent fiscal years until paid.

d. Records of the Sales Tax Revenue

- (1) While all Obligations are outstanding, the City shall keep accurate records of the CID Sales Tax Revenue collected or received. Any City records pertaining to the CID Sales Tax shall be provided to the CID as permitted by Section 32.057, RSMo. City and CID records pertaining to the CID Sales Tax shall also be made publicly available to the extent permitted by law.
- (2) Once all outstanding Obligations are retired and the collection of the CID Sales Tax Revenue is performed by the CID, the CID shall keep accurate records of the CID Sales Tax Revenue collected or received and copies of such records shall be delivered to the City pursuant to such reporting schedule acceptable to the parties.

e. Design and Construction of CID Project

- (1) Responsibility. The City shall direct the design and construction of the CID Project. The CID shall have no obligations with respect to the design and construction of the CID Project, but shall have the review and approval opportunity as specifically described in Section 3.1.f(1).
- (2) Schedule. It is the City's intent to design and construct the CID Project in accordance with the schedule attached as Exhibit E, subject to modifications approved by the City's Director of Public Works.
- (3) The City shall comply with all Applicable Laws and Requirements regarding public bidding, the posting of bonds and the payment of prevailing wages to contractors or subcontractors for construction of the CID Project.

f. Ownership of CID Project

The City shall hold the easements provided through the easement acquisition process and shall own all Public Improvements provided within the Project Area. To the extent that Public Improvements constructed within the 76 right-of-way, they shall be owned and maintained by the City.

g. Operation and Maintenance Services

- (1) Responsibility to Provide and Payment for Services.
 - (a) Prior to the issuance of Obligations, and while Obligations are outstanding, the City shall provide Operation and Maintenance Services for Public Improvements as identified in Exhibit F.
 - (b) At such time as the CID Sales Tax Revenues exceed any outstanding debt payment requirements, the Board of Directors shall meet with the City to determine whether the CID's income is sufficient to warrant CID assumption of some or all Operation and Maintenance Service costs and/or early pay-off of Obligations.
 - (c) Operation and Maintenance Services costs may also be assumed by the CID as elected in Section 3.1.c.
- (2) Neither the City nor the CID are authorized to provide Operation and Maintenance Services for Private Improvements.
- (3) The City shall establish a process to hear and provide recourse as appropriate to property owners within the CID boundaries regarding operation and maintenance concerns in substantially the form as attached as Exhibit G.

h. CID Administration Services

- (1) At the request of the Board of Directors and in its sole discretion, the City shall provide, or cause to be provided, the CID Administration Services described in this section.
 - (a) Meeting Minutes. A member of the City's staff shall take minutes of each meeting of the Board of Directors.
 - (b) CID Website Administration. Including but not limited to: maintaining domain name (www.76CID.com), maintaining and updating content, coordinating user comments, and examining traffic through the site.
 - (c) CID Records. In accordance with Article 6 hereof, the City Clerk's office shall act as the records repository of the CID. All requests made pursuant to the Missouri Sunshine Law (Chapter 610, RSMo) shall be directed to the City Clerk's office for processing.
 - (d) Any other services as may be mutually agreed upon by the parties.

- (2) The City shall be reimbursed for its actual costs as provided in subsection 3.2.c (1) above incurred in providing these CID Administration Services from CID Sales Tax Revenue within thirty (30) days after submitting a written request for same to the CID.

Article 4 AVAILABLE FUNDING MECHANISMS AND ALLOCATIONS

Section 4.1 Funding Mechanisms

Subject to final financing documents, funding for the CID Project may be made available from the following sources: City Funds, CID Sales Tax Revenues, and proceeds of Obligations. Additional funding may be made available from state and federal funding sources.

Section 4.2 Funding Allocation

Available funds from City Funds, CID Sales Tax Revenues, and Obligations shall be allocated pursuant to Section 4.3 to pay for the various CID and City cost categories as follows:

a. CID Administration

- (1) The Operating Costs (which exclude the City's Administrative Fee and Project Costs) shall be included in the CID's annual budget and funded by CID Sales Tax Revenues. Until such time as sufficient CID Sales Tax Revenues are available to fund the Operating Costs, the City shall provide City Funds for the CID Administration budget, which funds shall be considered a CID Project Cost. The City may be reimbursed for such advances as provided herein.

b. Administrative Fee

- (1) An Administrative Fee shall be allocated to the City to cover the costs of administering the CID Sales Tax Revenues in accordance with Sections 3.2.c and Article 6.
- (2) The costs of administering the CID Sales Tax Revenues shall be paid out of City Funds until sufficient CID Sales Tax Revenues are available to pay these costs. The City shall be reimbursed for such advances as provided herein.

c. CID Project Costs

- (1) Costs incurred to pay for CID Project Costs shall be paid in accordance with the Project Budget.
- (2) From the time of the formation of the CID until such time that Obligations are issued and available, the City will use City Funds on a pay-as-you go basis to pay for all CID Project Costs according to the Project Cost Budget attached as Exhibit C-1 and subject to applicable law. For a period of time described in the Project Cost Budget, Project costs will be funded through City Funds, CID Sales Tax Revenues, and Obligations which may be done through any appropriate combination of pay-as-you-go funding and financing. At such time as sufficient funds are available from Obligations and CID Sales Tax Revenues to fully pay for Project design and construction costs, the City will no longer provide funding from City Funds to pay for CID Project Costs.
- (3) For purposes of this subsection, "CID Project Costs" excludes "Operation and Maintenance Services" from the defined term. Funding for the Operation and Maintenance Services component of CID Project Costs is addressed separately in the following subsection.

d. Operation and Maintenance Services

- (1) The Operation and Maintenance Services as identified in **Exhibit F** shall be paid for from City Funds until such time as all Obligations are retired unless the CID opts to fund and provide a service pursuant to Section 3.1.c.
- (2) Following the completion of construction, payment to the City for all CID Project Costs, and retirement of all Obligations, the CID Sales Tax Revenue shall be used to pay for ongoing, established levels of Operation and Maintenance Services.

Section 4.3 Distribution of CID Revenue

- a. Subject to annual appropriation, CID Sales Tax Revenues shall be disbursed on a monthly basis in the following order of priority until each budget item is fully funded:
 - (1) Payment of \$10,000 to CID's Discretionary Funds Account in accordance with CID annual budget.
 - (2) Unless waived in writing by the City, actual costs up to two percent of CID Sales Tax Revenues shall be allocated to the Administrative Fee.

- (3) **One-half of the remaining CID Sales Tax Revenues may be used to fund the following budgets:**

 - (a) Operating Costs (subject to the cap set forth herein);
 - (b) Reimbursement to the City of actual Operating Costs advanced by the City pursuant to Section 4.2.a prior to the time that CID Sales Tax Revenues are available, to the extent the City submits a written request for reimbursement of such costs to the CID; and
 - (c) Actual costs incurred by the City in the formation of the CID pursuant to a written request for reimbursement of such costs to the CID.
 - (4) The other half of remaining CID Sales Tax Revenues shall be used to pay the Debt Service on Obligations that were issued in order to provide funding for design and construction of the CID Project.
 - (5) If there are any funds left over after payment of subsections (a-c), they shall be allocated to fund the construction of the CID Project in a pay-as-you-go manner.
 - (6) If there are any funds left over after payment of subsections (a-d), they shall be allocated to the CID sales tax enforcement expenses not otherwise reimbursed and identified in Section 3.2.b.
 - (7) If there are any funds left over after payment of subsections (a-e), they shall be allocated to repay the City for expenses incurred pursuant to Section 4.2.c.
 - (8) If there are funds left over from monthly distributions identified in subsections (a-f), the excess revenues shall be as mutually agreed to by the Board of Aldermen and Board of Directors and may include, without limitation, early payoff of Obligations.
- b.** At its sole discretion, the Board of Aldermen may, for the payment of debt service on Obligations used to reimburse the City for costs paid up front, appropriate and pledge the revenues it is entitled to receive pursuant to subsections 4.3.a(3)(b), 4.3.a(3)(c), and 4.3.a(7)
 - c.** Jointly, the Board of Aldermen and the Board of Directors may agree to pledge the revenues available pursuant to subsection 4.3.a(5) , for the payment of debt service on Obligations used to pay for the construction of CID Projects.

- d. In the event that the Board of Aldermen, at its option, appropriates funds to pay for certain costs of Debt Service on Obligations or to costs of the CID Project under paragraphs (c) or (d) and pays such funds to the CID, the CID will, subject to appropriation by the Board of Directors, pay to the City a like amount of CID Sales Tax Revenues for use by the City to pay for i) operation and maintenance services, or ii) any other cost related to the CID Project and approved by the Board of Directors. Any funds received by the CID from the City will be applied as described in paragraphs (c) or (d) as directed by the City. The Board of Aldermen may condition payment or use of funds on the receipt of a like amount of funds from the CID as described in this paragraph.
- e. The Parties acknowledge that the documents authorizing the issuance of Obligations may alter the amount and/or priority of the above-described distribution of funds. Any such alterations shall be agreed to by the Board of Aldermen and Board of Directors in connection with the issuance of Obligations.

Article 5 CID SALES TAX AND ISSUANCE OF OBLIGATIONS

Section 5.1 CID Sales Tax

a. Term

The CID is intended to be in existence for a perpetual term in order to provide funding for the construction of the Public Improvements as well as pay for the administration and operation of the CID and the Operation and Maintenance Services. Once the outstanding Obligations have been retired, the City and the CID shall meet to discuss decreasing the CID Sales Tax levy rate. Upon mutual agreement between the Board of Aldermen and the Board of Directors, the Board of Directors may adopt a resolution decreasing the CID Sales Tax below one-percent (1%). Said decreased levy rate shall be in an amount allowed by the CID Act, to cover the on-going, established levels of Operation and Maintenance Services and administration and operation of the CID.

b. Repeal

If the Parties determine that the CID Sales Tax should be repealed and/or the CID abolished, then the CID shall implement the procedures in the CID Act for repeal of the CID Sales Tax and abolishment of the CID. The CID shall not implement any of the following procedures without the prior consent of the Board of Aldermen, unless legally obligated to do so: (i) repeal or modification of the CID Sales Tax; (ii) abolishment of the CID; or (iii) implement any new project. Upon repeal of the CID Sales Tax, the City shall:

- (1) Retain the Administrative Fee, if applicable, to which it is entitled in accordance with this Agreement.
- (2) Pay all outstanding Operating Costs.
- (3) Pay all outstanding CID Project Costs.
- (4) Retain any remaining CID Sales Tax Revenue until such time as the CID is abolished and the CID has provided for the transfer of any funds remaining in a manner permitted by the CID Act.

Section 5.2 Issuance of Obligations

- a. Subject to the requirements of this Agreement, the Parties anticipate the issuance of Obligations repayable in whole or in part from the CID Sales Tax Revenue, the proceeds of which would be used to fund all or a portion of the costs associated with the design and construction of the CID Project.
- b. No Obligations will be issued without the prior written consent of the Board of Directors and the Board of Aldermen.

Article 6 SPECIAL COVENANTS

Section 6.1 Records of the CID

The City (as to the CID's records for which it may have physical possession, and the City's records pertaining to the CID) shall keep proper books of record and account on behalf of the CID in which full, true and correct entries will be made of all dealings or transactions of or in relation to business affairs in accordance with generally accepted accounting principles consistently applied, and will furnish each other Party such information as such Party may request concerning the CID, including such statistical and other operating information requested on a periodic basis, in order to determine whether the covenants, terms and provisions of this Agreement have been met. In addition, the City shall cooperate with the CID and with the CID's selected independent accountant or agent in connection with the preparation of the CID's report as required by Section 3.1.d. For that purpose, all pertinent books, documents and vouchers relating to its business, affairs and properties of the CID shall at all times during regular business hours be open to the inspection of such accountant or other agent (who may make copies of all or any part thereof provided that the confidentiality of all records shall be maintained pursuant to such confidentiality agreements as reasonably required) as shall from time to time be designated and compensated by the inspecting party.

Section 6.2 Records of the City

The City shall keep and maintain adequate records pertaining to disbursements for reimbursement or payment of the costs of the CID Project. Such records shall be available for inspection by the CID upon reasonable notice.

Article 7 DEFAULTS AND REMEDIES

Section 7.1 Events of Default

Failure by any Party in the performance of any covenant, agreement or obligation imposed or created by this Agreement and the continuance of such default for ninety (90) days after a non-defaulting Party has given written notice to the defaulting Party specifying such default shall constitute an Event of Default under this Agreement.

Section 7.2 Remedies on Default

If an Event of Default has occurred and is continuing, then any non-defaulting Party may, upon its election or at any time after its election while such default continues, by mandamus or other suit, action or proceedings at law or in equity, enforce its rights against the defaulting Party and its officers, agents and employees, and to require and compel duties and obligations required by the provisions of this Agreement. To the extent that one party must enforce its rights against the other due to an Event of Default, costs incurred by the prevailing party for such enforcement shall be Operating Costs, which, shall be paid as provided in Section 4.3 above.

Section 7.3 Rights and Remedies Cumulative

The rights and remedies reserved by the Parties under this Agreement and those provided by law shall be construed as cumulative and continuing rights. No one of them shall be exhausted by the exercise thereof on one or more occasions. The Parties shall be entitled to specific performance and injunctive or other equitable relief for any breach or threatened breach of any of the provisions of this Agreement, notwithstanding availability of an adequate remedy at law, and each party hereby waives the right to raise such defense in any proceeding in equity.

Section 7.4 Waiver of Breach

No waiver of any breach of any covenant or agreement contained in this Agreement shall operate as a waiver of any subsequent breach of the same covenant or agreement or as a waiver of any breach of any other covenant or agreement, and in case of an Event of Default, a non-defaulting Party may nevertheless accept from the defaulting Party, any payment or payments without in any way waiving the non-defaulting Party's right to exercise any of its rights and remedies as provided herein with respect to any such default or defaults in existence at the time when such payment or payments were accepted by the non-defaulting Party.

Section 7.5 Excusable Delays

No Party shall be deemed to be in default of this Agreement because of Excusable Delays. Excusable Delays shall extend the time of performance for the period of such excusable delay.

Article 8 MISCELLANEOUS

Section 8.1 Effective Date and Term

This Agreement shall become effective on the date this Agreement has been fully executed by the Parties. Upon the expiration of the CID Sales Tax as provided in Section 5.1, and the abolishment of the CID in accordance with Section 67.1481, RSMo, and the terms of this Agreement, this Agreement shall terminate.

Section 8.2 Immunities

No recourse shall be had for any claim based upon any representation, obligation, covenant or agreement in this Agreement maintained against any past, present or future officer, member, employee, director or agent of the City, the CID, or of any successor thereto, as such, either directly or through the City, or the CID, or any successor thereto, under any rule of law or equity, statute or constitution or by the enforcement of any assessment or penalty or otherwise, and all such liability of any such officers, members, employees, directors or agents as such is hereby expressly waived and released as a condition of and consideration for the execution of this Agreement. The CID, as a separate political subdivision of the state, is responsible for compliance with all applicable state laws and agrees, to the extent permitted by law, to hold harmless and indemnify the City from and against all suits, claims, costs of defense, damages, injuries, liabilities, costs and/or expenses, including court costs and attorney's fees, resulting from, arising out of, or in any way connected with the CID's failure to comply with any applicable state law. The City is responsible for compliance with all applicable state laws and agrees, to the extent permitted by law, to hold harmless and indemnify the CID and its individual directors from and against all suits, claims, costs of defense, damages, injuries, liabilities, costs and/or expenses, including court costs and attorney's fees, resulting from, arising out of, or in any way connected with the City's failure to comply with any applicable state law.

Section 8.3 Modification

The terms, conditions, and provisions of this Agreement can be neither modified nor eliminated except in writing and approved by the Board of Aldermen and Board of Directors. Any modification to this Agreement as approved shall be attached hereto and incorporated herein by reference.

Section 8.4 Applicable Law

12-18-17

This Agreement shall be governed by and construed in accordance with the laws of the State of Missouri.

Section 8.5 Validity and Severability.

It is the intention of the parties hereto that the provisions of this Agreement shall be enforced to the fullest extent permissible under the laws and public policies of State of Missouri, and that the unenforceability (or modification to conform with such laws or public policies) of any provision hereof shall not render unenforceable, or impair, the remainder of this Agreement. Accordingly, if any provision of this Agreement shall be deemed invalid or unenforceable in whole or in part, this Agreement shall be deemed amended to delete or modify, in whole or in part, if necessary, the invalid or unenforceable provision or provisions, or portions thereof, and to alter the balance of this Agreement in order to render the same valid and enforceable.

Section 8.6 Execution of Counterparts

This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

Section 8.7 Notice

Any notice, demand, or other communication required by this Agreement to be given to either party hereto to the other shall be in writing and shall be deemed to be given if it is mailed by United States registered mail, postage prepaid, or sent by electronic mail and addressed as hereinafter specified.

Any notice to City shall be addressed to:

City Administrator
City of Branson, Missouri
City Hall
110 W. Maddux, Suite 210
Branson, Missouri 65616
sdobbins@bransonmo.gov

City Clerk
City of Branson, Missouri
City Hall
110 W. Maddux, Suite 205
Branson, Missouri 65616
lwestfall@bransonmo.gov

With a copy to:

Joe Lauber
Lauber Municipal Law, LLC
250 NE Tudor Road
Lee's Summit, Missouri 64086
jlauber@laubermunicipal.com

12-18-17

Any notice to the CID shall be addressed to:

Chairman
76 Entertainment Community Improvement District
110 W. Maddux, Suite 210
Branson, Missouri 65616

With a copy to:

Paul Campo
Williams & Campo, P.C.
400 SW Longview Blvd., Suite 210
Lee's Summit, Missouri 64081
pcampo@publiclawfirm.com

Each party shall have the right to specify that notice be addressed to any other address by giving to the other party 10 days' written notice thereof.

Section 8.8 City Approvals

Unless specifically provided to the contrary herein, all approvals of City hereunder may be given by the City Administrator or his/her designee without the necessity of any action by the Board of Aldermen.

Section 8.9 Dispute Resolution

A. Generally.

The relationship among the City, the CID, and the stakeholders shall be guided by the service level assurance mechanisms attached as Exhibit G.

B. Between the City and the CID.

In the event of any dispute, claim, question, or disagreement arising from or relating to the CID Project, this Agreement or the breach thereof, the parties hereto shall use their best efforts to settle the dispute, claim, question, or disagreement. To this end, they shall consult and negotiate with each other in good faith and, recognizing their mutual interests, attempt to reach a just and equitable solution satisfactory to both parties. If they do not reach such solution within a period of 30 days, then, upon notice by either party to the other, the parties shall engage in non-binding mediation with a third-party mediator selected by the parties, each party to share equally in the mediator's fees and expenses. This section shall not constitute a condition precedent for either party to invoke the process set forth in Article 7.

C. Between the City and a Stakeholder.

If a Stakeholder has a dispute, question, or grievance arising from or relating to the CID Project, the City's representative should generally be the initial person to try and resolve the dispute, question, or grievance. If the City's Project Manager's efforts fail to resolve the Stakeholder's dispute, question, or grievance, then, upon request of the CID Chairman, the City Administrator shall meet with the Stakeholder to try and resolve the dispute, question, or grievance.

In the event that the Stakeholder's meeting with the City Administrator fails to resolve the matter to the Stakeholder's satisfaction, the Stakeholder may present the matter to the CID Board, who may present the matter to the City in accordance with Section B of this Section.

Section 8.10 Communication

The City will keep the CID informed of progress of the CID Project Work in a timely manner, and as often as is necessary. Each party shall communicate to the other party any change, event, condition or development that has had or would reasonably be expected to have, a material effect on the CID Project, including but not limited to, issues related to the collection and expenditure of CID Sales Tax Revenue and City Funds, deadline compliance regarding the CID Project's critical path schedule, changes affect concept design, important dates and progress related to the Obligations, and establishing and meeting the Project Budget.

IN WITNESS WHEREOF, the CID and the City have caused this Agreement to be executed in their respective names and attested as to the date as set forth below.

CITY:

CITY OF BRANSON, MISSOURI

By: _____
Karen Best, Mayor

ATTEST:

Lisa Westfall, City Clerk

STATE OF MISSOURI)
) SS.
COUNTY OF TANEY)

12-18-17

On this _____ day of _____, 2018, before me appeared, Karen Best, who being, by me duly sworn, did say that she is the Mayor of the CITY OF BRANSON, MISSOURI, a fourth class city and political subdivision of the State of Missouri, and did say that the seal affixed to the foregoing instrument is the seal of said City, and that said instrument was signed and sealed on behalf of said City, by authority of its Mayor and Board of Aldermen, and said Mayor acknowledged said instrument to be the free act and deed of said City.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year first above written.

Notary Public

(SEAL)

My commission expires: _____

CID:

TRUI
IMPF

76 ENTERTAINMENT
COMMUNITY IMPROVEMENT
DISTRICT

By:
 \

By: *Gail Myer*, Chairman
Gail Myer, Vice-Chairman

ATTEST:

_____, Secretary

STATE OF MISSOURI)
) SS.
COUNTY OF TANEY)

On this 2 day of March, 2018, before me appeared, *Gail Myer*, who being, by me duly sworn, did say that he/she is the Chairman of the 76 ENTERTAINMENT COMMUNITY IMPROVEMENT DISTRICT board, a community improvement district organized and existing under the laws of the State of Missouri, and that said instrument was signed on behalf of said CID, by authority of its Board of Directors, and said individual acknowledged said instrument to be the free act and deed of said CID.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year first above written.

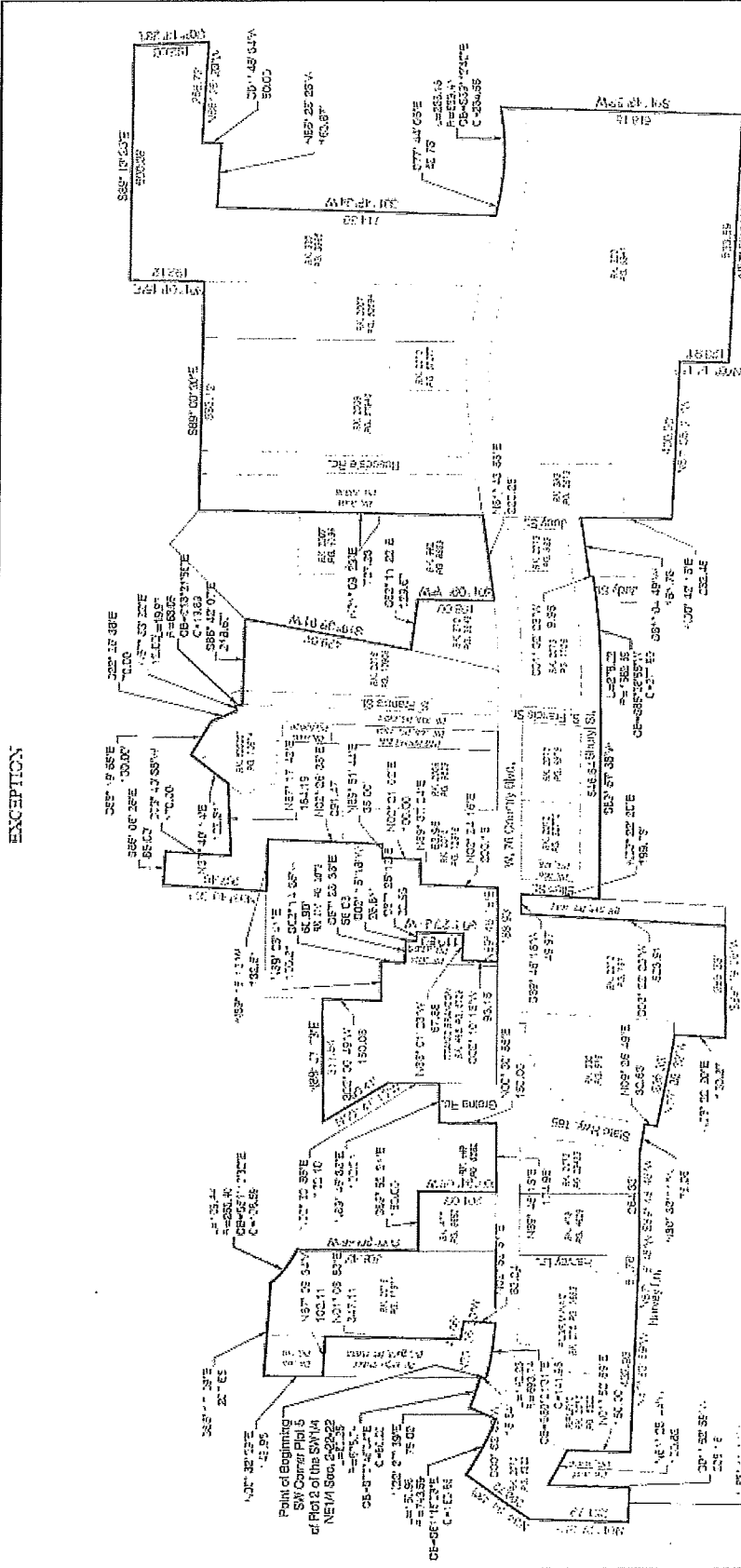
Chena Simmons
Notary Public

(SEAL)

My commission expires: 4/24/2020

CHENA SIMMONS
Notary Public - Notary Seal
TANEY COUNTY STATE OF MISSOURI
Commission # 12407791
My Commission Expires 04/24/2020

EXHIBIT A
Segment 3 Map



Sheet 4 of 4

EXCEPTION

THIS SKETCH IS NOT BASED ON A SURVEY OF THE LAND, AND IS ONLY INTENDED TO DEFINE THE BOUNDARY OF THE CLD. AREA BASED ON DEED DESCRIPTIONS, SURVEY MONUMENTS AND RIGHTS OF WAY. THIS SKETCH DOES NOT MEET THE STANDARD STANDARDS FOR BOUNDARY SURVEY IN THE STATE OF MISSOURI. BEARINGS AND DISTANCES ARE APPROXIMATE.

Point of Beginning
SW Corner Plots 5
of Block 2 of the SW 1/4
NE 1/4 Sec. 22, T22N,
R10E

Scale: 1 inch = 200 feet

Prepared by:
CJW
CJW Engineering, Construction, LLC.
Civil Engineers - Professional Land Surveyors
2214 N. National, Suite 400
Springfield, MO 65810
Tel: 417-835-5433 • Fax: 417-835-2441
www.cjw.com

MISSOURI BOARD OF
CIVIL ENGINEERS AND LAND SURVEYORS
CENTRAL OFFICE

GRAPHIC SCALE

EXHIBIT B

MAP OF FULL CID PROJECT

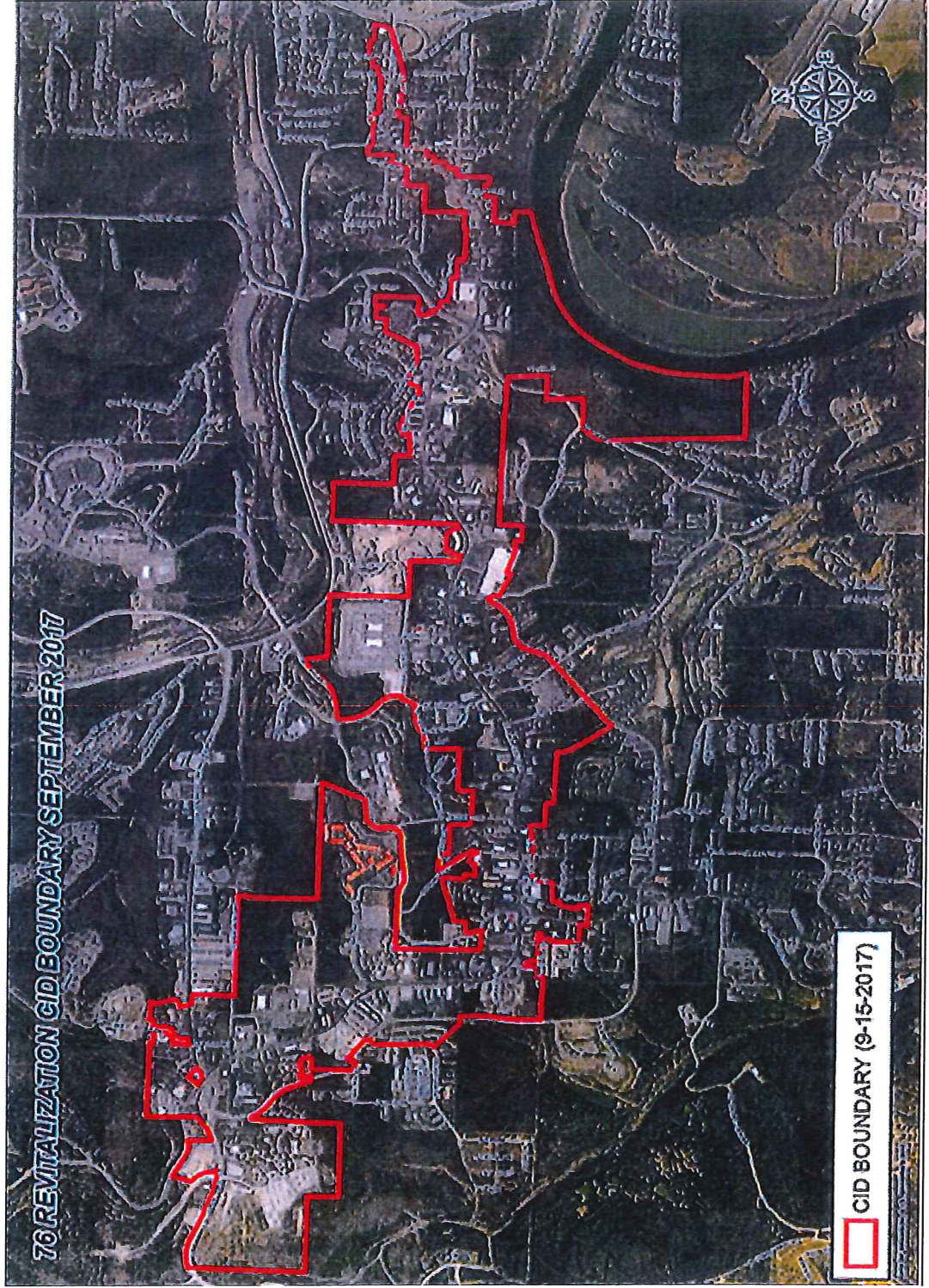


EXHIBIT C-1

ESTIMATED CID PROJECT COSTS (Segments 1-6)

	SEGMENT #	Ductbank Installation	Essential Improvements	Enhanced Features	Technology	Payment to Utility Companies	SUBTOTAL	
SECTION "A" INITIAL ANNEXATION AND CONSTRUCTION	1	\$1,259,579	\$2,305,902	\$421,261	\$640,820	\$1,736,000	\$6,363,563	
	2	\$1,785,335	\$3,268,399	\$597,097	\$908,302	\$2,460,000	\$9,019,133	
	4	\$2,073,239	\$3,795,462	\$693,385	\$1,054,775	\$2,857,000	\$10,473,862	
	5	\$1,737,903	\$3,181,565	\$581,233	\$884,171	\$2,395,000	\$8,779,871	
	6	\$1,994,369	\$3,651,075	\$667,007	\$1,014,650	\$2,748,000	\$10,075,101	
	SUBTOTAL	\$8,850,424	\$16,202,403	\$2,959,984	\$4,502,718	\$12,196,000	\$44,711,530	
SECTION "B" SECOND ANNEXATION AND CONST.	7	\$1,508,876	\$2,762,287	\$504,636	\$767,651	\$2,079,000	\$7,622,450	
	8	\$1,482,264	\$2,713,569	\$495,736	\$754,113	\$2,042,000	\$7,487,681	
	SUBTOTAL	\$2,991,139	\$5,475,856	\$1,000,373	\$1,521,764	\$4,121,000	\$15,110,131	
SEGMENT COMPLETE	3	\$0	\$200,000	\$500,000	\$0	\$1,800,000	\$2,500,000	
	GRAND TOTAL	\$11,841,564	\$21,878,259	\$4,460,356	\$6,024,482	\$18,117,000	\$62,321,661	
							\$7,000,000	
							\$69,321,661	
Ductbank Installation:		Ducts, utility vaults, excavation, traffic control						
Essential Improvements:		Sidewalks, landscaping, traffic signals, crosswalks, street lighting, pedestrian,						
Enhanced Features:		Wider sidewalks, layered landscaping, seatwalls, decorative crosswalks						
Technology:		Video displays, kiosks, traffic management, wayfinding, fiber optics						
Payment to Utilities:		Empire Electric, White River Electric, Suddenlink, Century Link, etc.						
* Professional fees for engineering, architecture and legal are included in the costs								
** Some contingency is built into the figures								
*** O&M is not included in these costs								
**** The waterline cost of \$16 million assumes the design is covered by the design of the duct bank								

**EXHIBIT C-2
CITY REIMBURSEMENT REQUEST**

See attached (5 pages)

EXHIBIT D
CONCEPT PLAN
6 LAYER PROGRAM SUMMARY

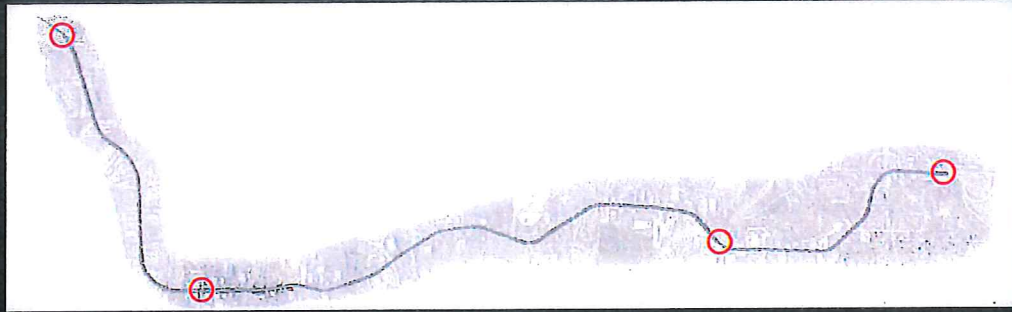
Program Layers

1. Underground Utilities
2. Essential Improvements
3. Enhanced Features
4. Distinctive Upgrades
5. Technology
6. Gateways & Icons

Creative Criteria



Gretna Road
Fall Creek Road
Shepherd of the Hills
Highway 65



LAYER 6: Gateways & Icons

Exhibit E CONSTRUCTION SCHEDULE

	Commence
Segment 1	January 2022
Segment 2	January 2021
Segment 3	January 2017
Segment 4	January 2023
Segment 5	January 2024
Segment 6	January 2025
Segment 7	TBD
Segment 8	TBD

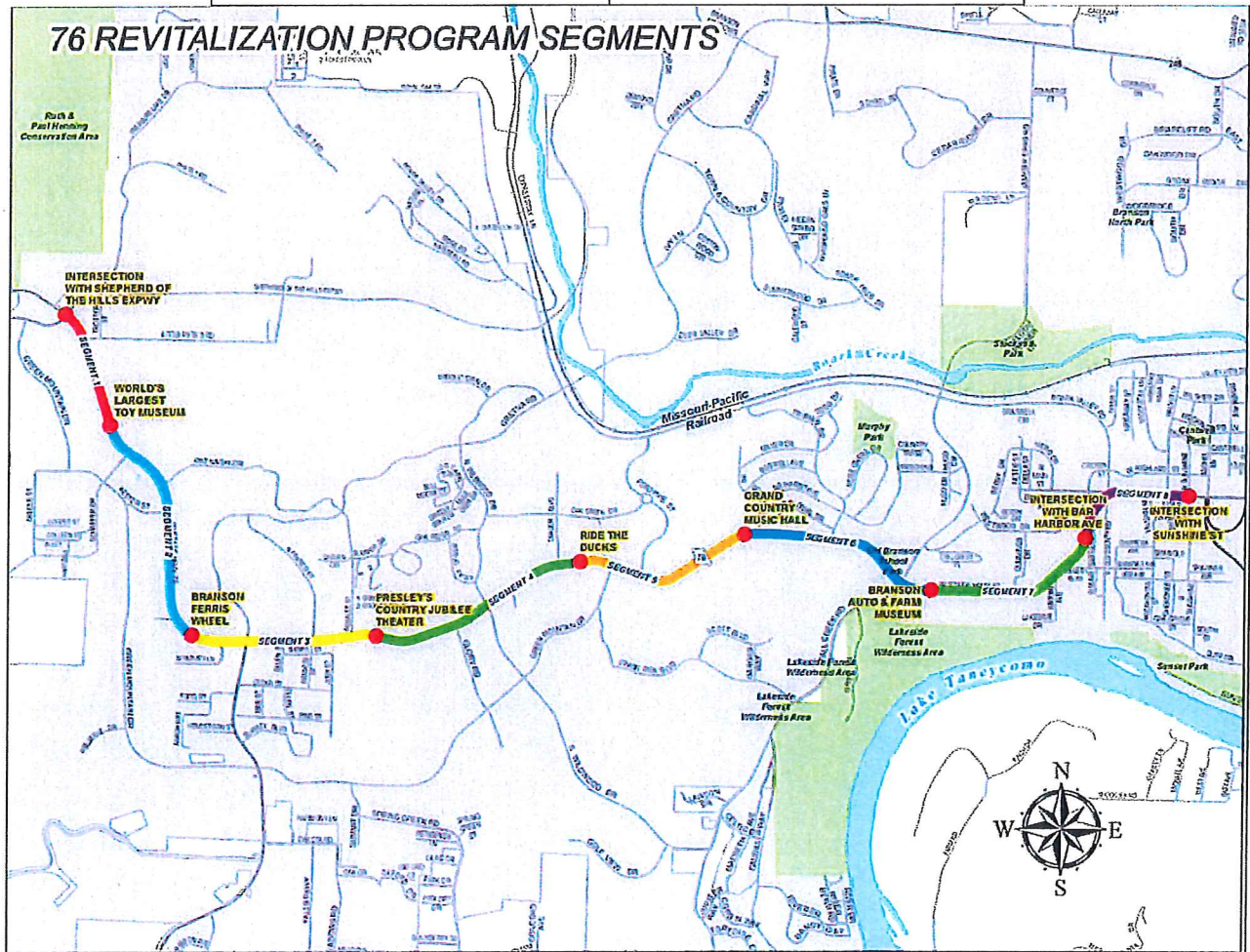


Exhibit F
OPERATION AND MAINTENANCE SERVICES DESCRIPTIONS
AND ANTICIPATED LEVELS OF SERVICE/BUDGET

	<u>REACTIONARY ITEMS</u>	<u>RESPONSE THRESHOLD</u>	<u>BASIS FOR COST DETERMINATION</u>
1	Gum removal	24 hours	Personnel
2	Signage damage	24 Hours	Replaced every 5 years
3	Street/Pedestrian light outage	24 hours	Replaced every 3 years
4	Watering & irrigation	Automatic or daily as needed	Personnel
5	Street furniture / Structure repairs	Dependent upon damage level	Personnel
6	Pavement marking damage repair	Every spring after snow plowing season	Replaced every 5 years
7	Graffiti removal	Four hours	Personnel
8	Traffic signal timing issues	One week	Done annually
9	Pavement issues & pot hole repairs	Three days	Personnel
10	Ice removal on sidewalk/promenade	Treatment 4 hours. Removal weather dependent	Clear after 1/4"
11	Traffic signal failures	One hour	Replaced annually
12	Sidewalk/Promenade snow clearing	Upon accumulation of 2" - weather dependent	Clear after 1/4"
13	Snow plowing on roadway	Upon accumulation of 2" - weather dependent	Clear after 1/4"
14	Snow plowing of driveway entrances	Upon completion of roadway plowing	Clear after 1/4"
	<u>PRE-SCHEDULED ITEMS</u>	<u>ANTICIPATED FREQUENCY</u>	
1	Street furniture / Structure painting	Annually	Replace every 10 years
2	Tree trimming	Annually	Personnel
3	Grass mowing	Continuously in season	Once per week
4	Landscape maintenance	Continuously in season	Twice per week
5	Weed removal from surface joints	Continuously in season	Personnel
6	Litter pickup	Daily	Personnel
7	Trash pickup	Daily	Personnel
8	Recycling container pickup	Daily (or as needed)	Personnel
9	Refilling & cleaning pet care stations	Daily in season. Weekly in off-season	Personnel
10	Street sweeping	Twice per week in season. Weekly in off-season	Personnel
11	Roadway asphalt overlay/resurfacing	Every 10 years	Every 10 years
12	Roadway pavement crack sealing	Every 3 years	Every 3 years
13	Roadway pavement striping	Every 5 years with thermoplastic	Every 5 years
14	Storm sewer cleaning	Quarterly	Quarterly
15	Traffic signal replacement & upgrade	Evaluate annually - rotated schedule	Replace every 5 years
16	Sidewalk sweeping	Weekly	Personnel

Exhibit G

CID SERVICE LEVEL ASSURANCE MECHANISMS

The Highway 76 Complete Streets Project was born of a collaboration and its ultimate success will be predicated on a mutually beneficial arrangement that ensures the delivery (construction) of the Complete Streets Project and the maintenance of the infrastructure and elements within the corridor. As currently devised, the Plan of Finance, envisions the 76 Entertainment Community Improvement District (CID) paying for the construction and the City of Branson paying for and maintaining the redeveloped corridor. While both the Stakeholders in the proposed CID and the City have voiced unparalleled support for the Complete Streets plan, it is entirely appropriate and in keeping with the collaboration that maintenance, service levels and redress be a part of the understanding and agreement between the City and the CID Board of Directors.

Just as good fences make for good neighbors, a clear and definitive level of expectation and redress as it relates to the Complete Streets Project maintenance makes for a high-performing and functioning commercial corridor. The following list represents mechanisms that exist or could exist to ensure an acceptable level of maintenance on the corridor. Each of these elements have been discussed, at length, with City officials and Stakeholders.

The Stakeholders have made it a point to clarify and amplify their course of address and redress of issues, concerns or merely positive redirection. The "Assurance Mechanisms" exhibit is designed to memorialize the various avenues available to the Stakeholders, as well as, the City as both move forward to execute a dynamic and multi-faceted public infrastructure project.

- 1) Highway 76 represents the commercial center of Branson and, as such, those business owners/operators represent a potent political force and their voices are heard directly through and by the Mayor, the Board of Aldermen and civic groups including, but not limited to the Chamber of Commerce/Convention and Visitors Bureau, The Lodging Association, the Theater League and Project Branson. It is nearly inconceivable that maintenance of Highway 76 would not occupy center stage as a primary municipal responsibility.
- 2) The City of Branson has already committed approximately \$11.5 million in the Complete Streets Project.
- 3) The City of Branson, by its very nature, existence and functioning already holds the central and primary responsibility for maintaining infrastructure in Branson, as well as the personnel and expertise in contracting required to do so. The City has the ability to provide service directly or to contract for that service when it is more efficient to do so. In addition, the City has an established protocol for monitoring performance and for receiving commentary when citizens are not satisfied with the maintenance level. Existing avenues for redress that currently exists include:
 - a. The Mayor
 - b. The Board of Aldermen (generally and for the respective district)
 - c. The Capital Improvements Committee of the Board of Aldermen

- d. The City Administrator
- e. The City Engineer/Public Works Director

- 4) Should the CID be formed and a one percent tax be imposed, the City has committed to provide Operation and Maintenance Services (See Exhibit F to the Cooperative Agreement) that specifies the level of service including coverage, level and frequency. That level of service is as an enforceable item in both the Formation Petition and the Cooperative Agreement.
- 5) The CID will have a 7 member Board of Directors, 4 members recommended through a slate process by the CID and 3 members representing the City. The Mayor maintains ultimate appointment authority. All Board members must be business or landowners or their designees within the CID. The Mayor will make the appointments with the concurrence of a majority of the Board of Aldermen. These 7 members, all appointed, will have as a primary responsibility to field concerns, address modifications to the Complete Streets Plan or seek appropriate redress for underperformance of Service Levels. Maintenance has been and will remain a top priority.
- 6) Subject to the Board of Alderman's approval, the CID Board of Directors will have authority over its budget, administration and agenda. It may also maintain or retain legal counsel who can act independently to ensure the City lives up to its obligations.
- 7) The City in concert and collaboration with the CID Board will establish a reporting and response system established for maintenance on the Corridor with full visibility of the CID Board or Chairman with complete metrics, performance levels and annual reviews of both the performance and metrics kept. Where practicable the City will incorporate visitor input into performance reviews either directly or in concert or cooperation with recognized civic groups.
- 8) With mutual agreement of the City and CID Board of Directors the City Engineer/Public Works Director will be in attendance at all CID Board or relevant CID Committee Meetings. The City Engineer/Public Works Director has day-to-day oversight and authority over the maintenance in the Corridor and will be constantly on-call to address issues.
- 9) The CID Chairman could be availed of the opportunity to provide annual or semi-annual reports to the Board of Aldermen if the CID Board views this as a benefit, similar to the protocol used with the Convention Center.
- 10) While the City maintains primacy in contracting, it will consult with the CID on contracts that effect the Operations and Maintenance within the CID.
- 11) The City Engineer/Public Works Director will review "Levels of Service" with the CID Board of Directors, at least, annually.

Exhibit H Road Maintenance Standard

The City's operation and maintenance services will be based on the Pavement Condition Index (PCI) of the roadway. The PCI is a numerical index between 0 and 100 which is used to indicate the general condition of a pavement. The City will utilize this widely used statistical measurement, which is the standard in transportation civil engineering. PCI surveying processes and calculation methods have been standardized by ASTM (American Society for Testing and Materials) for roadway pavements. The PCI will be used to track the current condition of the roadway and the rate of deterioration over time. The PCI rating will be used to identify maintenance and rehabilitation needs, monitor pavement condition over time, and develop a preventive maintenance strategy.

The city will maintain Highway 76 at a PCI >70