

PUBLIC SERVICE AGREEMENT

FOR TRASH REMOVAL, SNOW REMOVAL, LANDSCAPE, AND BUDGET REVIEW SERVICES BY AND BETWEEN THE DOWNTOWN LEE'S SUMMIT COMMUNITY IMPROVEMENT DISTRICT AND THE CITY OF LEE'S SUMMIT, MISSOURI

This Agreement, made and entered into this _____ day of _____, 2017, is by and between The Downtown Lee's Summit Community Improvement, a Missouri Community Improvement District ("District") and the City of Lee's Summit, Missouri, a Missouri municipal corporation ("City").

WITNESSETH:

WHEREAS, the District was established by the City Council of the City of Lee's Summit, Missouri through the passage of Ordinance No. 7478 on June 19, 2014; and

WHEREAS, the Five-Year District Management Plan set forth as Exhibit B in the District Petition, provided for an annual contribution from the District to the City for the performance of certain public services; and

WHEREAS, the District has determined that it is in the best interests of the District, and important to the successful completion of the public services and improvements set forth for the District, to enter into a public service agreement with the City for the conduct of those certain public services; and

WHEREAS, the District and City desire to enter into an agreement to provide for the scope of work, and compensation to be paid for such work; and

WHEREAS, the District and City have the authority to enter into this Agreement pursuant to the provisions of Section 70.210, et. seq. R.S.Mo.

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

I. SCOPE OF SERVICES

A. City will provide the following services ("Services"):

1. **Trash removal** from regular, public receptacles approved and placed by the City, at the City's discretion, within the boundaries of the District by the City or the City's selected contractors.
2. **Snow removal** for all public streets within the District by the City or the City's selected contractors, on an as need basis as determined by the City.
3. **Landscape materials and maintenance of the plant materials** placed in the planters approved and placed by the City, at the City's discretion, located within the boundaries of the District, excluding planters that are part of any other agreement, by the City or the City's selected contractors.

4. To provide **streetlight electricity and regular maintenance for the decorative, public streetlights** located within the boundaries of the District with work to be performed by the City or the City's selected contractors.
5. Review and comment on the District's annual budget and other reports to be filed with the City.

Hereinafter referred to as the "City Provided Public Services".

B. The City Provided Public Services may be provided either directly by the City, or at the City's sole discretion by third party service providers and vendors pursuant to City contracts. The level of service for the City Provided Public Services are as determined by the City in its sole discretion, or in the case of services provided through a third-party contract, as provided in the respective contract. Nothing in this Agreement shall serve to create any third-party right in favor of the District in any such contracts. The District acknowledges and agrees that no warranty or guarantee, express or implied, is made by the City with respect to the City Provided Public Services. Any complaint or concern by the District regarding the City Provided Public Services shall be directed to the City Manager or his designee, and to the extent deemed necessary by the City Manager or his designee, be addressed by the City with City staff responsible for the services, or in the manner provided for in the contract with the respective third-party vendor.

C. Any additional services not set forth in this Section I. herein shall be at the sole cost of the District, except as otherwise provided in Section III herein.

II. **TERM AND TIME OF PERFORMANCE**

The term of this Agreement shall be for a one year period beginning July 1, 2015 through June 30, 2016, and shall automatically renew for four (4) successive one year periods, unless terminated by either party giving sixty (60) days notice of intent to terminate, in writing, to the other party. It is contemplated that the parties may enter into similar agreements for successive years, and to that end there shall be a review of City's performance by the District Board of Directors on an annual basis during the time of the District's annual budget preparation. The Chairman of the District shall coordinate the annual review process.

III. **COMPENSATION AND METHOD OF PAYMENT**

A. The District hereby agrees to compensate City for providing the City Provided Public Services as outlined in Section I (A)(1) – (A)(4) herein in the amount of seven and one-half percent (7.5%) of the annual District sales tax revenue, not to exceed the annual cost of services, to be calculated and paid on an annual basis. Compensation shall be paid within thirty (30) days of the last day of each City fiscal year (June 30). The compensation for the City Provided Public Services is provided for in the District's annual budget under the category of Capital Improvements.

- B. Notwithstanding the foregoing, upon execution of this Agreement, the District shall make the applicable annual payments in total for the amounts owed to the City from July 1, 2015 to June 30, 2016.
- C. The District hereby agrees to compensate the City for the City Provided Public Services as outlined in Section I (A) (5) in the amount of \$250.00 per year. Compensation for the Section I (A) (5) services shall be paid at the end of the second calendar quarter, or June 30, of each year.
- D. Upon execution of this Agreement, the District shall pay the City the \$250.00 owed for 2015 and \$250.00 for 2016, for a total of \$500.00.

All compensation for the Services is subject to annual appropriation by the District. With the adoption of the annual District budget, the compensation for each fiscal year provided for in the Agreement is subject to appropriation, or non-appropriation, at the time.

IV. NON-DISCRIMINATION PROVISIONS

City will not discriminate against any employee or applicant for employment because of race, color, creed, religion, ancestry, national origin, sex, disability or other handicap, or age.

V. COMPLIANCE WITH THE LAW

All parties shall comply with all applicable federal, state and local laws, ordinances, codes and regulations.

VI. CONFLICT OF INTEREST\POLITICAL ACTIVITY

The elected officials, public officials, employees and agents of the District shall comply with all applicable laws and regulations relating to conflicts of interest with regard to the work and compensation covered by this Agreement.

City shall not use the compensation paid through this Agreement for political activities or legislative activities. For the purpose of this Agreement, the terms “political activities” and “legislative activities” shall have the meanings ascribed to them by the Internal Revenue Service.

VII. INDEPENDENT CONTRACTOR

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

VIII. INDEMNIFICATION TO BE PROVIDED BY CITY CONTRACTOR

City shall cause its contractors and/or subcontractors performing any of the services set forth in Section I of this Agreement to indemnify, release, defend, become responsible for and forever hold harmless the District, its officers, agents, employees, elected officials,

and attorneys, each in their official and individual capacities, from and against all lawsuits, suits, actions, costs, claims, demands, damages, disability, losses, expenses, including reasonable attorney's fees and other defense costs or liabilities, of any character and from any cause whatsoever brought because of bodily injury or death received or sustained, or loss or damage received or sustained, by any person, persons, or property arising out of or resulting from any act, error, omission, or intentional act of the agents, contractors, or subcontractors of the City, arising out of or in any way connected with the subject matter of this Agreement or the work or operations expressly authorized herein; provided, however, that this indemnification shall not save harmless the District from claims, demands, losses and expenses arising out of the sole negligence of the District, its employees or agents.

IX. CANCELLED, TERMINATION OR SUSPENSION

Either party may terminate the provision of any of the City Provided Public Services by giving at least thirty (30) days advance notice (or such amount of time as may be necessary to effectuate cessation of services through third party contracts).

The District may terminate the Agreement immediately if funds are not appropriated for the Services described herein.

X. NOTICE

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

Notice to the District shall be addressed to:

Chairman
The Downtown Lee's Summit Community Improvement District
13 SE Third Street
Lee's Summit, Missouri 64063

Notice to City shall be addressed to:

City Manager
City of Lee's Summit, Missouri
220 SE Green Street
Lee's Summit, MO 64063

XI. AMENDMENTS

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

XII. SEVERABILITY

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

XIII. ENTIRE AGREEMENT

This Agreement constitutes the entire agreement between the parties with respect to its subject matter and any prior agreements, understandings, or other matters, whether oral or written, are hereby merged into and made a part hereof, and are of not further force or affect.

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

THE DOWNTOWN LEE’S SUMMIT
COMMUNITY IMPROVEMENT
DISTRICT

By: _____
Name: Brad Culbertson
Title: Chairman

ATTEST:

By: _____
Secretary

City of Lee’s Summit, Missouri

By: _____
Name: Randall L. Rhoads
Title: Mayor

ATTEST:

By: _____
City Clerk