



# STAFF REPORT

**Report To:** Board of Supervisors

**Meeting Date:** October 20, 2016

**Staff Contact:** Lee Plemel, Community Development Director; Michael Salogga, Business Development Mgr.

**Agenda Title:** For Possible Action: To adopt Resolution No. 2016-\_\_, a resolution approving and authorizing the Mayor to sign a cooperative agreement for public improvement maintenance and administrative services by and between Carson City and the Downtown Neighborhood Improvement District (NID) relating to ongoing maintenance for off-street improvements constructed along the frontages of private properties within the NID as part of the Downtown Streetscape Enhancement Project.

**Staff Summary:** The Downtown NID was established by Ordinance No. 2016-1 on January 10, 2016, and the Board of Supervisors approved a property assessment to help pay for ongoing maintenance of the new downtown improvements. The cooperative agreement sets forth the respective responsibilities between the City and NID for the maintenance activities. (Lee Plemel, Community Development Director, lplemel@carson.org; Michael Salogga, Business Development Manager, msalogga@carson.org)

**Agenda Action:** Resolution

**Time Requested:** 30 minutes

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## **Proposed Motion**

I move to adopt Resolution No. 2016-\_\_, a resolution approving and authorizing the Mayor to sign a cooperative agreement for public improvement maintenance and administrative services by and between Carson City and the Downtown Neighborhood Improvement District relating to ongoing maintenance for off-street improvements constructed along the frontages of private properties within the NID as part of the Downtown Streetscape Enhancement Project.

## **Board's Strategic Goal**

Economic Development

## **Previous Action**

January 10, 2016: The Board of Supervisors approved Ordinance No. 2016-1 establishing the Downtown NID.

June 22, 2016: The Board of Supervisors adopted a Resolution and introduced an ordinance approving the property assessment for the proposed maintenance.

July 7, 2016: The Board of Supervisors adopted Ordinance 2016-12 approving the property assessment.

## **Background/Issues & Analysis**

The Downtown Neighborhood Improvement District (NID) was established to help pay for the cost of ongoing maintenance for the new downtown sidewalk improvements and amenities. The proposed cooperative agreement is intended to establish the respective responsibilities between the City and NID for the maintenance activities.

The Downtown NID Board met with City staff over several meetings to discuss the cooperative agreement and the respective roles of the City and NID pursuant to the ordinance adopted by the Board of Supervisors establishing the NID. The proposed agreement complies with the intent of the ordinance and will provide for an ongoing relationship between the City and the NID to ensure that the new improvements continue to get maintained at an acceptable level of service within the available funding allocated to the maintenance.

The Downtown NID is a Nevada Domestic Non-Profit Corporation formally filed with the Secretary of State's office. The Downtown NID Board consists of seven representatives of the property owners within the NID. The current NID Board members are:

- Jenny Lopiccolo, Chair
- Mark Schmidt, Vice-Chair
- Michael Cain, Treasurer
- Jeanne Yapple, Secretary
- Victor Honein
- Loreen Hautekeet
- Garrett Lepire

Following are some general points and highlights related to the agreement and maintenance standards:

- The agreement is intended to establish the general responsibilities of the Downtown NID and the City with regard to the ongoing maintenance of the new downtown sidewalk improvements and amenities. The agreement will remain in effect until either party decides to reopen discussion to amend the agreement.
- The agreement relates to the maintenance of only those portions of the downtown improvements that front private properties within the Downtown NID district. The City and State will continue to maintain their respective property frontages.
- The proposed maintenance levels of service are those that would be implemented if City maintained those areas.
- The agreement allows the NID board and City Public Works and Parks and Recreation staff to amend the maintenance standards, upon mutual agreement, to address issues that may arise through the implementation of the maintenance plan, consistent with current City maintenance best practices.
- The amount of City contribution to the Downtown NID district maintenance (\$26,472) is the proportionate share (71%) of what the City has historically spent on Carson Street corridor landscape and cleanup maintenance along the entire corridor, pursuant to the ordinance establishing the Downtown NID and the provisions of NRS Chapter 271. The frontages of the private properties within the NID represent 71% of the total project frontage.
- The FY 2017 NID property owner assessment totals \$49,736. With the City share of \$26,472, the total available year-one NID district maintenance funding is \$76,208. Any unused funds each year are carried over to following years as reserves.

For more information regarding this item, contact Lee Plemel at 283-7075 or [lplemel@carson.org](mailto:lplemel@carson.org), or Michael Salogga at 283-7122 or [msalogga@carson.org](mailto:msalogga@carson.org).

**Applicable Statute, Code, Policy, Rule or Regulation**

NRS Chapter 271, Local Improvements

**Financial Information**

Is there a fiscal impact?  Yes  No

If yes, account name/number: Redevelopment Administrative Fund, NID Maintenance account# 602-0000-463-04-60.

Is it currently budgeted?  Yes  No

Explanation of Fiscal Impact: The NID Maintenance account will be augmented by \$26,472 in FY 17 from available Redevelopment property tax revenues.

**Alternatives**

Amend the agreement.

**Attachments:**

- 1) Resolution
- 2) Cooperative Agreement
- 3) Maintenance Levels of Service Standards
- 4) Ordinance 2016-1
- 5) Downtown NID District Map

**Board Action Taken:**

Motion: \_\_\_\_\_

1) \_\_\_\_\_

2) \_\_\_\_\_

Aye/Nay

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
(Vote Recorded By)

APN   n/a    
APN \_\_\_\_\_  
APN \_\_\_\_\_

RECORDED AT THE  
CLERK TO  
THE BOARD  
2016 APR 21 PM 3:40  
FILE NO.   463799    
SUSAN MERRIWETHER  
CARSON CITY RECORDER  
FEES   MC   DEP   K  

FOR RECORDER'S USE ONLY

Ordinance No. 2016-1: Neighborhood Improvement  
TITLE OF DOCUMENT   District  

I, the undersigned, hereby affirm that the attached document, including any exhibits, hereby submitted for recording does not contain personal information of any person or persons. (NRS 239B.030)

I, the undersigned, hereby affirm that the attached document, including any exhibits, hereby submitted for recording does contain personal information of a person or persons as required by law. State specific law: \_\_\_\_\_

  Kathleen King    
Signature

\_\_\_\_\_  
Print Name & Title

WHEN RECORDED MAIL TO:

  cc Clerk    
  201 N. Carson St; Ste. 1    
  cc, NV 89701  

  463799

BILL NO. 115

ORDINANCE No. 2016-1

AN ORDINANCE CREATING THE DOWNTOWN NEIGHBORHOOD IMPROVEMENT DISTRICT PURSUANT TO CHAPTER 271 OF THE NEVADA REVISED STATUTES FOR THE PURPOSE OF PAYING FOR A PORTION OF THE COSTS REQUIRED TO MAINTAIN THE DOWNTOWN STREETScape ENHANCEMENT PROJECT, WHICH INCLUDES IMPROVEMENTS TO CARSON STREET BETWEEN FIFTH STREET AND WILLIAM STREET, IMPROVEMENTS TO THIRD STREET BETWEEN CARSON STREET AND CURRY STREET, AND IMPROVEMENTS TO CURRY STREET BETWEEN MUSSER STREET AND ROBINSON STREET.

The Board of Supervisors of Carson City do hereby ordain:

SECTION I:

1. This ordinance creates the Downtown Neighborhood Improvement District (hereinafter "NID") pursuant to Chapter 271 of the Nevada Revised Statutes (hereinafter "NRS") based upon a petition submitted by property owners representing at least fifty percent of the assessed valuation of the properties within the NID. The NID's purpose is to cover that portion of the cost of ongoing maintenance for those off-street improvements first constructed along the frontages of private properties within the NID as part of the Downtown Streetscape Enhancement Project (e.g. sidewalks, landscaping, benches, etc.) that exceeds the maintenance costs already borne by Carson City for the frontages of those private properties.

2. Pursuant to NRS 271.325, the Board of Supervisors has determined that public convenience and necessity require the NID's creation, and that its creation is economically sound and feasible.

SECTION II:

The NID comprises only the area depicted on EXHIBIT A, including only the Assessor Parcel Numbers set forth on EXHIBIT C.

SECTION III:

The Downtown Streetscape Enhancement Project improvements that are to be maintained, in part, through NID-derived funds are graphically shown on Exhibit B, all of which front private properties within the NID's geographical boundaries. Maintenance of improvements fronting the public properties identified on Exhibit A are hereby expressly excluded from the NID and any NID-funded maintenance obligation.

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SECTION IV:

1. The property owners within the NID shall respectively be assessed for fiscal tax year 2016-2017 ("Year One") the amounts shown on Exhibit C for each such property.

2. The City currently spends approximately \$37,284 per year on maintenance of the areas where Downtown Streetscape Enhancement Project's improvements will be constructed. The City will hereafter continue to contribute at least that amount toward the maintenance of those improvements.

3. The present annual maintenance cost estimate for the Downtown Streetscape Enhancement Project's improvements, including those on Carson Street, Curry Street, and the Third Street Plaza, is \$107,335. That estimate includes improvements that front properties owned by the State of Nevada ("State") and Carson City ("City"), respectively. The State and City will continue to maintain all improvements along their building frontages (as they do currently). The State and City properties occupy 29% (2,600 feet of a total of 8,950 feet) of the property frontage where Downtown Streetscape Enhancement Project improvements will be constructed. The difference between the current maintenance expenditure by the City (\$37,284) and the Year One estimated maintenance cost (\$107,335) is \$70,051. The private property owners' annual maintenance cost share (71% of \$70,051) is therefore estimated to be \$49,736. This is the amount that will be assessed to property owners in Year One, as further detailed below in Section V of this Ordinance.

4. The Curry Street improvements under the Downtown Streetscape Enhancement Project are scheduled for construction two years after the Carson Street and Third Street improvements. It is the intent of this Ordinance to hereby establish a maintenance assessment for all of those improvements under the Downtown Streetscape Enhancement Project, including those made to Curry Street.

5. The NID Maintenance Plan, attached to this ordinance as Exhibit D, details the improvements to be maintained, the anticipated schedule and levels of maintenance of those improvements, and the estimated time and expense of that maintenance. The NID Maintenance Plan further provides for the power washing of sidewalks, garbage removal, general cleanup, landscape maintenance, and sidewalk snow removal.

SECTION V:

1. The NID's purpose is to self-assess its members in an amount equal to Carson City's increased maintenance costs for the portions of the Downtown Streetscape Enhancement Project that are constructed within the NID's geographic boundaries. No portion of any funds received from the NID, through assessment or otherwise, shall be used to pay all or any portion of an expense previously obligated for, or which has traditionally been borne by, the City.

2. This NID's geographic boundaries will include all non-excluded real property depicted on Exhibit A, with those included properties being assessed based upon the commercial building square footage of a property relative to the total commercial building square footage of all properties included within the NID. Generally,

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properties that directly front on the Downtown Streetscape Enhancement Project improvements are assessed at a 100% assessment rate, and properties that are elsewhere within the NID (i.e., are located on a side or adjacent street), are assessed at a 75% rate. All properties within the NID that are zoned exclusively residential (e.g., private homes and all private residences included within a mixed-use property) will be excluded from the NID and the resulting NID assessments. Where a change in use occurs for a property within the NID from commercial to residential or residential to commercial and that change becomes effective in the Assessor's records, the assessment will be adjusted with the next full assessment year as established at the time the Board of Supervisors confirms the assessment. No pro-ration by Carson City will be required for assessed NID properties sold during a tax year; rather, all such pro-rations will be privately addressed, if at all, by the buyer and seller to each such respective transaction. A Notice of NID Annual Assessment will be recorded against title to each and every assessed NID property.

3. The NID assessment shall be paid by each property owner in conjunction with such owner's property taxes for the year. Penalties and interest for delinquent amounts will be calculated in the same manner as for real property taxes. The assessment amount shall constitute a lien upon an assessed property and have the same priority as a lien for property taxes.

4. The total Year One assessment to all non-excluded property owners within the NID shall be \$49,736, collectively. The assessment shall be pro-rated each year among the NID's property owners based on the distribution method described in detail below.

5. The assessment shall increase each year by the Consumer Price Index for All Urban Consumers ("CPI") – All Items (1982-1984=100), as published by the U.S. Department of Labor, Bureau of Labor Statistics for the twelve month period ending December 31 next preceding the year for which the increase is being calculated, but in no event more than 5% on a year-over-year basis. An assessment shall not decrease from the prior year if the CPI goes negative for an evaluated period; provided, however, that once a credit balance of twenty percent (20%) above the projected cost of maintenance is established in the maintenance account for unexpected expenses (e.g. unanticipated heavy snow removal), the City shall reduce the assessment amount to the actual projected maintenance cost (if that cost is less than the base assessment amount plus CPI increases). If the credit balance decreases below 20% of the projected cost of maintenance, the assessment shall be increased that year to cover the projected cost of maintenance plus the additional cost to reestablish the 20% credit balance, but in no case shall the assessment be more than the base assessment plus CPI increases described above. If the cost of maintenance in any given year exceeds the assessed amount plus any available credit balance and the City incurs the cost to meet contractual maintenance obligations, the assessment shall be increased the following year to reimburse the City for those additional maintenance expenditures and replenish the credit balance but in no case shall the assessment be more than the base assessment plus CPI increases described above.

6. The City shall prepare the annual assessment estimate to be considered by the Board of Supervisors at or prior to its first meeting in June each year, at which time the Board of Supervisors may confirm the assessment by resolution and levy the assessment for the following tax year. In confirming the assessment, the Board of

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Supervisors shall direct the Clerk to submit the list of parcel numbers and the assessed amount for each property to the Carson City Treasurer. The Board of Supervisors authorizes the Treasurer to reduce or waive the amount for good cause pursuant to NRS 361.483 and NRS 361.4835.

7. In Year One and all subsequent years, Carson City must itemize and document the alleged increased maintenance costs by spreadsheet and corroborating documentation, which may include actual costs of maintenance or the cost of contracting the maintenance to a private company, as applicable.

8. All NID assessments shall be allocated, and all NID member voting shall be weighted, in the proportion to the square footage of each Member's NID building(s) bear(s) to the total square footage of all buildings within the NID, as reduced by 25% for each 75%-assessed NID Member, as detailed above and on Exhibit C. Square footage will be determined based upon the Carson City Assessor's Records.

9. Carson City and the State are not a part of the NID, and will be solely responsible for the maintenance of all improvements fronting their respective properties.

10. Upon request from the NID's board of directors, the Board of Supervisors may decrease the base assessment based upon an actual reduction in maintenance costs or other special considerations. The Board of Supervisors may further consider a request from the NID's board of directors for an increase in the base assessment to pay for other improvements or activities (such as marketing, advertising, equipment purchases, etc.), requests for increases in the levels of maintenance, or to modify the assessment percentages of property owners within the NID, as permitted by law, based on levels of service agreed to between the NID and City, so long as such a request is approved in writing by no less than those property owners within the NID that collectively represent at least 66-2/3% of the basis for assessment.

11. The City shall establish a procedure for obtaining a hardship determination on the basis of a property owner's ability to pay the assessment pursuant to NRS 271.357.

SECTION VI:

1. Pursuant to NRS 271.325(6), upon adoption of this Ordinance, the Board of Supervisors shall cause to be recorded in the office of the Carson City Recorder a certified copy of a list of the tracts to be assessed and the amount of maximum benefits estimated to be assessed against each tract in the assessment area, as shown on the assessment plat, as revised and approved by the governing body pursuant to NRS 271.320 (the area and the list of assessed properties). Neither the failure to record that list nor any defect or omission in that list shall affect the validity of any assessment, the lien for the payment thereof, or the priority of that lien.

2. In addition to the specific provisions of this ordinance, the NID shall be subject to all applicable requirements of NRS Chapter 271, Local Improvements.



SECTION VII:

EXHIBIT LIST. This ordinance contains the following exhibits:

- A. NID Map.
- B. Downtown Improvements Plan.
- C. NID Property List and Year-One Assessment
- D. NID Maintenance Plan and Cost Estimate

PROPOSED on December 17, 2015 by Supervisor Lori Bagwell.

PASSED January 7, 2016, by the following vote:

AYES: Supervisor Brad Bonkowski  
Supervisor Karen Abowd  
Supervisor Lori Bagwell  
Mayor Robert Crowell

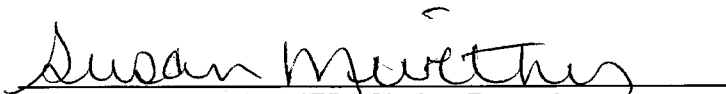
NAYS: Supervisor Jim Shirk

ABSENT: None.

ABSTAIN: None.

  
ROBERT L. CROWELL, Mayor

ATTEST:

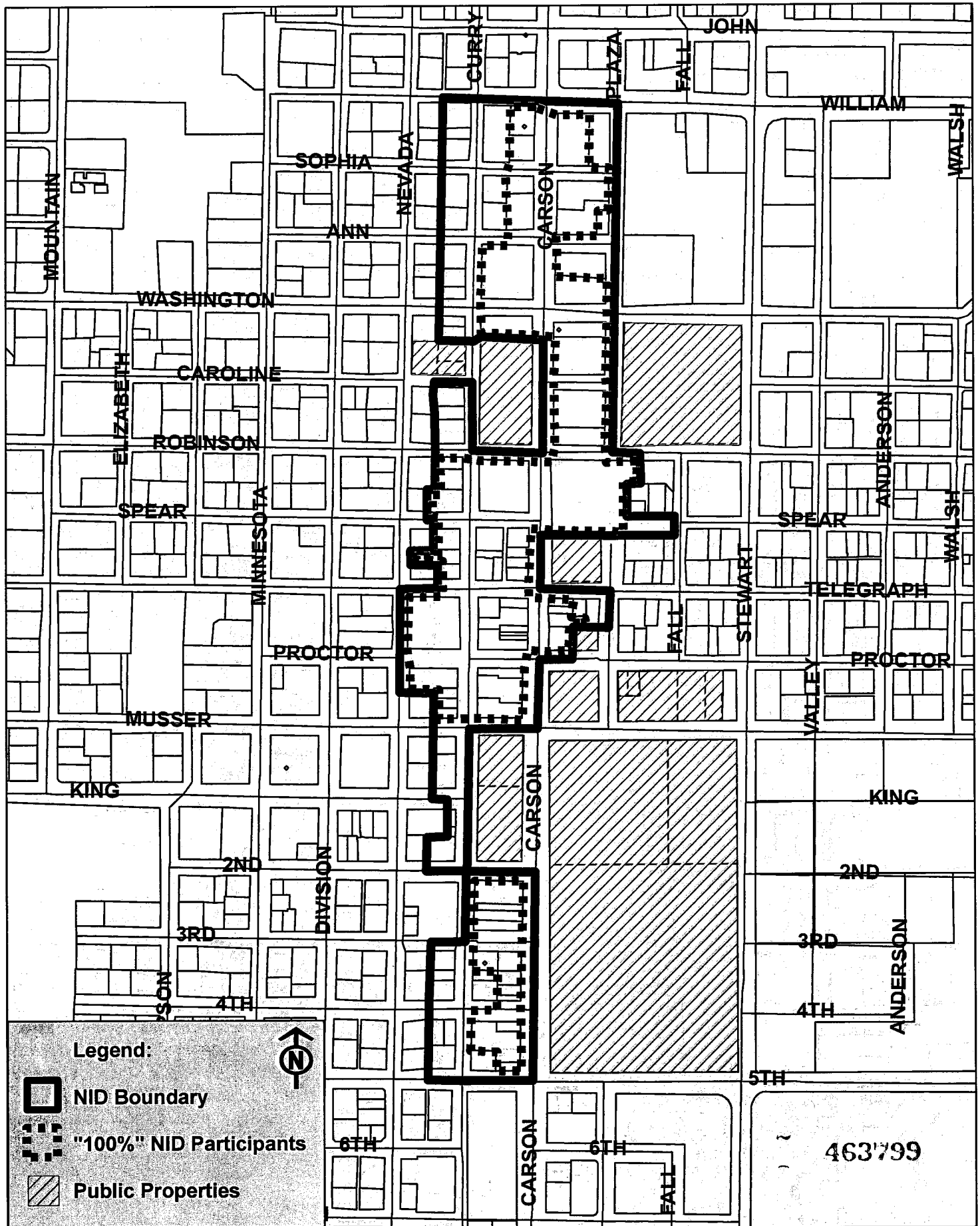
  
SUSAN MERRIWETHER, Clerk - Recorder

This ordinance shall be in force and effect from and after the 10<sup>th</sup> day of January, 2016.

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# PROPOSED DOWNTOWN NEIGHBORHOOD IMPROVEMENT DISTRICT

Exhibit A



**RESOLUTION NO. 2016-R-\_\_**

**A RESOLUTION APPROVING AND AUTHORIZING THE MAYOR TO SIGN A COOPERATIVE AGREEMENT FOR PUBLIC IMPROVEMENT MAINTENANCE AND ADMINISTRATIVE SERVICES BY AND BETWEEN CARSON CITY AND THE DOWNTOWN NEIGHBORHOOD IMPROVEMENT DISTRICT (NID) RELATING TO ONGOING MAINTENANCE FOR OFF-STREET IMPROVEMENTS CONSTRUCTED ALONG THE FRONTAGES OF PRIVATE PROPERTIES WITHIN THE NID AS PART OF THE DOWNTOWN STREETScape ENHANCEMENT PROJECT.**

**WHEREAS**, the NID was established by Ordinance No. 2016-1 on January 10, 2016, to cover that portion of the cost of ongoing maintenance for those off-street improvements constructed along the frontages of private properties within the NID as part of the Downtown Streetscape Enhancement Project (e.g. sidewalks, landscaping, benches, etc.) that exceeds the maintenance costs already borne by Carson City for the frontages of those private properties; and

**WHEREAS**, the City approved the assessment for Fiscal Year 2017 by Resolution on June 22, 2016, and adopted Ordinance No. 2016-12 on July 7, 2016; and

**WHEREAS**, this agreement will benefit the City and the NID by ensuring consistent, quality maintenance of the downtown sidewalk and pedestrian improvement.

**NOW THEREFORE, BE IT RESOLVED** that the Cooperative Agreement between Carson City and Downtown NID for Public Improvement Maintenance and Administrative Services is hereby approved and adopted, and is attached hereto as an exhibit. Be it further resolved that the Mayor is authorized to sign the Cooperative Agreement.

ADOPTED Resolution No. 2016-R-\_\_ this 20<sup>th</sup> day of October, 2016.

AYES:	Supervisors	_____
		_____
		_____
		_____
		_____
		_____
NAYES:	Supervisors	_____
ABSENT:	Supervisors	_____

\_\_\_\_\_  
ROBERT L. CROWELL, Mayor

ATTEST:

\_\_\_\_\_  
SUE MERRIWETHER, Clerk-Recorder

**Cooperative Agreement for Public Improvement Maintenance  
and Administrative Services**

This Cooperative Agreement, dated this \_\_\_\_ day of \_\_\_\_\_, 2016, is entered into by Carson City (“City”), a consolidated municipality and political subdivision of the State of Nevada, and the Carson City Downtown Neighborhood Improvement District (“NID”), a Nevada domestic non-profit corporation. City and NID are sometimes referred to below collectively as “the Parties” or individually as “Party.”

**RECITALS**

WHEREAS, the NID was established by Ordinance No. 2016-1 on January 10, 2016, to cover that portion of the cost of ongoing maintenance for those off-street improvements constructed along the frontages of private properties within the NID as part of the Downtown Streetscape Enhancement Project (e.g. sidewalks, landscaping, benches, etc.) that exceeds the maintenance costs already borne by City for the frontages of those private properties; and

WHEREAS, the City approved the assessment for Fiscal Year 2017 by Resolution on June 22, 2016, and adopted Ordinance No. 2016-12 on July 7, 2016; and

WHEREAS, this agreement, consistent with the City’s strategic plan, will benefit the City and the NID by ensuring consistent, quality maintenance of the Downtown Streetscape Enhancement Project.

NOW THEREFORE, in consideration of the promises and of the mutual covenants herein contained, the NID and City agree as follows:

**City Agrees**

1. To provide financial administration of NID funds as follows:
  - a. Collect the annual NID assessment through property tax billing and deposit funds into a special account to be used solely for the maintenance of downtown improvements pursuant to Ordinance No. 2016-1.
  - b. Process accounts payable transactions from NID funds as approved by the NID to pay for said maintenance.
  - c. Provide monthly and year-end financial reports to the NID.

- d. Provide quarterly payments of collected assessments directly to the NID to pay invoices in the event that the NID Board elects to pay such invoices.
2. To contribute a minimum of \$26,472 annually to the NID account, as compensation for the maintenance of landscaping and pedestrian improvements in front of private properties that was previously the responsibility of the City, to be used towards the maintenance of downtown improvements within the NID pursuant to Ordinance No. 2016-1.
3. To provide maintenance services bid documents annually to the NID based on the agreed upon levels of service in order for the NID to seek bids for said maintenance services.
4. To ensure special event coordinators are responsible for the cleanup of debris or trash generated from their event space after special events are held within the NID area.
5. To remove graffiti from and mitigate impacts to infrastructure due to acts of vandalism on City-owned improvements and structures.
6. To provide all maintenance for vehicular travel lanes and parking space improvements from curb to curb.

NID Agrees

7. To solicit bids or quotes from qualified contractors for the proposed maintenance services on an annual basis using bid procedures and documents provided by the City.
8. To submit all claims for payment of accounts payable in a timely manner and according to a schedule provided by the City.
9. To be responsible for all financial reporting to the State or Federal government related to the NID's non-profit status.

10. In the event that the NID Board elects to pay accounts payable using a NID account, to provide monthly and year-end financial reports to the Carson City Finance Department. In addition, a report must be filed with the city clerk on or before February 1 of the fiscal year immediately preceding the fiscal year to which the report applies and must include the following pursuant to NRS 271.472:

- a. The name of the improvement district;
- b. The fiscal year to which the report applies;
- c. Any proposed changes to the boundaries of the improvement district for that fiscal year;
- d. The maintenance and levels of service to be provided for that fiscal year
- e. An estimate of the cost of providing the maintenance set forth pursuant to paragraph (d);
- f. The amount of any surplus or deficit revenues to be carried over from a preceding fiscal year; and
- g. The amount of any money received by the district from sources other than assessments levied pursuant to this chapter.

11. Insurance: The Downtown NID shall maintain liability insurance pursuant to NRS 271.332 to cover its activities. All contractors, sub-contractors and agents authorized to conduct work by the NID on City property must have all appropriate and required licenses to conduct the scope of work and provide copies of insurance with the City and NID as an added insured as follows:

11.1 Commercial general liability insurance: Minimum Limits required:

Two Million Dollars (\$2,000,000) - General Aggregate.

Two Million Dollars (\$2,000,000) - Products & Completed Operations Aggregate.

One Million Dollars (\$1,000,000) - Each Occurrence.

Coverage shall be on an occurrence basis and shall be at least as broad as ISO 1996 form CG 00 01 (or a substitute form providing equivalent coverage); and shall cover liability arising from premises, operations, independent contractors,

completed operations, personal injury, products, civil lawsuits, Title VII actions and liability assumed under an insured contract (including the tort liability of another assumed in a business contract).

11.2 Business automobile liability insurance: Minimum Limit required:

One Million Dollars (\$1,000,000) per occurrence for bodily injury and property damage.

Coverage shall be for “any auto”, including owned, non-owned and hired vehicles. The policy shall be written on ISO form CA 00 01 or a substitute providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage.

11.3 Workers’ compensation and employer’s liability insurance:

Contractor shall provide workers’ compensation insurance as required by NRS Chapters 616A through 616D inclusive and Employer’s Liability insurance with a minimum limit of \$500,000 each employee per accident for bodily injury by accident or disease.

Contractor may, in lieu of furnishing a certificate of an insurer, provide an affidavit indicating that Contractor is a sole proprietor; that Contractor will not use the services of any employees in the performance of this Contract; that Contractor has elected to not be included in the terms, conditions, and provisions of NRS Chapters 616A-616D, inclusive; and that Contractor is otherwise in compliance with the terms, conditions, and provisions of NRS Chapters 616A-616D, inclusive.

12. Indemnification:

12.1 To the extent permitted by law, including, but not limited to, the provisions of NRS Chapter 41, each party shall indemnify, hold harmless and defend, not excluding the other’s right to participate, the other party from and against all liability, claims, actions, damages, losses, and

expenses, including but not limited to reasonable attorney's fees and costs, arising out of any alleged negligent or willful acts or omissions of the indemnifying party, its officers, employees and agents. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of the indemnity which would otherwise exist as to any party or person described in this Section.

- 12.2 Except as otherwise provided in Subsection 12.6 below, the indemnifying party shall not be obligated to provide a legal defense to the indemnified party, nor reimburse the indemnified party for the same, for any period occurring before the indemnified party provides written notice of the pending claim(s) or cause(s) of action to the indemnifying party, along with:
  - 12.3 A written request for a legal defense for such pending claim(s) or cause(s) of action; and a detailed explanation of the basis upon which the indemnified party believes that the claim or cause of action asserted against the indemnified party implicates the culpable conduct of the indemnifying party, its officers, employees, and/or agents.
  - 12.4 After the indemnifying party has begun to provide a legal defense for the indemnified party, the indemnifying party shall not be obligated to fund or reimburse any fees or costs provided by any additional counsel for the indemnified party, including counsel through which the indemnified party might voluntarily choose to participate in its defense of the same matter.
  - 12.5 After the indemnifying party has begun to provide a legal defense for the indemnified party, the indemnifying party shall be obligated to reimburse the reasonable attorney's fees and costs incurred by the indemnified party during the initial thirty (30) day period of the claim or cause of action, if any, incurred by separate counsel.



The Parties Agree

13. Scope: To maintain the Downtown Streetscape Enhancement Project improvements to the minimum levels of service incorporated herein as Exhibit A, as may be amended upon mutual agreement by the NID Board and City by and through the Public Works and the Parks and Recreation Departments.
14. Term: The term of this agreement is one year from the date of this agreement. The agreement shall be renewed automatically each year unless either Party provides written notice that it does not intend to renew the Agreement, or would like to amend the Agreement as allowed under Paragraph 25 of this Agreement, at least 30 days prior to the annual termination date.
15. Notices: All notices or other communications required or permitted to be given by this agreement shall be in writing, must be sent to the addresses provided below and are deemed effective upon placement in the United States Mail, postage prepaid:

FOR CITY:

City Manager's Office  
201 N. Carson Street  
Carson City, NV 89701  
(775) 887-2100

FOR NID:

Downtown NID Board  
c/o John P. Rutledge Law Center  
320 N. Carson Street  
Carson City, NV 89701

16. **Governing Law:** The laws of the State of Nevada shall be applied in interpreting and construing this Agreement.
17. **Severability:** The illegality or invalidity of any provision or portion of this Agreement shall not affect the validity of the remaining provisions or portion of the agreement.
18. **Third Parties:** Nothing contained in this Agreement is intended to convey any rights or to create a contractual relationship with any third party or to otherwise allow a third party to assert a cause of action against either CITY or NID arising from, or related to, this Agreement.
19. **Inspection and Audit:** Each Party agrees to keep and maintain under generally accepted accounting principles full, true and complete records and documents pertaining to the Agreement and will present, at any reasonable time, such information for inspection, examination, review, audit and copying at any office where such records and documentation is maintained.
20. **Assignment:** Neither Party shall assign, transfer or delegate any rights, obligations or duties under this Agreement without the prior written consent of the other Party, which shall not be unreasonably withheld.
21. **Proper Authority:** The Parties hereto represent and warrant that the person executing the Agreement on behalf of each Party has full power and authority to enter into this Agreement and that the Parties are authorized by law to perform the services set forth herein.
22. **Breach/Remedies:** Failure of either Party to perform any obligation of this Agreement shall be deemed a breach. Except as otherwise provided for by law or this Agreement, the rights and remedies of the Parties shall not be exclusive and are in addition to any other rights, remedies provided by law or equity, including but not limited to actual damages incurred, and reasonable attorney's fees and costs incurred by the prevailing Party.

23. Limited Liability: The Parties will not waive and intend to assert available NRS Chapter 41 liability limitation in all cases. The Parties expressly waive any claim for punitive damages and understand that the remedy for any willful or intentional misconduct shall be remedied as provided by law.

24. Entire Agreement and Modifications: The preamble, recitals and exhibits are hereby made a part of this agreement; this agreement may be executed in any number of counterparts, each of which is deemed an original but together which constitute but one and the same agreement. This agreement constitutes the entire agreement between the parties. Any future modification of this Agreement shall be subject to the provisions covered by this Agreement and approval of such modification shall be in writing and signed by a representative of each Party.

25. Annual Review: Representatives of the City and the NID will meet annually to discuss the Agreement. All City Departments involved in the agreement will be represented (if they choose to) in the annual meeting. Any changes in the Agreement will be presented to both the Board of Supervisors and the NID Board for approval.

26. Ordinance No. 2016-1 is attached and incorporated herein for reference.

IN WITNESS THEREOF, the Parties have executed this Cooperative Agreement on the day and year first above written.

CARSON CITY, NEVADA

DOWNTOWN NID

\_\_\_\_\_  
Robert L. Crowell, Mayor

\_\_\_\_\_  
Jenny Lopiccolo, NID Chair

Attest:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
NID Secretary

# CARSON CITY DOWNTOWN NEIGHBORHOOD IMPROVEMENT DISTRICT MAINTENANCE LEVEL OF SERVICE STANDARDS

**Owner:** Carson City, acting by and through its parks and recreation and public works departments. All owner items are noted in grey.

**NID:** Neighborhood Improvement District [will direct and manage maintenance contract, authorize invoices, submit billing to City for payment]

**Contractor:** Third-party independent provider for landscaping, trash removal, and other related services as required.

**Effective Date:** This agreement will be effective upon the approval of the NID Agreement by the Board of Supervisors and the date of acceptance of bids by the NID for work under these standards.

Level of service standards outlined in this document are to guide regular maintenance tasks for the NID and are not intended for special events. Not all tasks in this document are the responsibility of the contractor, but are incorporated with the intent to ensure clear roles and responsibilities between owner, NID and contractor. *Exclusions: Graffiti removal will be the responsibility of the owner; all plant material will be under warranty for up to one year after installation and project acceptance from the owner. It is anticipated that plant material will be under warranty through the 2017 growing season unless otherwise determined by contract documents.* Plant replacements during the warranty period should be coordinated through the owner’s representative. Plant replacements or additions of plant material shall be conducted in good faith and mutual cooperation between the owner and the NID.

## TASK 1: Planter Beds

**Guidelines:** Bedding areas will contain healthy, attractive plants that lend variety, color and interest to the landscape. These areas will be litter, weed and pest free. Planter beds will be maintained to provide secondary functions such as barriers, animal habitat, and dust and erosion control. All trees, shrubs and other plants will be trimmed, pruned or otherwise maintained to achieve natural form and enhance aesthetics.

### Planter Beds Tasks

Task	Description	Frequency	Season
Pruning	Prune according to International Society of Arboriculture (ISA) standards. Shrubs 1’ minimum clearance to curbs/sidewalks. Branch height of trees to provide clearance consistence on sidewalks/streets in accordance with city codes for safety. Be sure utility boxes and other areas needing accessibility are cleared for servicing.	Shrubs 1/yr Flowers 4-6/season	Shrubs: spring or fall Flowers: April 15- November 1
Irrigation	Adequate irrigation to sustain healthy, vigorous plant growth	As needed	April 15-November 1

Pest control	Correct identification and proper control methods. Use of Chemical, mechanical, cultural or biological when appropriate, determined by supervisor. Chemical applications according to ordinance as defined on label.	Typical: Inspections weekly peak season one/month off season	Year round
Fertilize	Use appropriate fertilizer according to plant needs.	2/ year for herbaceous perennials and annuals 1/year for woody plants	April 15-November 1
Clean-up	Rake leaves, weeds, add mulch	Initial spring clean-up and as needed throughout the year	April 15-November 1
Litter removal	Pick-up all debris when visible	As needed	Year round
Tree stakes	Maintenance and removal of tree stakes.	Check as needed for proper operation. Remove all tree stakes after 1 year or as determined by owner.	Yearly

## TASK 2: Flower Baskets

**Guidelines:** Flower baskets purchased and placed through the Greenhouse Project will contain healthy, attractive plants that lend variety, color and interest to the landscape. These areas will be litter, weed and pest free. All flower baskets will be cleaned or otherwise maintained to achieve natural form and enhance aesthetics.

### Flower Basket Tasks

Flower Baskets	Watering, clean up and removal of dead petals/flowers to achieve a healthy plant and maintain a consistent and aesthetic product throughout the NID. Fertilize every 2-weeks, fertilizer provided by others (Greenhouse); maintain hangars and replace as needed.	Daily or as needed	June-October
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### Task 3: Irrigation Systems Standards

**Guidelines:** Irrigation systems will deliver optimum water to each plant type at the lowest cost and with maximum water resource conservation. All systems will comply with legal requirements and will protect safety of the public water system.

#### Irrigation Systems Tasks

Task	Description	Frequency	Season
Repair & Replace Irrigation valves	Contractor responsibility begins at the location of the valve. Valve to point of connection is the owner responsibility. Contractor to coordinate with owner regarding controls/timers. Repair of irrigation control valves and main line leaks/breaks with specified materials within 4 hours for main breaks and within 24 hours for other leaks are the responsibility of owner.	As needed	Spring + fall
Repair & Replace Heads	Broken heads and lateral line leaks/breaks to be repaired or replaced before next watering cycle by contractor, includes material failures, vandalism etc. All repairs performed by contractor. On a preventative basis, replace all heads at each site with new or reconditioned sprinkler heads.	Based on system inspections.	April 15-November 1
Monitor & Adjust system	Observe the system in operation. Make adjustments. Call owner for major items.	As needed	April 15-November 1
Adjust Controller	Owner responsibility. Contractor to advise owner of changes or adjustments requested to watering schedules.	Spring, peak heat periods, fall and with significant weather changes	April 15-November 1
Start-up	Owner responsibility. Following site specific procedures, restore water service to each site upon owner inspection/coordination.	Once per year	Spring
Shut-down & winterize	Owner responsibility.	Once per year	Fall and as determined by freezing temps.
Backflow	Owner responsibility. Complete standard backflow test and submit test report. Responsibility of owner.	At system startup each spring.	Spring
Drains	Owner responsibility. Check drains at site shut down, repair or replace as needed and coordinate with owner.	Once per year	Fall

<b>Task</b>	<b>Description</b>	<b>Frequency</b>	<b>Season</b>
Central Computer Control System	Responsibility of owner. Download and observe data, adjust program according to irrigation needs. Owner to trouble shoot system with contractor when necessary. Upgrade software and system.	Daily during irrigation season.	April 15-November 1
Valves	Repair valves, solenoids and decoder when indicated by inspection. Replace according to manufacturer specifications.	As needed	April 15-November 1
Valve Boxes	Maintain visible lids, replace if broken or missing, insure proper grade in the field and secure bolts.	Weekly in season; monthly off season	Year round
Quick Couplers	Insure proper seating, and placement in valve box, clean from debris	As needed	April 15-November 1
Drip Systems	Inspect operation of emitters and replace as needed. Inspect placement of distribution tubing, check and clean filter and pressure regulator. Flush end lines. Check, replace and repair lines & fittings. Expand emitters out to drip line of tree as needed.	Inspect, adjust and repair as needed. In season, observe plant stress or lack of water.	April 15-November 1

### Task 4: Paved/Concrete and Unpaved Surfaces Standard

**Guidelines:** Paved pathways, parking lots, concrete sidewalks and other paved areas will have smooth surfaces, be properly marked or signed and, where night use is intended, be adequately lighted. Pathways and parking lots will be free of litter. Contractor will provide a cleaning/power washing schedule to assist NID in coordination with business owners and scheduling of activities. Unpaved surfaces will be clean, graded and compacted for its intended use. This task also includes regular maintenance of the Bob McFadden Plaza, *excluding the splash pad*.

#### Paved/Concrete Surfaces Tasks

Task	Description	Frequency	Season
Clean walks	Keep free of hazards and debris by sweeping, washing or blowing	Clean as necessary	Year round
Litter Removal	Pick up all debris in designated areas	As necessary	Year round
Clean stairs, shelters and stage structure	Keep free of hazards and debris by sweeping, washing or blowing. Sweep or blow off, user proper cleaning agent when needed, wash down, keep free from food/gum/standing water. Dry clean/pressure wash in off-season. Dispose of debris. Notify owner of vandalism, graffiti or safety concerns.	Inspect regularly and clean as necessary	Year round
Clean benches/seat walls	Use proper cleaning agent, scrub seats, wash down, and remove standing water. Notify owner of vandalism or safety concerns.	Inspect regularly and clean as necessary	April 15-November 1
Trash containers	Dispose if over 1/2 full, clean barrels when necessary.	In season: 1/day minimum/7-days per week. Off season: Fridays and Mondays only	In season: April 15-November 1 Off season: November 2-April 14
Weed control	Remove all invasive vegetation chemically or mechanically. Maintain 3' set back off roads and sidewalks/pathways to be clear for ADA access.	As needed	April 15-November 1



### Task 4 continued: Unpaved Surfaces Tasks

<b>Task</b>	<b>Description</b>	<b>Frequency</b>	<b>Season</b>
Grade	Maintain smooth surfaces as necessary by mechanical means	As needed	April 15-November 1
Rake	Hand raking for small obstructions and debris	As needed	Year round
Weed Removal	Remove by Chemical (pre-and post-emergence) physical or mechanical means. Maintain 3-foot set back or as site requires.	Twice annually	April 15-November 1
Litter Removal	Pick up all debris	As needed	Year round
Leaf Removal	Rake or blow off as needed	As needed	April 15-November 1

## Task 5: Splash Pad Standards

**Guidelines:** Splash pad will be operated and maintained in accordance with Nevada Administrative Code and in a manner acceptable to national, state and local health department regulations for the safety and enjoyment of the general public. Graffiti and vandalism must be reported to owner within 24 hours and owner will be responsible for replacement/removal associated with any acts of vandalism. Contractor is required to have a Certified Pool and Spa Operator as part of team providing service with proof of certification to be provided to owner and NID.

### Splash Pad Tasks

Task	Description	Frequency	Season
Graffiti removal and vandalism mitigation	Owner responsibility. Replacement items due to vandalism are the responsibility of owner, upon notification by contractor or NID.	Remove Graffiti within 24-48 hours	June - October
Splash Pad Regular Maintenance	Checks plumbing and system operation for defects, leaks, vandalism, blockages etc. Clean out all drains/hair catches, removes debris to ensure an efficiently operating system including on pad surface. Cleans filtration system as needed. Contractor to monitor and make adjustments to water chemistry, add chemicals to maintain NAC and health department chemical levels as needed. Contractor to purchase and transport chemicals as no chemical storage is on site. Contractor to close splash pad when safety issues arise and post accordingly. Should a closure occur, contractor will notify NID and owner accordingly with a timeline and plan of action to resolve issues. Contractor will provide an inspection/testing log on-site for health department inspections.	Daily or as needed.	June- October
Splash Pad Emergency Maintenance	Contractor to provide minor system/plumbing repairs as needed and notifies owner to address all mainline or major issues including vandalism.	As needed	June – October
Splash Pad System Start Up	Owner responsibility. Upon owner inspection, start up system, flush lines, check	1 x Beginning of season	End of May, beginning of June

Task	Description	Frequency	Season
	plumbing for leaks, inspect chemical feeders, fittings, parts etc.		
Splash Pad System Shut Down	Owner responsibility. Upon owner inspection, winterize system, flush and blow lines to ensure system protection during winter.	1 x End of Season	October

### Task 6: Snow Removal Standards

**Guidelines:** Snow removal will be provided to ensure safety within a reasonable timeframe and manner in high traffic areas within the NID boundaries (see map). NID will work cooperatively with contractor to negotiate thresholds to reduce duplication of efforts and maximize time frames for ease of the contractor if providing service to others in the vicinity, especially adjacent property owners.

#### Snow Removal Tasks

Task	Description	Frequency	Season
Snow removal – McFadden Plaza	Remove mechanically, physically or chemically as available, in designated locations, with priorities set by NID, but general guideline will be after a 2” snow accumulation. Provide ice melt product (product must be pre-approved by owner) to reduce slips and falls in high traffic areas.	As needed in response to 2” snow accumulation.	October-June
Snow removal- Sidewalks	Remove mechanically, physically or chemically as available, in designated locations, with priorities set by NID, but general guideline will be after a 4” snow accumulation. Provide ice melt product (product must be pre-approved by owner) to reduce slips and falls in high traffic areas. Contractor to identify problem areas and notify NID accordingly	As needed in response to 4” snow accumulation.	October-June