

**Branson Board of Aldermen
Staff Report and Recommendation**

ITEM/SUBJECT: FIRST READING OF A BILL AUTHORIZING THE EXPENDITURE OF FUNDS FROM THE CITY'S TOURISM TAX CONTINGENCY FUND FOR THE BRANSON LAKES AREA CHAMBER OF COMMERCE, AND AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT.

DATE: NOVEMBER 26, 2007

INITIATED BY: ADMINISTRATION

CITY ADMINISTRATOR RECOMMENDATION:

Recommend approval of the bill.



STAFF REPORT:

This ordinance will authorize the use of funds from the City's 2% Tourism Tax Marketing Revenues by the Branson Lakes Area Chamber of Commerce in the amount of \$25,000 for the Branson Area Festival of Lights drive through and \$29,000 for labor and materials for the re-wiring, renovation and installation of Branson Area Festival of Lights stars, for a total of \$54,000.

STAFF RECOMMENDATION:

Staff recommends approval of the bill.

PROPOSED MOTION:

Move to approve the bill.

FINANCIAL REVIEW:



ATTACHED INFORMATION:

AN ORDINANCE AUTHORIZING THE EXPENDITURE OF FUNDS FROM THE CITY'S TOURISM TAX CONTINGENCY FUND TO THE BRANSON LAKES AREA CHAMBER OF COMMERCE, AND AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT.

WHEREAS, the City set-aside 2% of the tourism tax marketing revenues as a contingency to be utilized for special tourism promotional projects authorized by the Board, and

WHEREAS, the Board of Aldermen wishes to authorize expenditure of these tourism tax contingency funds for the Branson Area Festival of Lights drive through and installation of the stars.

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

Section 1: The Board of Aldermen hereby approves the expenditure of funds from the Tourism Tax Contingency Fund in the amount of \$25,000 for the Branson Area Festival of Lights drive through and \$29,000 for labor and materials for the re-wiring, renovating and installation of Branson Area Festival of Lights stars. The total of \$54,000 shall be made available to the Branson Lakes Area Chamber of Commerce who shall administer the project.

Section 2: The Board of Aldermen authorizes the Mayor to execute the contract in substantially the form attached as Exhibit "A".

Section 3: This ordinance shall be in full force and effect from and after its passage and approval.

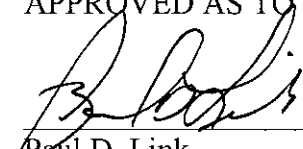
Read this first time on _____ day of _____, 2007.

Read this second time, passed, and truly agreed to by the Board of Aldermen of the City of Branson, Missouri, on this _____ day of _____, 2007.

Raeanne Presley
Mayor

ATTEST:

Lisa K Westfall
City Clerk

APPROVED AS TO FORM:


Paul D. Link
City Attorney

**BRANSON/LAKES AREA CHAMBER OF COMMERCE AND CONVENTION & VISITORS
BUREAU AGREEMENT FOR THE USE OF TOURISM TAX CONTINGENCY FUNDS**

THIS AGREEMENT, made as of the ___ day of _____, 2007, between the City of Branson, a municipal corporation (hereinafter referred to as the "City"), and the Branson/Lakes Area Chamber of Commerce and Convention & Visitors Bureau (hereinafter referred to as "BLACC/CVB").

WHEREAS, the City withholds 2% of the City's tourism tax marketing funds as a contingency to be utilized for special tourism promotional projects authorized by the Board of Alderman; and

WHEREAS, the Board of Aldermen have determined that the BLACC/CVB have met the requirements outlined in the application process and hereby authorizes expenditure of the City's tourism tax contingency funds to the BLACC/CVB for the Branson Area Festival of Lights drive through in the amount of twenty-five thousand dollars (\$25,000) and for the labor and materials for the rewiring, renovation and installation of the Branson Area Festival of Lights stars in the amount of twenty-nine thousand dollars (\$29,000), such funds not in any case to exceed fifty-four thousand dollars (\$54,000).

NOW, THEREFORE, for the consideration herein expressed the City agrees to the use of funds from the City's 2% Tourism Tax Marketing and shall make the funds available to the BLACC/CVB who shall administer the project.

1. EXPENSES. This Agreement authorizes payment of expenses incurred by the BLACC/CVB related to the Branson Area Festival of Lights drive through in the amount of twenty-five thousand dollars (\$25,000) and for the labor and materials for the rewiring, renovation and installation of the Branson Area Festival of Lights stars in the amount of twenty-nine thousand dollars (\$29,000), not to exceed a total of fifty-four thousand (\$54,000). The BLACC/CVB shall submit copies to the City Administrator for all invoices paid by BLACC/CVB, when the source of payment is tourism tax marketing contingency funds procured through this Agreement. These invoices shall be submitted to the City Administrator at the concurrent time that the invoice is being paid by the BLACC/CVB.

2. RELATIONSHIP OF THE PARTIES. This Agreement does not create a joint venture, partnership or any other relationship between the parties. It is the express purpose of this Agreement to memorialize a one time, non-renewable conveyance of funds from the City to BLACC/CVB.

3. LIABILITY AND INDEMNITY. The parties mutually agree to the following:

a. In no event shall the City be liable to the BLACC/CVB for special, indirect, or consequential damages, except those caused by the City's gross negligence or willful or wanton misconduct arising out of or in any way connected with a breach of this Agreement. The maximum liability of the City shall be limited to the amount of money to be paid by the City under this Agreement.

b. The BLACC/CVB shall defend, indemnify, and hold the City harmless from and against all claims, losses, and liabilities arising out of personal injuries, including death, and damage to property which are caused by, associated with or in any way connected to the BLACC/CVB, the event called the Branson Area Festival of Lights drive through and/or the labor and materials for the rewiring,

renovation and installation of the Branson Area Festival of Lights stars and/or any entities or individuals associated with or participating in the either event. The BLACC/CVB further agrees to defend, indemnify, and hold the City harmless from and against any claims, losses and liabilities arising out of the award of this Agreement to them.

4. INSURANCE. The BLACC/CVB shall procure Liability Insurance with a company licensed to do business in the State of Missouri with limits of liability not less than \$1,000,000 per occurrence for personal injuries (including death). The City must be named as an additional named insured.

5. TERMINATION OF AGREEMENT. The parties mutually agree to the following:

a. Termination for breach. Failure of the BLACC/CVB to fulfill their obligations under this Agreement in a timely and satisfactory manner shall constitute a breach of the Agreement, and the City shall thereupon have the right to immediately terminate the Agreement. The City shall give written notice of termination to the BLACC/CVB by U.S. mail or by hand delivering a copy of the same. City shall be refunded the full amount of all monies reimbursed by the City in the event that City terminated this Agreement. The BLACC/CVB shall not be relieved of liability to the City for damages sustained by the City by virtue of any such breach of the Agreement by the BLACC/CVB.

b. Right to terminate in the absence of breach. The City may terminate this Agreement for any reason, by serving notice of intent to terminate upon the BLACC/CVB by the means specified in the preceding paragraph. Such notice shall specify the date of termination, but in no event shall the City terminate the Agreement under this provision upon less than thirty (30) days notice to the BLACC/CVB.

c. Surviving Terms. Notwithstanding any provisions to the contrary, provisions pertaining to liability and indemnity shall survive the termination of this Agreement.

6. REPORTING REQUIREMENT. The BLACC/CVB shall, upon request by the City, provide a report to the City on the financial success or failure of the Branson Area Festival of Lights drive through and star display.

7. ENTIRE AGREEMENT. This Agreement contains the entire Agreement of the parties. No modification, amendment, or waiver of any of the provisions of this Agreement shall be effective unless in writing specifically referring hereto, and signed by both parties.

8. SEVERABILITY. If any provision of this Agreement is invalid or unenforceable with respect to any party, the remainder of this Agreement or the application of such provision to persons other than those as to whom it is held invalid or unenforceable, shall not be affected and each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

9. CONSENT. In any case where the approval or consent of one party hereto is required, requested or otherwise to be given under this Agreement, such party shall not unreasonably delay or withhold its approval or consent.

10. NOTICE. Any notice or demand required to be given herein shall be made by certified or registered mail, return receipt requested, or reliable overnight courier to the address of the respective parties set forth below:

City of Branson
Attn: City Administrator
110 W. Maddux Street
Suite 210
Branson, MO 65616

Branson/Lakes Area Chamber of Commerce and Convention & Visitors Bureau
Ross Summers
269 State Highway 248
P.O. Box 1897
Branson, MO 65616

11. ATTORNEY'S FEE. The parties agree that if the enforcement of this Agreement is turned over to an attorney, the prevailing party shall be entitled to have their reasonable attorney's fee paid by the other party.

12. VENUE. The parties agree that venue of any claims, disputes, causes of action, and suits concerning or arising out of the terms, conditions, provisions, obligations, requirements or duties of either party under this Agreement shall be the Circuit Court of Taney County, Missouri.

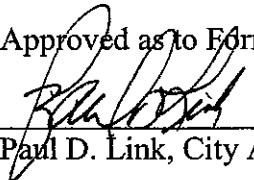
IN WITNESS WHEREOF, the parties hereto have set their hands and seals the day and year first written above.

The City of Branson, Missouri

By: _____
Raeanne Presley, Mayor

Attest:

Lisa K Westfall, City Clerk

Approved as to Form:


Paul D. Link, City Attorney

**Branson Lakes Area Chamber of Commerce
and Convention & Visitors Bureau**

By: _____
Ross Summers, President/CEO