

RESOLUTION NO. 19-67

A RESOLUTION APPROVING AN AGREEMENT BETWEEN THE CITY OF DAYTONA BEACH ("CITY"), THE CITY'S COMMUNITY REDEVELOPMENT AGENCY ("CRA"), AND BROWN RIVERFRONT ESPLANADE FOUNDATION, INC. (THE "FOUNDATION"), PROVIDING FOR THE FOUNDATION TO REDEVELOP, OPERATE, AND MANAGE RIVERFRONT PARK, LOCATED WEST OF THE HALIFAX RIVER AND EAST OF BEACH STREET, BETWEEN ORANGE AVENUE AND FAIRVIEW AVENUE, PURSUANT TO A LEASE TERM ENDING SEPTEMBER 30, 2068, SUBJECT TO TERMS AND CONDITIONS, INCLUDING THE FOUNDATION'S AGREEMENT TO MAKE IMPROVEMENTS TO THE PARK HAVING A MINIMUM VALUE OF \$15,000,000 AT FOUNDATION'S SOLE COST, AND THE CITY'S/CRA'S AGREEMENT TO PROVIDE THE FOUNDATION UP TO \$800,000 IN ANNUAL CONTRIBUTIONS TO REIMBURSE CERTAIN OPERATING AND MAINTENANCE COSTS INCURRED BY THE FOUNDATION WHILE THE LEASE IS IN EFFECT; AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE THE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City owns Riverfront Park, a public park located west of the Halifax River and east of Beach Street, between Orange Avenue and Fairview Avenue; and

WHEREAS, for purposes herein the term "Premises" refers to Riverfront Park as described above, and Manatee Island, but excludes the site of the News Journal Center, 221 N. Beach Street, which the City deeded to Daytona State College pursuant to City Res. 09-55; and

WHEREAS, Brown Riverfront Esplanade Foundation, Inc., a Florida non-profit corporation (the “Foundation”), has submitted a proposal to expend substantial monies to redevelop and improve the Premises, and provide for continued public use of the Premises as a “Riverfront Esplanade,” including scenic gardens and recreational areas, enhanced landscaping, water features and children’s play areas, sculptures and other outdoor exhibits, walkways, bike paths, running trails, lighting features, and certain ancillary improvements (collectively the “Riverfront Esplanade”), and to thereafter perform the long-term operation and maintenance of the Riverfront Esplanade; and

WHEREAS, the Foundation was formed for the sole purpose of improving, maintaining, and operating the Riverfront Esplanade, subject to execution of an agreement with the City and the City’s Community Redevelopment Agency (“CRA”); and

WHEREAS, under the terms and conditions of a proposed agreement that has been prepared in conformance with the Foundation’s proposal:

A. The Foundation would expend a minimum \$15,000,000 in making initial improvements to redevelop the Riverfront Esplanade, consistent with plans to be hereafter approved by the City Commission, and must complete construction of the initial improvements within five years after the lease commences; and

B. The City would grant the Foundation a lease to occupy the Park as a public recreational amenity for a period (“Lease Term”) that would commence when the Foundation receives the first building permit for initial improvements, and end on September 31, 2068, subject to conditions; and

C. The Foundation would be required to obtain and maintain  
501(c)(3)

status during the term of the agreement; and

D. The City/CRA would provide the Foundation annual funding (the  
“City Contribution”), solely to reimburse the Foundation up to \$800,000 annually for certain  
costs incurred by the Foundation in operating and managing the Premises, subject to annual  
budgeting and appropriation; and

E. The City’s/CRA’s obligation to provide City Contributions would  
commence in the first fiscal year after in which the City/CRA receive an increase in Downtown  
Redevelopment Area Tax Increment Revenue generated from the completion of the Brown &  
Brown Campus currently being developed on Beach Street, across from the north end of the  
Premises; and

F. The Foundation would be required to carry liability insurance and  
perform other duties intended to safeguard the City’s interest and ensure compliance with all  
applicable legal requirements; and

WHEREAS, because Riverfront Park is located in the Downtown Redevelopment  
Area and the Foundation’s proposal calls for the long-term leasing of the Premises, the City issued  
a Request for Proposals (“RFP”) to entertain competing proposals for redevelopment of the  
Premises in accordance with Florida Statutes § 163.380; and

WHEREAS, the RFP included a provision prohibiting persons submitting proposals from lobbying City officers or employees from the date the RFP was issued until a contract is awarded or the RFP is cancelled, and provided that at the City's option lobbying may cause the proposal to be rejected; the intended purpose being to promote a fair process in the review of competing proposals; and

WHEREAS, the Foundation was the only party to submit a proposal in response to the RFP. The City Commission therefore finds that the above-referenced lobbying provision is inapplicable and declines to exercise any right to reject the Foundation's proposal that would otherwise arise in the event of such lobbying efforts; and

WHEREAS, the CRA Governing Board has determined that the agreement would further the goals and objectives of the City's Downtown/Ballough Road Redevelopment Plan, agreed to the potential use of Downtown Redevelopment Area Tax Increment Revenue as a source of funds for making City Contributions, and has agreed for the CRA to be a party to the agreement; and

WHEREAS, the City Manager recommends City Commission approve of the agreement, and the Chief Financial Officer has submitted a Sufficiency of Funds Certificate.


NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF DAYTONA BEACH, FLORIDA:

SECTION 1. **Recitals**. The foregoing above recitals are true and correct and incorporated herein by reference.

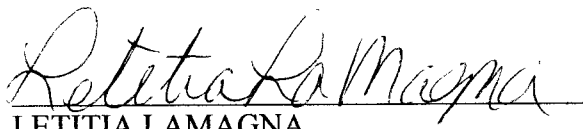
SECTION 2. **Approval of Agreement.** The City Commission hereby approves the Riverfront Esplanade Development, Maintenance, and Lease Agreement between the City, the CRA, and the Foundation, as further described in the recitals. A copy of the Agreement in substantially final form being attached hereto and incorporated by reference herein.

SECTION 3. **Execution of Agreement.** The Mayor and City Clerk are authorized to execute the above-referenced Agreement on the City's behalf. The Mayor and City Clerk are also authorized to execute the Memorandum of Agreement referenced in said Agreement, upon the commencement of the Lease as provided in said Agreement.

SECTION 4. **Effective Date.** This Resolution shall take effect immediately upon Adoption

  
DERRICK L. HENRY  
Mayor

ATTEST:

  
LETITIA LAMAGNA  
City Clerk

Adopted: March 20, 2019