

JUL 12 2021

City Manager's Office
Melbourne, Florida
FLORIDA'S SPACE COAST



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July 7, 2021

MEMORANDUM

TO: Frank Abbate, County Manager

RE: Item F.37., Resolution Modifying the Delegated Authority to the City of Melbourne and the Olde Eau Gallie Riverfront Community Redevelopment Agency

The Board of County Commissioners, in regular session on July 6, 2021, adopted Resolution No. 21-083, modifying the delegation of Community Redevelopment Agency powers to the City of Melbourne, and thereby the Olde Eau Gallie Riverfront Community Redevelopment Agency. Enclosed is a certified copy of the Resolution.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
RACHEL M. SADOFF, CLERK

A handwritten signature in cursive script, reading "Kimberly Powell".
Kimberly Powell, Clerk to the Board

/cld

Encl. (1)

cc: County Attorney
City of Melbourne
Budget Office
Finance

RESOLUTION NO. 2021-083

A RESOLUTION MODIFYING THE DELEGATION OF COMMUNITY REDEVELOPMENT AGENCY POWERS TO THE CITY OF MELBOURNE IN BREVARD COUNTY IN RESOLUTION 2000-249 TO CONFORM TO THE INTERLOCAL AGREEMENT DATED MAY 4, 2021; EXTENDING THE EXPIRATION DATE OF THE OLDE EAU GALLIE RIVERFRONT COMMUNITY REDEVELOPMENT DISTRICT; SOLIDIFYING BOUNDARIES FOR SAID DISTRICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners is the governing body of Brevard County (hereafter referred to as "the County"), the electors of which adopted a home rule charter in November 8, 1994, which became effective January 1, 1995; and

WHEREAS, section 163.410, Florida Statutes provides that in any county which adopted a home rule charter, the community redevelopment powers conferred by Part III of Chapter 163, Florida Statutes shall be exercised exclusively by the governing body of such county; and

WHEREAS, the County has, by Resolution 2000-249, pursuant to section 163.410, Florida Statutes, delegated authority to the City of Melbourne (hereinafter the "City") to create a community redevelopment agency; and

WHEREAS, the County provided for a conditional delegation of powers to the City, reserving the right to either revoke the delegation of authority to the City or to designate itself as the redevelopment agency at any time that the Board deems that it is necessary for the protection of the health, safety, welfare or fiscal interests of the public or the redevelopment area; and

WHEREAS, the County stated that if it revoked powers or substituted itself as the board, it would not (1) impair any contract made by the Community Redevelopment Agency (hereinafter the "Agency") prior to said action; (2) affect the obligation of the Agency as to any outstanding bonds or other evidence of indebtedness and (3) shall take all necessary or appropriate action to protect the interests of any holders of bonds issued by the Agency; and

WHEREAS, the County stated that if it revokes powers or substitutes itself as the board, the County shall consider, upon request from the Agency, the adoption of such resolutions as may be necessary from time to time for the Agency to issue bonds or other evidences of indebtedness; and

WHEREAS, the County, the City and the Agency have entered into an interlocal agreement dated May 4, 2021 (hereinafter the "Interlocal") governing what powers and projects the Agency will have through the end of its life; and

WHEREAS, the Board of County Commissioners finds that it is necessary for the

protection of the fiscal interests of the public to amend specific portions of its delegation of authority to the City of Melbourne to conform to said Interlocal.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA:

1. The foregoing recitals are true and correct and are incorporated by reference in this Resolution as findings.
2. This action is only applicable to the City of Melbourne as related to the Olde Eau Gallie Riverfront Community Redevelopment District and Agency. This action amends Brevard County's delegation of community redevelopment powers in Brevard County Resolution 2000-249, dated August 29, 2000 in order to conform said Resolution to the Interlocal Agreement between the Parties dated May 4, 2021.
3. The Board of County Commissioners finds that it is necessary for the protection of the health, safety, welfare and fiscal interests of the public that the City of Melbourne and the Olde Eau Gallie Riverfront Community Redevelopment Agency have certain powers amended as of the date of adoption of this Resolution, as follows:
 - a. The County amends the first paragraph of Section 1 of Resolution 2000-249 through the sentence ending in "subject to adjustment" as follows, where an underline indicates material added:

SECTION 1. Pursuant to Section 163.410, Florida Statutes, and subject to the conditions set forth in section 3 below, the Board of County Commissioners of Brevard County (hereinafter referred to as COUNTY) hereby delegates all powers under Part III, Chapter 163, Florida Statutes, to the City Council of the City of Melbourne, Florida (hereinafter referred to as CITY), to create, operate, and maintain the Olde Eau Gallie Riverfront Community Redevelopment Agency (hereinafter referred to as AGENCY) within the boundaries of the Olde Eau Gallie Riverfront Community Redevelopment District set forth above, subject to adjustment.

- b. The County deletes Section 1.(b) of Resolution 2000-249, and replaces Section 1.(b), as follows:

(b) The CITY's authority, and thereby the AGENCY's authority, to modify its community redevelopment plan to expand the boundaries of the Community Redevelopment District and Agency is hereby revoked.

- c. The County amends Section 1(j) of Resolution 2000-249, as follows where an underline indicates material added:

(j) The power to prepare a community redevelopment plan and modifications thereof,

all pursuant to Sections 163.360, 163.361, 163.362, Florida Statutes only to the extent that the current community redevelopment plan is amended to specifically identify the AGENCY's sole redevelopment project as the construction of a parking garage as set forth in the Interlocal Agreement dated May 4, 2021. Any authority to prepare and modify said plan beyond the project specified above shall require the approval of the COUNTY.

d. The County deletes Section 3.A. of Resolution 2000-249, and replaces Section 3.A. as follows:

A. Beginning October 1, 2021, the CITY's authority, and thereby the AGENCY's authority to expend AGENCY funds for all AGENCY expenses, including but not limited to operating and capital outlay expenses, is revoked, with the exception of (a) expenses necessary to meet the AGENCY's administrative and audit requirements required by Florida Statute, the Interlocal dated May 4, 2021, and Special Districts Office of the Florida Department of Economic Opportunity; and (b) expenses necessary to facilitate the construction of the parking garage and the long term indebtedness associated with it, as delineated in the Interlocal.

e. The County deletes Section 3.C. of Resolution 2000-249 and replaces Section 3.C. as follows:

C. Unless extended by further resolution of the COUNTY, any redevelopment agency created by the CITY under Resolution No. 2000-249 shall cease to exist as an AGENCY pursuant to Part III, Chapter 163, Florida Statutes on September 30, 2038. The COUNTY does not revoke the authority of the CITY to continue to contribute to the AGENCY tax increment fund through said expiration date of the AGENCY, or through any extension of the AGENCY expiration date that may amend this resolution in the future. In the event the AGENCY is able to complete the parking garage project and satisfy all indebtedness related said project prior to September 2038, in accord with the Interlocal Agreement dated May 4, 2021, the COUNTY revokes all other authorities except actions by the CITY and AGENCY to terminate the AGENCY prior to September 30, 2038.

f. The County amends Section 3 of Resolution 2000-249, to add the following paragraphs:

D. Notwithstanding said powers otherwise delineated in section 1 and 2 of Resolution 2000-249, the CITY's authority, and thereby the AGENCY's authority, pursuant to section 163.387(7), Florida Statutes is limited to exercising the options at section 163.387(7)(a), (b) or (c), Florida Statutes. The COUNTY revokes any authority for the CITY, and thereby the AGENCY, to select the option presented in section 163.387(7)(d), Florida Statutes. This is not intended to prohibit the AGENCY from reallocating AGENCY Funds to the parking garage project.

E. Notwithstanding said powers otherwise delineated in section 1 and 2 of Resolution 2000-249, the CITY's authority, and thereby the AGENCY's authority, to borrow money,

issue any kind of bond, pledge tax increment funds to a bond, incur indebtedness beyond twelve months, enter into contracts for services or supplies extending beyond twelve months, or apply for and accept advances, loans or any other repayable financial assistance, or to give such security as may be required for any of the above, is revoked, except as necessary to finance the construction of the parking garage project in downtown Eau Gallie provided said indebtedness (a) does not include a term that would exceed September 30, 2038, (b) is tax-exempt, and (c) does not exceed \$6.835 million in principal for the remaining term of the AGENCY.

F. In accordance with the Interlocal Agreement dated May 4, 2021, all powers delineated in section 1 and 2 of Resolution 2000-249 are conditioned upon the CITY and AGENCY performing the following: (a) amending the community redevelopment plan to state that the only project is the construction of the parking garage as reflected in the Interlocal Agreement dated May 4, 2021; (b) for a period of fifty (50) years, the CITY and AGENCY shall not charge parking fees for the public to park in the parking garage and shall reserve 90 percent of the spaces in said garage for the public; (c) the CITY and AGENCY shall execute a deed restriction to be recorded in the public records of Brevard County, Florida providing that the garage is to be used by the public without charge for a period of fifty (50) years; and (d) that said deed restriction shall provide enforcement rights to COUNTY and be recorded in the official public records of Brevard County, Florida. As such any powers of the CITY, and thereby the AGENCY, to do otherwise are hereby revoked.

G. All powers delineated in section 1 and 2 of Resolution 2000-249 are conditioned upon the CITY and AGENCY ensuring that reimbursement of administrative expenses, payable from COUNTY tax increment funds, shall not exceed five percent (5%) of the total COUNTY tax increment funding for fiscal year 2021-2022 and 2022-2023, and no COUNTY tax increment funds shall be expended for administrative expenses after October 1, 2023.

H. All powers delineated in section 1 and 2 of Resolution 2000-249 are conditioned upon the CITY and AGENCY ensuring that no tax increment funding is transferred outside the AGENCY trust fund accounts to city capital fund accounts.

I. All powers delineated in section 1 and 2 of Resolution 2000-249 are conditioned upon the CITY and AGENCY annually performing the following: The AGENCY shall prepare and submit to the COUNTY a report in the form set forth in Exhibit A of the Interlocal Agreement dated May 4, 2021. The AGENCY shall prepare and submit to the COUNTY an annual report of the AGENCY to include audited financial statements to the COUNTY, as required by section 163.387(8), Florida Statutes. The CITY and AGENCY agree to contractually require an independent auditor preparing the audit report to examine AGENCY expenditures and certify that all AGENCY tax increment fund revenues have been lawfully expended solely in compliance with and for community redevelopment purposes authorized by law, under the provisions of Chapter 163, Part III, Florida

Statutes, and the terms of this agreement. The City Manager of the CITY or Chairperson of the Agency governing body shall annually meet with the County Commissioner in whose District the AGENCY is located to discuss the annual and audit reports. The CITY, AGENCY, and COUNTY agree that, in accordance with its authority under section 125.01(x), Florida Statutes, at any time during the remaining term of this agreement, the COUNTY shall have the right to require the AGENCY to retain an independent auditor to conduct a performance audit paid for by the COUNTY.

J. The CITY and AGENCY's use of any powers delineated in section 1 and 2 of Resolution 2000-249 are conditioned upon the CITY's agreement, as agreed to in the Interlocal Agreement dated May 4, 2021, that the CITY will assume, and be fully liable for, any indebtedness owed by the AGENCY after the AGENCY's expiration date.

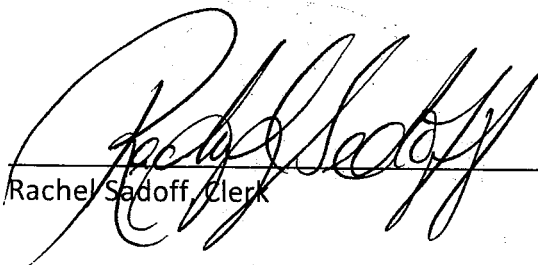
4. The County retains all authorities not specifically delegated to the City of Melbourne in Resolutions 2000-249, as so amended. All resolutions or parts thereof, including Resolution 2000-249, that may be determined to be in conflict with this amendment, are repealed.

5. If any section, subsection, sentence, clause, phrase, or portion of this Resolution, or Resolution 2000-249, as amended, 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 portion of this Resolution.

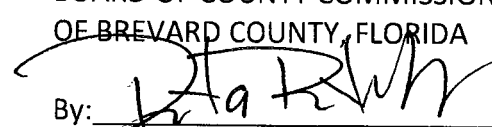
6. This resolution amending Resolution 2000-249 shall take effect on the date of adoption. The original resolution was valid and effective as to all actions taken by the City and the Agency through the date of adoption of this amendment.

DONE AND ADOPTED, this 6 day of July, 2021, in Regular Session by the Board of County Commissioners, Brevard County, Florida.

Attest:


Rachel Sadoff, Clerk

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA

By: 

Rita Pritchett, Chair

(as approved by the Board on JUL 06 2021, 2021)