

JOINT RESOLUTION

JOINT RESOLUTION OF THE CITY OF OKLAHOMA CITY, THE OKLAHOMA CITY ECONOMIC DEVELOPMENT TRUST, AND THE MYRIAD GARDENS FOUNDATION SETTING AND ESTABLISHING THE ANNUAL MANAGEMENT FEE AND ANNUAL PUBLIC SUPPORT FOR FACILITY MAINTENANCE IN THE TOTAL AMOUNT OF \$2,833,200 FOR THE OPERATION, MANAGEMENT, AND MAINTENANCE OF THE MYRIAD BOTANICAL GARDENS FOR THE 2021-2022 FISCAL YEAR; AND ALLOWING FOR AMENDMENTS TO THE ANNUAL MANAGEMENT FEE AND ANNUAL PUBLIC SUPPORT UPON SUBSEQUENT COUNCIL AND TRUST APPROVAL.

WHEREAS, the Myriad Gardens Foundation (“Foundation”), established in 1981, supports the Myriad Gardens by providing capital and operational funding, increasing public awareness and support, and promoting the highest horticultural, educational, and administrative standards; and

WHEREAS, effective June 14, 2011, the City of Oklahoma City (“The City”), the Oklahoma City Economic Development Trust (“OCEDT” or “Trust”), and the Foundation (collectively, the “parties”) entered into a Lease and Management Agreement (“Agreement”), in an effort to reduce public funding for the operational expenses of the Myriad Gardens; and

WHEREAS, effective July 5, 2016, the parties entered into the Amended and Restated Lease and Management Agreement (“Amended Agreement”), which agreement set forth the obligations of the parties regarding continued management, operations, and maintenance of the Myriad Gardens and associated facilities; and

WHEREAS, the Foundation has demonstrated, since it undertook operations of the Gardens on June 14, 2011, that it is capable of operating and administering the Myriad Gardens in a manner that provides excellent services to the public while also working to reduce public funding required toward the costs of operations and general maintenance of the Myriad Gardens; and

WHEREAS, there exists a continuing need to fund capital improvements to the Myriad Gardens that are not included within the funding provided toward the annual costs of operating and maintaining the Myriad Gardens; and

WHEREAS, Section 18 of the Amended Agreement provides as follows:

18. DETERMINATION OF ANNUAL MANAGEMENT FEE AND PUBLIC SUPPORT. By February 1st of each year, the Foundation shall prepare and submit to the Myriad Gardens Finance Committee a request for the Annual Management Fee and request for any other public support need for maintenance or capital improvements that are not the responsibility of the Foundation under Section [9] of this Agreement, to be funded from appropriations available to OCEDT for the next succeeding Fiscal Year. The request shall include any documents and information necessary to support the request for the Annual Management Fee and other public

support. The Foundation agrees to provide such additional information as the Committee, The City, or OCEDT may request. The Committee shall review and evaluate the requested Annual Management Fee and other public support and shall make a recommendation to OCEDT and to the City Council, by and through the City/Trust Manager, as to the approval and amount of the Annual Public Support. The recommendation should be submitted to the City/Trust Manager, or his or her designee, before March 1st of each year to enable consideration and funding by OCEDT. In the event that the Committee fails to make any recommendation, the request for the Annual Public Support shall be forwarded to the City Council, or the Trustees of OCEDT for consideration as submitted by the Foundation. OCEDT shall inform the Foundation of the Annual Public Support each year, which shall be subject to Council approval; and;

WHEREAS, on February 24, 2021, Myriad Gardens Foundation staff met with City staff in order to review the proposed management fee to be considered by the Finance Committee at a later date; and

WHEREAS, the Amended Agreement requires the Myriad Gardens Finance Committee, which consist of four members, one selected by the Chairman of OCEDT (which selection shall be a Trustee of the Trust) (Trustee Larry McAtee), one selected by the Mayor of The City (which selection shall be a member of the City Council) (Ward 5 Councilman David Greenwell), and two selected by the Foundation (Mr. Jim Tolbert and Mr. J. Larry Nichols) to meet and consider the budget proposed by the Foundation, including the amount of the Annual Management Fee for each subsequent Fiscal Year; and

WHEREAS, on February 24, 2021, the Finance Committee met with designated City staff in attendance to discuss the Foundation's proposed management fee (Annual Management Fee) and request for maintenance and support for required and needed maintenance to facilities for the 2021-2022 fiscal year; and

WHEREAS, the Amended Agreement requires OCEDT and City Council to annually set and establish, by Joint Resolution with the Foundation, the amount of Annual Management Fee and the amount of total Annual Public Support to be paid to the Foundation as consideration for Management and Maintenance of the Myriad Gardens for each subsequent fiscal year; and

WHEREAS, the Finance Committee, upon consideration of the recommendation of the Foundation, and upon review of supporting documents, recommends that the The City and OCEDT find it appropriate, desirable, and in the public interest to approve this Joint Resolution setting the Annual Management Fee for Fiscal Year 2021-2022 at \$2,663,200, which shall be funded from the General Fund; and

WHEREAS, the Foundation has finalized a list of maintenance and public improvement items that need immediate and prompt attention during Fiscal Year 2021-2022; and

WHEREAS, the list of maintenance and public improvement items requested by the Foundation includes the following:

1. Crystal Bridge Conservatory Repairs
2. Swiss Pearl Replacement
3. Thunder Fountain Surface Repairs
4. Circulating Water Vault for Water Steps
5. New Utility Carts

WHEREAS, the Foundation has investigated the estimated cost for performing the listed maintenance and public improvements and is requesting Annual Public Support for maintenance and public improvements for the 2021-2022 fiscal year in the amount of \$170,000; and

WHEREAS, staff has reviewed and analyzed the list of requested maintenance and public improvement items and find that the items on the list referred by the Foundation are in need of immediate and prompt attention during Fiscal Year 2021-2022 and recommend that the City Council and Trustees of OCEDT authorize and approve a fee for the Annual Public Support for maintenance and public improvements in an amount not to exceed \$170,000, which may be paid from the City's capital improvement revenues; and

WHEREAS, the City and Trust desire to approve this Joint Resolution in order to provide for the most successful management, operation, and administration of the Myriad Gardens, so as to achieve the Gardens' potential as a community and economic asset and to maximize its potential as one of the truly great urban parks in the country.

NOW, THEREFORE, BE IT JOINTLY RESOLVED by The City, and by the Trust, and by the Foundation that:

- 1) The Annual Management Fee for Fiscal Year 2021-2022 is hereby set and established at an amount not to exceed \$2,663,200, which shall be paid from general fund revenues.
- 2) The Annual Public Support for Fiscal Year 2021-2022 is hereby set and established at an amount not to exceed \$170,000, which may be paid from capital improvement fund revenues.

BE IT FURTHER JOINTLY RESOLVED by The City, the Trust, and the Foundation that the Finance Committee may meet as needed to discuss and make recommendations throughout the year as to make recommendations for adjustments or amendments to the Annual Management Fee or the Total Annual Public Support needed to account for unexpected and increased operational costs to the Foundation or for unexpected emergent maintenance or repairs to the facilities, for subsequent approval by the City Council and the Trust.

[The remainder of this page is intentionally left blank.]

ADOPTED and APPROVED this 11th day of June, 2021, by the
Myriad Gardens Foundation.

MYRIAD GARDENS FOUNDATION

By: [Signature]
James Tollert, Chair Emeritus

ADOPTED and APPROVED this 22nd day of June, 2021, by the
Trustees of the Oklahoma City Economic Development Trust.

**OKLAHOMA CITY ECONOMIC
DEVELOPMENT TRUST, a public trust**

ATTEST:

[Signature]
Amy K. Simpson, Secretary



[Signature]
Todd Stone, Chairman

ADOPTED and APPROVED by the Mayor and City Council of the City of Oklahoma
City this 6th day of July, 2021.

THE CITY OF OKLAHOMA CITY

ATTEST:

[Signature]
Amy K. Simpson, City Clerk



[Signature]
David Holt, Mayor
Nikki Nice, Vice Mayor

REVIEWED for form and legality.

[Signature]
Assistant Municipal Counselor