

**A RESOLUTION OF
THE CITY OF BLUE RIDGE ISSUED
PURSUANT TO ITS' CHARTER AND OTHER LAWS**

PASSED: December 11, 2018

RESOLUTION NO. BR 2018-12-11

**AN ACTIVATING RESOLUTION BY THE CITY COUNCIL
FOR THE CITY OF BLUE RIDGE, GEORGIA FOR THE
ACTIVATION OF A DOWNTOWN DEVELOPMENT
AUTHORITY (“DDA”) AS AUTHORIZED BY O.C.G.A. § 36-
42-5; TO APPOINT DIRECTORS OF THE DDA; TO
ESTABLISH BOUNDARIES OF THE DDA; TO PROVIDE FOR
THE REMOVAL OF DIRECTORS FOR CAUSE; TO
PROVIDE A SUNSET PROVISION AND FOR OTHER
PURPOSES;**

WHEREAS, General Assembly has created Downtown Development Authorities for each municipal corporation but requires the municipality to adopt an activating resolution; and

WHEREAS, the City of Blue Ridge determines that a DDA is vital to maintaining a vibrant and successful Central Business District and that said DDA will promote the public good and general welfare, tourism, trade, commerce, industry, development, redevelopment, re-location of businesses into the boundaries of the DDA and further create employment opportunities; and

WHEREAS, the City, pursuant to O.C.G.A. § 36-42-5, and for the reasons set forth in the above paragraph and others; finds there is a need for a DDA to operate within the boundaries of the City of Blue Ridge, Georgia and that said

operate will be in the best interests of the citizens and businesses located within the City limits of Blue Ridge, Georgia;

NOW THEREFORE LET IT BE RESOLVED AND ADOPTED;

SECTION I

Each and every provision contained within this Resolution shall be deemed material and shall be strictly construed. The failure by any director or officer of the DDA, or by the Board of the DDA, to comply with the terms of this Resolution shall render this activation resolution rescinded and as if said Resolution never occurred. Accordingly, pursuant to O.C.G.A. § 36-42-5, any further operation of the DDA shall be unlawful.

1.

Activation

There is hereby activated the public body corporate and politic to be known as the Downtown Development Authority of the City of Blue Ridge, Georgia (“DDA”).

2.

Designation of Area

The downtown development area shall be as more particularly described and depicted on the attached Exhibit “A” (hereinafter “DDA Area”).

3.

Qualifications and Appointment of Directors of the DDA

The members of the board of directors shall be (1) Taxpayers residing in the City limits of the City of Blue Ridge, Georgia; (2) Owners or operators of businesses located within the DDA Area and who reside within Fannin County, Georgia; (3) any combination of (1) and (2); and (4) Notwithstanding any provision of this paragraph, one director appointed to the Board may reside outside of Fannin County; provided, however, that such appointed director owns a business within the DDA Area and is a resident of the State of Georgia provided, however, if, subsequent to the appointment of a director who does not reside within Fannin County, Georgia, said director ceases to own a business within the DDA Area that director shall immediately relinquish his or her seat on the board. At least four directors shall be persons who, in the judgment of the Mayor and City Council of the City of Blue Ridge, Georgia, either have or represent a party who has an economic interest in the redevelopment and revitalization of the DDA Area. The City Attorney shall confirm the qualifications of each director to serve on the Board of the DDA. If an initial appointed director fails to meet the qualifications set forth herein and in Georgia law, the applicable appointing authority shall

appoint a replacement director. If it is determined that a previously qualified director has ceased to be qualified, the City Attorney shall so inform the applicable appointing authority and a replacement director shall be appointed to finish the remainder of the original director's term.

4.

Appointment of Directors

The Mayor of the City of Blue Ridge shall appoint one director to the Board of Directors for a term of six years.

The Mayor hereby appoints: Jay Hamilton for a term of six years.

By majority vote on each proposed director or by unanimous consent, the City Council shall appoint five directors with two directors serving a term of two years, one director serving a term of four years and two directors serving a term of six years.

The City Council hereby appoints:

Gene Holcomb for a term of two years.

Jeff Depaola for a term of four years.

Michelle Moran for a term of four years.

Nichole Potzauf for a term of six years.

Cesar Martinez for a term of six years.

Pursuant to O.C.G.A. § 36-42-4, Nathan Fitts is hereby appointed to a term of two years provided, however, if said director ceases to be an elected official of the City of Blue Ridge, Georgia, the director position shall immediately be deemed vacant as a matter of law and the current City Council shall appoint a qualified director for the remainder of said term.

At the conclusion of each director's terms set forth herein, the terms shall be four years thereafter and the applicable appointing authority shall have the complete and sole discretion to either re-appoint the director or to appoint a new person as a director.

5.

Conflicts of Interests of Directors

Each director serving on the DDA shall comply with the provisions of O.C.G.A. § 45-10-3, relating to a code of ethics of members of boards, commissions, and authorities and shall not engage in any transaction with the DDA. However, pursuant to O.C.G.A. § 36-67A-1, the provisions of paragraph (9) of O.C.G.A. § 45-10-3 and paragraph (1) of O.C.G.A. § 36-67A-1 shall be deemed to have been complied with and the DDA may purchase from, sell to, borrow from, loan to, contract with, or otherwise deal with any director or member or any organization or person with which any director or member of the DDA is in any way interested or involved, provided (1) that any interest or involvement by

such director or member is disclosed in advance to the directors or members of the authority and is recorded in the minutes of the authority, (2) that any interest or involvement by such director with a value in excess of \$200.00 per calendar quarter is published by the authority one time in the legal organ in which notices of sheriffs' sales are published in each county affected by such interest, at least 30 days in advance of consummating such transaction, (3) that no director having a substantial interest or involvement may be present at that portion of an authority meeting during which discussion of any matter is conducted involving any such organization or person, and (4) that no director having a substantial interest or involvement may participate in any decision of the authority relating to any matter involving such organization or person. As used herein, a "substantial interest or involvement" means any interest or involvement which reasonably may be expected to result in a direct financial benefit to such director or member as determined by the authority, which determination shall be final and not subject to review. See O.C.G.A. § 36-67A-1 and O.C.G.A. § 45-10-3.

6.

Removal of Directors for Cause

A Director may not be removed at the pleasure of the appointing authority. However, a Director can be removed for cause by a majority vote of the City Council and an endorsement of the removal by the Mayor. "Cause" means, for

purposes of this Resolution, any of the following (a) a conviction for any felony or other serious crimes of moral turpitude; (b) commission of fraud; (c) failure to meet the qualifications set forth in Paragraph 3 of this Resolution; (d) failure to comply with the conflict of interest requirements set forth in Paragraph 5 of this Resolution and/or O.C.G.A. § 36-67A-1 or O.C.G.A. § 45-10-3; (e) having three consecutive unexcused absences from meetings of the Board; and (f) publically engaging in outrageous and inappropriate conduct or publically making outrageous and inappropriate statements which bring public shame, embarrassment or valid ridicule upon the City or the DDA. For purposes of this Section, “outrageous conduct or statements” shall mean conduct or speech so extreme in degree, as to go beyond all possible bounds of decency, and to be regarded as atrocious, and utterly intolerable in a civilized community.

If the City is going to remove a director for cause, no later than fifteen (15) days before the Council Meeting at which the removal vote will be conducted, the City Attorney shall provide said director with a detailed written description of the specific alleged reasons for consideration of removal for cause and that the director has the right to appear before the City Council. The director shall then have ten (10) days to respond in writing and have the opportunity to appear before the Mayor and City Council at said meeting, with or without counsel, to present arguments on his or her behalf and before the vote on removal is conducted.

A director of the DDA may also be suspended if he or she is prosecuted for a felony by any State or the United States. For purposes of this Resolution, “prosecuted” shall mean the indictment by a grand jury or a formal accusation filed by a prosecutor. A suspension shall follow the same procedure set forth in this Paragraph for removal except that the appointing authority may appoint a temporary replacement director who shall hold office until the prosecution is resolved at the trial level or until the expiration of the suspended director’s term. If a suspended director is acquitted or the prosecution is otherwise terminated, upon proper proof, the director shall be reinstated for the remaining portion, if any, of the term during which the suspension occurred.

7.

Bylaws and General Counsel

Subject to mandatory ratification by the City Council, the Board of the DDA shall be entitled to enact bylaws which comply with the terms of this Resolution and to amend same from time to time and as applicable. The City Attorney shall serve as general counsel to the DDA. If a conflict should arise between the DDA and the City [such as an intergovernmental agreement], the City Attorney shall represent the City and the Board shall be authorized to hire temporary outside counsel to represent the DDA until such time as the conflict is resolved.

Powers and Duties

8.

Subject to the terms and conditions set forth in this Resolution, the DDA shall have all of the powers necessary or convenient to carry out and effectuate the purposes of O.C.G.A. § 36-42-1 et seq. and without limiting the generality of the foregoing, the power: (1) To bring and defend actions; (2) To adopt and amend a corporate seal; (3) To make and execute contracts, agreements, and other instruments necessary or convenient to exercise the powers of the authority or to further the public purpose for which the authority is created, including, but not limited to, contracts for construction of projects, leases of projects, contracts for sale of projects, agreements for loans to finance projects, contracts with respect to the use of projects, and agreements to join or cooperate with an urban residential finance authority, created by the City of Blue Ridge within the DDA Area is located pursuant to the provisions of applicable provisions of Georgia law, in the exercise, either jointly or otherwise, of any or all of its powers for the purpose of financing, including the issuance of revenue bonds, notes, or other obligations of the DDA, planning, undertaking, owning, constructing, operating, or contracting with respect to any projects located within the DDA Area, for projects under subparagraph (B) of paragraph (6) of Code Section 36-42-3, within the territorial boundaries of the City of Blue Ridge, Georgia; (4) To acquire by purchase, lease,

or otherwise and to hold, lease, and dispose of real and personal property of every kind and character, or any interest therein, in furtherance of the public purpose of the DDA; (5) To finance (by loan, grant, lease, or otherwise), refinance, construct, erect, assemble, purchase, acquire, own, repair, remodel, renovate, rehabilitate, modify, maintain, extend, improve, install, sell, equip, expand, add to, operate, or manage projects and to pay the cost of any project from the proceeds of revenue bonds, notes, or other obligations of the authority or any other funds of the authority, or from any contributions or loans by persons, corporations, partnerships (whether limited or general), or other entities, all of which the DDA is authorized to receive, accept, and use; (6) To borrow money to further or carry out its public purpose and to execute revenue bonds, notes, other obligations, leases, trust indentures, trust agreements, agreements for the sale of its revenue bonds, notes, or other obligations, loan agreements, mortgages, deeds to secure debt, trust deeds, security agreements, assignments, and such other agreements or instruments as may be necessary or desirable, in the judgment of the DDA, to evidence and to provide security for such borrowing; (7) To issue revenue bonds, notes, or other obligations of the DDA and use the proceeds thereof for the purpose of paying, or loaning the proceeds thereof to pay, all or any part of the cost of any project and otherwise to further or carry out the public purpose of the DDA and to pay all costs of the DDA incidental to, or necessary and appropriate to, furthering or carrying

out such purpose; (8) To make application directly or indirectly to any federal, state, county, or municipal government or agency or to any other source, whether public or private, for loans, grants, guarantees, or other financial assistance in furtherance of the DDA's public purpose and to accept and use the same upon such terms and conditions as are prescribed by such federal, state, county, or municipal government or agency or other source; (9) To enter into agreements with the federal government or any agency thereof to use the facilities or services of the federal government or any agency thereof in order to further or carry out the public purposes of the DDA; (10) To contract for any period, not exceeding 50 years, with the State of Georgia, state institutions, or any municipal corporation or county of this state for the use by the authority of any facilities or services of the state or any such state institution, municipal corporation, or county, or for the use by any state institution or any municipal corporation or county of any facilities or services of the DDA, provided that such contracts shall deal with such activities and transactions as the DDA and any such political subdivision with which the DDA contracts are authorized by law to undertake; (11) To extend credit or make loans to any person, corporation, partnership (whether limited or general), or other entity for the costs of any project or any part of the costs of any project, which credit or loans may be evidenced or secured by loan agreements, notes, mortgages, deeds to secure debt, trust deeds, security agreements, assignments, or such other

instruments, or by rentals, revenues, fees, or charges, upon such terms and conditions as the DDA shall determine to be reasonable in connection with such extension of credit or loans, including provision for the establishment and maintenance of reserve funds; and, in the exercise of powers granted by this chapter in connection with any project, the DDA shall have the right and power to require the inclusion in any such loan agreement, note, mortgage, deed to secure debt, trust deed, security agreement, assignment, or other instrument of such provisions or requirements for guaranty of any obligations, insurance, construction, use, operation, maintenance, and financing of a project, and such other terms and conditions, as the DDA may deem necessary or desirable; (12) As security for repayment of any revenue bonds, notes, or other obligations of the authority, to pledge, mortgage, convey, assign, hypothecate, or otherwise encumber any property of the authority (including, but not limited to, real property, fixtures, personal property, and revenues or other funds) and to execute any lease, trust indenture, trust agreement, agreement for the sale of the DDA's revenue bonds, notes, or other obligations, loan agreement, mortgage, deed to secure debt, trust deed, security agreement, assignment, or other agreement or instrument as may be necessary or desirable, in the judgment of the authority, to secure any such revenue bonds, notes, or other obligations, which instruments or agreements may provide for foreclosure or forced sale of any property of the authority upon default in any

obligation of the DDA, either in payment of principal, premium, if any, or interest or in the performance of any term or condition contained in any such agreement or instrument. The State of Georgia, on behalf of itself and each county, municipal corporation, political subdivision, or taxing district therein, waives any right it or such county, municipal corporation, political subdivision, or taxing district may have to prevent the forced sale or foreclosure of any property of the DDA upon such default and agrees that any agreement or instrument encumbering such property may be foreclosed in accordance with law and the terms thereof; (13) To receive and use the proceeds of any tax levied by a the City of Blue Ridge to pay the costs of any project or for any other purpose for which the DDA may use its own funds; (14) To receive and administer gifts, grants, and devises of money and property of any kind and to administer trusts; (15) To use any real property, personal property, or fixtures or any interest therein or to rent or lease such property to or from others or make contracts with respect to the use thereof, or to sell, lease, exchange, transfer, assign, pledge, or otherwise dispose of or grant options for any such property in any manner as it deems to the best advantage of the DDA and the public purpose thereof; (16) To acquire, accept, or retain equitable interests, security interests, or other interests in any real property, personal property, or fixtures by loan agreement, note, mortgage, deed to secure debt, trust deed, security agreement, assignment, pledge, conveyance, contract,

lien, loan agreement, or other consensual transfer in order to secure the repayment of any moneys loaned or credit extended by the DDA; (17) To appoint, select, and employ engineers, surveyors, architects, urban or city planners, fiscal agents, attorneys, and others and to fix their compensation and pay their expenses; (18) To encourage and promote the improvement and revitalization of the DDA Area and to make, contract for, or otherwise cause to be made long-range plans or proposals for the DDA Area in cooperation with the City of Blue Ridge, Georgia; (19) To exercise any power granted by the laws of this state to public or private corporations which is not in conflict with the public purpose of the DDA; (20) To do all things necessary or convenient to carry out the powers conferred by O.C.G.A. § 36-42-1 et seq.; (21) To serve as an urban redevelopment agency pursuant to Georgia law; (22) To contract with a municipal corporation to carry out supplemental services in a city business improvement district established pursuant to O.C.G.A. § 36-43-1 et seq.; and (24) To serve as a redevelopment agency pursuant to O.C.G.A. § 36-44-1 et seq. See O.C.G.A. § 36-42-8.

Funding

9.

The City may fund the DDA by direct allocation from the City's budget, by enacting a tax for said DDA Area pursuant to Article IX, Section II, Paragraph VI of the Constitution of the State of Georgia and O.C.G.A. § 36-42-16, by taking the

actions described in O.C.G.A. § 48-5-220 and 48-5-350, by providing assistance via the City's employees, officials or attorneys or by rendering other assistance or funding that is lawful in the State of Georgia. However, the City is under no duty or obligation to provide financial assistance or other assistance of any sort and any and all such assistance or funding is completely voluntary.

No Liability for DDA Financial Obligations

10.

No bonds, notes, or other obligations of, and no indebtedness incurred by the DDA shall constitute an indebtedness or obligation of the City of Blue Ridge, Georgia and no act of the DDA shall constitute or result in the creation of an obligation or debt of the City of Blue Ridge, Georgia. However, pursuant to O.C.G.A. § 36-42-6, the City of Blue Ridge, Georgia may disapprove any proposed issue of revenue bonds, notes, or other obligations of the DDA.

Delivery of this Resolution

11.

Upon passage of this Resolution, the Clerk is hereby directed to transmit and file this Resolution with the Secretary of State and with the Georgia Department of Community Affairs.

SECTION 2

SEVERABILITY

If any paragraph, subparagraph, sentence, clause, phrase, or any portion of this Resolution shall be declared invalid or unconstitutional by any court of competent jurisdiction or if the provisions of any part of this Resolution as applied to any particular situation or set of circumstances shall be declared invalid or unconstitutional, such invalidity shall not be construed to effect the portions of this Resolution not so held to be invalid, or the application of this Resolution to other circumstances not so held to be invalid. It is hereby declared to be the intent of the City Council of the City of Blue Ridge to provide for separate and divisible parts, and it does hereby adopt any and all parts hereof as may not be held invalid for any reason.

SECTION 3.

EFFECTIVE DATE

The effective date of this Resolution shall be immediately upon its passage by the City Council and this Resolution shall last until January 1, 2025 at which time this Resolution will expire as a matter of law unless renewed by the City Council. This is an intentional sunset provision such that, unless renewed, on January 1, 2025 this activating resolution shall expire and, while the DDA will still exist, the DDA shall exist in the same form as the DDA existed prior to the

enactment of this Resolution and shall require another activating resolution to begin operations and to avoid violation of O.C.G.A. § 36-42-5.

SO RESOLVED, this 11 day of December, 2018.

BLUE RIDGE CITY COUNCIL

By:

Mayor

Councilperson

Councilperson

Councilperson

Councilperson

Councilperson

Attest:

Kelsey Ledford, City Clerk

Exhibit "A" Downtown Development District



Overview



Legend

-  Parcels
-  Roads