

LEGACY DECATUR BOARD MEETING

Wednesday, May 24, 2023

5:00 p.m.

In Person Meeting at Decatur Legacy Park

(Hawkins Dining Hall – Rear of the Administration Building)

AGENDA

Executive Session for the purpose of discussing personnel issues in accordance with O.C.G.A. §50-14-4(b)

1. Call to order regular business meeting
2. Approval of Minutes from March 23, 2023 board meeting
3. FY22 Year End and FY23 1st Quarter Report
4. ACTION ITEMS
 - A. Legacy Park Wayfinding Sign Project Phase I
Recommend partnering with the City of Decatur to provide 50% of the Phase I contract with Rite Lite Signs, Inc in the amount of \$65,504 and a project budget of \$73,000 using \$25,000 budgeted in the FY23 Legacy Decatur budget and up to \$15,000 from Fund Balance to fully fund the project. The City will provide 50% of the cost through the Public Facility Authority Fund.
 - B. Operational Management Agreement
Recommend approval of renewal agreement between the City of Decatur and Decatur Legacy Project, Inc (Legacy Decatur) for program and operational management of Legacy Park
 - C. Appointment of New Executive Director of Decatur Legacy Project, Inc. (Legacy Decatur)

Legacy Decatur Board Meeting

Minutes - March 23, 2023

The regular meeting of the Legacy Decatur board was called to order by Chair Tony Powers. Board members attending: Andrea Arnold, Mark Ethun, Peggy Merriss, Paul Mitchell, Ed Bowen, and Brian Smith. Board members Allan Mast and Patti Garrett joined on Zoom. Also present: Madeleine Henner, Sushma Barakoti, Marmar Stewart, and Zoe Seiler.

Staff presented updates for the completion of the inclusive playground, the preliminary design for the Postal Pond Boardwalk, the plans for Bicentennial Celebrations, the steps towards obligated the Creative Village Community Project Funding, and the initial discussions around a parking plan.

The minutes of the January 26, 2023 business meeting were presented. On a motion by Mark Ethun, seconded by Brian Smith and all board members present voting aye, the board approved the minutes as presented.

Madeleine Henner introduced Refugee Women's Network (RWN) Executive Director Sushma Barakoti and Entrepreneurship Development Coordinator Marmar Stewart to share RWN's need for a commercial kitchen and their vision of a commercial kitchen at Legacy Park. Under the proposed agreement, Legacy Decatur and the City of Decatur would be responsible for the capital improvements while RWN would clean, paint, and supply any appliances and equipment needed for a commercial kitchen. The scope of work for the capital improvements include demolition of the existing loading dock and construction of a new loading lock with ramp and stairs to provide accessible, exterior access into the kitchen; demolition of existing northern kitchen janitorial closets and construction of a single ADA compliant bathroom; upgrade to the electrical system; installation of new stainless steel sink in the warming kitchen with connection and connection to existing grease traps to meet code requirements; and an installation between the warming kitchen and two other kitchen areas with emergency exit capabilities. These capital improvements are expected to cost \$80,000. Legacy Decatur and RWN staff will work together to fundraise to offset those costs.

Andrea Arnold clarified that the \$80,000 is City capital funds that are identified in the PFA. Patti Garrett inquired about the fundraising capacity in addition to the Bicentennial Fundraising. Paul Mitchell requested the total cost of the project. Sushma Barakoti added that in addition to the \$80,000 to cover capital expenditures, Refugee Women's Network expects their part of the project will cost between \$150,000 to \$200,000. Brian Smith suggested that the details discussed in the meeting would be outlined in greater specificity in the Letter of Intent and again in the lease, which would come before the board for approval. Tony Powers reminded the board that staff will need to prepare for the City Commission meeting to request the PFA funding.

On a motion by Ed Bowen, second by Brian Smith and all board members present voting aye, the board authorized the Executive Committee to review and approve a negotiated letter of

intent to move this concept forward and provide the framework for a lease. Legacy Decatur staff will bring the lease to the full board for approval.


Madeleine Henner updated the board about the current standing with the Decatur Arts Alliance MOU. Arts Alliance shall be responsible for the management and operations of the art studio aspect of the Creative Village. Arts Alliance shall review artistic portfolios and credentials of tenants and assure a variety of artistic mediums are represented in the art studios and residential spaces. Arts Alliance will receive 10% of Creative Village rental revenue, which will be dedicated to the sponsorship of arts activities at Legacy Park. With the projected revenue just over \$100,000, 10% for the Arts Alliance would be approximately \$10,000. Mark Ethun asked to make sure that the amount was appropriate for the services provided. Andrea Arnold clarified that the 10% could be used for programming and operations.

On a motion by Peggy Merriss, second by Ed Bowen and all board members present voting aye, the board authorized the finalization of a management agreement based on the terms already discussed for review and approval by the executive committee.

There was no additional business. On a motion by Brian Smith, second by Peggy Merriss and all board members present voting aye, the board voted to adjourn the meeting.

LEGACY | DECATUR

MEMORANDUM

TO: LEGACY DECATUR BOARD OF DIRECTORS
FROM: LYN MENNE, EXECUTIVE DIRECTOR 
RE: LEGACY PARK WAYFINDING PROJECT PHASE I AUTHORIZATION
DATE: MAY 16, 2023

The purpose of this memorandum is to recommend the approval of a contract with Rite Lite Signs, Inc in the amount of \$69,504.00 for the fabrication and installation of directional and informational signage at Decatur Legacy Park. This project is based on the sign design plan developed by Decatur resident Adam Pinsley. The design was presented to the Decatur City Commission during a work session in April 2022 and approved by the Legacy Decatur Board. As activity at Legacy Park increases, the need for an expanded and uniform wayfinding signage program becomes even more important.


We received two bids on the project. The low bid of \$35,778.00 was submitted by CGS Contruction for \$35,778.00 This bid was rejected because it did not include the required unit costs for sign types and provided no examples of sign fabrication and installation projects. The Rite Lite Signs Inc. bid provided unit costs and included multiple examples of sign fabrication and installation projects including multiple examples and references from other municipal projects. Based on the cost of the four entrance signs installed at Legacy Park in 2020, the Rite Lite Signs, Inc. project budget is in-line with market costs and the estimated project cost.

The Phase I project includes new entrance signs at the park, directional signs throughout the park to various buildings, recreational and activity centers, building identifiers, and information kiosks. A planned Phase II will add additional trail marker signs and signage as required for the planned track facility. The bid includes the removal and storage of the existing entrance signs. These signs will be re-lettered for installation at the Oakhurst Recreation facility and at other city parks.

The cost for this project will be shared by the Public Facilities Authority Fund and Legacy Decatur, Inc. The funds for the Wayfinding Sign project are included in both the PFA and the Legacy Decatur budget. The City Commission approved the contract and authorized use of PFA funds at their May 15th meeting conditioned on approval of funding by the Decatur Legacy Board. I recommend authorization to use \$25,000 budgeted for this project in our FY23 budget and up to \$15,000 from fund balance to complete the entire Phase I installation.

Memorandum

TO: Legacy Decatur Board of Directors

FROM: Lyn Menne 
Executive Director

DATE: May 16, 2023

RE: Legacy Park Operational Management Agreement Renewal

The purpose of this memorandum is to recommend that the Legacy Decatur Board approve the operational management agreement renewal with the City of Decatur to manage the on-going operations and implementation of the master plan for Decatur Legacy Park.

The City Commission and Legacy Decatur entered into the initial agreement in August 2020. The term of that agreement expires June 20, 2023, and requires any consideration of an extension to occur with the respective governing bodies by May 31, 2023. The City Commission adopted the extension agreement at their May 15, 2023, meeting.

Attached is a copy of the revised agreement and the recommendation memorandum from the City Manager to the City Commission outlining the purpose of the agreement and recommending adoption.

The intent of the original agreement was that Legacy Decatur would generate enough revenue through building leases and event rental fees to cover operational costs at Decatur Legacy Park. The extension agreement establishes a specific management fee that is reduced each year and includes no management fee payment during the final year of the agreement. The extension confirms the goal of covering operational costs from revenues generated at the park in clear and concise language in a new Section 5-Compensation. A set fee of \$66,390.00 will be paid for the period July 1, 2023, to June 30, 2024. For the time period July 1, 2024, to June 30, 2025, the management fee is reduced to \$33,195.00. During the final year of the extension agreement from July 1, 2025, to June 30, 2026, Legacy Decatur will receive no management fee payment. This extension agreement includes a possible adjustment clause (Section 5.2) to reinstate a management fee payment should rental revenues be reduced as a result of actions beyond the control of Legacy Decatur.

The extension agreement changes the way that net revenue from Legacy Park operations are handled. (Section 2.6.2) In the past, Legacy Decatur was allowed to retain surplus for use in funding projects at Legacy Park. At the recommendation of the City Attorney, Legacy Decatur must return any surplus revenue to the City of Decatur at the end of each fiscal year. These funds will be held in the Public Facility Authority Fund to be used for capital projects at Decatur Legacy Park.

Finally, the extension agreement clarifies that the city is responsible for routine building maintenance, repairs and cleaning at Legacy Park (Section 2.2.3) It outlines the process by which Legacy Decatur staff will work with the City Public Works Dept leadership team to include anticipated expenses in these areas as part of the City's annual budget. It also confirms that capital project costs will be provided to the City Manager as part of the annual city capital budget. This change addresses confusion over funding responsibilities in these areas and allows Legacy Decatur to focus specifically on the cost of operations, leasing and programming at Legacy Park.


It is recommended that the Legacy Decatur Board approve the renewal of the Operational Management Agreement and authorize the Executive Director to execute an agreement with the City of Decatur that is substantially similar to the draft attached to the City Manager's memorandum.



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Memorandum

TO: City Commission

FROM: Andrea Arnold 
City Manager

DATE: May 9, 2023

RE: Legacy Park Operational Management Agreement Renewal

The purpose of this memorandum is to recommend that the City Commission renew the operational management agreement with Decatur Legacy Project, Inc. to manage the ongoing operations and implementation of the master plan for Decatur Legacy Park.

The City Commission approved the initial agreement with Decatur Legacy Project, Inc. in August 2020. The term of that agreement expires June 20, 2023 and requires any consideration of an extension to occur with the respective governing bodies by May 31, 2023.

As described in the Legacy Park Master Plan, the operational management agreement engaged with the Decatur Legacy Project to 1) manage the day-to-day operations of the property including administrative support of tenants, lease management and coordination of property maintenance and repairs; 2) coordinate master plan implementation including RFP development and recommendations to the City Commission for specific projects in the plan; and 3) ensure the financial viability of park operations including the development of reliable revenue streams, identification of grant and foundation funding, and budgeting oversight.

During the term of the agreement the Decatur Legacy Project has fulfilled the responsibilities of the agreement and it is recommended that the agreement be renewed to allow the operational management to continue. For example, the property generates steady revenue from multiple long-term facility leases as well as special events such as weddings and private parties; the property is consistently activated with community events ranging from volunteer activities to festivals; Decatur Legacy Project staff have overseen and managed grants for projects on the property including the CDBG grant for the

inclusive playground and the Community Project Funding for the Artists Village; Decatur Legacy Project staff have overseen capital projects including the barn renovations and are currently engaged in the Legacy Park track and field project; and, staff have been involved in many of the tasks related to the South Housing Village.

As stated in 2020, the ultimate goal is that the Decatur Legacy Project will generate revenue from leases, programs and activities that eventually will eliminate reliance on the City for financial support. In fiscal year 2021-2022, the administrative cost payment from the City to the Decatur Legacy Project for the management services totaled \$157,070. In fiscal year 2022-2023 that amount has dropped to \$66,390 and is expected to remain at that amount for fiscal year 2023-2024. The proposed agreement recommends a reduction in the administrative cost payment, resulting in no payment in the final year of the three year agreement. The agreement would allow for an adjustment to the administrative payment for circumstances beyond the control of the Decatur Legacy Project impacting its ability to generate revenue from other sources.

It is recommended that the City Commission approve the renewal of the Operational Management Agreement and authorize the City Manager to execute an agreement with the Decatur Legacy Project, Inc. that is substantially similar to the following draft.

**OPERATIONAL MANAGEMENT AGREEMENT
FOR LEGACY PARK**

THIS AGREEMENT is made and entered into as of this 1st day of July, 2023, between the **City of Decatur**, a municipal corporation of the State of Georgia (“City”), and **Decatur Legacy Project, Inc.**, a Georgia nonprofit corporation and tax exempt organization pursuant to Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the “Code”).

WHEREAS, in 2017, the Public Facilities Authority of the City of Decatur (“PFA”) purchased a seventy-seven (77) acre tract of land that previously functioned as the United Methodist Children’s Home of Decatur; and

WHEREAS, the subject property, including all real property, improvements and personal property, is more particularly described in Exhibit A attached hereto (the “Property”); and

WHEREAS, the PFA subsequently assigned operation of the property and facilities to the City; and

WHEREAS, in 2018, the City completed a robust community visioning process and the City Commission ultimately adopted a Master Plan on December 3, 2018 for the use of that land and its historic buildings, which is now called Legacy Park; and

WHEREAS, the Master Plan calls for entering into partnerships with private and non-profit entities to provide affordable housing; organize and manage a creative village with living and studio space for artists; provide a shared office facility for local non-profit organizations; support an incubator program to launch local, small business entrepreneurs; provide environmental education and athletic facilities; provide passive park space; protect cultural and environmental resources; and, support events and activities that build community; and

WHEREAS, one of the key recommendations of the Master Plan is for the City to engage a separate, dedicated entity to provide program and operational management at Legacy Park and to shepherd the implementation of the Master Plan; and

WHEREAS, on December 2, 2019, the City Commission of the City of Decatur approved a proposal from Decatur Legacy Project, Inc. to provide such services and authorized the City Manager to enter into a letter of intent outlining the terms of the proposal (the “Letter of Intent”), which the City Manager did on December 3, 2019; and

WHEREAS, in September 2020, the City and Decatur Legacy Project, Inc. (“Manager”) entered into an Operational Management Agreement that set forth the specific terms of the agreement between the City and Manager, which agreement expired on June 30, 2023; and

WHEREAS, the City and Manager wish to continue and extend their relationship through this renewed Operational Management Agreement.

NOW, THEREFORE, in consideration of the mutual covenants set forth here, and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, and intending to be legally and mutually sound, the City and Manager agree as follows:

1. Term.

1.1. Term

The term of this Agreement shall commence on July 1, 2023 and end on June 30, 2026, unless terminated sooner pursuant to Section 8. At the end of the term, this Agreement shall automatically renew for an additional one (1) year term and consecutive one (1) year terms thereafter, on the same terms and conditions herein, unless either party gives the other party written notice of its intent to terminate at least ninety (90) days prior to the expiration of the then current term.

2. Responsibilities of Manager.

2.1 Leasing

Manager shall manage and oversee all leasing and rentals of the Property, including the following: (1) develop business plans and analysis for leasing and rental concepts that are consistent with the stated values of the Master Plan and for the purpose of generating potential revenue to support the operational costs of the Property; (2) create policies, criteria and procedures to identify and select suitable tenants for the existing buildings on the Property; (3) manage long-term leases for the existing buildings; (4) manage short-term rentals of meeting spaces, event spaces and film location spaces; (5) serve as the primary contact for leasing and rentals, coordinating with the City for necessary approvals; (6) collect and hold for the City's benefit all lease and rental revenue; and (7) collect and hold, in accordance with all applicable legal requirements, advanced rent, security deposits, or other deposits required by the terms of any leases or rental agreements.

Manager agrees that there shall be no discrimination against, or segregation of, any person, or group of persons, on account of gender, race, color, genetic information, religion, national origin, political affiliation, age, handicapped status, sexual orientation, sexual preference, or gender identity and expression in the lease, rental, transfer, use, occupancy, or enjoyment of the Property, and Manager shall not permit any discrimination or segregation with respect to the selection, location, number, use, or occupancy of tenants of space within the Property.

2.2 Property Management and Maintenance

Manager shall manage, operate, supervise and, in conjunction with the City, maintain the Property, all in accordance with sound property management practices. Manager shall operate the property in accordance with all governmental laws, statutes, ordinances, rules, and regulations (legal requirements). Manager's management and maintenance responsibilities shall include the following:

2.2.1 Day to Day Operation of the Property

Manager shall manage, operate, and supervise all operational activities of the Property pursuant to adopted criteria consistent with the use of public facilities, including, but not limited to, the following: (1) provide administrative and support services for the entire Property, including all existing buildings; (2) create and maintain a master calendar of all events and rentals; (3) serve as the primary contact for all users of the Property; (4) maintain a close working relationship with City Departments, including but not limited to, the Parks and Recreation Department, in order to coordinate their work program schedules with tenant and rental activities; (5) oversee the development and installation of campus-wide signage to include internal and external signage; (6) supervise and monitor all use of common areas and public outdoor spaces on the Property; and (7) coordinate and manage all security for the Property.

2.2.2 Maintenance, Repair and Cleaning

Manager shall closely coordinate with the City's Public Works Department for on-going maintenance, repair and cleaning of the Property, including, but not limited to, the following: (1) maintenance, repair and cleaning of all buildings and facilities, including mechanical equipment and systems; (2) grounds maintenance and landscaping; (3) trash and refuse removal and recycling; and (4) pest control. The parties agree that the cost of routine maintenance, repair and cleaning of buildings and the Property is the responsibility of the City as the property owner, including spaces occupied by City staff. Notwithstanding the foregoing, the City is not responsible for the cleaning of individually leased buildings that are not available or open to the public for community use and the City is not responsible for cleaning of the interior of leased office spaces. Manager shall ensure that all leases contain provisions placing responsibility on the tenant for regular cleaning and upkeep. Manager shall also coordinate with the Public Works Department to develop and implement a preventive maintenance program for all mechanical, electrical and plumbing systems on the Property. See Section 4.1.

2.2.3 Assistance with City Budget Process

Manager will work closely with the Public Works Director to prepare and submit estimates for maintenance and repair costs at Legacy Park anticipated for the next City fiscal year, to be incorporated into the City's Public Works Department budget.

2.2.3 Capital Projects Management

At the request of the City Manager, the Manager shall manage capital projects, as defined by the City's Financial Policies, on the Property, including, but not limited to, project scoping, requesting and reviewing estimates and proposals, providing project oversight, serving as a liaison between contractors and City staff, and reconciling project invoices. Unless otherwise agreed between the parties, capital projects are the financial responsibility of the City.

2.3 Master Plan Implementation

Manager shall manage, oversee and assume primary responsibility for implementation of the Master Plan, in close coordination with the City. Such responsibilities shall include, but not be limited to, the following:

2.3.1 Development Opportunities

In conjunction with City staff, Manager shall at the request of the City Manager develop requests for proposals for new development opportunities on the Property and assist in developing recommendations to the City Commission for selection of development partners for projects identified in the Master Plan.

2.3.2 Funding Opportunities

Manager shall identify potential grant and foundation funding opportunities to support specific goals and projects included in the Master Plan and prepare applications and support materials required to access funding in a manner consistent with the City's financial policies.

2.4. Employees

Except with respect to persons employed by independent contractors that in turn are employed by Manager (all of whom shall not in any event be deemed to be employees of the City), Manager shall act in all respects as the employer of any persons hired to undertake and fulfill Manager's obligations under this Agreement. Subject to the general requirements of this Agreement, Manager shall be responsible for all matters pertaining to the employment, supervision, compensation, promotion and discharge of such employees. In no event shall the City incur any liability under this Agreement with respect to such employees or any legal requirements which apply to their employment, and Manager shall and does indemnify and hold the City, its officers, employees and agents, harmless from and against any and all claims of such employees, including without limitation, costs, and attorney's fees.

Manager shall not discriminate against any employee or applicant for employment because of gender, race, color, genetic information, religion, national origin, political affiliation, age, handicapped status, sexual orientation, sexual preference, or gender identity and expression. Manager will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their gender, race, color, genetic information, religion, national origin, political affiliation, age, handicapped status, sexual orientation, sexual preference, or gender identity and expression. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship; and, participation in recreational and educational activities.

2.5 Preparation and Approval of Operating Budget

In conjunction with the City's annual budget process, Manager shall submit to the City Manager by February 1 a proposed operating budget for the upcoming fiscal year beginning July 1 and for each subsequent fiscal year during the term of this Agreement. Manager shall obtain approval of such operating budget from the City Manager prior to the start of the fiscal year, which approval shall not be unreasonably withheld. The proposed operating budget shall include: (1) the anticipated expenditures

needed to cover Manager's costs of performing its obligations under this Agreement, including salaries and wages for any full-time and part-time employees, office and administrative expenses, such as office equipment, office supplies, insurance premiums, telephone and Internet charges, and outside professional services; and (2) the amount of expected revenue from rents and other sources. The proposed operating budget may include an administrative cost payment ("Administrative Cost Payment") to be included in the City's annual proposed budget requiring City Commission approval. Such approved operating budget (the "Operating Budget") shall provide the basis for Manager's compensation, as described in Section 5. The parties acknowledge and agree that their mutual goal is for Manager to generate enough revenue through rentals and other revenue opportunities to cover the cost of operations, marketing and programming of Legacy Park, excepting costs related to repairs, maintenance and capital improvements.

2.6 Year-end Reconciliation

2.6.1 Year-end Financial Report

Within 120 days following the end of Manager's fiscal year, the Manager shall provide an actual year-end revenue and expenditure report to the City Manager.

2.6.2 Return of Surplus

In the event actual revenues from rentals, leases and other revenue generated at Decatur Legacy Park exceed the actual expenditures for operations at Decatur Legacy Park for a fiscal year, the surplus will be disbursed to the City, to be placed in a restricted Legacy Park fund, for use at the Property and/or in furtherance of the Master Plan.

2.7 Reporting

Manager shall provide the following reports:

2.7.1 Quarterly Financial Report

Manager shall submit a quarterly financial report to the City Manager by no later than each September 30, December 31, March 31, and June 30 during the term of the Agreement, in a format approved by the City Manager, that includes, but is not limited to, the following: (1) revenues received from rents and other sources; (2) expenses paid; (3) accrued liabilities; and (4) comparison of current month and year-to-date budgeted versus actual revenues and expenses. Manager acknowledges and agrees with the City's goals of eliminating or reducing substantially the amount of funding needed to cover operating support that is currently provided by the City and for Manager to operate the Property with financial independence, exclusive of capital infrastructure needs.

2.7.2 Annual Report

Manager shall submit an annual report to the City Manager and City Commission within 120 days of the end of the fiscal year, in a format approved by the City Manager, that shall include, but not be

limited to: (1) the revenue and expenditure information set forth in the quarterly reports; (2) updates on development projects and program implementations pursuant to the Master Plan; (3) description of any material changes and/or damages to the Property; and (4) anticipated significant capital and/or operating expenses in the coming year.

2.7.3 Other Reports

The City reserves the right to request other reports as may be reasonably determined from time to time.

2.8 **Books and Records**

Manager shall maintain complete, identifiable, and segregated books, records, and files (any of which may be maintained in electronic files or hard files) on all matters pertaining to the Property, including, without limitation, all revenues and expenditures, service contracts, leases, and leasing activities, all other operations and transactions relating to the Property, and any other information which the City reasonably requests. The accrual method of accounting shall be utilized for all accounts relating to this property. Such books and records shall be maintained at the office of Manager or at such other place as the City may from time to time agree. Manager shall keep accurate and complete books and accounts showing operations and transactions relating to the Property. The City Manager or his/her designee shall at all times during regular business hours have access to and may inspect and copy any such books and records. The City shall have the right to audit all records and books maintained with respect to the Property, including bank records, at the City's expense. All books and records maintained with respect to the Property shall be provided to the City upon the termination of this Agreement.

2.9 **Insurance**

At all times during the term of this Agreement, Manager shall maintain at least the following insurance coverage:

2.9.1 Worker's Compensation

Manager shall procure and shall maintain during the life of this Agreement statutory Worker's Compensation Insurance as required for all of its employees to be engaged in work under this Agreement.

2.9.2 Comprehensive General Liability

Manager shall procure and shall maintain during the life of this Agreement, such Comprehensive General Liability Insurance as shall protect it and any subcontractor performing work covered by this agreement from claims for damages for Bodily Injury, including accidental death, as well as from claims for property damages, which may arise from operations under the agreement, whether such operations are by Manager or by any subcontractor or by anyone directly or indirectly employed by either of them as well as products/completed operations coverage to protect the work being performed and completed by Manager and its subcontractors. The amount of insurance shall not be less than the following:

\$2,000,000 General Aggregate

\$2,000,000	Products/Completed Operations Aggregate
\$1,000,000	Personal and Advertising Injury Limit
\$1,000,000	Each Occurrence Limit

2.9.3 Automobile Liability

Manager shall procure and maintain during the life of this Agreement, Comprehensive Automobile Liability Insurance in amounts not less than the following:

\$1,000,000	Bodily Injury or death to any one person
\$1,000,000	Bodily Injury, each occurrence
\$1,000,000	Property Damage, each occurrence

The insurance shall include coverage for non-owned and hired vehicles.

2.9.4 Property

Manager shall procure and maintain during the life of this Agreement insurance on the manager's administrative space, together with all personal property located therein, including, without limitation, all furniture, fixtures, goods, machinery, equipment and inventory, against loss by fire, flood, water, theft or other insurable casualty, on an "all risk" form sufficient to provide replacement value of such property.

2.9.5 Umbrella Policy

Manager shall have an umbrella policy in place to provide at least \$1,000,000 in additional coverage limits for the work being performed under this Agreement. The umbrella should be placed over the General Liability/Products Liability, Employers Liability and Automobile Liability.

2.9.6 Additional Insured

The City of Decatur and the City of Decatur Public Facilities Authority shall be named as additional insureds on all policies of insurance except Worker's Compensation.

2.9.7 Certificates of Insurance

Certificates acceptable to the City shall be attached to the signed contract documents when they are transmitted to the City for execution. Manager shall not commence work under this contract until all insurance described above has been obtained and the City has approved such insurance. Certificates shall be issued to the City of Decatur.

2.9.8 Insurance Requirements for Contractors

The above insurance coverages, except for property insurance, shall be required of every contractor that performs work related to Legacy Park for or on behalf of Manager, and shall be included in a written contract between Manager and each of its contractors. The City of Decatur and the City of Decatur Public Facilities Authority shall be named as additional insureds on all such policies of insurance except Worker's Compensation. Certificates of insurance acceptable to the City shall be provided to the City upon request of the City Manager or her designee.

2.10 Banking

Manager shall maintain a dedicated bank account (or accounts) for all receipts and expenditures related to Manager's performance of its obligations under this Agreement, including, but not limited to, all income and expenses relating to leasing, operations, personnel, and office and administrative expenses, which bank account(s) shall only be used for the purpose of receiving and expending monies related to the Property.

3. Management Authority.

3.1. Limitation

Manager's authority pursuant to this Agreement and with respect to the Property is expressly limited to obligations and authorizations expressly set forth herein, as may be amended in writing from time to time by the City and Manager.

3.2. Leases

Leases, rental agreements, and license agreements of any kind for a period of thirty (30) days or more of any portion of the Property ("Leases") shall be prepared in the name of the City, as agent of the City of Decatur Public Facilities Authority, and executed by the City Manager. In no event shall leases be executed by Manager.

3.3. Short-Term Rental Agreements

Manager may enter into directly, in its own name as agent for the City, short-term rental agreements (i.e., less than thirty days), temporary license agreements (i.e., less than 30 days) and similar contracts without the express approval of the City Manager so long as such contracts do not exceed \$50,000 in anticipated revenue and are in a commercially reasonable format pre-approved by the City Manager, which shall include, at minimum, insurance and indemnification provisions in favor of the City and the City of Decatur Public Facilities Authority. Notwithstanding the foregoing, Manager shall not enter into any such contract for a period that exceeds the term of this Agreement without the prior written approval of the City Manager.

4. Responsibilities of City.

4.1 Maintenance, Repair and Cleaning

The City, through its Public Works Department or contractors hired by the City and in close

coordination with Manager, shall provide on-going maintenance, repair and cleaning of the Property, including, but not limited to, the following: (1) maintenance, repair and cleaning of all buildings and facilities, including mechanical equipment and systems; (2) grounds maintenance and landscaping; (3) trash and refuse removal and recycling; (4) pest control; and (5) provision of basic janitorial supplies such as toilet paper, paper towels, hand soap and trash bags. The City, through its Public Works Department, shall also coordinate with Manager to develop and implement a preventive maintenance program for all mechanical, electrical and plumbing systems on the Property. See Section 2.2.2, including responsibility for cleaning leased buildings and offices.

4.2 Payment of Compensation

The City shall compensate Manager pursuant to the provisions in Article 5.

5. Compensation of Manager.

Manager shall be compensated as follows:

5.1 Administrative Cost Payment

5.1.1 Year One

For the time period July 1, 2023 to June 30, 2024, Manager shall be paid \$66,390.00, to be disbursed in four equal quarterly installments beginning July 1, 2023.

5.1.2 Year Two

For the time period July 1, 2024 to June 30, 2025, Manager shall be paid \$33,195.00, to be disbursed in four equal quarterly installments beginning July 1, 2024.

5.1.3 Year Three

For the time period July 1, 2025 to June 30, 2026, Manager shall not receive an administrative cost payment.

5.1.4 Subsequent years

For the time period covered by any automatic renewal of this Agreement pursuant to Section 1.1, Manager shall not receive an administrative cost payment.

5.2 Possible adjustment

The parties acknowledge and agree that one goal of this agreement is to eliminate the City's financial responsibility for the operational costs of Decatur Legacy Park. However, the parties also acknowledge and agree that in any given year projected operational expenditures could exceed projected revenues as a result of a reduced ability to rent space that is beyond the control of the Manager. The parties therefore agree that in such event, upon written request by the Manager, the Manager and the City

Manager shall work together to establish a reasonable adjustment to the administrative payment for the coming City fiscal year, which amount shall be recommended for approval by the City Commission, such approval not to be unreasonably withheld. The parties further agree that any adjustment to the administrative cost payment for a given year (July 1 to June 30) shall not exceed a total of \$66,390.00.

6. Manager's Administrative Space.

6.1 Administrative Space

Manager shall be provided suitable office space(s) at the Property for administrative operations, along with necessary and usual furniture and equipment. Manager shall maintain the administrative space, together with all furniture and equipment, in good condition and repair, and upon termination of this Agreement, the administrative space, and all furniture and equipment, shall be returned to the City in the same condition as originally provided, minus ordinary wear and tear and damage.

7. City Access to Property.

7.1 Access to Property

The City Manager and/or her designee reserve the right to access, for any purpose, all and any portion of the Property at all times, subject to leasehold and similar interests of tenants. Only such City employees, agents and representatives who are specifically authorized by the City Manager shall have such access. The City Manager shall provide a designated contact to the Manager who can confirm access to the property if necessary.

7.2 Coordination with Manager

Notwithstanding the foregoing Section 7.1, the City shall endeavor to coordinate with Manager at all times in a commercially reasonable manner, excluding emergency situations, to schedule routine maintenance, repairs and cleaning, as well as for capital improvements, construction projects, access for utilities and the like, so as not to unnecessarily disturb, obstruct or hinder Manager's operation of the Property.

7.3 City Events

7.3.1 Scheduling City Events

Upon written request from the City Manager or her designee, the Manager will use reasonable efforts to schedule any City event on the Property, subject to the terms and conditions of this Agreement. The City agrees that the Manager is under no obligation to re-schedule existing reservations to accommodate City requests.

7.3.2 Fees Waived

There shall be no rental fee nor security deposit charged for City events on the Property. The City

shall be responsible for any and all out-of-pocket costs reasonably incurred in facilitating and managing such City events, such as cleaning fees, setup and take-down charges, and any restoration costs.

7.3.3 Rules and Procedures Apply

All City events shall be subject to the Manager's standard rules and procedures regarding rental events.

8. Termination.

8.1 Termination of Agreement

Notwithstanding the provisions of Section 1.1 to the contrary, this Agreement may be terminated and the obligations of the parties shall thereupon cease (except as set forth in this Section 8.1 or except with respect to any indemnity or obligation set forth here which explicitly survives termination), upon the occurrence of any of the following circumstances:

8.1.1. Bankruptcy

If a petition for bankruptcy, reorganization, or rearrangement is filed under state or federal bankruptcy or insolvency statutes by or against Manager (and, in the case of a petition filed against Manager, it is not dismissed within thirty (30) days after the filing), or Manager shall make an assignment for the benefit of creditors or take advantage of any insolvency act, the City may terminate this Agreement upon ten (10) days' written notice to Manager.

8.1.2. Default

If either party shall default in the performance of any of its obligations under this Agreement and such default shall continue for ten (10) days after written notice in the case of a monetary default or fourteen (14) days after written notice from one party to the defaulting party designating such default in the case of nonmonetary default, the party not in default may terminate this Agreement, unless as to nonmonetary defaults only, the nature of the obligation is such that more than fourteen (14) days is required for performance, and the party in default has commenced performance within such fourteen (14) day period and afterwards diligently works to satisfy such obligation.

8.2. Obligations Upon Termination

Upon termination of this Agreement, for whatever reason:

(a) each party shall promptly pay to the other, as soon as the sum is determinable after the effective date of termination, all amounts due such other party under the terms of this Agreement;

(b) Manager shall deliver to the City, not later than the effective date of the termination, the original of all books, software programs, permits, warranties, plans, records, leases, licenses, contracts, insurance policies, and other documents pertaining to the Property and its operation, together with bills of sale or

other documents evidencing title or rights of the City, and any and all records or documents, whether or not enumerated here, which are in the possession of Manager, its officers, agents, or employees, and which are maintained in connection with the ownership, operation, management, leasing, or supervision of the Property, and Manager agrees not to dispose of any of such items without the consent of the City;

(c) Manager shall assign unexpired services and supply contracts, if any, to the City or parties designated by the City;

(d) all personal property owned by the City in connection with the Property, whether on the Property or elsewhere, shall be delivered intact to the City;

(e) all funds received by Manager which derive from the Property shall be received in trust for the benefit of the City and promptly remitted by Manager to the City;

(f) Manager shall undertake all other action reasonably necessary to cause an orderly transition of the management of the Property without detriment to the rights of the City or its tenants or to the continued management of the Property; and

(g) if applicable, Manager shall vacate the Manager's Office (defined above).

8.3. Final Accounting

Within thirty (30) days after the date of termination of this Agreement, Manager shall deliver to the City the following: (i) an accounting reflecting the balance of income and expenses of and from the Property to the date of termination of the Agreement; and (ii) any balance of monies of the City then held by the Manager.

9. Intellectual Property.

During the term of this Agreement, the City grants to Manager a non-exclusive, royalty-free right to use the City of Decatur logo, a registered trademark of the City, as well as any trademarks, service marks, copyrights, logos, or slogans used in connection with Legacy Park ("Intellectual Property") for the sole purpose of providing services under this Agreement. Manager's use of the Intellectual Property shall (i) be consistent with such guidelines as the City may provide to Manager from time to time, (ii) comply with all applicable laws, including but not limited to the marking provisions of the patent, trademark and copyright laws of the United States, and (iii) be of a high quality which is at least equal to the City's use of the Intellectual Property in connection with comparable goods and services as of the effective date of this Agreement.

Any intellectual property of any kind created by Manager or its permitted sub-licensees for the purpose of or in the course of performing this Agreement that relates to Legacy Park shall be owned by the City and shall be deemed a "work made for hire" under the U.S. Copyright Act; provided, however, that Manager shall and hereby does assign to the City any work that cannot be deemed a work made for hire and shall cause its permitted sub-licensees to assign to the City any work that cannot be deemed a

work made for hire. Manager shall execute and deliver any documents reasonably necessary to effectuate and evidence such assignment and shall cause its permitted sub-licensees to do the same.

10. Representations and Covenants by Manager

10.1 Representation

Manager represents that as of the date of this Agreement: (i) Manager has received a determination letter from the Internal Revenue Service to the effect that it is a tax-exempt organization; (ii) Manager is in full compliance with all terms, conditions, and limitations, if any, contained in such determination letter; (iii) such status as a tax-exempt organization has not been adversely modified, limited, or revoked; (iv) the facts and circumstances that formed the basis for the status of Manager, as represented to the Internal Revenue Service in Manager's application for a determination letter, either substantially exist for Manager or differ in a manner consistent with the requirements of Section 501 (c) (3) of the Code; and (v) the operation of Legacy Park as contemplated by this Agreement does not adversely affect the tax-exempt status of Manager.

10.2 Covenants

Manager acknowledges that the acquisition of Legacy Park has been financed in part from certain tax exempt bonds, the "City of Decatur Public Facilities Authority Revenue Bonds (City of Decatur Project), Series 2017" (the "Bonds"), and that the Bonds impose certain constraints and limitations on the use, management, and operation of Legacy Park (the "Tax Constraints"). Accordingly, Manager agrees that prior to the effective date, Manager will enter into certain written covenants with respect to such use, management, and operation of Legacy Park in a manner that fully complies with the Tax Constraints. Such covenants, in a form mutually agreeable to the parties, shall be annexed to this Agreement, upon execution, as Exhibit B and incorporated as if fully stated herein.

11. Miscellaneous Provisions.

11.1 Headings

The headings used here are for purposes of convenience only and should not be used to construe or interpret the provisions here.

11.2 Notices

Any notice, demand, or communication required or permitted under this Agreement shall be given in writing and deemed received: (i) immediately, upon delivery in person; (ii) when received, in the case of delivery by an overnight courier, or (iii) three (3) days after being deposited in the U.S. mail, registered or certified, return receipt requested, addressed to the following addresses or to such other address as any party may later designate by written notice:

If to the City:

City Manager
City of Decatur
509 N. McDonough Street
Decatur, Georgia 30030

If to Manager:

Executive Director
Decatur Legacy Project, Inc.
500 S. Columbia Drive
Decatur, Georgia 30030

11.3 Relationship of the Parties

This Agreement creates a relationship between the City and Manager of owner and independent contractor only, and no partnership, joint venture, employer/employee relationship, or other business association shall be deemed to have been created. For matters related to agency, Manager shall be deemed an agent of the City only for the purposes and within the scope of authority set forth here and for no other purpose.

11.4 Covenant of Further Assurances

The parties agree to execute such other documents and perform such other acts as may be reasonably necessary or desirable to carry out the purposes of this Agreement.

11.5 Entire Agreement, Amendments

This document represents the entire Agreement between the parties with respect to the subject matter of this Agreement, and to the extent inconsistent with it, supersedes all other prior agreements, representations and covenants, oral or written. Amendments to this Agreement must be in writing and signed by both parties.

11.6 Assignment

Neither party shall assign its rights or delegate its duties under this Agreement without the other party's prior written consent, and any such assignment by one party without such prior written consent of the other party shall be void and of no effect.

11.7 Successors and Assigns

Subject to the limitations concerning assignment, this Agreement shall be binding upon and inure to the benefit of the parties, and their legal representatives, successors, and permitted assigns.

11.8 Governing Law

This Agreement shall be governed by and construed in accordance with the laws and judicial decisions of the State of Georgia.

11.9 Severability

Every provision of this Agreement is intended to be severable. If any term or provision is determined by a court of competent jurisdiction to be invalid or otherwise unenforceable, such provision shall be severed from the Agreement and shall not affect the validity of the remainder of this Agreement.

WHERETO, the parties have set their hands and seals effective the date on which the last party executes this Agreement.

CITY OF DECATUR

By: _____
Mayor

Attest: _____
City Clerk

DECATUR LEGACY PROJECT, INC.

By: _____
Title: _____

Attest: _____
Secretary

EXHIBIT A

existing buildings



EXHIBIT B

COVENANTS BY MANAGER

Recognizing that the acquisition of Legacy Park has been financed in part from certain tax exempt bonds, the “City of Decatur Public Facilities Authority Revenue Bonds (City of Decatur Project), Series 2017” (the “Bonds”), and that the Bonds impose certain constraints and limitations on the use, management, and operation of Legacy Park (the “Tax Constraints”), Manager expressly covenants as follows:

- A. No use shall be made of Legacy Park, nor acts done which will or in the City’s reasonable judgment might violate the Tax Constraints. For this purpose, an act, activity or purpose shall be considered to violate the “Tax Constraints” if and only if (1) it adversely impacts or jeopardizes (a) Member’s status as an organization described in section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the “Code”) or (b) the exclusion from gross income (within the meaning of the Code) of interest income on the bonds (other than bonds for which no such exclusion is intended), proceeds of which have been used to finance or refinance all or a portion of the cost of the acquisition of Legacy Park, including the Bonds, or (2) it causes Legacy Park, or any portion thereof, to be considered as used in an unrelated trade or business of Manager, determined by applying section 513(a) of the Code.
- B. In particular, without limiting the generality of the foregoing:
- (1) in no event may any portion of Legacy Park be used as a skybox or other private luxury box, a health club facility, a facility primarily used for gambling, a store the principal business of which is the sale of alcoholic beverages for consumption off-premises, or for sectarian instruction or as a place of religious worship or primarily in connection with any program of a school or department of divinity for any religious denomination; and
- (2) in no event may any management, service, license, lease or other agreement with respect to Legacy Park, or any portion thereof, be entered into if the same would constitute a private business use of the Legacy Park of sufficient degree to jeopardize the exclusion referred to in clause (A)(1)(b).

Manager shall immediately notify the City of any violation of the Tax Constraints and also of the occurrence of any event which might result in a violation of the Tax Constraints. Manager shall, from time to time at City’s request, provide such information as the City may reasonably request to verify compliance with this Section.

C. Manager shall maintain its status as a corporation that is described in Section 501(c)(3) of the Code. Manager shall file all required reports and documents with the Internal Revenue Service so as to maintain its status as an organization described in Section 501(c)(3) of the Code. Manager shall not operate Legacy Park in any manner that would be an unrelated trade or business with respect to

Manager (regardless of whether such activity results in the imposition of unrelated business income tax under the Code). Manager shall not operate any of its other facilities or operations in any manner and not engage in any activities or take any action that might reasonably be expected to result in it ceasing to be a “501(c)(3) organization” within the meaning of Section 145 of the Code. Manager shall promptly notify the City of any loss of Manager’s status as a “501(c)(3) organization” or of any investigation, proceeding or ruling that might result in such loss of status.

D. Manager covenants that it will not take or fail to take any action or permit or fail to permit any action to be taken on its behalf or cause or permit any circumstance within its control to arise or continue, as the case may be, if such action, failure to act or absence of such circumstance, as the case may be, would cause the interest on (a) the Bonds and (b) any future issue of bonds the interest on which is excluded from gross income for federal income tax purposes and are issued to finance or refinance the acquisition of or improvements to Legacy Park (“tax-exempt bonds”), to be includable in the gross income of owners thereof for federal income tax purposes.

E. Without limiting the foregoing, Manager covenants that, notwithstanding any other provision of the Operational Management Agreement or any other instrument, it will neither make nor cause to be made, or permit any use of Legacy Park, which use would cause any of the Bonds or other tax-exempt bonds to be a “private activity bond” under Section 141 of the Code (other than obligations described in Section 145 of the Code).

Executed this ____ day of _____, 2023.

DECATUR LEGACY PROJECT, INC.

By: _____

Title: _____

Attest: _____

Secretary