

## Florida Department of State

## Division of Corporations

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## FLORIDA PROFIT/NON PROFIT CORPORATION

Brown Riverfront Esplanade Foundation, Inc.

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**ARTICLES OF INCORPORATION  
OF  
BROWN RIVERFRONT ESPLANADE FOUNDATION, INC.**

The undersigned, acting as the incorporator of the Brown Riverfront Esplanade Foundation, Inc. as a not-for-profit corporation in compliance with Chapter 617 of the Florida Statutes, and Section 501(c)(3) of the Internal Revenue Code of 1986, including its regulations, all as amended from time to time ("Internal Revenue Code"), submits the following Articles of Incorporation and does hereby certify:

**ARTICLE I  
NAME OF CORPORATION**

The name of the corporation is Brown Riverfront Esplanade Foundation, Inc. (hereinafter called the "Corporation").

**ARTICLE II  
PRINCIPAL OFFICE OF THE CORPORATION**

The initial principal office and mailing address of the Corporation shall be 213 Riverside Drive, Ormond Beach, Florida 32176.

**ARTICLE III  
REGISTERED OFFICE AND REGISTERED AGENT**

The street address of the initial registered office of the Corporation is 1200 South Pine Island Road, Plantation, Florida 33324. The name of the initial registered agent at that address is C T Corporation System.

**ARTICLE IV  
PURPOSES AND POWERS OF THE CORPORATION**

The Corporation is organized and will be operated exclusively for charitable purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code. In furtherance of such purposes, the Corporation is authorized:

(a) To promote, support, and engage in activities carried on for charitable purposes, by the direct conduct of such activities, and by making grants to other organizations engaged in charitable activities, and by making grants to a State, a possession of the United States, or any political subdivision of any of the foregoing, or the United States, but only if the grants are made for exclusively public purposes.

(b) Without limiting the generality of the powers provided herein, to preserve, beautify, renovate and maintain a public park known as Riverfront Park in Daytona Beach, Florida, located along Beach Street between Main Street and Orange Avenue.

(c) To receive and maintain personal or real property, or both; and, subject to the restrictions and limitations set forth below, to use and apply the whole or any part of the income from such property and the principal thereof exclusively for charitable, educational, literary, or scientific purposes either directly or by contributions to other charitable organizations.

(d) To receive assistance, money (as dues or otherwise), real or personal property and any other form of contributions, gift, bequest, or devise from any person or entity, to be used in the furtherance of the objects and purposes of the Corporation; to enter into agreements or contracts for contributions to the Corporation for its objects and purposes, provided that gifts will be subject to acceptance by the Board of Directors as required by the Bylaws of the Corporation.

(e) To establish an office and employ such personnel as may be necessary and appropriate in the judgment of the Board of Directors, and pay reasonable compensation for the services of such persons.

(f) To distribute, in the manner, form, and method, and by the means determined by the Board of Directors of the Corporation, any and all forms of contributions or other funds received by it in carrying out charitable and educational programs of the Corporation in the furtherance of its stated purposes. Money and real or personal property contributed to the Corporation in furtherance of these objects and purposes are and will continue to be used exclusively for such purposes.

(g) To invest and reinvest surplus funds in such securities and properties as the Board of Directors may from time to time determine.

(h) To purchase, acquire, own, hold, guarantee, sell, assign, transfer, mortgage, pledge, loan, or otherwise dispose of and deal in any bonds, securities, evidence of indebtedness, or other personal property, as well as to purchase, acquire, own, hold, sell, transfer, mortgage, or otherwise dispose of and deal in real estate; and, as the owner of any such real or personal property, to exercise all the rights, powers, and privileges of ownership.

(i) To contract and be contracted with, and to sue and be sued.

(j) To adopt and use an official seal for the Corporation.

(k) To do all acts and things requisite, necessary, proper and desirable to carry out and further the objects for which this Corporation is formed; and, in general, to have all the rights, privileges, and immunities, and enjoy all the benefits of the laws of the State of Florida applicable to corporations of this character, including but not limited to the powers described in Section 617.0302 of the Florida Statutes, subject however to the requirements of Section 501(c)(3) of the Internal Revenue Code and to the other limitations provided in these Articles of Incorporation.

ARTICLE V  
CHARITABLE LIMITATIONS

Notwithstanding any other provision of these Articles of Incorporation, the Corporation may not conduct or carry on any activities not permitted to be conducted or carried on by an organization exempt from taxation under Section 501(c)(3) of the Internal Revenue Code and Section 617.0835 of the Florida Statutes. These restrictions include, but are not limited to, the following:

**(1) No Private Inurement.** No part of the net earnings of the Corporation may inure to the benefit of, or be distributable to, the directors or officers of the Corporation, or to any other private persons, except that the Corporation is authorized and empowered (i) to pay reasonable compensation for personal services rendered to the Corporation, so long as the services are reasonable and necessary to carrying out the charitable purposes of the Corporation, and to reimburse expenses or advances made for the Corporation that are reasonable in character and amount, and (ii) to make payments and distributions to persons who are qualified to receive them in furtherance of the Corporation's charitable purposes as set forth herein. All of the net earnings and assets of the Corporation will be expended for the purposes stated in Section 501(c)(3) of the Internal Revenue Code.

**(2) No Political Activities; No Substantial Lobbying Activities.** In accordance with the Federal tax law, the Corporation shall not participate or intervene in any political campaign on behalf of, or in opposition to, any candidate for public office by publishing or distributing statements, or in any other way. No substantial part of the activities of the Corporation shall be the carrying on of propaganda, or otherwise attempting to influence legislation.

**(3) Private Foundation Rules.** In the event that, and for so long as, the Corporation is characterized as a private foundation within the meaning of Section 509(a) of the Internal Revenue Code, the Corporation:

(a) shall make distributions for each taxable year at such time and in such manner as not to become subject to the tax on undistributed income imposed by Section 4942 of the Internal Revenue Code;

(b) shall not engage in any act of self-dealing as defined in Section 4941(d) of the Internal Revenue Code;

(c) shall not retain any excess business holdings as defined in Section 4943(c) of the Internal Revenue Code;

(d) shall not make any investments in such manner as to subject it to tax under Section 4944 of the Internal Revenue Code; and

(e) shall not make any taxable expenditures as defined in Section 4945(d) of the Internal Revenue Code.

ARTICLE VI  
MEMBERSHIP

The Corporation shall not have members.

ARTICLE VII  
BOARD OF DIRECTORS

A. The affairs of the Corporation shall be managed by its Board of Directors. The number of Directors (not less than three), the method by which the Directors will be elected or appointed, and the terms for which Directors are to serve, shall be as provided in the Bylaws of the Corporation.

B. The names and addresses of the initial directors are:

Hyatt Brown  
213 Riverside Drive  
Ormond Beach, FL 32176

Cynthia Brown  
213 Riverside Drive  
Ormond Beach, FL 32176

Glenn Ritchey  
1131 N. Halifax Avenue  
Daytona Beach, FL 32118

Emory Counts  
108 Big Ben Drive  
Daytona Beach, FL 32117

ARTICLE VIII  
DIRECTORS' AND OFFICERS' COMPENSATION AND INDEMNIFICATION

(1) **Compensation.** A director or officer of the Corporation may receive reasonable compensation for personal services rendered as a director or officer or in any other capacity, so long as the services are reasonable and necessary to carrying out the charitable purposes of the Corporation, and may be reimbursed for expenses or advances made for the Corporation that are reasonable in character and amount and approved for payment in the manner provided by the Bylaws. Notwithstanding any other provision in these Articles, however, the Corporation will make no payment that constitutes "self-dealing" as defined in Section 4941(d) of the Internal Revenue Code.

(2) **Indemnification.** Every director and officer of the Corporation will be indemnified by the Corporation against all expenses and liabilities, including counsel fees, reasonably incurred by or imposed in connection with any proceeding or any settlement of any proceeding (including any appeals) to which a director or officer may be a party or may become involved by

reason of being or having been a director or officer of the Corporation, whether or not a director or officer at the time such expenses are incurred, but only if (i) the director or officer is not adjudged guilty of or liable for willful misfeasance in the performance of his or her duties, and (ii) in the case of a settlement before entry of judgment, the Board of Directors approves such settlement and reimbursement as being in the best interest of the Corporation. The foregoing right of indemnification will be in addition to and not exclusive of all other rights to which a director or officer may be entitled by law. Appropriate liability insurance may be provided for every officer, director and agent of the Corporation in amounts determined from time to time by the Board of Directors.

**(3) Interest of Directors and Officers in Contracts.** Any contract, whether for compensation or otherwise, or other transactions between the Corporation and (i) one or more of its directors or officers, (ii) any firm of which one or more of its directors or officers are shareholders, partners or employees, or in which they are interested, or (iii) any corporation, association, or partnership of which one or more of its directors or officers are shareholders, members, directors, officers, partners, or employees, or in which they are interested, will be valid for all purposes, despite the presence of such director or directors, officer, or officers, at the meeting of the Board of Directors of the Corporation which acts upon or in reference to such contract or transaction and despite his or their participation in such action. The fact of such interest must be disclosed to or known by the Board of Directors and the Board of Directors may, nevertheless, authorize, approve, and ratify such contract or transaction by vote of majority of the directors present. This section will not be construed to invalidate any contract or other transaction which would otherwise be valid under the common and statutory law applicable thereto. This provision is subject to modification by any conflict of interest policy adopted by the Board of Directors of the Corporation.

#### ARTICLE IX DISSOLUTION

A majority of the Board of Directors may authorize dissolution of the Corporation. After dissolution is authorized, the Corporation must file articles of dissolution, in compliance with Section 617.1403, Florida Statutes, with the Department of State.

Upon the dissolution or winding up of this Corporation, its assets remaining after payment, or provision for payment, of all debts and liabilities of the Corporation, shall be distributed, as the Board of Directors of the Corporation may determine, to (i) one or more not for profit funds, foundations, or corporations which are organized and operated exclusively for charitable purposes and which have established tax exempt status under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, or corresponding provisions of any subsequent federal tax laws, or (ii) a State, a possession of the United States, or any political subdivision of any of the foregoing, or to the United States, but only if the distribution is to be used for exclusively public purposes. Any assets not so disposed of will be disposed of by the Circuit Court of the county in which the principal office of the Corporation is then located, exclusively for charitable purposes, or to such organization or organizations as that Court determines are organized and operated exclusively for such purposes.

ARTICLE X  
DURATION

The Corporation shall exist perpetually, unless dissolved as provided herein.

ARTICLE XI  
AMENDMENTS

A majority vote of the Board of Directors may amend the Articles of Incorporation.

ARTICLE XII  
BYLAWS

The Bylaws of this Corporation shall be adopted by the Board of Directors on behalf of the Corporation, and may be altered, amended, or rescinded by a majority vote of the Board of Directors.

ARTICLE XIII  
REGISTERED AGENT

The name of the initial registered agent of the corporation, who is authorized to receive service of process is C T Corporation System. The street address of the initial registered office of the corporation is 1200 South Pine Island Road, Plantation, FL 33324.

ARTICLE XIV  
INCORPORATOR

The name and address of the incorporator are:

Glenn A. Adams

200 S. Orange Ave., Suite 2600  
Orlando, FL 32801

IN WITNESS WHEREOF, for the purpose of forming this Corporation under the laws of the State of Florida, the undersigned, being the incorporator of this Corporation, executed these Articles of Incorporation this 20<sup>th</sup> day of August, 2018.

  
\_\_\_\_\_  
Glenn A. Adams, Incorporator

**CERTIFICATE DESIGNATING PLACE OF BUSINESS OR DOMICILE FOR THE SERVICE OF PROCESS WITHIN THIS STATE, NAMING AGENT UPON WHOM PROCESS MAY BE SERVED.**

**BROWN RIVERFRONT ESPLANADE FOUNDATION, INC.**

Pursuant to Chapter 48.091, Florida Statutes, the following is submitted:

That Brown Riverfront Esplanade Foundation, Inc., desiring to organize under the laws of the State of Florida with its initial principal office, as indicated in the Articles of Incorporation, at 213 Riverside Drive, City of Ormond Beach, County of Volusia, State of Florida 32176 has named C T Corporation System, whose address is 1200 South Pine Island Road, City of Plantation, County of Broward, State of Florida 33324 as its agent to accept service of process within this state.

**ACKNOWLEDGEMENT: (MUST BE SIGNED BY DESIGNATED AGENT)**

Having been named to accept service of process for the corporation named above, at the place designated in this certificate, we agree to act in that capacity and to comply with the provisions of the Florida Not for Profit Business Corporation Act relative to keeping open the registered office.

C T CORPORATION SYSTEM

By: Kathryn A. Widdoes

Name: Kathryn A. Widdoes

Title: Assistant Secretary