

City of Houston, Texas, Ordinance No. 2013-

637

AN ORDINANCE APPROVING THE AMENDED CERTIFICATE OF FORMATION FOR MIDTOWN REDEVELOPMENT AUTHORITY AND THE AMENDED BYLAWS OF THE MIDTOWN REDEVELOPMENT AUTHORITY; CONTAINING FINDINGS AND OTHER PROVISIONS RELATED TO THE SUBJECT; AND DECLARING AN EMERGENCY.

* * * * *

WHEREAS, City Resolution No. 95-96 authorized the creation of the Midtown Redevelopment Authority (the "Authority"), a not-for-profit local government corporation formed pursuant to the provisions of Subchapter D, Chapter 431, Texas Transportation Code, to aid, assist, and act on behalf of the City in the performance of the City's governmental functions to promote the common good and general welfare of The Reinvestment Zone Number Two, City of Houston, Texas (Midtown Zone); and

WHEREAS, City Resolution No. 95-96 approved the Authority's Articles of Incorporation ("Original Articles") and the Authority's Bylaws ("Original Bylaws"); and

WHEREAS, the Original Articles provide that any proposed change or amendment to the Authority's Articles of Incorporation (now referred to as a certificate of formation, pursuant to the Texas Business Organizations Code) must be approved by the City Council; and

WHEREAS, the Original Bylaws provide that any proposed change or amendment to the Authority's Bylaws must be approved by the City Council; and

WHEREAS, the Authority, to maintain compliance with current law and practices, has adopted an Amended Certificate of Formation and has adopted Amended Bylaws; and

WHEREAS, the City Council has determined that the adoption of the Amended Certificate of Formation and the adoption of Amended Bylaws are in the best interest of the Authority and the City and are wise, expedient, necessary and advisable to maintain compliance with current law and practices; **NOW, THEREFORE**,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HOUSTON, TEXAS:

Section 1. That the facts and recitals contained in the preamble of this Ordinance are hereby found and declared to be true and correct and are hereby adopted as part of this Ordinance.

Section 2. That the City Council hereby approves the Amended Certificate of Formation of the Midtown Redevelopment Authority attached hereto as **Exhibit "A"**, in substantially the form as shown therein, with such additions and insertions as may be required to file such Amended Certificate of Formation with the Secretary of State of Texas.

Section 3. That the City Council hereby approves the Amended Bylaws of the Midtown Redevelopment Authority attached hereto as **Exhibit "B"**, in substantially the form as shown therein.

Section 4. That the adoption of this Ordinance by the City Council and the execution thereof by the Mayor and the City Secretary shall be deemed to comply with the requirements of Section 394.016(d) of the Texas Local Government Code.

Section 5. That there exists a public emergency requiring that this Ordinance be passed finally on the date of its introduction as requested in writing by the Mayor; therefore, this Ordinance shall be passed finally on such date and shall take effect immediately upon its passage and approval by the Mayor; however, in the event that the Mayor fails to sign this Ordinance within five days after its passage and adoption, it shall take effect in accordance with Article VI, Section 6, Houston City Charter.

PASSED AND ADOPTED this 10th day of July, 2013.

APPROVED this _____ day of _____, 2013.

Mayor of the City of Houston

Pursuant to Article VI, Section 6, Houston City Charter, the effective date of the foregoing Ordinance is JUL 16 2013.



City Secretary

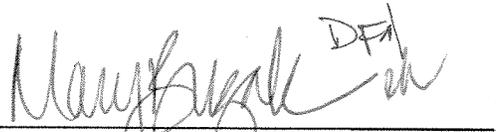
(Prepared by Legal Department

(MFB:mfb July 8, 2013)

(Requested by Andrew F. Icken, Chief Development Officer, Office of the Mayor)

(L. D. File No. 0421200114001)

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Assistant City Attorney

AYE	NO	
✓		MAYOR PARKER
....	COUNCIL MEMBERS
✓		BROWN
✓		DAVIS
✓		COHEN
✓		ADAMS
✓		MARTIN
✓		HOANG
✓		PENNINGTON
✓		GONZALEZ
		ABSENT-ON PERSONAL BUSINESS
		RODRIGUEZ
✓		LASTER
✓		GREEN
✓		COSTELLO
✓		BURKS
✓		NORIEGA
		ABSENT-OUT OF CITY ON PERSONAL BUSINESS
		BRADFORD
		CHRISTIE
CAPTION	ADOPTED	

CAPTION PUBLISHED IN DAILY COURT

REVIEW

DATE:

JUL 16 2013

Exhibit A

Amended Certificate of Formation of Midtown Redevelopment Authority

**AMENDED CERTIFICATE OF FORMATION
WITH NEW AMENDMENTS AND RESTATEMENT**

I. Entity Information

- A. The name of the filing entity is Midtown Redevelopment Authority (the “Corporation”).
- B. The Corporation is a nonprofit corporation.
- C. The file number issued to the filing entity by the secretary of state is 1250850-01.
- D. The Corporation filed its original articles of incorporation on July 11, 1995.

II. Amendments to Certificate of Formation

The certificate of formation has been amended as follows:

A. The following identified provisions of the certificate of formation have been added. The full text of each new provision is contained in the amended certificate of formation attached hereto, which amends and restates the certificate of formation.

- i. NEW ARTICLE XI is added to the certificate of formation. The full text of new ARTICLE XI is contained in the amended certificate of formation attached hereto, which amends and restates the certificate of formation.

B. The following identified provisions of the certificate of formation are amended. The full text of each amended provision is contained in the amended certificate of formation attached hereto, which amends and restates the certificate of formation.

- i. ARTICLE II has been amended and the full text of ARTICLE II, as amended, is contained in the amended certificate of formation attached hereto, which amends and restates the certificate of formation.

- ii. ARTICLE III has been amended and the full text of ARTICLE III, as amended, is contained in the amended certificate of formation attached hereto, which amends and restates the certificate of formation.

- iii. ARTICLE IV has been amended and the full text of ARTICLE IV, as amended, is contained in the amended certificate of formation attached hereto, which amends and restates the certificate of formation.

- iv. ARTICLE VI has been amended and the full text of ARTICLE VI, as amended, is contained in the amended certificate of formation attached hereto, which amends and restates the certificate of formation.

v. ARTICLE VII has been amended and the full text of ARTICLE VII, as amended, is contained in the amended certificate of formation attached hereto, which amends and restates the certificate of formation.

vi. ARTICLE VIII has been amended and the full text of ARTICLE VIII, as amended, is contained in the amended certificate of formation attached hereto, which amends and restates the certificate of formation.

vii. ARTICLE X has been amended and renumbered as ARTICLE IX and the full text of ARTICLE X, as amended and renumbered, is contained in the amended certificate of formation attached hereto, which amends and restates the certificate of formation.

viii. ARTICLE XI has been amended and renumbered as ARTICLE X and the full text of ARTICLE XI, as amended and renumbered, is contained in the amended certificate of formation attached hereto, which amends and restates the certificate of formation.

ix. ARTICLE XIII has been amended and renumbered as ARTICLE XII and the full text of ARTICLE XIII, as amended and renumbered, is contained in the amended certificate of formation attached hereto, which amends and restates the certificate of formation.

C. The following identified provisions of the certificate of formation have been deleted. The deletions are reflected in the amended certificate of formation attached hereto, which amends and restates the certificate of formation.:

i. ARTICLE IX has been deleted in its entirety and such deletion is reflected in the amended certificate of formation attached hereto, which amends and restates the certificate of formation.

ii. ARTICLE XII has been deleted in its entirety and such deletion is reflected in the amended certificate of formation attached hereto, which amends and restates the certificate of formation.

iii. ARTICLE XIV has been deleted in its entirety and such deletion is reflected in the amended certificate of formation attached hereto, which amends and restates the certificate of formation.

III. Statement of Approval

Each new amendment has been made in accordance with the provisions of the Texas Business Organization Code (the "Code"). The amendments to the certificate of formation and the restated certificate of formation have been approved in the manner required by the Code and by the governing documents of the Corporation.

IV. Required Statements

The amended certificate of formation, which is attached to this form, accurately states the text of the certificate of formation being restated and each amendment to the certificate of formation being restated that is in effect, and as further amended by the amended certificate of formation. The attached amended certificate of formation does not contain any other change in the certificate of formation being restated except for the information permitted to be omitted by the provisions of the Code applicable to the Corporation.

V. Effectiveness of Filing

This document becomes effective when the document is filed by the secretary of state.

VI. Execution

The undersigned affirms that the person designated as registered agent in the restated certificate of formation has consented to the appointment. The undersigned signs this document subject to the penalties imposed by law for the submission of a materially false or fraudulent instrument and certifies under penalty of perjury that the undersigned is authorized under the provisions of law governing the entity to execute the filing instrument.

Date: _____

By: _____
Midtown Redevelopment Authority
Robert D. Sellingsloh
Chairman, Board of Directors

AMENDED CERTIFICATE OF FORMATION
OF
MIDTOWN REDEVELOPMENT AUTHORITY

ARTICLE I

The name of the corporation is MIDTOWN REDEVELOPMENT AUTHORITY.

ARTICLE II

The Corporation is a public non-profit corporation organized under the laws of the State of Texas, including the provisions of Chapter 431, Texas Transportation Code (the "Authorizing Law") and the Texas Business Organizations Code (the "BOC").

ARTICLE III

The period of duration of the Corporation shall be perpetual.

ARTICLE IV

The Corporation is organized and operates exclusively for charitable purposes, within the meaning of section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the "Code"). Specifically, by Resolution No. 95-96, the City of Houston, Texas authorized the creation of the Corporation for the purpose of aiding, assisting, and acting on behalf of the City in the performance of its governmental functions to promote the common good and general welfare of the Midtown Area of Houston and neighboring areas, as more particularly described in City of Houston, Texas, Ordinance No. 94-1345, and as the boundaries may be amended from time to time ("Midtown"); to promote, develop, encourage and maintain housing, employment, commerce and economic development in the City; and to expand and develop the educational facilities and opportunities in Midtown.

The Corporation is further organized to aid, assist and act on behalf of the City and the Board of Directors of Reinvestment Zone Number Two, City of Houston, Texas ("Midtown Zone"):

(a) in the preparation and implementation of a Project Plan and a Financing Plan for the Midtown Zone,

(b) in the development and implementation of a redevelopment policy for the Midtown Zone, including the acquisition of land and land use controls,

(c) in the development of a policy to finance development and redevelopment of residential, commercial and public properties in the Midtown Zone, and

(d) in the development of a policy for disposition of abandoned street rights-of-way in the Midtown Zone, including, where appropriate, the acquisition of street rights-of-way.

The Corporation is formed pursuant to the provisions of the Authorizing Law as it now or may hereafter be amended, Chapter 394, Texas Local Government Code, which authorizes the Corporation to assist and act on behalf of the City and to engage in activities in the furtherance of the purposes for its creation, provided that the Corporation shall not be authorized to make or acquire home mortgages, or to make loans to lending institutions, the proceeds of which are to be used to make home mortgages or to make loans on residential developments, and the BOC.

The Corporation shall have and exercise all of the rights, powers, privileges, authority, and functions given by the general laws of Texas to non-profit corporations incorporated under the Authorizing Law and the BOC.

The Corporation shall have all other powers of a like or different nature not prohibited by law which are available to non-profit corporations in Texas and which are necessary or useful to enable the Corporation to perform the purposes for which it is created, including the power to issue bonds, notes or other obligations, and otherwise exercise its borrowing power to accomplish the purposes for which it was created, provided that the Corporation shall not issue bonds without the consent of the City Council.

The Corporation is created as a local government corporation pursuant to the Authorizing Law and shall be a governmental unit within the meaning of Chapter 101, Texas Civil Practice and Remedies Code. The operations of the Corporation are governmental and not proprietary functions for purposes of the Chapter 101, Texas Civil Practice and Remedies Code. The Corporation shall have the power to acquire land in accordance with the Authorizing Law as amended from time to time.

The Corporation is an entity separate and apart from the City, with its own bonds and obligations.

ARTICLE V

The Corporation shall have no members and shall have no stock.

ARTICLE VI

All powers of the Corporation shall be vested in a Board consisting of nine (9) persons ("Director" or "Directors"). Directors shall be appointed by position to the Board by the Mayor of the City with the approval of the City Council of the City. Recommendations for persons to serve in positions 1, 2, 8 and 9 of the board may be made by the person or entity appointing board members for the comparable position on the Board of Directors of the Midtown Zone. Except as provided in the Amended Certificate of Formation, each Director shall serve for the term provided in the Bylaws. Any Director may be removed from office at any time, with or without cause, by the City Council. The number of Directors may only be increased or decreased by an amendment to this Amended Certificate of Formation.

The Mayor of the City shall designate the Chairperson of the Board of Directors.

If any of the following persons is not serving as a member of the Board, he or she shall serve as an ex-officio, non-voting member of the Board or designate an employee from his or her department to serve on his or her behalf:

- (1) Chief of Staff, Mayor's Office;
- (2) Director of the Department of Public Works and Engineering, or its successor department;
- (3) Director of the Finance Department, or its successor department;
- (4) Director of the Planning and Development Department, or its successor department;
- (5) Director of the Parks and Recreation Department, or its successor department;
- (6) City Attorney, Legal Department, or its successor department; and
- (7) Chairman of the Board of the Metropolitan Transit Authority of Harris County.

In addition, the Board of Directors of the Corporation may designate one or more representatives of the Houston Independent School District, Harris County, Houston Community College or other political subdivisions as ex officio, non-voting members of the Board of Directors.

All other matters pertaining to the internal affairs of the Corporation shall be governed by the Bylaws of the Corporation, so long as such Bylaws are not inconsistent with this Amended Certificate of Formation, or the laws of the State of Texas.

ARTICLE VII

The street address of the registered office of the Corporation is 711 Louisiana Street, Suite 2300, Houston, Texas, 77002, and the name of its registered agent at such address is Barron F. Wallace.

ARTICLE VIII

Appointment of a Director to the Board shall also serve as an appointment of such Director to the corresponding position on the Board of Directors of the Midtown Zone and the term of each Director position shall be coterminous with the term of the corresponding position on the Board of Directors of the Midtown Zone, as established by City of Houston, Texas, Ordinance No. 94-1345, as may be amended from time to time.

ARTICLE IX

A Director of the Corporation shall not be liable to the Corporation for monetary damages for any act or omission in the director's capacity as a director, except that this ARTICLE IX does not eliminate or limit the liability of a director for:

- (1) a breach of a director's duty of loyalty to the Corporation;

(2) an act or omission not in good faith that (i) constitutes a breach of duty of the director to the Corporation or (ii) involves intentional misconduct or a knowing violation of law;

(3) a transaction from which a director received an improper benefit, regardless of whether the benefit resulted from an action taken within the scope of the director's duties; or

(4) an act or omission for which the liability of a director is expressly provided by an applicable statute.

If it is determined that the law of the State of Texas (including without limitation the BOC) authorizes, or if such law is amended to authorize, action further eliminating or limiting the personal liability of directors, then the liability of a director of the Corporation shall be eliminated or limited by this ARTICLE IX (without the need of any formal amendment), to the fullest extent permitted by such statutes as so amended. Any repeal or amendment of such statutes or of the foregoing paragraph shall be prospective only and shall not adversely affect any right of protection of a director of the Corporation existing at the time of such repeal or modification.

ARTICLE X

In accordance with the provisions of Section 501(c)(3) of the U.S. Internal Revenue Code of 1986, as amended (the "Code"), and regardless of any other provisions of this Amended Certificate of Formation or the laws of the State of Texas, the Corporation: (a) shall not permit any part of the net earnings of the Authority to inure to the benefit of any private individual (except that reasonable compensation may be paid for personal services rendered to or for the Corporation in effecting one or more of its purposes); (b) shall not devote more than an insubstantial part of its activities to attempting to influence legislation by propaganda or otherwise; (c) shall not participate in, or intervene in (including the publication or distribution of statements), any political campaign on behalf of any candidate for public office; and (d) shall not attempt to influence the outcome of any election for public office or to carry on, directly or indirectly, any voter registration drives. Any income earned by the Authority after payment of reasonable expenses, debt and establishing a reserve shall accrue to the City.

The City shall, at all times, have an unrestricted right to receive any income earned by the Corporation, exclusive of amounts needed to cover reasonable expenditures and reasonable reserves for future activities. Unless otherwise directed by the City, any income of the Corporation received by the City shall be deposited into the Reinvestment Zone Number Two, Houston, Texas, Tax Increment Fund, or its successor. No part of the Corporation's income shall inure to the benefit of any private interests. Any income earned by the Corporation after payment of reasonable expenses, debt and establishing a reserve shall accrue to the City.

If the Board of Directors determines by resolution that the purposes for which the Corporation was formed have been substantially met and all bonds issued by and all obligations incurred by the Corporation have been fully paid, the Board shall execute a certificate of dissolution which states those facts and declares the Corporation dissolved in accordance with the requirements of Section 394.026, Texas Local Government Code, or with applicable law then

in existence. In the event of dissolution or liquidation of the Corporation, all assets will be turned over to the Finance Department of the City, or its successor department, for deposit into the Reinvestment Zone Number Two, Houston, Texas Tax Increment Fund unless the City Council shall otherwise direct.

Any capital project(s) of the Corporation as well as all plans and specifications of any improvement to be made by the Corporation shall be approved by the Director of the City Department of Public Works and Engineering, or its successor department.

ARTICLE XI

The City Council may at any time consider and approve an ordinance directing the Board to proceed with the dissolution of the Corporation, at which time the Board shall proceed with the dissolution of the Corporation in accordance with applicable state law. The failure of the Board to proceed with the dissolution of the Corporation in accordance with this Section shall be deemed a cause for the removal from office of any or all of the Directors as permitted by Article VI of this Amended Certificate of Formation.

ARTICLE XII

This Amended Certificate of Formation may not be changed or amended unless approved by the City Council of the City.

Mayor
City of Houston, Texas

Countersigned:

City Secretary
City of Houston, Texas

Exhibit B

Amended Bylaws of Midtown Redevelopment Authority

AMENDED

BYLAWS

OF

MIDTOWN REDEVELOPMENT AUTHORITY

A Texas Local Government Corporation
(Created on behalf of the City of Houston)

Date of Adoption: _____

TABLE OF CONTENTS

ARTICLE I

PURPOSES

ARTICLE II

BOARD OF DIRECTORS

Section 1.	Appointment, Classes, Powers, Number, and Term of Office	2
Section 2.	Meetings of Directors	3
Section 3.	Annual Meetings	3
Section 4.	Regular Meetings	3
Section 5.	Special and Emergency Meetings	3
Section 6.	Quorum	3
Section 7.	Conduct of Business	4
Section 8.	Executive Committee, Other Committees	4
Section 9.	Compensation of Directors	4
Section 10.	Board of Advisory Directors	4
Section 11.	Director's Reliance on Consultant Information	5

ARTICLE III

OFFICERS

Section 1.	Titles and Term of Office	5
Section 2.	Powers and Duties of the Chairperson	5
Section 3.	Powers and Duties of the Vice Chairperson	5
Section 4.	Powers and Duties of the President	6
Section 5.	Vice Presidents	6
Section 6.	Treasurer	6
Section 7.	Secretary	6
Section 8.	Compensation	6
Section 9.	Officer's Reliance on Consultant Information	6

ARTICLE IV

MISCELLANEOUS PROVISIONS

Section 1.	Fiscal Year	7
Section 2.	Seal	7
Section 3.	Notice and Waiver of Notice	7
Section 4.	Resignations	7
Section 5.	Gender	7
Section 6.	Appropriations and Grants	7

ARTICLE V

INDEMNIFICATION OF DIRECTORS AND OFFICERS

Section 1.	Right to Indemnification	7
Section 2.	Advance Payment.....	8
Section 3.	Indemnification of Employees and Agents	8
Section 4.	Appearance as a Witness	8
Section 5.	Non-exclusivity of Rights.....	9
Section 6.	Insurance.....	9
Section 7.	Notification.....	9
Section 8.	Savings Clause.....	9

ARTICLE VI

PROVISIONS RELATING TO MINORITY CONTRACTING

Section 1.	Minority Contracts.....	9
------------	-------------------------	---

ARTICLE VII

CODE OF ETHICS

Section 1.	Policy and Purposes	10
Section 2.	Conflicts of Interest	10
Section 3.	Acceptance of Gifts.....	10
Section 4.	Bribery	11
Section 5.	Nepotism	11

ARTICLE VIII

AMENDMENTS

BYLAWS
OF
MIDTOWN REDEVELOPMENT AUTHORITY
ARTICLE I
PURPOSES

The Corporation is organized and operates exclusively for charitable purposes, within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986, as amended. More specifically, the Corporation is organized pursuant to the City of Houston, Texas (the "City") Resolution No. 95-96, for the purpose of aiding, assisting, and acting on behalf of the City in the performance of its governmental functions to promote the common good and general welfare of the Midtown Area of Houston and neighboring areas, as more particularly described in City of Houston, Texas, Ordinance No. 94-1345, and as the boundaries may be changed from time to time ("Midtown"); to promote, develop, encourage and maintain housing, employment, commerce and economic development in the City; and to expand and develop the educational facilities and opportunities in Midtown.

The Corporation is further organized to aid, assist and act on behalf of the City and the Board of Directors of Reinvestment Zone Number Two, City of Houston, Texas (the "Midtown Zone"):

- (a) in the preparation and implementation of a Project Plan and a Financing Plan for the Midtown Zone,
- (b) in the development and implementation of a redevelopment policy for the Midtown Zone, including the acquisition of land and land use controls,
- (c) in the development of a policy to finance development and redevelopment of residential, commercial and public properties in the Midtown Zone, and
- (d) in the development of a policy for disposition of abandoned street rights-of-way in the Midtown Zone, including, where appropriate, the acquisition of street rights-of-way.

The Corporation is formed pursuant to the provisions of Chapter 431, Texas Transportation Code, as it now or may hereafter be amended (the "Authorizing Law"), Chapter 394, Texas Local Government Code, which authorizes the Corporation to assist and act on behalf of the City and to engage in activities in the furtherance of the purposes for its creation, provided that the Corporation shall not be authorized to make or acquire home mortgages, or to make loans to lending institutions, the proceeds of which are to be used to make home mortgages or to make loans on residential developments, and the Texas Business Organizations Code (the "BOC").

The Corporation shall have and exercise all of the rights, powers, privileges, authority, and functions given by the general laws of Texas to non-profit corporations incorporated under the Authorizing Law and the BOC.

The Corporation shall have all other powers of a like or different nature not prohibited by law which are available to non-profit corporations in Texas and which are necessary or useful to enable the Corporation to perform the purposes for which it is created, including the power to issue bonds, notes or other obligations, and otherwise exercise its borrowing power to accomplish the purposes for which it was created, provided that the Corporation shall not issue bonds or notes without the consent of the City Council.

The Corporation is created as a local government corporation pursuant to the Act and shall be a governmental unit within the meaning of Chapter 101, Texas Civil Practice and Remedies Code. The operations of the Corporation are governmental and not proprietary functions for purposes of the Chapter 101, Texas Civil Practice and Remedies Code. The Corporation shall have the power to acquire land in accordance with the Act as amended from time to time.

ARTICLE II

BOARD OF DIRECTORS

Section 1. Appointment, Classes, Powers, Number, and Term of Office. All powers of the Corporation shall be vested in a Board consisting of nine (9) persons. Directors of the Corporation ("Director" or "Directors"), shall be appointed by position to the Board. Except as provided in the Amended Certificate of Formation, Directors shall be appointed by the Mayor of the City with the approval of the City Council of the City except that one Director may be appointed by the Houston Community College. Each Director shall serve for the term described below for the position to which such person was appointed, or until his or her successor is appointed by the City unless such Director has been appointed to fill an unexpired term in which case the term of the Director shall expire on the expiration date of the term of the Director whose position he or she was appointed to fill. Any Director may be removed from office at any time, with or without cause, by the City Council. The number of Directors may only be increased or decreased by an amendment to the Amended Certificate of Formation. The Board may, at its discretion, hire an Executive Director to perform administrative operations related to the Corporation.

The chairperson of the Board shall be designated by the Mayor of the City.

Appointment of a Director to the Board shall also serve as an appointment of such Director to the corresponding position on the Board of Directors of the Midtown Zone and the term of each Director position shall be coterminous with the term of the corresponding position on the Board of Directors of the Midtown Zone, as established by City of Houston, Texas, Ordinance No. 94-1345, as may be amended from time to time.

If any of the following persons is not serving as a member of the Board, he or she shall serve as an ex-officio, non-voting member of the Board or designate an employee from his or her department to serve on his or her behalf:

- (a) Chief of Staff, Mayor's Office;
- (b) Director of the Department of Public Works and Engineering, or its successor department;
- (c) Director of the Finance Department, or its successor department;

- (d) Director of the Planning and Development Department, or its successor department;
- (e) Director of the Parks and Recreation Department, or its successor department;
- (f) City Attorney, Legal Department, or its successor department; and
- (g) Chairman of the Board of the Metropolitan Transit Authority of Harris County.

Any person designated as an ex-officio member of the Board is entitled to notice of and to attend meetings of the Board.

Section 2. Meetings of Directors. The Directors may hold their meetings and may have an office and keep the books of the Corporation at such place or places within the City as the Board may from time to time determine; provided, however, in the absence of any such determination, such place shall be the registered office of the Corporation in the State of Texas.

The Board shall meet in accordance with and file notice of each meeting of the Board for the same length of time and in the same manner and location as is required of a City under Chapter 551, Texas Government Code (the "Open Meetings Act").

The Corporation, the Board, and any committee of the Board exercising the powers of the Board are subject to Chapter 552, Texas Government Code (the "Open Records Act").

Section 3. Annual Meetings. The annual meeting of the Board shall be held at the time and at the location in the City designated by the resolution of the Board for the purposes of transacting such business as may be brought before the meeting.

Section 4. Regular Meetings. Regular meetings of the Board shall be held at such times and places as shall be designated, from time to time, by resolution of the Board.

Section 5. Special and Emergency Meetings. Special and emergency meetings of the Board shall be held whenever called by the Chairperson of the Board or the Secretary or by a majority of the Directors who are serving duly appointed terms of office at the time the meeting is called.

The Secretary shall give notice of each special meeting in person, by telephone, FAX, email, mail or telegraph at least three (3) days before the meeting to each Director. Notice of each special or emergency meeting shall also be given in the manner required of the City under Section 551.045 of the Open Meetings Act. Unless otherwise indicated in the notice thereof, any and all matters pertaining to the purposes of the Corporation may be considered and acted upon at a special or emergency meeting. At any meeting at which every Director shall be present, even though without any notice, any matter pertaining to the purposes of the Corporation may be considered and acted upon to the extent allowed by the Open Meetings Act.

Section 6. Quorum. A majority of the Board shall constitute a quorum for the consideration of matters pertaining to the purposes of the Corporation. If at any meeting of the Board there is less than a quorum present, a majority of those present may adjourn the meeting from time to time. The act of a majority of the Directors present and voting at a meeting at

which a quorum is in attendance shall constitute the act of the Board, unless the act of a greater number is required by law, by the Amended Certificate of Formation, or by these Bylaws.

A Director who is present at a meeting of the Board at which any corporate action is taken shall be presumed to have assented to such action unless his dissent shall be entered in the minutes of the meeting or unless he shall file his written dissent to such action with the person acting as the secretary of the meeting before the adjournment thereof or shall forward such dissent by registered mail to the Secretary of the Corporation immediately after the adjournment of the meeting. Such right to dissent shall not apply to a Director who voted in favor of the action.

Section 7. Conduct of Business. At the meetings of the Board, matters pertaining to the purposes of the Corporation shall be considered in such order as from time to time the Board may determine.

At all meetings of the Board, the Chairperson shall preside, and in the absence of the Chairperson, the Vice Chairperson shall preside. In the absence of the Chairperson and the Vice Chairperson, a chairperson shall be chosen by the Board from among the Directors present.

The Secretary of the Corporation shall act as secretary of all meetings of the Board, but in the absence of the Secretary, the presiding officer may appoint any person to act as secretary of the meeting.

Section 8. Executive Committee, Other Committees. The Board may, by resolution passed by a majority of the Directors, designate three (3) or more Directors to constitute an executive committee or other type of committee. To the extent provided in the authorizing resolution, a committee shall have and may exercise all of the authority of the Board in the management of the Corporation, except where action of the Board is specified by statute. A committee shall act in the manner provided in the authorizing resolution. Each committee so designated shall keep regular minutes of the transactions of its meetings and shall cause such minutes to be recorded in books kept for that purpose in the office of the Corporation, and shall report the same to the Board from time to time. Committees authorized to exercise the powers of the Board shall give notice of any meeting in the manner required for a meeting of the Board.

Section 9. Compensation of Directors. Directors, as such, shall not receive any salary or compensation for their services as Directors; provided, that nothing contained herein shall be construed to preclude any Director from receiving compensation which is not excessive and which is at commercially reasonable rates for personal services (rendered in other than a "Director" capacity) which are reasonable and necessary in carrying out the Corporation's purposes.

Section 10. Board of Advisory Directors. The Board may establish a Board of Advisory Directors composed of members who are, in the judgment of the Board, qualified to advise with respect to the activities of the Corporation. Members of the Board of Advisory Directors shall serve for a term of one (1) year or such longer term as may be fixed by the Board, not to exceed four (4) years. Advisory Directors may be removed by the Board at any time with or without cause. The number of members of the Board of Advisory Directors shall be fixed from time to time by the Board. The officers and Directors of the Corporation may consult with the Board of Advisory Directors from time to time with respect to the activities of the Corporation but the Board of Advisory Directors shall in no way restrict the powers of the Board

nor limit its responsibilities or obligations. The Board of Advisory Directors shall have no responsibility for the management of the affairs of the Corporation. Advisory Directors shall not receive any salary or compensation for their services as Advisory Directors; provided, that nothing contained herein shall be construed to preclude any Advisory Director from receiving compensation which is not excessive and which is at commercially reasonable rates for personal services {rendered in other than an "Advisory Director" capacity} which are reasonable and necessary in carrying out the Corporation's purposes.

Section 11. Director's Reliance on Consultant Information. A Director shall not be liable if while acting in good faith and with ordinary care, he relies on information, opinions, reports, or statements, including financial statements and other financial data, concerning the Corporation or another person, that were prepared or presented by:

- (a) one or more other officers or employees of the Corporation;
- (b) legal counsel, public accountants, or other persons as to matters the officer reasonably believes are within the person's professional or expert competence; or
- (c) a committee of the Board of which the Director is not a member.

ARTICLE III

OFFICERS

Section 1. Titles and Term of Office. The officers of the Corporation shall be a chairperson of the Board, one or more vice chairpersons of the Board, a president, one or more vice presidents, a secretary, a treasurer, and such other officers as the Board may from time to time elect or appoint. One person may hold more than one office, except that neither the Chairperson of the Board nor the President shall hold the office of Secretary. The term of office for each officer (other than the Chairperson) shall be two (2) years commencing with the date of the annual meeting of the Board at which each such officer is elected. The Chairperson shall serve for the term designated by the Mayor of the City.

All officers (other than the Chairperson) shall be subject to removal, with or without cause, at any time by a vote of a majority of the whole Board.

A vacancy in the office of any officer (other than the Chairperson) shall be filled by the Board.

Section 2. Powers and Duties of the Chairperson. The Chairperson shall be a member of the Board and shall preside at all meetings of the Board. The Chairperson shall be designated by the Mayor of the City. He or she shall have such duties as are assigned by the Board. The Chairperson may call special or emergency meetings of the Board.

Section 3. Powers and Duties of the Vice Chairperson. The Vice Chairperson shall be a member of the Board. The Vice Chairperson shall perform the duties and exercise the powers of the Chairperson upon the Chairperson's death, absence, disability, or resignation, or upon the Chairperson's inability to perform the duties of his or her office. Any action taken by the Vice Chairperson in the performance of the duties of the Chairperson shall be conclusive evidence of the absence or inability to act of the Chairperson at the time such action was taken.

Section 4. Powers and Duties of the President. The President shall be the principal executive officer of the Corporation and, should the Board elect to hire an Executive Director pursuant to Article II hereof, such Executive Director may serve as President, upon appointment by the Board. Subject to the Board, he or she shall be in general charge of the properties and affairs of the Corporation. In furtherance of the purposes of the Corporation and subject to the limitations contained in the Amended Certificate of Formation, the President, Chairperson, or Vice Chairperson may sign and execute all bonds, notes, deeds, conveyances, franchises, assignments, mortgages, notes, contracts and other obligations in the name of the Corporation.

Section 5. Vice Presidents. A Vice President shall have such powers and duties as may be assigned to him or her by the Board or the President, including the performance of the duties of the President upon the death, absence, disability, or resignation of the President, or upon the President's inability to perform the duties of his or her office. Any action taken by the Vice President in the performance of the duties of the President shall be conclusive evidence of the absence or inability to act of the President at the time such action was taken.

Section 6. Treasurer. The Treasurer shall have custody of all the funds and securities of the Corporation which come into his or her hands. When necessary or proper, he or she may endorse, on behalf of the Corporation, for collection, checks, notes and other obligations and shall deposit the same to the credit of the Corporation in such bank or banks or depositories as shall be designated in the manner prescribed by the Board; he or she may sign all receipts and vouchers for payments made to the Corporation, either alone or jointly with such other officer as is designated by the Board; whenever required by the Board, he or she shall render a statement of his or her case account; he or she shall enter or cause to be entered regularly in the books of the Corporation to be kept by him or her for that purpose full and accurate accounts of all moneys received and paid out on account of the Corporation; he or she shall perform all acts incident to the position of Treasurer subject to the control of the Board; and he or she shall, if required by the Board, give such bond for the faithful discharge of his or her duties in such form as the Board may require.

Section 7. Secretary. The Secretary shall keep the minutes of all meetings of the Board in books provided for that purpose; he or she shall attend to the giving and serving of all notices; in furtherance of the purposes of the Corporation and subject to the limitations contained in the Amended Certificate of Formation, he or she may sign with the President in the name of the Corporation and/or attest the signatures thereof, all contracts, conveyances, franchises, bonds, deeds, assignments, mortgages, notes and other instruments of the Corporation; he or she shall have charge of the Corporation's books, records, documents and instruments, except the books of account and financial records and securities of which the Treasurer shall have custody and charge, and such other books and papers as the Board may direct, all of which shall at all reasonable times be open to the inspection of any Director upon application at the office of the Corporation during business hours; and, he or she shall in general perform all duties incident to the office of Secretary subject to the control of the Board.

Section 8. Compensation. Officers may be entitled to receive such salary or compensation for personal services which are necessary and reasonable in carrying out the Corporation's purposes as the Board may from time to time determine, provided, that in no event shall the salary or compensation be excessive. Board members, even if they are officers, are not entitled to compensation except as otherwise provided in Article II, Section 9.

Section 9. Officer's Reliance on Consultant Information. In the discharge of a duty imposed or power conferred on an officer of the Corporation, the officer may in good faith and

with ordinary care rely on information, opinions, reports, or statements, including financial statements and other financial data, concerning the Corporation or another person, that were prepared or presented by:

(a) one or more other officers or employees of the Corporation, including members of the Board; or

(b) legal counsel, public accountants, or other persons as to matters the officer reasonably believes are within the person's professional or expert competence.

ARTICLE IV

MISCELLANEOUS PROVISIONS

Section 1. Fiscal Year. The fiscal year of the Corporation shall be as determined by the Board.

Section 2. Seal. The seal of the Corporation shall be such as from time to time may be approved by the Board.

Section 3. Notice and Waiver of Notice. Whenever any notice whatever is required to be given under the provisions of these Bylaws, such notice shall be deemed to be sufficient if given by depositing the same in a post office box in a sealed postpaid wrapper addressed to the person entitled thereto at his or her post office address, as it appears on the books of the Corporation, and such notice shall be deemed to have been given on the day of such mailing. A waiver of notice, signed by the person or persons entitled to said notice, whether before or after the time stated therein, shall be deemed equivalent thereto.

Section 4. Resignations. Any Director, officer or Advisory Director may resign at any time. Such resignations shall be made in writing and shall take effect at the time specified therein, or, if no time be specified, at the time of its receipt by the President or Secretary. The acceptance of a resignation shall not be necessary to make it effective, unless expressly so provided in the resignation.

Section 5. Gender. References herein to the masculine gender shall also refer to the feminine in all appropriate cases.

Section 6. Appropriations and Grants. The Corporation shall have the power to request and accept any appropriation, grant, contribution, donation, or other form of aid from the federal government, the State, any political subdivision, or municipality in the State, or from any other source.

ARTICLE V

INDEMNIFICATION OF DIRECTORS AND OFFICERS

Section 1. Right to Indemnification. Subject to the limitations and conditions as provided in this Article V and the Amended Certificate of Formation, each person who was or is made a party or is threatened to be made a party to or is involved in any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative, arbitrative or investigative (hereinafter a "proceeding"), or any appeal in such a proceeding or any inquiry or

investigation that could lead to such a proceeding, by reason of the fact that he or she, or a person of whom he or she is the legal representative, is or was a Director or officer of the Corporation or while a Director or officer of the Corporation is or was serving at the request of the Corporation as a director, officer, partner, venturer, proprietor, trustee, employee, agent or similar functionary of another foreign or domestic corporation, partnership, joint venture, sole proprietorship, trust, employee benefit plan or other enterprise shall be indemnified by the Corporation to the fullest extent permitted by the Texas Non-Profit Corporation Act, as the same exists or may hereafter be amended (but, in the case of any such amendment, only to the extent that such amendment permits the Corporation to provide broader indemnification rights than said law permitted the Corporation to provide prior to such amendment) against judgments, penalties (including excise and similar taxes and punitive damages), fines, settlements and reasonable expenses (including, without limitation, attorneys' fees) actually incurred by such person in connection with such proceeding, and indemnification under this Article V shall continue as to a person who has ceased to serve in the capacity which initially entitled such person to indemnity hereunder. The rights granted pursuant to this Article V shall be deemed contract rights, and no amendment, modification or repeal of this Article V shall have the effect of limiting or denying any such rights with respect to actions taken or proceedings arising prior to any such amendment, modification or repeal. It is expressly acknowledged that the indemnification provided in this Article V could involve indemnification for negligence or under theories of strict liability.

Section 2. Advance Payment. The right to indemnification conferred in this Article V shall include the right to be paid in advance or reimbursed by the Corporation the reasonable expenses incurred by a person of the type entitled to be indemnified under Section 1 who was, is or is threatened to be made a named defendant or respondent in a proceeding in advance of the final disposition of the proceeding and without any determination as to the person's ultimate entitlement to indemnification; provided, however, that the payment of such expenses incurred by any such person in advance of the final disposition of a proceeding, shall be made only upon delivery to the Corporation of a written affirmation by such Director or officer of his or her good faith belief that he or she has met the standard of conduct necessary for indemnification under this Article V and a written undertaking, by or on behalf of such person, to repay all amounts so advanced if it shall ultimately be determined that such indemnified person is not entitled to be indemnified under this Article V or otherwise.

Section 3. Indemnification of Employees and Agents. The Corporation, by adoption of a resolution of the Board, may indemnify and advance expenses to an employee or agent of the Corporation to the same extent and subject to the same conditions under which it may indemnify and advance expenses to Directors and officers under this Article V; and the Corporation may indemnify and advance expenses to persons who are not or were not Directors, officers, employees or agents of the Corporation but who are or were serving at the request of the Corporation as a Director, officer, partner, venturer, proprietor, trustee, employee, agent or similar functionary of another foreign or domestic corporation, partnership, joint venture, sole proprietorship, trust, employee benefit plan or other enterprise against any liability asserted against him or her and incurred by him or her in such a capacity or arising out of his or her status as such a person to the same extent that it may indemnify and advance expenses to Directors under this Article V.

Section 4. Appearance as a Witness. Notwithstanding any other provision of this Article V, the Corporation may pay or reimburse expenses incurred by a Director or officer in connection with his or her appearance as a witness or other participation in a proceeding

involving the Corporation or its business at a time when he or she is not a named defendant or respondent in the proceeding.

Section 5. Non-exclusivity of Rights. The right to indemnification and the advancement and payment of expenses conferred in this Article V shall not be exclusive of any other right which a Director or officer or other person indemnified pursuant to Section 3 of this Article V may have or hereafter acquire under any law (common or statutory), provision of the Amended Certificate of Formation of the Corporation or these Bylaws, agreement, vote of shareholders or disinterested Directors or otherwise.

Section 6. Insurance. The Corporation may purchase and maintain insurance, at its expense, to protect itself and any person who is or was serving as a Director, officer, employee or agent of the Corporation or is or was serving at the request of the Corporation as a Director, officer, partner, venturer, proprietor, trustee, employee, agent or similar functionary of another foreign or domestic corporation, partnership, joint venture, proprietorship, employee benefit plan, trust or other enterprise against any expense, liability or loss. whether or not the Corporation would have the power to indemnify such person against such expense. liability or loss under this Article V.

Section 7. Notification. Any indemnification of or advance of expenses to a Director or officer in accordance with this Article V shall be reported in writing to the members of the Board with or before the notice of the next regular meeting of the Board and, in any case, within the 12-month period immediately following the date of the indemnification or advance.

Section 8. Savings Clause. If this Article V or any portion hereof shall be invalidated on any ground by any court of competent jurisdiction, then the Corporation shall nevertheless indemnify and hold harmless each Director, officer or any other person indemnified pursuant to this Article V as to costs, charges and expenses (including attorneys' fees), judgments, fines and amounts paid in settlement with respect to any action, suit or proceeding, whether civil, criminal, administrative or investigative, to the full extent permitted by any applicable portion of this Article V that shall not have been invalidated and to the fullest extent permitted by applicable law.

ARTICLE VI

PROVISIONS RELATING TO MINORITY CONTRACTING

Section 1. Minority Contracts. The Corporation shall attempt to stimulate the growth of disadvantaged businesses inside the City by encouraging the full participation of disadvantaged businesses in all phases of its procurement activities and affording those disadvantaged businesses a full and fair opportunity to compete for Corporation contracts. The Corporation shall establish one or more programs designed to increase participation by disadvantaged businesses in contract awards which will conform to City approved programs. Any program established by the Corporation shall provide that disadvantaged businesses certified by the City shall be the disadvantaged businesses certified for Corporation contracts.

ARTICLE VII
CODE OF ETHICS

Section 1. Policy and Purposes.

(a) It is the policy of the Corporation that Directors and officers conduct themselves in a manner consistent with sound business and ethical practices; that the public interest always be considered in conducting corporate business; that the appearance of impropriety be avoided to ensure and maintain public confidence in the Corporation; and that the Board establish policies to control and manage the affairs of the Corporation fairly, impartially, and without discrimination.

(b) This Code of Ethics has been adopted as part of the Corporation's Bylaws for the following purposes: (a) to encourage high ethical standards in official conduct by Directors and corporate officers; and (b) to establish guidelines for such ethical standards of conduct.

Section 2. Conflicts of Interest.

(a) Except as provided in subsection (c), a Director or officer is prohibited from participating in a vote, decision, or award of a contract involving a business entity or real property in which the Director or the officer has a substantial interest, if it is foreseeable that the business entity or real property will be economically benefited by the action. A person has a substantial interest in a business (i) if his or her ownership interest is ten percent or more of the voting stock or shares of the business entity or ownership of \$15,000 or more of the fair market value of the business entity, or (ii) if the business entity provides more than ten percent of the person's gross income. A person has a substantial interest in real property if the interest is an equitable or legal ownership with a fair market value of \$2,500 or more. An interest of a person related in the first degree by affinity or consanguinity to a Director or officer is considered a substantial interest.

(b) If a Director or a person related to a Director in the first degree by affinity or consanguinity has a substantial interest in a business entity or real property that would be pecuniarily affected by any official action taken by the Board, such Director, before a vote or decision on the matter, shall file an affidavit stating the nature and extent of the interest. The affidavit shall be filed with the Secretary of the Board.

(c) A Director who has a substantial interest in a business entity that will receive a pecuniary benefit from an action of the Board may vote on that action if a majority of the Board has a similar interest in the same action or if all other similar business entities in the Corporation will receive a similar pecuniary benefit.

(d) An employee of a public entity may serve on the Board.

Section 3. Acceptance of Gifts. No Director or officer shall accept any benefit as consideration for any decision, opinion, recommendation, vote or other exercise of discretion in carrying out official acts for the Corporation. No Director or officer shall solicit, accept, or agree to accept any benefit from a person known to be interested in or likely to become interested in any contract, purchase, payment, claim or transaction involving the exercise of the Director's or officer's discretion. As used here, "benefit" does not include:

(a) a fee prescribed by law to be received by a Director or officer or any other benefit to which the Director or officer is lawfully entitled or for which he gives legitimate consideration in a capacity other than as a Director or officer;

(b) a gift or other benefit conferred on account of kinship or a personal, professional, or business relationship independent of the official status of the Director or officer;

(c) an honorarium in consideration for legitimate services rendered above and beyond official duties and responsibilities if:

(1) not more than one honorarium is received from the same person in a calendar year;

(2) not more than one honorarium is received for the same service; and

(3) the value of the honorarium does not exceed \$250 exclusive of reimbursement for travel, food, and lodging expenses incurred by the Director or officer in performance of the services;

(d) a benefit consisting of food, lodging, transportation, or entertainment accepted as a guest is reported as may be required by law.

Section 4. Bribery. A Director or officer shall not intentionally or knowingly offer, confer or agree to confer on another, or solicit, accept, or agree to accept from another:

(a) any benefit as consideration for the Director's or officer's decision, opinion, recommendation, vote, or other exercise of discretion as a Director or officer;

(b) any benefit as consideration for the Director's or officer's decision, vote, recommendation, or other exercise of official discretion in a judicial or administrative proceeding; or

(c) any benefit as consideration for a violation of a duty imposed by law on the Director or officer.

Section 5. Nepotism. No Director or officer shall appoint, or vote for, or confirm the appointment to any office, position, clerkship, employment or duty, of any person related within the second degree by affinity (marriage relationship) or within the third degree of consanguinity (blood relationship) to the Director or officer so appointing, voting or confirming, or to any other Director or officer. This provision shall not prevent the appointment, voting for, or confirmation of any person who shall have been continuously employed in any such office, position, clerkship, employment or duty at least thirty {30} days prior to the appointment of the Director or officer so appointing or voting.

ARTICLE VIII

AMENDMENTS

A proposal to alter, amend, or repeal these Bylaws shall be made by the affirmative vote of a majority of the full Board at any annual or regular meeting, or at any special meeting if notice of the proposed amendment be contained in the notice of said special meeting.

However, any proposed change or amendment to the Bylaws must be approved by the City Council of the City to be effective.