

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN ANTONIO, TEXAS AMENDING THE ARTICLES OF INCORPORATION OF THE HEMISFAIR PARK AREA REDEVELOPMENT CORPORATION TO ADD AN ADDITIONAL EX OFFICIO MEMBER TO THE BOARD OF DIRECTORS, PROVIDE VOTING RIGHTS TO ALL EX OFFICIO BOARD MEMBERS, AND PERMIT APPOINTMENT OF NON-BOARD MEMBERS TO SERVE ON CORPORATION COMMITTEES; APPROVING OTHER PROVISIONS RELATING TO MATTERS INCIDENTAL AND RELATED THERETO; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, pursuant to Subchapter D of Chapter 431, Texas Transportation Code, as amended (*Chapter 431*), and Chapter 394, Texas Local Government Code, as amended (*Chapter 394*), the City of San Antonio, Texas (the *City*), previously authorized the organization and incorporation of a public, nonprofit local government corporation known as the HemisFair Park Area Redevelopment Corporation (the *Corporation*), pursuant to Articles of Incorporation effective August 26, 2009, as amended on January 29, 2010 and December 20, 2012, respectively (such articles, as amended, the *Articles*).

WHEREAS, the Corporation is conferred with and may exercise all of the powers prescribed by Chapter 431, Chapter 394, and the Texas Non-Profit Corporation Act (formerly Article 1396, Vernon's Texas Civil Statutes, as amended), now codified in the Texas Business Organizations Code as the Texas Nonprofit Corporation Law, as defined in Section 1.008 of the Texas Business Organizations Code, as amended (Chapter 431, Chapter 394, and the Texas Nonprofit Corporation Law, collectively, the *Acts*); and

WHEREAS, the Corporation was organized, and is operated exclusively, for charitable, scientific, and educational purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, to accomplish specified governmental purposes of the City, thereby reducing the burdens on the City, to wit: assist with acquiring property, planning, developing, constructing, managing, maintaining, and financing projects within HemisFair Park (the *Park*) and areas adjacent to or near the Park, all at the request of the City Council of the City (the *Council*); and

WHEREAS, the Council, in its sole discretion, pursuant to Section 394.016(c) of the Texas Local Government Code, as amended, now desires to further amend the Articles in a manner that will permit the Corporation's structure to further advance the purposes for which the Corporation was created and to otherwise implement the activities necessary to accomplish the Corporation's objectives; and

WHEREAS, the Corporation's Board of Directors (the *Board*) is currently composed of one non-voting ex officio member, being the City Manager or a designee thereof, and the Council believes the addition of the City's Chief Financial Officer (the *CFO*) to the Board would provide the Corporation additional financial support and expertise; on matters voted upon by the

Board, the Council desires to grant each ex officio member of the Board voting rights, as permitted by the Acts; and

WHEREAS, for the same reasons articulated above, the Council believes it is in the best interest of the Corporation to vest the Board with the ability and discretion to appoint non-Board members to serve on certain Corporation committees, specified by the Board (in its discretion), either in effect now or hereinafter created, in order to assist the Corporation through the provision of additional guidance, to accomplish the directives of the Board; such committee members, unaffiliated with the Board, shall not exercise direct managerial powers of the Corporation, which are, and will remain, exclusively reserved to the Board.; and

WHEREAS, the Council hereby finds and determines that the adoption of this Ordinance is in the best interests of the residents of the City; and

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO, TEXAS:

SECTION 1. The Council hereby finds, determines, and declares that the Corporation's Third Amendment to the Articles (in substantially in the form attached hereto as Exhibit A, incorporated by reference as a part of this Ordinance for all purposes and further referred to herein as the *Third Amendment*) is in accordance with the Acts and in the manner proscribed by Article VI of the Articles, and the Council is vested with the authority to initiate such action.

SECTION 2. The Council hereby approves the Third Amendment and authorizes its filing with the Texas Secretary of State in the manner provided by law, and otherwise affirms such Third Amendment is in accord with the HemisFair Park Vision and Guiding Principles.

SECTION 3. The recitals contained in the preamble hereof are hereby found to be true, and such recitals are incorporated by reference and are hereby made a part of this Ordinance for all purposes and are adopted as a part of the judgment and findings of the Corporation.

SECTION 4. This Ordinance shall be construed and enforced in accordance with the laws of the State and the United States of America.

SECTION 5. If any provision of this Ordinance or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Ordinance and the application of such provision to other persons and circumstances shall nevertheless be valid, and the Council hereby declares that this Ordinance would have been enacted without such invalid provision.

SECTION 6. It is officially found, determined, and declared that the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Ordinance, was given, all as required by Chapter 551, Texas Government Code, as amended.

SECTION 7. The effective date of this Ordinance shall be governed by the provisions of Section 1-15 of the City Code of San Antonio, Texas. This Ordinance shall take effect immediately if passed by eight (8) affirmative votes; otherwise, this Ordinance shall take effect ten (10) days from the date of passage.

PASSED AND ADOPTED by an affirmative vote of _____ members of the City Council of the City of San Antonio, Texas, this the 30th day of June, 2016.

CITY OF SAN ANTONIO, TEXAS

Mayor

ATTEST:

City Clerk

(CITY SEAL)

I, the undersigned, Acting City Attorney of the City of San Antonio, Texas, hereby certify that I read, passed upon, and approved as to form the foregoing Ordinance prior to its adoption and passage as aforesaid.

Acting City Attorney
City of San Antonio, Texas

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EXHIBIT A

**Third Articles of Amendment
to the
Articles of Incorporation
of the
HemisFair Park Area Redevelopment Corporation**

**THIRD ARTICLES OF AMENDMENT
TO THE
ARTICLES OF INCORPORATION
OF THE
HEMISFAIR PARK AREA REDEVELOPMENT CORPORATION**

Secretary of State Filing Number: 801166806

Pursuant to the provisions of Section 431.102, Texas Transportation Code, as amended, Section 394.016, Texas Local Government Code, as amended, the following Third Articles of Amendment to the Articles of Incorporation of the HemisFair Park Area Redevelopment Corporation (the *Corporation*), relating to a change in the structure and organization of the Corporation, were adopted by a majority vote of the City Council of the City of San Antonio (the *Council*) at a regular meeting of the Council on June 30, 2016, at which a quorum was present.

1. The name of the Corporation is the HemisFair Park Area Redevelopment Corporation.

2. Article VIII of the Articles of Incorporation (most recently amended on December 20, 2012) is amended in its entirety to read as follows:

ARTICLE VIII. BOARD OF DIRECTORS

The affairs of the Corporation shall be managed by a board of directors (the *Board*) containing eleven members; provided, however that the number of members of the Board may be increased or decreased by a resolution or ordinance approved by the Council.

(A) Board Composition and Qualifications. Members of the Board shall be at least 18 years of age and may be composed of residents and non-residents of the City; provided, however, that residents of the City must at all times comprise at least a majority of the total members of the Board. Members of the Council and employees and officers of the City are eligible to serve as members of the Board.

It is the intention of the City that the Board shall be composed of individuals with demonstrated expertise and experience in a variety of areas, and that at a minimum, the Board shall include:

(i) at least one member with demonstrated experience or expertise in the development of commercial real estate;

(ii) at least one member with demonstrated experience or expertise in the development of multi-family housing;

(iii) at least one member with demonstrated experience or expertise in real estate investments or finance;

(iv) at least one member expected to represent the interests of downtown neighborhoods;

(v) at least one member expected to represent the interests of downtown business;

(vi) at least one member with expertise in either civil engineering, architecture, landscape design, park design, or urban planning;

(vii) at least one member expected to represent historic preservation interests or demonstrated experience in the redevelopment of historic properties; and

(viii) at least one member expected to represent cultural or artistic interests.

In addition to the eleven Board members, the Board is comprised of two ex officio members, consisting of the City Manager or his/her designee and the City's Chief Financial Officer or his/her designee. The ex officio members shall be entitled to receive notice, participate in meetings, and are authorized to vote on all matters voted upon by the Board, with all votes counting equally. The ex officio members shall not count for purposes of determining the requirement for or presence of a quorum at any Board meeting.

(B) Board Member Terms. The eleven members of the Board shall be divided into four classes based upon the expiration date of each member's term of office, with no more than three director positions expiring in any year. For convenience, each member shall occupy a designated "seat" on the Board. Upon the expiration of the current term for each such seat, the next and all successive terms for that director seat shall run for four years. With the exception of the two Board member terms expiring in the year of this Amendment, each remaining class will consist of three Board members whose terms expire in rotating successive years upon completion of four years of service (with approximately one-fourth of the positions expiring each calendar year).

Any director may serve for additional terms at the discretion of the Council. A director may be removed from office, with or without cause, by the Council. In the event a director is removed, resigns, or otherwise no longer serves on the Board, the Council shall provide for the selection of a replacement director to complete the unexpired term of the departing director.

The directors shall serve without compensation, but shall be entitled to reimbursement for actual expenses incurred in the performance of duties under the Act. The Corporation and the directors shall be subject to Chapter 551, Texas Government Code, as amended, and Chapter 552, Texas Government Code, as amended.

3. Article XV of the Articles of Incorporation is amended in its entirety to read as follows:

ARTICLE XV. MISCELLANEOUS

(A) No dividends will ever be paid by the Corporation, and no part of the Corporation's net earnings remaining after payment of its expenses and other obligations will be distributed to or inure to the benefit of its directors or officers, or any individual, private firm, or private corporation or association, except in reasonable amounts for services rendered.

(B) If, after the close of any fiscal year, the Board determines that sufficient provision has been made for the full payment of all current expenses, together with all amounts payable on the contracts, agreements, bonds, notes, and other obligations of the Corporation, and that all of the terms, provisions, and covenants therein have been met, then any net earnings will be used solely for the purposes permitted by the Act and Article IV(a) of these Articles of Incorporation.

(C) The Corporation's Board retains the right to exercise its discretion to appoint non-Board members to serve on Corporation committees, as deemed advisable and necessary to effectuate the Corporation's purposes, but such committee members, unaffiliated with the Board, are not bestowed with direct managerial powers of the Corporation, as such powers are, and will remain, exclusively reserved to the Board.

(D) If the Corporation ever should be dissolved when it has, or is entitled to any interest in any funds or property of any kind, real, personal, or mixed, such funds or property or rights thereto will not be transferred and delivered to the City after satisfaction of debts and claims.

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EXECUTED AND VERIFIED this _____.

CITY OF SAN ANTONIO, TEXAS

By: _____
Mayor

Attest:

By: _____
City Clerk

(CITY SEAL)

State of Texas
County of Bexar

Before me, a notary public, on this day personally appeared _____ and _____, known to me to be the person whose name is subscribed to the foregoing document and, being by me the first duly sworn, declared that the statements therein contained are true and correct.

Given under my hand and seal of office this _____ day of _____, 2016.

Notary Public, State of Texas

(NOTARY SEAL)