

BYLAWS

OF

**AUSTIN-ROSEWOOD COMMUNITY
DEVELOPMENT CORPORATION**

A Texas Local Government Corporation

(Created *on* behalf of the City of Austin, Texas)

Date of Adoption :

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BYLAWS
OF
AUSTIN-ROSEWOOD COMMUNITY DEVELOPMENT

ARTICLE I

PURPOSES

The Austin-Rosewood Community Development Corporation (the "Corporation") is organized and will be operated exclusively for one or more charitable purposes, within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the "Code"). In addition, the Corporation is organized for the purpose of aiding, assisting, and acting on behalf of the City of Austin, Texas (the "City") in the performance of its essential governance fiduciary functions to promote the common good and general welfare of the City. In accomplishment of such purposes, the Corporation will: (i) develop, construct, acquire, own and operate community development projects, including recreational facilities; (ii) promote, develop, encourage and maintain employment, commerce and economic development in the City; and (iii) perform

any and all lawful activities which may be necessary, useful or desirable for the furtherance, accomplishment, fostering, or attaining of the foregoing purposes, either directly or indirectly, and either alone or in conjunction or cooperation with others, whether such as corporations, firms, associations, trusts, institutions, foundations, or governmental bureaus, departments or agencies.

The Corporation is formed pursuant to the provisions of Subchapter D of Chapter 431, Texas local Government Code (the "ACT") and Chapter 394, Texas Local Government Code ("Chapter 394"), which authorize 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.

The Corporation shall have and exercise all of the rights, powers, privileges, authority, and functions given by the general laws of the State of Texas (the "State") to non-profit corporations incorporated under the Act including, without limitation, Article 1396, Sections 1.01 through 11.01, Vernon's Texas Civil Statutes (the Texas Non-Profit Corporation Act).

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 the State 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.

The Corporation is created as a local government corporation pursuant to the Act and shall be a governmental unit within the meaning of Subdivision (2), Section 101.001, Texas Civil Practice and Remedies Code. The operations of the corporation are governmental and not proprietary functions for purposes of the Texas Tort Claims Act, Section 101.001 et seq., Texas Civil Practice and Remedies Code.

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 of Directors (the "Board") consisting of five (5) persons. Board Members of the Corporation ("Director" or "Board Members") shall be appointed by vote to the Board. Each initial Director shall serve for the term expiring on the date set forth in the Articles of Incorporation. Except as

provided in the Articles of Incorporation, Directors shall be appointed by position by the City Council of the City. Each Director shall serve for a term which expires on the date set forth below for the position to which such person was appointed, or until his or her successor is appointed by the City, as appropriate, 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 governing body of the entity which appointed such person. The number of Board Members may only be increased or decreased by an amendment to the Articles of Incorporation.

The terms of Positions (1) and (2) shall expire January 1, 1997, and on January 1 of each 2nd year thereafter. The terms of Positions (3), (4) and (5) shall expire on January 1, 1998, and on January 1 of each 2nd year thereafter. The City Council shall designate the chairperson of the Board.

To be qualified to serve as a Director, a person must be a resident of the City and be at least 22 years old.

The City Council may appoint the number of ex-officio, non-voting members of the Board that is desired.

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

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.

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 locations as is required of a City under the Texas Open Meetings Act, 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 the Texas Open Records Act, 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 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, facsimile, mail or telegraph at least three (3) days before the meeting to each Director. Notice of each emergency meeting shall also be given in the manner required of the City under 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 Articles of Incorporation, or by these Bylaws.

A Board Member 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. All 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 board members, designate three (3) or more board members 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 Board members. Board members, as such, shall not receive any salary or compensation for their services as Board members; provided, that nothing contained herein shall be construed to preclude any Board Member from receiving compensation which is not excessive and which is at commercially reasonable rates for personal services (rendered in other than a "" capacity) which are reasonable and necessary in carrying out the Corporation's purposes.

Section 10. Board Members Member. A Board will be established composed of members who are, , qualified to advise with respect to the activities of the Corporation. Members of the Board Members Hall serve for a term of one (1) year or such longer term as may be fixed by the Board, not to exceed four (4) consecutive years. Board Members Member may be removed by the Board at any time with or without cause. The number of members of the Board Members shall be fixed from time to time by the Board. The officers and Member of the Corporation may consult with the Board Members Member from time to time with respect to the activities of the Corporation but the Board Members shall in no way restrict the powers of the Board nor limit its responsibilities or obligations. The Board Members Advisory Member shall have no direct responsibility for the management of the affairs of the Corporation. Board Members shall not receive any salary or compensation for their services as Board Members; provided, that nothing contained herein shall be construed to preclude any Board Members from receiving compensation which is not

excessive and which is at commercially reasonable rates for personal services (rendered in other than an "Board Members Member " capacity) which are reasonable and necessary in carrying out the Corporation's purposes.

Section 11. Member 's Reliance On Consultant Information. A Member shall not be liable if while acting in good faith and with ordinary care, he/she 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 Board Members officers of the Corporation shall be a chairperson, a vice chairpersons, a Vice Chair, 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 shall be two (2) consecutive years commencing with the date of the annual meeting of the Board at which each such officer is elected.

All officers 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 Board. 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.

Section 5.

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 Articles of Incorporation, 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 9. Parliamentarian a member of Board of directors, especially one well versed in parliamentary procedure and experienced in debate.

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 Articles of Incorporation, 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 Board Member of the Corporation or while a Board Member 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

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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 Board Member 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 Board Member 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 Board Member 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 Articles of Incorporation 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 Board Member 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 MBE/WBE CONTRACTING

Section 1. MBE/WBE Contracting. The Corporation shall offer participation to MBE/WBE businesses in all phases of its procurement activities, in accordance with Austin City Code Chapter 5 - 7, as the same may be amended from time to time. The Corporation shall accept City of Austin certification as its certification. The Corporation shall rely on the advice and interpretation of the Austin City Code as provided by the City Attorney's Office.

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 Board Member 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 (1) if his or her ownership interest Is ten percent or more Of the voting stock or shares of the business entity or ownership of \$5,000 or more of the fair market value of the business entity, or (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 second degree by affinity or the third degree by consanguinity to a Board Member is considered a substantial interest.

b. If a Director or a person related to a Director in the first or second degree by affinity or the first, second, or third degree by consanguinity has a substantial Interest in a business entity or real property that would be peculiarly 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 Board Member 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 Board Member or any other benefit to which the Board Member is lawfully entitled or for which he gives legitimate consideration in a capacity other than as a Board Member;

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 Board Member;

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 Board Member 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 Board Member 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 Board Member;

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 Board Member.

Section 5. Nepotism. No Board Member 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 Board Member so appointing, voting or confirming, or to any other Board Member. 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 Board Member 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.