

**WESTFIELD COMMUNITY DEVELOPMENT CORPORATION  
BOARD OF DIRECTORS RESOLUTION NO. 1-2011**

WHEREAS, Westfield Community Development Corporation (the “Corporation”) was established as a nonprofit corporation operating pursuant to the provisions of the Indiana Nonprofit Act of 1991, as amended, I.C. 23-17 (the “Act”); and

WHEREAS, the Board of Directors of the Corporation (the “Board”) desires to adopt certain resolutions regarding the Corporation, including the approval of the Articles of Incorporation, the approval of the Code of By-Laws and the election of officers; and

WHEREAS, the Corporation desires to finance certain costs in connection with a mixed use project (the “Project”) in the City of Westfield, Indiana (the “City”); and

WHEREAS, to finance the Project, the Corporation desires to borrow from the City the proceeds of bonds of the City, issued pursuant to I.C. 36-7-11.9 and 36-7-12, in an amount not to exceed Sixteen Million Dollars (\$16,000,000) (the “Series 2012 Bonds”); and

WHEREAS, in connection with the issuance of the Series 2012 Bonds, there has been presented on the date hereof forms of a Loan Agreement between the City and the Corporation, including a Series 2012A Note, a Series 2012A-T Note and a Series 2012B Note, a Lease Agreement, as amended by an Addendum to Lease, each between the Corporation, as lessor, and MS Westfield, LLC and the City of Westfield Redevelopment Commission, as lessees, a Ground Lease Agreement between the Corporation, as lessee, and MS Westfield, LLC, as lessor, a Development Agreement between the Corporation and MS Westfield, LLC, a Bond Purchase Agreement among the City, the Corporation and Regions Capital Advantage, Inc., as purchaser of the 2012 Bonds, and an Assignment of Rents from the Corporation to Regions Bank, as Bond Trustee (such Loan Agreement, Series 2012A Note, Series 2012A-T Note, Series 2012B Note, Lease Agreement, Ground Lease Agreement, Development Agreement, Bond Purchase Agreement and Assignment of Rents, collectively, the “Financing Agreements”);

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE WESTFIELD COMMUNITY DEVELOPMENT CORPORATION, as follows:

Section 1. Articles of Incorporation. The Articles of Incorporation of the Corporation which were executed and filed with the Secretary of State of the State of Indiana (the “Secretary of State”) and the Certificate of Incorporation issued by the Secretary of State, both of which are attached hereto as Exhibit A, are hereby ratified and approved and copies of such shall be made a part of the official corporate Minutes Book of the Corporation. Moreover, all actions heretofore or hereafter taken by the Incorporator in executing and filing the Articles of Incorporation of the Corporation and the Board are hereby approved, ratified and confirmed.

Section 2. Code of By-Laws. The Code of By-Laws of the Corporation, attached hereto as Exhibit B, is hereby approved and adopted and declared to be the Code of By-Laws of the Corporation. A copy thereof shall be made a part of the official corporate Minutes Book and

be placed in the corporate Minutes Book immediately following the Articles of Incorporation of the Corporation.

Section 3.     No Members. There shall be no members of the Corporation.

Section 4.     Officers. The following officers are elected to the office indicated after the name of each for the term provided in the Code of By-Laws:

President: \_\_\_\_\_

Vice-President: \_\_\_\_\_

Secretary/Treasurer: \_\_\_\_\_

Section 5.     Payment of Expenses of the Corporation. The Secretary/Treasurer of the Corporation is hereby authorized and instructed to pay from the Corporation's funds, all expenses properly incurred by the Corporation, including all expenses incurred in connection with the incorporation of the Corporation.

Section 6.     Tax-Exempt Status. The officers of the Corporation shall be, and hereby are, authorized to apply at such time as the officers deem appropriate, for a determination of the Corporation's exempt status for purposes of federal, state and local taxation.

Section 7.     Bond Proceeds. The Corporation shall borrow an amount not to exceed Sixteen Million Dollars (\$16,000,000) from the proceeds of the issuance and sale of the Series 2012 Bonds by the City. The proceeds of the Series 2012 Bonds shall be applied to the financing of the Project, including the costs of issuing the Series 2012 Bonds.

Section 8.     Financing Agreements. The Financing Agreements, in the forms attached to this Resolution be, and hereby are, ratified and approved. Any officer of the Corporation be, and hereby is, authorized and directed to execute and deliver the Financing Agreements, with such changes thereto as such officer deems necessary or advisable, in the name and on behalf of the Corporation.

Section 9.     Other Actions. Any member of the Board of Directors of the Corporation is hereby authorized and directed, in the name and on behalf of the Corporation, to execute and deliver such documents and to take such actions as such member deems necessary or desirable to effect the foregoing resolutions, and any such documents heretofore executed and delivered and any such actions heretofore taken be, and hereby are, ratified and approved.

ADOPTED this 21<sup>st</sup> day of November, 2011.

BOARD OF DIRECTORS OF THE  
WESTFIELD COMMUNITY  
DEVELOPMENT CORPORATION

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**Exhibit A**

Articles of Incorporation

**State of Indiana  
Office of the Secretary of State**

**CERTIFICATE OF INCORPORATION**

of

**WESTFIELD COMMUNITY DEVELOPMENT CORPORATION**

I, Charles P. White, Secretary of State of Indiana, hereby certify that Articles of Incorporation of the above Non-Profit Domestic Corporation has been presented to me at my office, accompanied by the fees prescribed by law and that the documentation presented conforms to law as prescribed by the provisions of the Indiana Nonprofit Corporation Act of 1991.

NOW, THEREFORE, with this document I certify that said transaction will become effective Tuesday, November 08, 2011.

In Witness Whereof, I have caused to be affixed my signature and the seal of the State of Indiana, at the City of Indianapolis, November 09, 2011



*Charles P. White*

CHARLES P. WHITE,  
SECRETARY OF STATE

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APPROVED AND FILED  
CHARLES P. WHITE  
INDIANA SECRETARY OF STATE  
11/8/2011 10:33 AM

**ARTICLES OF INCORPORATION**

Formed pursuant to the provisions of the Indiana Nonprofit Corporation Act of 1991.

**ARTICLE I - NAME AND PRINCIPAL OFFICE**

WESTFIELD COMMUNITY DEVELOPMENT CORPORATION

130 PENN STREET, WESTFIELD, IN 46074

**ARTICLE II - REGISTERED OFFICE AND AGENT**

BRIAN J. ZAIGER

12800 NORTH MERIDIAN STREET, SUITE 300, CARMEL, IN 46032

**ARTICLE III - INCORPORATORS**

JAMES T. CRAWFORD, JR.

949 EAST CONNER STREET, SUITE 200, NOBLESVILLE, IN 46060

Signature: JAMES T. CRAWFORD, JR.

**ARTICLE IV - GENERAL INFORMATION**

Effective Date: 11/8/2011

Type of Corporation: Public Benefit Corporation

Does the corporation have members?: No

**The purposes/nature of business**

THIS CORPORATION IS A PUBLIC BENEFIT CORPORATION THAT SHALL BE ORGANIZED AND OPERATED EXCLUSIVELY TO BENEFIT, PERFORM, AND CARRY OUT THE EDUCATIONAL, AND OTHER PUBLIC PURPOSES OF THE CITY OF WESTFIELD, INDIANA (THE "CITY") AND THE CITY OF WESTFIELD REDEVELOPMENT COMMISSION. WITHOUT LIMITING THE FOREGOING, AND TO THE EXTENT PERMITTED BY SECTIONS 501(C)(4) OF THE INTERNAL REVENUE CODE OF 1986 OR CORRESPONDING PROVISIONS OF ANY SUBSEQUENT FEDERAL TAX LAWS (THE "CODE"), THE CORPORATION'S SPECIFIC PURPOSES INCLUDE THE FOLLOWING:

(1) TO ENCOURAGE, SUPPORT, AND ASSIST IN ACTIVITIES, PROJECTS, AND PROGRAMS THAT FURTHER SOCIAL, CULTURAL, AND ECONOMIC REDEVELOPMENT AND REHABILITATION IN AND AROUND THE CITY;

(2) TO ENCOURAGE, SUPPORT, AND ASSIST IN THE ECONOMIC DEVELOPMENT OF THE CITY THROUGH ACTIVITIES AND PROJECTS THAT ARE DESIGNED TO STIMULATE CAPITAL INVESTMENT AND REVITALIZATION IN, AND IMPROVEMENT OF, PUBLIC

AND OTHER SPACES THROUGHOUT THE CITY;

(3) TO PROMOTE THE SOCIAL WELFARE OF THE CITY'S RESIDENTS BY ENHANCING AND IMPROVING THE SOCIAL, CULTURAL, AND ECONOMIC CONDITIONS IN AND AROUND THE CITY;

(4) TO FOSTER, DEVELOP, AND MAINTAIN CONDITIONS THAT CONTRIBUTE TO THE GROWTH OF BUSINESS AND EMPLOYMENT OPPORTUNITIES IN AND AROUND THE CITY;

(5) TO PROVIDE FINANCIAL ASSISTANCE FOR THE CONSTRUCTION, REHABILITATION OR REPAIR OF COMMERCIAL PROPERTY WITHIN THE CITY REDEVELOPMENT DISTRICT PURSUANT TO INDIANA CODE SECTION 33-7-14-12.2(26);

(6) TO ENHANCE AND TO BEAUTIFY PUBLIC AREAS AND FACILITIES, AND GENERALLY TO UPDATE THE EFFECTIVENESS OF THE INFRASTRUCTURE IN AND AROUND THE CITY; AND

(7) TO CONDUCT SUCH OTHER ACTIVITIES AS ARE CONSISTENT WITH OR ANCILLARY TO THE ABOVE PURPOSES.

**Distribution of assets on dissolution or final liquidation**

IF THE CORPORATION IS DISSOLVED, ALL OF ITS PROPERTY REMAINING AFTER PAYMENT AND DISCHARGE OF ITS OBLIGATIONS SHALL BE TRANSFERRED AND CONVEYED, SUBJECT TO ANY CONTRACTUAL OR LEGAL REQUIREMENT, TO THE CITY FOR PUBLIC PURPOSES, IF IT IS THEN A POLITICAL SUBDIVISION DESCRIBED IN CODE SECTION 170(C)(1) OR, IF IT IS NOT SO DESCRIBED, TO ONE (1) OR MORE OTHER ORGANIZATIONS THAT HAVE BEEN SELECTED BY THE BOARD OF DIRECTORS, THAT ARE DESCRIBED IN CODE SECTIONS 501(C)(3) AND 501(C)(4), AND THAT WILL USE SUCH PROPERTY EXCLUSIVELY FOR PUBLIC PURPOSES.

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**ARTICLE V**

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**ARTICLE V**

**POWERS**

NOTWITHSTANDING ANY OTHER PROVISION OF THESE ARTICLES OF INCORPORATION, NEITHER THE BOARD OF DIRECTORS NOR THE CORPORATION SHALL HAVE THE POWER OR AUTHORITY TO DO ANY ACT THAT WILL PREVENT THE CORPORATION FROM BEING AN ORGANIZATION DESCRIBED IN CODE SECTIONS 501(C)(4). SUBJECT TO THE FOREGOING STATEMENT, AND SUBJECT TO AND IN FURTHERANCE OF THE PURPOSES FOR WHICH IT IS ORGANIZED, THE CORPORATION SHALL POSSESS ALL OF THE RIGHTS, PRIVILEGES, AND POWERS CONFERRED BY THE ACT AND BY OTHER LAW AND, SPECIFICALLY, THE FOLLOWING RIGHTS, PRIVILEGES, AND POWERS:

SECTION 1. TO CEASE ITS ACTIVITIES AND TO DISSOLVE AND SURRENDER ITS CORPORATE FRANCHISE.

SECTION 2. TO INDEMNIFY ANY PERSON AGAINST LIABILITY AND EXPENSES, AND TO ADVANCE THE EXPENSES INCURRED BY SUCH PERSON, IN CONNECTION WITH THE DEFENSE OF ANY THREATENED, PENDING, OR COMPLETED ACTION, SUIT, OR PROCEEDING, WHETHER CIVIL, CRIMINAL, ADMINISTRATIVE, INVESTIGATIVE, OR OTHERWISE, AND WHETHER FORMAL OR

INFORMAL, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW OR, IF NOT PERMITTED, THEN TO ANY EXTENT NOT PROHIBITED BY SUCH LAW.

#### ARTICLE VI

##### DIRECTORS

THE BOARD OF DIRECTORS OF THE CORPORATION SHALL BE COMPRISED OF THREE (3) MEMBERS, EACH APPOINTED BY THE MAYOR OF THE CITY. THE INITIAL DIRECTORS SHALL SERVE AS THE BOARD OF DIRECTORS OF THE CORPORATION FOR A TERM ENDING JANUARY 1, 2013, OR UNTIL HIS/HER SUCCESSOR IS APPOINTED AND QUALIFIED. FOLLOWING THE INITIAL TERM OF THE DIRECTORS, EACH MEMBER OF THE BOARD OF DIRECTORS SHALL SERVE FOR A TERM OF ONE (1) YEAR OR UNTIL HIS/HER SUCCESSOR IS APPOINTED AND QUALIFIED, OR UNTIL HE/SHE HAS RESIGNED, BEEN REMOVED, OR DIES. INCUMBENT DIRECTORS SHALL BE ELIGIBLE FOR RE-APPOINTMENT AND THE NUMBER OF YEARS A PERSON MAY SERVE AS A DIRECTOR IS NOT LIMITED.

#### ARTICLE VII

##### REGULATION OF CORPORATE AFFAIRS

THE AFFAIRS OF THE CORPORATION SHALL BE SUBJECT TO THE FOLLOWING PROVISIONS:

SECTION 1. NONE OF THE CORPORATION'S NET EARNINGS SHALL INURE TO THE BENEFIT OF ANY PRIVATE INDIVIDUAL.

SECTION 2. SUBJECT TO THE PROVISIONS OF THESE ARTICLES OF INCORPORATION AND APPLICABLE LAW, THE BOARD OF DIRECTORS SHALL HAVE COMPLETE AND PLENARY POWER TO MANAGE, CONTROL, AND CONDUCT ALL THE AFFAIRS OF THE CORPORATION.

SECTION 3. THE POWER TO MAKE, ALTER, AMEND, AND REPEAL THE CORPORATION'S BYLAWS SHALL BE VESTED IN THE BOARD OF DIRECTORS.

SECTION 4. NO DIRECTOR OF THE CORPORATION SHALL BE LIABLE FOR ANY OF ITS OBLIGATIONS.

SECTION 5. MEETINGS OF THE BOARD OF DIRECTORS MAY BE HELD AT ANY LOCATION, EITHER INSIDE THE STATE OF INDIANA OR ELSEWHERE.

SECTION 6. ALL PARTIES DEALING WITH THE CORPORATION SHALL HAVE THE RIGHT TO RELY UPON ANY ACTION TAKEN BY THE CORPORATION PURSUANT TO AUTHORIZATION BY THE BOARD OF DIRECTORS BY RESOLUTION DULY ADOPTED IN ACCORDANCE WITH THE CORPORATION'S ARTICLES OF INCORPORATION, BYLAWS, AND APPLICABLE LAW.

SECTION 7. THE BOARD OF DIRECTORS MAY FROM TIME TO TIME, IN THE BYLAWS OF THE CORPORATION OR BY RESOLUTION, DESIGNATE SUCH COMMITTEES AS THE BOARD OF DIRECTORS MAY DEEM DESIRABLE FOR THE FURTHERANCE OF THE PURPOSES OF THE CORPORATION.

**Exhibit B**

Code of By-Laws

**BYLAWS**  
**OF**  
**WESTFIELD COMMUNITY DEVELOPMENT CORPORATION**

**ARTICLE I**

**General**

**Section 1.**     **Name.**     The name of the corporation is Westfield Community Development Corporation (the “Corporation”).

**Section 2.**     **Address.**   The post office address of the Corporation’s initial registered office is 130 Penn Street, Westfield, Indiana 46074-9544. The initial registered agent in charge of the Corporation’s initial registered office is Brian J. Zaiger.

**Section 3.**     **Fiscal Year.** The fiscal year of the Corporation shall begin on the first day of January and end on the last day of December next succeeding.

**ARTICLE II**

**Membership**

**Section 1.**     The Corporation shall have no members.

**ARTICLE III**

**Board of Directors**

**Section 1.**     **Designation or Appointment and Term.** The affairs of the Corporation shall be managed, controlled, and conducted by and under the supervision of, the Board of Directors, subject to the provisions of the Articles of Incorporation and these Bylaws. The Board of Directors shall have three (3) members, each appointed by the Mayor of the City of Westfield, Indiana. The term of each member of the initial Board of Directors shall be for a term ending January 1, 2013, and until his or her successor is designated or appointed and qualified. Thereafter, each successor director shall serve for a term of one (1) year and until his or her successor is designated or appointed and qualified, unless sooner terminated by resignation, removal or death. A director may be designated or appointed to serve any number of consecutive or nonconsecutive terms as a director of the Corporation.

**Section 2.**     **Quorum and Voting.** A majority of the directors in office immediately before a meeting begins shall constitute a quorum for the transaction of any business properly to

come before the Board of Directors; provided that such quorum shall never be less than two (2) directors. The act of a majority of the directors present at a meeting at which a quorum is present shall be the act of the Board of Directors.

Section 3. Regular Meetings. The Board of Directors may hold regular meetings, as fixed by these Bylaws or by resolution of the Board of Directors, for the purpose of transacting such business as properly may come before the Corporation's Board of Directors. Such regular meetings of the Board of Directors may be held without notice of the date, time, place, or purpose of the meeting and may be held at any location, either inside the State of Indiana or elsewhere.

Section 4. Special Meetings. Notwithstanding the preceding Section 3 of this Article III, the Board of Directors may hold special meetings for any lawful purpose upon not less than two (2) days notice, as described in Section 5 of this Article III, upon call by the President of the Corporation or by not less than two (2) members of the Board of Directors. A special meeting shall be held at such date, time, and place, within or without the State of Indiana, as is specified in the call of the meeting. The purpose of any such meeting need not be specified.

Section 5. Notice of Special Meetings. Oral or written notice of the date, time, and place of each special meeting of the Board of Directors shall be communicated, delivered, or mailed by the Secretary of the Corporation or the person or persons calling the meeting, to each member of the Board of Directors so that such notice is effective at least two (2) days before the date of the meeting. The notice need not describe the purpose of the special meeting. Oral notice shall be effective when communicated. Written notice shall be effective at the earliest of the following:

- (1) When received;
- (2) Five (5) days after the notice is mailed, as evidenced by the postmark or private carrier receipt, if mailed and correctly addressed to the address listed in the most current records of the Corporation;
- (3) On the date shown on the return receipt if sent by registered or certified United States mail, return receipt requested, and the receipt is signed by or on behalf of the addressee; or
- (4) Thirty (30) days after the notice is deposited with another method of the United States Postal Service other than first class, registered, or certified postage affixed, as evidenced by the postmark, if mailed correctly addressed to the address listed in the most current records of the Corporation.

Section 6. Waiver. Notice may be waived in writing, signed by the director entitled to the notice, and filed with the minutes or the corporate records. Attendance at or participation in any meeting of the Corporation's Board of Directors shall constitute a waiver of notice of such meeting unless the director shall, at the beginning of the meeting or promptly upon the director's

arrival, object to holding the meeting and does not vote for or assent to action taken at the meeting.

Section 7. Means of Communication. Unless otherwise restricted by applicable law, the Board of Directors may (a) permit a director to participate in a regular or special meeting by, or (b) conduct a regular or special meeting through the use of, any means of communication by which all directors participating may simultaneously hear each other during the meeting. A director participating in a meeting by such means shall be considered present in person at the meeting.

Section 8. Action By Written Consent. Unless otherwise restricted by applicable law, any action required or permitted to be taken at any meeting of the Board of Directors, or any committee thereof, may be taken without a meeting if a written consent describing such action is signed by each director or all committee members, as the case may be, and such written consent is included in the minutes or filed with the corporate records reflecting the action taken. Action taken by written consent shall be effective when the last director or committee member signs the consent, unless the consent specifies a prior or subsequent effective date. A consent signed as described in this Section 8 shall have the effect of a meeting vote and may be described as such in any document.

Section 9. Removal and Vacancies. Any vacancy on the Board of Directors, by resignation, removal, death, or otherwise, shall be filled in the same manner as the position was filled prior to such vacancy.

## ARTICLE IV

### Officers

Section 1. In General. The officers of this Corporation shall be a President, a Secretary, a Treasurer, and such other officers as the Board of Directors may otherwise elect. An officer may simultaneously hold more than one (1) office. Each officer shall be elected by the Board of Directors at a regular or special meeting and shall serve for one (1) year and until the officer's successor is elected and qualified. An officer may serve in the same office for any number of consecutive terms. Officers may, but need not, be members of the Board of Directors. Any officer may be removed by majority vote of the Board of Directors at any time, with or without cause. Any vacancy occurring in any office shall be filled by the Board of Directors, and the person elected to fill such vacancy shall serve until the expiration of the term vacated.

Section 2. President. The President shall preside at all meetings of the Board of Directors of the Corporation and shall be responsible for implementation of policies established by the Board of Directors. The President shall perform the duties incident to the office of chief executive officer of the Corporation and such other duties as the Board of Directors may prescribe.

Section 3. Secretary. The Secretary shall be the custodian of all papers, books, and records of the Corporation other than books of account and financial records. The Secretary shall prepare and enter in the minute book the minutes of all meetings of the Board of Directors. The Secretary shall authenticate records of the Corporation as necessary. The Secretary shall perform the duties usual to such position and such other duties as the Board of Directors or the President may prescribe.

Section 4. Treasurer. The Treasurer shall prepare and maintain correct and complete records of account showing accurately the financial condition of the Corporation. All notes, securities, and other assets coming into the possession of the Corporation shall be received, accounted for, and placed in safekeeping as the Treasurer may from time to time prescribe. The Treasurer shall furnish, whenever requested by the Board of Directors or the President, a statement of the financial condition of the Corporation and shall perform the duties usual to such position and such other duties as the Board of Directors or the President may prescribe.

Section 5. Other Offices. Each other officer of the Corporation shall perform such duties as the Board of Directors or the President may prescribe.

## ARTICLE V

### Committees

Section 1. Executive Committee. The Board of Directors may, by resolution adopted by a majority of the directors then in office, designate two (2) or more directors of the Corporation to constitute an Executive Committee which, to the extent provided in such resolution and consistent with applicable law, shall have and exercise all of the authority of the Board of Directors in the management of the Corporation's affairs during intervals between the meetings of the Board of Directors. The Executive Committee shall be subject to the authority and supervision of the Board of Directors.

Section 2. Other Committees. The Board of Directors may establish other committees, in addition to the Executive Committee, to accomplish the goals and perform the programs of the Corporation. Such committees shall have such responsibilities and powers as the Board of Directors shall specify. Members of such other committees may, but need not, be members of the Board of Directors. A committee member appointed by the Board of Directors may be removed by a majority vote of the Board of Directors, with or without cause.

## ARTICLE VI

### Indemnification

Section 1. Indemnification by the Corporation. To the extent not inconsistent with applicable law, every person (and the heirs and personal representatives of such person) who is or was a director or officer of the Corporation shall be indemnified by the Corporation against all

liability and reasonable expense that may be incurred by him or her in connection with or resulting from any claim, action, suit, or proceeding (a) if such person is wholly successful with respect thereof or, (b) if not wholly successful, then if such person is determined as provided in Section 3 of this Article VI to have acted in good faith, in what he or she reasonably believed to be the best interests of the Corporation (or, in any case not involving the person's official capacity with the Corporation, in what he or she reasonably believed to be not opposed to the best interests of the Corporation) and, in addition, with respect to any criminal action or proceeding, is determined to have had reasonable cause to believe that the conduct was lawful (or no reasonable cause to believe that the conduct was unlawful). The termination of any claim, action, suit, or proceeding, by judgment, settlement (whether with or without court approval), conviction, or upon a plea of guilty or of nolo contendere (or its equivalent), shall not create a presumption that a person did not meet the standards of conduct set forth in this Article VI.

Section 2. Definitions. (a) As used in this Article VI, the terms "claim, action, suit, or proceeding" shall include any threatened, pending, or completed claim, action, suit, or proceeding and all appeals thereof (whether brought by or in the right of this Corporation, any other corporation, or otherwise), civil, criminal, administrative, or investigative, whether formal or informal, in which a person (or his or her heirs or personal representatives) may become involved, as a party or otherwise:

(i) By reason of his or her being or having been a director or officer of the Corporation or of any corporation where he or she served as such at the request of the Corporation, or

(ii) By reason of his or her acting or having acted in any capacity in a corporation, partnership, joint venture, association, trust, or other organization or entity where he or she served as such at the request of the Corporation, or

(iii) By reason of any action taken or not taken by him or her in any such capacity, whether or not he or she continues in such capacity at the time such liability or expense shall have been incurred.

(b) As used in this Article VI, the terms "liability" and "expense" shall include, but shall not be limited to, counsel fees, disbursements, and amounts of judgments, fines, or penalties against, and amounts paid in settlement by or on behalf of, a person.

(c) As used in this Article VI, the term "wholly successful" shall mean (i) termination of any action, suit, or proceeding against the person in question without any finding of liability or guilt against him or her, (ii) approval by a court, with knowledge of the indemnity herein provided, of a settlement of any action, suit or proceeding, or (iii) the expiration of a reasonable period of time after the making of any claim or threat of any action, suit, or proceeding without the institution of the same, without any payment or promise made to induce a settlement.

Section 3. Entitlement to Indemnification. Every person claiming indemnification hereunder (other than one who has been wholly successful with respect to any claim, action, suit,

or proceeding) shall be entitled to indemnification (a) if special independent legal counsel, which may be regular counsel of the Corporation or other disinterested person or persons, in either case selected by the Board of Directors, whether or not a disinterested quorum exists (such counsel or person or persons being hereinafter called the referee), shall deliver to the Corporation a written finding that such person has met the standards of conduct set forth in the preceding Section 1 of this Article VI and (b) if the Board of Directors, acting upon such written finding, so determines. The person claiming indemnification shall, if requested, appear before the referee and answer questions which the referee deems relevant and shall be given ample opportunity to present to the referee evidence upon which he or she relies for indemnification. The Corporation shall, at the request of the referee, make available facts, opinions, or other evidence in any way relevant to the referee's findings which are within the possession or control of the Corporation.

Section 4. Relationship to Other Rights. The right of indemnification provided in this Article VI shall be in addition to any rights to which any person may otherwise be entitled.

Section 5. Extent of Indemnification. Irrespective of the provisions of this Article VI, the Board of Directors may, at any time and from time to time, approve indemnification of directors, officers, or other persons to the fullest extent permitted by applicable law, or, if not permitted, then to any extent not prohibited by such law, whether on account of past or future transactions.

Section 6. Advancement of Expenses. Expenses incurred with respect to any claim, action, suit, or proceeding may be advanced by the Corporation (by action of the Board of Directors, whether or not a disinterested quorum exists) prior to the final disposition thereof upon receipt of an undertaking by or on behalf of the recipient to repay such amount unless he or she is entitled to indemnification.

Section 7. Purchase of Insurance. The Board of Directors is authorized and empowered to purchase insurance covering the Corporation's liabilities and obligations under this Article VI and insurance protecting the Corporation's directors, officers, or other persons.

## ARTICLE VII

### Contracts, Checks, Loans, Deposits and Gifts

Section 1. Contracts. The Board of Directors may authorize one (1) or more officers or agents of the Corporation to enter into any contract or execute any instrument on its behalf. Such authorization may be general or confined to specific instances. Unless so authorized by the Board of Directors, no officer, agent, or employee shall have any power to bind the Corporation or to render it liable for any purpose or amount.

Section 2. Checks. All checks, drafts, or other orders for payment of money by the Corporation shall be signed by such person or persons as the Board of Directors may from time

to time designate by resolution. Such designation may be general or confined to specific instances.

Section 3. Loans. Unless authorized by the Board of Directors, no loan shall be made by or contracted for on behalf of the Corporation and no evidence of indebtedness shall be issued in its name. Such authorization may be general or confined to specific instances.

Section 4. Deposits. All funds of the Corporation shall be deposited to its credit in such bank, banks, or other depositories as the Board of Directors may designate. Such designation may be general or confined to specific instances.

Section 5. Gifts. The Board of Directors may accept on behalf of the Corporation any gift, bequest, devise, or other contribution for the purposes of the Corporation on such terms and conditions as the Board of Directors shall determine.

Section 6. Grants. The Board of Directors may provide tor grants for redevelopment areas of the City.

## ARTICLE VIII

### Conflict of Interest Policy

Section 1. Purpose. The purpose of the conflict of interest policy is to protect the Corporation's interest when it is contemplating entering into a transaction or arrangement that might benefit the private interest of an officer or director of the Corporation or might result in a possible Excess Benefit Transaction (as that term is defined below). This policy is intended to supplement, but not replace, any applicable federal and state laws governing conflicts of interest applicable to tax-exempt, non-profit and charitable organizations.

Section 2. Definitions. For purpose of this Article VIII, the following terms shall have the following meanings:

- (a) "Compensation" shall mean direct or indirect remuneration as well as gifts or favors that are not insubstantial.
- (b) "Excess Benefit Transaction" shall mean any transaction or arrangement in which an economic benefit is provided by the Corporation, directly or indirectly, to or for the use of any Interested Person (including members of his or her family and any entity which is thirty-five percent (35%) owned or controlled by such Interested Person) if the value of the economic benefit provided exceeds the value of the consideration (including the performance of services) received for providing such benefit.

- (c) “Financial Interest” shall mean the interest of any person which arises, directly or indirectly, through business, investment, or family relationship, from any of the following:
- (i) An ownership or investment interest in any entity with which the Corporation has a transaction or arrangement; or
  - (ii) A Compensation arrangement with the Corporation or with any entity or individual with which the Corporation has a transaction or arrangement; or
  - (iii) A potential ownership or investment interest in, or Compensation arrangement with, any entity or individual with which the Corporation is negotiating a transaction or arrangement.

A Financial Interest is not necessarily a conflict of interest. Under Article VIII, Section 4, an Interested Person who has a Financial Interest may have a conflict of interest only if the appropriate Board of Directors or committee decides that a conflict of interest exists.

- (d) “Interested Person” shall mean any director, officer, or member of a committee (with powers delegated from the Board of Directors) who has a direct or indirect Financial Interest. If a person is an Interested Person with respect to any entity in the corporate organization of which the Corporation is a part, he or she is an Interested Person with respect to all entities in that system.

Section 3. Duty to Disclose. In connection with any actual or possible conflict of interest, an Interested Person must promptly disclose the amount of such consideration and the existence and nature of his or her Financial Interest to the directors and members of committees with powers delegated from the Board of Directors considering the proposed transaction or arrangement and all material facts with respect to such Financial Interest.

Section 4. Determining Whether a Conflict of Interest Exists. After the Interested Person discloses his or her Financial Interest and all material facts as contemplated by Section 3 of this Article VIII, and after any discussion with the Interested Person, the Interested Person shall leave the Board of Directors or committee meeting while the determination of a conflict of interest is discussed and voted upon. The remaining Board of Directors or committee members shall decide if a conflict of interest exists.

Section 5. Procedures for Addressing the Conflict of Interest.

- (a) An Interested Person may make a presentation at the Board of Directors or committee meeting, but after the presentation, the Interested Person shall leave the meeting during the discussion of, and the vote on, the transaction or arrangement involving the possible conflict of interest.

- (b) The Board of Directors or committee shall, if appropriate, appoint a disinterested person or committee to investigate alternatives to the proposed transaction or arrangement.
- (c) After exercising due diligence, the Board of Directors or committee shall determine whether the Corporation can obtain with reasonable efforts a more advantageous transaction or arrangement from a person or entity that would not give rise to a conflict of interest.
- (d) If a more advantageous transaction or arrangement is not reasonably possible under circumstances not producing a conflict of interest, the Board of Directors or committee shall determine by a majority vote of the disinterested directors whether the transaction or arrangement is in the Corporation's best interest, for its own benefit, and whether the transaction or arrangement is fair and reasonable to the Corporation. In conformity with the above determination the Board of Directors or committee shall make its decision as to whether to enter into the transaction or arrangement.

Section 6.      Violations of the Conflict of Interest Policy.

- (a) If the Board of Directors or committee has reasonable cause to believe that a director or officer has failed to disclose actual or possible conflicts of interest, it shall inform the director or officer of the basis for such belief and afford the director or officer an opportunity to explain the alleged failure to disclose.
- (b) If, after hearing the response of the director or officer and after making such further investigation as may be warranted by the circumstances, the Board of Directors or committee determines that the director or officer has failed to disclose an actual or possible conflict of interest, it shall take appropriate disciplinary and corrective action.

Section 7.      Records of Proceedings. The minutes of the Board of Directors or committees with powers delegated from the Board of Directors shall contain:

- (a) The names of the persons who disclosed or otherwise were found to have a Financial Interest in connection with an actual or possible conflict of interest, the nature of the Financial Interest, any action taken to determine whether a conflict of interest was present, the Board of Director's or committee's decision as to whether a conflict of interest in fact existed, and the course of action determined to be taken with respect to the transaction or arrangement giving rise to such conflict of interest; and
- (b) The names of the persons who were present for discussions and votes relating to the transaction or arrangement, a summary of the content of the discussion, a summary of any alternatives to the proposed transaction or arrangement that were considered, and a record of any votes taken in connection with the proceedings.

Section 8.     Compensation.

- (a) A voting member of the Board of Directors who receives Compensation, directly or indirectly, from the Corporation for services is precluded from voting on matters pertaining to that member's Compensation.
- (b) A voting member of any committee whose jurisdiction includes Compensation matters and who receives Compensation, directly or indirectly, from the Corporation for services is precluded from voting on matters pertaining to that member's Compensation.
- (c) No voting member of the Board of Directors or any committee whose jurisdiction includes Compensation matters and who receives Compensation, directly or indirectly, from the Corporation, either individually or collectively, is prohibited from providing any information to any committee regarding Compensation.

Section 9.     Annual Statements. Each director, officer and member of a committee with powers delegated from the Board of Directors shall annually sign a statement which affirms that such person:

- (a) Has received a copy of the conflict of interest policy;
- (b) Has read and understands the policy;
- (c) Has agreed to comply with the policy; and
- (d) Understands that the Corporation is a charitable organization and that in order to maintain a federal tax exemption it must engage primarily in activities that accomplish one (1) or more of its tax-exempt purposes.

Section 10.    Periodic Reviews. To ensure that the Corporation operates in a manner consistent with its charitable purposes and that it does not engage in activities that could jeopardize such tax-exempt status, periodic reviews shall be conducted. The periodic reviews shall, at a minimum, include the following subjects:

- (a) Whether Compensation arrangements and benefits are reasonable, based on competent survey information, and the result of arm's length bargaining; and
- (b) Whether partnerships, joint ventures, and arrangements with management organizations conform to written policies, are properly recorded, reflect reasonable investment or payments for goods and services, further the Corporation's charitable purposes and do not result in inurement, impermissible private benefit or an Excess Benefit Transaction.

Section 11. Use of Outside Experts. When conducting the periodic reviews provided for in this Article VIII, the Corporation may, but need not, use outside advisors. If outside experts are used, their use shall not relieve the Board of Directors of its responsibility for ensuring periodic reviews are conducted.

## ARTICLE IX

### Amendments

The power to make, alter, amend, or repeal the Bylaws is vested in the Board of Directors of the Corporation.

Approved and Adopted on the \_\_\_\_\_ day of November, 2011.

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