

RESOLUTION NO. 2012-012

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF JOSHUA, TEXAS, APPROVING PROPOSED AMENDMENTS TO THE JOSHUA 4A ECONOMIC DEVELOPMENT CORPORATION BYLAWS; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Joshua 4A Economic Development Corporation (“EDC”) is a Texas non-profit corporation operating under the Development Corporation Act of 1979, codified in Subtitle C1 of Title 12 of the Texas Local Government Code, Chapters 501 through 505 (the “Act”) and the Texas Non-Profit Corporation Act, as amended, and other applicable laws; and

**WHEREAS**, the EDC promotes economic development within the City of Joshua (the “City”) to eliminate unemployment and underemployment, and to promote and encourage employment and the public welfare of, for and on behalf of the City by developing, implementing, providing, and financing projects under the Act; and

**WHEREAS**, as a result of the codification of the Act, it is now necessary to make amendments to the EDC’s Bylaws to reflect changes in the law; and

**WHEREAS**, the EDC Bylaws as currently written provide for only five (5) Directors; and

**WHEREAS**, the City Council and EDC Board desire to provide for two (2) additional Directors and two (2) alternate directors to better serve the citizens of Joshua; and

**WHEREAS**, neither the EDC Certificate of Formation, nor the EDC Bylaws, nor the Act limit the power of the Board of Directors to amend the Bylaws by providing for two (2) additional Directors and two (2) alternate directors via passage of this Resolution; and

**WHEREAS**, pursuant to Article XI, Section (b) of the EDC Certificate of Formation, the EDC Board is seeking the consent and approval of the City Council regarding the proposed amendments to the Bylaws.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF JOSHUA, TEXAS, THAT:**

**SECTION 1.**

The proposed amendments to the Joshua 4A Economic Development Corporation (“EDC”) Bylaws, attached hereto as Exhibit “A”, have been reviewed by the City Council of the City of Joshua, and are found to be acceptable and in the best interest of the City of Joshua and its citizens, and is hereby in all things approved.

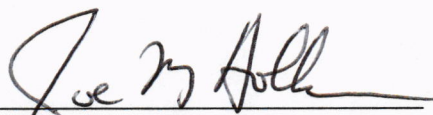
**SECTION 2.**

The EDC Board is hereby authorized to adopt the proposed amendments to the Bylaws of the EDC.


**SECTION 3.**

This Resolution shall become effective from and after its passage.

**PASSED, APPROVED, AND EFFECTIVE THIS THE 18<sup>th</sup> DAY OF October, 2012.**

  
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Joe Hollarn, Mayor

ATTEST:

  
\_\_\_\_\_  
Mary Beth Thomas, City Secretary

**BYLAWS OF**  
**JOSHUA TYPE A ECONOMIC DEVELOPMENT CORPORATION**

**ARTICLE I**  
**PURPOSE AND POWERS**

Section 1. Purpose. The Corporation is incorporated for the purposes set forth in Article IV of its Certificate of Formation, the same to be accomplished on behalf of the City of Joshua, Texas ("City") as its duly constituted authority and instrumentality in accordance with the Development Corporation Act of 1979 ("Act"), as amended, Title 12, Subtitle C1 of the Texas Local Government Code ("Code"), and other applicable laws.

Section 2. Powers. In the fulfillment of its corporate purpose, the Corporation shall be governed by the Act and shall have all of the powers set forth and conferred in its Certificate of Formation, in the Act, and in other applicable law, subject to the limitations prescribed therein and herein and to the provisions thereof and hereof.

**ARTICLE II**  
**BOARD OF DIRECTORS**

Section 1. Powers of Board. The property and affairs of the Corporation shall be managed and controlled by a Board of Directors (the "Board") and, subject to the restrictions imposed by law, by the Certificate of Formation, and by these Bylaws, the Board shall exercise all of the powers of the Corporation.

Section 2. Number. The Board shall consist of seven (7) directors, each of whom shall be appointed by the City Council (the "City Council") of the City. All seven (7) directors shall be residents of the City, or Johnson County. Two (2) alternate directors shall also be appointed by the City Council and shall meet all qualifications of regular directors imposed by law, ordinance or resolution.

Section 3. Term of Office. The directors appointed by the City Council shall be appointed for two-year terms of office and shall be eligible for reappointment at the end of each successive term. Places 1, 3, 5, and 7 shall be appointed in odd-numbered years and Places 2, 4, and 6 shall be appointed in even-numbered years. Each member of the Board shall serve until a successor is appointed as hereinafter provided. Alternate directors shall be appointed in odd numbered years for two-year terms and shall serve only in the absence of a regular director at the request of the presiding officer.

Section 4. Removal and Vacancy. Any director may be removed from office by the City Council at will. In case of a vacancy on the Board for any reason, the City Council shall appoint a successor to serve the remainder of the unexpired term.

Section 5. Meetings of Directors. Regular meetings shall be held from time to time as determined by resolution of the Board. The directors may hold their meetings at such place or places in the City as the Board may from time to time determine, provided, however, in the absence of any such determination by the Board, the meetings shall be held, at the principal office of the Corporation as specified in Article IV of these Bylaws.

Section 6. Notice of Meetings to Board Members. Regular meeting of the Board shall be held without the necessity of notice to directors. Special meetings of the Board shall be held whenever called by the president, by the secretary, by three directors, by the Mayor of the City, or by a majority of the City Council. Except in the case of an emergency, special meetings require three (3) days notice to each director, either personally or by mail or electronic mail if the director has provided the City with a current electronic mailing address. Emergency meetings shall be held in accordance with the Texas Open Meetings Act.

Section 7. Manner of Notice. Whenever any notice is required to be given to the Board, said notice shall be deemed to be sufficient if given by depositing the same in a post office box with 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. Attendance of a director at a meeting shall constitute waiver of notice of such meeting, except where a director attends a meeting for the express purpose of objecting to the transaction of any business on the grounds that the meeting is not lawfully called or convened. Neither the business to be transacted, nor the purpose of any regular or special meeting of the Board need be specified in the notice to directors or waiver of notice of such meeting, unless required by the Board. A waiver of notice in writing, signed by the person or persons entitled to said notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice.

Section 8. Texas Open Meetings Act. All meetings and deliberations of the Board shall be called, convened, held, and conducted, and notice shall be given to the public in accordance with the Texas Open Meetings Act, Chapter 551, Texas Government Code, as amended.

Section 9. Quorum. A majority of the entire membership of the board, including vacancies, shall constitute a quorum for the conduct of the official business of the Corporation. The action of a majority of the directors present at a meeting at which a quorum is in attendance shall constitute the action of the Board and of the Corporation, unless the action of a greater number is required by law.

Section 10. Conduct of Business. At the meetings of the Board, matters pertaining to the business of the Corporation shall be considered in accordance with rules of procedure as from time to time prescribed by the Board. At all meetings of the Board, the president shall preside, and in the absence of the president, the vice president shall exercise the powers of the president. 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 11. Compensation of Directors. Directors shall not receive any salary or compensation for their services. However, they shall be reimbursed for their actual expenses incurred in the performance of their duties thereunder, including but not limited to the cost of travel, lodging and incidental expenses reasonably related to the corporate duties of the Board. Travel expenses incurred by directors for both regular and special meetings are not eligible for reimbursement.

### **ARTICLE III OFFICERS**

Section 1. Officers and Terms Established. The officers of the Corporation shall be a president, a vice president, a secretary, and 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 the president shall not hold the office of secretary. Officers shall be elected for terms of one (1) year with the right of an officer to be reelected for successive terms.

Section 2. Removal. All officers shall be subject to removal from office at any time by a vote of three quarters of the entire Board.

Section 3. Vacancy. A vacancy in the office or any officer shall be filled by a vote of a majority of the directors.

Section 4. Powers and Duties of the President. The president shall be the chief executive officer of the Corporation, and subject to the paramount authority of the Board, shall preside at all meetings of the Board, and may sign and execute all contracts, conveyances, franchises, bonds, deeds, assignments, mortgages, notes, and other instruments in the name of the Corporation.

Section 5. Vice President. The vice president shall have such powers and duties as may be prescribed by the Board and shall exercise the powers of the president during that officer's absence or inability to act. 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 the responsibility to see to the handling, custody, and security of all funds and securities of the Corporation in accordance with these bylaws. When necessary or proper, the treasurer may endorse and sign, on behalf of the Corporation, for collection or issuance, checks, notes, and other obligations in or drawn upon such bank, banks, or depositories as shall be designated by the Board consistent with these Bylaws. The treasurer shall see to the entry in the books of the Corporation full and accurate accounts of all monies received and paid out on account of the Corporation. The treasurer shall, at the expense of the Corporation, give such bond for the faithful discharge of his duties in such form and amount as the Board or the City Council may require.

Section 7. Secretary. The secretary shall keep the minutes of all meetings of the Board in books provided for that purpose, shall give and serve all notices, may sign with the president in the name of the Corporation, and/or attest the signature thereto, all contracts, conveyances, franchises, bonds, deeds, assignments, mortgages, notes and other instruments of the Corporation, shall have charge of the corporate books, records, documents and instruments, except the books of account and financial records and securities, and such other books and papers as the Board may direct, all of which shall at all reasonable times be open to public inspection upon application at the office of the Corporation during business hours, and shall in general perform all duties incident to the office of secretary subject to the control of the Board.

Section 8. Qualifications. The president, each vice president, and the secretary shall be named from among the members of the Board. The treasurer and any assistant secretaries may, at the option of the Board, be persons other than members of the Board, or they may be employees of the City.

Section 9. Compensation. Officers who are members of the Board shall not receive any salary or compensation for their services, except that they shall be reimbursed for their actual expenses incurred in the performance of their official duties as officers.

#### **ARTICLE IV MISCELLANEOUS PROVISIONS**

Section 1. Principal Office. The principal office and the registered office of the Corporation shall be the registered office of the Corporation specified in the Certificate of Formation.

Section 2. Registered Agent. The Corporation shall have and shall continually designate a registered agent at its registered office, as required by the Act.

Section 3. Fiscal Year. The fiscal year of the Corporation shall be the same as the fiscal year of the City.

Section 4. Annual Corporate Budget. At least ninety (90) days prior to the commencement of each fiscal year of the Corporation, the Board shall adopt a proposed budget of expected revenues and proposed expenditures for the next ensuing fiscal year. The budget shall contain such classifications and shall be in such form as may be prescribed from time to time by the City Council. The budget shall not be effective until the same has been approved by the City Council.

Section 5. Books, Records, and Audits.

(a) The Corporation shall keep and properly maintain, generally accepted accounting principles, complete books, records, accounts, and financial statements pertaining to its corporate funds, activities, and affairs. The City shall at all times have access to the books and records of the Corporation.

(b) At the direction of the City Council, the books, records, accounts, and financial statements of the Corporation may be maintained for the Corporation by the accountants, staff and personnel of the City.

(c) The Corporation, or the City if the option described in subsection (b) is selected, shall cause its books, records, accounts, and financial statements to be audited at least once each fiscal year by an outside, independent, auditing and accounting firm selected by the Corporation and approved by the City Council. Such audit shall be at the expense of the Corporation.

Section 6. Seal. The seal of the Corporation is authorized, but shall not be required.

Section 7. Resignations. Any director or officer may resign at any time. Such resignation 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 8. Approval or Advice and Consent of the City Council. To the extent that these Bylaws refer to any approval by the City or refer to advice and consent by the Council, such advice and consent shall be evidenced by a certified copy of a resolution, order or motion duly adopted by the City Council.

Section 9. Indemnification of Directors, Officers and Employees. As provided in the Act and in the Certificate of Formation, the Corporation is, for the purposes of the Texas Tort Claims Act (Subchapter A, Chapter 101, Texas Civil Practices and Remedies Code), a governmental unit and its actions are governmental functions. The Corporation shall indemnify each and every member of the Board, its officers, and its employees, and each member of the City Council and each employee of the City, to the fullest extent permitted by law, against any and all liability or expense, including attorneys fees, incurred by any of such persons by reason of any actions or omissions that may arise out of the functions and activities of the Corporation.

Section 10. Public Hearing. Before expending funds to undertake a project, the Board shall hold at least one public hearing on the proposed project.

Section 11. Effect on Prior Bylaws. The approval of these Bylaws by the City Council and the adoption of these Bylaws by the Board shall cause these Bylaws to supersede any Bylaws adopted by the Corporation prior to the Effective Date of these Bylaws.

#### **ARTICLE V EFFECTIVE DATE, AMENDMENTS**


Section 1. Effective Date. These Bylaws shall become effective upon the occurrence of the following events:

- (a) the approval of these Bylaws by the City Council; and
- (b) the adoption of these Bylaws by the Board.

Section 2. Amendments to Certificate of Formation and Bylaws. The Certificate of Formation of the Corporation and these Bylaws may be amended only in the manner provided in the Certificate of Formation and the Act.

#### **CERTIFICATION**

I hereby certify that the foregoing Bylaws are the true and correct Bylaws of the Corporation as adopted by the Joshua Type A Economic Development Corporation on the 18<sup>th</sup> day of October, 2012.

  
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Mary Beth Thomas, City Secretary