CB/LB
6/18/15
Item No. 62

A RESOLUTION 2015-06-18-0044R

OF THE CITY COUNCIL OF THE CITY OF SAN ANTONIO, TEXAS, AUTHORIZING AND APPROVING THE CREATION OF THE SAN ANTONIO TRICENTENNIAL CELEBRATION COMMISSION; APPROVING THE APPLICATION, FORM OF ARTICLES OF INCORPORATION, AND FORM OF BYLAWS; APPROVING OTHER PROVISIONS RELATING TO MATTERS INCIDENTAL AND RELATED THERETO; AND PROVIDING FOR AN EFFECTIVE DATE

* * * * * * * * * *

WHEREAS, Subchapter D of Chapter 431, Texas Transportation Code, as amended (*Chapter 431*), authorizes the creation and organization of a public, nonprofit local government corporation to act as a duly constituted authority of a city to aid and act on behalf of a city in the performance of one or more of a city's governmental functions; and

WHEREAS, Chapter 431 requires a local government corporation to be created pursuant to the provisions of Chapter 394, Texas Local Government Code, as amended (*Chapter 394*), and requires a local government corporation's articles of incorporation be in the form and be executed, approved, and filed in the manner prescribed by Chapter 394; and

WHEREAS, a local government corporation may have and 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 are collectively referred to as the *Acts*); and

WHEREAS, Chapter 394 requires as condition to the creation of a local government corporation that at least three (3) residents of the City and the State of Texas (the *State*) who are at least eighteen (18) years of age submit a written application for the incorporation of the local government corporation; and

WHEREAS, there has been presented to and filed with the City Clerk of the City of San Antonio, Texas (the *City*), an application executed by three (3) residents of the City who meet the requirements of Chapter 394 requesting the incorporation of the San Antonio Tricentennial Celebration Commission (the *Corporation*); and

WHEREAS, the Corporation will be organized for the purpose of aiding and acting on behalf of the City in the performance of the City's governmental functions, including, but not limited to providing a means of assisting with planning, developing, identifying potential partners, fundraising, managing, and financing projects involved with City's Tricentennial Celebration activities, and to accomplish any other governmental purpose of the City (the *Project*) and all of the costs of such Project (the *Project Costs*), and in so acting on behalf of the City, such

Corporation will assist the City in the performance of the City's governmental functions as heretofore described and as contemplated by the Acts; and

WHEREAS, the City Council of the City (the *Council*), as the governing body of the City, has reviewed and approved the proposed form of the Articles of Incorporation attached hereto as Exhibit A and has determined to authorize and approve the creation of a local government corporation, a nonprofit entity, as its constituted authority and instrumentality to accomplish the purposes set forth in Article IV of such Articles of Incorporation pursuant to the provisions of Chapter 431; and

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

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

SECTION 1. The Council hereby finds, determines, and declares that the application for the incorporation of the Corporation was executed and filed in the manner required by Chapter 394, and the Council therefore has authority to consider and act on the application for incorporation of the Corporation. The executed application is attached to this Ordinance as **Exhibit A**.

SECTION 2. The Council hereby determines that the formation of the Corporation is wise, expedient, necessary, and advisable, as required by Chapter 431 and, to the extent required by Chapter 431, the provisions of Chapter 394, as a duly constituted authority of the City, and the Corporation is hereby authorized to aid and act on behalf of the City in the performance of its governmental functions, and to perform the other purposes described in the Articles of Incorporation.

SECTION 3. The Corporation may aid and act on behalf of the City to further the public purposes set forth in Article IV of the Articles of Incorporation, as the same may be amended from time to time. In furtherance of those public purposes, the Corporation may cause and arrange for the design, development, construction, implementation, financing and operation of the Project, pursuant to the provisions of State law, and may take all lawful actions necessary or useful in furthering such public purposes.

SECTION 4. The Corporation is hereby designated as the duly constituted authority and instrumentality of the City (within the meaning of those terms in the regulations of the Treasury and the rulings of the Internal Revenue Service prescribed and promulgated pursuant to section 103 of the Internal Revenue Code of 1986, as amended) and shall be authorized to act on behalf of the City for the public purposes set forth in Section 3 hereof; but the Corporation is not intended to be and shall not be a political subdivision or a political corporation within the meaning of the Constitution and the general laws of the State, including without limitation Article III, Section 52 of the Texas Constitution, and the City does not delegate to the Corporation any of its attributes of sovereignty, including the power to tax, the power of eminent domain, or its police power. Furthermore, the City will maintain substantial involvement in the activities of the Corporation such that the Corporation will be treated, for the purposes of federal

tax law, as an "integral part" of the City, based on the level of control and funding the City has in regard to the Corporation.

SECTION 5. This Resolution is adopted for the purpose of satisfying the conditions and requirements of the Acts and of section 103 of the Internal Revenue Code of 1986, as amended, and the regulations prescribed thereunder from time to time and for the benefit of the Corporation, the City, the owners or holders from time to time of the bonds or notes of the Corporation, and all other interested persons.

SECTION 6. The Council hereby approves and adopts the Articles of Incorporation of the Corporation and the Bylaws in substantially the form attached hereto as **Exhibit B** and **Exhibit C**, respectively, which are each incorporated by reference as a part of this Resolution for all purposes, and authorizes the incorporators of the Corporation to file such Articles of Incorporation and Bylaws with the Texas Secretary of State in the manner provided by law.

SECTION 7. The Council hereby appoints the directors listed in the Articles of Incorporation attached hereto to the initial board of directors for the Corporation. Subsequent Directors shall be appointed as provided in the bylaws to be adopted by the Corporation.

SECTION 8. The Corporation may, under the conditions set forth in the Acts and in this Resolution, issue, or provide for the issuance of, bonds or notes, acquire, lease, sell or convey certain properties, and enter into purchase agreements, lease agreements, credit agreements, operating agreements and all other agreements necessary or useful in connection with the Project, including donation, gift, or other agreements pursuant to which the Corporation accepts by gift or devise something of value; provided that the Corporation shall not issue bonds or notes without the consent of the Council. Furthermore, bonds or notes issued by the Corporation shall be deemed not to constitute a debt of the State, the City, or of any other political corporation, subdivision, or agency of the State or a pledge of the faith and credit or taxing power of any of them, but such bonds or notes shall be payable solely from the revenues pledged to the payment of such bonds or notes. In no event shall the Corporation be authorized to levy ad valorem taxes.

SECTION 9. The Council hereby finds, determines, recites and declares that any notes, bonds, loans, debts or other obligations of the Corporation shall not be deemed an indebtedness, liability, general or moral obligation or pledge of the faith or credit of the State, the City or any other political subdivision or governmental unit, nor shall any such notes, bonds, loans, debts or other obligations constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction or any agreement, obligation or indebtedness of the City or of the State within the meaning of any constitutional or statutory provision whatsoever.

SECTION 10. The Council hereby finds, determines, recites and declares that it is the purpose, intent and desire of the City, in approving the creation of the Corporation and its Articles of Incorporation, that such actions and the Corporation hereby authorized comply with the requirements of the Internal Revenue Code 1986, as amended, and the Treasury Regulations and Internal Revenue Service rulings promulgated thereunder and the rulings issued pursuant thereto, such that the Corporation shall be deemed to be a constituted authority acting on behalf of the City pursuant to the provisions of the Chapter 431.

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SECTION 11. 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 Resolution for all purposes and are adopted as a part of the judgment and findings of the Council.

SECTION 12. This Resolution shall be construed and enforced in accordance with the laws of the State and the United States of America.

SECTION 13. If any provision of this Resolution or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Resolution and the application of such provision to other persons and circumstances shall nevertheless be valid, and the Council hereby declares that this Resolution would have been enacted without such invalid provision.

SECTION 14. It is officially found, determined, and declared that the meeting at which this Resolution 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 Resolution, was given, all as required by Chapter 551, Texas Government Code, as amended.

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

PASSED AND APPROVED, this 18th day of June, 2015.

M A Y O R
Ivy R. Taylor

ATTEST:

Leticia M. Vacek
City Clerk
[CITY SEAL]

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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 Resolution prior to its adoption and passage as aforesaid.

Martha G. Sepeda
Acting City Attorney
City of San Antonio, Texas

Agenda Item:	**62 (in consent vote: 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 19, 20, 21, 22, 24, 25A, 25B, 25C, 25D, 25E, 25F, 25G, 25H, 26, 28, 29, 30, 31, 32, 33, 34, 35A, 35B, 36, 37, 38, 39, 41, 42, 43, 44, 45, 46, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64A, 64B, 65A, 65B, 66A, 66B, 66C, 67A, 67B, 67C, 68A, 68B, 68C, 69A, 69B, 69C, 69D, 70A, 70B, 70C, 70D, 70E)**
Date:	06/18/2015
Time:	10:00:14 AM
Vote Type:	Motion to Approve
Description:	A Resolution authorizing the creation of the San Antonio Tricentennial Local Government Corporation; and approving its bylaws and articles of incorporation. [Ed Belmares, Assistant City Manager; Felix Padron, Director, Culture and Creative Development]
Result:	Passed

Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Ivy R. Taylor	Mayor		x				
Roberto C. Trevino	District 1		x				
Alan Warrick	District 2		x				x
Rebecca Viagran	District 3	x					
Rey Saldaña	District 4		x				
Shirley Gonzales	District 5		x				
Ray Lopez	District 6		x			x	
Cris Medina	District 7		x				
Ron Nirenberg	District 8		x				
Joe Krier	District 9		x				
Michael Gallagher	District 10		x				

EXHIBIT A

Application
for the
San Antonio Tricentennial Celebration Commission

AN APPLICATION TO THE CITY COUNCIL OF THE CITY OF SAN ANTONIO, TEXAS, FOR THE CREATION OF A LOCAL GOVERNMENT CORPORATION PURSUANT TO SUBCHAPTER D OF CHAPTER 431 OF THE TEXAS TRANSPORTATION CODE, AS AMENDED, TO AID AND ACT ON BEHALF OF THE CITY IN RELATION TO ITS TRICENTENNIAL CELEBRATION; AND OTHER MATTERS IN CONNECTION THEREWITH.

TO THE CITY COUNCIL OF SAN ANTONIO, TEXAS:

Pursuant to the provisions of Chapter 431, Texas Transportation Code, as amended (the *Act*), and, to the extent required by the Act, Chapter 394, Texas Local Government Code, as amended (*Chapter 394*, and together with the Act, the *Acts*), the undersigned Applicants hereby request the City Council of the City of San Antonio, Texas (the *City*), accept the filing of this application (the *Application*) and create a public, nonprofit local government corporation to act as a duly constituted authority of the City. The local government corporation so created would be organized for the purpose of aiding and acting on behalf of the City as permitted by the Act and other applicable laws of the State of Texas (the *State*).

EACH APPLICANT REPRESENTS TO THE CITY COUNCIL THAT:

1. The Applicant is at least 18 years of age.

2. The Applicant is a resident of the City.

3. The Applicant is a citizen of the State.

THE APPLICANTS RESPECTFULLY REQUEST THAT THE CITY COUNCIL:

4. Take action to create a public, not-for-profit local government corporation pursuant to the Act and name it the "SAN ANTONIO TRICENTENNIAL CELEBRATION COMMISSION" (the *Corporation*).

5. Accept the filing of this Application and determine that the formation of the Corporation is wise, expedient, necessary, and advisable and adopt a resolution to that effect.

6. Provide that the Corporation have all of the powers of a local government corporation created pursuant to the Act and, to the extent provided by the Act, Chapter 394, including specifically all powers not in conflict with the Act granted to domestic nonprofit corporations by Texas Nonprofit Corporation Law, as defined by Section 1.008, Texas Business Organizations Code, as amended, and all other powers of a like or different nature not prohibited by law which are necessary and useful to enable the Corporation to perform the authorized purposes for which it will be created.

7. Provide that the Corporation will aid and act on behalf of the City for the purposes of assisting with planning, developing, identifying potential partners, fundraising, managing, and financing projects involved with City's Tricentennial Celebration activities to accomplish any governmental purpose of the City. In so acting on behalf of

the City, the Corporation will assist the City in the performance of the City's governmental functions as contemplated by the Acts.

8. Approve articles of incorporation and bylaws for the Corporation by ordinance, resolution, or order.

9. Facilitate the filing of articles of incorporation for the Corporation with the Texas Secretary of State.

10. Provide such other action and assistance as the City Council may deem necessary and appropriate to create the Corporation.

[The remainder of this page intentionally left blank.]

Respectfully submitted,

APPLICANTS:

Nancy Hunt, Executive Director
Paseo del Rio Association
Address: 100 Military Plaza,
San Antonio, Texas 78205

Dr. Katie Luber
Address: 100 Military Plaza,
San Antonio, Texas 78205

Robert Thrailkill
Address: 100 Military Plaza,
San Antonio, Texas 78205

EXHIBIT B

Articles of Incorporation
for the
San Antonio Tricentennial Celebration Commission

ARTICLES OF INCORPORATION

OF THE

SAN ANTONIO TRICENTENNIAL CELEBRATION COMMISSION

We, the undersigned natural persons, each of whom is at least eighteen (18) years of age or more, a resident of the City of San Antonio, Texas (the *City*) and a citizen of the State of Texas (the *State*), acting as incorporators of a corporation under the provisions of Subchapter D of Chapter 431, Texas Transportation Code, as amended (the *Act*), and to the extent required by the Act, Chapter 394, Texas Local Government Code, as amended (*Chapter 394*, and together with Chapter 431, the *Acts*), pursuant to resolution (the *Resolution*) adopted by the City Council of the City (the *Governing Body*) on June 18, 2015, do hereby adopt the following articles of incorporation for such corporation (the *Articles of Incorporation*):

ARTICLE I

The name of the corporation is "SAN ANTONIO TRICENTENNIAL CELEBRATION COMMISSION" (the *Corporation*).

ARTICLE II

The Corporation is a public, nonprofit corporation.

ARTICLE III

Subject to the provisions of Article XV, the period of duration of the Corporation shall be perpetual.

ARTICLE IV

The Corporation is organized solely to carry out the purposes of Chapter 431 and specifically, assisting with planning, developing, identifying potential partners, fundraising, managing, and financing projects involved with City's Tricentennial Celebration activities, and to accomplish any other governmental purpose of the City (the *Project*).

The Corporation is formed pursuant to the provisions of the Act, which Act authorizes the Corporation to assist and act on behalf of the City and to engage in activities in the furtherance of the purpose for its creation.

To the extent necessary to carry out its authorized purposes, the Corporation shall have and exercise all of the rights, powers, privileges, authority, and functions given by the general laws of the State to corporations incorporated under the Act, and to the extent applicable, Chapter 394, including, without limitation, all powers not in conflict with the Act granted to domestic nonprofit corporations by the Texas Nonprofit Corporation Law, as defined by Section 1.008 of the Texas Business Organizations Code, as amended, and shall have all other powers of

a like or different nature not prohibited by law which are necessary or useful to enable the Corporation to perform the authorized purposes for which it is created.

The Corporation is created as a local government corporation pursuant to the Acts and shall be a governmental unit within the meaning of Section 101.001, Texas Civil Practice and Remedies Code, as amended. The operations of the Corporation are governmental and not proprietary functions for purposes of the Texas Tort Claims Act, Chapter 101, as amended, Texas Civil Practice and Remedies Code. The Corporation shall not exercise the powers of sovereignty of the City, including the power to tax, eminent domain power, or police power.

ARTICLE V

The Corporation shall have no members and is a non-stock corporation.

ARTICLE VI

The Governing Body, by the Resolution, authorized the creation of the Corporation as a local government corporation and approved the form of these Articles of Incorporation pursuant to the Acts.

To the extent necessary to carry out its authorized purposes, the Corporation shall have and exercise all of the rights, powers, privileges, authority, and functions given under the Act and under the general laws of the State to nonprofit corporations incorporated under the Texas Nonprofit Corporation Law which are consistent with the provisions of the Act with respect to the development and operation of the Project together with all powers incidental thereto or necessary therefor. Notwithstanding the foregoing, before the consummation of the sale and delivery of any bonds or notes, the Corporation shall obtain approval from the Governing Body, as evidenced by the adoption of a written resolution of the Governing Body. Additionally, in the exercise of the powers of the Corporation, the Corporation may enter into any sale, loan, lease, trust, operating, or other agreement as authorized by the Act (including, but not limited to, agreements concerning the Corporation's acceptance of donations by gift or devise) that are necessary and appropriate to the fulfillment of the authorized purposes of the Corporation as set forth in Article IV hereof.

The Corporation is a constituted authority and a public instrumentality within the meaning of the regulations of the United States Treasury Department and the rulings of the Internal Revenue Service prescribed and promulgated pursuant to section 103 of the Internal Revenue Code of 1986, as amended (the *Code*), and the Corporation is authorized to act on behalf of the City as provided in these Articles of Incorporation. However, the Corporation is not a political subdivision or political corporation of the State within the meaning of the State constitution and laws, including, without limitation, Article III, Section 52 of the State Constitution, and no agreements, bonds, debts, or obligations of the Corporation are or shall ever be deemed to be the agreements, bonds, debts, or obligations, or the lending of credit, or a grant of public money or thing of value, of or by the City, except as provided by State law, or any other political corporation, subdivision, or agency of the State, or a pledge of the faith and credit of any of them. Furthermore, the City will maintain substantial involvement in the activities of the Corporation such that the Corporation will be treated, for the purposes of federal tax law, as

an "integral part" of the City, based on the level of control and funding the City has in regard to the Corporation.

ARTICLE VII

These Articles of Incorporation may at any time and from time to time be amended as provided in the Acts so as to make any changes herein and add any provisions hereto permitted by law. Any such amendment not prohibited above shall be effected in either of the following manners: (i) the members of the Board of Directors of the Corporation (the *Board*) shall file with the City a written application requesting permission to amend the Articles of Incorporation, specifying in such application the amendments proposed to be made, and the City may consider such application and, if it shall by appropriate resolution duly find and determine that it is wise, expedient, necessary, or advisable that the proposed amendments be made and shall approve the form of the proposed amendments, then the Board may amend the Articles of Incorporation by adopting such amendments at a meeting of the Board and delivering the articles of amendment to the Secretary of State for the State, or (ii) the Governing Body may, in its sole discretion, and at any time, amend these Articles of Incorporation, and change the structure, organization, programs, or activities of the Corporation, or terminate or dissolve the Corporation (subject to the provisions of the Acts and any limitation provided by the State Constitution and laws of the State and the United States of America on the impairment of contracts entered into by the Corporation), by written resolution adopting the amendment to the Articles of Incorporation of the Corporation or articles of dissolution at a meeting of the Governing Body and delivering articles of amendment or dissolution to the Secretary of State for the State, as provided in the Acts. Restated Articles of Incorporation may be filed with the Secretary of State for the State as provided in the Acts.

ARTICLE VIII

The meetings of the Corporation shall be subject to the Open Meetings Act, Chapter 551, Texas Government Code, as amended, and the Board is subject to the Texas Public Information Act, Chapter 552, Texas Government Code, as amended, in the same manner as if the Corporation were a political subdivision.

ARTICLE IX

The initial bylaws of the Corporation shall be adopted by the Board and shall, together with these Articles of Incorporation, govern the initial affairs of the Corporation until and unless amended in accordance with the provisions of the Acts and these Articles of Incorporation. The bylaws and each amendment and repeal of the bylaws must be approved by the Governing Body by resolution.

ARTICLE X

The street address of the initial registered office of the Corporation is 100 Military Plaza, San Antonio, Texas 78205, which is located in the City, and the name of the initial registered agent at such address is Leticia Vacek, City Clerk.

ARTICLE XI

The affairs of the Corporation shall be managed by a Board, consisting of not less than three (3) nor more than fifteen (15) members, or such greater or lesser number (if then permitted by the Acts). The Board shall be composed in its entirety of persons who are appointed by resolution of the Governing Body of the City, and whose terms of office shall be fixed to expire not later than May 31 of the next-occurring odd-numbered year. A director shall hold office for the term to which the director is qualified and until a successor is qualified. A director serves without compensation but shall be entitled to reimbursement for actual expenses incurred in performing services as a Board member. Any vacancy in the Board shall be filled in the manner prescribed by the Bylaws.

ARTICLE XII

The number of directors of the Corporation (the *Directors*) initially constituting the Board is three (3). The names and addresses of the three (3) initial Directors are:

Names	Addresses
Father David Garcia	100 Military Plaza San Antonio, Texas 78205
Dr. Katie Luber	100 Military Plaza San Antonio, Texas 78205
Robert Thrailkill	100 Military Plaza San Antonio, Texas 78205

All of the initial Directors are residents of the City. Pursuant to Section 431.102(c) of the Act, a majority of the Board will reside within the City. The Corporation's officers shall include a president, vice president, secretary, treasurer, executive director, and any other officers that the Corporation considers necessary or desirable, as more specifically provided in, and as identified and named pursuant to the provisions of the Corporation's Bylaws. A change in the number of Directors may be made by an amendment to the Bylaws.

ARTICLE XIII

The names and street addresses of the incorporators, each of whom resides within the City, are:

Names	Addresses
Ms. Nancy Hunt	100 Military Plaza San Antonio, Texas 78205
Dr. Katie Luber	100 Military Plaza San Antonio, Texas 78205
Robert Thrailkill	100 Military Plaza San Antonio, Texas 78205

ARTICLE XIV

No Director shall be liable to the Corporation for monetary damages for an act or omission in the Director's capacity as a Director, except for liability (i) for any breach of the Director's duty of loyalty to the Corporation, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) for any transaction from which the Director received an improper benefit, whether or not the benefit resulted from an act taken within the scope of the Director's office, or (iv) for acts or omissions for which the liability of a Director is expressly provided by State law. Any repeal or amendment of this Article by the Board shall be prospective only, and shall not adversely affect any limitation on the personal liability of a Director existing at the time of such repeal or amendment. In addition to the circumstances in which a Director is not personally liable as set forth in the preceding sentences and the bylaws, a Director shall not be liable to the fullest extend permitted by any amendment to the State law hereafter enacted that further limits the liability of a Director.

ARTICLE XV

If the Board determines by resolution that the purposes for which the Corporation was formed have been substantially fulfilled and all bonds or notes issued by and all other obligations incurred by the Corporation have been fully paid, the Board shall execute a certificate of dissolution which states those facts and declares the Corporation dissolved in accordance with the requirements of Section 394.026, Local Government Code, as amended, or with applicable law then in existence. In the event of dissolution of the Corporation, after the payment or satisfaction of all debts, liabilities and obligations, all assets will be turned over to the City, or its successor, unless the Governing Body shall otherwise direct. The Governing Body, by written resolution, may authorize and direct the dissolution of the Corporation. However, the Corporation shall not be dissolved or liquidated, and its business shall not be terminated, by act of the Governing Body or otherwise, so long as the Corporation shall be obligated to pay any bonds, notes, or other obligations.

No action shall be taken pursuant to the first paragraph of this Article, in any manner or at any time that would impair any contract, lease, right, or other obligation theretofore executed, granted, or incurred by the Corporation.

ARTICLE XVI

If the Corporation is ever determined to be a "private foundation" within the meaning of section 5.09(a) of the Internal Revenue Code of 1986, as amended (the Code), the Corporation:

(a) shall distribute its income for each taxable year at such time and in such manner as not to become subject to the tax on undistributed income imposed by section 4942 of the Code;

(b) shall not engage in any act of self-dealing as defined in section 4941(d) of the Code;

(c) shall not retain any excess business holdings as defined in section 4943(c) of the Code;

(d) shall not make any investments in such manner as to subject it to tax under section 4944 of the Code; and

(e) shall not make any taxable expenditures as defined in section 4945(d) of the Code.

ARTICLE XVII

All properties owned by the Corporation shall be held for the use and benefit of the public on a nondiscriminatory basis. No dividends shall ever be paid by the Corporation and no part of its net earnings remaining after payment of its expenses and other obligations shall 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.

If, after the close of any fiscal year, the Board shall determine 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 derived from lawfully permitted sources thereafter accruing shall be used solely for the purposes permitted by the Act and Article Four hereof.

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 shall not be transferred to private ownership, but shall be transferred and delivered to the City after satisfaction of debts and claims.

No part of the Corporation's activities shall consist of the carrying on of propaganda, or otherwise attempting to influence legislation, and the Corporation shall not participate in any political campaign of or in opposition to any candidate or measure (as such terms are defined in Chapter 251, Texas Election Code, as amended).

ARTICLE XVIII

To the fullest extent permitted by State law, as the same exist or may hereafter be amended (but, in the case of any such amendment, only to the extent that such amendment permits broader limitations than permitted prior to such amendment), a member of the Board of the Corporation shall not be liable, or shall be liable only to the extent provided in these Articles of Incorporation, to the Corporation for monetary damages for an act or omission in the Director's capacity a Director. Any repeal or amendment of this Article shall be prospective only, and shall not adversely affect any limitation on the personal liability of a Director of the Corporation existing at the time of such repeal or amendment.

The Corporation may indemnify any Director, officer, employee or agent or former Director, officer, employee or agent of the Corporation for expenses and costs, including attorney's fees, actually or necessarily incurred by the person in connection with any claim asserted against the person, by action in court or other forum, by reason of such person having been a Director, officer, employee or other agent, except that the Corporation may not provide

indemnity in a matter if the Director, officer, employee, or agent is guilty of negligence or misconduct in relation to the matter.

* * *

IN WITNESS WHEREOF, we have hereunto set our hands this the ___ day of _____, 2015.

_____
Nancy Hunt, Incorporator

_____
Dr. Katie Luber, Incorporator

_____
Robert Thrailkill, Incorporator

THE STATE OF TEXAS §
§
COUNTY OF SAN ANTONIO §

I, the undersigned, a Notary Public of the State of Texas, do hereby certify that on this the ___ day of _____, 2015, Nancy Hunt, Dr. Katie Luber, and Robert Thrailkill, who each being by me first duly sworn, severally declared that they are the persons who signed the foregoing document as incorporators and that the statements therein contained are true.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the date and year above written.

_____
NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS

(SEAL)

My Commission Expires:

_____

EXHIBIT A

Resolution

EXHIBIT C

Bylaws
for the
San Antonio Tricentennial Celebration Commission

BYLAWS

OF

SAN ANTONIO TRICENTENNIAL CELEBRATION COMMISSION

A Texas Local Government Corporation

Date of Adoption: _____, 2015

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OF THE

SAN ANTONIO TRICENTENNIAL CELEBRATION COMMISSION

ARTICLE I

PURPOSES AND POWERS

Section 1. *Purpose.* The San Antonio Tricentennial Celebration Commission (the *Corporation*) is organized for the purposes set forth in Article IV of its Articles of Incorporation, as the same may be amended from time to time, with such purposes to be accomplished on behalf of the City of San Antonio, Texas (the *City*) as the City's duly constituted authority and instrumentality in accordance with the Subchapter D of Chapter 431, Texas Transportation Code, as amended (the *Act*), and other applicable laws.

Section 2. *Formation.* The Corporation is formed pursuant to the provisions of the Act and, to the extent provided by the Act, Chapter 394, Texas Local Government Code, as amended, which authorizes the Corporation to assist and act on behalf of the City and to engage in activities in the furtherance of its authorized purposes.

Section 3. *Powers.* The Corporation shall have and exercise all of the rights, powers, privileges, authority, and functions given by the general laws of the State to nonprofit corporations incorporated under the Act including, without limitation, all powers not in conflict with the Act granted to domestic nonprofit corporations by the Texas Nonprofit Corporation Law, as defined by Section 1.008 of the Texas Business Organizations Code, to the extent necessary to carry out its authorized purposes, including, but not limited to, the power to acquire land and enter into a sale, loan, lease, grant, transfer, trust, operating, or other agreement as authorized by the 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 its authorized purposes, including the power to issue bonds, notes or other obligations, and otherwise exercise its borrowing power to accomplish its authorized purposes, provided that the Corporation shall not issue bonds or notes without the consent of the City Council of the City (the *City Council*).

The Corporation is created as a local government corporation pursuant to the Act and shall be a governmental unit within the meaning of Section 101.001, Texas Civil Practice and Remedies Code, as amended. The operations of the Corporation are governmental and not proprietary functions for purposes of the Texas Tort Claims Act, Chapter 101, Texas Civil Practice and Remedies Code, as amended.

Section 4. *Nonprofit Corporation.* The Corporation shall be a public, nonprofit corporation, and no part of its net earnings remaining after payment of its bonds and expenses shall inure to the benefit of any person other than the City.

ARTICLE II

BOARD OF DIRECTORS

Section 1. Appointment, Classes, Powers, Number, and Term of Office. All powers of the Corporation shall be vested in the Board of Directors (the *Board*). The Board shall consist of not less than three (3) or more than fifteen (15) persons who shall have the qualifications contained in the Articles of Incorporation. The Directors of the Corporation (the *Director* or *Directors*) shall be, initially, those persons initially presenting the application for the Corporation's formation. Each Director shall serve for the term for which he or she is appointed by the City Council until his or her successor is appointed or until his or her earlier death, resignation, retirement, disqualification, or removal. Successor Directors shall have the qualifications and shall be appointed subject to the terms set forth herein. In case of a vacancy in the Board through death, resignation, disqualification, or other cause or incapacity of a Director, a successor to hold office shall be the person appointed by the City Council in such vacant position. An increase in Board membership shall be by resolution of the City Council. In accordance with the Act, at all times a majority of the Directors on the Board shall reside within the City. In any event, such Director's term of office shall expire not later than May 31 of the next-occurring odd-numbered year.

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 location as is required of a City under Chapter 551, as amended, Texas Government Code (the *Open Meetings Act*). The Corporation, the Board, and any committee of the Board exercising the powers of the Board are subject to Chapter 552, as amended, Texas Government Code (the *Texas Public Information Act*). The City Clerk has the primary responsibility for carrying out the duties required by the Texas Public Information Act, and is hereby designated the public information coordinator for purposes of the Texas Public Information Act.

Section 3. Annual Meetings. The annual meeting of the Board shall be held during the month of July of each year. The Board shall designate the time and the location of the annual meeting which shall be within the City.

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. Consistent with the Open Meetings Act, special and emergency meetings of the Board shall be held whenever called by the President, the Secretary of the Corporation, or by a majority of the Directors who are serving duly appointed terms of office at the time the meeting is called. The Secretary of the Corporation shall give notice of each special meeting in person, by telephone, telecopier, mail, electronic mail or telegraph at least two (2) hours before the meeting to each Director. Notice of

each emergency meeting shall also be given in the manner required of the City under Section 551.045 of the Texas 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 Texas Open Meetings Act.

Section 6. Quorum and Action of the Board. A simple 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 Director who is present at a meeting of the Board at which any corporate action is taken shall be presumed to have assented to such action, unless his or her dissent shall be entered in the minutes of the meeting or unless he or she shall file his or her 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. Participation by Telephone Conference and Videoconference. In accordance with the Open Meetings Act, members of the Board or members of any committee designated by the Board may participate in and hold a meeting of the Board or such committee by means of telephone conference, video conference or similar communications equipment to the same extent as a governmental body within the meaning of the Open Meetings Act, and participation in such a meeting shall constitute presence in person at such meeting, except where a person participates in the meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened. Notice of such meeting shall be given in accordance with the Open Meetings Act.

Section 8. Conduct of Business. At the meetings of the Board, matters pertaining to the purposes of the Corporation shall be considered in such order as from time to time the Board may determine. At all meetings of the Board, the President shall preside, and in the absence of the President, the Vice President shall preside. In the absence of the President and the Vice President, a Chair 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 9. Compensation of Directors. Directors, as such, shall not receive any salary or compensation for their services as Directors. However, Directors shall be reimbursed for their actual expenses incurred in the performance of their official duties as Directors.

Section 10. Director's Reliance on Consultant Information. A Director shall not be liable if while acting in good faith and with ordinary care, he or 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, the operator or the developer of the Project (as defined in the Articles of Incorporation), or other persons as to matters the officer reasonably believes are within the person's professional or expert competence; or

(c) a committee of the Board of which the Director is not a member.

ARTICLE III

OFFICERS

Section 1. Titles and Term of Office. The officers of the Corporation shall be a President, a Vice President, an Executive Director, 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 the President shall not hold the office of Secretary. The President and Vice President of the Board and the Executive Director, Secretary and Treasurer of the Corporation shall be appointed in accordance with the provisions of these Bylaws. The Board, at its organizational meeting and annually thereafter, shall elect such additional officers as it sees fit. All officers (other than the President, Vice President and those officers who hold office by virtue of their City positions) shall be subject to removal, with or without cause, at any time by a vote of a majority of the whole Board. An officer who holds office by virtue of his or her position with the City shall only be removed if he or she is removed from such City position. A vacancy in the office of any officer (other than the President, Vice President and those other officers who hold office by virtue of their City positions) shall be filled by the Board, subject to the provisions hereof.

Section 2. Powers and Duties of the President. The President shall initially be the individual elected at the initial organizational meeting of the Corporation, and thereafter the individual elected or appointed to serve in such capacity. The President shall preside at all meetings of the Board. He or she shall have such duties as are assigned by the Board. The President may call special or emergency meetings of the Board.

Section 3. Powers and Duties of the Vice President. The Vice President shall initially be the individual elected at the initial organizational meeting of the Corporation, and thereafter the individual elected or appointed to serve in such capacity. The Vice President shall perform the duties and exercise the powers of the President upon the President's death, absence, disability, or resignation, or upon the President's inability to perform the duties of his or her office. Any action taken by the Vice President in the performance of the duties of the President shall be conclusive evidence of the absence or inability of the President to act at the time such action was taken.

Section 4. Executive Director. The Executive Director shall be the chief administrative officer of the Corporation who is charged with carrying out Board policies and directives. To the extent authorized by the Board, he or she may sign in the name and on behalf

of the Corporation all contracts, conveyances, franchises, bonds, deeds, assignments, mortgages, notes and other instruments of the Corporation. The Executive Director of the Corporation need not be a member of the Board.

Section 5. 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 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. The Treasurer of the Corporation need not be a member of the Board.

Section 6. 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. The Secretary of the Corporation need not be a member of the Board and may be the person serving as the City Clerk of the City.

Section 7. Officer's Reliance on Consultant Information. In the discharge of a duty imposed or power conferred on an officer of the Corporation, the officer may in good faith and with ordinary care rely on information, opinions, reports, or statements, including financial statements and other financial data, concerning the Corporation or another person, that were prepared or presented by:

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

(b) legal counsel, public accountants, the operator or the developer of the Project, 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 the same as the fiscal year of the City.

Section 2. *Notice and Waiver of Notice.* Whenever any notice whatsoever is required to be given under the provisions of these Bylaws (other than a notice required by the Open Meetings Act), 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 3. *Resignations.* Any Director or officer may resign at any time. Such resignation shall be made in writing to any officer of the Board.

Section 4. *Gender.* References herein to the masculine gender shall also refer to the feminine in all appropriate cases, and vice versa.

Section 5. *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 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 (A *PROCEEDING*), OR ANY APPEAL IN SUCH A PROCEEDING OR ANY INQUIRY OR INVESTIGATION THAT COULD LEAD TO SUCH A PROCEEDING, BY REASON OF THE FACT THAT HE OR SHE, OR A PERSON OF WHOM HE OR SHE IS THE LEGAL REPRESENTATIVE, IS OR WAS A DIRECTOR OR OFFICER OF THE CORPORATION OR WHILE A DIRECTOR OR OFFICER OF THE CORPORATION IS OR WAS SERVING AT THE REQUEST OF THE CORPORATION AS A DIRECTOR, OFFICER, PARTNER, VENTURER, PROPRIETOR, TRUSTEE, EMPLOYEE, AGENT OR SIMILAR FUNCTIONARY OF ANOTHER FOREIGN OR DOMESTIC CORPORATION, PARTNERSHIP, JOINT VENTURE, SOLE PROPRIETORSHIP, TRUST, EMPLOYEE BENEFIT PLAN OR OTHER ENTERPRISE SHALL BE INDEMNIFIED BY THE

CORPORATION TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, 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 ARTICLE V SHALL CONTINUE AS TO A PERSON WHO HAS CEASED TO SERVE IN THE CAPACITY WHICH INITIALLY ENTITLED SUCH PERSON TO INDEMNITY HEREUNDER. THE RIGHTS GRANTED PURSUANT TO THIS ARTICLE V SHALL BE DEEMED CONTRACT RIGHTS, AND NO AMENDMENT, MODIFICATION OR REPEAL OF THIS ARTICLE V SHALL HAVE THE EFFECT OF LIMITING OR DENYING ANY SUCH RIGHTS WITH RESPECT TO ACTIONS TAKEN OR PROCEEDINGS ARISING PRIOR TO ANY SUCH AMENDMENT, MODIFICATION OR REPEAL. IT IS EXPRESSLY ACKNOWLEDGED THAT THE INDEMNIFICATION PROVIDED IN THIS ARTICLE V COULD INVOLVE INDEMNIFICATION FOR NEGLIGENCE OR UNDER THEORIES OF STRICT LIABILITY.

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

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

Section 4. *Appearance as a Witness.* Notwithstanding any other provision of this Article V, the Corporation may pay or reimburse expenses incurred by a Director or officer in connection with his or her appearance as a witness or other participation in a proceeding involving the Corporation or its business at a time when he or she is not a named defendant or respondent in the proceeding.

Section 5. *Non-exclusivity of Rights.* The right to indemnification and the advancement and payment of expenses conferred in this Article V shall not be exclusive of any other right which a Director or officer or other person indemnified pursuant to Section 3 of this Article V may have or hereafter acquire under any law (common or statutory), provision of the 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 Director or officer in accordance with this Article V shall be reported in writing to the members of the Board with or before the notice of the next regular meeting of the Board and, in any case, within the 12-month period immediately following the date of the indemnification or advance.

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

ARTICLE VI

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 where notice of the proposed amendment was contained in the notice of said special meeting.

ARTICLE VII

CONFLICTS

In the event of a conflict between these Bylaws and the Articles of Incorporation, the Articles of Incorporation shall control.

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