

**AMENDED AND RESTATED BYLAWS OF
AUSTIN-BERGSTROM LANDHOST ENTERPRISES, INC.**

ARTICLE I

POWERS AND PURPOSES

Section 1. Financing of Projects. In order to implement the purposes for which the Corporation was formed as set forth in the Articles of Incorporation of the Corporation (as amended and amended and restated from time to time, the “Articles of Incorporation”), the Corporation shall issue obligations to finance all or part of the cost of one or more “public facilities” as defined in Local Government Code Chapter 303, as amended (the “Act”) to be located at Austin-Bergstrom International Airport (the “Airport”) for the benefit of the Airport. The Airport is operated and managed by the Department of Aviation of the City of Austin (the “Department of Aviation”).

Section 2. Conditions Precedent to Issuance of Obligations. The Corporation shall not issue any obligations until:

(a) the City Council (the “Governing Board”) of the City of Austin, Texas (the “Sponsor”), has approved by resolution the issue of the obligations; and

(b) the Attorney General of the State of Texas has approved the obligations to the extent required by law.

Section 3. Books and Records; Approval of Programs and Financial Statements. The Corporation shall keep correct and complete books and records of account and shall also keep minutes of the proceedings of its Board of Directors (the “Board of Directors”) and committees having any of the authority of the Board of Directors. All books and records of the Corporation shall be kept at the principal office of the Corporation where they shall be available to the public in accordance with Chapter 552, Texas Government Code, as amended. The Sponsor shall be entitled to approve all programs and expenditures of the Corporation, and to annually review any financial statements of the Corporation. Without limiting the foregoing, any management agreement or franchise agreement pursuant to which the property of the Corporation is managed or operated, or any extensions thereto, shall be approved by the Governing Board. A representative of the Sponsor may examine all books and other records of the Corporation at any time.

Section 4. Nonprofit Corporation. The Corporation shall be a nonprofit corporation, and no part of its net earnings remaining after payment of its expenses shall inure to the benefit of any individual, firm or corporation, except that in the event the Board of Directors shall determine that sufficient provision has been made for the full payment of the expenses, bonds and other obligations of the Corporation issued to finance all or part of the cost of a project, then any net earnings of the Corporation thereafter accruing with respect to said project shall be paid to the City of Austin, Department of Aviation.

ARTICLE II

BOARD OF DIRECTORS

Section 1. Powers, Number and Term of Office. The property and affairs of the Corporation shall be managed and controlled by the Board of Directors and, subject to the restrictions imposed by law, the Articles of Incorporation and these Bylaws, the Board of Directors shall exercise all of the powers of the Corporation.

The Board of Directors shall consist of no fewer than three (3) and no more than five (5) directors, each of whom shall be recommended by the Department of Aviation and appointed by the Governing Board. ~~At the election of the majority of the Board of Directors and with appointment by the Governing Board, the Board of Directors may be increased to consist up to seven (7) directors, without the necessity of amendment to these Bylaws.~~ In the event a director shall resign or otherwise be removed from the Board of Directors, the Governing Board shall not be required to replace such ~~member~~director, provided that the Board of Directors continues to consist of no fewer than ~~five~~three (~~5~~3) directors, two (2) of whom are the Department of Aviation Directors.

The Board of Directors shall include two (2) persons designated below as Department of Aviation Directors ("Department of Aviation Directors"), ~~and three; the~~ remaining ~~persons who are directors shall be~~ recommended by the Department of Aviation and appointed by the Governing Board ("Remaining Directors"). The Department of Aviation Directors are those persons who are recommended by the Department of Aviation and appointed by the Governing Board, and who occupy two (2) of the following three (3) positions:

- (a) The member of the Department of Aviation executive team who is responsible for planning and development;
- (b) ~~(a) The Chief Officer~~member of ~~Administration and External Affairs of the Department of Aviation, or the acting or interim Chief Officer of Administration and External Affairs of the Department of Aviation, as applicable~~ executive team who is responsible for finance; and /or
- (c) ~~(b) The Chief Officer~~member of ~~Business and Finance of the Department of Aviation, or the acting or interim Chief Finance Officer of the Department of Aviation, as applicable~~ executive team who is responsible for commercial management.

The Department of Aviation Directors ~~serve terms equal to their term as the officer designated above. The~~and the Remaining Directors ~~appointed by the Governing Board~~ serve for a ~~term~~terms of 6 years or until their successors are appointed by the Governing Board. ~~Remaining Directors are allowed to serve an additional six (6) year term if appointed by~~When a Department of Aviation Director no longer fills the position designated above, such individual

shall be deemed to have resigned from the~~Governing~~ Board.~~Such additional six (6) year term may be for a successive or for a non-successive time frame~~ of Directors.

Any director may be removed from office by the Governing Board for cause or at will.

Section 2. Meetings of Directors. The directors may hold their meetings at such place or places within the City of Austin as the Board of Directors may from time to time determine; provided, however, in the absence of any such determination by the Board of Directors, the meetings shall be held at the registered office of the Corporation in the State of Texas. Every regular or special meeting of the Board of Directors shall be open to the public, except as otherwise permitted by the Constitution of the State of Texas or Chapter 551, Texas Government Code, as amended.

Section 3. Regular Meetings. Regular meetings of the Board of Directors shall be held at such times and places as shall be designated, from time to time, by ~~resolution~~the president of the ~~Board of Directors and~~Corporation, with such notice as may be required from time to time by law.

Section 4. Special Meetings. Special Meetings of the Board of Directors shall be held whenever called by the president, by the secretary, by a majority of the directors then being in office or upon advice or request by the Governing Board or the Department of Aviation and with such notice as may be required from time to time by law.

Section 5. Public Notice. Written notice of the date, hour, place and subject of each meeting of the Board of Directors shall be posted at such times and in such places as notice of each meeting of the Governing Board of the Sponsor is posted, all as prescribed by Chapter 551, Texas Government Code, as amended.

Section. 6. Quorum. A majority of the number of directors ~~fixed by~~stated in the Articles of Incorporation shall constitute a quorum for the consideration of matters pertaining to the purposes of the Corporation. If the number of directors stated in the Articles of Incorporation is three, then two directors shall constitute a quorum; if four, then three directors shall constitute a quorum; and if five, then three directors shall constitute a quorum. The act of a majority of the directors present at a meeting at which a quorum is in attendance shall constitute the act of the Board of Directors, unless the act of a greater number is required by law.

Section 7. Conduct of Business. At all meetings of the Board of Directors, matters pertaining to the purposes of the Corporation shall be considered in such order as from time to time the Board of Directors may determine.

At all meetings of the Board of Directors, 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 of Directors, but in the absence of the secretary, the presiding officer may appoint any person to act as secretary of the meeting.

Section 8. Public Hearings. Public hearings required under Section 147(f) of the Internal Revenue Code of 1986, as amended, may be called and conducted by any officer or director of the Corporation or the City Manager of the Sponsor, and such person may establish the date, place and time of the hearing any may give notice of the hearing,

Section 9. Executive Committee. The Board of Directors, by resolution passed by a majority of the directors in office, may designate two or more directors to constitute an executive committee, which committee, to the extent provided in such resolution, shall have and may exercise all of the authority of the Board of Directors in the management of the Corporation, except where action of the Board of Directors is specified by law. The executive committee shall act in the manner provided in such resolution. The executive committee so designated shall keep regular minutes of the transactions of its meetings and shall cause such minutes to be recorded in books kept for that purpose in the office of the Corporation, and shall report the same to the Board of Directors from time to time.

Section 10. Compensation of Directors. Directors as such 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 duties hereunder.

Section 11. Indemnification. The Corporation shall indemnify any director or officer or former director or officer of the Corporation for expenses and costs (including attorneys' fees) actually and necessarily incurred by such director or officer in connection with any claim asserted against such director or officer's being or having been a director or officer, except in relation to matters as to which such director or officer shall have been guilty of negligence or misconduct in respect of the matter in which indemnity is sought. If the Corporation has not fully indemnified such director or officer, the court in the proceeding in which any claim against such director or officer has been asserted or any court having the requisite jurisdiction of an action instituted by such director or officer on such director's or officer's claim for indemnity may assess indemnity against the Corporation, its receiver, or trustee for the amount paid by such director or officer (including attorneys' fees) in satisfaction of any judgment or in compromise of any such claim (exclusive in either case of any amount paid to the Corporation), actually and necessarily incurred by such director or officer in connection therewith to the extent that the court shall deem reasonable and equitable; provided, nevertheless, that indemnity may be assessed under this Section 11 only if the court finds that the person indemnified was not guilty of negligence or misconduct in respect of the matter in which indemnity is sought.

ARTICLE III

OFFICERS

Section 1. Titles and Term of Office. The officers of the Corporation shall be a president, a vice president, a secretary and a treasurer, and such other officers as the Board of Directors may from time to time select, elect or appoint. One person may hold more than one office, except the president shall not hold the office of secretary. Terms of office shall not exceed three years.

All officers are subject to removal from office in accordance with the Act at any time by

a vote of the majority of the entire Board of Directors.

A vacancy in the office of any officer shall be filled by a vote of a majority of the entire Board of Directors.

Section 2. Powers and Duties of the President. If the president receives no compensation for their services as president, the president may be a member of the Board of Directors, if appointed by the Governing Board. If the president receives any compensation for their services as president, including pursuant to a professional services contract, such president shall not be a member of the Board of Directors. The appointment of any former employee of the Sponsor as-a president who shall receive compensation for their services as president, and the amount and terms of such compensation, shall be subject to the prior approval of the Governing Board. The president shall be the chief executive officer of the Corporation and, subject to the Board of Directors, shall be in general charge of the properties and affairs of the Corporation; shall preside at all meetings of the Board of Directors; and in furtherance of the purposes of this Corporation, may, unless otherwise approved by the Board of Directors: (i) sign and execute all contracts, conveyances, franchises, bonds, deeds, assignments, mortgages, notes and other instruments in the name of the Corporation, (ii) authorize any contract without Board of [Directors](#) approval if the term of such contract does not exceed one year and the amount associated with such contract does not exceed \$5,000; and (iii) direct the Treasurer to pay expenses of the Corporation not to exceed \$5,000 individually, or in such greater amount if specifically authorized, or pursuant to a budget approved, by the Board of Directors.

Section 3. Vice President. The vice president shall be a member of the Board of Directors, shall have such powers and duties as may be assigned by the Board of Directors; 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 4. Treasurer. The treasurer shall have custody of all the funds and securities of the Corporation which shall come into such treasurer's hands. When necessary or proper, the treasurer 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 of Directors; may sign all receipts and vouchers for payment made to the Corporation, either alone or jointly with such other officer as is designated by the Board of Directors; whenever required by the Board of Directors, shall render a statement of the cash account; shall enter or cause to be entered regularly in the books of the Corporation to be kept by the treasurer for that purpose full and accurate accounts of all monies received and paid out on account of the Corporation; shall perform all acts incident to the position of treasurer subject to the control of the Board of Directors; and shall, if required by the Board of Directors, give such bond for the faithful discharge of his or her duties in such form as the Board of Directors may require.

Section 5. Secretary. The secretary shall keep the minutes of all meetings of the Board of Directors in books provided for that purpose; shall attend to the giving and serving of all notices; in furtherance of the purposes of this Corporation, may sign with the president in the

name of the Corporation, and/or attest the signature thereto, all contracts, conveyances, franchisees, 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 of which the treasurer shall have custody and charge, and such other books and papers as the Board of Directors may direct, all of which shall at all reasonable times be open to 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 of Directors.

Section 6. Compensation of Officers. No officer that is a member of the Board of Directors shall receive any salary or compensation for their services as officers, except that they shall be reimbursed for their actual expenses incurred in the performance of their duties hereunder. If the president receives any compensation for their services as president, including pursuant to a professional services contract, the amount and terms of such compensation shall be determined by the Board of Directors.

ARTICLE IV

PROVISIONS REGARDING ARTICLES OF INCORPORATION AND BYLAWS

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

- (a) The approval of these Bylaws by the Governing Board; and
- (b) The adoption of these Bylaws by the Board of Directors.

Section 2. Amendments to Articles of Incorporation and Bylaws. The Articles of Incorporation may at any time and from time to time be amended, provided that the Board of Directors file with the Governing Board a written application requesting that the Governing Board approve such amendment to the Articles of Incorporation, specifying in such application the amendment or amendments proposed to be made. If the Governing Board by appropriate resolution finds and determines that it is advisable that the proposed amendment be made, authorizes the same to be made and approves the form of the proposed amendment, the Board of Directors shall proceed to amend the Articles as provided in the Act.

The Articles of Incorporation may also be amended at any time by the Governing Board at its sole discretion by adopting an amendment to the Articles of Incorporation of the Corporation by resolution of the Governing Board and delivering the Articles of Amendment to the Secretary of State as provided in the Act.

These Bylaws may be amended by majority vote of the Board of Directors. Each amendment of the Bylaws and each repeal of the Bylaws must be approved by the Governing Board by resolution.

Section 3. Interpretation of Bylaws. These Bylaws and all the terms and provisions hereof shall be liberally construed to effectuate the purposes set forth herein. If any word, phrase, clause, sentence, paragraph, section or other part of these Bylaws, or the application thereof to

any person or circumstance, shall ever be held to be invalid or unconstitutional by any court of competent jurisdiction, the remainder of these Bylaws and the application of such word, phrase, clause, sentence, paragraph, section or other part of these Bylaws to any other person or circumstance shall not be affected thereby.

ARTICLE V

GENERAL PROVISIONS

Section 1. Principal Office. The principal office of the Corporation shall be located at the main office of the Department of Aviation in Austin, Texas.

The Corporation shall have and continuously maintain in the State of Texas (the “State”) a registered office, and a registered agent whose business office is identical with such registered office, as required by the Act. The ~~registered office may be, but need not be, identical with the principal office in the State, and the~~ address of the registered office may be changed from time to time by the Board of Directors, pursuant to the requirements of the Act.

Section 2. Fiscal Year. The fiscal year of the Corporation shall be as determined by the Board of Directors.

Section 3. Seal. The seal of the Corporation shall be as determined by the Board of Directors.

Section 4. Notice to Board of Directors and Waiver of Notice. Whenever any notice whatsoever is required to be given to a director under the provisions of the Act, the Articles of Incorporation or these Bylaws, said 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 such person’s post office address or by sending an email to such person, each at the 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 or email transmission. Attendance of a director at a meeting shall constitute a 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 at nor the purpose of any Regular or Special Meeting of the Board of Directors need be specified in the notice given to a director or waiver of notice of such meeting, unless required by the Board of Directors. 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 5. 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 6. Approval or Advice and Consent of the Governing Board. To the extent that these Bylaws refer to any approval by the Sponsor or refer to advice and consent by

the Sponsor, such advice and consent shall be evidenced by a certified copy of a resolution, ordinance or motion duly adopted by the Governing Board.

Section 7. Organizational Control. The Sponsor may, at its sole discretion, and at any time, alter or change the structure, organization, programs or activities of the Corporation (including the power to terminate the Corporation), subject to any limitation on the impairment of contracts entered into by such Corporation.

Section 8. Dissolution of the Corporation. Upon dissolution of the Corporation, title to or other interests in any real or personal property owned by the Corporation at such time shall vest in the City of Austin, Department of Aviation.

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