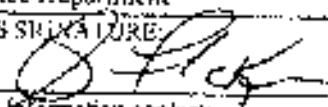


SUBJECT: Resolution authorizing the creation of Houston Recovery Center LGC, approving formation documents and appointing initial directors		Page 1 of 1	Agenda Item # 8
FROM (Department as other point of origin): Houston Police Department		Origination Date	Agenda Date MAY 09 2012
DIRECTOR'S SIGNATURE: 		Council District affected: H	
For additional information contact: Andy Iken, 832-393-1064 Andy Iken, 832-393-1064			

RECOMMENDATION: Approve a resolution authorizing the creation of Houston Recovery Center LGC, approving formation documents for the Local Government Corporation (LGC) and appointing the initial Directors to the LGC.

Amount and Source of Funding: N/A

SPECIFIC EXPLANATION: This resolution authorizes the creation of a Texas LGC, to be called Houston Recovery Center LGC, which would act on the City's behalf in connection with the management and operation of the Houston Center for Sobriety.

The LGC will provide management of the Houston Center for Sobriety (submitted for funding in a separate council action) by its proposed Board of Directors who are specialists in important fields related to substance abuse and recovery. The facility will provide triage, observation and necessary outpatient services which will enable staff to manage intoxication and ensure safe withdrawal for individuals admitted. At the recommendation of the Houston Police Department, the City of Houston seeks to provide the Houston Center for Sobriety as an alternative to jail. The incarceration diverts law enforcement, health and safety resources from more serious or life threatening crimes. Intoxicated individuals would be dropped off by law enforcement and kept for sobering purposes. The Houston Center for Sobriety will divert individuals who are intoxicated from the criminal justice system, free up jail space, and increase law enforcement's ability to deal with more severe offenses. Additionally, the facility will house the HPD Mental Health Unit, as well as other community agencies to facilitate efforts in reducing substance abuse through intervention and provide a chance for many to escape the revolving door of substance abuse and incarceration.

Council by Ordinance 2012-208 (March 7, 2012) appropriated funds and authorized the issuance of a purchase order for design documents and project management costs for a sobriety center at 150 North Chenevert Street (known then as 1811 Ruiz St.). Council is now requested to approve the formation of an LGC to manage all aspects of the facility to be created by the Lease Agreement with the Star of Hope Mission (SOHM) for land and a metal warehouse building to be converted into the Houston Center for Sobriety.

Before completion of the warehouse conversion, it is anticipated that the City and the LGC will enter into an Interlocal Agreement for the LGC to operate the Houston Center for Sobriety on behalf of the City and the City will assign the Lease with SOHM to the LGC.

The resolution also approves a Certificate of Formation and By-laws for the Houston Recovery Center LGC and appoints the following persons as the initial directors.

Board of Directors:

Director Position 1, who shall also serve as the Chair - Roy Austin

Director Position 2 - Deborah Duncan

Director Position 3 - Arin Welge, M.D.

Director Position 4 - David S. Buck, M.D.

Director Position 5 - Elizabeth T. Nunnally

Ex Officio Directors:

Stephen Williams, Director of Health And Human Services Department

Timothy Oehrlicher, Executive Assistant Chief, Houston Police Department

Dr. David E. Perine - EMS Director, Houston Fire Department

REQUIRED AUTHORIZATION

Other Authorization:

Other Authorization:

Other Authorization:

JUL 09 2012

**CERTIFICATE OF FORMATION
OF
HOUSTON RECOVERY CENTER LGC**

Corporations Section

We, the undersigned persons, each of whom is at least eighteen (18) years of age, a resident and a qualified voter of the City of Houston, Texas (the "City"), and a citizen of the State of Texas, acting as incorporators of a local government corporation under the provisions of Subchapter D of Chapter 431, Texas Transportation Code, as amended ("Chapter 431"); Chapter 394, Texas Local Government Code, as amended ("Chapter 394"), and Chapter 22, Texas Business Organizations Code, as amended ("Chapter 22"); do hereby adopt the following Certificate of Formation for such corporation:

ARTICLE I. NAME

The name of the corporation is HOUSTON RECOVERY CENTER LGC (the "Corporation").

ARTICLE II. PUBLIC, NON-PROFIT

The Corporation is a public, non-profit local government corporation created and operated in accordance with Chapter 431, Chapter 394, Chapter 22 and other applicable laws.

ARTICLE III. DURATION

The period of the duration of the Corporation is perpetual.

ARTICLE IV. PURPOSES, ACTIVITIES

A. The Corporation is incorporated to aid and act on behalf of the City to accomplish a governmental purpose of the City; namely to staff, manage and operate a sobering center for the safe short-term treatment and management of persons under the influence of alcohol and other drugs, and to provide those persons with information on and referrals to community based outpatient services, for the purposes of preservation of law enforcement, judicial and medical resources in the city limits of the City and its extra-territorial jurisdiction. To accomplish said purpose, the Corporation shall be authorized to:

1. To contract with persons and with governmental, for-profit and non-profit entities for the procuring of services and supplies, the hiring of personnel, and the operation and maintenance of a sobering facility;
2. To acquire and hold title to real property and interests in real property;

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3. To accept funds and property appropriated by the City and by other governmental entities;
4. To apply for grants of funds, services, and things of value and to accept awards of such grants;
5. To accept donations of funds, services and things of value.
6. To issue bonds, notes, and other debt obligations as necessary for the accomplishment of the governmental purpose stated above, *provided that* the Corporation shall not incur any debt without the consent of the City Council of the City (the "City Council"), as evidenced by a resolution approved by majority vote; and
7. To carry out such other lawful purposes as it may seem necessary or appropriate to accomplish the governmental purpose stated above.

B. The Corporation is formed pursuant to the provisions of the Chapter 431 and Chapter 394, which authorize the Corporation to assist and act on behalf of the City and to engage in activities in the furtherance of the purposes for its creation. The Corporation has all of the rights, powers, privileges, authority, and functions given by the general laws of Texas to non-profit corporations incorporated under Chapter 22. The Corporation has all other powers of a like or different nature not prohibited by law which are available to local government and non-profit corporations in Texas and which are necessary or useful to enable the Corporation to perform the purposes for which it is created.

C. The Corporation is a governmental unit within the meaning of Chapter 101, Texas Civil Practice and Remedies Code. The operations of the Corporation are governmental and not proprietary functions.

D. To the extent permitted by applicable law, the Corporation shall, in the conduct of its business, comply with the City's prevailing wage and minority/women, disadvantaged business enterprise policies from time to time in effect.

E. The Corporation shall comply with the provisions of both the Texas Open Meetings Act, Chapter 551, Texas Government Code, as amended, and the Texas Public Information Act, Chapter 552, Texas Government Code, as amended.

ARTICLE V. NO MEMBERS

The Corporation has no members and no stock.

ARTICLE VI. BOARD

All powers of the Corporation are vested in a Board of Directors ("Board") consisting of five (5) persons. The initial directors of the Corporation ("Director" or "Directors") are those persons named in Article VII. Each initial Director named in Article VII hereof shall serve for the initial term expiring on the date set forth in Article VII. Subsequent appointments shall be made by the Mayor of the City, such appointments to be subject to confirmation by the City Council of the City, with each Director serving a three (3) year term. The Star of Hope Mission shall recommend persons to the Mayor for appointment to Director positions numbers 3 and 5. The current directors shall recommend a person to the Mayor for appointment to Director position number 1. Any Director may be removed from office at any time, with cause, by the Mayor of the City, who shall have the right to appoint a replacement for such Director, such appointment to be subject to the confirmation by the City Council of the City. Any such removal by the Mayor shall be effective immediately and the Mayor shall appoint a replacement within sixty (60) days following such removal. The number of Directors may only be increased or decreased by an amendment to this Certificate of Formation.

To be qualified to serve as a Director, a person must be at least eighteen (18) years old. A person need not be a resident of the City in order to be appointed to the Board of Directors except that a person who is not a resident of the City may not be appointed to the Board of Directors if the appointment of that person would result in less than a majority of the Board of Directors being residents of the City. All Directors shall be appointed by position to the Board by the Mayor of the City. The Mayor of the City shall appoint the Chair of the Board, and such appointment to be subject to confirmation by the City Council of the City.

All other matters pertaining to the internal affairs of the Corporation shall be governed by the Bylaws of the Corporation, so long as such Bylaws are not inconsistent with this Certificate of Formation, and the laws of the State of Texas.

ARTICLE VII. INITIAL BOARD

The number of Directors constituting the initial Board is five (5). The names, addresses, and positions of the five (5) initial Directors, the majority of whom reside in the City, are as follows:

Position	Name	Address	Initial Term Expires
1	Kay Austin	17220 Champions Lakeway Tomball, Texas 77375	September 30, 2016
2	Deborah Duncan	12318 Barryknob Houston, Texas 77024	September 30, 2015
3	Ario Weltge, M.D.	5213 Valerie Street Bellaire, Texas 77401	September 30, 2015
4	David S. Buck, M.D.	2105 Woodhead Street Houston, Texas 77019	September 30, 2014
5	Elizabeth T. Nunnally	3022 Riata Lane Houston, Texas 77043	September 30, 2016

Kay Austin is hereby appointed and confirmed as Chair of the Board.

The Chief of the Houston Police Department, or his or her designee; the City of Houston EMS Physician Director/Public Health Authority, or his or her designee; and the Director, of the Houston Health and Human Services Department, or his or her designee, shall each be non-voting ex-officio Directors of the Corporation.

ARTICLE VIII. REGISTERED OFFICE, AGENT

The name of the initial registered agent of the Corporation is David M. Feldman, the City Attorney of the City of Houston, and the street address of its initial registered agent is 900 Bagby, 4th Floor, Houston, Texas, 77002, Attention: City Attorney of the City of Houston.

ARTICLE IX. INCORPORATORS

The names and street addresses of the incorporators, who reside within the City, are as follows:

Name	Address
Andrew F. Icken	901 Bagby, 4 th Floor, Houston, TX 77002
David M. Feldman	900 Bagby, 4 th Floor, Houston, TX 77002
Thomas R. Davis	901 Bagby, 4 th Floor, Houston, Texas 77002

ARTICLE X. LIMITED LIABILITY

No Director of the Corporation shall be liable for monetary damages for an act or omission in the Director's capacity as a Director, except for liability (i) for a 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 a 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 statute. Any repeal or amendment of this Article by the Directors 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 this Article X, a Director shall not be liable to the fullest extent permitted by any amendment to the Texas statutes hereafter enacted that further limits the liability of a Director. For purposes of this Article only, the ex-officio member of the Board shall be considered a "Director."

ARTICLE XI. TAX MATTERS

In accordance with Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, and regardless of any other provisions of this Certificate of Formation, the Corporation: (a) shall not permit any part of the net earnings of the Corporation to inure to the benefit of any private individual (except that reasonable compensation may be paid for services rendered to or for the Corporation in effecting its purposes); (b) shall not devote more than an insubstantial part of its activities or income to attempting to influence legislation; (c) shall not participate in, or intervene in by any means any political campaign on behalf of (or in opposition to) any candidate for public office; and (d) shall not attempt to influence the outcome of any public election or election for public office or to carry on, directly or indirectly, any voter registration drives.

ARTICLE XII. DISSOLUTION

The Corporation may be dissolved only in the manner prescribed by Section 394.026, Texas Local Government Code, *provided that* no certificate effecting a dissolution of the Corporation shall be executed without the consent of the City Council, as evidenced by a resolution approved by a majority vote. Upon the dissolution of the Corporation, the Corporation's assets shall be distributed to the City and held and used for public purposes by the City.

ARTICLE XIII. PUBLIC INSTRUMENTALITY

The Corporation is a constituted authority and a public or governmental 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. Although the Corporation is authorized to act on behalf of the City as provided in this Certificate of Formation, the Corporation is not a political subdivision or political authority of the State of Texas within the meaning of its constitution and laws including, without limitation, Article III, Section 52 of said 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 or any other political subdivision or authority or government agency of the State of Texas, or a pledge of the faith and credit of any of them. No action of the Corporation shall be deemed an action of the City or its agent or employee, nor shall this Certificate of Formation create a joint enterprise between the City and the Corporation.

ARTICLE XIV. AMENDMENTS

This Certificate of Formation may not be amended without the consent of the City Council, as evidenced by a resolution approved by a majority vote.

ARTICLE XV. SPONSOR

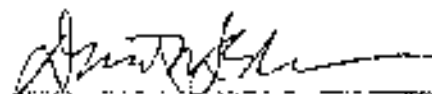
The City of Houston, Texas, is the sponsor of the Corporation. The City has specifically authorized the Corporation to act on the City's behalf to further the governmental purposes set forth above. The City Council approved the form of this Certificate of Formation by adopting City of Houston, Texas Resolution No. 2012-14 on May 16, 2012.

ARTICLE XVI. EFFECTIVE DATE

This Certificate of Formation is effective when fully executed and filed with the Office of the Texas Secretary of State.



Andrew F. Icken, Incorporator
Chief Development Officer, Mayor's Office
City of Houston
901 Bagby, 4th Floor
Houston, Texas 77002



David M. Feldman, Incorporator
City Attorney
City of Houston
900 Bagby, 4th Floor
Houston, Texas 77002



Thomas R. Davis, Incorporator
City of Houston
901 Bagby, 4th Floor
Houston, Texas 77002



THE STATE OF TEXAS §
COUNTY OF HARRIS §

Before me, a notary public, on this 2nd day of July, 2012
personally appeared Andrew F. Icken, known to me to be the person whose name is
subscribed to the foregoing document and, being by me first duly sworn, declared that
the statements therein contained are true and correct.

(seal)



Scott P. Kenyon
Notary Public in and for the State of Texas

THE STATE OF TEXAS §
COUNTY OF HARRIS §

Before me, a notary public, on this 3rd day of July, 2012
personally appeared David M. Feldman, known to me to be the person whose name is
subscribed to the foregoing document and, being by me first duly sworn, declared that
the statements therein contained are true and correct.



Barbara A. Roquemore
Notary Public in and for the State of Texas

THE STATE OF TEXAS §
COUNTY OF HARRIS §

Before me, a notary public, on this 2nd day of July, 2012
personally appeared Thomas R. Davis, known to me to be the person whose name is
subscribed to the foregoing document and, being by me first duly sworn, declared that
the statements therein contained are true and correct.

(seal)



Scott P. Kenyon
Notary Public in and for the State of Texas