

UNITED STATES OF AMERICA

The State of  Washington

Secretary of State

I, **SAM REED**, Secretary of State of the State of Washington and custodian of its seal, hereby issue this

**CERTIFICATE OF INCORPORATION**

to

**BURBANK BUSINESS PARK OWNERS' ASSOCIATION**

a/an WA Non-Profit Corporation. Charter documents are effective on the date indicated below.

Date: 3/24/2010

UBI Number: 603-004-714

APPID: 1580273



Given under my hand and the Seal of the State of Washington at Olympia, the State Capital

A handwritten signature in blue ink that reads "Sam Reed".

Sam Reed, Secretary of State

**ARTICLES OF INCORPORATION  
OF  
BURBANK BUSINESS PARK OWNERS' ASSOCIATION**

I, the undersigned, acting as the incorporator of a corporation under the provisions of the Washington Nonprofit Corporation Act (Chapter 24.03 of the Revised Code of Washington), hereby sign and verify the following Articles of Incorporation for such corporation.

**Article I: Name**

The name of the corporation shall be the **Burbank Business Park Owners' Association** (hereinafter referred to as the "Association").

**Article II: Duration**

The Association shall have perpetual existence.

**Article III: Registered Office and Agent**

The address of the initial registered office of the Association shall be c/o The Port of Walla Walla, 310 A Street, Walla Walla, WA 99362. The name of the initial registered agent of the Association at such address shall be James Kuntz.

**Article IV: Purposes and Powers**

Section 1. Purposes. The purpose for which the Association is organized is to provide an entity for the operation of a mixed-use development known as the Burbank Business Park located in Walla Walla County, Washington (the "Park"). The Association shall engage in all such activities as are incidental or conducive to the attainment of the objectives of the Association, as set out in the Declaration of Covenants, Conditions and Restrictions for the Burbank Business Park, recorded with the office of the Auditor of Walla Walla County Auditor, as it may from time to time be amended (the "Declaration"), and all activities which are permitted to be done by a nonprofit corporation under any laws that may now or hereafter be applicable or available to this Association.

Section 2. Definitions. All terms used in these Articles shall have the same meaning as in the Declaration, unless specifically indicated to the contrary.

Section 3. Powers. The powers of this Association shall be subject to and shall be exercised in accordance with the provisions of the Declaration. The powers of this Association shall include, without limitation, the following:

3.1 The power to perform all duties and obligations of the Association as set forth in the Declaration;

3.2 The power to fix, levy, collect and enforce payment by any lawful means of all charges or assessments made pursuant to the Declaration, and to pay all expenses in connection therewith and all office or other expenses incident to the conduct of the

business of the Association, including all licenses, taxes and governmental charges levied or imposed against the property of the Association;

3.3 The power to acquire by gift, pledge or otherwise, own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for public use or otherwise dispose of real or personal property in connection with the affairs of the Association, subject to the terms and conditions of the Declaration;

3.4 The power to borrow money with the consent of at least fifty-one percent (51%) of the voting power of the Association, mortgage, pledge, encumber or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred;

3.5 The power to participate in mergers and consolidations with other non-profit corporations for the same purposes, provided that any such merger or consolidation shall have the consent of at least fifty-one percent (51%) of the voting power of the Association;

3.6 The power to enter into management, goods, and services contracts as specified in the Declaration; and

3.7 The power to have or exercise any and all powers, rights and privileges which a corporation organized under the Act may now or hereafter have or exercise.

Section 4. Limitation of Power. No loans shall be made by the Association to its Directors or officers. The Directors of the Association who vote for or assent to the making of a loan to a Director or an officer of the Association and any officer or officers participating in the making of such loan shall be jointly and severally liable to the Association for the amount of such loan until the repayment thereof.

#### **Article V: Limitations**

No substantial part of the activities of the Association shall be the carrying on of propaganda, or otherwise attempting to influence legislation, except as otherwise permitted to an organization described in Section 501(c)(3) of the Code or any successor provision. The Association shall not participate in, or intervene in, including the publishing or distribution of statements, any political campaign on behalf of (or in opposition to) any candidate for public office.

Notwithstanding any other provisions of these Articles, the Association shall not carry on any activities not permitted to be carried on (a) by a corporation exempt from federal and state income taxes under Section 501(c)(3) of the Code or any successor provision, or (b) by a corporation, contributions to which are deductible under Section 170(c)(2) of the Code or any successor provision.

No part of the net earnings of the Association shall inure to the benefit of, or be distributable, to its members (if any), directors, officers, or other private persons, except that the

Association is authorized or empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of its purposes.

#### **Article VI: Distribution of Assets Upon Dissolution or Liquidation**

Section 1. Consent Required for Dissolution. The Association may be dissolved with the consent of at least fifty-one percent (51%) of the voting power of the Association in accordance with applicable provisions of the Act.

Section 2. Distribution. Upon dissolution of the Association, the assets, both real and personal of the Association, shall be granted, conveyed and assigned to any non-profit corporation, association, trust or other organization to be devoted to purposes and uses that would most nearly reflect the purposes and uses to which they were required to be devoted by the Association.

#### **Article VII: Members**

Section 1. Members. All Persons or legal entities that hold legal ownership of Parcels within the Burbank Business Park, which include Declarant and others who purchase Parcels from the Declarant, are members of the Association. Membership shall be appurtenant to and may not be separate from ownership of any Parcel, and shall not be assigned, transferred, pledged, hypothecated, conveyed or alienated in any way except upon the transfer of title to the Parcel and then only to the transferee of title to the Parcel. Any attempt to make a prohibited transfer shall be void. Any transfer of title to a Parcel shall operate automatically to transfer the membership in the Association to the persons constituting the new Owners.

Section 2. Classes. The Association shall have two classes of voting membership as set forth in Section 2.6 of the Declaration.

#### **Article VIII: Directors**

The number of Directors of this Association shall be fixed by the bylaws and may be increased or decreased from time to time in the manner specified therein. The number of directors constituting the initial Board of Directors of the Association shall be three (3) directors and shall consist of the Port Commissioners for the Port of Walla Walla ("Port Commissioners"). Unless amended by the bylaws, the term for each Director will be established by, and coincident with, each Director's term as Port Commissioner. Upon expiration of any Port Commissioner's term, the succeeding Port Commissioner shall take on the Director responsibilities of the Port Commissioner rotating off of the Port Commission. The names and addresses of the initial Port Commissioners who are to serve as the initial directors of the Association are as follows:

Name:	Term:	Address:
Paul Schneidmiller, Dist. 1	1/1/2008 -- 12/31/2013	11 S. First Ave. Walla Walla, WA 99362
Mike Fredrickson, Dist. 2	1/1/2006 -- 12/31/2011	2 W. Main St. Walla Walla, WA 99362

Prior to the Transition Date, as set out in Section 2.10 of the Declaration, the initial Board shall be entitled to exercise all rights and powers of the Board and the Association. The powers and duties, number, qualifications, terms of office, manner of election, time and criteria for removal of directors shall be as set forth in the Bylaws of the Association.

#### **Article IX: Design Review Committee**

Until the Transition Date, the initial Board shall also serve as the Design Review Committee (“DRC”). After the first annual meeting and the election of a new Board after the Transition Date, the DRC shall be composed of three or more persons appointed by the Board to serve until removed by the Board. The members of the DRC need not be members of the Association.

#### **Article X: Director Liability Limitations**

A director shall have no liability to the Association for monetary damages for conduct as a director, except for acts or omissions that involve intentional misconduct by the director, or a knowing violation of law by a director, where the director votes or assents to a distribution which is unlawful or violates the requirements of these articles of incorporation, or for any transaction from which the director will personally receive a benefit in money, property, or services to which the director is not legally entitled. If the Washington Nonprofit Corporation Act is hereafter amended to authorize corporate action further eliminating or limiting the personal liability of directors, then the liability of a director shall be eliminated or limited to the full extent permitted by the Washington Nonprofit Corporation Act, as so amended. Any repeal or modification of this Article shall not adversely affect any right or protection of a director of the Association existing at the time of such repeal or modification for or with respect to an act or omission of such director occurring prior to such repeal or modification.

#### **Article XI: Indemnification**

Section 1. Right to Indemnification. Each person who was, or is threatened to be made a party to or is otherwise involved (including, without limitation, as a witness) in any actual or threatened action, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that he or she is or was a director or officer of the Association or, while a director or officer, he or she is or was serving at the request of the Association as a director, trustee, officer, employee or agent of another corporation or of a partnership, joint venture, trust or other enterprise, including service with respect to employee benefit plans, whether the basis of such proceeding is alleged action in an official capacity as a director, trustee, officer, employee or agent or in any other capacity while serving as a director, trustee, officer, employee or agent, shall be indemnified and held harmless by the Association, to the full extent permitted by applicable law as then in effect, against all expense, liability and loss (including attorney's fees, judgments, fines, ERISA excise taxes or penalties and amounts to be paid in settlement) actually and reasonably incurred or suffered by such person in connection therewith, and such indemnification shall continue as to a person who has ceased to be a director, trustee, officer, employee or agent and shall inure to the benefit of his or her heirs, executors and administrators; provided, however, that except as provided in Section 2 of this Article with respect to

proceedings seeking solely to enforce rights to indemnification, the Association shall indemnify any such person seeking indemnification in connection with a proceeding (or part thereof) initiated by such person only if such proceeding (or part thereof) was authorized by the board of directors of the Association. The right to indemnification conferred in this Section 1 shall be a contract right and shall include the right to be paid by the Association the expenses incurred in defending any such proceeding in advance of its final disposition; provided, however, that the payment of such expenses in advance of the final disposition of a proceeding shall be made only upon delivery to the Association of an undertaking, by or on behalf of such director or officer, to repay all amounts so advanced if it shall ultimately be determined that such director or officer is not entitled to be indemnified under this Section 1 or otherwise.

Section 2. Right of Claimant to Bring Suit. If a claim for which indemnification is required under Section 1 of this Article is not paid in full by the Association within sixty (60) days after a written claim has been received by the Association, except in the case of a claim for expenses incurred in defending a proceeding in advance of its final disposition, in which case the applicable period shall be twenty (20) days, the claimant may at any time thereafter bring suit against the Association to recover the unpaid amount of the claim and, to the extent successful in whole or in part, the claimant shall be entitled to be paid also the expense of prosecuting such claim. The claimant shall be presumed to be entitled to indemnification under this Article upon submission of a written claim (and, in an action brought to enforce a claim for expenses incurred in defending any proceeding in advance of its final disposition, where the required undertaking has been tendered to the Association), and thereafter the Association shall have the burden of proof to overcome the presumption that the claimant is not so entitled. Neither the failure of the Association (including its board of directors, independent legal counsel or its members, if any) to have made a determination prior to the commencement of such action that indemnification or reimbursement or advancement of expenses of the claimant is proper in the circumstances nor an actual determination by the Association (including its board of directors, independent legal counsel or its members, if any) that the claimant is not entitled to indemnification or to the reimbursement or advancement of expenses shall be a defense to the action or create a presumption that the claimant is not so entitled.

Section 3. Non-exclusivity of Rights. The right to indemnification and the payment of expenses incurred in defending a proceeding in advance of its final disposition conferred in this Article shall not be exclusive of any other right which any person may have or hereafter acquire under any statute, provision of the Articles of Incorporation, Bylaws, agreement, vote of members, if any, or disinterested directors or otherwise.

Section 4. Insurance, Contracts and Funding. The Association may maintain insurance at its expense to protect itself and any director, trustee, officer, employee or agent of the Association or another corporation, partnership, joint venture, trust or other enterprise against any expense, liability or loss, whether or not the Association would have the power to indemnify such persons against such expense, liability or loss under the Washington Business Association Act, as applied to nonprofit corporations. The Association may, without further membership action, enter into contracts with any director or officer of the Association in furtherance of the provisions of this Article and may create a trust fund, grant a security interest or use other means (including, without limitation, a letter of credit) to ensure the payment of such amounts as may be necessary to effect indemnification as provided in this Article.

Section 5. Indemnification of Employees and Agents of the Association. The Association may, by action of its Board of Directors from time to time, provide indemnification and pay expenses in advance of the final disposition of a proceeding to employees and agents of the Association with the same scope and effect as the provisions of this Article with respect to the indemnification and advancement of expenses of directors and officers of the Association or pursuant to rights granted pursuant to, or provided by, the Washington Business Association Act, as applied to nonprofit corporations, or otherwise.

#### **Article XII: Bylaws**

Bylaws of the Association may be adopted by the Board of Directors at any regular meeting or any special meeting called for that purpose, so long as they are not inconsistent with the provisions of these Articles. The authority to make, alter, amend or repeal bylaws is vested in the board of directors and may be exercised at any regular or special meeting of the board of directors.

#### **Article XIII: Conflicts**

In the case of any conflict between any of these Articles and the Bylaws, these Articles shall control. In the case of any conflict between these Articles and the Declaration, the Declaration shall control.

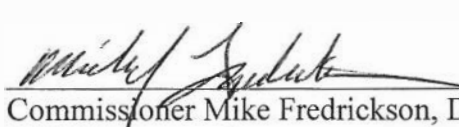
#### **Article XIV: Incorporator**

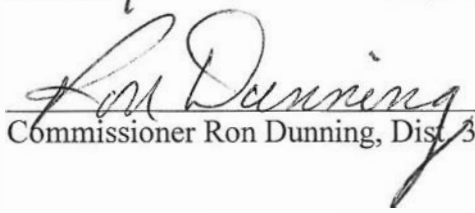
The name and address of the incorporator is:

Denice Trimble  
GordonDerr LLP  
2025 First Avenue, Suite 500  
Seattle, Washington 98121

IN WITNESS WHEREOF, the undersigned have signed these Articles of Incorporation this 25th day of February, 2010.

  
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Commissioner Paul Schneidmiller, Dist. 1

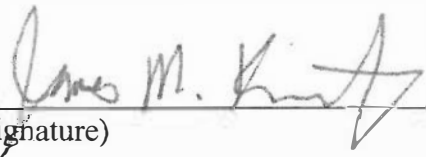
  
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Commissioner Mike Fredrickson, Dist. 2

  
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Commissioner Ron Dunning, Dist. 3

## CONSENT TO APPOINTMENT AS REGISTERED AGENT

I, James Kuntz, hereby consent to serve as registered agent, in the State of Washington, for the following Association: **Burbank Business Park Owners' Association**. I understand that as agent for the Association, it will be my responsibility to accept Service of Process in the name of the Association; to forward all mail and license renewals to the appropriate officers of the Association; and to immediately notify the Office of the Secretary of State of my resignation or of any changes in the address of the registered office of the Association for which I am agent.

Date: February 25, 2010.

  
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(Signature)

James Kuntz  
310 A Street  
Walla Walla, WA 99362