

WEST VIRGINIA REGIONAL TECHNOLOGY PARK CORPORATION
Report to
Joint Committee on Government and Finance,
Legislative Oversight Commission on Education Accountability
Per Senate Bill No. 484, Passed March 12, 2011

July 15, 2011

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Vice Chancellor for Science and Research
West Virginia Higher Education Policy Commission
1018 Kanawha Boulevard
Charleston, W.Va. 25301

Report – Status and Milestones

In compliance with WV Code 18B-1E-9 (b)(2), the Higher Education Policy Commission is providing a report of actions taken to implement Senate Bill No. 484 Article 1E, “Management Agreements for the Higher Education Policy Commission.” Both Commission members and staff have worked diligently to implement this legislation since its passage on March 12, 2011 and subsequent signing by the Governor on April 1, 2011.

This report provides information regarding the Articles of Incorporation, by-laws, an agenda for the first meeting and resolutions. A signed agreement between the new WV Regional Technology Park Corporation and the Commission as required by the code citation above, is attached.

On two occasions, April 29 and June 22, 2011, the Policy Commission took initial action to appoint board members to the WVRTP Corporation as it was being formed. A total of nine members, four (4) representing the commission and five (5) representing private businesses were appointed as of the June 22nd date. On July 6, 2011 the board membership met for the first time. A quorum was present, officers were elected and minutes were taken during the meeting held on the RTP campus in South Charleston.

Prior to this event, Articles of Incorporation were filed with the Office of the Secretary of State on April 13, 2011 by independent counsel. Said articles were accepted by the board and a copy of the Articles of Incorporation was filed by the secretary in the minute book of the Corporation.

Other resolutions adopted by the board at its initial meeting include a conflicts of interest policy; authorization for banking; performance of activities to implement the articles; ratification of prior action on behalf of the corporation; and authorization to pay organizational expenses. All resolutions were passed unanimously by the board.

The affiliation agreement between the Policy Commission and the corporation was also authorized and signed by both a Corporation and Commission representative. This agreement provides for WVRTP to assume responsibility for serving as the fiscal agent on behalf of the Commission for the operations of the park and for managing the day to day functions. Further WVRTP is authorized to provide services including property management, human resources management, and purchasing; to receive, purchase, hold, lease, use, sell and dispose of real and personal property necessary for the operation of the park; to accept and expend any gift, grant, contribution, bequest, endowment or other money for the operations of the park; to employ staff and an Executive Director selected by the Commission and to pay certain costs incurred by the Commission. The complete signed agreement is attached.

Legislative Findings and Purpose - As established by Senate Bill No. 484

The Legislature finds that economic development in West Virginia depends in part on collaborations developed between higher education and business and industry, particularly in the advancement of new and emerging technologies. It is in the best interests of the citizens of the state to implement programs which promote this research and contribute to the general economic welfare.

The Legislature further finds that the transfer of property to the Commission to establish the West Virginia Regional Technology Park created a new and unprecedented opportunity to promote research and development in the state. An efficiently managed Technology Park will encourage private sector participation in and support for research and economic development and will facilitate collaboration among the commission, the doctoral institutions and their research corporations.

It is the responsibility of the commission to ensure that the day to day operations of the Technology Park are carried out effectively and efficiently in order to provide the greatest investment return to the people of West Virginia. To this end the Legislature finds that a mechanism is needed to simplify and expedite property management and purchasing of equipment, material and personal services.

Therefore, the purpose of this article is to provide the commission with the authority necessary to carry out its responsibilities related to the operation of the Technology Park. The commission is authorized to enter into agreements and other contractual relationships with an affiliated corporation in order to achieve maximum efficiency in managing the Technology Park.

Regional Technology Park – Background

On December 15, 2010 the state of West Virginia assumed ownership of 258 acres of the Dow Technology Park in South Charleston. The campus provides more than 800,000 square feet of laboratory and office space that will be utilized for research and development by universities and private companies as well as a commercialization center for new innovations by businesses and entrepreneurs. More than 500 jobs were preserved by state ownership and tenant hiring is increasing.

Through a combination of federal, state and private investments, a revitalized WV Regional Technology Park (WVRTP), under the oversight of the Higher Education Policy Commission (HEPC) and the West Virginia Regional Technology Park Corporation, will serve not only as a research park, but also as a business incubator. This presents an opportunity for the commercialization of research and ideas across the system of higher education that result of initiatives such as the “Bucks for Brains” program and federal agency discovery grants.

The state’s strategic plan for economy transformation is based upon technology and innovation, and the park presents an integral place to grow these ideas and turn them into jobs and economic opportunity. The focus of the park will be on energy technologies, including clean, efficient, renewable energy, and the potential for coal, carbon technologies and biomass/renewable fuels.



Certificate

*I, Natalie E. Tennant, Secretary of State of the
State of West Virginia, hereby certify that*

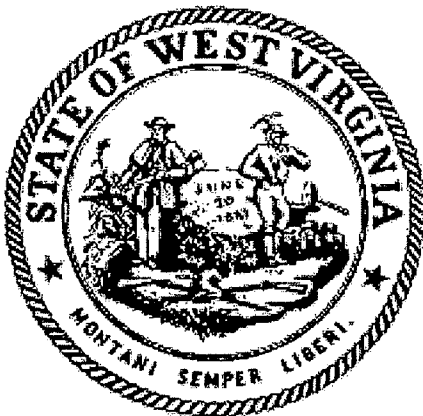
WV REGIONAL TECHNOLOGY PARK CORP.

Control Number: 99OPH

has filed its application for "Certificate of Incorporation" in my office according to the provisions of the West Virginia Code. I hereby declare the organization to be registered as a corporation from its effective date of April 13, 2011, until a certificate of dissolution has been filed with Secretary of State.

Therefore, I hereby issue this

CERTIFICATE OF INCORPORATION



*Given under my hand and the
Great Seal of the State of
West Virginia on this day of
April 13, 2011*

Natalie E. Tennant

Secretary of State

Natalie E. Tennant
Secretary of State
1900 Kanawha Blvd E.
Bldg 1, Suite 157-K
Charleston, WV 25305



Penney Barker, Manager
Corporations Division
Tel: (304)558-8000
Fax: (304)558-8381
www.wvsos.com

FILE ONE ORIGINAL
(Two if you want a filed
stamped copy returned to you)
FEE: See chart on page 4
for applicable fees

WEST VIRGINIA ARTICLES OF INCORPORATION

Hrs: 8:30 a.m. – 5:00 p.m. ET

Control # 9910PH

The undersigned, acting as incorporator(s) according to the West Virginia Code, adopt the following Articles of Incorporation for a West Virginia Domestic Corporation, which shall be perpetual:

1. The **name of the West Virginia corporation** shall be: WV Regional Technology Park Corp.
[This name is your official name and must be used in its entirety
when in use unless a trade name is registered with the Office of the
Secretary of State, according to Chapter 47-8 of the West Virginia Code.]

2. The **address of the principal office** of the corporation will be: _____
located in the county of: _____
The mailing address of the above location, if different, will be _____
Street: 1740 Union Carbide Drive
City/State/Zip: South Charleston, WV 25303
County: Kanawha
Street/Box: _____
City/State/Zip: _____

3. The **physical address (not a PO Box)** of the **principal place** of business in West Virginia, if any: _____
The mailing address of the above location, if different, will be _____
Street: 1740 Union Carbide Drive
City/State/Zip: South Charleston, WV 25303
County: Kanawha
Street/Box: _____
City/State/Zip: _____

4. The **name and address of the person to whom notice of process** may be sent, if any, will be: _____
Name: _____
Street: _____
City/State/Zip: _____

FILED

APR 13 2011

IN THE OFFICE OF
SECRETARY OF STATE

5. E-mail address where business correspondence may be received: _____

6. The corporation is organized as: (check one below)



NON-PROFIT, NON-STOCK, (if you plan on applying for 501(c)(3) status with the IRS you may want to include certain language that is required by IRS to be included in your articles of incorporation.



FOR PROFIT

7. FOR PROFIT ONLY:

The total value of all authorized capital stock of the corporation will be \$ _____.

The capital stock will be divided into _____ shares at the par value of \$ _____ per share.

8. The purpose for which this corporation is formed is as follows:

(Describe the type(s) of business activity which will be conducted, for example, "agricultural production of grain and poultry", "construction of residential and commercial buildings", "manufacturing of food products", "commercial painting", "retail grocery and sale of beer and wine". Purpose may conclude with words "...including the transaction of any or all lawful business for which corporations may be incorporated in West Virginia.")

See Attachment

9. FOR NON PROFITS ONLY: (Check the statement that applies to your entity)

- Corporation will have no members
- Corporation will have members

(NOTE) If the corporation has one or more classes of members, the designation of a class or classes is to be set forth in the articles of incorporation and the manner of election or appointment and the qualifications and rights of the members of each class is to be set forth in the articles of incorporation or bylaws. If this applies to your entity then you will have to attach a separate sheet listing the above required information, unless it will fit in the space below.

West Virginia Higher Education Policy Commission is the sole member of the corporation. The rights of the member shall be set forth in the Bylaws.

10. The name and address of the incorporator(s) is:

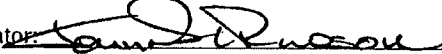
Name	Address	City/State/Zip
Jennifer L. Rawson	600 Grant St., 44th Fl	Pittsburgh, Pa 15219

11. The number of acres of land it holds or expects to hold in West Virginia is: 0

12. Contact and Signature Information:

a. Contact person to reach in case there is a problem with filing: Jennifer L. Rawson Phone # 412-566-6784

b. Print name of person who is signing articles of incorporation: Jennifer L. Rawson

c. Signature of Incorporator:  Date: 4/12/2011

WEST VIRGINIA ARTICLES OF INCORPORATION

ATTACHMENT

WV Regional Technology Park Corp.

Line 8: The purpose for which the corporation is formed is as follows:

- The Corporation shall be organized and operated exclusively for charitable, scientific, and educational purposes permitted within the scope of Section 501(c)(3) of the Internal Revenue Code of 1986, as amended.
- The Corporation does not contemplate pecuniary gain or profit, incidental or otherwise. No part of the net earnings of the Corporation shall inure to the benefit of any director or officer of the Corporation or any private individual (except that reasonable compensation may be paid for services rendered to or for the Corporation effecting one or more of its purposes), and no director or officer of the Corporation, or any private individual, shall be entitled to share in the distribution of any of the corporate assets on dissolution of the Corporation.
- No substantial part of the activities of the Corporation shall be the carrying on of propaganda, or otherwise attempting to influence legislation, and the Corporation shall not participate in, or intervene in (including the publication or distribution of statements), any political campaign on behalf of any candidate for public office.
- Upon the dissolution of the corporation, assets shall be distributed for one or more exempt purposes within the meaning of section 501(c)(3) of the Internal Revenue Code, or the corresponding section of any future federal tax code, or shall be distributed to the federal government, or to a state or local government, for a public purpose. Any such assets not so disposed of shall be disposed of by a Court of Competent Jurisdiction of the county in which the principal office of the corporation is then located, exclusively for such purposes or to such organization or organizations, as said Court shall determine, which are organized and operated exclusively for such purposes.

WV REGIONAL TECHNOLOGY PARK CORPORATION

Actions by the Board

of Directors at the Organizational Meeting

July 6, 2011

Members of the Board of Directors of the above named corporation (the "Corporation"), do hereby vote in the affirmative the adoption of the resolutions and the corporate actions hereinafter set forth and direct that they shall, in all respects, be deemed as valid corporate actions duly approved and authorized at a formal organizational meeting of said Directors of the Corporation held on this date and witnessed by signatures which appear on this document.

1. Election of Officers¹

RESOLVED, that the following persons hereby are elected as the Officers of the Board and shall serve until their successors are elected and have qualified pursuant to the Bylaws of the Corporation:

Chairman	Brian Noland
Vice Chair:	Paul L. Hill
Secretary:	Ellen Cappellanti
Treasurer:	Matthew Ballard

2. Acceptance of Articles of Incorporation

RESOLVED, that the Articles of Incorporation of the Corporation, as filed with the Secretary of the State of West Virginia on April 13, 2011, hereby are accepted; and the Secretary hereby is directed to cause a copy of the Articles of Incorporation to be filed in the minute book of the Corporation.

3. Adoption of By-laws

¹ The Executive Director shall be appointed by the West Virginia Higher Education Policy Commission

RESOLVED, that the Bylaws of the Corporation, which were presented to and considered by each Director as amended by voice vote, are adopted as the Bylaws of the Corporation; and the Secretary is hereby authorized to cause a copy of the Bylaws to be filed in the minute book of the Corporation.

4. Adoption of Conflicts of Interest Policy

RESOLVED, that the Conflicts of Interest Policy, which was presented to and considered by each Director, is hereby adopted; and the Secretary is hereby authorized to cause a copy of the Conflicts of Interest Policy to be filed in the minute book of the Corporation.

5. Authority to Open Bank Accounts

RESOLVED, that the Directors and Officers of the Corporation hereby are authorized and directed, in the name and on behalf of the Corporation, to take any and all action that they may deem necessary or advisable in order to establish bank accounts from time to time for the efficient conduct of the Corporation's activities; and this Board of Directors hereby adopts the form of any and all resolutions required by any such banks to be adopted in connection with the opening of any such accounts if (i) in the opinion of the Executive Director of the Corporation, the adoption of such resolution or resolutions is necessary or advisable and (ii) the Secretary of the Board evidences adoption by filing with this consent copies of such resolutions which shall thereupon be deemed to be adopted by this Board of Directors and incorporated as a part of this resolution; and

RESOLVED further, that in connection with the adoption of any of the foregoing resolutions, the Executive Director of the Corporation hereby is authorized to designate those officers or agents of the Corporation who may be authorized from time to time to sign checks on any of such bank accounts.

6. Performance of Activities

RESOLVED, that the Corporation may perform such activities as are consistent with its Articles of Incorporation, within and without the State of West Virginia.

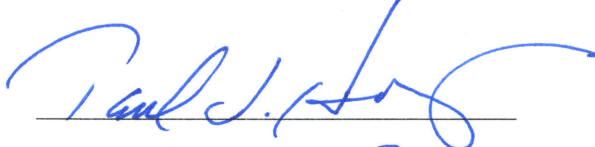
7. Ratification of Prior Action

RESOLVED, that all of the actions of the sole incorporator and promoters of the Corporation taken to effect the organization of the Corporation and the commencement of its activities be, and hereby are, ratified and approved as valid corporate action.

8. Authority to Pay Organizational Expenses

RESOLVED, that the Executive Director and/or Chief Operating Officer are hereby authorized and directed, for and on behalf of the Corporation, to pay all charges and expenses incident to or arising out of the organization of the Corporation and to reimburse the persons who have made any disbursements therefor.

IN WITNESS WHEREOF, the undersigned have duly witnessed this set of resolutions as official action of the Board of Directors.



Date: 07.06.2011



Date: 7/6/11

BYLAWS
OF
WV REGIONAL TECHNOLOGY PARK CORP.

Effective July 6, 2011

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WV REGIONAL TECHNOLOGY PARK CORP.**

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BYLAWS OF WV REGIONAL TECHNOLOGY PARK CORP.

ARTICLE ONE

General

Section 1.01 Name. The name of the corporation shall be the **WV REGIONAL TECHNOLOGY PARK CORP.** (the “Corporation”).

Section 1.02 Principal Office. The principal office of the Corporation shall be at such place or places as the Board of Directors may determine from time to time. The initial principal office of the Corporation shall be at 1740 Union Carbide Drive, South Charleston, West Virginia 25303.

Section 1.03 Other Offices. The Corporation may have such other offices in such places as the Board of Directors may from time to time designate.

Section 1.04 Purposes. The purpose of the Corporation shall be exclusively for charitable, scientific, literary and educational purposes permitted within the scope of Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, primarily including, but not limited to the provision of management services to the West Virginia Higher Education Policy Commission in carrying out the day to day operations and development of the West Virginia Education, Research and Technology Park in accordance with the provisions of the West Virginia Code §§ 18B-1F-1 through 18B-1F-9. In furtherance of these purposes, the Corporation may exercise all rights and powers conferred by the laws of the State of West Virginia upon nonprofit corporations.

Section 1.05 Purposes of Bylaws. These Bylaws serve as the governing document of the Corporation and are intended to supplement, but not replace, applicable federal and state laws, including the West Virginia Nonprofit Corporation Law, as amended (the “ACT”).

ARTICLE TWO

Member

Section 2.01 Sole Member. The West Virginia Higher Education Policy Commission (the “Commission”) shall be the sole member of the Corporation.

Section 2.02 Meetings. Meetings of the Commission for the appointment of members to the Corporation’s Board of Directors or to transact such other business of the Corporation as may be necessary, shall be called and held in accordance with the provisions of Series 47, Commission Organization and Meetings; provided, however, special meetings of the Commission for the transaction of business may be called at any time by the Chairperson of the Board of Directors of the Corporation, the Executive Director, or three (3) Members of the Board

of the Corporation. At any time upon the written request of any person who has called a special meeting in accordance with the foregoing, it shall be the duty of the Secretary of the Corporation to fix the time of the meeting which shall be held not more than sixty (60) days after the receipt of such request and to notify the Secretary of the Commission of the same. It shall be the duty of the Secretary of the Commission to send such Notice of the special meeting in such form or in such manner as may be required by Series 47, Commission Organization and Meetings.

ARTICLE THREE

Directors

Section 3.01 Exercise of Powers. All powers vested in the Corporation by the Act shall be exercised by, or under the authority of, and the business and affairs of the Corporation shall be managed by, or under the direction of, a Board of Directors.

Section 3.02 Number and Qualifications. The Board of Directors shall consist of at least three (3) persons but not more than nine persons who shall be natural persons at least twenty-one (21) years of age. At least a majority of the Directors shall be members of the private sector. Any officer or employee of the Commission, who is not the Executive Director of the Corporation, may hold an appointment as a member of the Board of Directors of the Corporation. Directors shall consist of a Chairperson, Vice-Chair, Secretary, Treasurer, and five additional directors.

Section 3.03 Election and Terms. Directors shall be appointed to the Board by a majority vote of the members of the Commission at the Commissions' Annual Meeting. Members of the Commission shall consult with the Chancellor of the Commission with regards to appointments to the Board. Directors shall serve until their successors shall have been duly elected and qualified, or until their earlier death, resignation or removal from office. A director may succeed himself without limitation as to number of terms.

Section 3.04 Removal of a Director. The Commission may vote to remove any Director, at any time, with or without cause, at any meeting of Commission by a majority vote of the members of the Commission present at such meeting.

Section 3.05 Vacancies. Whenever any vacancy occurs during the term of any Director for whatever reason, the Secretary shall forthwith give written notice of such vacancy or vacancies to the Commission in order that such vacancy or vacancies may be filled, provided, however, such vacancy or vacancies are not required to be filled unless failure to do so would result in the total number of Board members falling below the minimum required number.

Section 3.06 Compensation of Directors. Directors shall not receive any stated salary for their services as such; but each Director may be paid a fixed sum, together with reimbursement for expenses incurred, for attendance at each regular or special meeting of the Board of Directors, in such amounts, if any, as may be approved, from time to time, by resolution of the Board of Directors. Nothing herein contained shall be construed to preclude

any Director from serving the Corporation in any other capacity and receiving reasonable compensation thereof.

Section 3.07 Annual Meeting. An annual meeting of the Board of Directors shall be held in each calendar year, at such time and place as the Board of Directors shall determine, for the purpose of the election of a Chairperson of the Board, election of Officers (other than the Executive Director) and for the transaction of such other business as may properly come before the meeting. No notice of the annual meeting need be given.

Section 3.08 Regular Meetings. In addition to the annual meeting, the Board of Directors may hold regularly scheduled meetings to conduct the business of the Corporation.

Section 3.09 Special Meetings. The Board of Directors shall hold such special meetings as shall be called the Executive Director of the Corporation, the Chairperson of the Board, or any other two Directors. Each such meeting shall be held at such time and place as shall be designated in the notice of such meeting. Notice shall be given to all current members of the Board of Directors by either (i) letter mailed or delivered for transmission not later than ten (10) days immediately preceding the day of such meeting or (ii) telephone or email, received not later than three (3) days immediately preceding the day of such meeting. The business to be transacted at or the purpose of any special meeting shall be specified in the notice of the meeting

Section 3.10 Place of Meeting of Directors. Each regular and special meeting of Directors shall be held at such place, within or without the State of West Virginia, as the Board of Directors may from time to time designate or as may be designated in the notice of the meeting.

Section 3.11 Waiver of Notice of Meetings. A waiver of notice, in writing, signed by the person or persons entitled to such notice, whether before or after the date of the meeting stated therein, shall be deemed equivalent to the giving of such notice. Attendance at any meeting of the Board of Directors shall be a waiver of notice thereof unless the Director at the beginning of the meeting or promptly upon his or her arrival objects to holding the meeting or transacting business at the meeting and does not thereafter vote for or assent to action taken at the meeting.

Section 3.12 Failure to Object. A Director of the Corporation who is present at a meeting of the Board of Directors at which action on any corporate matter is taken shall be presumed to have assented to the action taken unless such Director's dissent shall be entered in the minutes of the meeting or unless such Director shall file a written dissent to such action with the person acting as the Secretary of the meeting before the adjournment of the meeting. Such right to dissent shall not apply to a Director who has voted in favor of such action.

Section 3.13 Informal Action by the Directors. Any action which may be taken at a meeting of the Directors may be taken without a meeting, if a consent or consents in writing, setting forth the action so taken, is signed by all of the Directors who would be entitled to vote at a meeting for such purpose and such consent is filed with the Secretary of the Corporation. For

purposes of this Section, such consents may be submitted via email or other electronic means. Action taken under this section is effective when the last Director signs the consent, unless the consent specifies a different effective date. A consent signed under this Section has the effect of a meeting vote and may be described as having the effect of a meeting vote in any document.

Section 3.14 Telephonic Meetings. One or more Directors may participate in a meeting of the Board of Directors by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other. Participation in a meeting pursuant to this Section shall constitute presence in person at the meeting.

Section 3.15 Quorum. A majority of the whole number of currently serving Directors shall be necessary to constitute a quorum for the transaction of business and the acts of a majority of the Directors present at a meeting at which a quorum is present shall, unless otherwise specifically provided by law or by the Articles of Incorporation, be the acts of the Board of Directors.

Section 3.16 Presiding Officer and Order of Business. All meetings of the Board of Directors shall be called to order and presided over by the Chairperson of the Board, or in the Chair's absence by the Vice-Chair, or in the absence of such Chairman and Vice-Chair, by a chair elected by the Directors.

Section 3.17 Contracts. In the absence of fraud, no contract or other transaction between the Corporation and any other organization shall be affected by the fact a Director of the Corporation is a Director, employee or agent of such other organization, if such contract or transaction shall be approved or ratified by the affirmative vote of a majority of the Directors present at a meeting of the Board of Directors or of the committee of the Corporation having authority in the premises, who are not so interested and if all relevant provisions of the Conflict of Interest Policy of the Corporation have been fully complied with. Any Director individually, or any organization of which any Director is a partner or shareholder, may be a party to or may be interested in any contract or transaction of the Corporation; provided, that such contract or transaction shall be approved or ratified by the affirmative vote of at least a majority of the Directors present at a meeting of the Board of Directors or of the committee of the Corporation having authority in the premises, who are not so interested. No Director shall be liable to account to the Corporation for any profit realized by such Director from or through any such transaction or contract of the Corporation, ratified or approved as aforesaid, by reason of such Director's interest in such transaction or contract. Directors so interested may be counted when present at meetings of the Board of Directors or of such committee for the purpose of determining the existence of the quorum.

Section 3.18 Limitation of Personal Liability of Directors. To the fullest extent that the laws of the State of West Virginia, as in effect on the date of the adoption of this Section or as such laws are thereafter amended, permit elimination or limitation of the liability of Directors, no Director of the Corporation shall be personally liable as such for monetary damages for any action taken, or any failure to take any action, as a Director unless (1) the Director has breached or failed to perform the duties of his office and (2) the breach or failure to

perform constitutes self-dealing, willful misconduct or recklessness. Any amendment or repeal of this Section or adoption of any other provision of these Bylaws or the Corporation's Articles of Incorporation which has the effect of increasing Director liability shall operate prospectively only and shall not have any effect with respect to any action taken, or failure to act, prior to the adoption of such amendment, repeal, or other provision.

In performing his duties, a Director may rely in good faith upon information, opinions, reports, or statements, including financial statements and other financial data, prepared or presented by (i) one or more officers or employees of the Corporation whom the Director reasonably believes to be reliable and competent in the matters presented, or (ii) counsel, public accountants, or other persons as to matters which the Director reasonably believes to be within the professional or expert competence of such person, or (iii) a committee of the Board of Directors upon which the Director does not serve, duly designated in accordance with law, as to matters within its designated authority, which committee the Director reasonably believes to merit confidence. A Director shall not be considered to be acting in good faith, however, if such Director has knowledge concerning a matter, which would cause his reliance on any of the foregoing to be unwarranted.

In discharging the duties of their respective positions, the Board of Directors, committees of the Board of Directors, and individual Directors may, in considering the best interests of the Corporation, consider the effects of any action upon employees, upon suppliers of the Corporation and upon communities in which offices or other establishments of the Corporation are located, and all other pertinent factors. The consideration of those factors shall not constitute a violation of such person's fiduciary standard of care. In addition, absent breach of fiduciary duty, lack of good faith, or self-dealing, actions taken by a Director or any failure to take any action shall be presumed to be in the best interests of the Corporation

This Section shall not apply to a director's responsibility or liability under any criminal statute or a Director's liability for payment of taxes under any local, state or federal law.

ARTICLE FOUR Committees

Section 4.01 Appointment of Committees. The Board of Directors may appoint one or more committees of Officers, Directors, and/or other persons to act in an advisory capacity to the whole Board. Such committee or committees shall have such name or names as may be determined from time to time by resolution adopted by the Board of Directors. The committees shall keep regular minutes of their proceedings and report the same to the Board when required. Any committee shall have and may exercise all of the powers and authority delegated to it by the Board of Directors, except that a committee shall not have any power or authority to fill vacancies in the Board of Directors; to adopt, amend or repeal the Articles of Incorporation or the Bylaws; to amend or repeal any resolution of the Board; or to take action on any matter committed by resolution of the Board to another committee of the Board.

Section 4.02 Quorum. A majority of the individuals appointed to a committee shall constitute a quorum for the transaction of business.

Section 4.03 Meetings and Notices. A committee may, by resolution, fix regular meeting dates of which no notice need be given to the members of the committee. Special meetings of a committee may be held at the call of the chair of the committee upon such notice as is provided in Section 3.09 of these Bylaws for special meetings of the Board of Directors.

Section 4.04 Reports to the Board of Directors. All action taken by a committee shall be reported to the Board of Directors not later than the next succeeding regular meeting of the Board.

Section 4.05 Definitions. Except as otherwise provided herein, the term “Board of Directors” or “Board,” when used in any provision of these Bylaws relating to the organization or procedures of or the manner of taking action by the Board of Directors, shall be construed to include and refer to any committee appointed by the Board of Directors. Any provision of these Bylaws relating or referring to action to be taken by the Board of Directors or the procedure required thereof shall be satisfied by the taking of corresponding action by a committee appointed by the Board of Directors to the extent authority to take the action has been delegated to the committee pursuant to these Bylaws.

ARTICLE FIVE Annual Report

Section 5.01 Annual Report. The financial statements of the Corporation shall be audited annually by an independent certified public accountant or firm. Within thirty days of completion, the financial audit report shall be presented to the Corporation’s Board of Directors for approval, after which a copy of the financial audit and required statements shall be submitted to the Commission.

ARTICLE SIX Officers

Section 6.01 Number. The officers of the Corporation shall be an Executive Director, Chief Operating Officer, and such other officers and assistant officers as the Board may deem appropriate.

Section 6.02 Qualifications. The officers and assistant officers may, but need not be Directors of the Corporation. Each officer of the Corporation shall be a natural person twenty-one (21) years of age or older; provided, however, the Treasurer of the Corporation may be a corporation, partnership, Limited Liability Company or other entity. Any officer or employee of the Commission, who is not the Executive Director of the Corporation, may hold an appointment as an officer of the Corporation.

Section 6.03 Executive Director. The Commission shall set the qualifications for the position of Executive Director in accordance with the provisions of Section 18B-1F-5 of the Code of West Virginia, as amended. The Executive Director shall be appointed by the majority vote of the members of the Commission, and shall hold office until his or her successor is appointed or until his or her earlier death, disability, resignation, or removal by the Commission.

Section 6.04 Removal of Officers. The Board of Directors shall have the power to remove an Officer from office, either with or without cause, provided that notice of a special meeting identifying this issue is provided under Section 3.09 hereof. Notwithstanding the foregoing, the Executive Director may only be removed by a majority vote of the members of the Commission.

Section 6.05 Vacancies. A vacancy caused by the death, disability, resignation, or removal of any Officer or assistant Officer, or by the creation of a new office, may be filled by the Board of Directors or the Commission as may be applicable.

Section 6.06 Executive Director Responsibilities. The Executive Director shall be the chief executive officer of the Corporation and shall have general charge of its business and supervision of its affairs. The Executive Director shall keep the Board of Directors fully informed and freely consult with them in regard to the business of the Corporation and make appropriate reports to them. In addition to the powers and duties elsewhere provided in these Bylaws, the Executive Director shall sign, when duly authorized to do so, all contracts, orders, deeds, liens, guarantees, licenses and other instruments of a special nature. Subject to the Board of Directors, the Executive Director shall have such other powers and duties as are incident to said office and not inconsistent with these Bylaws or as may at any time be assigned by the Board of Directors.

Section 6.07 Chief Operating Officer. The Chief Operating Officer shall have such powers and perform such duties as the Executive Director may from time to time delegate to the Chief Operating Officer. At the request of the Executive Director, the Chief Operating Officer may, in the case of the absence or inability to act by the Executive Director, temporarily act in the Executive Director's place. In the case of the death or inability to act of the Executive Director, the Chief Operating Officer shall perform the duties of the Executive Director except as shall be otherwise designated by the Board of Directors.

Section 6.08 Assistant Officers. Any assistant officer authorized by the Board of Directors shall perform such duties as may be delegated to him or her by the officer to whom he or she is an assistant, and in the absence or disability of such officer may perform the duties of his or her office.

Indemnification

Section 7.01 General Right to Indemnification. The Corporation shall indemnify and hold harmless each Director and Officer of the Corporation (and his heirs, executors and administrators), now or hereafter serving on the Board or on behalf of the Corporation, against all costs, expense and liabilities reasonably incurred by him or her in connection with or arising out of any claim, action, suit or proceeding in which he or she may be involved by reason of being or having been a Director or Officer of the Corporation (whether or not such person continues to be a Director or officer at the time of incurring such costs, expenses or liabilities). The term "costs, expenses and liabilities" shall include, but shall not be limited to, court costs, counsel fees and the amount of judgments against, or amounts paid in reasonable settlement by, any such Director or officer.

Section 7.02 Conditions for Indemnification. The Corporation shall not indemnify such Director or Officer (1) with respect to matters as to which such Director or Officer shall be finally adjudged in any action, suit or proceeding to have been liable for willful default or negligence, consisting of individual misfeasance, malfeasance or nonfeasance, in the performance of his duties as such Director or Officer; or (2) in the event that a settlement or compromise of any such claim, action, suit or proceeding is effected, unless (a) the Board of Directors shall have been furnished with an opinion of counsel for the Corporation to the effect that such settlement or compromise is in the best interests of the Corporation, and that there is no reasonable ground of liability for willful default or negligence, consisting of individual misfeasance, malfeasance or nonfeasance, in the performance of the duties entrusted to such Director or Officer on the part of such Director or Officer; and (b) the Board of Directors shall have adopted a resolution approving the terms of such settlement or compromises; and (c) such settlement or compromise shall be approved by the court having jurisdiction of such claim, action, suit or proceeding, with knowledge of the indemnification provided for hereby.

Section 7.03 Advancement of Expenses. Expenses incurred in defending a civil or criminal action, suit or proceeding may be paid by the Corporation in advance of the final disposition of such action, suit or proceeding upon receipt of an undertaking by or on behalf of the Director or Officer to repay such amount if it shall ultimately be determined that such person is not entitled to be indemnified by the Corporation pursuant to this Article.

Section 7.04 Right To Indemnification Not Exclusive. The foregoing rights of indemnification shall not be deemed exclusive of any other rights to which any Director or Officer or their heirs, executors and administrators may be entitled as a matter of law.

ARTICLE EIGHT Conflict of Interest Policy

Section 8.01 Adoption and Review of Policy. The Board of Directors shall adopt a Conflict of Interest Policy which shall be reviewed and signed by all Directors at least annually.

ARTICLE NINE
Transaction of Business

Section 9.01 Negotiable Instruments. The Board of Directors shall from time to time designate the Officers or agents of the Corporation who shall have power, in its name, to sign and endorse checks and other negotiable instruments and to borrow money for the Corporation, and in its name, to make notes or other evidences of indebtedness.

Section 9.02 Other Documents. Unless otherwise authorized by the Board of Directors, all contracts, leases, deeds, deeds of trust, mortgages, and all other documents requiring the seal of the Corporation shall be executed for and on behalf of the Corporation by the Executive Director, or a Vice President, and shall be attested by the Secretary.

Section 9.03 Acceptance of Gifts and Contributions. The Board of Directors may accept on behalf of the Corporation any contribution, gift, bequest or devise for general purposes or for any special purpose of the Corporation.

ARTICLE TEN
Amendments to Bylaws

Section 10.01 Amendments to Bylaws. These Bylaws may be altered or amended by a vote of a majority of the Board of Directors at any regular or special meeting duly convened after notice of that purpose, provided that any such Amendment must be first approved by the Board of Directors of the Commission.

AFFILIATION AGREEMENT

THIS AGREEMENT is made this 6th day of July, 2011, by and between the **WV REGIONAL TECHNOLOGY PARK CORP.**, a West Virginia not-for-profit corporation ("WVRTP"), and the **WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION**, a state agency existing under the laws of West Virginia ("HEPC").

WITNESSETH:

WHEREAS, the Legislature has determined that economic development in West Virginia depends in part on collaborations developed between higher education and businesses and industry, particularly in the advancement of new and emerging technologies, and it is in the best interests of the citizens of the state to implement programs which promote this research and contribute to the general economic welfare; and

WHEREAS, the Legislature has further determined that the transfer of property to the HEPC to establish the West Virginia Education, Research and Technology Park created a new and unprecedented opportunity to promote research and development in the state and that an efficiently managed Technology Park will encourage private sector participation in and support for research and economic development and will facilitate collaboration among the HEPC, the doctoral institutions and their research corporations; and

WHEREAS, It is the responsibility of the HEPC to ensure that the day to day operations of the Technology Park are carried out effectively and efficiently in order to provide the greatest investment return to the people of West Virginia, and to this end the Legislature determined that a mechanism is needed to simplify and expedite property management and purchasing of equipment, material and personal services for the Technology Park; and

WHEREAS, the Legislature enacted W. Va. Code § 18B-1E-1 *et seq.* to provide the HEPC with the authority necessary to carry out its responsibilities related to the operation of the Technology Park by authorizing it to enter into agreements and other contractual relationships with an affiliated non-profit, non-stock corporation organized under the general corporation laws of the state exclusively for charitable, educational or scientific purposes within the meaning of section 501(c) of the Internal Revenue Code of 1986, as amended; and

WHEREAS, the WVRTP has been incorporated as such a non-profit, non-stock corporation under the general corporation laws of the state; and

WHEREAS, the WVRTP and the HEPC desire to describe the features, purposes and mechanisms of the relationship by which the WVRTP and the HEPC will implement an affiliation agreement between the parties in accordance with legislative findings and objectives;

NOW, THEREFORE, in consideration of the promises and mutual covenants contained herein, the parties hereto mutually agree and contract as follows:

1. This Affiliation Agreement is effective for the period beginning July 1, 2011, and will be automatically reviewed each fiscal year unless terminated in writing by either party within ninety (90) days of the beginning of a new fiscal year.
2. In the event that the HEPC shall not elect to renew this Agreement, the HEPC shall endeavor to give the WVRTP prompt notice of said election by the HEPC not to renew.
3. On the effective date of this Agreement, the WVRTP shall be charged with the responsibility of serving as fiscal agent on behalf of the HEPC for operations of the Technology Park and has the primary responsibility of managing the day to day operations of the Technology Park.
4. The WVRTP shall provide additional services to the HEPC and Technology Park, including, but not limited to property management, human resources management and purchasing.
5. The WVRTP is authorized to receive, purchase, hold, lease, use, sell and dispose of real and personal property necessary for the operation of the Technology Park.
6. The WVRTP is authorized to accept and expend any gift, grant, contribution, bequest, endowment or other money for the purposes of operation of the Technology Park. The HEPC shall detail in writing the use of, and any restrictions on the use of any assets or funds of the HEPC transferred to the WVRTP.
7. The WVRTP shall employ an Executive Director selected by the HEPC. The Executive Director shall report to the Chair of the WVRTP Board of Directors and confer and consult with the Chancellor of the HEPC regarding operations of the Technology Park.
8. With the agreement of the Chancellor of the HEPC, the WVRTP may use services of both corporation employees and personnel of the HEPC. The WVRTP shall pay the costs incurred by the HEPC, including personnel funded on grants and contracts, fringe benefits of personnel funded on grants and contracts, administrative support costs and other costs which may require reimbursement regarding operation of the Technology Park. The WVRTP shall, at the request of the HEPC, include as costs any applicable overhead and fringe benefit assessments necessary to recover the costs expended by the HEPC, pursuant to the terms of this Agreement, and the HEPC shall be reimbursed for expenses incurred by it pursuant to this Agreement.
9. The financial statements of the WVRPT shall be audited annually by an independent certified public accountant or firm and a copy of the audit report shall be provided to the HEPC within thirty (30) days of the WVRTP Board of Directors approving the audit report.

10. This Agreement may be amended by mutual consent of the parties.
11. If this Agreement is terminated, the funds, contributions, or grants paid or held by the WVRTP and not encumbered or committed prior to termination shall be transferred to the HEPC or other entity designated by the HEPC.
12. This is the entire Agreement between the parties hereto and supersedes all prior negotiations and oral understandings between the parties hereto.
13. This Agreement is executed pursuant to and shall be construed under the laws of the State of West Virginia.

WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION

BY: _____

ITS: _____

WV REGIONAL TECHNOLOGY PARK CORP.

BY: _____

ITS: _____

MEMORANDUM OF AGREEMENT

THIS MEMORANDUM OF AGREEMENT (“MOA”) is made this _____ day of June, 2011, by and between the following parties: the West Virginia Higher Education Policy Commission (“Commission”), the Marshall University Research Corporation (“MURC”), the West Virginia University Research Corporation (“WVURC”) and the WV Regional Technology Park Corp. (“WVRTP”).

WHEREAS, the Legislature has determined that the Technology Park of the Commission located in South Charleston, West Virginia, is a diversified, multi-tenant research, development and commercialization park focused on energy, chemicals and other sciences and technologies for the advancement of education and economic development in West Virginia and that it is the intent of the Legislature to provide the Commission with the tools needed to manage the Technology Park and facilitate the translation of state investment dollars in higher education and research into business and economic growth that will provide tangible benefits for the citizens of the state; and

WHEREAS, the Legislature, with the adoption of “Vision 2020: An Education Blueprint for Two Thousand Twenty” called for the development of “specific research expertise within the two state doctoral degree-granting universities” and improved “communication among the research branches of higher education institutions, including identification of mutually complementary areas of interest to increase funding opportunities and collaboration on intellectual property issues”; and

WHEREAS, the Legislature has charged the Commission with distributing funds from the West Virginia Research Trust Fund to the MURC and WVURC, on behalf of their affiliated doctoral institution, for directed research endowment plans; and

WHEREAS, the Legislature enacted W. Va. Code § 18B-1F-1 et seq. authorizing the Commission to enter into an agreement with a non-profit, non-stock corporation to operate the Technology Park and the WVRTP has been incorporated and authorized under the general incorporation laws of the state and with a duly constituted Board of Directors to undertake that duty; and

WHEREAS, Marshall University and West Virginia University have entered into research and development agreements pursuant to W.Va. Code § 18B-12-1 et seq. with the MURC and WVURC, respectively, for those corporations to provide research assistance to their affiliated institution and to facilitate research and development grants and opportunities on behalf of their institution; and

WHEREAS, the Legislature has declared that the Commission shall enter into a memorandum of agreement with the MURC and WVURC to delineate the role each party will play in furthering the goals of research and economic development set forth in W. Va. Code § 18B-1F-1 et seq.

NOW, THEREFORE, IT IS AGREED as follows:

1. The Vice Chancellor for Science and Research of the Commission shall periodically consult with representatives of the MURC and WVURC to reassess and update the strategic plan of the Science and Research Council to stress and explore a collaborative process between the parties for science and technology research between the parties and, in particular, use of the Technology Park in that strategic plan.
2. The Vice Chancellor for Science and Research shall facilitate meetings between the Executive Director of the WVRTP, which the Commission has entered into an affiliation agreement with to manage the Technology Park, and the MURC and WVURC regarding access to the Technology Park and its facilities, opportunities for leasing of facilities and the possibility of collaborative projects at the Technology Park.
3. The Commission will afford the MURC and WVURC and their affiliated institutions on a priority basis, as available, with laboratory or meeting space at the Technology Park for meetings, activities, instruction, workshops and/or technology demonstrations.
4. Representatives of the MURC and WVURC will be invited to all meetings of the WVRTP Board of Directors that the Board believes they may be interested in and encouraged to share suggestions, recommendations, and collaborative opportunities with the Board.
5. The MURC and WVURC will be offered the opportunity to make a presentation each year at a Commission meeting about the successes, goals, opportunities and recommendations of the MURC and WVURC regarding research and technology facilitated by the MURC and WVURC and their affiliated institutions.
6. Whenever space becomes available at any of the facilities at the Technology Park the Commission will direct that the MURC and WVURC, on behalf of their affiliated institutions, be given first refusal on rental or leasing of such space for purposes consistent with the establishment of the Technology Park, unless the Commission determines an overwhelming need for the space to be utilized otherwise.
7. The Vice Chancellor for Science and Research shall continually monitor the directed research endowment plans of Marshall University and West Virginia University submitted to the Commission under the Research Trust Fund Program, and any updates to said plans, as well as requests for distributions from the Trust Fund, to identify potential areas of collaboration or synergy between the MURC and WVURC and their affiliated institutions, particularly at the Technology Park, and shall inform the parties of such opportunities for their consideration.
8. The Vice Chancellor for Science and Research will solicit recommendations each year from the MURC and WVURC on legislative, procedural or programmatic changes that would facilitate the

research goals and activities of the MURC and WVURC, their affiliated institutions and the activities of the Technology Park and communicate them to the Chancellor and Commission for possible adoption and coordination of legislative action.

9. This Memorandum of Agreement may be amended by mutual consent of the parties.

IN WITNESS WHEREOF, the parties have caused this Memorandum of Agreement to be executed in the year and date indicated, with the effective date being the most recent signature.

Higher Education Policy Commission

By _____ Date: _____
Its: _____

Marshall University Research Corporation

By _____ Date: _____
Its: _____

West Virginia University Research Corporation

By _____ Date: _____
Its: _____

WV Regional Technology Park Corp.

By _____ Date: _____
Its: _____