

1 RESOLUTION NO. RES-05-0074

2
3 A RESOLUTION OF THE CITY COUNCIL OF THE
4 CITY OF LONG BEACH APPROVING THE ARTICLES OF
5 INCORPORATION AND BYLAWS OF LONG BEACH
6 DEVELOPMENT FUND AND RELATED MATTERS
7

8 WHEREAS, the City of Long Beach, California, a California municipal
9 corporation, desires to form the Long Beach Development Fund, a California nonprofit
10 corporation (the "Corporation"); and

11 WHEREAS, attached hereto as Exhibit A are the proposed Articles of
12 Incorporation for the Corporation; and

13 WHEREAS, the City also desires to adopt Bylaws for the Corporation and
14 desires the City Council to approve the same; and

15 WHEREAS, attached hereto as Exhibit B are the proposed Bylaws for the
16 Corporation; and

17 WHEREAS, the Corporation is seeking to be designated by the
18 Community Development Financial Institutions Fund (the "CDFI Fund") as a qualified
19 community development entity ("CDE") for the purposes of the new markets tax credit
20 program which is governed by §45D of the of the Internal Revenue Code (the "Code");
21 and

22 WHEREAS, on its behalf and on behalf of future subsidiaries, the
23 Corporation proposes to submit an application (the "NMTC Application") with the CDFI
24 Fund for an allocation of tax credits under §45D of the Code ("NMTC Allocation") in an
25 amount sufficient to support \$25 million in qualified equity investments ("QEI") under
26 §45D of the Code; and

27 WHEREAS, the NMTC Allocation will allow the Corporation to address its
28 primary mission of fostering healthy and vital communities within the City by offering

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1 funding support to attract investment to improve the quality of life for low and moderate
2 income persons;

3
4 NOW, THEREFORE, the City Council of the City of Long Beach resolves
5 as follows:

6 Section 1. Approval of Articles of Incorporation. The City Council, upon
7 review and consideration, hereby approves the Articles of Incorporation in substantially
8 the same form as set forth in the Certificate attached hereto as Exhibit "A."

9 Sec. 2. Approval of Bylaws. The City Council hereby approves the
10 Bylaws of the Corporation attached hereto as Exhibit "B."

11 Sec. 3. The Director of Community Development of the City of Long
12 Beach (the "Authorized Representative") is hereby authorized to execute and file the
13 Articles of Incorporation and, subject to the Corporation's Board's final authority, to
14 negotiate, execute and deliver, on behalf of the Corporation, any other entity affiliated
15 with or controlled by the Corporation, the NMTC Application for NMTC Allocation.

16 Sec. 4. The Authorized Representative and counsel to the
17 Corporation are hereby authorized, on behalf of the Corporation and any entity affiliated
18 with or controlled by the Corporation, but subject to the Corporation's Board's final
19 authority, to form one or more Subsidiaries for the purpose of implementing the NMTC
20 Allocation and any transactions described in the NMTC Application.

21 Sec. 5. The Authorized Representative and counsel to the
22 Corporation are hereby authorized, on behalf of the Corporation and any entity affiliated
23 with or controlled by the Corporation, to seek designation by the CDFI Fund as CDEs
24 for the purpose of implementing the NMTC Allocation and any transactions described in
25 the NMTC Application.

26 Sec. 6. To the extent the Authorized Representative deems it
27 necessary or appropriate in connection with the formation of any entities authorized
28 hereby, there is hereby appropriated an aggregate amount not in excess of \$5,000 to

1 capitalize such entities;

2 Sec. 7. The Authorized Representative shall have final authority to:

3 a. approve the terms and conditions of any application to the
4 CDFI Fund for qualification as a CDE;

5 b. approve the terms of any application to the CDFI Fund for
6 allocation of new markets tax credits by the Corporation or any Subsidiary;

7 c. approve the terms and conditions of any Allocation
8 Agreement entered into by the Corporation or any Subsidiary; and

9 d. approve the formation of one or more Subsidiaries as
10 described herein.

11 Sec. 8. The Authorized Representative is hereby authorized to

12 negotiate, implement, execute and deliver any and all documents necessary or
13 appropriate in his/her discretion to carry out the intent or purpose of this resolution, and
14 to take any and all additional actions necessary to consummate the transactions
15 contemplated by this resolution;

16 Sec. 9. This resolution shall take effect immediately upon its
17 adoption by the City Council, and the City Clerk shall certify the vote adopting this
18 resolution.

19 I hereby certify that the foregoing resolution was adopted by the City
20 Council of the City of Long Beach at its meeting of August 16, 2005, by

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1 the following vote:

2 Ayes: Councilmembers: Lowenthal, Baker, Colonna,
3 O'Donnell, Kell, Richardson,
4 Reyes Uranga, Gabelich, Lerch.

5 _____
6 Noes: Councilmembers: None.

7 _____
8 Absent: Councilmembers: None.

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13 City Clerk

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**ARTICLES OF INCORPORATION
OF
LONG BEACH DEVELOPMENT FUND**

The undersigned, Director of Community Development of the City of Long Beach, hereby certifies as follows:

1. That he is the duly authorized incorporator, of Long Beach Development Fund, a California nonprofit public benefit corporation (the "Corporation").

2. That the Articles of Incorporation of the Corporation are hereby stated as follows:

ONE: The name of this corporation is: LONG BEACH DEVELOPMENT FUND.

TWO: This corporation is a nonprofit public benefit corporation and is not organized for the private gain of any person. It is organized under the Nonprofit Public Benefit Corporation Law for public and charitable purposes.

THREE: The specific and primary purpose for which this corporation is formed is to plan, perform and assist in the economic development of the City of Long Beach, California for the purpose of providing access to new and expanded sources of public and private investment capital for financing of specific projects and programs in low income communities and otherwise assisting low income persons and to lessen the burden of the City of Long Beach by providing economic development to benefit its citizens.

FOUR: The general purposes, objects and powers for which this corporation is formed shall be as follows:

(a) To purchase, construct, develop, deal in, option, take options on, acquire, own, sell, transfer, use, lease, exchange, dispose of, mortgage, pledge and encumber property and, while an owner or holder of property, to exercise all rights, powers and privileges of ownership.

(b) To enter into contracts, to receive contributions, and to incur indebtedness and secure repayment by mortgage, pledge or other hypothecation of property.

(c) To guarantee the undertakings on contracts of others.

(d) To act as principal, agent or trustee.

(e) To encourage citizens to participate in community improvement programs.

(f) To (a) form one or more limited partnerships, limited liability companies or other entities that have as one of its main purposes the carrying out of the purpose set forth in Article THREE, and (b) act as the general partner, manager, managing member or member of any such entities.

(g) To (a) become certified as a qualified community development entity ("CDE") for the purposes of the federal new markets tax credit program, which is governed by Section 45D of the Internal Revenue Code, (b) submit an application for allocation of new markets tax credits and (c) enter into an allocation agreement with respect to such allocation.

(h) To exercise all powers and rights authorized by law, including any related or incidental to the foregoing. This corporation shall never, however, engage in any business or activity other than that necessary or convenient for, or incidental to, the carrying out of the specific and primary purpose set forth in Article THREE.

FIVE: Notwithstanding any other provision of these articles, this corporation shall not, except to an insubstantial degree, engage in any activities or exercise any powers that are not in furtherance of the purposes of this corporation, and the corporation shall not carry on any other activities not permitted to be carried on (a) by a corporation exempt from federal, income tax under Section 501(c) (3) of the Internal Revenue Code of 1986 or the corresponding provision of any future internal revenue law, or (b) by a corporation, contributions to which are deductible

under Section 170(c) (2) of the Internal Revenue Code of 1986 or the corresponding provision of any future internal revenue law.

SIX: No substantial part of the activities of this corporation shall consist of carrying on propaganda, or otherwise attempting to influence legislation. This corporation shall not participate in or intervene in (including the publishing or distributing of statements) in any political campaign on behalf of (or in opposition to) any candidate for public office.

SEVEN: There shall be one (1) member of this corporation: the City of Long Beach, California. No person, firm, entity or corporation shall ever be a member of this corporation, except the City of Long Beach, California.

EIGHT: Notwithstanding any provision of the Bylaws of the Corporation, the Board of Directors and officers of the Corporation may engage in any and all acts necessary to complete any specific program approved by the member, including the execution of any contracts or the disbursements of any corporate funds, to the extent that such contracts or disbursements have been approved by the member as part of the member's approval of such program; provided, however, that the authority granted herein shall be strictly limited to the legal and fiscal confines and constraints of the program as approved by the member.

NINE: Other than as expressly provided for by these Articles of Incorporation or the Bylaws, the Board of Directors may not authorize any officer or agent to enter into any contract or execute any instrument in the name of or on behalf of the Corporation without the express written approval of the member. Unless expressly provided for by these Articles of Incorporation or the Bylaws, no officer, agent or employee shall have any power or authority to bind the corporation by any contract or engagement, to pledge its credit, or to render it liable for any purpose, without the express written approval of the member.

TEN: All checks, drafts or other orders for payment of money, notes or other evidences of indebtedness issued in the name of or payable to the Corporation shall be signed or endorsed by President or, in his or her absence, the Vice President, and shall be countersigned by facsimile signature by the Assistant Treasurer.

ELEVEN: No part of the property, net earnings or profits of this corporation shall inure to the benefit of any private person, firm or corporation during its existence or upon its dissolution. All property, profits and net revenue of this corporation are irrevocably dedicated to the City of Long Beach, California; provided, however, that until all indebtedness of this corporation shall have been paid, the property, profits and net revenues may be used for the purpose of paying or calling for redemption any bonds, debentures, notes or other evidences of indebtedness. Upon dissolution, liquidation or winding up of this corporation, or upon abandonment, the assets of this corporation remaining after payment of or provision for all debts and liabilities of this corporation shall be distributed to the City of Long Beach, California.

TWELVE: The name of the corporation's initial agent for service of process is City Clerk of the City of Long Beach, City Hall, 333 West Ocean Boulevard, Long Beach, California 90802.

3. That the foregoing articles of incorporation has been duly approved by the Board of Directors.

4. That the foregoing articles of incorporation has been duly approved by the City of Long Beach, California, the sole member of the Corporation.

I further declare under penalty of perjury under the laws of the State of California that the matters set forth in this Certificate are true and correct of my knowledge.

Date: _____, 2005

_____, Incorporator

BYLAWS
OF
LONG BEACH DEVELOPMENT FUND

ARTICLE I
NAME

The name of the corporation is “The Long Beach Development Fund” (the “Corporation”).

ARTICLE II
OFFICES

The principal office of the Corporation shall be located in the City of Long Beach, California (the “City of Long Beach”). The Board of Directors is granted the power to establish branch or subordinate offices located in the City of Long Beach.

ARTICLE III
ACTION OF MEMBER

As the only member is the City of Long Beach, member action shall be taken by the City Manager of the City of Long Beach (the “City Manager”) upon the authorization of the City Council of the city of Long Beach (the “City Council”). All such action shall become effective upon the filing of written notice of the same by the City Clerk of the City of Long Beach (the “City Clerk”) with the Secretary of the Corporation.

ARTICLE IV
DIRECTORS

Section 1. **Powers.** Subject to any limitations contained in the California Non-Profit Public Benefit Corporation Law, the Articles of Incorporation and these Bylaws, the Corporation’s activities and affairs shall be managed and all corporate powers shall be exercised by or under the direction of the Board of Directors. Without limiting their general powers, the directors shall have the following specific powers:

- (a) To select and remove any Director, agents and contractors of the Corporation and prescribe appropriate duties for them, subject to any limitations contained in these Bylaws.
- (b) To prescribe and enforce appropriate rules and regulations.
- (c) To adopt and use a corporate seal and to alter the form of such seal and of the certificate from time to time.
- (d) To acquire, lease, or dispose of property, to borrow money, to guarantee and assume indebtedness, and to execute and deliver deeds, guarantees, leases, notes, bonds,

debentures, deeds of trust, mortgages, pledges, hypothecations, assumptions, or other evidences of debt and security, subject to any limitations contained in these Bylaws.

(e) To contract with the City of Long Beach for such personnel and other services as it deems necessary to exercise its powers, duties and functions, as described by appropriate laws, statutes and ordinances as applicable thereto.

Section 2. **Number and Qualification.** The authorized number of directors of the Corporation shall be [seven] (7) until changed by amendment of these Bylaws.

Section 3. **Service Area Representatives.**

(a) At all times, at least twenty percent (20%) of the directors of the Corporation (the "Service Area Representatives") shall be residents of the Low-Income Communities within the applicable Service Area or otherwise represent the interests of residents of Low-Income Communities located in the applicable Service Area. The term "Service Area" of the Corporation shall mean all areas within the boundaries of the City of Long Beach that would qualify as a Low-Income Community. The term Low-Income Community shall mean a population census tract that meets the criteria set forth in the regulations applicable to the federal new markets tax credit program governed by Section 45D of the Internal Revenue Code (the "NMTC Regulations"). The term "Qualified Low Income Community Investments" shall mean such term as defined in the NMTC Regulations. Examples of individuals that represent the interests of Low-Income Communities include, but are not limited to:

(1) A small business owner whose business is located in a Low-Income Community and whose business (i) provides goods and services to community residents or (ii) principally employs residents of Low-Income Communities. For the purposes of this example, an owner shall include any individuals with at least fifty percent (50%) ownership stake in the business, or any individual that has an ownership stake and controls, operates or manages the business;

(2) An employee or board member of a community-based charitable organization principally serving Low-Income Communities;

(3) An employee or board member of an organization if the population served by such organization principally resides in Low-Income Communities;

(4) A religious leader whose congregation is based in a Low-Income Community;

(5) An employee of a governmental agency or department that principally serves Low-Income Communities;

(6) An employee of a governmental agency or department if such employee's daily job responsibilities consist principally of serving Low-Income Communities; and

(7) An elected official whose constituency is comprised principally of residents of Low-Income Communities.

(b) Each Service Area Representative shall be responsible for soliciting feedback from residents of Low-Income Communities served by the Corporation, including,

(c) without limitation, potential Qualified Low-Income Community Investments and the status of existing Qualified Low-Income Community Investments. Examples of such solicitation include, but are not limited to, holding meetings with residents of such Low-Income Communities and sending surveys to residents of such Low-Income Communities.

Section 4. Selection and Term-of Office. The Mayor of the City of Long Beach (the "Mayor") shall select the directors with the consent of the City Council. Three (3) directors shall from date of selection hold office until the third Tuesday in July, 2007 and be eligible for three subsequent two (2) year terms. Four (4) directors shall from date of selection hold office until the third Tuesday in July, 2008, and be eligible for three subsequent two (2) year terms. Directors selected after the initial seven (7) directors have been selected shall hold office for a term of two (2) years until the third Tuesday of July of the second year after their selection or until their successors are selected. Directors may not hold office for more than four (4) successive terms. Directors need not be residents of the City of Long Beach in order to be selected or to serve.

Section 5. Vacancies on the Board of Directors.

(a) Events Causing Vacancy.

A vacancy or vacancies on the Board of Directors shall exist on the occurrence of the following: (1) the death or resignation of any director; (b) the declaration by resolution of the Board of Directors of a vacancy in the office of a director who has (i) been absent from four (4) meetings of the Board of Directors or four (4) committee meetings per committee in any twelve-month period, (ii) failed to perform the duties of a Board member, including participation in committees, (iii) been declared of unsound mind by an order of the court, (iv) been convicted of a felony or (v) been found by final order or judgment of any court to have breached a duty under Article 3 of Chapter 2 of the California Non-Profit Public Benefit Corporation Law; (c) the removal of any director at the sole discretion of the member; or (d) the increase of the authorized number of directors. In the event that a director has been absent from three meetings within any twelvemonth period, the matter will be referred to a committee designated by the Board of Directors, and notice of such absences shall be given to the affected director. In the event that the director is absent from a fourth meeting within the same twelve-month period, the matter will be automatically placed upon the agenda of the Board meeting immediately following such fourth absence, and the Board will decide whether to adopt a resolution pursuant to subsection (i) above.

(b) Resignations.

Except as provided below, any director may resign by giving written notice to the President or the Chairman of the Board of Directors. The resignation shall be effective when the

notice is given unless it specifies a later time for the resignation to become effective. If a director's resignation is effective at a later time, a successor may be selected to take office as of the date when the resignation becomes effective. Except on notice to the Attorney General of California, no director may resign if the corporation would be left without a duly- appointed director or directors.

(c) Filling Vacancies.

Vacancies in the Board of Directors shall be filled by the Mayor with the consent of the City Council.

(d) Effect of Reduction of Number of Directors.

No reduction of the authorized number of directors shall have the effect of removing any director before the director's term of office expires.

Section 6. Restriction on Interested Persons as Directors. No more than forty-nine (49) percent of the persons serving on the Board of Directors may be interested persons. An interested person is (a) any person currently being compensated by the Corporation for services rendered to it within the previous twelve (12) months, whether as a full-time or part-time employee, independent contractor, or otherwise, excluding any reasonable compensation paid to a director as director; and (b) any brother, sister, ancestor, descendant, spouse, brother-in-law, sister-in-law, son-in-law, daughter-in-law, mother-in-law, or father-in-law of such person. However, any violation of the provisions of this paragraph shall not affect the validity or enforceability of any transaction entered into by the Corporation.

Section 7. Compliance with Political Reform Act of 1974. The directors shall comply with the provisions. of the Political Reform Act of 1974, commencing with Section 81000 of the California Government Code.

ARTICLE V DIRECTORS' MEETINGS

Section 1. Place of Meeting. All meetings of the Board of Directors shall be held at 333 West Ocean Boulevard, Long Beach, California, unless otherwise designated by notice (1) posted at 333 West Ocean Boulevard, Long Beach, California, and (2) mailed to each director.

Section 2. Application of Ralph M. Brown Act. The Corporation shall comply with the provisions of the Ralph M. Brown Act, Chapter 9 (commencing with Section 54950) of Part 1, Division 2, Title 5 of the California Government Code.

Section 3. Annual Meeting. The annual meeting of the Board of Directors shall be held at 4:00 p.m. on the third Wednesday in October, beginning in 2006, or at such time as the Board of Directors may from time to time determine, for the purpose of election of officers, and for the transaction of such other business as may properly come before the meeting. Should such day fall upon a legal holiday, the annual meeting shall be held on the next business day thereafter at the same hour and place.

Section 4. **Regular Meetings.** Regular meetings of the Board of Directors shall be held without call on the third Wednesday of every month at 4:00 p.m. In the event it falls upon a legal holiday, the meeting shall be held at the same time on the next business day. The Board shall not be required to give notice of such regular meetings to the directors.

Section 5. **Special Meetings.** Special Meetings of the Board of Directors for any purpose may be called at any time by the Chairman. In the event the chairman is absent or is unable or refuses to act, the Vice-Chairman, or any two directors, may call a special meeting.

Section 6. **Notice of Regular Annual and Special Meetings.** Notice of regular, annual and of special meetings shall be given in the manner required by the Ralph M. Brown Act, being Chapter 9 (commencing with Section 54950) of the Part 1, Division 2, Title 5 of the California Government Code. In addition, written notice of such meetings shall be given to the Mayor and the City Council by filing notice of the meeting with the City Clerk at least 24 hours prior to the meeting. The mayor or any member of the City Council may attend any such meeting and make comments and recommendations and participate in the discussions of the Board of Directors at such meetings.

Section 7. **Consent to Meetings.** Any director not present at a meeting may, if such director so desires, file a written consent to actions taken at such meeting with the Secretary of the Corporation.

Section 8. **Quorum.** A majority of the authorized number of directors (less any vacancies) shall be necessary to constitute a quorum for the transaction of business, except to adjourn as hereinafter provided. Every act or decision made by a majority of the directors present at a meeting duly held at which a quorum is present shall be regarded as the act of the Board of Directors subject to the more stringent provisions of the California Non-Profit Public Benefit Corporation Law, including, without limitation, those provisions relating to (a) approval of contracts or transactions in which a director has a direct or indirect material financial interest, (b) approval of certain transactions between corporations having common directorships, (c) creation of and appointments to committees of the Board-of Directors, and (d) indemnification of directors. A meeting at which a quorum is initially present may continue to transact business, despite the withdrawal of directors, if any action taken or decision made is approved by at least a majority of the required quorum for that meeting.

Section 9. **Adjournment.** A majority of the directors present, whether or not a quorum is present, may adjourn any meeting to another time and place.

Section 10. **Fees and Compensation.** Directors shall not receive any compensation, within the meaning of Section 5239 of the California Non-Profit Public Benefit Corporation Law, for their services as directors; however, the Board of Directors may authorize the payment of per diem, mileage or other reimbursement expenses to a director. A director shall not, however, be precluded from serving the Corporation in any other capacity as an officer, agent, employee or representative and receiving appropriate compensation for his or her services.

Section 11. **Committees.**

(a) Committees of the Board of Directors.

The Board of Directors by resolution adopted by a majority of the directors then in office, provided a quorum is present, may create one or more committees, each consisting of two or more directors and no persons who are not directors, to serve at the pleasure of the Board of Directors. Appointments to committees of the Board of Directors shall be by majority vote of the authorized number of directors. The Board of Directors may appoint one or more directors as alternate members of any such committee, who may replace any absent member at any meeting. Any such committee, to the extent provided in the Board of Directors resolution, shall have all the authority of the Board of Directors except that no committee, regardless of Board of Directors resolution, may:

- (1) Take any final action on any matter that, under the California Non-Profit Public Benefit Corporation law, also requires approval of the members or approval of a majority of all members;
- (2) Fill vacancies on any committee that has the authority of the Board of Directors;
- (3) Fix compensation of the directors for serving on the Board of Directors or on any committee;
- (4) Amend or repeal Bylaws or adopt new Bylaws;
- (5) Amend or repeal any resolution to the Board of Directors that by its express terms is not so amendable or repealable;
- (6) Create any other committees of the Board of Directors or appoint the members of committees of the Board of Directors; or
- (7) Approve any contract or transaction to which the Corporation is party and in which one or more of its directors has a material financial interest, except as special approval is provided for in Section 5233(d)(3) of the California Non-Profit Public Benefit Corporation Law.

(b) Meetings and Actions of Committees.

Meetings and actions of committees of the Board of Directors shall be governed by, held, and taken in accordance with the provisions of these Bylaws concerning meetings and other actions of the Board of Directors except that the time for regular meetings of such committees and the calling of special meetings of such committees may be determined either by resolution of the Board of Directors, or if there is none, by resolution of the committee. Minutes of each meeting of any committee shall be kept and shall be filed with the corporate records. The Board of Directors may adopt rules for the government of any committee, provided they are consistent with these Bylaws or, in the absence of rules adopted by the Board of Directors, the committee may adopt such rules.

ARTICLE VI OFFICERS

Section 1. **Officers.** The officers of the Corporation shall be a Chairman of the Board, a President, who shall be the Director of Community Development of the City of Long Beach; a Secretary, who shall be the designee of the President; a Vice President, who shall be the designee of the President, a Chief Financial Officer, who shall be the Director of Financial Management of the City of Long Beach; an Assistant Treasurer, who shall be the City Auditor of the City of Long Beach; and a General Counsel, who shall be the City Attorney of the City of Long Beach. The Corporation may also have such other officers as set forth in section 3 of this Article.

Section 2. **Selection of Officers.** The officers of the Corporation, except for the Chairman of the Board, and the Secretary of the Board, and those as may be appointed under Section 3 of this Article, shall be, as applicable, the person currently holding the position designated in Section 1 of this Article. The Chairman of the Board shall be elected by the directors at the Board of Directors' annual meeting. The Secretary and Vice President shall be designated by the President. Each officer shall hold office until such officer resigns or is removed, ceases to hold the position designated in Section 1 of this Article, becomes otherwise disqualified to serve, or such officer's successor is selected.

Section 3. **Other Officers.** The Board of Directors, with the consent of the member, may appoint such other officers as the business of the Corporation may require. Such officers shall hold office for such period and perform the duties as specified in these Bylaws or as may be determined by the Board of Directors with the consent of the member.

Section 4. **Removal. Resignation and Vacancies.** The Chairman and Secretary of the Board may be removed at any time, with or without cause, by the Board of Directors, with the consent of the member. The Chairman, Vice-Chairman or Secretary of the Board may resign at any time by giving written notice to the Corporation. The resignation shall take effect as of the date the notice is received or at any later time specified in the notice. A vacancy in any office, by reason of death, resignation, removal, disqualification or any other cause, shall be filled by the Board of Directors.

Section 5. **Chairman of the Board.** The Board of Directors shall elect one of its members to act as Chairman of the Board at its annual meeting. The Chairman of the Board shall preside at all meetings of the Board of Directors and shall sign all resolutions and approved minutes of Board of Directors' meetings. The Chairman of the Board shall have the power to place on the agenda of the Board of Directors' meetings such business as in the Chairman of the Board's discretion requires the attention or action of the Board of Directors. In addition, the Chairman of the Board shall have such other powers and perform such other duties as may be prescribed by the Board of Directors or the Bylaws.

Section 6. **Secretary.** The Secretary shall keep or cause to be kept, at the Corporation's principal office or such other place the Board of Directors may direct, a book of minutes of all meetings, proceedings and actions of the Board of Directors, of committees and of all actions taken by the member. The minutes of meetings shall include the time and place of the

meeting, whether the meeting was annual, regular or special, and if special, how authorized, the notice given, a record of all votes and the names of those present. The Secretary shall deliver a copy of all minutes of meetings of the Board of Directors and committee to the member. The Secretary shall have such other powers and perform such other duties as may be prescribed by the Board of Directors or the Bylaws.

Section 7. **President.** The President shall be the chief executive officer of the Corporation and shall supervise, direct and control the Corporation's activities and affairs. The President shall designate the vice President. At each meeting of the Board of Directors, the President shall submit such recommendations and information as he or she may consider proper concerning the business, affairs and policies of the Corporation. The President shall have the authority to sign in accordance with Section 1 of Article IX, all checks, drafts or other orders for payment of money, notes or other evidences of indebtedness issued in the name of or payable to the Corporation, vouchers, deeds, contracts and other instruments authorized by the Board of Directors or the member. The President shall review all reports, communications, and documents addressed or directed to the Corporation, the Board of Directors or any of the officers of the Corporation. The President shall oversee the preparation and submission of reports and communications as from time to time may be authorized or requested by the Board of Directors or the member. In addition, the President shall have such other powers and perform such other duties as may be prescribed by the Board of Directors or the Bylaws.

Section 8. **Vice President.** The Corporation in the absence or disability of the President, the Vice President shall perform the duties of the President. When so acting, the Vice President shall have all the powers of, and be- subject to all the restrictions upon, the President. The Vice President shall have such other powers and perform such other duties as may be prescribed by the Board of Directors or the Bylaws.

Section 9. **Chief Financial Officer.** The Corporation shall utilize the services of the Director of Financial Management of the City of Long Beach as its Chief Financial Officer. The Chief Financial Officer shall have the care and custody of all corporate funds and shall deposit the same in the name of the Corporation in such bank or banks as the member may select. The Chief Financial Officer shall advise the Corporation on fiscal matters, pay out and-disburse Corporation monies and funds. The Chief Financial officer shall have such other powers and perform such other duties as may be prescribed by the Board of Directors or the Bylaws.

Section 10. **General Counsel.** The Corporation shall utilize the services of the City Attorney of the City of Long Beach as its General Counsel. The General counsel shall advise the Corporation on all legal matters, prepare legal documents as requested by the Corporation, and approve as to form all deeds, contracts, resolutions, and other legal instruments relating to the Corporation's activities. The General Counsel shall have such other powers and perform such other duties as may be prescribed by the Board of Directors or the Bylaws.

Section 11. **Assistant Treasurer.** The corporation shall utilize the services of the City Auditor of the City of Long Beach as its Assistant Treasurer. The Assistant Treasurer shall countersign by facsimile signature all Corporation checks. The Assistant Treasurer shall have such other powers and perform such other duties as may be prescribed by the Board of Directors or the Bylaws.

Section 12. **Additional Duties.** The officers of the Corporation shall perform such other duties and functions as may from time to time be required by the Board of Directors, the member, the Bylaws, or which are incidental to the office held by such officers.

Section 13. **Compliance With Political Reform Act of 1974.** The officers of the Corporation shall comply with the provisions of the Political Reform Act of 1974, commencing with Section 81000 of the California Government Code.

Section 14. **Audit of Books and Records.** If requested by the City Manager, the Books and Records of Account of the Corporation shall be audited by the City Auditor of the City of Long Beach.

ARTICLE VII INDEMNIFICATION OF DIRECTORS AND OFFICERS

Section 1. **Right of Indemnity.** To the fullest extent permitted by law, this Corporation shall indemnify its directors, officers, employees, and other persons described in Section 5238 (a) of the California Non-Profit Public Benefit Corporation Law, including persons formerly occupying any such position, against all expenses, judgments, fines, settlements and other amounts actually and reasonably incurred by them in connection with any "proceeding," as that term is used in that Section, and including an action by or in the right of the Corporation, by reason of the fact that the person is or was a person described in that Section. "Expenses," as used in this Article, shall have the same meaning as in Section 5238(a) of the California Non-Profit Public Benefit Corporation Law.

Section 2. **Approval of Indemnity.** On written request of the Board of Directors by any person seeking indemnification under Section 5238(b) or Section 5238(c) of the California Non-Profit Public Benefit Corporation Law, the Board of Directors shall promptly determine under Section 5238(e) of the California Non-Profit Public Benefit Corporation Law whether the applicable standard of conduct set forth in Section 5238 (b) or Section 5238 (c) has been met and, if so, the Board of Directors shall authorize indemnification. If the Board of Directors cannot authorize indemnification because the number of directors who are parties to the proceeding with respect to which indemnification is sought prevents the formation of a quorum of directors who are not parties to the proceeding, the Board of Directors shall promptly notify the City of Long Beach. The City of Long Beach shall determine under Section 5238(e) of the California Non-Profit Public Benefit Corporation Law whether the applicable standard of conduct set forth in Section 5238(b) or Section 5238 (c) has been met and, if so, the City of Long Beach shall authorize indemnification.

Section 3. **Advancement of Expenses.** To the fullest extent permitted by law and except as otherwise determined by the Board of Directors in a specific instance, expenses incurred by a person seeking indemnification under this Article in defending any proceeding covered by this Article shall be advanced by the Corporation before final disposition of the proceeding on receipt by the Corporation of an undertaking by or on behalf of that person that the advance will be repaid unless it is ultimately determined that the person is entitled to be indemnified by the Corporation for those expenses.

ARTICLE VIII
INSURANCE

The Corporation shall, in accordance with the provisions of Section 5239 of the California Non-Profit Public Benefit Corporation Law, obtain, or shall make all reasonable efforts in good faith to obtain, a liability insurance policy issued to the Corporation, either in the form of a general liability policy or a director's and officer's liability policy, covering damages caused by the negligent act or omission of each director or executive committee officer, as such term is defined in Section 5239 of the California Non-Profit Public Benefit Corporation Law. Notwithstanding the foregoing, the Corporation shall have the right to purchase and maintain insurance to the full extent permitted by law on behalf of its officers, directors, employees, and other agents, against any liability asserted against or incurred by any officer, director, employee, or agent in such capacity or arising out of the officer's, director's, employee's, or agent's status as such.

ARTICLE IX
MISCELLANEOUS

Section 1. **Checks, Drafts, Etc.** All checks, drafts or other orders for payment of money, notes or other evidences of indebtedness issued in the name of or payable to the Corporation shall be signed or endorsed by the President or in his or her absence, the Vice President, and shall be countersigned by facsimile signature by the Assistant Treasurer.

Section 2. **Records and Reports.**

(a) Maintenance of Corporate Records.

The Corporation shall keep:

- (1) Adequate and correct books and records of account;
- (2) Written minutes of the proceedings of its member, Board of Directors, and committees of the Board of Directors; and
- (3) A record of the City of Long Beach's address.

(b) Member's Inspection of Accounting Records and Minutes.

On written demand on the Corporation the member may inspect, copy, and make extracts of the accounting books and records and the minutes of the proceedings of the member, the Board of Directors, and committees of the Board of Directors at any reasonable time for a purpose reasonably related to the City of Long Beach's interest as the sole member. Any such inspection and copying may be made in person or by the City of Long Beach's agent or attorney. Any right of inspection extends to the records of any subsidiary of the Corporation.

(c) Maintenance and Inspection of Articles and Bylaws.

The Corporation shall keep at its principal office the original or a copy of the Articles of Incorporation and Bylaws, as amended to date, which shall be open to inspection by the city of Long Beach at all reasonable times during office hours.

(d) Inspection by Directors.

Every director shall have the absolute right at any reasonable time to inspect the Corporation's books, records, documents of every kind., physical properties, and the records of each of its subsidiaries. The inspection may be made in person or by the director's agent or attorney. The right of inspection includes the right to copy and make extracts of documents.

(e) Annual Report.

The Board of Directors of the Corporation shall cause an annual report to be prepared by the President and delivered to the City of Long Beach and each director within one hundred twenty (120) days after the end. of the Corporation's fiscal year (October 1 through September 30). That report shall contain the following information, in appropriate detail, for the fiscal year:

- (1) The assets and liabilities, including the trust funds, of the Corporation as of the end of the fiscal year;
- (2) The principal changes in assets and liabilities, including trust funds;
- (3) The revenue and receipts of the Corporation, both unrestricted and restricted to particular purposes;
- (4) The expense or disbursements of the Corporation for both general and restricted purposes; and
- (5) Any information requested by any provision of these Bylaws, the member or the City Manager.

The annual report shall be accompanied by any report of independent accountants or, if there is no such report, by the certificate of an authorized officer of the Corporation that such statements were prepared without audit from the Corporation's books. and records.

The requirement of an annual report shall not apply if the Corporation receives less than \$25,000 in gross receipts during the fiscal year, provided, however, that the information specified above for inclusion in an annual report must be furnished annually to all directors and to the City of Long Beach if so requested in writing.

(f) Annual Statement of Certain Transactions and Indemnifications.

As part of the annual report to the member, the Corporation shall annually prepare and mail or deliver to the City of Long Beach and furnish to each director a statement of any transaction or indemnification of the following kind within one hundred twenty (120) days after the end of the Corporation's fiscal year:

(1) Any transaction (i) in which the Corporation was a party, (ii) in which an “interested person” had a director or indirect material financial interest, and (iii) which involved more than \$50,000, or was one of a number of transactions with the same interested person involving, in the aggregate, more than \$50,000. For this purpose, an “interested person” is either (a) any director or officer of the Corporation; or (b) the member. The statement shall include a brief description of the transaction, the names of interested persons involved, their relationship to the Corporation, the nature of their interest in the transaction and, if practicable, the amount of that interest, provided that if the transaction was with a partnership in which the interested person is a partner, only the interest of the partnership need be stated.

(2) Any indemnifications or advances aggregating more than \$10,000 paid during the fiscal year to any officer or director of the Corporation under the provisions of these Bylaws, unless that indemnification has already been approved by the City of Long Beach under Section 5238(e)(2) of the California Non-Profit Public Benefit corporation Law.

Section 3. Program Approved by Member. The Board of Directors and officers of the Corporation may engage in any and all acts necessary to complete any specific program approved by the member, including the execution of any contracts or the disbursements of any corporate funds, to the extent that such contracts or disbursements are consistent with the approved program.

Section 4. Execution of Contracts. Unless expressly provided for by the Articles of incorporation or these Bylaws, no officer, agent or employee shall have any power or authority to bind the Corporation by any contract or engagement, to pledge its credit, or to render it liable for any purpose without the express written approval of the Board of Directors.

Section 5. Construction and Definitions. Unless the context requires otherwise, the general provisions, rules of construction, and definitions in the California Non-Profit Corporation Law shall govern the construction of these Bylaws. Without limiting the generality of the preceding sentence, the masculine gender includes the feminine and neuter, the singular includes the plural, the plural includes the singular, and the term “person” includes both a legal entity and a natural person.

ARTICLE X AMENDMENTS

Section 1. Power of Member. Bylaws may be adopted, amended or repealed by the member.

Section 2. Power of Directors. Bylaws may be adopted, amended or repealed by the Board of Directors only with the express written consent of the member.