



City of Long Beach

Working Together to Serve

Office of the City Attorney

Memorandum

3

DATE: September 14, 2022

To: Honorable Members of the Ethics Commission

FROM: Taylor M. Anderson, Deputy City Attorney

SUBJECT: Resolution to Amend and Restate Resolution No. E.C. 01-2020 to include the Ethics Commission's Disclosure Policy

Please see attached Resolution to Amend and Restate Resolution No. E.C. 01-2020 for consideration at your September 14th, 2022 meeting. If adopted, this Resolution will add Article 11 "Disclosure Policy" to the Rules and Procedures for the Ethics Commission.

If you have any questions regarding the enclosed Resolution, please contact our office.

TMA:ag

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Enclosures

Ethics Commission Disclosure Policy- DRAFT

The people of Long Beach depend on a city government that operates equitably, ethically, and transparently, and that works to promote public trust and confidence. The Ethics Commission strives to advance the public trust and confidence in the City's government through education and the development of policies and processes that promote each of the City's values of Accountability, Fairness, Impartiality, Diversity, Transparency, and Integrity.

In 2018, the voters approved Measure CCC, establishing procedures for an Ethics Commission independent of the City Council. To promote these values and mission, the Ethics Commission adopts the Disclosure Policy in this Article. This Article shall be effective from the date of adoption by the Commission.

- I. **Requirement to Disclose.** Commissioners and Commission Staff shall report, in writing to Commission Staff, any substantive information relevant to a matter within decision-making authority of the Commission, as outlined in City Charter Article XXIV, that Commissioners receive from sources outside a public meeting. For purposes of this policy, "sources" shall include, but is not limited to, any oral communications or written documents or communications with a person or entity regarding any matter within the decision-making authority of the Commission.

For purposes of this policy, "Commission Staff" shall be defined as the direct support staff assigned to the Commission and any staff assigned to work with the Commission on a temporary basis, including consultants and legal counsel. This policy shall not require legal counsel assigned to, or contracted to work with, the Commission to disclose any communications protected by the attorney-client privilege.

- II. **Format of Disclosure.** Within 10 calendar days of a contact, Commissioners and Commission Staff shall report any contacts subject to this requirement via email to Commission Staff in the following suggested format:

1. The name of the group and/or individual initiating the contact;
2. When the contact occurred;
3. The subject matter;
4. Short description of any oral contacts; and
5. If the contact person or individual is compensated for the communication, the party compensating them.

When reporting the contact to Commission Staff, Commissioners and Commission Staff shall forward originals or copies of written or electronic contacts to Commission Staff. Disclosures made by Commission members and staff are part of the public record and shall be posted on the Ethics Commission's website for the public to view.

III. **Communications Where No Disclosure is Required.** The requirements in this Section do not prohibit nor are disclosures required for the following:

1. Communications between Commissioners, Commission Staff, or consultants retained by the Commission that is otherwise permitted by State and City open meeting requirements; or
2. Commissioners, Commission Staff, or consultants retained by the Commission from discussing or advocating for any matter with City Departments, City elected and City appointed officials so long as the contact is not made with the purpose of influencing the decision-making authority of the Commission; or
3. Commissioners or Commission Staff from engaging in discussions with City elected officials, their staff, or City staff regarding budgetary and financial resources of the Commission.

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RESOLUTION NO.

A RESOLUTION OF THE ETHICS COMMISSION OF
THE CITY OF LONG BEACH AMENDING AND
RESTATING RESOLUTION NO. E.C. 01-2020 ADDING A
DISCLOSURE POLICY TO THE RULES AND
PROCEDURES FOR THE ETHICS COMMISSION

WHEREAS, the Ethics Commission was established by Long Beach voters
with the passage of Measure CCC, November 6, 2018; and

WHEREAS, on August 12, 2020, the Ethics Commission adopted the Rules
and Regulations for the Ethics Commission by Resolution No. E.C. 01-2020; and

WHEREAS, the Ethics Commission now intends to adopt the Disclosure
Policy to further promote transparency in government; and

NOW THEREFORE, the Ethics Commission of the City of Long Beach
resolves as follows:

Section 1. The Ethics Commission of the City of Long Beach hereby
adopts the following Rules and Procedures:

RULES AND PROCEDURES FOR THE ETHICS COMMISSION

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1 Long Beach Unified School District Board or the Long Beach Community College Board of
2 Trustees;

3 (b) Serve as an officer in any election campaign for or against a candidate
4 for any current elected office in the City of Long Beach, Long Beach Unified School District
5 or the Long Beach Community College District, or any City or District measure;

6 (c) Be an employee of the City;

7 (d) Employ or be employed as a person required to register as a lobbyist
8 with the City of Long Beach.

9 2.3 Vacancies. Appointments to fill vacancies on the Commission shall be made
10 within sixty (60) days of the position becoming vacant. A vacancy on the Commission shall
11 be filled by the same person (Mayor or Auditor) or the Commission who made the initial
12 appointment, using the same method and procedure utilized for the initial Commission
13 member appointment in Charter section 2401. Appointments to fill vacancies shall be for
14 the unexpired term of the member whom the appointee succeeds. A vacancy or vacancies
15 shall not impair the right of the remaining members to exercise the powers of the
16 Commission.

17 2.4 Quorum. A majority of members of the Commission shall constitute a
18 quorum, and the affirmative vote of at least a majority of members shall be required to take
19 any action.

20 In the event of the lack of a quorum at a meeting, the Chair or Vice Chair, or Chair
21 pro tem, in that order, shall adjourn the meeting to another time, place, and date. Such
22 order of adjournment shall serve as sufficient notice thereof to all members not present, it
23 shall be the duty of the Designee to employ such reasonable means as may be necessary
24 to notify the absent members. The Designee may adjourn a meeting where no
25 Commissioners are present, provided that if the meeting is adjourned to a time other than
26 the next regular meeting, notice of the meeting shall be given as if the meeting were a
27 special meeting.

28 2.5 The Chair shall preside at all meetings and hearings of the Ethics

1 Commission and shall have the duties normally conferred on such an officer. Consistent
2 with these rules and procedures, the Chair shall have the privilege of discussing all matters
3 before the Ethics Commission and to vote thereon.

4 2.6 The Vice Chair shall act for the Chair in the Chair's absence.

5 2.7. In the absence of both the Chair and Vice Chair, the members present at
6 such meeting may elect a Chair pro tem who shall serve only for the duration of the
7 meeting in which the appointment was made and shall have all powers of the Chair for that
8 particular meeting.

9 2.8 The Designated Staff Person ("Designee") shall be responsible for keeping
10 minutes of the Ethics Commission proceedings and transactions, preparing the agenda of
11 the regular and special meetings, arranging proper and legal notice of the hearings,
12 attending to correspondence, and performing such other duties for the Ethics Commission
13 as are normally carried by a secretary to a legislative body. Where this resolution refers to
14 duties of the Designee, the Designee may delegate such duties as deemed appropriate.

15
16 ARTICLE 3

17 COMMISSION ACCESS TO STAFF

18 3.1. Commission or Commissioner requests for assistance or research by staff,
19 other than simple requests for information or clarification, shall require the consent and
20 approval of the Designee.

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22 ARTICLE 4

23 ELECTION OF OFFICERS

24 4.1 The Chair and Vice Chair shall be elected by and from the members of the
25 Ethics Commission. Election of the Chair and Vice Chair shall be held at the meeting of
26 July each year. The newly elected officers shall assume their offices in the first regular
27 meeting of August

28 4.2 The terms of office for Chair and Vice Chair shall be for one (1) year, and

1 thereafter until their respective successors are elected and qualified.

2 4.3 Vacancies in offices shall be filled immediately by regular election procedure,
3 but for the unexpired term only.

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ARTICLE 5

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MEETINGS

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8 5.1 Regular Meetings. Regular meetings of the Ethics Commission shall be held
9 on the second Wednesday of the month. If the regular meeting dates falls on a City
10 holiday, then the meeting may be rescheduled by the Ethics Commission.

11

12 5.1.1 All regular meetings of the Ethics Commission will be called to order at
13 3:00 p.m., unless properly noticed otherwise, canceled, or rescheduled. No Ethics
14 Commission meeting shall be canceled or rescheduled unless the Designee first confers
15 with the Chair regarding the rationale for canceling or rescheduling.

16

17 5.1.2 The Commission shall endeavor to adjourn its meetings not later than
18 5 p.m. If necessary, business not completed by 5 p.m. will be continued to the next regular
19 or special meeting as determined by the Ethics Commission.

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21 5.2 Meeting Breaks. The Chair shall, with the concurrence of the Commission,
22 recess the meetings as necessary to grant relief to the Commissioners, staff and audience.

23

24 5.3 Emergency or Special Meetings. An Emergency or Special Meeting may be
25 called at any time by the Chair of the Ethics Commission, or by a majority of its
26 membership, on its own motion or at the direction of the City Council. The call, notice and
27 conduct of such emergency or special meeting shall comply with the Ralph M. Brown Act,
28 Government Code section 54950, *et seq.*

29

30 5.4 Study Sessions. The Ethics Commission may hold study sessions as part of
31 a regular, adjourned or special meeting. No action may be taken by the Commission at
32 such a study session. When a matter is set for a study session, public testimony may be
33 barred or limited to particular persons at the discretion of the Chair, with the concurrence of
34 a simple majority of the Commission.

1 5.5 Standing Committees or Sub-Committees. Standing committees or sub-
2 committees may be used in open and public meetings to study Commission business in
3 greater depth than what is possible in the time allotted for Commission meetings.

4 (a) Quorum. A majority of the committee membership shall constitute a
5 quorum of the committee or sub-committee.

6 (b) Referrals. Only the Commission shall make referrals to the standing
7 committees. Referrals will generally be directed to only one standing committees. Items
8 may be withdrawn from the committee and taken up for consideration by the Commission
9 with the consent of a majority of the Commission, and subject to any applicable noticing or
10 agenda posting requirements.

11 (c) Function of committees. The purpose and intent of committee
12 meetings is to provide for more thorough and detailed discussion and study of prospective
13 or current Commission agenda items, to the end that Commission action will be expedited.
14 Actions of the committee shall be advisory recommendations only.

15 (d) Standing Committees are subject to the Brown Act.

16 5.6. Ad Hoc Committees. Ad Hoc Committees may be used on a limited basis
17 where necessary to study Commission business in greater depth than what is possible in
18 the time allotted for Commission and Standing Committee meetings. An Ad Hoc
19 Committee is an advisory committee composed solely of less than a quorum of members
20 of the Commission. The work of an Ad Hoc Committee is limited to a single finite purpose.
21 By contrast, a Standing Committee has continuing subject matter jurisdiction extending for
22 a lengthy time period and/or a meeting schedule fixed by formal action of the Commission.

23 (a) Brown Act. Ad Hoc Committees do not constitute legislative bodies
24 and are not subject to the requirements of the Brown Act.

25 (b) Appointment. The Commission may appoint three (3) or fewer
26 members of the Commission to serve on an Ad Hoc Committee. The Chair will publicly
27 announce any Ad Hoc Committee created by the Chair, its membership and stated
28 purpose and post it on the City website.

1 (c) Duration. Ad Hoc Committees are created for a finite period of time. If
2 an Ad Hoc Committee does not complete its task by the end of the calendar year, it shall
3 not continue unless reappointed.

4 (d) Members. Ad Hoc Committees shall consist of less than a quorum of
5 Commission members only, and shall not include any other persons such as members of
6 other legislative bodies.

7 (e) Termination of Ad Hoc Committee by Majority of Commission. A
8 majority of the Commission may vote to terminate any Ad Hoc Committee following
9 placement of the issue on an agenda.

10 5.7 Open and Closed Sessions. All meetings of the Ethics Commission shall be
11 open and public. All persons are welcome to attend. The Ethics Commission may, upon
12 the advice of the City Attorney and pursuant to the Ralph M. Brown Act, Government Code
13 Section 54950, *et seq.*, hold a closed session during a regular or special meeting.

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15 ARTICLE 6

16 PARLIAMENTARY PROCEDURE

17 6.1 Robert's Rules of Order shall govern in the conduct of Commission meetings
18 in all cases to which they are applicable and in which they are not inconsistent with these
19 Rules and Procedures or any other applicable statutes, ordinances, resolutions or
20 regulations of the City.

21 6.2 If properly agendized, the Rules and Procedures may be amended at any
22 regular or special meeting of the Commission by an affirmative simple majority vote of a
23 Commission quorum.

24 6.3 The Ethics Commission may suspend any of these Rules and Procedures for
25 the duration of the meeting or for a particular item only by an affirmative simple majority
26 vote of a Commission quorum.

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ARTICLE 7

AGENDA

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3 7.1 A written agenda shall be prepared for each meeting of the Ethics
4 Commission.

5 7.2 The agenda must contain a brief general description of each item of business
6 to be discussed at the meeting.

7 7.3 The agenda shall be posted as required by law and made available through
8 the office of the City Clerk.

9 7.4 The Ethics Commission may not take action on an item not appearing on the
10 posted agenda unless an exception is made as permitted under applicable law.

11 7.5 The Chair, in sole discretion, and with the consent of the Ethics Commission,
12 or upon the request of any Commissioner, may rearrange the order of the presentation of
13 any items appearing on the agenda. No person should rely upon the order in which public
14 hearing items appear on the posted agenda.

15 7.6 Any public hearing on any agenda item may commence upon the opening of
16 the meeting.

17 7.7 No written documentation submitted to the Ethics Commission after 12:00
18 p.m. on the scheduled meeting date shall be considered. The reason for this rule is to
19 allow complete consideration of the documentation and to avoid unnecessary distractions
20 once the meeting is called to order.

21 7.8 Staff Reports. Staff reports shall be prepared with recommendations and the
22 basis for those recommendations. To the extent possible, alternate positions and their
23 justifications should be included as well. Staff reports are included in the hearing record.

24 7.9 Agenda Packets. Staff shall endeavor to provide the entire agenda packet to
25 each member of the Ethics Commission no later than five (5) days prior to the regularly
26 scheduled meeting.

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ARTICLE 8

ORDER OF BUSINESS

8.1 Agenda Items. Agendas for regular meetings shall be organized in substantially the following order:

- a. Call to Order
- b. Roll Call
- c. Review and approval of Minutes
- d. Chair Addresses Audience (Outlines Meeting Procedure)
- e. Consent Calendar
- f. Carryover Items
- g. Regular calendar
- h. Matters from the Audience
- i. Matters from the Designee
- j. Matters from the Ethics Commission
- k. Adjourn.

ARTICLE 9

MOTIONS

9.1 Appearance of a Commissioner before the Ethics Commission. After a Commissioner has disqualified their self as a result of a potential conflict of interest, the Commissioner may appear before the Commission during hearing on the matter and present testimony regarding the matter, provided it is done with the advice of the City Attorney's office.

9.2 Motions.

9.2.1 Motion-Second. Action upon an order, resolution, ordinance or any other action of the Ethics Commission may be proposed by any member of a motion. The Chair may make a motion only after all other members of the Ethics Commission present have had an opportunity to make a motion on the question. Before a motion can be

1 considered or debated it must be seconded at which time it shall be on the floor and must
2 be considered. If not seconded, the motion is lost for lack of a second and shall be so
3 declared by the Chair. The Chair may second a motion.

4 9.2.2 Amendment of Motion or Substitute Motion. A motion on the floor may
5 be amended or a substitute motion offered at any time before adoption or rejection of the
6 main motion. When a motion to amend or substitute motion is made and seconded, the
7 Ethics Commission will debate and take action on the amendment or substitute before
8 acting on the main motion. If the amendment or substitute is not adopted, the main motion
9 will be considered. If the amendment is adopted, the main motion, as amended, will then
10 be considered. If the substitute is adopted, no further action is necessary.

11 9.2.3 Withdrawal of Motion or Second. A motion may be withdrawn by the
12 maker at any time before adoption or rejection. A second to a motion may be withdrawn by
13 the seconding member at any time before adoption or rejection of the motion. The motion
14 will then be lost for lack of a second and so declared by the Chair unless seconded by
15 another person.

16 9.2.4 Tabling a Motion. Tabling a motion is not a procedure utilized by the
17 Ethics Commission. Motions should be voted upon or continued to a date certain.

18 9.2.5 Discussion, Closure, and Question. After a motion has been
19 seconded, any member, including the Chair, may discuss or comment on the subject
20 motion. The Chair shall recognize any and all members of the Ethics Commission who
21 desire to speak, beginning with the motion's maker, and will protect each speaker from
22 disturbance or interference. When no member wishes to discuss or comment further, the
23 Chair will call for a vote on the motion. Any member of the Ethics Commission may at any
24 time move to close the debate.

25 9.2.6 Motions for Reconsideration. Motions for reconsideration of a matter
26 may be made by any member who voted with the prevailing majority on the matter to be
27 considered. Any member of the Ethics Commission may second a motion to reconsider.
28 Motions to reconsider shall be made at the same meeting as the original motion. If the

1 matter to be reconsidered required a public hearing, the public hearing will be reopened
2 pursuant to these Rules and Procedures before additional evidence is received.

3 9.3 Decision-making.

4 9.3.1 Voting. Approval of any motion before the Ethics Commission shall
5 require the affirmative vote of a majority of the members present, unless otherwise
6 specified by law.

7 9.3.2 Tie Votes. Any tie vote shall constitute a denial of the motion and may
8 be reconsidered by a motion offered by any member who voted on the matter. If there is
9 no subsequent affirmative vote, the result is denial.

10 9.3.3 Abstentions. Except when a conflict exists and abstention is required,
11 every member of the Commission who is present, when a roll call is called, shall vote for or
12 against the question, unless excused by a majority of the Commission members present
13 prior to the calling of the roll on such question.

14 9.3.4 Roll Call. Voting upon a motion may, at the discretion of the Chair,
15 and shall, upon the request of any member, be by roll call. When voting is not by roll call,
16 the Chair may, in the absence of objection by any member of the Ethics Commission,
17 declare an item to be unanimously approved.

18 9.3.5 Motions Include Staff Recommendations. A motion to adopt or
19 approve staff recommendations or simply to approve the action under consideration shall,
20 unless otherwise particularly specified, be deemed to include adoption of all proposed
21 findings and execution of all additions recommended in both the written staff report on file
22 on the matter and any oral staff report presented during the hearing.

23 9.3.6 Absentees. Ethics Commission members who are absent from any
24 portion of a meeting conducted by the Ethics Commission may vote on the matter at the
25 time it is acted upon provided they have either reviewed the approved minutes of the
26 meeting or listened to the tape recording of the entire portion of the hearing from which
27 they were absent, provided that a tape recording exists, and if they have examined the
28 Staff Report and evidence presented during the portion of the hearing from which they

1 were absent. In such a case, the Commission members shall state for the record that they
2 are familiar with the record and with the evidence presented at the meeting.

3 9.3.7 Recommendation. In those matters involving a recommendation to the
4 City Council, the recommendation shall be transmitted in a timely manner to the City
5 Council for its consideration. In the event that staff has a recommendation that is different
6 from that of the Ethics Commission, the staff recommendation may also be presented to
7 the City Council for its consideration. However, the staff report presented to the City
8 Council shall make clear the precise nature of the Ethics Commission recommendation
9 and shall further articulate staff's rationale for providing a different recommendation.
10 Before providing a recommendation to the City Council that is different from that of the
11 Ethics Commission, the Designee shall first inform the Ethics Commission Chair of the
12 intended course of action. The Chair shall have the right to appear at any scheduled
13 meeting of the City Council for the purpose of presenting the Ethics Commission's position
14 relative to its recommendation to the City Council.

15 9.4 Consent Items. Items that require little or no discussion by the Ethics
16 Commission may be considered as consent items. The Ethics Commission will act on
17 these items in one motion at the beginning of the meeting. Approval by the Ethics
18 Commission of consent items means that the staff recommendation was approved along
19 with the findings and conditions set forth in the staff report. Any member of the Ethics
20 Commission may request that consent items be considered in their regular order on the
21 agenda. Removal of an item from the consent calendar is subject to approval by a majority
22 the Commission members present.

23 9.5. Continuances. Upon a showing of good cause and by request of a member
24 of the Ethics Commission, the Chair, at the time set for a hearing on a particular item may
25 order the hearing to be continued to a specified date and time. Upon the request of any
26 member of the Ethics Commission, continuance decisions shall be made by a motion and
27 roll call vote of all members present.

28 9.6 Construction. These procedural rules shall be construed and applied so as to

1 ensure a full and fair hearing of relevant evidence which is offered on a land use matter
2 and to facilitate an orderly analysis of evidence and issues by the Ethics Commission.

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4 ARTICLE 10

5 COMMISSION AUTHORITY

6 10.1 Failure of the Commission to follow the procedures established by this
7 Resolution shall not invalidate or otherwise affect any action of the Commission.

8 10.2 These rules and procedures in no way modify, amend or suspend the
9 Commission's or individual Commissioner's obligations pursuant to the Political Reform
10 Act, Open Meeting Law or other applicable statute of statewide concern. These rules and
11 procedures shall be construed to remain consistent with such statutes, as they may be
12 amended from time to time.

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14 ARTICLE 11

15 DISCLOSURE POLICY

16 11.1 The people of Long Beach depend on a city government that operates
17 equitably, ethically, and transparently, and that works to promote public trust and
18 confidence. The Ethics Commission strives to advance the public trust and confidence in
19 the City's government through education and the development of policies and processes
20 that promote each of the City's values of Accountability, Fairness, Impartiality, Diversity,
21 Transparency, and Integrity.

22 11.2 In 2018, the voters approved Measure CCC, establishing procedures for an
23 Ethics Commission independent of the City Council. To promote these values and mission,
24 the Commission adopts the Disclosure Policy in this Article. This Article shall be effective
25 from the date of adoption by the Commission.

26 11.3 Requirement to Disclose. Commissioners and Commission Staff shall report,
27 in writing to Commission Staff, any substantive information relevant to a matter within
28 decision-making authority of the Commission, as outlined in City Charter Article XXIV, that

1 Commissioners receive from sources outside a public meeting. For Purposes of this policy,
2 “sources” shall include, but is not limited to, any oral communications or written documents
3 or communications with a person or entity regarding any matter within the decision-making
4 authority of the Commission.

5 11.4 For purposes of this policy, “Commission Staff” shall be defined as the direct
6 support staff assigned to the Commission and any staff assigned to work with the
7 Commission on a temporary basis, including consultants and legal counsel. This policy
8 shall not require legal counsel assigned to, or contracted to work with, the Commission to
9 disclose any communications protected by the attorney-client privilege.

10 11.5 Format of Disclosure. Within 10 calendar days of a contact, Commissioners
11 and Commission Staff shall report any contacts subject to this requirement via email to
12 Commission Staff in the following suggested format:

- 13 A. The name of the group and/or individual initiating the contact;
- 14 B. When the contact occurred;
- 15 C. The subject matter;
- 16 D. Short description of any oral contacts; and
- 17 E. If the contact person or individual is compensated for the
18 communication, the party compensating them.

19 11.6 When reporting the contact to Commission Staff, Commissioners and
20 Commission Staff shall forward originals and copies of written or electronic contacts to
21 Commission Staff. Disclosures made by Commission members and staff are part of the
22 public record and shall be posted on the Ethics Commission’s website for the public to
23 view.

24 11.7 Communications Where No Disclosure if Required. The requirements in this
25 Section do not prohibit nor are disclosures required for the following:

- 26 A. Communications between Commissioners, Commission Staff,
27 or consultants retained by the Commission that is otherwise permitted by
28 State and City open meeting requirements; or

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CHARLES PARKIN, City Attorney
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I hereby certify that the foregoing resolution was adopted by the Ethics Commission of the City of Long Beach at its meeting of _____, 2022, by the following vote:

Ayes: Commissioners: _____

Noes: Commissioners: _____

Absent: Commissioners: _____

Recusal(s): Commissioners: _____

Secretary