

**BYLAWS
OF THE
FISHERMAN'S WHARF ASSOCIATION OF SAN FRANCISCO
A CALIFORNIA NON-PROFIT PUBLIC BENEFIT CORPORATION
(Amended July 2007)**

**ARTICLE 1
OFFICES**

SECTION 1. NAME

The name of the corporation is the Fisherman's Wharf Association of San Francisco.

SECTION 2. PRINCIPAL OFFICE

The principal office of the corporation for the transaction of its business is located in the City and County of San Francisco, California and the Fisherman's Wharf district, as defined by the map attached as "Exhibit A" and incorporated in these Bylaws by reference.

SECTION 3. CHANGE OF ADDRESS

The county of the corporation's principal office can be changed by resolution of the Board of Directors to another location within the City and County of San Francisco. The Secretary shall record any such change in the records of the Corporation.

SECTION 4. OTHER OFFICES

The corporation may also have offices at such other places, within or without the State of California, where it is qualified to do business, as its business may require and as the Board of Directors may, from time to time, designate.

**ARTICLE 2
MEMBERSHIP**

SECTION 1. NO MEMBERS

This Corporation shall have no members, as that term is defined in section 5056 of the California Nonprofit Corporation Law. Nothing in these Bylaws shall be construed as limiting the right of the Corporation to refer to persons associated with it, who participate in any activities of the Corporation, as "members" even though such persons are not members, as defined in section 5056 of the California Corporations Code. Such persons shall be deemed to be associated persons with respect to the corporation as that term is defined in section 5332 of the California Nonprofit Public Benefit Corporation Law, and no such reference shall constitute anyone a member of this Corporation.

SECTION 2. CORPORATE ACTIONS

The Board, in the manner provided in these Bylaws except any such actions that are authorized by these Bylaws without further Board approval, shall approve all corporate actions.

**ARTICLE 3
ELECTION OF DIRECTORS**

SECTION 1. QUALIFICATIONS

- A. In order to be eligible for nomination and election to the Board, a person must be:
 - 1. A property owner that has fully paid into the Fisherman's Wharf Community Benefit District (see Article 13), as approved by ordinance by the San Francisco City Council in July 2005 and as may be amended,
 - 2. A business owner (including nonprofit organizations) that does not own commercial property in either the Fisherman's Wharf Community Benefit District or the Portside Community Benefit District (i.e., a business owner that leases property)
 - 3. A residential tenant that is not a property or business owner in the Fisherman's Wharf Community Benefit District
 - 4. An at-large community member deemed important to support the goals of the corporation.

- B. Additionally, in accordance to San Francisco Business and Tax Code Regulation Section 1511(f), no less than twenty percent (20%) of the Board members shall be business owners or nonprofit organizations that do not own commercial property in the two Districts.
- C. Furthermore, nominations shall be based upon active participation with the corporation including its committees, task forces or otherwise for a period of not less than one (1) year, and support for the purposes, policies and goals of the corporation. In addition, nominees shall only be eligible for election to those positions for which they qualify as a property owner, business tenant, residential tenant or at-large member.

SECTION 2. NOMINATIONS AND ELECTIONS

- A. Not less than sixty (60) days before the date set forth for the annual meeting of the Directors; the Chairperson, or President in the absence of a Chairperson, shall appoint at least three (3) members as the Nominating Committee which shall include the Chairperson and immediate past Chairperson, if there is one, to nominate candidates for election as Directors, and the names so proposed shall be presented to the Board of Directors at its annual meeting. Any Director may, at such meeting, nominate any other qualified person(s) as candidates for such office. Nominees for election to the Board should reflect the ethnic, business, geographic and land use differences of the Fisherman's Wharf community and shall only be eligible for nomination following notice by mail to Board members, property and business owners who have fully paid into the Districts and to other residential tenants, business owners and community groups who have requested such notice.
- B. The Nominations Committee shall mail out notification of Board nominations annually to Board members, property and business owners who have fully paid into the Districts and to other residential tenants, business owners and community groups who have requested such notice, at least forty five (45) days prior to the annual meeting and election by the Board.
- C. The Nominations Committee shall review any and all eligible applicants for open Board seats and make their recommendations to the full Board for selection, based upon their experience and qualifications. The Nominations Committee may use a nomination application in order to determine the qualifications of such candidates. Those applicants not selected to be nominated to the Board by the Nominating Committee, shall be encouraged to work on one of the Board's committees in order to familiarize themselves with goals, functions and activities of the Board.

- D. Thereafter, the names of the nominees for all open Board seats shall be presented to the Board of Directors at such meeting. Each Director shall have one vote for each position to be filled, but such votes may not cumulate. A Director may cast his or her vote either in person at the annual meeting or by submitting a written ballot to the Secretary prior to such meeting. The candidates receiving the highest number of votes shall be elected.

ARTICLE 4 DIRECTORS

SECTION 1. NUMBER AND TERM

- A. The corporation shall have a minimum of seven (7) and a maximum of twenty-five (25) Directors and collectively they shall be known as the Board of Directors. The exact number of Directors shall be fixed from time-to-time by resolution of the Board of Directors; however, there shall always be an odd number of Directors at any given time. The maximum or minimum number may be changed by amendment of this Bylaw, or by repeal of this Bylaw and adoption of a new Bylaw, as provided in these Bylaws.
- B. The Directors shall be elected for staggered two (2) year terms beginning on the date of election to replace those Directors whose terms are then expiring. An odd number of directors shall have terms expiring in odd numbered years and an even number of directors shall have terms expiring in even numbered years.
- C. The nominees representing one less than half of the total members selected for the Board who receive the highest number of votes during the first election held in 2007, shall serve in their seats for two (2) year terms. In case of a tie in the vote for directors, the Board shall determine which tied directors shall serve for two (2) year terms and which directors shall serve for one (1) year terms. The balance receiving the lesser amount of votes, shall serve for one (1) year terms. Thereafter from the second election forward, all Board members shall serve for two (2) year terms.

SECTION 2. POWERS

The Board of Directors shall have the following specific powers:

- A. Perform any and all duties imposed on them collectively or individually by law, by the Articles of Incorporation of this corporation, or by these Bylaws.
- B. Appoint and remove, employ and discharge, and, except as otherwise provided in these Bylaws, prescribe the duties and fix the compensation, if any, of all officers, agents, consultants and employees of the corporation.
- C. Authorize contracts and agreements, borrow and lend funds, accept and make grants and donations, encumber corporation property, contract for services and pay for such services and undertake all other financial and programmatic actions as are necessary or desirable to further the purposes of the corporation.
- D. Supervise all officers, agents and employees of the corporation to assure that their duties are performed properly.
- E. Meet at such times and places as required by these Bylaws.
- F. Register their addresses with the Secretary of the corporation and notices of meetings mailed or e-mailed to them at such addresses shall be valid notice thereof.
- G. Change the principal office or the principal business office in California from one location to another; cause the Corporation to be qualified to conduct its activities in any other state, territory, dependency, or country, and conduct its activities within or outside California; and designate any place within or outside California for holding any meeting of the Board.
- H. Adopt or alter and use a corporate seal.

SECTION 3. COMPENSATION

Directors shall serve without compensation. However, they shall be allowed reasonable advancement or reimbursement of expenses incurred in the performance of their regular duties as specified in Section 2 of this Article. Directors may not be compensated for rendering services to the corporation in any capacity other than director unless such other compensation is reasonable and is allowable under the provisions of Section 4 of this Article. Any payments to directors shall be approved in advance in accordance with this corporation's conflict of interest policy, as set forth in Article 10 of these bylaws.

SECTION 4. RESTRICTION REGARDING INTERESTED DIRECTORS

Notwithstanding any other provision of these Bylaws, not more than forty-nine percent (49%) of the persons serving on the board may be interested persons. For purposes of this Section, "interested persons," means either:

- A. Any person currently being compensated by the corporation for services rendered it within the previous twelve (12) months, whether as a full- or part-time officer or other employee, independent contractor, or otherwise, excluding any reasonable compensation paid to a Director as Director; or
- 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 any such person.

Any violation of this Section shall not affect the enforceability of any transaction entered into by the Corporation.

SECTION 5. STANDARD OF CARE - GENERAL

- A. A director shall perform the duties of a director, including duties as a member of any committee of the Board on which the director may serve, in good faith, in a manner such director believes to be in the best interest of the Corporation, and with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances.
- B. In performing the duties of a director, a director shall be entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, in each case prepared or presented by:
 - 1. One or more officers or employees of the Corporation whom the director believes to be reliable and competent in the matters presented
 - 2. Counsel, independent accountants, or other persons as to matters which the director believes to be within such persons' professional or expert competence; or a committee of the Board upon which the director does not serve, as to matters within its designated authority, which committee the director believes to merit confidence, so long as, in any such case, the director acts in good faith, after reasonable inquiry when the need thereof is indicated by the circumstances, and without knowledge that would cause such reliance to be unwarranted.

Except in the case of a self-dealing director, as defined in Section 5233 of the California Corporations Code, a person who performs the duties of a director in accordance with the above shall have no liability based upon any alleged failure to discharge that person's obligations as a director, including (without limiting the generality of the foregoing) any actions or omissions that exceed or defeat a public or charitable purpose to which the Corporation, or assets held by it, may be dedicated.

SECTION 6. STANDARD OF CARE -- INVESTMENTS

Except with respect to assets held for use or used directly in carrying out the Corporation's charitable activities, in investing, reinvesting, purchasing, acquiring, exchanging, selling, and managing the Corporation's investments, the Board shall avoid speculation, looking instead to the permanent disposition of the funds, considering the probable income as well as the probable safety of the Corporation's capital. The Board shall also comply with all additional standards, if any, imposed by the Corporation's articles of incorporation, these Bylaws, or the express terms of any instrument or agreement pursuant to which the Corporation obtained the assets.

SECTION 7. PLACE OF MEETINGS

Meetings shall be held at the principal office of the corporation unless otherwise provided by the board or at such place within or without the State of California that has been designated from time to time by resolution of the Board. Any meeting, regular or special, may be held by conference telephone or similar communications equipment, so as long as all directors participating in such meeting can hear one another.

SECTION 8. REGULAR AND ANNUAL MEETINGS

- A. Regular meetings of Directors shall be held monthly at a regular time and place as determined by the Board. The Board has the authority to alter the time and place and number of the meetings upon majority vote provided notification of such change is made to the Fisherman's Wharf Association.
- B. At the annual meeting of Directors held each year, Directors shall be elected by the Board of Directors in accordance with these Bylaws. Cumulative voting by directors for the election of Directors shall not be permitted.

SECTION 9. SPECIAL MEETINGS

Special meetings of the Board of Directors may be called by the President, Chairperson, the Vice President, the Secretary, or by any four (4) Directors, and such meetings shall be held at the place, within the State of California, designated by the person or persons calling the meeting, and in the absence of such designation, at the principal office of the corporation.

SECTION 10. NOTICE OF MEETINGS

Regular meetings of the Board may be held without notice. Special meetings of the Board shall be held upon four (4) days' notice by first-class mail or forty-eight (48) hours' notice delivered personally or by telephone or fax. Such notices shall be addressed to each Director at his or her address as shown on the books of the corporation. Notice of the time and place of holding an adjourned meeting need not be given to absent Directors if the time and place of the adjourned meeting are fixed at the meeting adjourned and if such adjourned meeting is held no more than forty eight (48) hours from the time of the original meeting. Notice shall be given of any adjourned regular or special meeting to Directors absent from the original meeting if the adjourned meeting is held more than forty eight (48) hours from the time of the original meeting.

SECTION 11. CONTENTS OF NOTICE

Notice of meetings not herein dispensed with shall specify the purpose, place, day and hour of the meeting.

SECTION 12. WAIVER OF NOTICE AND CONSENT TO HOLDING MEETINGS

The transactions of any meeting of the Board, however called and noticed or wherever held, are as valid as though the meeting had been duly held after proper call and notice, provided a quorum, as hereinafter defined, is present and provided that either before or after the meeting each director not present signs a waiver of notice, a consent to holding the meeting, or an approval of the minutes thereof. All such waivers, consents, or approvals shall be filed with the corporate records or made a part of the minutes of the meeting.

SECTION 13. QUORUM FOR MEETINGS

A quorum shall consist of forty percent (40%) of the sitting Board of Directors, vacancies excluded. However, a quorum shall consist of a majority of the sitting Board of Directors, vacancies excluded, when acting on any financial matter over \$10,000 including, but not limited to, assessments and expenditures. Except as otherwise provided in these Bylaws or in the Articles of Incorporation of this corporation, or by law, no business shall be considered by the Board at any meeting at which a quorum is not present, and the only motion which the Chair shall entertain at such meeting is a motion to adjourn. However, a majority of the Directors present at such meeting may adjourn from time to time until the time fixed for the next regular meeting of the Board.

The Directors present at a duly called and held meeting at which a quorum is initially present may continue to do business notwithstanding the loss of a quorum at the meeting due to a withdrawal of Directors from the meeting, provided that any action thereafter taken must be approved by at least a majority of the required quorum for such meeting or such greater percentage as may be required by law, or the Articles of Incorporation or Bylaws of this corporation.

SECTION 14. MAJORITY ACTION AS BOARD ACTION

Every act or decision done or made by a majority of the Directors present at a meeting duly held at which a quorum is present is the act of the Board of Directors, unless the Articles of Incorporation or Bylaws of this corporation, or provisions of the California Nonprofit Public Benefit Corporation Law, require a greater percentage or different voting rules for approval of a matter by the Board.

SECTION 15. CONDUCT OF MEETINGS

Meetings of the Board of Directors shall be presided over by the Chairperson of the Board, or, if no such person has been so designated or, in his or her absence, the President of the corporation or, in his or her absence, by the Vice President of the corporation or, in the absence of each of these persons, by a Chairperson chosen by a majority of the Directors present at the meeting. The Secretary of the corporation shall act as secretary of all meetings of the board, provided that, in his or her absence, the presiding officer shall appoint another person to act as Secretary of the Meeting. Roberts Rules of Order shall govern meetings; as such rules may be revised from time to time, insofar as such rules are not inconsistent with or in conflict with these Bylaws, with the Articles of Incorporation of this corporation, or with provisions of law.

SECTION 16. ACTION BY TWO-THIRDS WRITTEN CONSENT WITHOUT MEETING

Any action required or permitted to be taken by the Board of Directors under any provision of law may be taken without a meeting, if two thirds (2/3) of the members of the full Board shall individually or collectively consent in writing to such action. Each Board member shall be notified of the need for written consent without a meeting through first class mail, a fax, e-mail or phone call. Such written consent or consents shall be filed with the minutes of the proceedings of the Board.

Such action by written consent shall have the same force and effect as the simple majority vote of the Directors. Any certificate or other document filed under any provision of law which relates to action so taken shall state that the action was taken by two-thirds (2/3) written consent of the Board of Directors without a meeting and that the Bylaws of this corporation authorize the Directors to so act, and such statement shall be prima facie evidence of such authority. For the purpose of this section, "members of the full Board" shall not include any "interested directors" as defined in by Section 5233 of the California Corporations Code. All such consents shall be filed with the minutes of the proceedings of the Board.

SECTION 17. VACANCIES

- A. Vacancies on the Board of Directors shall exist (1) on the death, resignation or removal of any Director, and (2) whenever the number of authorized Directors is increased. The Board of Directors may declare vacant the office of a Director who has been declared of unsound mind by a final order of court, or convicted of a felony, or been found by a final order or judgment of any court to have breached any duty under Section 5230 (and following) of the California Nonprofit Public Benefit Corporation Law. Directors may be removed without cause by a majority of the Directors then in office.
- B. Unexcused absence of a director from three (3) or more Board meetings within a one- year term shall constitute cause for removal.
- C. Any Director may resign effective upon giving written notice to the Chairperson of the Board (if any), the President, the Secretary or the Board of Directors, unless the notice specifies a later time for the effective date of such resignation. No Director may resign if the corporation would then be left without a duly elected Director or Directors in charge of its affairs, except upon notice to the California Attorney General.

- D. Vacancies on the board may be filled by approval of the Board or, if the number of Directors then in office is less than a quorum, by (1) the unanimous written consent of the Directors then in office, (2) the affirmative vote of a majority of the Directors then in office at a meeting held pursuant to notice or waivers of notice complying with this Article of these Bylaws, or (3) a sole remaining Director.
- E. A person elected to fill a vacancy as provided by this Section shall hold office until the next annual election of the Board of Directors or until his or her death, resignation or removal from office.
- F. No reduction of the authorized number of directors shall have the effect of removing any directors before that director's term expires.

SECTION 18. NON-LIABILITY OF DIRECTORS

The Directors shall not be personally liable for the debts, liabilities, or other obligations of the corporation.

SECTION 19. INDEMNIFICATION BY CORPORATION OF DIRECTORS, OFFICERS, EMPLOYEES AND OTHER AGENTS

To the extent that a person who is, or was, a Director, officer, employee or other agent of this corporation has been successful on the merits in defense of any civil, criminal, administrative or investigative proceeding brought to procure a judgment against such person by reason of the fact that he or she is, or was, an agent of the corporation, or has been successful in defense of any claim, issue or matter, therein, such person shall be indemnified against expenses actually and reasonably incurred by the person in connection with such proceeding.

If such person either settles any such claim or sustains a judgment against him or her, then indemnification against expenses, judgments, fines, settlements and other amounts reasonably incurred in connection with such proceedings shall be provided by this corporation but only to the extent allowed by, and in accordance with the requirements of, Section 5238 of the California Nonprofit Public Benefit Corporation Law.

SECTION 20. INSURANCE FOR CORPORATE AGENTS

The Board of Directors shall adopt a resolution authorizing the purchase and maintenance of insurance on behalf of any agent of the corporation (including a director, officer, employee or other agent of the corporation) against any liability, other than for violating provisions of law relating to self-dealing, asserted against or incurred by the agent in such capacity or arising out of the agent's status as such, whether or not the corporation would have the power to indemnify the agent against such liability under the provisions of Section 5238 of the California Nonprofit Public Benefit Corporation Law.

SECTION 21. OPEN MEETINGS

The corporation shall comply with the open meeting requirements of the Ralph M. Brown Act with regard to its performance of any agreements between the corporation and the City of San Francisco.

ARTICLE 5 OFFICERS

SECTION 1. NUMBER OF OFFICERS

The officers of the corporation shall be a President, a Vice President, a Secretary, and a Chief Financial Officer who shall be designated the Treasurer. The corporation may also have, as determined by the Board of Directors, a Chairperson of the Board, one or more additional Vice Presidents, Assistant Secretaries, Assistant Treasurers, or other officers. The same person may hold any number of offices except that neither the Secretary nor the Treasurer may serve as the President or Chairperson of the Board.

SECTION 2. QUALIFICATION, ELECTION, AND TERM OF OFFICE

Any Board member may serve as officer of this corporation. Officers shall be elected by the Board of Directors, at any time, and each officer shall hold office for a one year term or until he or she resigns or is removed or is otherwise disqualified to serve, or until his or her successor shall be elected and qualified, whichever occurs first.

SECTION 3. SUBORDINATE OFFICERS

The Board of Directors may appoint such other officers or agents as it may deem desirable, and such officers shall serve such terms, have such authority, and perform such duties as may be prescribed from time to time by the Board of Directors.

SECTION 4. REMOVAL AND RESIGNATION

The Board of Directors may remove any officer, either with or without cause, at any time. Any officer may resign at any time by giving written notice to the Board of Directors or to the President or Secretary of the corporation. Any such resignation shall take effect at the date of receipt of such notice or at any later date specified therein, and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective. The above provisions of this Section shall be superseded by any conflicting terms of a contract that has been approved or ratified by the Board of Directors relating to the employment of any officer of the corporation. Any resignation as an officer shall not affect the resigning officer's position as a director of the Corporation. However, an officer's resignation as a director, as provided in these Bylaws, shall automatically constitute resignation as an officer upon the effective date of resignation as a director.

SECTION 5. VACANCIES

Any vacancy caused by the death, resignation, removal, disqualification, or otherwise, of any officer shall be filled by the Board of Directors. In the event of a vacancy in any office other than that of Chairperson and President; such vacancy may be filled temporarily by appointment by the Chairperson, or the President in the absence of a Chairperson until such time as the Board shall fill the vacancy. Vacancies occurring in offices of officers appointed at the discretion of the board may or may not be filled, as the Board shall determine.

SECTION 6. REIMBURSEMENT OF EXPENSES

The corporation may provide reimbursement for expenditures on behalf of the Corporation by its officers.

SECTION 7. DUTIES OF PRESIDENT

The President shall be the chief executive officer of the corporation and shall, subject to the control of the Board of Directors, supervise and control the affairs of the corporation and the activities of the officers. He or she shall perform all duties incident to his or her office and such other duties as may be required by law, by the Articles of Incorporation of this corporation, or by these Bylaws, or which may be prescribed from time to time by the Board of Directors. Unless another person is specifically appointed as Chairperson of the Board of Directors, he or she shall preside at all meetings of the Board of Directors. Except as otherwise expressly provided by law, by the Articles of Incorporation, or by these Bylaws, he or she shall, in the name of the corporation, execute such deeds, mortgages, bonds, contracts, or other instruments that may from time to time be authorized by the Board of Directors.

SECTION 8. DUTIES OF VICE PRESIDENT

In the absence of the President, or in the event of his or her inability or refusal to act, the Vice President shall perform all the duties of the President, and when so acting shall have all the powers of, and be subject to all the restrictions on, the President. The Vice President shall have other powers and perform such other duties as may be prescribed by law, by the Articles of Incorporation, or by these Bylaws, or as may be prescribed by the Board of Directors.

SECTION 9. DUTIES OF SECRETARY

The Secretary, or his or her designee, shall act as secretary of all the meetings of the Board and shall keep the minutes of all such meetings in books proposed for that purpose. He or she shall attend to the giving and serving of all notices of the Corporation, and shall certify corporate documents authorized by the corporation or the Board. He or she shall perform all other duties customarily incident to the office of secretary, subject to control of the Board, and shall perform such additional duties as shall, from time to time, be assigned to him or her by the Board.

SECTION 10. DUTIES OF TREASURER

The Treasurer, or his or her designee, shall have charge and custody of, and be responsible for, all funds and securities of the Corporation, and deposit all such funds in the name of the Corporation in such banks, trust companies, or other depositories as shall be selected by the Board. In general, the Treasurer shall perform all duties incident to the office of the chief financial officer and such other duties as may be required by law, by the Articles of Incorporation of the Corporation, or by these Bylaws, or which may be assigned to him or her from time to time by the Board.

ARTICLE 6 COMMITTEES

SECTION 1. EXECUTIVE/ORGANIZATION COMMITTEE

The Board of Directors may, by a majority vote of Directors, designate four (4) or more of its members (who may also be serving as officers of this corporation) to constitute an Executive/Organization Committee and delegate to such Committee any of the powers and authority of the Board in the management of the business and affairs of the corporation, except with respect to:

- A. The approval of any action that, under law or the provisions of these Bylaws, requires the approval of the delegates or of a majority of all of the delegates.
- B. The filling of vacancies on the board or on any committee that has the authority of the board.
- C. The fixing of compensation of the directors for serving on the board or on any Committee
- D. The amendment or repeal of Bylaws or the adoption of new Bylaws.
- E. The amendment or repeal of any resolution of the board which by its express terms is not so amendable or repealable.
- F. The appointment of committees of the board or the members thereof.
- G. The expenditure of corporate funds to support a nominee for director after there are more people nominated for director than can be elected.

- H. The approval of any transaction to which this corporation is a party and in which one or more of the directors has a material financial interest, except as expressly provided in the California Nonprofit Public Benefit Corporation Law.
- I. By a majority vote of its members then in office, the Board may at any time revoke or modify any or all of the authority so delegated, increase or decrease but not below two (2) the number of its members, and fill vacancies therein from the members of the Board. The Committee shall keep regular minutes of its proceedings, cause them to be filed with the corporate records, and report the same to the board from time to time as the Board may require.

SECTION 2. OTHER COMMITTEES AND TASK FORCES

The corporation shall have such other committees and task forces as may from time to time be designated by resolution of the Board of Directors. Such other committees may consist of persons who are not also members of the Board. These additional committees shall act in an advisory capacity only to the Board and shall be clearly titled as advisory committees or task forces.

SECTION 3. MEETINGS AND ACTION OF COMMITTEES

Meetings and action of committees shall be governed by, noticed, held and taken in accordance with the provisions of these Bylaws concerning meetings of the Board of Directors, with such changes in the context of such Bylaw provisions as are necessary to substitute the committee and its members for the Board of Directors and its members, except that the time for regular meetings of committees may be fixed by resolution of the Board of Directors or by the committee. The Board of Directors may also fix the time for special meetings of committees. The Board of Directors may also adopt rules and regulations pertaining to the conduct of meetings of committees to the extent that such rules and regulations are not inconsistent with the provisions of these Bylaws.

**ARTICLE 7
EXECUTION OF INSTRUMENTS, DEPOSITS AND FUNDS**

SECTION 1. EXECUTION OF INSTRUMENTS

The Board of Directors may, except as otherwise provided in these Bylaws, by resolution authorize any officer or agent of the corporation to enter into any contract or execute and deliver any instrument in the name of and on behalf of the corporation, and such authority may be general or confined to specific instances. Unless so authorized, no officer, agent, or employee shall have any power or authority to bind the corporation by any contract or engagement or to pledge its credit or to render it liable monetary for any purpose or in any amount.

SECTION 2. CHECKS AND NOTES

Except as otherwise specifically determined by resolution of the Board of Directors, or as otherwise required by law, checks, drafts, promissory notes, orders for the payment of money, and other evidence of indebtedness of the corporation shall be signed by the Treasurer and/or Executive Director and countersigned by the President of the corporation.

SECTION 3. DEPOSITS

All funds of the corporation shall be deposited from time to time to the credit of the corporation in such banks, trust companies, or other depositories as the Board of Directors may select.

SECTION 4. GIFTS

The Board of Directors may accept on behalf of the corporation any contribution, gift, bequest, or devise for the charitable or public purposes of this corporation.

**ARTICLE 8
CORPORATE RECORDS, REPORTS AND SEAL**

SECTION 1. MAINTENANCE OF CORPORATE RECORDS

The corporation shall keep at its principal office in the State of California:

- A. Minutes of all meetings of Directors and committees of the Board, indicating the time and place of holding such meetings, whether regular or special, how called, the notice given, and the names of those present and the proceedings thereof;
- B. Adequate and correct books and records of account, including accounts of its properties and business transactions and accounts of its assets, liabilities, receipts, disbursements, gains and losses;
- C. A copy of the corporation's Articles of Incorporation and Bylaws as amended to date, which shall be open to inspection by officers and directors of the corporation and members of the general public at all reasonable times during office hours.

SECTION 2. CORPORATE SEAL

The Board of Directors may adopt, use, and at will alter, a corporate seal. Such seal shall be kept at the principal office of the corporation. Failure to affix the seal to corporate instruments, however, shall not affect the validity of any such instrument.

SECTION 3. DIRECTORS' INSPECTION RIGHTS

Every Director shall have the right at any reasonable time to inspect and copy all books, records and documents of every kind and to inspect the physical properties of the corporation.

SECTION 4. RIGHT TO COPY AND MAKE EXTRACTS

An agent or attorney may make, in person, any inspection under the provisions of this Article. The right to inspection includes the right to copy and make extracts.

SECTION 5. ANNUAL REPORT

An annual report will be furnished not later than one hundred and twenty (120) days after the close of the corporation's fiscal year to all Directors of the corporation, which report shall contain the following information in appropriate detail:

- A. The assets and liabilities, including the trust funds, of the corporation as of the end of the fiscal year
- B. The revenue or receipts of the corporation, both unrestricted and restricted to particular purposes, for the fiscal year
- C. The expenses or disbursements of the corporation, for both general and restricted purposes, during the fiscal year
- D. Any information required by the Bylaws.

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

ARTICLE 9 FISCAL YEAR

SECTION 1. FISCAL YEAR OF THE CORPORATION

The fiscal year of the corporation shall begin on the July 1 and end on June 30th in each year.

ARTICLE 10 CONFLICT OF INTEREST AND COMPENSATION APPROVAL POLICIES

SECTION 1. PURPOSE OF CONFLICT OF INTEREST POLICY

The purpose of this conflict of interest policy is to protect this tax-exempt corporation's interest when it is contemplating entering into a transaction or arrangement that might benefit the private interest of an officer or director of the corporation or any "disqualified person" as defined in Section 4958(f)(1) of the Internal Revenue Code and as amplified by Section 53.4958-3 of the IRS Regulations and which might result in a possible "excess benefit transaction" as defined in Section 4958(c)(1)(A) of the Internal Revenue Code and as amplified by Section 53.4958 of the IRS Regulations. This policy is intended to supplement but not replace any applicable state and federal laws governing conflict of interest applicable to nonprofit and charitable organizations.

SECTION 2. DEFINITIONS

- A. Interested Person: Any director, principal officer, member of a committee with governing board delegated powers, or any other person who is a "disqualified person" as defined in Section 4958(f)(1) of the Internal Revenue Code and as amplified by Section 53.4958-3 of the IRS Regulations, who has a direct or indirect financial interest, as defined below, is an interested person.
- B. Financial Interest: A person has a financial interest if the person has, directly or indirectly, through business, investment, or family:
 - 1. An ownership or investment interest in any entity with which the corporation has a transaction or arrangement,
 - 2. A compensation arrangement with the corporation or with any entity or individual with which the corporation has a transaction or arrangement, or
 - 3. A potential ownership or investment interest in, or compensation arrangement with, any entity or individual with which the corporation is negotiating a transaction or arrangement.
- C. Compensation includes direct and indirect remuneration as well as gifts or favors that are not insubstantial.
- D. A financial interest is not necessarily a conflict of interest. Under Section 3, paragraph B of this Article, a person who has a financial interest may have a conflict of interest only if the appropriate governing board or committee decides that a conflict of interest exists.

SECTION 3. CONFLICT OF INTEREST AVOIDANCE PRODEDURES

- A. **Duty to Disclose.**
In connection with any actual or possible conflict of interest, an interested person must disclose the existence of the financial interest and be given the opportunity to disclose all material facts to the directors and members of committees with governing board delegated powers considering the proposed transaction or arrangement.
- B. **Determining Whether a Conflict of Interest Exists.**
After disclosure of the financial interest and all material facts, and after any discussion with the interested person, he/she shall leave the governing board or committee meeting while the determination of a conflict of interest is discussed and voted upon. The remaining board or committee members shall decide if a conflict of interest exists.

C. **Procedures for Addressing the Conflict of Interest.**

An interested person may make a presentation at the governing board or committee meeting, but after the presentation, he/she shall leave the meeting during the discussion of, and the vote on, the transaction or arrangement involving the possible conflict of interest.

The chairperson of the governing board or committee shall, if appropriate, appoint a disinterested person or committee to investigate alternatives to the proposed transaction or arrangement.

The governing board or committee, after exercising due diligence, shall determine whether the corporation can obtain with reasonable efforts a more advantageous transaction or arrangement from a person or entity that would not give rise to a conflict of interest.

If a more advantageous transaction or arrangement is not reasonably possible under circumstances not producing a conflict of interest, the governing board or committee shall determine by a majority vote of the disinterested directors whether the transaction or arrangement is in the corporation's best interest, for its own benefit, and whether it is fair and reasonable. In conformity with the above determination, it shall make its decision as to whether to enter into the transaction or arrangement.

D. **Violations of the Conflicts of Interest Policy.**

If the governing board or committee has reasonable cause to believe a director or committee member has failed to disclose actual or possible conflicts of interest, it shall inform the individual of the basis for such belief and afford the member an opportunity to explain the alleged failure to disclose.

If, after hearing the member's response and after making further investigation as warranted by the circumstances, the governing board or committee determines the member has failed to disclose an actual or possible conflict of interest, it shall take appropriate disciplinary and corrective action.

SECTION 4. RECORDS OF BOARD AND BOARD COMMITTEE PROCEEDINGS

The minutes of meetings of the governing board and all committees with board delegated powers shall contain:

- A. The names of the persons who disclosed or otherwise were found to have a financial interest in connection with an actual or possible conflict of interest, the nature of the financial interest, any action taken to determine whether a conflict of interest was present, and the governing board's or committee's decision as to whether a conflict of interest in fact existed.
- B. The names of the persons who were present for discussions and votes relating to the transaction or arrangement, the content of the discussion, including any alternatives to the proposed transaction or arrangement, and a record of any votes taken in connection with the proceedings.

SECTION 5. COMPENSATION APPROVAL POLICIES

- A. A voting member of the governing board who receives compensation, directly or indirectly, from the corporation for services is precluded from voting on matters pertaining to that member's compensation.
- B. A voting member of any committee whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from the corporation for services is precluded from voting on matters pertaining to that member's compensation.
- C. No voting member of the governing board or any committee whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from the corporation, either individually or collectively, is prohibited from providing information to any committee regarding compensation.
- D. When approving compensation for directors, officers and employees, contractors, and any other compensation contract or arrangement, in addition to complying with the conflict of interest requirements and policies contained in the preceding and following sections of this article as well as the preceding paragraphs of this section of this article, the board or a duly constituted compensation committee of the board shall also comply with the following additional requirements and procedures:
 - 1. The board or compensation committee, prior to the first payment of compensation, shall approve the terms of compensation

2. All members of the board or compensation committee who approve compensation arrangements must not have a conflict of interest with respect to the compensation arrangement as specified in IRS Regulation Section 53.4958-6(c)(iii), which generally requires that each board member or committee member approving a compensation arrangement between this organization and a "disqualified person" (as defined in Section 4958(f)(1) of the Internal Revenue Code and as amplified by Section 53.4958-3 of the IRS Regulations):
 - a. Is not the person who is the subject of compensation arrangement, or a family member of such person;
 - b. Is not in an employment relationship subject to the direction or control of the person who is the subject of compensation arrangement
 - c. Does not receive compensation or other payments subject to approval by the person who is the subject of compensation arrangement
 - d. Has no material financial interest affected by the compensation arrangement; and
 - e. Does not approve a transaction providing economic benefits to the person who is the subject of the compensation arrangement, who in turn has approved or will approve a transaction providing benefits to the board or committee member.
- E. The board or compensation committee shall obtain and rely upon appropriate data as to comparability prior to approving the terms of compensation. Appropriate data may include the following:
1. Compensation levels paid by similarly situated organizations, both taxable and tax-exempt, for functionally comparable positions. "Similarly situated" organizations are those of a similar size and purpose and with similar resources,
 2. The availability of similar services in the geographic area of this organization,
 3. Current compensation surveys compiled by independent firms,
 4. Actual written offers from similar institutions competing for the services of the person who is the subject of the compensation arrangement.

As allowed by IRS Regulation 4958-6, if this organization has average annual gross receipts (including contributions) for its three prior tax years of less than \$1 million, the board or compensation committee will have obtained and relied upon appropriate data as to comparability if it obtains and relies upon data on compensation paid by three comparable organizations in the same or similar communities for similar services.

- F. The terms of compensation and the basis for approving them shall be recorded in written minutes of the meeting of the board or compensation committee that approved the compensation. Such documentation shall include:
1. The terms of the compensation arrangement and the date it was approved for the board
 2. The members of the board or compensation committee who were present during debate on the transaction, those who voted on it, and the votes cast by each board or committee member
 3. The comparability data obtained and relied upon and how the data was obtained.
 4. If the board or compensation committee determines that reasonable compensation for a specific position in this organization or for providing services under any other compensation arrangement with this organization is higher or lower than the range of comparability data obtained, the board or committee shall record in the minutes of the meeting the basis for its determination.
 5. If the board or committee makes adjustments to comparability data due to geographic area or other specific conditions, these adjustments and the reasons for them shall be recorded in the minutes of the board or committee meeting.
 6. Any actions taken with respect to determining if a board or committee member had a conflict of interest with respect to the compensation arrangement, and if so, actions taken to make sure the member with the conflict of interest did not affect or participate in the approval of the transaction (for example, a notation in the records that after a finding of conflict of interest by a member, the member with the conflict of interest was asked to, and did, leave the meeting prior to a discussion of the compensation arrangement and a taking of the votes to approve the arrangement).
 7. The minutes of board or committee meetings at which compensation arrangements are approved must be prepared before the later of the date of the next board or committee meeting or 60 days after the final actions of the board or committee are taken with respect to the approval of the compensation arrangements. The minutes must be reviewed and approved by the board and committee as reasonable, accurate, and complete within a reasonable period thereafter, normally prior to or at the next board or committee meeting following final action on the arrangement by the board or committee.

SECTION 6. STATEMENTS

Each director, principal officer, and member of a committee with governing board-delegated powers shall sign a statement upon election that affirms such person:

- A. Has received a copy of the conflicts of interest policy,
- B. Has read and understands the policy,
- C. Has agreed to comply with the policy, and
- D. Understands the corporation is charitable and in order to maintain its federal tax exemption it must engage primarily in activities that accomplish one or more of its tax-exempt purposes.

SECTION 7. PERIODIC REVIEWS

To ensure the corporation operates in a manner consistent with charitable purposes and does not engage in activities that could jeopardize its tax-exempt status, periodic reviews shall be conducted. The periodic reviews shall, at a minimum, include the following subjects:

- A. Whether compensation arrangements and benefits are reasonable, based on competent survey information, and the result of arm's-length bargaining.
- B. Whether partnerships, joint ventures, and arrangements with management organizations conform to the corporation's written policies, are properly recorded, reflect reasonable investment or payments for goods and services, further charitable purposes, and do not result in inurement, impermissible private benefit, or in an excess benefit transaction.

SECTION 8. USE OF OUTSIDE EXPERTS

When conducting the periodic reviews as provided for in Section 7, the corporation may, but need not, use outside advisors. If outside experts are used, their use shall not relieve the governing board of its responsibility for ensuring periodic reviews are conducted.

**ARTICLE 11
AMENDMENT OF BYLAWS**

Subject to any provision of law applicable to the amendment of Bylaws of public benefit nonprofit corporations, these Bylaws, or any of them, may be altered, amended, or repealed and new Bylaws adopted by approval of the majority action of the sitting Board of Directors, subject to any restrictions required by the Fisherman's Wharf Association, any agreement or regulation to which the corporation is subject or any provision of law.

**ARTICLE 12
PROHIBITION AGAINST SHARING CORPORATE PROFITS AND ASSETS**

No Director, officer, employee, or other person connected with this corporation, or any private individual, shall receive at any time any of the net earnings or pecuniary profit from the operations of the corporation, provided, however, that this provision shall not prevent payment to any such person of reasonable compensation for services performed for the corporation in effecting any of its public or charitable purposes, provided that such compensation is otherwise permitted by these Bylaws and is fixed by resolution of the Board of Directors; and no such person or persons shall be entitled to share in the distribution of, and shall not receive, any of the corporate assets on dissolution of the corporation.

**ARTICLE 13
COMMUNITY BENEFIT DISTRICT DEFINED**

The "Fisherman's Wharf Association", "Fisherman's Wharf Community Benefit District," "Portside CBD" or "Portside Community Benefit District" shall mean that portion of the City of San Francisco portrayed in Exhibit A which is incorporated by reference.