

**OPERATING AGREEMENT  
BETWEEN CALIFORNIA STATE UNIVERSITY  
AND  
ASSOCIATED STUDENTS, INC.,  
CALIFORNIA STATE UNIVERSITY LONG BEACH**

This agreement is made and entered into by and between the Trustees of the California State University by their duly qualified Chancellor (CSU) and Associated Students Inc., (Auxiliary) a private, non-profit organization serving California State University Long Beach (Campus). The term of this agreement shall be from July 1, 2020 through June 30, 2025.

**1. PURPOSE**

The purpose of this agreement is to set forth the terms and conditions under which Auxiliary may operate as an auxiliary organization pursuant to California Education Code §89900 et seq. and California Code of Regulations (CCR) Title 5, § 42400 et seq. In entering this agreement, CSU finds that certain functions important to its mission are more effectively accomplished by the use of an auxiliary organization rather than by the Campus under the usual state procedures.

**2. PRIMARY FUNCTION(S) OF THE AUXILIARY**

In consideration of receiving recognition as an official CSU auxiliary organization, Auxiliary agrees, for the period covered by this agreement, that the primary function(s), which the Auxiliary is to manage, operate or administer is/are (*Check each category that applies*):

- Student Body Organization
- Student Union
- Commercial

In carrying out the above, the Auxiliary engages in the following functions authorized by, CCR tit.5, §42500, which are activities essential and integral to the educational mission of the University:

1. Student Body Organization Programs
2. Student Union Programs, which includes the operation of a physical fitness facility known as the Student Recreation and Wellness Center.
3. Administration of the Grow Beach Garden.
4. Scholarships, Grants-in-Aids, Stipends, and Related Financial Assistance for currently enrolled students

5. Externally Funded Projects Including Research, Workshops, Conferences, and Institutes, which includes the operation of the Isabel Patterson Child Development Center.
6. Instructionally related Programs and activities, including Radio and Television Stations, Newspapers
7. Gifts, bequests, devises, endowments, trusts and similar funds
8. Food Services
9. Public relations, fundraising, fund management, and similar development programs
10. Acquisition, development, sale, and transfer of real and personal property including financing transactions related to these activities

Auxiliary agrees to receive and apply exclusively the funds and properties coming into its possession toward furthering these purposes for the benefit of CSU and the Campus. Auxiliary further agrees that it shall not perform any of the functions listed in CCR tit.5, §42500 unless the function has been specifically assigned in this operating agreement with the Campus. Prior to initiating any additional functions, Auxiliary understands and agrees that CSU and Auxiliary must amend this agreement in accordance with Section 21, *Amendment*.

### **3. CAMPUS OVERSIGHT AND OPERATIONAL REVIEW**

The responsibility and authority of the Campus president regarding auxiliary organizations is set forth in CCR tit.5, §42402, which requires that auxiliary organizations operate in conformity with CSU and Campus policies. The Campus President has been delegated authority by the CSU Board of Trustees (Standing Orders §VI) to carry out all necessary functions for the operation of the Campus. The operations and activities of Auxiliary under this agreement shall be integrated with Campus operations and policies and shall be overseen by the campus Chief Financial Officer (CFO) or designee so as to assure compliance with objectives stated in CCR tit.5, §42401.

The Campus shall review Auxiliary to ensure that the written operating agreement is current and that the activities of Auxiliary are in compliance with this agreement at least every five (5) years from the date the operating agreement is executed and at least every five years thereafter. Confirmation that this review has been conducted will consist of either an updated operating agreement, or a letter from the Campus CFO or designee to the Campus President with a copy to the Chancellor's Office, certifying that the review has been conducted. As part of these periodic reviews, the Campus President should examine the need for each auxiliary and look at the efficiency of the auxiliary operation and administration.

Auxiliary agrees to assist the Campus CFO or designee in carrying out the compliance and operational reviews required by applicable CSU Executive Orders and related policies.

#### **4. OPERATIONAL COMPLIANCE**

Auxiliary agrees to maintain and operate its organization in accordance with all applicable laws, regulations and CSU and Campus rules, regulations and policies. Failure of Auxiliary to comply with any term of this agreement may result in the removal, suspension or probation of Auxiliary as an auxiliary organization in good standing. Such action by CSU may result in the limitation or removal of Auxiliary's right to utilize the CSU or campus name, resources and facilities (CCR tit.5, §42406).

#### **5. CONFLICT OF INTEREST**

No officer or employee of the CSU shall be appointed or employed by Auxiliary if such appointment or employment would be incompatible, inconsistent or in conflict with his or her duties as a CSU officer or employee.

Auxiliary has established and will maintain a conflict of interest policy. The Auxiliary's Conflict of Interest Policy is attached as **Attachment 1**.

#### **6. EXPENDITURES AUGMENTING CSU APPROPRIATIONS**

With respect to expenditures for public relations or other purposes which would serve to augment appropriations for CSU operations, Auxiliary may expend funds in such amount and for such purposes as are approved by Auxiliary's governing body. Auxiliary shall file, as **Attachment 2** to this agreement, a statement of Auxiliary's policy on accumulation and use of public relations funds. The statement shall include the policy and procedures for solicitation of funds, the purposes for which the funds may be used, the allowable expenditures and procedures of control.

#### **7. FISCAL AUDITS**

Auxiliary agrees to comply with CSU policy and the provisions of CCR tit.5, §42408, regarding fiscal audits. All fiscal audits shall be conducted by auditors meeting the guidelines established the Integrated CSU Administrative Manual (ICSUAM).

The Campus CFO shall annually review, and submit a written evaluation to the Chancellor's Office in accordance with Section 20, Notices, *of* the external audit firm selected by the Auxiliary. This review by the Campus CFO must be conducted prior to the Auxiliary engaging an external audit firm and annually thereafter. If the Auxiliary

has not changed audit firms, and the audit firm was previously reviewed and received a satisfactory evaluation, a more limited review may be conducted and submitted.

## **8. USE OF NAME**

Campus agrees that Auxiliary may, in connection with its designated functions as a CSU auxiliary organization in good standing and this agreement, use the name of the Campus, the Campus logo, seal or other symbols and marks of the Campus, provided that Auxiliary clearly communicates that it is conducting business in its own name for the benefit of Campus. All correspondence, advertisements, and other communications by Auxiliary must clearly indicate that the communication is by and from Auxiliary and not by or from CSU or Campus.

Auxiliary shall use the name of Campus, logo, seal or other symbols or marks of Campus only in connection with services rendered for the benefit of Campus and in accordance with Campus guidance and direction furnished to Auxiliary by Campus and only if the nature and quality of the services with which the Campus name, logo, seal or other symbol or mark are used are satisfactory to the Campus or as specified by Campus.

Campus shall exercise control over and shall be the sole judge of whether Auxiliary has met or is meeting the standards of quality of the Campus for use of its name, logo, seal or other symbol or mark.

Auxiliary shall not delegate the authority to use the Campus name, logo, seal or other symbol or mark to any person or entity without the prior written approval of the Campus President or designee. Auxiliary shall cease using the Campus name, logo, seal or other symbol or mark upon expiration or termination of this agreement, or if Auxiliary ceases to be a CSU auxiliary organization in good standing, dissolves or disappears in a merger.

## **9. CHANGE OR MODIFICATION OF CORPORATE STATUS**

Auxiliary shall provide notice to the CSU upon any change in Auxiliary's legal, operational or tax status including but not limited to changes in its Articles of Incorporation, bylaws, tax status, bankruptcy, dissolution, merger, or change in name.

## **10. FAIR EMPLOYMENT PRACTICES**

In the performance of this agreement, and in accordance with California Government Code §12900 et. seq., Auxiliary shall not deny employment opportunities to any person on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, military and veteran status. Auxiliary shall adopt employment procedures consistent with the policy statement on nondiscrimination and affirmative action in employment adopted by the CSU.

## **11. BACKGROUND CHECK POLICY COMPLIANCE**

In compliance with governing laws and CSU policy, Auxiliary shall confirm that background checks are completed for all new full-time and some part-time hires and for those independent contractors, consultants, outside entities, volunteers and existing employees in positions requiring background checks as set forth in CSU systemwide policy. Auxiliary will provide confirmation of completed and cleared background checks to the University President/Chancellor upon request, or as established by campus policy. (See HR 2016-08).

## **12. DISPOSITION OF ASSETS**

Attached hereto as **Attachment 3** is a copy of Auxiliary's Constitution or Articles of Incorporation (as applicable) which, in accordance with CCR tit.5, §42600, establishes that upon dissolution of Auxiliary, the net assets other than trust funds shall be distributed *to the CSU or to another affiliated entity subject to financial accounting and reporting standards issued by the Government Accounting Standards Board*. Auxiliary agrees to maintain this provision as part of its Constitution or Articles of Incorporation. In the event Auxiliary should change this provision to make other dispositions possible, this agreement shall terminate as of the date immediately preceding the date such change becomes effective.

## **13. USE OF CAMPUS FACILITIES**

Auxiliary may use those facilities identified for its use in a lease agreement executed between Campus and Auxiliary. If this Operating Agreement terminates or expires and is not renewed within 30 days of the expiration, the lease automatically terminates, unless extended in writing by the parties.

Auxiliary and Campus may agree that Auxiliary may use specified Campus facilities and resources for research projects and for institutes, workshops, and conferences only when such use does not interfere with the instructional program of Campus and upon the written approval from appropriate Campus administrators with such specific delegated authority. Auxiliary shall reimburse Campus for costs of any such use.

## **14. CONTRACTS FOR CAMPUS SERVICES**

Auxiliary may contract with Campus for services to be performed by state employees for the benefit of Auxiliary. The agreement for the provision of Campus services must be documented in writing between Auxiliary and Campus. The writing shall comply the requirements of CCR tit.5, §42502(f), the CSU Executive Orders and ICSUAM.

## **15. DISPOSITION OF NET EARNINGS**

Auxiliary agrees to comply with CSU and Campus policy on expenditure of funds including, but not limited to, CSU guidelines for the disposition of revenues in excess of

expenses and CSU policies on maintaining appropriate reserves. Cal. Educ. Code §89904; Executive Order 1059.

## **16. FINANCIAL CONTROLS**

Recovery of allowable and allocable indirect costs and maintenance and payment of operating expenses must comply with ICSUAM §13680. CCR tit. 5, §42502(g) and (h).

## **17. ACCEPTANCE, ADMINISTRATION, AND USE OF GIFTS**

Auxiliary agrees, if authorized to do so in Section 2 above, that it will accept and administer gifts, grants, contracts, scholarships, loan funds, fellowships, bequests, and devises in accordance with policies of CSU and Campus.

### **A. Authority to Accept Gifts**

If authorized, Auxiliary may evaluate and accept gifts, bequests and personal property on behalf of CSU. In acting pursuant to this delegation, due diligence shall be performed to ensure that all gifts accepted will aid in carrying out the CSU mission as specified in Education Code §§89720 and 66010.4(b).

Auxiliary agrees, before accepting gifts of real estate or gifts with any restrictive terms or conditions that impose an obligation on CSU or the State of California to expend resources in addition to the gift, to obtain written approval from the appropriate campus authority. Auxiliary agrees that it will not accept a gift that has any restriction that is unlawful.

### **B. Reporting Standards**

Gifts shall be recorded in compliance with the Council for Advancement and Support of Education and California State University reporting standards and shall be reported to the Chancellor's Office on an annual basis in accordance with Education Code §89720.

## **18. INDEMNIFICATION**

Auxiliary agrees to indemnify, defend and save harmless the CSU, its officers, agents, employees and constituent campuses and the State of California, collectively "CSU indemnified parties" from any and all loss, damage, or liability that may be suffered or incurred by CSU indemnified parties, caused by, arising out of, or in any way connected with the operation of Auxiliary as an auxiliary organization.

## **19. INSURANCE**

Auxiliary shall maintain insurance protecting the CSU and Campus as provided in this section. CSU's Systemwide Office of Risk Management shall establish minimum insurance requirements for auxiliaries, based on the insurance requirements in Technical Letter RM 2012-01 or its successor then in effect. Auxiliary agrees to maintain at least these minimum insurance requirements.

Auxiliary's participation in a coverage program of the California State University Risk Management Authority (CSURMA) shall fully comply with the insurance requirement for each type of required coverage (which may include but not be limited to, general liability, auto liability, directors and officers liability, fiduciary liability, professional liability, employer's liability, pollution liability, workers' compensation, fidelity, property and any other coverage necessary based on Auxiliary's operations). Auxiliary shall ensure that CSU and Campus are named as additional insured or loss payee as its interests may appear.

## **20. NOTICES**

All notices required to be given, or which may be given by either party to the other, shall be deemed to have been fully given when made in writing and deposited in the United States mail, certified and postage prepaid and addressed to all parties as provided below.

Notice to Auxiliary shall be addressed as follows:

California State University, Long Beach  
1212 N. Bellflower Boulevard  
Long Beach, CA 90815-4199  
Attn: Executive Director

Notice to the CSU shall be addressed to:

Trustees of the California State University  
401 Golden Shore  
Long Beach, California 90802  
Attention: Director, Contract Services & Procurement

Notice to the Campus shall be addressed as follows:

California State University, Long Beach  
1250 N. Bellflower Boulevard  
Long Beach, CA 90840  
Attn: Office of the President

## **21. AMENDMENT**

This agreement may be amended only in writing signed by an authorized representative of all parties.

## **22. RECORDS**

Auxiliary shall maintain adequate records and shall submit periodic reports as required by CSU showing the operation and financial status of Auxiliary. The records and reports shall cover all activities of Auxiliary whether pursuant to this agreement or otherwise.

### **23. TERMINATION**

CSU may terminate this agreement upon Auxiliary's breach of or failure to comply with any term of this agreement by providing Auxiliary with a minimum of ninety (90) days advance written notice. Auxiliary may use the ninety-day advance notice period to cure the breach. If, in the judgment of CSU, the breach has been cured, the termination notice will be cancelled.

### **24. REMEDIES UPON TERMINATION**

Termination by CSU of this agreement pursuant to Section 23, *Termination*, may result in Auxiliary's removal, suspension or probation as a CSU auxiliary in good standing, and loss of any right for Auxiliary to use the name, resources or facilities of CSU or any of its campuses.

Upon expiration of the term of this agreement, the parties shall have 30 days to enter into a new operating agreement which period may be extended by written mutual agreement.

### **25. SEVERABILITY**

If any section or provision of this Agreement is held illegal, unenforceable or in conflict with any law by a court of competent jurisdiction, such section or provision shall be deemed severed and the validity of the remainder of this Agreement shall not be affected thereby.

### **26. LEASE OF PREMISES**

#### **a) University Student Union**

The building commonly known as the University Student Union Building, located in a portion of California State University, Long Beach and holdings known as west half of Section 35, Township 4 south, Range 12 west, in the Rancho Los Alamitos.

The building is specifically located as follows:

From the most southeasterly corner of existing Cafeteria Building, beginning at corner 24'8" east from said corner of Cafeteria Building then east 227', then north 439', then west 381', then south 196', then east 90', then south 94', then east 64', then south 149' to the point of the beginning.

#### **b) Student Recreation & Wellness Center**

The building commonly known as the Student Recreation and Wellness Center, located in a portion of California State University, Long Beach and holdings known



as the northeast quarter of the northwest quarter and the southeast quarter of the northwest quarter of section 35, Township 4 South, Range 12 West, San Bernardino Meridian, Rancho Los Alamitos, in the city of Long Beach, County of Los Angeles, State of California, lying within the lands of the California State University, Long Beach campus as show on that certain record of survey map recorded in book 85, page 66-68, inclusive of maps in the office of the County Recorder of said county.

The building is specifically located as follows:

Beginning at the northeast corner of the northwest quarter of said section 35; Thence southerly along the centerline of Palo Verde Avenue South 00°05'00" West, a distance of 1202.47 feet; Thence leaving said centerline of said Palo Verde Avenue North 89°55'00" West, a distance of 92.93 feet to the true point of beginning; Thence South 00°05'00" West, a distance of 312.63 feet; Thence North 89°55'00" West, a distance of 462.79 feet; Thence North 00°05'00" East, a distance of 312.63 feet; Thence South 89°55'00" East, a distance of 462.79 feet to the true point of beginning. Said land contains 3.32 acres, more or less.

The lease of the premises is subject to:

- A. The use of the property for civil defense purposes or in the event of a State, CSU or national emergency. In the event that said premises are used for civil defense purposes or in the event of a State, CSU or national emergency, CSU will require the party using the premises during such circumstances to restore the premises to the condition in existence before the premises were so used.
- B. Unanticipated need to meet the demands of the educational objectives of the CSU. The right to the use of any property included in this lease shall cease upon written notice by the CSU to Auxiliary that the property is needed for its exclusive use.

## **27. USE OF PREMISES**

A. Auxiliary may occupy, operate, and use the leased property only in connection with the following functions and activities in accordance with the terms of this agreement:

- 1) Operating and maintaining a student union facility for the students, faculty, staff, alumni, and guests of the campus.
- 2) Operating and maintaining a physical fitness facility for the students, faculty, staff, and alumni of the campus and their spouses/domestic partners, parents, adult children, and adult siblings.

B. Auxiliary shall use the leased property only for functions and activities that are consistent with the Functions established in Section 2 and guidelines and policies that have been or may hereafter be adopted by CSU.

**28. CONSIDERATION**

- A. Auxiliary shall operate as an auxiliary organization as set forth in this agreement.
- B. Auxiliary shall manage and operate the student union facilities in accordance with the bond indenture, the policies of the CSU, Campus, this agreement, and for the benefit of Campus.

**29. APPLICATION OF STUDENT UNION FEES**

A. Pursuant to the CSU Systemwide Revenue Bond program, retirement of the debt incurred by CSU for the construction of the student union is to come from a mandatory student union fee to be paid by all enrolled students. After required funds have been set aside for debt service and all reserves, CSU agrees to make available to Auxiliary a portion of any remaining funds, as authorized by Education Code, Section 90076. CSU agrees to transfer such funds, if any, in the Student Union Net Revenue Fund account and/or applicable Trust Fund account, in the following circumstances:

- 1) Auxiliary shall be entitled to a transfer of funds as required for operating purposes. The transfer for operating purposes will be based on needs as shown in the operating budget and approved by the campus' Chief Financial Officer or designated staff subject to the availability of such funds.
  - 2) Additional transfers of revenue may be made for extraordinary expenses as requested by Auxiliary and approved by the campus' Chief Financial Officer or designated staff, subject to the availability of funds.
- B. This Section shall be subject to and construed in conformity with the Indenture of the Trustees of the CSU adopted April 1, 2002 authorizing the issuance of Systemwide Revenue Bonds and made a part of this agreement.

**30. BUILDINGS, SIGNS, FIXTURES, AND EQUIPMENT**

During the term of this Agreement, Auxiliary shall have the right to erect, place, and attach buildings, fixtures, signs, and equipment in and upon the leased property. Plans and working drawings for buildings to be placed on the leased land shall have prior approval of CSU. The number, size, and location of signs are subject to prior written approval of the Campus. Fixtures, signs, and equipment so erected, placed, or attached by the Auxiliary shall be and remain the property of the Auxiliary and may be removed there from by the Auxiliary prior to the termination of this lease.

**31. ALTERATIONS**

The leased premises shall not be altered or changed in any manner or respect without the written consent of the Campus, and changes that may be authorized shall be made under

the direction of the Campus and at the expense of Auxiliary. Permanent alterations shall have prior approval of Campus.

### **32. RIGHT OF ENTRY**

It is understood and agreed that at any time CSU and its agents shall have the right to enter the leased premises or any part thereof for the purpose of examination or supervision.

Care, maintenance, and repair of the leased property shall be provided as follows:

A. Care and Maintenance: Auxiliary agrees to keep and maintain the leased property in a clean and orderly condition and shall at its own expense, at reasonably frequent intervals, and in a lawful manner dispose of all waste from the leased property.

B. Repairs: Auxiliary agrees to keep the leased premises in good repair.

### **33. RESTORATION OF PREMISES**

Upon termination of this lease, CSU shall have the option to require Auxiliary, at its own expense and risk, to restore the demised premises as nearly as possible to the condition existing prior to the execution of the lease, with the exception of normal wear and tear.

But, if Auxiliary shall fail to do so within 90 days after CSU's option, CSU may restore the property at the risk of the Auxiliary and all costs and expenses of such removal or restoration shall be paid by Auxiliary upon demand of State. CSU shall have the right to exercise this option within 30 days after the expiration of this lease, but not thereafter.

### **34. MORTGAGES**

Auxiliary shall not have the right to subject this lease to any mortgage, trust deed, or other security device without the written consent of CSU.

### **35. POSSESSORY INTEREST**

The County Assessor may value the possessory interest created by this lease, or any subleases. Under California Revenue and Taxation Code section 107, a property interest tax may be levied on that possessory interest. The lessee is obligated to pay this property tax, and failure to do so may be considered a material breach of the lease."

### **36. ASSIGNMENTS OR SUBLEASE**

Auxiliary shall not assign or sublease any part of the premises covered by this lease without the written permission of CSU.

CSU agrees, however, that Auxiliary may sublease any portion of the premises with the approval of the Campus. Substantial deviation from CSU's policy and model sub-leases requires the approval of the Campus.

Subleases may be written with terms in excess of this agreement: however, the continuation of the sublease past the term of this Agreement is contingent on this Agreement's renewal.

IN WITNESS WHEREOF, this agreement has been executed by the parties hereto.

Approved: June 11, 2020

California State University Long Beach

By   
Jane Close Conoley

Executed on June 9, 2020

Associated Students, Inc.

By   
Miles Nevitt Executive Director

Executed on June 29, 2020

California State University  
Office of the Chancellor

By *Verna Ale Paniani*  
Procurement and Contract Services

# POLICY ON CONFLICTS OF INTEREST

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## BACKGROUND AND PURPOSE

Associated Students, Incorporated (ASI) is a nonprofit, tax-exempt organization. Maintenance of its tax-exempt status is important both for its continued financial stability and for continuing public support. Therefore, the IRS as well as state regulatory and tax officials view the operations of ASI as a public trust, which is subject to scrutiny by and accountable to governmental authorities as well as to members of the public.

Consequently, there exists between ASI and its board, officers, and management employees and the public a fiduciary duty, which carries with it a broad and unyielding duty of loyalty and fidelity. Board members, officers, and management employees have the responsibility of administering ASI's affairs honestly and prudently, and of exercising their best care, skill, and judgment for the sole benefit of ASI. Those persons shall exercise good faith in all transactions involved in their duties, and they shall not use their positions with ASI or knowledge gained there from for their personal benefit.

This statement is directed not only to directors and officers, but to all employees who can influence the actions of ASI. For example, this would include all who make purchasing decisions, all persons who might be described as "management personnel," and anyone who has proprietary information concerning ASI.

## POLICY STATEMENT

It is the policy of ASI that the existence of any of the interests described in this policy statement shall be disclosed before any related transaction is consummated. It shall be the continuing responsibility of the board, officers, and management employees to scrutinize their transactions and outside business interests and relationships for potential conflicts and to immediately make such disclosures.

The areas of conflicting interest listed herein, and the relations in those areas which may give rise to conflict are not exhaustive. Conflicts might arise in other areas or through other relations. It is assumed that the directors, officers, and management employees will recognize such areas and relations by analogy.

The fact that one of the interests described herein exists does not necessarily mean that a conflict exists, or that the conflict, if it exists, is material enough to be of practical importance, or if material, that upon full disclosure of all relevant facts and circumstances, is necessarily adverse to the interests of ASI. Nonetheless, adherence to this policy is required at all time.

**DEFINITIONS**

For purposes of this policy, the terms used are defined as follows:

| Term                           | Definition  |
|--------------------------------|---|
| <b>Conflict of interest</b>    | A situation in which a person has a duty to more than one person or organization, but cannot do justice to the actual or potentially adverse interests of both parties. This includes when an individual's personal interests or concerns are inconsistent with what is best for a customer, or when a public official's personal interests are contrary to his/her loyalty to public business. |
| <b>Gifts</b>                   | Any items or services of value, excluding normal business entertainment items such as meals and beverages, items of minimal value given in connection with sales campaigns and promotions, and contributions or donations to recognized charitable and non-profit organizations   |
| <b>Governing boards</b>        | The Associated Students Senate, Board of Control, University Student Union Board of Trustees, Child Development Center Board of Trustees, and Student Media Board and any subcommittee thereof created by charter, bylaw, or working rules.   |
| <b>Immediate family</b>        | Includes spouses, domestic partners, children and their spouses, parents, siblings, grandparents, and grandchildren   |
| <b>Political contributions</b> | In addition to direct cash contributions, the donation of property or services, or the purchase of tickets to fund-raising events for the benefit of political parties or candidates  |
| <b>Proprietary information</b> | Any information not a matter of public record, which is received by a member of a governing board by reason of his or her membership on the board   |
| <b>Representatives</b>         | Directors, officers, employees and volunteers of ASI and its subsidiaries, as well as agents of any program, activity, or function financially supported and administered by ASI  |

|                           |   |
|---------------------------|---|
| <b>Supplier</b>           | Vendors providing services and/or materials to ASI, including consultants, financial institutions, advisors, and any other person or institution that does business with ASI.   |
| <b>Unfair competition</b> | Wrongful and/or fraudulent business methods to gain an unfair advantage over competitors, including: a) untrue or misleading advertising, b) misleading customers by imitative trademark, name, or package, c) falsely disparaging another's product. |

## STANDARDS AND PROCEDURES

### 1.0 BOARD TRANSACTIONS

No member of any governing board of ASI may be financially interested in any contract or other transaction entered into by that board. Any such contract or transaction entered into shall be rendered void, unless:

1. The fact of the financial interest is disclosed or known to the governing board and noted in the minutes, and the board thereafter authorizes, approves, or ratifies the contract or transaction in good faith by a vote sufficient for passage without counting the vote(s) of financially interested member(s), and
2. The contract is just and reasonable as to ASI at the time it is authorized or approved

These exceptions are NOT applicable (and the contract remains void) if any of the following circumstances exist:

- The contract or transaction is between ASI and a member of the governing board; or
- The contract or transaction is between ASI and a partnership or unincorporated association of which any board member is a partner or in which they are the owner or holder, directly or indirectly, of a proprietorship interest; or
- The contract or transaction is between ASI and a corporation in which any board member is the owner or holder, directly or indirectly, of 5 percent or more of the outstanding common stock; or
- A board member is interested in a contract or transaction within the meaning specified above, and without first disclosing such interest to the Board at a public meeting, influences, or attempts to influence another member of the board to enter into the contract or transaction.

(Reference: California Education Code Sections 89906 - 89909.)

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#### 1.1 USE OF PROPRIETARY INFORMATION

It is unlawful for any person to utilize any information, not a matter of public record, which is received by reason of membership on a Board for personal pecuniary gain, regardless of whether they are a member of that Board at the time such gain is realized.

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#### 1.2 ANNUAL CERTIFICATION

Annually, each member of a governing board is required to sign a Conflict of Interest Disclosure Statement, attesting to the fact that the member is not now nor has been in conflict of interest, and that the member will subsequently notify the board of which they are a member of any action(s) that would place the member in conflict.

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## 2.0 OTHER TRANSACTIONS

In addition to conflicts of interest involving board transactions, several other situations could give rise to a conflict of interest for ASI representatives. The most common are accepting gifts from suppliers, gaining outside employment with another company, owning a significant part of another company or business, having close or family relationships with outside suppliers, and communicating with competitors. A potential conflict of interest exists for any representative who makes decisions in the course of their duties that would allow them to give preference or favor to a customer or vendor in exchange for anything of personal benefit to themselves or their friends and their family. Such situations could interfere with a representative's ability to make judgments solely in ASI's best interest.

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### 2.1 GIFTS AND ENTERTAINMENT

No representative or member of their immediate family shall solicit or accept from an actual or prospective customer or supplier any compensation, advances, loans (except from established financial institutions on the same basis as other customers), gifts, entertainment, or other favors.

Under no circumstances shall a gift or entertainment be accepted which would influence a representative's judgment. In particular, representatives must avoid any interest in or benefit from any supplier that could reasonably cause them to favor that supplier over others. It is violation of this policy for any representative to solicit or encourage a supplier to give any item or service to the representative regardless of its value, no matter how small.

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#### 2.1.1 EXCEPTIONS TO THE GIFT PROHIBITION

Gifts given directly to ASI or to an ASI department, or even to another member of a representative's family in circumstances where the representative is not in control of the gift do not violate this prohibition. But gifts given to the representative, even when the representative gives it to ASI or someone else are prohibited. However, if within 30 days of receipt, the representative returns the gift to the donor, reimburses the donor for the cost of the gift, or donates the gift unused to a public entity or to a charitable organization without taking a tax deduction, the representative will not be in violation of the prohibition against taking gifts.

In addition, items listed below are excluded from the gift prohibition specified above.

- Gifts provided by the university or any of its departments, units, or auxiliary organizations
- Tickets to a fundraising event for a non-profit organization that is tax exempt under IRC Section 501(c)3

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#### 2.1.2 REPORTING GIFTS

A representative who receives, or whose family member receives, an unsolicited gift prohibited by these guidelines, should report it to their supervisor, program advisor, or ASI Executive Director, and return it to the person or entity making the gift. In cases where the return of the gift would be interpreted as discourteous and/or potentially harmful to customer or vendor relations, the gift shall be turned over to the ASI Development Office and treated as a charitable contribution to the organization, for which a Gift Acceptance Form will be executed.

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### 2.2 DISCOUNTS



A representative may accept discounts on a personal purchase of the supplier or customer's products only if such discounts do not affect ASI's purchase price and are generally offered to others having a similar business relationship with the supplier or customer.

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### 2.3 BUSINESS MEETINGS

A representative may accept entertainment and services offered by a supplier or customer when they are associated with a business meeting and the supplier or customer provides them to others as a normal part of its business.

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### 2.4 OUTSIDE EMPLOYMENT

ASI employees must not be employed outside the company (1) in any business that competes with or provides services to ASI or its subsidiaries; and/or (2) in a manner which would affect their objectivity in carrying out their ASI responsibilities; and/or (3) where the outside employment would conflict with scheduled hours, including overtime, or the performance of ASI assignments. Employees must not use ASI company time, materials, information, or other assets in connection with outside employment.

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### 2.5 RELATIONSHIPS WITH SUPPLIERS AND CUSTOMERS

Business transactions must be entered into solely for the best interest of ASI. If it is foreseeable that the decision a representative is called upon to make, help make, or influence, will be affected by any of the following economic interests, the representative has a conflict of interest and shall be disqualified from being part of the decision making process:

1. The representative has a direct investment worth \$2,000 or more, including ownership of stock by the representative or the representative's spouse or dependent child (an indirect interest) in any business entity with which ASI has a business relationship.
2. The representative has a direct or indirect interest worth \$2,000 or more in any real property that ASI owns, buys, sells, or transfers. One's home is not included but any other investment property is.
3. The representative has received or is promised to receive any source of income which provides \$500 or more in value from a business entity with which ASI has a business relationship within 12 months prior to the time when the decision is made.
4. The representative is a director, officer, partner, trustee, representative, or holds any position of management in any business entity with which ASI has a business relationship.
5. The representative has received or is promised to receive a gift or gifts from any ASI-related business entity of, or any intermediary or agent for such a business entity within 12 months prior to the time when the decision is made. Gifts of meals or travel or gifts of anything else of value are included.

It is ASI's preference that representatives not do business on behalf of ASI with a close personal friend or relative; however, such transactions are permissible if they provide ASI the best value. Recognizing that these transactions do occur, they must be reported on the Conflict of Interest Disclosure Form.

This policy is applicable equally to the members of the immediate family of each representative.

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## 2.6 EMPLOYMENT OF RELATIVES

Relatives of representatives will not be employed on a permanent, temporary, or contractual basis by ASI in situations where the relative directly reports to the representative or the representative exercises any direct influence with respect to the relative's hiring, placement, promotions, evaluations, or pay.

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## 2.7 COMPLIANCE

Annually, each director and officer will receive and review the Policy on Conflicts of Interest, complete and sign the Conflict of Interest Disclosure Statement, and return it to the Executive Director.

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### 2.7.1 SIGNATURE AUTHORIZATION CARDS

In addition to the above, ASI employees and others with purchasing and budget expenditure authority shall sign the Signature Authorization Card acknowledging that they are prohibited from:

- Engaging in or having any interest in any business or transaction or incurring any obligation which conflicts with or gives the appearance of conflicting with or impairing their independent judgment in discharging their official duties.
- Accepting money, tips, or other considerations for work they would be required or expected to perform in the regular course of their employment duties with ASI or with programs administered by ASI.
- Referring ASI clients or customers to themselves or to any group with which they are associated for private reimbursable services.
- Accepting gifts, gratuities, or favors from students, persons, or vendors doing business with ASI except as permitted under this policy.
- Disclosing confidential information acquired by or made available to them in the course of their employment with ASI or using such information for speculation or personal gain.

## 3.0 REPORTING VIOLATIONS

Representatives should be alert to possible violations of this policy anywhere in ASI and are required to report such violations within 14 days of discovery of the violation. Reports should be made to the representative's supervisor, program advisor, or ASI Executive Director as the circumstances dictate using the Ethics Complaint Form. Representatives will also be expected to cooperate in any investigation of violations.

All cases of questionable activity involving this policy or other potentially improper actions will be reviewed for appropriate action, discipline, or corrective steps. Whenever possible, ASI will keep confidential the identity of representatives about or against whom allegations of violations are brought, unless or until it has been determined that a violation has occurred. Similarly, whenever possible, ASI will keep confidential the identity of anyone reporting a possible violation. Retaliation against any representative who has, in good faith, reported a violation or suspected violation is strictly prohibited (refer to Policy on Whistleblower Protection).

## FORMS

The following forms are to be used in the execution of this policy.

| <b>Form Name</b>                                 | <b>Purpose</b>  | <b>Responsible Office</b>        | <b>Approved By</b>   | <b>Timeline for Submission</b>  |
|--|---|----------------------------------|--|---|
| <b>Conflict of Interest Disclosure Statement</b> | To disclose the existence of any business relationship between a director, officer, or employee and the ASI that could potentially represent a conflict of interest | Office of the Executive Director | N/A  | Annually at or near the beginning of the fiscal year (July 1) or near the beginning of the academic year (June 1). Signed form must be on file before signing the Signature Authorization Card. |
|  |   |                                  |  |   |
| <b>Gift Policy and Disclosure Form</b>           | To acknowledge receipt of gift regulations and agree not to solicit nor accept gifts prohibited by this policy  | Office of the Executive Director | N/A  | Annually at or near the beginning of the fiscal year (July 1) or near the beginning of the academic year (June 1).  |
| <b>Proposed Acceptance of Gifts</b>              | To request the official acceptance by ASI of property, equipment, or other non-cash contributions for which the donor can claim a charitable contribution           | Development Office               | Executive Director, subject to CSULB approval from the Vice President for Student Services, the Associate Vice President for Financial Management, and the Vice President for University Relations and Development | Approval must normally be obtained prior to the actual acceptance of the gift   |
| <b>Signature Authorization Card</b>              | To identify and provide specimen signatures of those persons authorized to make transactions on an ASI budgetary account  | A.S. Business Office             | Authorized budget area signatory and A.S. Business Office  | At or near the beginning of the fiscal year (July 1) and revise anytime signature authority changes   |

# POLICY ON DEVELOPMENT ACTIVITIES

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**POLICY STATEMENT ..... 1**

**DEFINITIONS ..... 2**

**STANDARDS AND PROCEDURES..... 2**

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        1.1 *Gift Agreement*.....3

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## BACKGROUND AND PURPOSE

From time to time, moneys and other assets are donated to Associated Students, Incorporated (ASI), either as gifts or bequests. Certain stipulations regarding the use and acknowledgment of these donations may be provided by the donor. Often this stipulation requires that the gift or bequest be invested in perpetuity with the income from investment being made available for expenditure. If so designated, these resources become part of what is known as the Endowment Fund.

It is the obligation of the Board of Directors to ensure that these stipulations are honored, insofar as they are consistent with ASI's mission, the University's mission, and the laws of the State of California. The Board reserves the right to refuse any donation that does not meet the above criteria.

The purpose of this policy is to establish a regular procedure for receipt, management, and disposition of funds or other properties that are received by ASI as endowments. The general charge to the Board is to manage and otherwise direct the collective resources of the Endowment Fund in such a way that is most consistent with the interests of donors, ASI, and relevant governing bodies.

## POLICY STATEMENT

It is the policy of the ASI to administer endowment funds consistent with donor wishes, generally accepted accounting principles, and the provisions of the Uniform Prudent Management of Institutional Funds Act (UPMIFA). The ASI Board of Directors has interpreted UPMIFA as requiring the preservation of the fair value of the original gift as of the gift date of the donor-restricted endowment funds absent explicit donor stipulations to the contrary. As a result of this interpretation, the ASI classifies as permanently restricted net assets (a) the original value of gifts donated to the permanent endowment, (b) the original value of subsequent gifts to the permanent endowment,

and (c) accumulations to the permanent endowment made in accordance with the direction of the applicable donor gift instrument at the time the accumulation is added to the fund.

The remaining portion of the donor-restricted endowment fund that is not classified in permanently restricted net assets is classified as temporarily restricted net assets until those amounts are appropriated for expenditure by the ASI in a manner that is consistent with the standard of prudence prescribed by UPMIFA. In accordance with UPMIFA, the ASI considers the following factors in making a determination to appropriate or accumulate donor-restricted endowment funds:

1. The duration and preservation of the fund
2. The purposes of the ASI and the donor-restricted endowment fund
3. General economic conditions
4. The possible effect of inflation and deflation
5. The expected total return from income and the appreciation of investments
6. Other resources of the ASI
7. The investment policies of the ASI

The ASI endowment consists of both donor-restricted endowment funds and funds designated by the Board of Directors to function as endowments. As required by generally accepted accounting principles, net assets associated with endowment funds, including funds designated by the Board of Directors to function as endowments shall be classified and reported based on the existence or absence of donor-imposed restrictions.

**DEFINITIONS**

For purposes of this policy, the terms used are defined as follows:

| Term                   | Definition   |
|------------------------|--|
| <b>Endowment</b>       | A gift of money or property to an institution for a specific purpose, especially one in which the principal is kept intact indefinitely and only interest income from the principal is used.   |
| <b>Endowment Fund</b>  | The combined pool of assets gifted to the Associated Students, Incorporated to provide resources for various activities consistent with the mission of ASI and California State University, Long Beach.  |
| <b>Pure Endowment</b>  | Funds in which the principal amount must remain inviolate in perpetuity; either the entire or partial income from investment is made available for distribution  |
| <b>Quasi Endowment</b> | Accounts that the Associated Students, Incorporated chooses to treat as an endowment. They are not subject to any legal prohibitions against spending the principal. Quasi-endowments may come from gifts or from surplus operating funds so designated by the Board of Directors. Distribution of the income and principal from these is subject to the discretion of the Board for designated activities |

**STANDARDS AND PROCEDURES**

**1.0 ESTABLISHMENT OF ENDOWMENT FUNDS**

The minimum amount required to establish an endowment fund shall be \$10,000. An amount less than that may be accepted if a date is determined and agreed upon with the donor (typically a year from the initial acceptance) to

secure funds to meet the minimum requirement. If the funds are not secured within this timeframe, the existing funds in the account may be merged with another endowment fund account that best meets the intent of the donor. If no account is available, the funds in the account may be deposited in ASI's board-designated endowment fund account. Both of these options may be considered unless otherwise stipulated by the donor. Any exceptions to the threshold amount shall be submitted to the Board of Control for consideration. The Board of Control shall review this threshold amount periodically.

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### 1.1 GIFT AGREEMENT

A Gift Agreement must be prepared and submitted prior to establishing a donor- restricted Endowment account. All records related to the endowment account shall be maintained by the ASI Executive Director.

At a minimum, the Gift Agreement shall contain the following information:

- Description of the gift, including dollar amount
- Statement representing that ASI is a qualified charitable organization
- Statement of the purpose of the fund and how its proceeds will be administered
- Description of how the fund will be recognized
- Future considerations

### 2.0 ACCOUNTING

Each endowment shall be maintained as a separate account except when it falls below the minimum balance required.

The endowment accounts will be audited annually as part of the audit of ASI performed by an external CPA firm.

The ASI Executive Director shall ensure that an activity report for each endowment fund is provided to the donor as specified in the Gift Agreement.

Recording and reporting of all related transactions shall be consistent with currently established accounting procedures and methodology.

### 3.0 INVESTMENT

All endowment funds may be commingled with other ASI funds for investment purposes, regardless of whether they are restricted or unrestricted, named or unnamed. The ASI Executive Director shall invest all funds in a reasonably prudent manner in accordance with ASI's investment policies.

### 4.0 INVESTMENT PAYOUT

Net realized income will be distributed to endowment accounts quarterly, on a pro-rata basis calculated on the average balance of the endowment. Capital gains/(losses) (if any) will be distributed back to endowments annually after the close of the fiscal year. To ensure fiscal prudence in the management of funds, the Board of Control will periodically review the payout activities.

### 5.0 SPENDING OF ENDOWMENT EARNINGS

Income from an endowment fund shall be segregated in a fund balance account restricted to the purposes for which the endowment was created. The Executive Director must authorize all expenditures from a restricted fund balance account.

**5.1 ENDOWED SCHOLARSHIPS**

For endowed scholarship funds, ASI will appropriate for distribution each year an amount equal to the dollar value of scholarships specified in a donor’s respective Gift Agreement. Gift Agreements shall stipulate that if the accumulation of scholarship donations and investment earnings fall short of the scholarship amounts specified, the Donor shall contribute an amount sufficient to match the annual scholarship award.

**6.0 ALLOCATION OF EARNINGS**

To protect the corpus principal of an endowment fund from the effects of inflation, the total return earned, in excess of the payout amount authorized for expenditure, shall be held in a temporarily restricted fund. The funds may be distributed into general operating funds, scholarship funds, or special projects funds provided the funds are used for purposes consistent with the purpose for which the endowment was established. This distribution must be approved by the Board of Control.

**7.0 QUASI-ENDOWMENT FUNDS**

ASI may establish and maintain quasi-endowment funds to support the general purposes of the organization. These are funds that the ASI chooses to treat as an endowment. They are not subject to any legal prohibitions against spending the principal. Quasi-endowments may come from undesignated gifts or from surplus operating funds so designated by the Board of Control. Distribution of the income and principal from these funds is subject to the discretion of the Board of Control for designated activities.

**FORMS**

The following forms are to be used in the execution of this policy.

| <b>Form Name</b>      | <b>Purpose</b>  | <b>Responsible Office</b> | <b>Approved By</b> | <b>Timeline for Submission</b>                                      |
|-----------------------|---|---------------------------|--------------------|---|
| <b>Gift Agreement</b> | To summarize the mutual understanding of the Donor and Associated Students, Incorporated regarding the administration of a gift | Development Office        | Executive Director | Must be completed prior to the official acceptance of a gift by ASI |

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FILED JRM/LIA  
Secretary of State  
State of California

FEB 25 2013

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RESTATED AND AMENDED  
ARTICLES OF INCORPORATION

OF

ASSOCIATED STUDENTS, CALIFORNIA STATE UNIVERSITY, LONG BEACH

JOHN HABERSTROH and JOSE ESPELETA certify that:

1. They are the President and Treasurer, respectively, of ASSOCIATED STUDENTS, CALIFORNIA STATE UNIVERSITY, LONG BEACH, a California corporation.

2. The Articles of Incorporation are restated and amended to read as follows:

ARTICLE I

The name of this corporation is ASSOCIATED STUDENTS, CALIFORNIA STATE UNIVERSITY, LONG BEACH.

ARTICLE II

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

The specific and primary purposes for which this corporation is formed are:

(1) To promote, and assist in carrying out, the educational services of Associated Students, California State University, Long Beach and to perform other functions related to the student activities of the college. To engage in public relations activities.

(2) To promote and maintain a student self-government organization under the supervision of the college officials for the purpose of providing essential activities closely related to, but



1 not normally included as a part of, the regular instructional  
2 program of the college. The activities conducted by the  
3 organization shall be designed to contribute to the development and  
4 skill and facility in human relations, the development of  
5 leadership ability, and the recreational and social needs of  
6 students. The activities may include but shall not be limited to  
7 the operation of campus publications, musical organizations, speech  
8 and dramatics activities, student government activities, intramural  
9 and intercollegiate sports, and the sponsorship of clubs and  
10 organizations which are designed for students specializing in  
11 various major subject matter areas offered by the college.

12 (3) To build, construct, lease, or purchase buildings which  
13 may be necessary to carry out the purposes of the corporation.

14 (4) To apply funds and property coming within its possession  
15 toward furthering the educational services and/or the welfare of  
16 the students of Associated Students, California State University,  
17 Long Beach and to perform other functions related to the student  
18 activities of the college.

19 **ARTICLE III**

20 The corporation is formed for purposes which do not  
21 contemplate the distribution of gains, profits, or dividends to  
22 members thereof.

23 **ARTICLE IV**

24 This corporation elects to be governed by all the provisions  
25 of the Nonprofit Corporation Law of 1980 not otherwise applicable  
26 to it under Part 5 thereof.

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**ARTICLE V**

The County in the State where the principal office for the transaction of the business of the corporation is located is Los Angeles County.

**ARTICLE VI**

This corporation is not to be authorized to issue shares of stock.

**ARTICLE VII**

The membership of this corporation, the classes of membership, and the voting rights and other rights of the members and classes of members shall be as set forth in the by-laws of this corporation.

**ARTICLE VIII**

The Board of Directors of this corporation shall be comprised of twenty-three members and shall be elected or appointed in such manner and at such times, and shall hold office for such terms as the by-laws of this corporation may provide.

**ARTICLE IX**

It shall be the duty of the Board of Directors, among other duties to approve the establishment of full-time positions and the compensation schedules thereof, to consider and approve the purchase of major items of equipment and fixtures, and to approve all disbursements for items of non-operating expense. In considering disbursements for items of non-operating expense, the Board shall be governed by the principle that such disbursements shall promote the best interests of the associated students as a whole.

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**ARTICLE X**

Upon dissolution of this corporation, net assets other than trust funds shall be distributed to a successor approved by the President of the campus and by the Chancellor.

If, upon dissolution, this corporation holds any assets in trust, such assets shall be disposed of in such a manner as may be directed by decree of the Superior Court of the county in which this corporation's principal office is located upon petition therefor by the Attorney General or by any person concerned in the liquidation. In no event shall any assets be distributed to any member, director, or officer of this corporation.

The foregoing restatement and amendment of Articles of Incorporation has been duly approved by a majority vote of the Board of Directors on January 23, 2013.

DATED: January 25, 2013   
John Haberstroh, President

DATED: January 25, 2013   
Jose Espeleta, Treasurer

The foregoing restatement and amendment of Articles of Incorporation has been duly approved by a two-third vote of the total members on December 4, 5, and 6, 2012.

DATED: January 25, 2013   
John Haberstroh, President

DATED: January 25, 2013   
Jose Espeleta, Treasurer

The undersigned declare under penalty of perjury under the

1 laws of the State of California that the matters set forth in the  
2 foregoing Certificate are true and correct to their own knowledge  
3 executed on this 25<sup>th</sup> day of January, 2013, at Long Beach,  
4 California.

5  
6 DATED: January 25, 2013   
7 **John Haberstroh, President**

8 DATED: January 25, 2013   
9 **Jose Espeleta, Treasurer**

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