

Division of Corporations

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DIVISION OF CORPORATIONS

## BASIC AMENDMENT

NEHC LA POSADA DEL REY APARTMENTS, INC.

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**AMENDED AND RESTATED ARTICLES OF INCORPORATION  
OF  
NHDC LA POSADA DEL REY APARTMENTS, INC.**

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In compliance with Chapter 617, Florida Statutes (Not for Profit):

**ARTICLE I. NAME**

The name of the corporation (hereinafter the "Corporation") shall be NHDC La Posada del Rey Apartments, Inc.

**ARTICLE II. PRINCIPAL OFFICE**

The address, including street and number, of its principal office is 10681 Foothill Drive, Suite 220, Rancho Cucamonga, California 91730.

**ARTICLE III. PURPOSE**

The Corporation is organized and shall be operated exclusively for charitable purposes to provide housing for low-income families in support of, for the benefit of, and to carry out the purposes of National Housing Development Corporation ("NHDC"), which is an organization that is exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the "Code") and which is not a private foundation under section 509(a) of the Code.

Specifically, the sole purpose of NHDC La Posada del Rey Apartments, Inc., a Florida nonprofit corporation, shall consist of the acquisition, ownership, operation and management of a low-income housing property known as La Posada del Rey Apartments, located in San Antonio, Texas, (the "Property") pursuant to and in accordance with these Articles of Incorporation; and such other lawful activities permitted to nonprofit corporations by the laws of the State of Florida as are incidental, necessary or appropriate to the foregoing.

The Board of Directors of NHDC may designate a substitute supported organization whose purposes are to promote and preserve low-income housing, provided that such organization is exempt from federal income tax under section 501(c)(3) of the Code and qualifies as a publicly-supported organization within the meaning of section 509(a)(1) or 509(a)(2) of the Code (the "Substitute Supported Organization").

In furtherance of these purposes stated above, the Corporation shall seek to support the promotion and preservation of low-income housing through the

acquisition, rehabilitation, preservation, ownership, and/or operation of affordable housing for low-income individuals and families. The Corporation may also lessen the burdens of government, combat community deterioration, eliminate discrimination and prejudice, and lessen neighborhood tensions.

Notwithstanding the above, if NHDC or the Substitute Supported Organization ceases to be an organization described in section 501(c)(3) and sections 509(a)(1) or 509(a)(2) of the Code, the Corporation shall cease to operate for the benefit of or in connection with said organization, but shall be operated for the benefit of and in connection with such other organization or organizations which are (i) described in section 501(c)(3) and sections 509(a)(1) or 509(a)(2) of the Code and (ii) organized and operated for purposes similar to those of NHDC as the Board of Directors of the Corporation shall determine.

Solely for the above purposes, the Corporation is empowered to and may exercise all other powers and authority now or hereafter conferred upon nonprofit corporations in the State of Florida.

No part of the income or principal of the Corporation shall inure to the benefit of any director or officer of this Corporation or any other private individual, except that the Corporation shall be authorized and empowered to pay reasonable compensation for services actually rendered to it, and to make reasonable payments and distributions in furtherance of the aforementioned purposes of the Corporation. The Corporation shall not engage in any activity which is prohibited to a corporation exempt from federal income tax under section 501(c)(3) of the Code or any corresponding future provision of the federal tax law. In accordance with the existing federal tax law, the Corporation shall not participate or intervene in any political campaign on behalf of any candidate for public office by publishing or distributing statements, or in any other way. No substantial part of the activities of the Corporation shall be the carrying on of propaganda, or otherwise attempting to influence legislation.

It is intended that this Corporation shall have the status of a corporation which is exempt from federal income taxation under section 501(a) of the Code as an organization described in section 501(c)(3) of the Code, and which is other than a private foundation under section 509(a)(3) of the Code. These articles shall be construed accordingly, and all powers and activities of the Corporation shall be limited accordingly.

**ARTICLE IV. MANNER OF ELECTION**

Beginning with the first annual meeting of the Corporation, and continuing annually thereafter, the directors shall be elected or appointed by the Board of Directors of NHDC, or the Board of Directors of the Substitute Supported Organization, if one has been designated in place of NHDC. In the event of the death, removal from office, or resignation of a director, a successor to fill such vacancy shall be designated by the Board of Directors of NHDC, or by the Board of Directors of the Substitute Supported Organization, if one has been so designated in place of NHDC. At no time shall the Board of Directors of the Corporation be constituted so as to be controlled directly or indirectly by one or more disqualified persons with respect to the Corporation (as defined in section 4946 of the Code) other than "foundation managers" as defined by the Code and other than one or more organizations described in section 509(a)(1) or section 509(a)(2) of the Code.

**ARTICLE V. DIRECTORS**

The current directors have been appointed or elected by the Board of Directors of NHDC. The number of directors constituting the Board of Directors is three (3), and the names and addresses of the persons who are to serve as directors until the first annual meeting or until their successors are elected and qualified are:

<u>Name</u>	<u>Address</u>
Christopher M. Hilbert	10681 Foothill Drive, Suite 220 Rancho Cucamonga, California 91730
Robert G. Pasquaye	10681 Foothill Drive, Suite 220 Rancho Cucamonga, California 91730
O. Angie Nwanodi	10681 Foothill Drive, Suite 220 Rancho Cucamonga, California 91730

**ARTICLE VI. INITIAL REGISTERED AGENT AND STREET ADDRESS**

The address, including street and number of the Corporation's initial registered office is 1200 South Pine Island Road, Plantation, FL 33324, and the name of its initial registered agent at such address is CT Corporation System.

**ARTICLE VII. INCORPORATOR**

The name and address of the Incorporator is Susan A. Cobb, 901 New York Avenue, NW, Suite 300, Washington, D.C. 20001.

**ARTICLE VIII. DURATION**

The period of duration of the Corporation shall be perpetual.

**ARTICLE IX. MEMBERS**

The Corporation shall not have members.

**ARTICLE X. DISTRIBUTION OF ASSETS**

Provisions for distribution of assets on dissolution or the termination of the Corporation are as follows:

Although the period of duration of the Corporation is perpetual, if for any reason the Corporation is to be dissolved or otherwise terminated, no part of the property of the Corporation or any of the proceeds shall be distributed to or inure to the benefit of any of the directors of the Corporation, but all property and proceeds of the Corporation, subject to the discharge of valid obligations of the Corporation, and to the applicable provisions of the Florida Statutes, shall be distributed to NEHC or the Substitute Supported Organization, unless such organization shall not then be in existence or shall not be a qualified section 501(c)(3) and section 509(a)(1) or 509(a)(2) organization, in which case the assets of the Corporation shall be distributed for one or more exempt purposes within the meaning of section 501(c)(3) of the Code, or the corresponding section of any future federal tax code. Any such assets not so disposed of shall be disposed of by a Court of Competent Jurisdiction of the district or county in which the principal office of the Corporation is then located, exclusively for such purposes or to such organization or organizations, as said Court shall determine, which are organized and operated exclusively for such purposes.

**ARTICLE XI. AMENDMENTS**

Except as provided in Article XII, paragraph (d), any one or more of the provisions of these Articles of Incorporation may be amended in accordance with the requirements of the Florida Statutes and the Bylaws of the Corporation.

**ARTICLE XII. SEPARATENESS/OPERATIONS MATTERS**

The Corporation has heretofore conducted and shall at all times hereafter conduct its business and operations in strict accordance and compliance with the following provisions:

- a. The Corporation is organized solely for the purpose of owning the Property;
- b. The Corporation has not and will not engage in any business unrelated to the ownership of the Property;
- c. The Corporation has not and will not have any assets other than the Property (and personal property incidental to the ownership and operation of the Property);
- d. The Corporation has not and will not engage in, seek or consent to any dissolution, winding up, liquidation, consolidation, merger, asset sale, or material amendment of its articles of incorporation so long as the Loan (as defined below) is outstanding;
- e. The Corporation, without the unanimous consent of all of its directors, shall not file or consent to the filing of any bankruptcy or insolvency petition or otherwise institute insolvency proceedings;
- f. The Corporation has no indebtedness (and will have no indebtedness) other than (i) the loan in the initial principal amount of \$2,300,000 (the "Loan") assumed pursuant to that certain Assumption and Release Agreement dated March 1, 2005, and (ii) unsecured trade debt, which is not evidenced by a note and is incurred in the ordinary course of the Corporation's business in connection with owning, operating and maintaining the Property and is paid within thirty (30) days from the date incurred;
- g. The Corporation (i) has not and will not commingle its funds or assets with those of any other entity; and (ii) has held and will hold its assets in its own name;
- h. The Corporation has conducted and will conduct its business in its own name;
- i. The Corporation has paid and will pay its own liabilities and expenses out of its own funds and assets;

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- j. The Corporation has not and will not assume or guarantee or become obligated for the debts of any other entity or hold out its credit as being available to satisfy the obligations of any other entity;
- k. The Corporation has not and will not pledge its assets for the benefit of any other person or entity other than in connection with the Loan;
- l. The Corporation has held and identified itself and will hold itself out and identify itself as a separate and distinct entity under its own name; and
- m. The Corporation has not made and will not make loans to any person or entity.

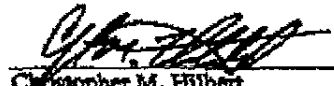
#### ARTICLE XIII. INCONSISTENT PROVISIONS

In the event of any conflict between the provisions of this Amended and Restated Articles of Incorporation and the bylaws of the Corporation or any other document or instrument governing the affairs of the Corporation, the provisions of this Amended and Restated Articles of Incorporation shall prevail.

ARTICLE XIV. This Amended and Restated Articles of Incorporation was adopted on March 2, 2005 by the Board of Directors of the Corporation.

ARTICLE XV. There are no members or members entitled to vote on the amendments. This Amendment and Restated Articles of Incorporation was adopted by the Board of Directors.

IN WITNESS WHEREOF, I have executed these Amended and Restated Articles of Incorporation on March 2, 2005.

  
Christopher M. Hilbert  
President

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