5-2-23
Agenda.

AGENDA REQUEST

☐ ORDINANCE ☒ RESOLUTION NO: 2023-106

Reso P

CAPTION: A Resolution approving the Second Amended Corporate Bylaws of the Pasadena Economic Development Corporation (PEDC) as approved by its Board on April 27, 2023. (Resolution 2018-166, First Amended Bylaws)

RECOMMENDATIONS & JUSTIFICATION: Recommend the approval of the second amended Corporate Bylaws being submitted by the PEDC Board for approval by Mayor and City Council in compliance with Section 501.064 (c)(2) of Texas Local Government Code.

(IF ADDITIONAL SPACE IS REQUIRED, PLEASE ATTACH SECOND PAGE)

BUDGETED: ☐ COUNCIL DISTRICT(S) AFFECTED:

REQUIRES APPROPRIATION: ☐
See attached Certification

Rick Guerrero DATE: 4/12/23
REQUESTING PARTY (TYPED)

BUDGET DEPARTMENT

PURCHASING DEPARTMENT

APPROVED:

CITY ATTORNEY

MAYOR

COUNCIL ACTION	
FIRST READING:	FINAL READING:
MOTION	Schoenbein MOTION
SECOND	Valerio SECOND
DATE	05-02-23 DATE
DEFERRED:	Nay: Van Houte

RESOLUTION NO. 2023-106

A Resolution of the City Council of the City of Pasadena, Texas approving the Second Amended Corporate Bylaws of the Pasadena Economic Development Corporation (EDC) as approved by its Board on April 27, 2023.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PASADENA, TEXAS:

SECTION 1. That the City Council of the City of Pasadena, Texas hereby approves the Second Amended Corporate Bylaws of the Pasadena Economic Development Corporation (EDC) as approved by its Board on April 27, 2023, attached hereto as Exhibit "A" and incorporated herein for all purposes.

SECTION 2. That the City Council officially determines that a sufficient written notice of the date, hour, place and subject of this meeting of the City Council was posted at a place convenient to the public at the City Hall of the City for the time required by law preceding this meeting, as required by the Open Meetings Law, Chapter 551, Texas Government Code; and that this meeting has been open to the public as required by law at all times during which this resolution and the subject matter thereof has been discussed, considered and formally acted upon. The City Council further confirms such written notice and the contents and posting thereof.

(SIGNATURE AND APPROVAL - NEXT PAGE)

PASSED, APPROVED AND ADOPTED THIS THE 2nd day of May, A.D., 2023.

JEFF WAGNER, MAYOR
OF THE CITY OF PASADENA, TEXAS

ATTEST:

AMANDA F. MUELLER
CITY SECRETARY
CITY OF PASADENA, TEXAS

APPROVED:

JAY W. DALE
CITY ATTORNEY
CITY OF PASADENA, TEXAS

SECOND AMENDED CORPORATE BYLAWS

OF THE

PASADENA ECONOMIC DEVELOPMENT CORPORATION

These Second Amended Bylaws (the "Bylaws") govern the affairs of the Pasadena Economic Development Corporation (the "Corporation"), a public instrumentality and a non-profit industrial development corporation created under Chapter 505 of the Texas Local Government Code, as amended (Chapters 501 to 505 of the Texas Local Government Code hereinafter referred to as the "Act"), by the City Council of the City of Pasadena (the "City Council") to act on behalf of the City of Pasadena, Texas ("City").

ARTICLE I.

PURPOSE

1.1. The Corporation is incorporated as a non-profit industrial development corporation for the purposes set forth in the Corporation's Articles of Incorporation (the "Articles"), the same to be accomplished on behalf of the City as its duly constituted authority and instrumentality in accordance with the Act and other applicable laws. In this regard, the Corporation has been incorporated to promote, assist and enhance economic development activities and quality of life opportunities within the City. The Corporation has no members and is a non-stock corporation. The Corporation shall be a non-profit corporation as defined by the Internal Revenue Code of 1986, as amended, and the applicable regulations and rulings prescribed and promulgated thereunder.

1.2. The Corporation shall have and exercise all of the rights, powers, privileges, authority and functions given by the general laws of Texas to non-profit corporations incorporated under the Act including, without limitation the Texas Non-Profit Corporation Act, as codified in the Texas Business Organizations Code, as amended.

1.3. The Corporation shall have all other powers of a like or different nature not prohibited by law which are available to non-profit corporations in Texas and corporations created under the Act and which are necessary or useful to enable the Corporation to perform the purposes for which it is created, including, but not limited to, the power to provide financing to pay the costs of projects through the issuance or execution of bonds, notes and other forms of debt instruments and to acquire, maintain and lease and sell property, and interests therein, to accomplish the purposes for which it was created.

1.4. The Corporation is created as an industrial development corporation pursuant to the Act and shall be a governmental unit within the meaning of subdivision (2), Section 101.001, Civil Practice and Remedies Code, as amended. The operations of the Corporation are governmental and not proprietary functions for the purposes of the Texas Tort Claims Act, Section 101.001 et seq., Civil Practices and Remedies Code, as amended.

ARTICLE II.

REGISTERED OFFICE AND AGENT

2.1. The registered agent for the Corporation shall be an individual resident of the state, as designated by the Board of Directors of the Corporation (the "Board" or the "Board of Directors"). The Board shall initially maintain and use the Pasadena City Hall as its administrative office, but may move its administrative office or establish additional offices with the prior approval of the City Council.

ARTICLE III.

BOARD OF DIRECTORS

Powers

3.1. The Corporation shall be managed by a Board of Directors which is authorized to exercise the powers authorized by the Act.

Duties

3.2. Directors shall exercise ordinary business judgment in managing the affairs of the Corporation. In acting in their official capacity, directors shall act in good faith and take actions they reasonably believe to be in the best interests of the Corporation and which are lawful.

Numbers and Qualifications

3.3. The Board shall consist of seven (7) persons, who shall be appointed by the City Council. A director may be removed by the City Council at any time without cause.

3.4. Each director shall be a resident of the City of Pasadena. None of the directors shall be employees, officers, or members of City Council of the City. Further, no member of City Council may be appointed to the Board within two (2) years after vacating such office.

Term

3.5. Directors shall be appointed to serve two (2) year terms of office. No director shall serve more than four (4) full successive terms from the effective date of these Bylaws. Two (2) year after the expiration of a Director's four (4) full successive terms of office a director shall be eligible for reappointment.

3.6. Vacancies on the Board shall be filled by appointment by the City Council.

Compensation

3.7. The directors shall not receive any salary or compensation for their services. However, directors may be reimbursed for their actual and reasonable expenses incurred in the performance of their duties, including but not limited to the cost of travel, lodging and incidental expenses reasonably related to the corporate duties of the Board. Travel expenses incurred by directors to attend regular and special meetings are not eligible for reimbursement.

ARTICLE IV.

OFFICERS

Officer Positions

4.1. The officers of the Corporation shall be a president, one or more vice presidents, a secretary, a treasurer and such other officers and assistant officers as may be deemed necessary by the Board, all of whom shall be members of the Board. The Board may elect other officers as the City Council deems necessary. Any two or more offices may be held by the same person except the offices of the president and secretary.

Election and Terms of Office

4.2. The president, vice president, secretary, treasurer and any other officers the Board deems necessary shall be elected by the Board every two (2) years and vacancies in these officer positions may be filled by the Board for the unexpired term. Each officer shall hold office until a successor is duly elected and qualified. All officers shall be subject to removal, with or without cause, at any time by a vote of a majority of the whole Board.

President

4.3. The president shall be the chief executive officer of the Corporation. He or she shall preside at all Board meetings and generally supervise and control the business and affairs of the Corporation and perform any other duties prescribed from time to time by the Board. The president shall have the right to vote on all matters coming before the Board. The president shall have the authority to execute all deeds, mortgages, bonds, contracts, assignments or other instruments in the name of the Corporation. The president shall appoint the members of all committees and all committee chairs. In addition, the president shall (a) call both regular and special meetings of the Board and establish the agenda for any such meeting, (b) have the authority to appoint standing or study committees to aid and assist the Board in its business undertaking or other matters incidental to the operations and functions of the Board, (c) perform all duties incident to the office, and such other duties as shall be prescribed from time to time by the Board, subject to approval by the City Council, (d) appear before the City Council on a periodic basis to give a report on the status of activities of the Corporation and (e) appear before the City Council, or be represented by his designee, regarding any item being considered by the City Council concerning the Corporation.

Vice President

4.4. The vice president shall perform the duties assigned to him or her by the Board. In the absence of the president, or if the president is unable or refuses to act, the vice president shall perform the duties of president, including without limitation, execution of all deeds, mortgages, bonds, contracts, assignments or other instruments in the name of the Corporation.

Secretary

4.5. The secretary shall be the custodian of the Corporate records. In this regard, the secretary shall have charge of the corporate books, records, documents and instruments, and such other books and papers as the Board may direct. The secretary shall record and keep all votes and minutes of the meetings of the Board. The secretary shall give notice of all meetings of the Board and its committees. The secretary shall sign with the president (or vice president, if applicable) in the name of the Corporation, and/or attest the signature thereto, all deeds, mortgages, bonds, contracts, assignments or other instruments. In the absence of the president and vice president, or if the president and vice president are unable or refuse to act, the secretary shall perform the duties of president. The secretary shall perform such other duties as may be prescribed by the president or the Board and, in general, shall perform all duties incident to the office of secretary subject to the control of the Board. An assistant secretary shall assist the secretary in performance of his or her duties.

Assistant Secretary

4.6. An assistant secretary position is created to assist the secretary and the Board in the conduct of the affairs of the Corporation. The assistant secretary shall be an employee of the City.

ARTICLE V.

BOARD COMMITTEES

5.1. The president may appoint persons to serve on standing or ad hoc committees. A committee may include persons who are not directors of the Corporation and who may not reside in the City. Committees will operate under general rules adopted by the Board. Committees may be charged with specific duties or authority, but shall not have the authority to:

a) Amend the articles of incorporation, amend, alter or repeal the bylaws or adopt a plan of merger or consolidation with another corporation.

b) Authorize the sale, lease, exchange or mortgage of any of the property or assets of the Corporation or commit Corporation funds without the prior approval of the Board.

c) Authorize or revoke proceedings for the voluntary dissolution of the Corporation or adopt a plan for the distribution of the assets of the Corporation.

d) Approve any transaction to which the Corporation is a party, take any action outside the scope of authority delegated to it by the Board, take final action on a matter that requires the approval of the Board or take any action that involves a potential conflict of interest as defined in these bylaws.

Committee Terms

5.2. The members of each standing or ad hoc committee shall serve until successors are appointed, unless the Committee is terminated or a member is removed, resigns, or ceases to qualify as a member. Vacancies on committees may be filled in the same manner as the original appointment.

ARTICLE VI.

MEETINGS

Notice

6.1. For meetings of the Board or any Committee, notice thereof shall be provided and set forth in accordance with the Texas Open Meetings Act, Chapter 551 of the Texas Government Code (as amended from time to time, the "Texas Open Meetings Act").

Quorum

6.2. A quorum is a majority of the entire membership of the Board (being not less than four (4) members) and shall be present for the conduct of the official, business of the Corporation.

Action of Board

6.3. The vote of a majority of the directors present and voting at a meeting at which a quorum is present shall be sufficient to constitute the act of the Board, unless a greater number is required by these Bylaws, policies/procedures of the Board, City Council action or applicable law.

Proxies

6.4. A director may not vote by proxy.

Open Meetings

6.5 All meetings and deliberations of the Board shall be called, posted, convened and conducted in accordance with the Texas Open Meetings Act.

ARTICLE VII.

FINANCIAL ADMINISTRATION

Fiscal Year

7.1. The fiscal year of the Corporation shall run concurrently with the fiscal year of the City.

Accounts to be Kept with City

7.2. The Corporation shall contract with the City for the administration of its accounts, expenditures, deposits, investment of funds and accounts and other financial services for the Corporation. The City Controller shall designate the accounts and depositories to be created and designated for such purposes and the methods of withdrawal of funds therefrom for use by and for the purposes of the Corporation upon the signature of its president and secretary or other director as the Board shall designate.

Audits

7.3. The City shall cause the Corporation's books, records, accounts and financial statements, and all other financial activities for the previous fiscal year to be audited at least once each fiscal year by an outside, independent, certified public accounting firm selected by the City Council. Each audit shall be prepared and submitted annually to the City Council for approval. Such audit shall be at the expense of the Corporation.

Limitations on Expenditures

7.4. Before expending funds to undertake a project, the Corporation shall hold at least one public hearing on the proposed project, in accordance with the Act. Consistent with Section 501.158 of the Act, the Corporation is required to enter into a written performance agreement with a business enterprise when the Corporation provides an incentive. All such performance agreements must have City Council approval.

Checks and Drafts

7.5. All checks, drafts or orders for the payment of money, notes or other evidences of indebtedness issued in the name of the Corporation shall be signed or bear the facsimile of the signature of its president and secretary, or other director as the Board shall designate.

Contracts – General

7.6. All purchases made and contracts executed by the Corporation shall be made in accordance with the requirements of law. The Board may by official action authorize any officer or agent of the Corporation to enter into a contract or execute and deliver any instrument in the name of and on behalf of the Corporation. This authority may be limited to a specific contract or instrument or it may extend to any number and type of possible contracts and instruments.

Contracts – Administrative Services

7.7. Subject to the paramount authority of the mayor under the City Charter, the Corporation shall have the right to utilize the services and the staff and employees of the City, provided (a) that the Corporation shall pay reasonable compensation to the City for such services and (b) the performance of such services does not materially interfere with the other duties of such personnel of the City. An administrative services contract shall be executed between the Board and the City for the services provided by City departments, staff and employees.

Gifts

7.8. The Board may accept on behalf of the Corporation any gift or bequest. Special funds shall include all funds from government contracts, grants, and gifts designated by a donor for special purposes. All other funds shall be general finds.

Potential Conflicts of Interest

7.9. The members of the Board are local public officials within the meaning of Chapter 171 of the Local Government Code, as amended, and shall adhere to the City Council code of ethics. If a director has a substantial interest in a business entity or real property which is the subject of deliberation by the Board, the director shall file an affidavit with the secretary of the Corporation stating the nature and extent of the interest. Such affidavit shall be filed prior to any deliberation, vote or decision upon the matter by the Board, and the interested director shall abstain from any deliberation, vote or decision upon the matter.

Bonds

7.10. Any bonds issued by the Corporation shall be in accordance with the Act and shall not be issued until approved by the City Council.

ARTICLE VIII.

BOOKS, RECORDS, AUDITS

Maintenance of Records

8.1. The Corporation shall keep and properly maintain, in accordance with generally accepted accounting principles, complete financial books, records, accounts and financial statements pertaining to its corporate funds, activities and affairs. The secretary of the Corporation shall keep correct and complete minutes of all Board and committee meetings and all records required by the City of Pasadena, by contracting agents or by funding sources.

Compliance with State Law

8.2. All records shall be kept and administered in accordance with the Texas Public Information Act, as amended.

Inspection

8.3. Any member of the City Council or director or officer of the Corporation may inspect and receive copies of all books and records of the Corporation required to be kept by the Bylaws.

Public Funds Investment Act

8.4. The Controller of the City shall serve as the Investment Officer for the Corporation as required by Chapter 2256 of the Texas Government Code, as amended (the "Public Funds Investment Act"), and be responsible for the investment of its funds consistent with the investment policy adopted by the Board.

ARTICLE IX.

INDEMNIFICATION AND INSURANCE

Corporation to Indemnify

9.1. The Corporation shall indemnify any director or officer or former director or officer of the Corporation for expenses and costs, including attorney's fees, actually and necessarily incurred by the officer or director in connection with any claim asserted against the officer or director by action in court or otherwise by reason of the person being or having been a director or officer and acting in his or her official capacity, except in relation to matters as to which the person shall have been guilty of gross negligence or misconduct in respect of the matter in which indemnity is sought.

Corporation May Provide Insurance

9.2. The Corporation may purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the Corporation to insure such person against any liability asserted against the person by reason of the person being or having been a director, officer, employee, or agent of the Corporation. The premiums for the insurance shall be paid by the Corporation.

ARTICLE X.

AMENDMENTS TO BYLAWS

10.1. The Board may alter, amend or repeal the Bylaws or adopt new Bylaws, but the change shall be effective only upon approval by the City Council.

ARTICLE XI.

PARLIAMENTARY AUTHORITY

11.1. Robert's Rules of Order, Newly Revised, shall be the parliamentary authority for all matters of procedure not specifically covered by the Bylaws or any specific rules of procedure adopted by the Board.

ARTICLE XII.

DISSOLUTION OF THE CORPORATION

12.1. The Corporation is a non-profit corporation. Upon dissolution, all of the Corporation's assets shall be conveyed to the City of Pasadena, subject to the Act and to all rights of third parties that may then exist.

ARTICLE XIII.

MISCELLANEOUS PROVISIONS

Legal Authorities Governing Construction of Bylaws

13.1. The Bylaws shall be construed in accordance with the laws of the State of Texas. All references in the Bylaws to statutes, regulations or other sources of legal authority shall refer to the authorities cited, or their successors, as they may be amended from time to time. It is expressly provided that the provisions of the Act applicable to corporations governed under Chapter 505 of that Act are incorporated within these Bylaws by reference. In the event of any conflict between the applicable provisions of such Act and these bylaws, then the applicable provisions of such Act shall control.

Legal Construction

13.2. If any Bylaw provision is held to be invalid, illegal or unenforceable in any respect, the invalidity, illegality or unenforceability shall not affect any other provision and the bylaws shall be construed as if the invalid, illegal or unenforceable provision had not been included in the bylaws.

Seal

13.3. The Board of Directors may provide for a corporate seal. Such seal would consist of concentric circles containing the words "Pasadena Economic Development Corporation" and "Texas" in one circle and the word "Incorporated," together with the date of incorporation of the Corporation in the other circle.

Heading

13.4. The headings used in the Bylaws are used for convenience and shall not be considered in construing the terms of the Bylaws.

Parties Bound

13.5. The Bylaws shall be binding upon and inure to the benefit of the directors, officers and agents of the corporation and their respective heirs, executors, administrators, legal representatives, successors and assigns except as otherwise provided in the bylaws.

Effective Date

13.6. These Bylaws, and any subsequent amendments thereto, shall be effective of and from the date upon which approval has been given both by the Board of Directors and the City Council.

CERTIFICATE OF SECRETARY

I certify that I am the duly elected and acting secretary of the PASADENA ECONOMIC DEVELOPMENT CORPORATION, and the foregoing bylaws constitute the bylaws of the Corporation. These bylaws were approved by the City Council of the City of Pasadena, Texas, at a meeting held on the 2nd day of May, 2023, and adopted at a meeting of the Board of Directors held on the 27th day of April, 2023.

Signed this 27th day of April, 2023.

SECRETARY OF THE CORPORATION