

Filer Contact Cover Letter

To: Department of the Secretary of State
Division of Corporations, UCC and Commissions
101 State House Station
Augusta, ME 04333-0101

Tel. (207) 624-7752

Name of Entity (s):

Long Creek Watershed Management District

List type of filing(s) enclosed (i.e. Articles of Incorporation, Articles of Merger, Articles of Amendment, Certificate of Correction, etc.) Attach additional pages as needed.

Articles of Incorporation - Domestic Non-Profit

Special handling request(s): (check all that apply)

- Hold for pick up
 Expedited filing - 24 hour service (\$50 additional filing fee per entity, per service)
 Expedited filing - Immediate service (\$100 additional filing fee per entity, per service)

Total filing fee(s) enclosed: \$ 40.00

Contact Information – questions regarding the above filing(s), please call or email: (failure to provide a contact name and telephone number or email address will result in the return of the erroneous filing (s) by the Secretary of State's office)

James N. Katsiaficas

(Name of contact person)

(207) 774-2635

(Daytime telephone number)

jkatsiaficas@perkinsthompson.com

(Email address)

The enclosed filing(s) and fee(s) are submitted for filing. Please return the attested copy to the following address:

James N. Katsiaficas, Esq.

(Name of attested recipient)

Perkins Thompson

(Firm or Company)

P.O. Box 426

(Mailing Address)

Portland, ME 04112-0426

(City, State & Zip)

Filing Fee \$40.00

**DOMESTIC
NONPROFIT CORPORATION**

STATE OF MAINE

ARTICLES OF INCORPORATION

<p>_____</p> <p>Deputy Secretary of State</p> <hr/> <p>A True Copy When Attested By Signature</p> <hr/> <p>_____</p> <p>Deputy Secretary of State</p>
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Pursuant to 13-B MRSA §403, the undersigned incorporator(s) execute(s) and deliver(s) the following Articles of Incorporation:

FIRST: The name of the corporation is Long Creek Watershed Management District.

SECOND: ("X" one box only. Attach additional page(s) if necessary.)

The corporation is organized as a public benefit corporation for the following purpose or purposes:
 The corporation's public benefit is set forth in the corporate purposes found in Exhibit A attached hereto.

The corporation is organized as a mutual benefit corporation for all purposes permitted under Title 13-B or, if not for all such purposes, then for the following purpose or purposes:

THIRD: The Registered Agent is a: (select **either** a Commercial or Noncommercial Registered Agent)

Commercial Registered Agent CRA Public Number: _____

(name of commercial registered agent)

Noncommercial Registered Agent

James N. Katsiaficas

 (name of noncommercial registered agent)

Perkins Thompson, One Canal Plaza, Suite 900, Portland, ME 04101

 (physical location, not P.O. Box – street, city, state and zip code)

Perkins Thompson, P.O. Box 426, Portland, ME 04112-0426

 (mailing address if different from above)

FOURTH: Pursuant to 5 MRSA §108.3, the registered agent as listed above has consented to serve as the registered agent for this nonprofit corporation.

FIFTH: The number of directors (not less than 3) constituting the initial board of directors of the corporation, if the number has been designated or if the initial directors have been chosen, is 16.

The minimum number of directors (not less than 3) shall be 3 and the maximum number of directors shall be 16.

SIXTH: Members: ("X" one box only.)

- There shall be no members.
 There shall be one or more classes of members and the information required by 13-B MRSA §402 is attached.

SEVENTH: (Optional) (Check if this article is to apply.)

No substantial part of the activities of the Corporation shall be the carrying on of propaganda, or otherwise attempting to influence legislation, and the Corporation shall not participate in or intervene in (including the publication or distribution of statements) any political campaign on behalf of any candidate for public office.

EIGHTH: (Optional) (Check if this article is to apply.)

Other provisions of these articles including provisions for the regulation of the internal affairs of the corporation, distribution of assets on dissolution or final liquidation and the requirements of the Internal Revenue Code section 501(c) are set out in Exhibit B attached hereto and made a part hereof.

Incorporators*

Dated 1/13/2010

Sally J. Daggett
(signature)

Street Ten Free Street
(residence address)

Sally J. Daggett
(type or print name)

Portland, ME 04112
(city, state and zip code)

Mary E. Costigan
(signature)

Street 389 Congress Street
(residence address)

Mary E. Costigan
(type or print name)

Portland, ME 04101
(city, state and zip code)

Robert J. Crawford
(signature)

Street 100 Middle Street
(residence address)

Robert J. Crawford
(type or print name)

Portland, ME 04101
(city, state and zip code)

For Corporate Incorporators*

Name of Corporate Incorporator _____

By _____
(signature of officer)

Street _____
(principal business location)

(type or print name and capacity)

(city, state and zip code)

Name of Corporate Incorporator _____

By _____
(signature of officer)

Street _____
(principal business location)

(type or print name and capacity)

(city, state and zip code)

***Articles are to be executed as follows:**

If a corporation is an incorporator (13-B MRSA §401), the name of the corporation should be typed or printed and signed on its behalf by an officer of the corporation. The articles of incorporation must be accompanied by a certificate of an appropriate officer of the corporation, not the person signing the articles, certifying that the person executing the articles on behalf of the corporation was duly authorized to do so.

Please remit your payment made payable to the Maine Secretary of State.

Submit completed form to:

Secretary of State
Division of Corporations, UCC and Commissions
101 State House Station
Augusta, ME 04333-0101
Telephone Inquiries: **(207) 624-7752**

Email Inquiries: CEC.Corporations@Maine.gov

ARTICLES OF INCORPORATION

EXHIBIT A

Purposes and Powers

Definitions. Capitalized terms used in this Exhibit A shall have the meaning set forth in the “Interlocal Agreement Among the Municipalities of Portland, South Portland, Scarborough and Westbrook to Establish the Long Creek Watershed Management District” dated August 28, 2009 (the “Interlocal Agreement”) unless otherwise stated herein.

Purposes. The Corporation has been formed pursuant to the Interlocal Agreement (pursuant to 30-A M.R.S.A. Sec. 2201 *et seq.*) for the purpose of establishing a quasi-municipal special purpose district named the Long Creek Watershed Management District as a separate legal entity and as a body corporate and politic to implement the Long Creek Watershed Management Plan (the “Plan”). The Plan is intended to improve the Long Creek Watershed which encompasses portions of all of the four municipalities who are parties to the Agreement. The Plan includes but is not limited to design, engineering, construction, installation, operation and maintenance, and monitoring of public and private stormwater management structures, facilities and improvements, including structural and non-structural Best Management Practices, in and along Long Creek and within the Long Creek Watershed; to monitor the effectiveness of the Plan and the condition of the Long Creek and the Long Creek Watershed; to make any changes to that Plan; to identify, apply for, accept and spend State, federal and other available funding sources from year-to-year; and to assess fees upon Participating Landowners for implementation of the Plan in order to comply with the “General Permit - Post Construction Discharge of Stormwater in the Long Creek Watershed” to be issued by the Maine Department of Environmental Protection and its renewal, reissuance or replacement, as such may be modified from time-to-time (the “General Permit”). The Corporation shall be authorized to take all actions necessary to implement the Agreement and the Plan.

The Corporation is organized exclusively for purposes described in Sections 170 and 501(c)(3) of the Internal Revenue Code and shall have no purpose and exercise no power which would disqualify the Corporation from tax exempt charitable status under Sections 170 and 501(c)(3) of the Internal Revenue Code and shall not carry on any activity which is prohibited by Sections 170 or 501(c)(3) of the Internal Revenue Code. The Articles of Organization and Bylaws shall be construed in such manner that the Corporation shall be qualified as an organization described in Sections 170(c), 501(c)(3), 2055(a) and 2522(a) of the Code which shall be exempt from taxation under Section 501(a) of the Code and all provisions required to be provided in the Articles of Incorporation and/or By-laws for such qualification shall be deemed to be a part hereof. To the extent that any provision of the Articles of Incorporation or Bylaws or any rule of law would prevent such qualification, it shall not be applicable.

At any time the Corporation is classified as a private foundation under Section 509 of the Code, the Corporation shall distribute all of its income for each taxable year at such time and in such manner as not to become subject to the tax on undistributed income imposed by Section 4942 of the Code. The Corporation and its Directors and officers shall not engage in any act of self-dealing prohibited by Section 4941 of the Code. The Corporation shall not retain any excess business holdings as defined in Section 4943 of the Code nor make any investments which would cause tax liability under Section 4944 of the Code nor make any taxable expenditures as defined in Section 4945 of the Code.

The Corporation shall have such powers as are conferred upon non-profit corporations by the Maine Non-Profit Corporations Act, provided that:

a. No part of the net earnings of the Corporation shall inure to the benefit of any member, Director, or officer of the Corporation, or any private individual, and no member, Director, officer of the Corporation, or any private individual shall be entitled to share in the distribution of any of the corporate assets on dissolution of the Corporation;

b. No substantial part of the activities of the Corporation shall be carrying on propaganda, or otherwise attempting to influence legislation, and the Corporation shall not participate in, or intervene in (including the publication or distribution of statements) any political campaign on behalf of any candidate for public office; and

c. The Corporation shall not conduct or carry on any activities not permitted to be conducted or carried on by an organization exempt under Section 501(c)(3) of the Internal Revenue Code of 1986 and regulations thereunder as they now exist or as they may hereafter be amended.

EXHIBIT B

Directors and Dissolution

Definitions. Capitalized terms used in this Exhibit B shall have the meaning set forth in the “Interlocal Agreement Among the Municipalities of Portland, South Portland, Scarborough and Westbrook to Establish the Long Creek Watershed Management District” dated August 28, 2009 (the “Interlocal Agreement”) unless otherwise stated herein.

Directors.

A. Establishment of District. There is hereby established and created the non-capital stock nonprofit corporation and quasi-municipal special purpose district named the Long Creek Watershed Management District, pursuant to the provisions of Title 30-A M.R.S.A. Sec. 2201 *et seq.* (interlocal cooperation), Title 30-A M.R.S.A. Sec. 3001 *et seq.* (home rule ordinance authority) and Title 13-B M.R.S.A. Sec. 101 *et seq.* (non-profit corporations), as amended, but not pursuant to Title 38 M.R.S.A. Sec. 2001 *et seq.* (coastal and lake watershed districts), as a separate legal entity and instrumentality and as a body corporate and politic, to conduct the cooperative undertaking contemplated by this Interlocal Agreement, and to exercise, through its Board of Directors and on behalf of the Parties and the Participating Landowners powers delegated to the District for the implementation of the Plan.

B. Board of Directors. There is hereby established a governing Board of Directors (the “Board”) for the District consisting of up to sixteen (16) Directors as follows.

1) Fourteen (14) Directors shall be appointed by the municipal officers of each Party in the following manner and numbers; the Portland Regional Chamber may provide a list of nominees to the municipal officers of each Party for their consideration in the appointment process:

a) Portland - Two Directors, one of whom shall be a municipal official or employee and one of whom shall be either a private Participating Landowner or representative of a private Participating Landowner whose Parcel is located in the City of Portland or a representative of a non-profit corporation with an interest in the Long Creek Watershed.

b) Scarborough - Two Directors, one of whom shall be a municipal official or employee and one of whom shall be a public or private Participating Landowner or representative of a public or private Participating Landowner whose Parcel is located within the Town of Scarborough.

c) South Portland - Seven Directors, two of whom shall be municipal officials or employees, four of whom shall be private Participating

Landowners or representatives of private Participating Landowners whose Parcel is located within the City of South Portland, and one of whom shall be a representative of a non-profit corporation with an interest in the Long Creek Watershed.

d) Westbrook - Three Directors, one of whom shall be a municipal official or employee and two of whom shall be private Participating Landowners or representatives of private Participating Landowners whose Parcel is located within the City of Westbrook.

2) The Maine Turnpike Authority (“MTA”) through its Executive Director shall appoint one (1) Director so long as MTA is a Participating Landowner; if MTA should terminate its agreement with the District to implement the Plan, it shall no longer be entitled to appoint a Director to serve on the Board, the term of the then-serving Director it has appointed will terminate and the Director’s seat will no longer exist.

3) The Maine Department of Transportation (“MDOT”) through the Commissioner of Transportation shall appoint one (1) Director so long as MDOT is a Participating Landowner; if MDOT should terminate its agreement with the District to implement the Plan, it shall no longer be entitled to appoint a Director to serve on the Board, the term of the then-serving Director it has appointed will terminate and the Director’s seat will no longer exist.

4) Term. Except as otherwise provided herein, Directors shall be appointed for a term of three years, and may be removed for cause by the appointing entity.

5) Officers and Rules. The Board shall, at an annual meeting to be held each year, elect from its membership a President, Vice- President, Secretary and a Treasurer and such other officers as it may desire and may adopt rules to govern the conduct of its meetings and the other affairs of the Board and the District.

6) Meetings. The Board shall meet as needed as determined by the Chair, but no less than semiannually.

7) Tie Vote. In the event of a tie vote by the Board’s Directors, the motion before the Board that is the subject of the tie vote shall be deemed to have failed.

8) Vacancy. A vacancy has the same meaning as the definition in 30-A M.R.S.A. § 2602. The appropriate Party’s municipal officers may appoint a person to fill a vacancy in the office of Director, and that person shall serve for the remainder of the term, provided, however, that if a Party’s municipal officers shall have failed to fill a vacancy within sixty (60) days of the creation of that vacancy, the remaining Directors shall appoint a person to fill that vacancy. A Director who is a private Participating Landowner or a representative of a private Participating Landowner automatically vacates that office upon the conveyance of that Participating Landowner’s Parcel to another owner, or upon that Participating Landowner’s termination of its agreement with the District to implement the Plan. The MTA or MDOT’s termination of its agreement

with the District to implement the Plan and the termination of the term of any then-serving Director it has appointed shall not constitute or result in a vacancy.

Dissolution. At such time as the District shall have discharged all of its obligations, as evidenced by the Maine Department of Environmental Protection's issuance of a written certificate of completion, and shall have paid or provided for the payment thereof, the Board may, by a three fourths (3/4) vote of the Board's Directors, dissolve the Corporation and dispose of all District property, real and personal, in such manner as said Board shall authorize and direct in accordance with the Interlocal Agreement. Upon the dissolution of the Corporation or the winding up of its affairs, after paying or making provision for the payment of all liabilities and obligations of the Corporation as required by law, the remaining assets of the Corporation shall be distributed as the Board shall direct, consistent with the Interlocal Agreement. The Board may, at its discretion, convey right, title and interest of the District in stormwater management structures, facilities and improvements, when exhausted of their capacity and of no further use in the accomplishment of the purposes set forth herein, at no charge to the Party within whose boundaries said structures, facilities or improvements are located, to a successor entity of the District or to the extent the structures, facilities and improvements were not financed through tax-exempt bonds or financing, to a Participating Landowner within whose property the structures, facilities or improvements are located. All money, if any, remaining in the hands of the Treasurer, shall be paid to the Participating Landowners as of the date of such dissolution in accordance with agreements then in effect for the cost sharing of contributions.