

**BYLAWS OF THE EUREKA VALLEY FOUNDATION, INC.**  
A CALIFORNIA NONPROFIT PUBLIC BENEFIT CORPORATION

*ARTICLE 1*  
*OFFICES*

**SECTION 1. PRINCIPAL OFFICE**

The principal office of the corporation for the transaction of its business is located in the City and County of San Francisco, California.

**SECTION 2. CHANGE OF ADDRESS**

The county of the corporation's principal office can be changed only by the amendment of these bylaws.

**SECTION 3. OTHER OFFICES**

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

*ARTICLE 2*  
*PURPOSES*

**SECTION 1. OBJECTIVES AND PURPOSES**

The primary objectives and purposes of the corporation shall be:

- (a) To provide for the maintenance of Pink Triangle Park and Memorial, a Holocaust Memorial on public land in San Francisco;
- (b) To promote the elimination of prejudice and discrimination; and
- (c) To preserve and publicize the history and cultural character of Eureka Valley, a neighborhood in San Francisco, California.

*ARTICLE 3*  
*DIRECTORS*

**SECTION 1. NUMBER**

The corporation shall have no fewer than three directors (each, a "Director"; collectively, "Directors") and no more than 13 Directors, with the exact number to be fixed by the Board in the manner prescribed by these bylaws.

**SECTION 2. POWERS**

Subject to the provisions of the California Nonprofit Public Benefit Corporation law and any limitations in the articles of incorporation and bylaws relating to action required or permitted to be taken of the corporation, the activities and affairs of the corporation shall be conducted and all corporate powers shall be exercised by or under the direction of the Board.

### **SECTION 3. DUTIES**

It shall be the duty of each Director to:

- (a) Perform any and all duties imposed on them collectively or individually by law, by the articles of incorporation, or by these bylaws;
- (b) Appoint and remove, employ and discharge, and, except as otherwise provided in these bylaws, prescribe the duties and fix the compensation, if any, of all officers, agents, and other employees of the corporation;
- (c) Supervise all officers, agents, and employees of the corporation to assure that their duties are performed properly;
- (d) Meet at such times and places as required by these bylaws; and
- (e) Register their addresses with the secretary of the corporation (“Secretary”) and notices of meetings mailed or sent electronically to them at such addresses shall be valid notices thereof.

### **SECTION 4. TERMS OF OFFICE**

Each Director shall hold office for a term of two years until the appropriate annual meeting for election of the Board, as specified in these bylaws, and until his or her successor is elected and qualifies. An odd number of Directors shall have terms expiring on odd numbers years and an even number of Directors shall have terms expiring on even numbered years.

### **SECTION 5. COMPENSATION**

Directors shall serve without compensation. However, they shall be allowed reasonable advancement or reimbursement of expenses incurred in the performance of their regular duties as specified in Section 3 of this Article. Directors may not be compensated for rendering services to the corporation in any capacity other than Director unless such compensation is reasonable and is allowable under the provisions of Section 6 of this Article. Any payments to a Director shall be approved in advance in accordance with the corporation’s conflict of interest policy, as set forth in Article 9 of these bylaws.

### **SECTION 6. RESTRICTION REGARDING INTERESTED DIRECTORS**

Notwithstanding any other provision of these bylaws, not more than 49% of the persons serving on the Board may be interested persons. For purpose of this section, “interested persons” means either:

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

(b) Any brother, sister, ancestor, descendent, spouse, brother-in-law, sister-in-law, son-in-law, daughter-in-law, mother-in-law, or father-in-law, of any such person.

## **SECTION 7. PLACE OF MEETINGS**

Meetings shall be held at the principal office of the corporation unless otherwise provided by the Board or at such place within or without the State of California that has been designated from time to time by resolution of the Board. In the absence of such designation, any meeting not held at the principal office of the corporation shall be valid only if held with the written consent of all Directors given either before or after the meeting and filed with the Secretary or after all Directors have been given written notice of the meeting as hereinafter provided for special meetings of the Board.

Any meeting, regular or special, may be held by conference telephone, electronic video screen communication, or other communications equipment. Participation in a meeting through use of conference telephone or electronic video screen constitutes presence in person at that meeting so long as all Directors participating in the meeting are able to hear each other. Participation in a meeting through use of electronic transmission by and to the corporation, other than conference telephone and electronic video screen communication, constitutes presence in person at that meeting if all of the following apply:

(a) Each Director participating in the meeting can communicate with all of the other Directors concurrently;

(b) Each Director is provided the means of participating in all matters before the Board, including, without limitation, the capacity to propose, or to interpose an objection to, a specific action to be taken by the corporation; and

(c) The corporation adopts an implements some means of verifying (1) that all persons participating in the meeting are Directors or are otherwise entitled to participate in the meeting, and (2) that all actions of, or vote by, the Board are taken and cast only by Directors and not by persons who are not Directors.

## **SECTION 8. REGULAR AND ANNUAL MEETINGS**

Regular meetings of the Board shall be held as designated by resolution by the Board. The Board shall meet not less than annually at a time and place as designated by resolution by the Board. Each Director shall have one vote on each matter presented to the Board for action. No Director may vote by proxy.

At the annual meeting, Directors shall be elected by the Board in accordance with this Section. Cumulative voting by Directors for the election of Directors shall not be permitted. The

candidates receiving the highest number of votes up to the number of Directors to be elected shall be elected. Each Director shall have one vote, with voting by ballot only.

#### **SECTION 9. SPECIAL MEETINGS**

Special meetings of the Board may be called by the chair of the Board (“Chair”), the president of the corporation (“President”), the vice president of the corporation (“Vice President”), the Secretary, or any two Directors, and such meetings shall be held at the place, within or without the State of California, designated by the persons calling the meeting, and in the absence of such designation, at the principal office of the corporation.

#### **SECTION 10. NOTICE OF MEETINGS**

Regular meetings of the Board may be held without notice if the time and place of the meetings are fixed by the Board. Special meetings of the Board shall be held upon four days’<sup>TM</sup> notice by first-class mail or 48 hours’<sup>TM</sup> notice delivered personally or by telephone or electronic mail. If sent by mail or electronic mail, the notice shall be deemed to be delivered on its deposit in the mails or on the delivery of the electronic mail. Such notices shall be addressed to each Director at his or her address as shown on the books of the corporation. Notice of the time and place of holding an adjourned meeting need not be given to absent Directors if the time and place of the adjourned meeting are fixed at the meeting adjourned and if such adjourned meeting is held no more than 24 hours from the time of the original meeting. Notice shall be given of any adjourned regular or special meeting to Directors absent from the original meeting if the adjourned meeting is held more than 24 hours from the time of the original meeting.

#### **SECTION 11. CONTENTS OF NOTICE**

Notice of meetings not herein dispensed with shall specify the place, day, and hour of the meeting. The purpose of any meeting of the Board need not be specified in the notice.

#### **SECTION 12. WAIVER OF NOTICE AND CONSENT TO HOLDING MEETINGS**

Notice of a meeting need not be given to a Director who provides a waiver of notice or consent to holding the meeting or an approval of the minutes thereof in writing, whether before or after the meeting, or who attends the meeting without protesting, prior thereto or at its commencement, the lack of notice to that Director. All such waivers, consents, or approvals shall be filed with the corporate records or made a part of the minutes of the meeting.

#### **SECTION 13. QUORUM FOR MEETINGS**

A quorum shall consist of a majority of Directors. Vacancies are not counted for purposes of this provision.

Except as otherwise provide in these bylaws or in the articles of incorporation, or by law, no business shall be considered by the Board at any meeting at which a quorum, as hereinafter defined, is not present, and the only motion which the Chair shall entertain at such meeting is a

motion to adjourn. However, a majority of the Directors present at such meeting may adjourn from time to time until the time fixed for the next regular meeting of the Board.

When a meeting is adjourned for lack of a quorum, it shall not be necessary to give any notice of the time and place of the adjourned meeting or of the business to be transacted at such meeting, other than by announcement at the meeting at which the adjournment is taken, except as provided in Section 10 of this Article.

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

#### **SECTION 14. MAJORITY ACTION AS BOARD ACTION**

Every act or decision done or made by a majority of Directors present at a meeting duly held at which a quorum is present is the act of the Board, unless the articles of incorporation, these bylaws, or provisions of the California Nonprofit Public Benefit Corporation law, particularly those provisions relating to appointment of committees (Section 5212), approval of contracts or transactions in which a Director has a material financial interest (Section 5233), and indemnification of Directors (Section 5238e), require a greater percentage or different voting rules for approval of a matter by the Board.

#### **SECTION 15. CONDUCT OF MEETINGS**

Meetings of the Board shall be presided over by the Chair, or, if no such person has been so designated or, in his or her absence, the President or, in his or her absence, by the Vice President or, in the absence of each of these persons, by the Chair chosen by a majority of the Directors present at the meeting. The Secretary shall act as Secretary of all meetings of the Board, provided that, in his or her absence, the presiding officer shall appoint another person to act as Secretary of the meeting.

Meetings shall be governed by Roberts Rules of Order, as such rules may be revised from time to time, insofar as such rules are not inconsistent with or in conflict with these bylaws, with the articles of incorporation, or with provisions of law.

#### **SECTION 16. ACTION BY UNANIMOUS WRITTEN CONSENT WITHOUT MEETING**

Any action required or permitted to be taken by the Board under any provision of law may be taken without a meeting, if all members of the Board shall individually or collectively consent in writing to such action. For the purposes of this Section only, "all members of the Board" shall not include any "interested director" as defined in Section 5233 of the California Nonprofit Public Benefit Corporation law. Such written consent or consents shall be filed with the minutes of the proceedings of the Board. Such actions by written consent or consents shall have the same force and effect as the unanimous vote of the Directors. Any certificate or other document filed under any provision of law which relates to action so taken shall state that the action was taken

by unanimous written consent of the Board without a meeting and that the bylaws authorize Directors to so act, and such statement shall be prime facie evidence of such authority.

### **SECTION 17. VACANCIES**

Vacancies on the Board shall exist:

- (1) On the death, resignation, or removal of any Director;
- (2) Whenever a Director misses two unexcused consecutive meetings; or
- (3) Whenever the number of authorized Directors is increased.

The Board may declare vacant the office of a Director who has been declared of unsound mind by a final order of court, or convicted of a felony, or been found by a final order of judgment of any court to have breached a duty under Section 5230 *et seq.* of the California Nonprofit Public Benefit Corporation law.

Directors may be removed without cause by a majority of the Directors then in office.

Any Director may resign effective upon giving written notice to the Chair, the President, the Secretary, or the Board, unless the notice specifies a later time for the effectiveness of such resignation. No Director may resign if the corporation would then be left without a duly elected Director or Directors in charge of its affairs, except upon written notice to the California Attorney General.

Vacancies on the Board may be filled by approval of the Directors or, if the number of Directors then in office is less than a quorum, by:

- (1) The unanimous written consent of Directors then in office;
- (2) The affirmative vote of a majority of Directors then in office at a meeting held pursuant to notice or waivers of notice complying with this Article; or
- (3) A sole remaining Director.

A person elected to fill a vacancy as provided by this Section shall hold office until the next annual election of the Board or until his or her death, resignation, or removal from office.

### **SECTION 18. NONLIABILITY OF DIRECTORS**

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

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

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

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

## **SECTION 20. INSURANCE FOR CORPORATE AGENTS**

The Board may adopt a resolution authorizing the purchase and maintenance of insurance on behalf of any agent of the corporation (including a Director, officer, employee, or other agent of the corporation) against any liability other than for violating provisions of law relating to self-dealing (Section 5233 of the California Nonprofit Public Benefit Corporation law) asserted against or incurred by the agent in such capacity or arising out of the agent's status as such, whether or not the corporation would have the power to indemnify the agent against such liability under the provisions of Section 5238 of the California Nonprofit Public Benefit Corporation law.

### *ARTICLE 4 OFFICERS*

## **SECTION 1. NUMBER OF OFFICERS**

The officers of the corporation shall be a President, a Secretary, and chief financial officer who shall be designated the treasurer of the corporation ("Treasurer"). The corporation may also have, as determined by the Board, assistant secretaries, assistant treasurers, or other officers. The same person may hold any number of offices, except that neither the Secretary nor Treasurer may serve as the President.

## **SECTION 2. QUALIFICATION, ELECTION, AND TERM OF OFFICE**

Any Director may serve as an officer of the corporation. Officers shall be elected by the Board, at any time, and each officer shall hold office until he or she resigns, is removed, or is otherwise disqualified to serve, or until his or her successor shall be elected and qualified, whichever comes first.

## **SECTION 3. SUBORDINATE OFFICERS**

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

#### **SECTION 4. REMOVAL AND RESIGNATION**

Any officer may be removed, either with or without cause, by the Board, at any time. Any officer may resign at any time by giving written notice to the Board or to the President or Secretary. Any such resignation shall take effect on the date of receipt of such notice or at any later date specified therein, and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective. The provisions of this Section shall be superseded by any conflicting terms of a contract which has been approved or ratified by the Board relating to the employment of any officer of the corporation.

#### **SECTION 5. VACANCIES**

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

#### **SECTION 6. DUTIES OF PRESIDENT**

The President shall be the chief executive officer of the corporation and shall, subject to the control of the Board, supervise and control the affairs of the corporation and the activities of the officers. He or she shall perform all duties incident to his or her office and such other duties as may be required by law, by the articles of incorporation, or by these bylaws, or which may be prescribed from time to time by the Board. Unless another person is specifically appointed as Chair, he or she shall preside over all meetings of the Board. Except as otherwise expressly by law, by the articles of incorporation, or by these bylaws, he or she shall, in the name of the corporation, execute such deeds, mortgages, bonds, contracts, checks, or other instruments which may from time to time be authorized by the Board. At all meetings, the President shall only vote in the event of a tie.

#### **SECTION 7. DUTIES OF SECRETARY**

The Secretary shall:

- (a) Certify and keep at the principal office of the corporation the original, or a copy of these bylaws as amended or otherwise altered to date;
- (b) Keep at the principal office of the corporation or at such other place as the Board may determine, a book of minutes of all meetings of the Board, and, if applicable, meetings of committees of the Board, recording therein the time and place of holding, whether regular or special, how called, how notice thereof was given, the names of those present or represented at the meeting, and the proceedings thereof;
- (c) See that all notices are duly given in accordance with the provisions of these bylaws or as required by law;

(d) Be custodian of the records and the seal of the corporation and see that the seal is affixed to all duly executed documents, the execution of which on behalf of the corporation under the seal is authorized by law or these bylaws;

(e) Exhibit at all reasonable times to any Director, or to his or her agent or attorney, on request thereof, the bylaws and the minutes of the proceedings of the Board;

(f) Ensure that a current Statement of Information of the corporation is timely filed with the California Secretary of State; and

(g) In general, perform all duties incident to the office of Secretary and such other duties as may be required by law, by the articles of incorporation, or by these bylaws, or which may be assigned to him or her from time to time by the Board.

## **SECTION 8. DUTIES OF TREASURER**

The Treasurer shall:

(a) Have charge and custody of, and be responsible for, all funds and securities of the corporation, and deposit all such funds in the name of the corporation in such banks, trust companies, or other depositories as shall be selected by the Board;

(b) Receive, and give receipt for, monies due and payable to the corporation from any source whatsoever;

(c) Disburse, or cause to be disbursed, the funds of the corporation as may be directed by the Board, taking proper vouchers for such disbursements;

(d) Keep and maintain adequate and correct accounts of the corporation's properties and business transactions, including accounts of its assets, liabilities, receipts, disbursements, gains and losses;

(e) Exhibit at all reasonable times the books of account and financial records to any Director, or to his or her agent or attorney, on request therefore;

(f) Render to the President and Directors, whenever requested, an account of any or all of his or her transactions as Treasurer and of the financial condition of the corporation;

(g) Prepare, or cause to be prepared, and certify, or cause to be certified, the financial statements to be included in any required reports;

(h) Ensure that all appropriate tax forms for the corporation are timely filed with the Internal Revenue Service and the California Franchise Tax Board; and

(i) In general, perform all duties incident to the office of Treasurer and such other duties as may be required by law, by the articles of incorporation, or by these bylaws, or which may be assigned to him or her from time to time by the Board.

## **SECTION 9. COMPENSATION**

Officers shall serve without compensation. However, they shall be allowed reasonable advancement or reimbursement of expenses incurred in the performance of their regular duties as specified in the appropriate sections of this Article. Any payments to officers shall be approved in advance in accordance with the corporation's conflict of interest policy, as set forth in Article 9 of these bylaws.

## *ARTICLE 5 COMMITTEES*

### **SECTION 1. COMMITTEES**

The corporation shall have such committees as may from time to time be designated by resolution of the Board. Such other committees may consist of persons who are not also members of the Board.

### **SECTION 2. MEETINGS AND ACTIONS OF COMMITTEES**

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

## *ARTICLE 6 EXECUTIONS OF INSTRUMENTS, DEPOSITS, AND FUNDS*

### **SECTION 1. EXECUTION OF INSTRUMENTS**

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

### **SECTION 2. CHECKS AND NOTES**

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

### **SECTION 3. DEPOSITS**

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

#### **SECTION 4. GIFTS**

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

### *ARTICLE 7 CORPORATE RECORDS, REPORTS, AND SEAL*

#### **SECTION 1. MAINTENANCE OF CORPORATE RECORDS**

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

- (a) Minutes of all Board meetings, committees of the Board, indicating the time and place of holding such meetings, whether regular or special, how called, the notice given, and the names of those present and the proceedings thereof;
- (b) Adequate and correct books and records of account, including accounts of its properties and business transactions and accounts of its assets, liabilities, receipts, disbursements, gains and losses; and
- (c) A copy of the corporation's articles of incorporation and bylaws as amended to date, which shall be open to inspection at all reasonable times during office hours.

#### **SECTION 2. CORPORATE SEAL**

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

#### **SECTION 3. DIRECTORS'™ INSPECTION RIGHTS**

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

#### **SECTION 4. ANNUAL REPORT**

The Board shall cause an annual report to be available not later than 180 days after the close of the corporation's fiscal year unless an extension of time to file the tax return is sent to the Internal Revenue Service, in which case the report shall be furnished by the extended due date to all Directors, which report shall contain the following information in appropriate detail:

- (a) The assets and liabilities, including the trust funds, of the corporation as of the end of the fiscal year;
- (b) The principal changes in assets and liabilities, including trust funds, during the fiscal year;

(c) The revenue or receipts of the corporation, both unrestricted and restricted to particular purposes, for the fiscal year; and

(d) The expenses or disbursements of the corporation, for both general and restricted purposes, during the fiscal year.

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

## **SECTION 5. ANNUAL STATEMENT OF SPECIFIC TRANSACTIONS**

The corporation shall mail or deliver to all Directors a statement within 120 days after the close of its fiscal year that briefly describes the amount and circumstances of any indemnification or transaction involving any transaction in which the corporation, or its parent or its subsidiary, was a party, and in which any Director or officer of the corporation, or its parent or its subsidiary (a mere common directorship shall not be considered a material financial interest) had a direct or indirect material financial interest.

The above statement need only be provided with respect to a transaction during the previous fiscal year involving more than \$100,000 or which was one of a number of transactions with the same persons involving, in the aggregate, more than \$100,000. Similarly, the statement need only be provided with respect to indemnifications or advances aggregating more than \$10,000 paid during the previous fiscal year to any Director or officer, except that no such statement need be made if such indemnification was approved by the Board pursuant to Section 5238(e)(2) of the California Nonprofit Public Benefit Corporation law.

Any statement required by this Section shall briefly describe the names of the interested persons involved in such transactions, stating each person's relationship to the corporation, the nature of such person's interest in the transaction, and, where practical, the amount of such interest, provided that in the case of a transaction with a partnership of which such person is a partner, only the interest of the partnership need be stated.

### *ARTICLE 8 FISCAL YEAR*

## **SECTION 1. FISCAL YEAR OF THE CORPORATION**

The fiscal year of the corporation shall begin on January 1 and end on December 31 of each year.

### *ARTICLE 9 CONFLICT OF INTEREST AND COMPENSATION APPROVAL POLICIES*

## **SECTION 1. PURPOSE OF CONFLICT OF INTEREST POLICY**

The purpose of this conflict of interest policy is to protect the corporation's tax-exempt interest when it is contemplating entering into a transaction or arrangement that might benefit the private interest of an officer or Director or any "disqualified person" as defined in Section 4958(f)(1) of

the Internal Revenue Code and as amplified by Section 53.4958-3 of the IRS Regulations and which might result in a possible “excess benefit transaction” as defined in Section 4958(c)(1)(A) of the Internal Revenue Code and as amplified by Section 53.4958 of the IRS Regulations. This policy is intended to supplement but not replace any applicable state and federal laws governing conflict of interest applicable to nonprofit and charitable organizations.

## **SECTION 2. DEFINITIONS**

(a) Interested Person. Any Director, principal officer, member of a committee with the Board’s delegated powers, or any other person who is a “disqualified person” as defined in Section 4958(f)(1) of the Internal Revenue Code and as amplified by Section 53.4958-3 of the IRS Regulations, who has a direct or indirect financial interest, as defined below, is an interested person.

(b) Financial Interest. A person has a financial interest if the person has, directly or indirectly, through business, investment, or family:

(1) An ownership or investment interest in any entity with which the corporation has a transaction or arrangement;

(2) A compensation arrangement with the corporation or with any entity or individual with which the corporation has a transaction or arrangement; or

(3) A potential ownership or investment interest in, or compensation arrangement with, any entity or individual with which the corporation is negotiating a transaction or arrangement.

Compensation includes direct and indirect remuneration as well as gifts or favors that are not insubstantial. A financial interest is not necessarily a conflict of interest. Under Section 3, paragraph (b) of this Article, a person who has a financial interest may have a conflict of interest only if the Board or committee decides that a conflict of interest exists.

## **SECTION 3. CONFLICT OF INTEREST AVOIDANCE PROCEDURES**

(a) Duty to Disclose. In connection with any actual or possible conflict of interest, an interested person must disclose the existence of the financial interest and be given the opportunity to disclose all material facts to the Board and members of committees with the Board’s delegated powers considering the proposed transaction or arrangement.

(b) Determining Whether a Conflict of Interest Exists. After disclosure of the financial interest and all material facts, and after any discussion with the interested person, he or she shall leave the Board or committee meeting while the determination of a conflict of interest is discussed and voted upon. The remaining Directors or committee members shall decide if a conflict of interest exists.

(c) Procedures for Addressing the Conflict of Interest. An interested person may make a presentation to the Board or committee meeting, but after the presentation, he or she shall leave

the meeting during the discussion of, and the vote on, the transaction or arrangement involving the possible conflict of interest.

The Chair or committee shall, if appropriate, appoint a disinterested person or committee to investigate alternatives to the proposed transaction or arrangement. After exercising due diligence, the Board or committee shall determine whether the corporation can obtain with reasonable efforts a more advantageous transaction or arrangement from a person or entity that would not give rise to a conflict of interest. If a more advantageous transaction or arrangement is not reasonably possible under circumstances not producing a conflict of interest, the Board or committee shall determine by a majority vote of disinterested Directors whether the transaction or arrangement is in the corporation's best interest, for its own benefit, and whether it is fair and reasonable. In conformity with the above determination, it shall make its decision as to whether to enter into the transaction or arrangement.

(d) Violations of the Conflicts of Interest Policy. If the Board or committee has reasonable cause to believe a Director or committee member has failed to disclose actual or possible conflicts of interest, it shall inform the individual of the basis for such belief and afford the member an opportunity to explain the alleged failure to disclose. If, after hearing the member's response and after making further investigation as warranted by the circumstances, the Board or committee determines the member has failed to disclose an actual or possible conflict of interest, it shall take appropriate disciplinary and corrective action.

#### **SECTION 4. RECORDS OF BOARD AND BOARD COMMITTEE PROCEEDINGS**

The minutes of meetings of the Board and all committees with the Board's delegated powers shall contain:

(a) The names of the persons who disclosed or otherwise were found to have a financial interest in connection with an actual or possible conflict of interest, the nature of the financial interest, any action taken to determine whether a conflict of interest was present, and the Board's or committee's decision as to whether a conflict of interest in fact existed; and

(b) The names of the persons who were present for discussions and votes relating to the transaction or arrangement, the content of the discussion, including any alternatives to the proposed transaction or arrangement, and a record of any votes taken in connection with the proceedings.

#### **SECTION 5. COMPENSATION APPROVAL POLICIES**

A Director who receives compensation, directly or indirectly, from the corporation for services is precluded from voting on matters pertaining to that Director's compensation. A voting member of any committee whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from the corporation for services is precluded from voting on matters pertaining to that member's compensation. No Director or committee member whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from the corporation, either individually or collectively, is prohibited from providing information to any committee regarding compensation. When approving compensation for

Directors, officers and employees, contractors, and any other compensation contract or arrangement, in addition to complying with the conflict of interest requirements and policies contained in this Article, the Board or a duly constituted compensation committee of the Board shall also comply with the following requirements and procedures:

(a) The terms of compensation shall be approved by the Board or compensation committee prior to the first payment of compensation.

(b) All members of the Board or compensation committee who approve compensation arrangements must not have a conflict of interest with respect to the compensation arrangement as specified in IRS Regulation Section 53.4958-6(c)(iii), which generally requires that each Board member or committee member approving a compensation arrangement between the corporation and a “disqualified person” (as defined in Section 4958(f)(1) of the Internal Revenue Code and as amplified by Section 53.4958-3 of the IRS Regulations):

(1) Is not the person who is the subject of compensation arrangement, or a family member of such person;

(2) Is not in an employment relationship subject to the direction or control of the person who is the subject of compensation arrangement;

(3) Does not receive compensation or other payments subject to approval by the person who is the subject of compensation arrangement;

(4) Has no material financial interest affected by the compensation arrangement; and

(5) Does not approve a transaction providing economic benefits to the person who is the subject of the compensation arrangement, who in turn has approved or will approve a transaction providing benefits to the Director or committee member.

(c) The Board or compensation committee shall obtain and rely upon appropriate data as to comparability prior to approving the terms of compensation. Appropriate data may include the following:

(1) Compensation levels paid by similarly situated organizations, both taxable and tax-exempt, for functionally comparable positions. “Similarly situated” organizations are those of a similar size and purpose and with similar resources;

(2) The availability of similar services in the geographic area of the corporation;

(3) Current compensation surveys compiled by independent firms; and

(4) Actual written offers from similar institutions competing for the services of the person who is the subject of the compensation arrangement.

As allowed by IRS Regulation 4958-6, if the corporation has average annual gross receipts (including contributions) for its three prior tax years of less than \$1 million, the Board or compensation committee will have obtained and relied upon appropriate data as to comparability

if it obtains and relies upon data on compensation paid by three comparable organizations in the same or similar communities for similar services.

(d) The terms of compensation and the basis for approving them shall be recorded in written minutes of the meeting of the Board or compensation committee that approved the compensation. Such documentation shall include:

(1) The terms of the compensation arrangement and the date it was approved;

(2) The Directors or members of the compensation committee who were present during debate on the transaction, those who voted on it, and the votes cast by each Director or committee member;

(3) The comparability data obtained and relied upon and how the data was obtained;

(4) If the Board or compensation committee determines that reasonable compensation for a specific position in the corporation or for providing services under any other compensation arrangement with the corporation is higher or lower than the range of comparability data obtained, the Board or committee shall record in the minutes of the meeting the basis for its determination;

(5) If the Board or committee makes adjustments to comparability data due to geographic area or other specific conditions, these adjustments and the reasons for them;

(6) Any actions taken with respect to determining if a Director or committee member had a conflict of interest with respect to the compensation arrangement, and if so, actions taken to make sure the member with the conflict of interest did not affect or participate in the approval of the transaction (for example, a notation in the records that after a finding of conflict of interest by a member, the member with the conflict of interest was asked to, and did, leave the meeting prior to a discussion of the compensation arrangement and a taking of the votes to approve the arrangement); and

(7) The minutes of Board or committee meetings at which compensation arrangements are approved must be prepared before the later of the date of the next Board or committee meeting or 60 days after the final actions of the Board or committee are taken with respect to the approval of the compensation arrangements. The minutes must be reviewed and approved by the Board and committee as reasonable, accurate, and complete within a reasonable period thereafter, normally prior to or at the next Board or committee meeting following final action on the arrangement by the Board or committee.

## **SECTION 6. STATEMENTS**

Each Director, principal officer, and member of a committee with the Board's delegated powers shall sign a statement upon election which affirms such person:

(a) Has received a copy of the conflicts of interest policy;

(b) Has read and understands the policy;

(c) Has agreed to comply with the policy; and

(d) Understands the corporation is charitable and in order to maintain its federal tax exemption it must engage primarily in activities which accomplish one or more of its tax-exempt purposes.

## **SECTION 7. PERIODIC REVIEWS**

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

(a) Whether compensation arrangements and benefits are reasonable, based on competent survey information, and the result of arm's-length bargaining; and

(b) Whether partnerships, joint ventures, and arrangements with management organizations conform to the corporation's written policies, are properly recorded, reflect reasonable investment or payments for goods and services, further charitable purposes, and do not result in inurement, impermissible private benefit, or in an excess benefit transaction.

## **SECTION 8. USE OF OUTSIDE EXPERTS**

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

### *ARTICLE 10 AMENDMENT OF BYLAWS*

## **SECTION 1. AMENDMENT**

Subject to any provision of law applicable to the amendment of bylaws of nonprofit public benefit corporations, these bylaws, or any of them, may be altered, amended, or repealed and new bylaws adopted by approval of the Board.

### *ARTICLE 11 AMENDMENT OF ARTICLES*

## **SECTION 1. AMENDMENT OF ARTICLES**

Amendment of the articles of incorporation may be adopted by the approval of the Board.

## **SECTION 2. CERTAIN AMENDMENTS**

Notwithstanding Section 1 of this Article, the corporation shall not amend its articles of incorporation to alter any statement which appears in the original articles of incorporation of the names and addresses of the first Directors of the corporation, nor the name or address of its initial agent, except to correct an error in such statement or to delete such statement after the

corporation has filed the statement required by Section 6210 of the California Nonprofit Public Benefit Corporation law.

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

**SECTION 1. PROHIBITION AGAINST SHARING CORPORATE PROFITS AND ASSETS**

No Director, officer, employee, or other person connected with the corporation, or any private individual, shall receive at any time any of the net earnings or pecuniary profit from the operations of the corporation; provided, however, that this provision shall not prevent payment to any such person of reasonable compensation for services performed for the corporation in effecting any of its public or charitable purposes, provided that such compensation is otherwise permitted by these bylaws and is fixed by resolution of the Board; and no such person or persons shall be entitled to share in the distribution of, and shall not receive, any of the corporate assets on dissolution of the corporation. All Directors shall be deemed to have expressly consented and agreed that on such dissolution or winding up of the affairs of the corporation, whether voluntarily or involuntarily, the assets of the corporation, after all debts have been satisfied, shall be distributed as required by the articles of incorporation and not otherwise.

**CERTIFICATE OF ADOPTION**

KNOW ALL PERSONS BY THESE PRESENTS:

That the undersigned does hereby certify that the undersigned is the Secretary of the Eureka Valley Foundation, a California Nonprofit Public Benefit Corporation; that the above and foregoing Bylaws of said corporation were duly and regularly adopted as such by the Board of Directors of said corporation, and that the above and foregoing Bylaws are now in full force and effect.

Dated: 11/21/2017

/signature/

Mary Jackman, Secretary