

# BYLAWS OF THE HIGHLAND PARK WEST BALCONES AREA NEIGHBORHOOD ASSOCIATION, INC.

These Bylaws govern the affairs of the Highland Park West Balcones Area Neighborhood Association, Inc., a nonprofit corporation.

## ARTICLE 1 OFFICES

### Principal Office

1.01. The Corporation's principal office in Texas will be in Austin, Texas at the home of the current Board President. The Board may change the location of the principal office of the Corporation.

### Registered Office and Registered Agent

1.02. The Corporation will maintain a registered office and a registered agent in Texas. The registered office will be the Corporation's principal office and the registered agent will be the current Board President. The Board may change the registered office and the registered agent as permitted in the Texas Non-Profit Corporation Act.

1.03. The Corporation is a 501 (c)(4) civic organization as determined under the Internal Revenue Code. The Corporation was established to perform charitable activities. Specifically, the Corporation is organized to preserve and enhance the neighborhood in northwest Austin, Texas; to foster a closer, more genuine community of neighbors; to provide a forum for pursuing a variety of goals beneficial to the neighborhood; and to improve the quality of life in the neighborhood in matters such as land use, zoning, environmental protection, public services, traffic, safety, consumer protection and other matters of neighborhood concern.

## ARTICLE 2 MEMBERS

### Class of Members

2.01. The Corporation will have two classes of members: a) Regular Members and b) Honorary Members.

Regular Members shall meet the criteria described in Section 2.02. Honorary Members are elected by the Board as described in Section 2.02.

### Admitting Members and Renewing Membership

2.02. Persons may be admitted to membership in the Corporation by the Board or a committee designated by the Board to handle such matters. The Board or a Board-designated committee may adopt and amend application procedures and qualifications for membership in the Corporation.

Unless and until amended by the majority of the Board or a Board-designated committee, the membership qualifications described in this Article shall govern the admission to membership.

Regular Members. Any person eighteen (18) years of age or older, domiciled within the Boundaries (as hereinafter defined) and whose primary residence is within the Boundaries may apply for a Regular Membership.

The boundaries ("Boundaries") of the Association are the following streets in Austin, Texas:

- a) R.M. 2222 to Northland Drive;
- b) MoPac to Hancock Drive to Bull Creek Road to 45th Street to MoPac;
- c) 35th Street to Old Bull Creek Road; and
- d) Mt. Bonnell Road.

Any residence situated on a single tract, lot or other property which immediately borders any of the above-referenced boundary streets shall be deemed to be within the Boundaries.

An applicant shall become a member effective the day of receipt of payment of the required annual dues. At a minimum, evidence that consists of the prospective member's first and last name and address will be considered satisfactory.

If a membership becomes six (6) months past due, the member will be moved to an inactive list. Then if the membership is renewed, the current date will be the date of renewal. Any membership renewed after being expired for fewer than six (6) months will have the original membership date as the renewal date.

Honorary Members. Honorary Membership may be conferred upon persons who have performed services which tend to further the purposes of the Association or who otherwise are deemed by the Board to be appropriate for Honorary Membership. The election of Honorary Members shall be by a majority vote of the Board. Honorary Members shall not vote and shall pay no Association dues.

#### Privacy of Membership Information

The membership list is for the Corporation's internal use only. The Corporation will not release membership information outside of the Corporation.

### **Membership Fees and Dues**

2.03. The Board may set and change the amount of the annual dues payable to the Corporation by Regular Members.

Unless and until amended by the majority of the Board or a Board-designated committee, the membership fees and dues described in this Article shall govern the admission to membership. A household in which only one adult applies for membership must, in order to be approved and for membership to be granted, be accompanied by the payment of Ten Dollars (\$10.00) for dues. A household in which two or more adults apply for membership must, in order to be approved and for membership to be granted, be accompanied by the payment of Ten Dollars (\$10.00) plus Five Dollars (\$5.00) for each additional household membership for annual dues. In the event one resident of a household applies for membership and then additional adult residents of the same household apply for membership, the additional applications for membership must be accompanied by the payment of Five Dollars (\$5.00) per member. A cancelled check is considered proof of membership.

### **Voting Rights**

2.04. Each Regular Member is entitled to one (1) vote on each matter submitted to a vote of the members. Honorary Members are not entitled to any votes.

### **Resolving Disputes**

2.05. In any dispute between members relating to the Corporation's activities, all parties involved will cooperate in good faith to resolve the dispute. If the parties cannot resolve a dispute among themselves, they will cooperate to select one or more mediators to help resolve it. If no timely resolution of the dispute occurs through mediation, any party may demand binding arbitration as described in Civil Practice and Remedies Code Section 171.021 only if the parties have met together with a mediator. This paragraph will not apply to a dispute involving the Corporation as a party relating to the sanctioning, suspending, or expelling a member from the Corporation. The Board has discretion to authorize using corporate funds for mediating or arbitrating a dispute described in this paragraph.

### **Resignation**

2.06. Any member may resign from the Corporation by submitting a written resignation to the secretary. The resignation need not be accepted by the Corporation to be effective.

### **Reinstatement**

2.07. A former member may submit a written request for reinstatement of membership. The Board or a committee designated by the Board to handle the matter may reinstate membership on any reasonable terms that the Board or committee deems appropriate.

### **Transferring Membership**

2.08. Membership in any voting class of membership of the Corporation is transferable or assignable to any other adult person residing with the member so long as the transferee or assignee meets the same criteria for membership as in effect at the time of the transfer or assignment; provided, however, that such application for such transfer or assignment must be made by the member to the Board or the Board-designated committee and the transferee/assignee must be approved in the same fashion as specified in Article 2.02 of these Bylaws for each respective voting class of membership. Honorary Memberships are not transferable or assignable. Membership terminates when the Corporation dissolves. Membership is not a property right that may be transferred or assigned after a member dies.

### **Waiving Interest in Corporate Property**

2.09. The Corporation owns all real and personal property, including all improvements located on the property, acquired by the Corporation. A member has no interest in specific property of the Corporation. Each member waives the right to require partition of all or part of the Corporation's property.

## **ARTICLE 3 MEETINGS OF MEMBERS**

### **Annual Meeting**

3.01. Each year the Board will hold an annual members' meeting between Labor Day and Thanksgiving. At the annual meeting, the members will elect directors and transact any other business that may come before the meeting. If, in any year, the election of directors is not held on the day designated for the annual meeting, or at any adjournment of the annual meeting, the Board will call a special meeting of the members, as soon as possible, to elect directors.

### **Special Meetings**

3.02. Special meetings of the members may be called by the president, the Board, or not less than one-sixth of the voting members. Written or printed notice of any special meeting will be delivered to each member household not less than seven (7) days before the date of the meeting by mail. Additional means of communication will include the newsletter, email, and postings on the website.

### **Place of Meeting**

3.03. The Board may designate any place, inside Austin, Texas, as the place of meeting for any annual meeting or for any special meeting called by the Board.

### **Notice of Meetings**

3.04. Written or printed notice of any members' meeting, including the annual meeting, will be delivered to each member household not less than ten (10) nor more than sixty (60) days before the date of the meeting by mail. Additional means of communication will include the newsletter, email, and postings on the website(s).

### **Eligibility to Vote at Members' Meetings**

3.05. A member in good standing, one who has paid dues within twelve (12) months of the meeting date and is not suspended, is entitled to vote at a meeting of the members of the corporation. The Board will prepare an alphabetical list of all members, including their addresses and the current status of their membership, entitled to notice of any meeting of members. Any member entitled to vote at the meeting is entitled to access to the list for the purpose of communicating with other members.

### **Quorum**

3.06. Members holding one-twentieth of the votes that may be cast at a meeting who attend the meeting in person will constitute a quorum at a meeting of members. The members present at a duly called or held meeting at which a quorum is present may continue to transact business, even if enough members leave so that less than a quorum remains. However, no action may be approved without the vote of at least a majority of the number of members required for a quorum. If a quorum is not present at any time during a meeting, a majority of the members who are present may adjourn and reconvene the meeting once without further notice.

### **Actions of Membership**

3.07. The membership will try to act by consensus. However, if a consensus is not available on a matter or proposal, the vote of a majority of voting members in good standing, present and entitled vote at a meeting at which a quorum is present, is enough to constitute the act of the membership unless law or the bylaws require a greater number. Voting will be by ballot or voice, except that any election of directors will be by ballot if demanded by any voting member at the meeting before the voting begins.

### **Proxies**

3.08 A member entitled to vote at a meeting of members of the corporation may vote by proxy.

## **ARTICLE 4 BOARD OF DIRECTORS**

### **Management of Corporation**

4.01. The Board will manage corporate affairs.

### **Number, Qualifications, and Tenure of Directors**

4.02. The number of directors will be nine. Directors must be voting members in good standing. Each director will serve for a term of two years. The directors' terms will be staggered so that the terms of four of the directors will begin in even-numbered years; the terms of the other five, in odd-numbered years.

### **Nominating Directors**

4.03. At any meeting at which the election of a director is held, a voting member in good standing or director may nominate a person with the second of any other voting member in good standing or director. In addition to nominations made at meetings, a nominating committee will consider possible nominees and make nominations for each election of directors. The secretary will submit a report from the nominating committee, which includes the slate of directors and officers, at the meeting at which the election occurs.

### **Electing Directors**

4.04. A person who meets the qualifications for director and who has been duly nominated maybe elected as a director. Directors will be elected by the vote of the membership. Each director will hold office until a successor is elected and qualifies. A director may be elected to succeed himself or herself as director.

Directors will be elected at the annual meeting of the members.

### **Vacancies**

4.05. The Board will fill any vacancy in the Board and any director position to be filled due to an increase in the number of directors. A vacancy is filled by the affirmative vote of a majority of the remaining directors, even if it is less than a quorum of the Board, or if it is a sole remaining director. A director selected to fill a vacancy will serve for the unexpired term of his or her predecessor in office.

### **Annual Board Meeting**

4.06. The annual meeting of the Board may be held without notice other than these Bylaws. The annual Board meeting will be immediately after, and at the same place as, the annual members' meeting.

### **Regular Board Meetings**

4.07. The monthly meeting will be held at a time and place designated by the board and members will be notified in advance by newsletter, e-mail or posting on the website.

### **Special Board Meetings**

4.08. Special Board meetings may be called by, or at the request of, the president or any three directors. A person or persons authorized to call special meetings of the Board may fix any place within Austin, Texas, as the place for holding a special meeting. The person or persons calling a special meeting will inform the secretary of the corporation of the information to be included in the notice of the meeting. The secretary of the Corporation will give notice to the directors, as these Bylaws require.

### **Notice**

4.09. Written or printed notice of any special meeting of the Board will be delivered to each director not less than five (5), nor more than sixty (60) days before the date of the meeting. The notice will state the place, day, and time of the meeting; who called and the purpose or purposes for which it is called.

### **Quorum**

4.10. A majority of the number of directors then in office constitutes a quorum for transacting business at any Board meeting. The directors present at a duly called or held meeting at which a quorum is present may continue to transact business even if enough directors leave the meeting so that less than a quorum remains. However, no action may be approved without the vote of at least a majority of the number of directors required for a quorum. If a quorum is never present at any time during a meeting, a majority of the directors present may adjourn and reconvene the meeting once without further notice.

### **Decision Without Meeting**

4.11. Any decision required or permitted to be made at a meeting of the members, Board, or any committee of the Corporation may be made without a meeting. A decision without a meeting may be made if a written consent to the decision is signed by all the persons entitled to vote on the matter.

The original signed consents will be placed in the Corporation minute book and kept with the corporate records. Furthermore, in accordance with the articles of incorporation, action may be taken without a meeting when there are signed written consents by the number of members, directors, or committee members whose votes would be necessary to take action at a meeting at which all such persons entitled to vote were present and voted. Each written consent must be signed and bear the date of signature of the person signing it. A telegram, telex, cablegram, or similar transmission by a member, director, or committee member, or a photographic, facsimile, or similar reproduction of a signed writing, will be treated as an original being signed by the member, director, or committee member.

If it is necessary to make a decision outside a monthly board meeting, then an action may be taken without a meeting through an e-mail communication. A majority of the number of directors then in office constitutes a quorum for transacting business. The Board will try to act by consensus.

However, if a consensus is not available, the vote of a majority of directors present is enough to constitute the act of the Board. A director who is present at a meeting and abstains from a vote is considered to be present and voting for the purpose of determining the Board's decision.

Consents must be delivered to the Corporation. A consent signed by fewer than all members, directors, or committee members is not effective to take the intended action unless the required number of consents are delivered to the Corporation within sixty (60) days after the date that the earliest-dated consent was delivered to the Corporation. Delivery must be made by hand, or by certified or registered mail, return receipt requested. The delivery may be made to the Corporation's registered office, registered agent, principal place of business, transfer agent, registrar, exchange agent, or an officer or agent having custody of books in which the relevant proceedings are recorded. If the delivery is made to the Corporation's principal place of business, the consent must be addressed to the president or principal executive officer.

Any action taken will be an addendum to the previous month's Board meeting minutes.

#### **Duties of Directors**

4.12. Directors will discharge their duties, including any duties as committee members, in good faith, with ordinary care, and in a manner they reasonably believe to be in the Corporation's best interest. In this context, the term "ordinary care" means the care that ordinarily prudent persons in similar positions would exercise under similar circumstances.

Directors are not deemed to have the duties of trustees of a trust with respect to the Corporation or with respect to any property held or administered by the Corporation, including property that maybe subject to restrictions imposed by the donor or transferor of the property.

#### **Duty To Avoid Improper Distributions**

4.13. Directors are expected to be fiscally responsible with the assets of the Corporation. Fiscal responsibility includes acting in good faith and with ordinary care, and in a manner they reasonably believe to be in the Corporation's best interest. Furthermore, directors are protected from liability if, in exercising ordinary care, they acted in good faith.

#### **Actions of Board of Directors**

4.14. The Board will try to act by consensus. However, if a consensus is not available, the vote of a majority of directors present and voting at a meeting at which a quorum is present is enough to constitute the act of the Board, unless the act of a greater number is required by law or by some other provision of these Bylaws. A director who is present at a meeting and abstains from a vote is considered to be present and voting for the purpose of determining the Board's decision.

#### **Proxies**

4.15. A director may vote by proxy.

#### **Compensation**

4.16. Directors will not receive salaries for their services as directors.

#### **Removing Directors**

4.17. The Board may vote to remove a director at any time only for good cause. Good cause for removal of a director includes the unexcused failure to attend three consecutive Board meetings. A meeting to consider removing

a director may be called and noticed following the procedures provided in these Bylaws for a special meeting of the Board of Directors of the corporation. The notice of the meeting will state that the issue of possibly removing the director will be on the agenda and the notice will state the proposed cause for removal.

At the meeting, the director may present evidence of why he or she should not be removed.

A director may be removed by a vote of the majority of the Board.

## **ARTICLE 5 OFFICERS**

### **Officer Positions**

5.01 The Corporation's officers will be a president, a secretary, vice president, and a treasurer. The Board may create additional officer positions, define the authority and duties of each such position, and elect or appoint persons to fill the positions. The same person may hold any two or more offices, except for president and secretary.

### **Election and Term of Office**

5.02. The Corporation's officers will be elected annually by the Board at the annual Board meeting. Each officer will hold office until a successor is duly selected and qualifies. An officer may be elected to succeed himself or herself in the same office.

### **Removal**

5.03. Any officer elected by the Board may be removed by the membership only with good cause.

### **Vacancies**

5.04. The Board may select a person to fill a vacancy in any office for the unexpired portion of the officer's term.

### **President**

5.05. The president is the Corporation's chief executive officer. He or she will supervise and control all of the Corporation's business and affairs and will preside at all meetings of the members and of the Board. The president will perform other duties prescribed by the Board and all duties incident to the office of president.

### **Vice President**

5.06. When the president is absent, cannot act, or refuses to act, a vice president will perform the president's duties. When acting in the president's place, the vice president has all the powers of and is subject to all the restrictions on the president. The vice president will act as assistant treasurer. The vice president will perform other duties as assigned by the president or Board.

### **Treasurer**

5.07. The treasurer will:

- (a) Have charge and custody of and be responsible for all the Corporation's funds and securities.
- (b) Receive and give receipts for moneys due and payable to the Corporation from any source.
- (c) Deposit all moneys in the Corporation's name in banks, trust companies, or other depositories as these Bylaws provide or as the Board or president directs.
- (d) Write checks and disburse funds to discharge the Corporation's obligations. However, funds may not be drawn from the Corporation or its accounts for amounts greater than One Hundred Dollars (\$100.00) without the approval of the Board.
- (e) Maintain the Corporation's financial books and records.

- (f) Prepare financial reports at least annually.
- (g) Perform other duties as assigned by the president or the Board.
- (h) If the Board requires, give a bond for faithfully discharging his or her duties in a sum and with a surety as determined by the Board.
- (i) Perform all of the duties incident to the office of treasurer.
- (j) Keep a register of the mailing address of each member, director, officer, and employee of the Corporation.

### **Secretary**

5.08. The Secretary will:

- (a) Give or oversee notification of events, as provided in the bylaws or as required by law.
- (b) Take minutes of the meetings of the members and the Board and keep the minutes as part of the corporate records.
- (c) Maintain custody of the corporate records and seal.
- (d) Affix the corporate seal to all documents as authorized.
- (e) Perform duties as assigned by the president or the Board.
- (f) Perform all duties incident to the office of secretary.
- (g) Act as liaison between the Board and the newsletter editor.

## **ARTICLE 6 COMMITTEES**

### **Establishing Committees**

6.01. The Board may adopt a resolution establishing one or more committees delegating specified authority to a committee, and appointing or removing members of a committee. A committee will include one or more directors and may include persons who are not directors. The Board may establish qualifications for membership on a committee.

Establishing a committee or delegating authority to it will not relieve the Board, or any individual director, of any responsibility imposed by these Bylaws or otherwise imposed by law. No committee has the authority of the Board to:

- (a) Amend the articles of incorporation.
- (b) Adopt a plan of merger or of consolidation with another corporation.
- (c) Authorize the sale, lease, exchange, or mortgage of all or substantially all of the Corporation's property and assets.
- (d) Authorize voluntary dissolution of the Corporation.
- (e) Revoke proceedings for voluntary dissolution of the Corporation.
- (f) Adopt a plan for distributing the Corporation's assets.
- (g) Amend, alter, or repeal these Bylaws.
- (h) Elect, appoint, or remove a member of a committee or a director or officer of the Corporation.
- (i) Approve any transaction to which the Corporation is a party and that involves a potential conflict of interest as defined in paragraph 7.04, below.
- (j) Take any action outside the scope of authority delegated to it by the Board.
- (k) Take final action on a matter requiring membership approval.

### **Specific Committees**

6.02. There will be a review of the specific committees on an annual basis, after the annual Board election. Committees such as the following will be established: Membership, Nominating, Neighborhood Plan and Zoning/Land Use, Neighborhood Safety, Traffic & Transportation, Communications, Beautification & Parks, Events, and Community Liaison .

### **Term of Office**

6.03. Each committee member will continue to serve on the committee until the next annual members' meeting and until a successor is appointed. However, a committee member's term may terminate earlier if the committee is terminated, or if the member dies, ceases to qualify, resigns, or is removed as a member. A vacancy on a committee may be filled by an appointment made in the same manner as an original appointment. A person appointed to fill a vacancy on a committee will serve for the unexpired portion of the terminated committee member's term.

#### **Chair and Vice-Chair**

6.04. One member of each committee may be designated as the committee chair, and another member of each committee will be designated as the vice-chair. The chair and vice-chair will be appointed by the Board. The chair will call and preside at all meetings of the committee. When the chair is absent, cannot act, or refuses to act, the vice-chair will perform the chair's duties. When a vice-chair acts for the chair, the vice-chair has all the powers of and is subject to all the restrictions on the chair.

#### **Actions of Committees**

6.05. Committees will try to take action by consensus. However, if a consensus is not available, the vote of a majority of committee members present and voting at a meeting is enough to constitute the act of the committee unless the act of a greater number is required by statute or by some other provision of these Bylaws. A committee member who is present at a meeting and abstains from a vote is considered to be present and voting for the purpose of determining the act of the committee.

#### **Proxies**

6.06. A committee member may not vote by proxy.

#### **Compensation**

6.07. Committee members may not receive salaries for their services.

## **ARTICLE 7 TRANSACTIONS OF CORPORATION**

#### **Contracts**

7.01. The Board may 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.

#### **Deposits**

7.02. All the Corporation's funds will be deposited to the credit of the Corporation in banks, trust companies, or other depositories that the Board selects.

#### **Gifts**

7.03. The Board may accept, on the Corporation's behalf, any contribution, gift, bequest, or devise for the general purposes or for any special purpose of the Corporation. The Board may make gifts and give charitable contributions not prohibited by these Bylaws, the articles of incorporation, state law, and provisions set out in federal tax law that must be complied with to maintain the Corporation's federal and state tax status.

#### **Potential Conflicts of Interest**

7.04. The Corporation may not make any loan to a director or officer of the Corporation. A member, director, officer, or committee member of the Corporation may lend money to and otherwise transact business with the

Corporation except as otherwise provided by these Bylaws, the articles of incorporation, and applicable law. Such a person transacting business with the Corporation has the same rights and obligations relating to those matters as other persons transacting business with the Corporation. The Corporation may not borrow money from or otherwise transact business with a member, director, officer, or committee member of the Corporation unless the transaction is described fully in a legally binding instrument and is in the Corporation's best interests. The Corporation may not borrow money from or otherwise transact business with a member, director, officer, or committee member of the Corporation without full disclosure of all relevant facts and without the Board's or the members' approval, not including the vote of any person having a personal interest in the transaction.

### **Prohibited Acts**

7.05. As long as the Corporation exists, and except with the Board's or the members' prior approval, no member, director, officer, or committee member of the Corporation may:

- (a) Do any act in violation of these Bylaws or a binding obligation of the Corporation.
- (b) Do any act with the intention of harming the Corporation or any of its operations.
- (c) Do any act that would make it impossible or unnecessarily difficult to carry on the Corporation's intended or ordinary business.
- (d) Receive an improper personal benefit from the operation of the Corporation.
- (e) Use the Corporation's assets, directly or indirectly, for any purpose other than carrying on the Corporation's business.
- (f) Wrongfully transfer or dispose of Corporation property, including intangible property such as good will.
- (g) Use the Corporation's name (or any substantially similar name) or any trademark or trade name adopted by the Corporation, except on behalf of the Corporation in the ordinary course of its business.
- (h) Disclose any of the Corporation's business practices, trade secrets, or any other information not generally known to the business community to any person not authorized to receive it.

## **ARTICLE 8 BOOKS AND RECORDS**

### **Required Books and Records**

8.01. The Corporation will keep correct and complete books and records of account. The books and records include:

- (a) A file-endorsed copy of all documents filed with the Texas Secretary of State relating to the Corporation, including but not limited to the articles of incorporation, and any articles of amendment, restated articles, articles of merger, articles of consolidation, and statement of change of registered office or registered agent.
- (b) A copy of all bylaws, including these Bylaws, and any amended versions or amendments to them.
- (c) Minutes of the proceedings of the members, Board, and committees having any of the authority of the Board.
- (d) A list of the names and addresses of the members, directors, officers, and any committee members of the Corporation.
- (e) A financial statement showing the Corporation's assets, liabilities, and net worth at the end of the three most recent fiscal years.
- (f) A financial statement showing the Corporation's income and expenses for the three most recent fiscal years.
- (g) All rulings, letters, and other documents relating to the Corporation's federal, state, and local tax status.
- (h) The Corporation's federal, state, and local tax information or income tax returns for each of the Corporation's three most recent tax years.

### **Inspection and Copying**

8.02. Any member, director, officer, or committee member of the Corporation may inspect and receive copies of all the corporate books and records required to be kept under the bylaws. Such a person may, by written request, inspect

or receive copies if he or she has a proper purpose related to his or her interest in the Corporation. He or she may do so through his or her attorney or other duly authorized representative. The inspection may take place at a reasonable time, no later than ten working days after the Corporation receives a proper written request. The Board may establish reasonable copying fees, which may cover the cost of materials and labor. The Corporation will provide requested copies of books or records no later than ten (10) working days after receiving a proper written request.

### **Audits**

8.03. Any member may have an audit conducted of the Corporation's books. That member bears the expense of the audit unless the members vote to authorize payment of audit expenses. The member requesting the audit may select the accounting firm to conduct it. A member may not exercise these rights so as to subject the Corporation to an audit more than once in any fiscal year.

## **ARTICLE 9 FISCAL YEAR**

9.01. The Corporation's fiscal year of the Corporation will begin on the first day January and end on the last day in December in each year.

## **ARTICLE 10 INDEMNIFICATION**

### **When Indemnification Is Required, Permitted, and Prohibited**

10.01. (a) The Corporation will indemnify a director, officer, member, committee member, employee, or agent of the Corporation who was, is, or may be named defendant or respondent in any proceeding as a result of his or her actions or omissions within the scope of his or her official capacity in the Corporation. For the purposes of this article, an agent includes one who is or was serving at the Corporation's request as a director, officer, partner, venturer, proprietor, trustee, partnership, joint venture, sole proprietorship, trust, employee-benefit plan, or other enterprise.

(b) The Corporation will indemnify a person only if he or she acted in good faith and reasonably believed that his or her conduct was in the Corporation's best interests. In case of a criminal proceeding, the person may be indemnified only if he or she had no reasonable cause to believe that the conduct was unlawful. The Corporation will not indemnify a person who is found liable to the Corporation or is found liable to another on the basis of improperly receiving a personal benefit from the Corporation. A person is conclusively considered to have been found liable in relation to any claim, issue, or matter if the person has been adjudged liable by a court of competent jurisdiction and all appeals have been exhausted. Termination of a proceeding by judgment, order, settlement, conviction, or on a plea of nolo contendere or its equivalent does not necessarily preclude indemnification by the Corporation.

(c) The Corporation will pay or reimburse expenses incurred by a director, officer, member, committee member, employee, or agent of the Corporation in connection with the person's appearance as a witness or other participation in a proceeding involving or affecting the Corporation when the person is not a named defendant or respondent in the proceeding.

(d) In addition to the situations otherwise described in this paragraph, the Corporation may indemnify a director, officer, member, committee member, employee, or agent of the Corporation to the extent permitted by law. However, the Corporation will not indemnify any person in any situation in which indemnification is prohibited by paragraph 10.01(a), above.

(e) The corporation may advance expenses incurred or to be incurred in the defense of a proceeding to a person who might be eventually be entitled to indemnification, even though there has been no final disposition of the proceeding. Advancement of expenses may occur only when the procedural conditions specified in paragraph 10.03(c), below, have been satisfied. Furthermore, the Corporation will never advance expenses to a person before final disposition of a proceeding if the person is a named defendant or respondent in an proceeding brought by the

Corporation or one or more members or if the person is alleged to have improperly received a personal benefit or committed other willful or intentional misconduct.

### **Extent and Nature of Indemnity**

10.02. The indemnity permitted under these Bylaws includes indemnity against judgments, penalties, (including excise and similar taxes), fines, settlements, and reasonable expenses (including attorney's fees) actually incurred in connection with the proceeding. If the proceeding was brought by or on behalf of the Corporation, the indemnification is limited to reasonable expenses actually incurred by the person in connection with the proceeding.

### **Procedures Relating to Indemnification Payments**

10.03. (a) Before the Corporation may pay any indemnification expenses (including attorney's fees), the Corporation must specifically determine that indemnification is permissible, authorize indemnification, and determine that expenses to be reimbursed are reasonable, except as provided in subparagraph (c), below. The Corporation may make these determinations and decisions by anyone of the following procedures:

- (i) Majority vote of a quorum consisting of directors who, at the time of the vote, are not named defendants or respondents in the proceeding.
- (ii) If such a quorum cannot be obtained, by a majority vote of a committee of the Board, designated to act in the matter by a majority vote of all directors, consisting solely of two or more directors who at the time of the vote are not named defendants or respondents in the proceeding.
- (iii) Determination by special legal counsel selected by the Board by the same vote as provided in subparagraphs (i) or (ii), above, or if such a quorum cannot be obtained and such a committee cannot be established, by a majority vote of all directors.
- (iv) Majority vote of members, excluding directors or other members who are named defendants or respondents in the proceeding.

(b) The Corporation will authorize indemnification and determine that expenses to be reimbursed are reasonable in the same manner that it determines whether indemnification is permissible. If special legal counsel determines that indemnification is permissible, authorization of indemnification and determination of reasonableness of expenses will be made as specified by subparagraph (a)(iii), above, governing selection of special legal counsel. A provision contained in the articles of incorporation, or a resolution of members or the Board that requires the indemnification permitted by paragraph 10.01, above, constitutes sufficient authorization of indemnification even though the provision may not have been adopted or authorized in the same manner as the determination that indemnification is permissible.

(c) The Corporation will advance expenses before final disposition of a proceeding only after it determines that the facts then known would not preclude indemnification. The determination that the facts then known to those making the determination would not preclude indemnification and authorization of payment will be made in the same manner as a determination that indemnification is permissible under subparagraph (a), above.

In addition to this determination, the Corporation may advance expenses only after it receives a written affirmation and undertaking from the person to receive the advance. The person's written affirmation will state that he or she has met the standard of conduct necessary for indemnification under these Bylaws. The written undertaking will provide for repayment of the amounts advanced by the Corporation if it is ultimately determined that the person has not met the requirements for indemnification. The undertaking will be an unlimited general obligation of the person, but it need not be secured and may be accepted without reference to financial ability to repay.

(d) Any indemnification or advance of expenses will be reported in writing to the Corporation's members. The report will be made with or before the notice or waiver of notice of the next membership meeting, or with or before the next submission to members of a consent to action without a meeting. In any case, the report will be sent within the 12-month period immediately following the date of the indemnification or advance.

## **ARTICLE 11 AMENDING BYLAWS**

These Bylaws may be altered, amended, or repealed, and new bylaws may be adopted by the Board of Directors. Proposed changes to the bylaws will be posted on the website for member comment. A deadline for comments will be set and feedback will be given to the bylaws committee, who will present the proposed changes to the Board, at a monthly meeting, for approval.