

BYLAWS OF THE
EL CAJON BOULEVARD
BUSINESS IMPROVEMENT ASSOCIATION

Approved January 2017

ARTICLE I

Purposes

Section 1. Purposes The purposes for which this corporation is formed are those set forth in the Articles of Incorporation. All activities shall be nonpartisan, nonsectarian, nondiscriminatory against any person by reason of race, creed, color, sex or national origin.

ARTICLE II

Offices

Section 1. Principal Offices. The principal office for the transaction of business of this corporation is hereby fixed and located in the County of San Diego at such place as may from time to time be designated by the Board of Directors.

ARTICLE III

Membership

Section 1. Voting Membership The members of this corporation shall be those persons (including corporations and other associations) paying annual business license fees to the business improvement district. All such members shall have the right to vote on all matters requiring a vote of the members of the corporation under law, the Articles of Incorporation or these Bylaws

Section 2. Associate Membership Associate membership may be established by the Board of Directors upon such terms and conditions as it deems in the best interest of the district.

Reference to "Business members" and "Business membership" in these Bylaws shall mean members as set forth in Article III, Section 1. This establishes an Associate Membership with voting rights as defined in Article 5 Section 2 and with dues fixed in the amount of \$100. annually.

Section 3. Annual Dues Each member must pay, within the time and on the conditions set by the Board of Directors, the annual dues and assessments in amounts to be fixed from time to time by the Board.

Section 4. Termination of Membership

A. The membership and all rights of membership shall automatically terminate on the occurrence of any of the; following causes:

1. The voluntary resignation of a member with notice as prescribed below;
2. The death of a member;

3. The dissolution of a corporate member;
 4. The nonpayment of dues or assessments, subject to the limitations hereinafter set forth; or
 5. Expulsion of a member based on the good faith determination by the Board of Directors, or a committee or person authorized by the Board of Directors to make such a determination, that the member has failed in a material and serious manner to observe the corporation's rules of conduct, or has engaged in conduct materially and seriously prejudicial to the purposes and interests of the corporation, subject to the limitations hereinafter set forth.
- B. The membership of any member shall automatically terminate on such member's written request for such termination delivered to the President or Secretary of the corporation personally or deposited in the United States first class mail postage prepaid.
- C. The membership of any member who is subject to expulsion or who fails to pay his or her dues or assessments when due and within sixty (60) days thereafter shall automatically terminate at the end of sixty (60) day period, provided such member was given both fifteen (15) days' prior written notice of the termination stating the reasons therefore and a timely opportunity to be heard on the matter of the termination. The notice shall be given personally to such member or sent by certified mail to the last address of such member as shown on the records of the corporation. The opportunity to be heard may at the election of such member, be oral or in writing and shall occur not less than five (5) days before the effective date of the termination. The hearing shall be conducted at the principal office of the corporation or by a committee composed of five (5) or more members of the Board of Director as designated by the President. The hearing shall be presided over by the President of the corporation, who shall perform the following duties:
1. Read the charges against the subject member;
 2. Require that the charges be verified by the testimony of the person or persons making them;
 3. Hear any other witnesses against the subject member;
 4. Allow the subject member to cross-examine each witness following the testimony of that witness;
 5. Allow the subject member to make a statement in his or her own behalf;
 6. Allow the subject member to call witnesses in his or her own behalf; and

7. Allow the members of the committee conducting the hearing to question the witnesses after they have been questioned by the subject member.

The committee conducting the hearing shall conduct the hearing in good faith and in a fair and reasonable manner. The committee shall have the exclusive power and authority to decide that the proposed termination not take place.

- D. All the rights of a member in the corporation shall cease on the termination of such member's membership. Termination shall not relieve the member from any obligation for charges incurred, services or benefits actually rendered, dues, assessments, or fees. The corporation shall retain the right to enforce any such obligation or obtain damages for its breach.

ARTICLE IV **Meetings of Members**

Section 1. Annual Meetings Annual meetings of the corporation shall be held on the second Thursday of January of each year at San Diego, California, as may be designated by the Board of Directors in a notice of such meeting given. The election of directors shall take place at the annual meeting in accordance with Article V Section 4

Section 2. Monthly Meetings Monthly meetings of the members of this corporation shall be held on the second Thursday of each month in San Diego, California, or as may be designated by the Board in a notice of such meeting place.

Section 3. Special Meetings Special Meetings of the members of this corporation may be called at any time by the President, or by five percent (5%) of the membership. The object of such meetings shall be stated in the notice of such meeting, and no business shall be transacted other than stated in the notice of such meeting.

Section 4. Quorum Five percent (5%) of the members in good standing shall constitute a quorum for the transaction of business at any meeting of the members. Members must be present or give their proxies to another member: however, no member may carry more than one proxy at any meeting.

Section 5. Voting There shall be no cumulative voting. Members may vote by written proxy. A majority of the members present in person or by written proxy at a meeting at which a quorum is present shall be sufficient to decide the matter unless a vote of a larger proportion of the membership is required by law or these Bylaws. Members entitled to vote shall have the right to vote either in person or by a written proxy executed by such person and filed with the Secretary of the corporation, provided that said proxy is dated and signed. Proxies shall remain in effect for thirty (30) days or until revoked. No member may carry more than one proxy to any meeting.

Section 6. Notice of Meetings Written notice of all members' meetings-annual, monthly, or special-at which members are required or permitted to take action, shall be given personally or by first-class or certified mail not less than ten (10) nor more than ninety (90) days before the date of the meeting, to each member. The notice shall designate the date, time and place of the meeting and any items as required under Article IV. Section 8.

Section 7. Waiver of Notice The transactions of any meeting of the members, however called and noticed and wherever held, shall be as valid as though done at a meeting duly held after regular call and notice, if a quorum be present and if either before or after the meeting each of the members not present signs a written waiver of notice or a consent to holding such meeting or an approval of the minutes of the meeting.

In the case of a specially called meeting of members, a notice that a meeting will be held at a time requested by the person or persons calling the meeting, which meeting shall be held not less than thirty-five (35) days nor more than ninety (90) days after receipt of the written request from such person or persons by the President or Secretary of the corporation shall be sent to the members forthwith and in any event within twenty (20) days after the request was received.

Section 8. Notice of Certain Agenda Items Approval by the members of any of the following proposals, other than by unanimous approval by those entitled to vote is valid only if the notice or written waiver of notice states the general nature of the proposal or proposals:

- a. Removing a Director without cause;
- b. Filling vacancies on the Board;
- c. Amending the Articles of Incorporation or Bylaws;
- d. Approving a contract or transaction between the corporation and one or more directors, or between the corporation and any entity in which a Director has a material financial interest;
or
- e. Electing to wind up and dissolve the corporation.

The notice of any meeting at which Directors are to be elected shall include the names of all those who are nominees at the time the notice is given to the members.

Section 9. Action by Unanimous Written Consent Any action required or permitted to be taken by the members may be taken without a meeting if all members consent in writing to the action. The written consent or consents shall be filed with the minutes of the proceedings of the members. The action by written consent shall have the same force and effect as the unanimous vote of the members.

Section 10. Notice

A notice of each annual meeting, written ballots for election of Directors or otherwise, if any, and special meetings shall be given by the corporation; shall specify the place, time, day and hour of the meeting or the date on which the ballot shall be returned, if applicable; in the case of an annual meeting at which Directors shall be elected, shall specify the names of all those who are candidates for election of Directors at the time the notice is given, and in the case of special meetings, the nature of the business to be transacted at such meeting. Such notice shall be given in writing to every member of the corporation who, on the record date for notice of the meeting, is entitled to vote. Such notice shall be given either personally or by sending a copy thereof by first-class mail, postage prepaid, or by electronic transmission in accordance with the requirements of California Corporations Code Sections 20 and 7511 to the member's

address appearing on the books of the Corporation, at least ten (10) days but no more than ninety (90) days prior to the date fixed for such meeting.” and “Section 11. Participation in Meetings by Electronic Means Meetings of the members may be conducted through use of electronic video screen communication or electronic transmission by and to the corporation pursuant to California Corporations Code Sections 20 and 21 if:

(a) the corporation implements reasonable measures to provide members in person (or, if proxies are allowed, by proxy) a reasonable opportunity to participate in the meeting and to vote on matters submitted to the members, including an opportunity to read or hear the proceedings of the meeting substantially concurrently with those proceedings, and

(b) if any member votes or takes other action at the meeting by means of electronic transmission to the corporation or electronic video screen communication, a record of that vote or action is maintained by the corporation. Any request by a corporation to a member pursuant to California Corporations Code Section 20(b) for consent to conduct a meeting of members by electronic transmission by and to the corporation, shall include a notice that absent consent of the member pursuant to California Corporations Code Section 20(b), the meeting shall be held at a physical location.””*

ARTICLE V

Board of Directors

Section 1. Government. The affairs of the corporation shall be conducted by the Board of Directors.

Section 2. Number of Directors. .

The Board of Directors shall consist of not less than five (5) nor more than fourteen (14) directors, not less than seventy percent (70%) of whom shall be Business members of the corporation as described in Article III, Section 1. Associate members also may serve as Directors and may vote as a member of the board of directors.” *

Section 3. Quorum. A majority of the Directors in office at any time shall constitute a quorum for the transaction of business.

Section 4. Election and Term of Office. The original Directors shall serve an initial term expiring the first of January, 1989, or until as soon thereafter as their successors may be elected and qualified.

One-half of the Directors elected in January, 1989 shall serve a term of one year; the other one-half shall serve a term of two years. At the end of the term of Directors, successor Directors shall be elected by written ballot at the annual meeting of the members of the corporation, and shall hold office for the succeeding two years, beginning January 1 of said year and ending two years thereafter.

A Nominating Committee of at least three (3) Business Members of the corporation will be appointed by the President, with the advice and consent of the Board of Directors.

The Nominating Committee shall be charged to call for individuals to submit names, requesting

consideration for election as members of the Board of Directors of this corporation. Any candidate who is seeking an Associate membership may only be considered eligible if recommended by not less than two (2) Business members of the Board of Directors. The Nominating Committee shall consider these applications and will recommend from them a slate of candidates to be mailed to the Board and made known to the members by written notice of the annual meeting pursuant to Article IV. At the annual meeting additional nominations may be made from the floor. Those eligible to vote may cast as many votes by written ballot as there are vacancies to be filled, provided, however, no one casts more than one (1) vote for any candidate. A candidate must receive affirmative votes from a majority of eligible voters casting ballots to be elected. If all the vacancies should not be filled, then successive ballots for the remaining vacancies shall be held in a manner similar to the first balloting. A member may empower another to cast his or her vote by giving a written proxy.

Section 5. Powers of the Board of Directors Subject to the powers of the members as provided by law or as herein set forth all corporate powers of the corporation shall be exercised by or under the authority of, and the business and affairs of the corporation shall be controlled by the Board of Directors. Without limiting the generality of the foregoing, the Board of Directors shall have the following powers:

- (a) To select and remove all the other officers, agents, employees of the corporation, prescribe such powers and duties for them as may not be inconsistent with the law, with the Articles of Incorporation or these Bylaws, and fix their compensation.
- (b) To conduct, manage and control the affairs and business of the corporation, and to make such rules and regulations therefore not inconsistent with law, with the Articles of Incorporation or these Bylaws, as it deems best.
- (c) To change the principal office for the transaction of the business of the corporation from one location to another within the same city; to adopt, make and use a corporate seal and to alter the form thereof from time to time as in its judgment it may deem best, provided such seal at all time complies with the provisions of law.
- (d) To borrow money and incur indebtedness for the purpose of the corporation, and to cause to be executed and delivered therefore, in the corporate name, promissory notes, bonds, debentures, deeds of trust, mortgages, pledges, hypothecations, or other evidences of debt and securities therefore; subject to the approval of the membership at a noticed meeting as provided in Article IV.
- (e) To appoint other Committees as the Board of Directors may deem necessary and proper, consisting of such persons, and having such power and authority, as shall be specified by the Board of Directors.

Section 6. Operating Procedures The conduct not specifically stated herein of the Board, the Officers and the members shall be prescribed by the Statement of Operating Procedures adopted by the Board from time to time.

Section 7. Removal and Resignations of Directors

A. The Board may declare vacant the office of a Director on the occurrence of any of the following events:

1. The Director has been declared of unsound mind by a final order of court;
2. The Director has been convicted of a felony; or
3. The Director has been found by a final order or judgment of any court to have breached duties imposed by Section 7238 of the Corporations Code on directors who perform functions with respect to assets held in charitable trust.
4. The Director has missed at least three (3) consecutive board meetings without reasonable cause and a two-thirds majority of board members vote to remove said Director from office.

B. Any or all of the Directors may be removed without cause if, where the corporation has fewer than fifty (50) members, such removal shall be approved by a majority of all members pursuant to Section 5033 of the Corporations Code; or where the corporation has more than fifty (50) members, such removal shall be approved by the members within the meaning of Section 5034 of the Corporations Code.

C. Any Director may resign effective on giving written notice to the Board of Directors of the corporation, unless the notice specifies a later time for the Effectiveness of such resignation. If the resignation is effective at a future time,

A successor may be elected to take office when the resignation becomes effective.

Section 8. Vacancies Any vacancy or vacancies in the Board of Directors resulting from death, incapacity, resignation, removal, or otherwise, shall be filled by the remaining Board then in office. The election to fill a vacancy must be held no later than the third meeting following the determination of a vacancy. Mid-term vacancies shall be filled by the majority vote of the Board of Directors at any monthly or special meeting after notifying the general membership by newsletter or other written notice. All directors filling unexpired terms will hold office only until the next annual meeting. The election procedure shall follow Article V, Section 4, provided, however, that only the Directors shall vote.

Section 9. Place of Meeting Meetings of the Board of Directors shall be held at any place within the San Diego area which has been designated from time to time by resolution of the Board or by written consent of all members of the Board. In the absence of such designation, meetings shall be held at the principal office of the corporation. Special meetings of the Board may be held either at a place so designated or at the principal office.

Section 10. Organizing Meeting At the first regular meeting during the term of a newly elected Board of Directors, the Board of Directors shall set aside time for the purpose of organization,

election of officers, and the transaction of other business. All meetings other than regular meetings shall be duly noticed.

Section 11. Regular Meetings Regular meetings of the Board shall be held on the second Thursday of every month at 7:30 a.m. or at such other time and place as may be fixed from time to time by resolution of the Board.

Section 12. Special Meetings Special meetings of the Board of Directors for any purpose or purposes may be called at any time by the President or any three (3) Directors.

The transactions of any meeting of the Board of Directors, however called and noticed and wherever held, shall be as valid as though done at a meeting duly held after regular call and notice, if a quorum be present and if either before or after the meeting each of the Directors not present signs a written waiver of notice or a consent to holding such meeting or an approval of the minutes of the meeting

Section 13. Action Taken Without a Meeting Any action that the Board is required or permitted to take may be taken without a meeting, if all members of the Board consent in writing to that action. Action by written consent shall have the same force and effect as any other validly approved action of the Board. Such written consent or consents shall be filed with the minutes of the proceedings of the Board.

Section 14. Adjournment In the absence of a quorum at any meeting of the Board of Directors, a majority of the Directors present may adjourn the meeting from time to time to a time fixed for the next meeting of the Board. Notice of the time and place of holding an adjourned meeting need not be given to absent Directors if the time and place be fixed at the meeting adjourned.

Section 15. Compensation The Directors shall receive no compensation for their services as such.

Section 16. Vote of Directors Each Director may cast one vote on any question or proposition to be voted on at a meeting. Votes may not be cast by proxy except for election of Directors.

Section 17. Notice of Meetings

(a) Notice of the time and place of each meeting of the Board of Directors not fixed by an express provision of the Bylaws shall be given to each Director not less than forty-eight (48) hours' before the date of the meeting if given personally, or by telephone or by electronic transmission by the Corporation, as defined by California Corporations Code Section 20 and not less than four (4) days before the date of the meeting if given by first class mail. Any such notice shall be addressed or delivered to each Director at such Director's address as it is shown upon the records of the Corporation or as may have been given to the Corporation by the Director for purposes of notice or, if such address is not shown on such records or is not readily ascertainable, at the place where the meetings of the Directors are regularly held.

(b) Notice by mail shall be deemed to have been given at the time a written notice is deposited in the United States mail, postage prepaid. Any other written notice shall be deemed to have been given at the time it is personally delivered to the recipient or is delivered to a common carrier for

transmission, or actually transmitted by the person giving the notice by electronic means, to the recipient. Oral notice shall be deemed to have been given at the time it is communicated, in person or by telephone or wireless, to the recipient or to a person at the office of the recipient who the person giving the notice has reason to believe will promptly communicate it to the receiver. The notice of a special meeting shall state the time of the meeting and the place, if the place is other than the principal office of the Corporation.” And “Section 18. Participation in Meetings by Conference Telephone Means and Electronic Means Members of the Board of Directors may participate in a meeting of the Board of Directors, or a committee meeting through use of a conference telephone, electronic video screen communication or electronic transmission by and to the Corporation pursuant to California Corporations Code Sections 20 and 21. Participation in a meeting through the use of conference telephone or electronic video screen communication constitutes presence in person at that meeting as long as all members participating in that meeting can hear one another. Participation in a meeting through use of electronic transmission by and to the Corporation, other than telephone conference and electronic video screen communication, constitutes presence in person at that meeting if both of the following apply:

- (a) Each member participating in the meeting can communicate with all of the other members concurrently.
- (b) Each member is provided the means of participating in all matters before the Board of Directors, including, without limitation, the capacity to propose, or to interpose an objection to, a specific action to be taken by the Corporation.”*

ARTICLE VI

Officers

Section 1. Officers The Officers of this corporation shall be a President, two (2) or more Vice Presidents, Secretary and Treasurer and such other officers as the Board of Directors may appoint at its first meeting of its term. Any number of offices may be held by the same person. Any officer may be removed by the Board of Directors then in office.

Section 2. Election The Board of Directors shall elect all officers of the corporation for terms of one year, or until other successors are elected and qualified.

Section 3. Vacancies A vacancy in any office because of death, resignation, removal, disqualification or otherwise shall be filled by the Board of Directors.

Section 4. President Subject to the control of the Board of Directors, the President shall have general supervision, direction and control of the business and affairs of the corporation. He or she shall preside at all meetings of the members and Directors, and shall have other powers and duties as may be prescribed from time to time by the Board of Directors. He or she shall, each year, submit to the general membership a report on past year accomplishments and the next year's objectives.

Section 5. Vice Presidents In the absence or disability of the President, the First Vice President shall perform all duties of the President, and in so acting shall have all the powers of the President. In the absence or disability of both the President and the First Vice President, the Second Vice President shall perform all duties of the President and in so acting shall have all the powers of the President. The Vice Presidents shall have such powers and perform such other duties as may be prescribed from time to time by the Board of Directors.

Section 6. Secretary The Secretary shall keep a full and complete record of the proceedings of the Board of Directors and of the members, shall keep the seal of the corporation and affix the same to such papers and instruments as may be required in the regular course of business, shall make service of such notices as may be necessary or proper, shall supervise the keeping in the principal office of the corporation of the minute books of the corporation which shall keep a record of attendance, notify the Directors when a vacancy occurs and how it was filled. He or shall be responsible for filing all financial reports which shall include but not be limited to all state and federal tax returns.

Section 7. Treasurer The Treasurer shall be responsible for general supervision of the financial affairs of the corporation, and to make regular financial reports to the Board of Directors and to the members, and shall perform such other duties as may be prescribed by the Board of Directors.

ARTICLE VII **Miscellaneous**

Section 1. Control of Funds Funds of the corporation shall be paid out only on the checks of the corporation signed by two (2) of such persons as may be designated by the Board of Directors, one of whom must be either the President, a Vice President, Secretary or Treasurer, who is a member of the Board of Directors.

Section 2. Members to Have No Personal, Proprietary or Beneficial Interest in the Property of the corporation No member shall have any personal, proprietary, or beneficial interest in the property of the corporation, either during its corporate existence or after the termination thereof by dissolution or otherwise; all its property and assets remaining after paying or adequately providing for the debts and obligations of the corporation shall be conveyed, transferred, and assigned to the City of San Diego with request that the excess funds be devoted to the benefit of the community of San Diego.

Section 3. Payments to Officers or Directors No fees, salaries, compensation, reimbursements or other sums shall be paid, directly or indirectly to any officer or Director of the corporation except upon prior vote of a majority of the Board of Directors other than the Director or Directors to whom such payment is to be made.

ARTICLE VIII **Amendments**

Section 1. Amendments by Members These Bylaws may be repealed or amended by a majority vote of the membership, at any regular meeting or special meeting where notice of intent has been given as provided under Article IV.

Any provision of these Bylaws that requires the vote of a larger proportion of the members than otherwise is required by law may not be altered, amended, or repealed except by vote of that greater number. No amendment may extend a Director's term beyond that for which the Director was elected.

Section 2. Amendment by the Board of Directors The Board of Directors may adopt, amend or repeal the Bylaws by two-thirds (2/3) vote at a regular or special meeting unless the action would:

- a. Materially and adversely affect the members' rights as to voting, dissolution. Redemption or transfer;
- b. Increase or decrease the number of members authorized in total or for any class;
- c. Effect an exchange, reclassification, or cancellation of all or part of the Memberships; or
- d. Authorize a new class of membership.

If any provision of these Bylaws requires the vote of a larger proportion of the Board than otherwise required by law, such provision may not be altered, amended or repealed except by that greater vote.

Section 3. Members' Approval Required Without the approval of the members, the Board may not adopt, amend or repeal any Bylaw that would:

- a. Increase or extend the terms of Directors;
- b. Allow any Director to hold office by designation or selection rather than by election of the members;
- c. Increase the quorum for members' meetings;
- d. Repeal, restrict, create, expand or otherwise change proxy rights ;or
- e. Authorize cumulative voting.

Section 4. Changes to Number of Directors: Once members have been admitted to the corporation, the Board may not, without the approval of the members, specify or change any Bylaw provision that would:

- a. Fix or change the authorized number of Directors;
- b. Fix or change the minimum or maximum number of Directors: or

- c. Change from a fixed number of Directors to a variable number of Directors, or vice versa.

ARTICLE IX
Office, Books and Reports

Section 1. Books and Records The corporation shall keep at such place as designated by the Board of Directors:

- a. Adequate and correct books and records of account:
- b. Written minutes of the proceedings of its membership and Board of Directors: and
- c. A record of each member's name, address, class of membership, length of membership and records regarding service as a registered member of any committees.

The corporation shall keep at its principal office the original or a copy of the Articles of Incorporation and Bylaws, as amended to date.

Section 2. Inspection of Books and Records The books and records of the corporation shall be subject to reasonable inspection by any member, the Directors, and officers of the corporation during normal business hours, in accordance with the California Corporations Code.

Section 3. Annual Report The Board of Directors shall cause an annual report to be sent to the members and Board of Directors within one hundred twenty (120) days after the end of the corporation's fiscal year. That report shall contain the following information, in appropriate detail, for the fiscal year:

- 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;
- c. The revenue of receipts of the corporation, both unrestricted and restricted purposes: and
- d. The expenses or disbursements of the corporation for both general and restricted purposes; and
- e. Any information required by Section 4 of Article IX of these Bylaws.

The annual report shall be accompanied by any report on it of Independent accountants or, if there is not such a report, by the certificate of an authorized officer of the corporation that such statements were prepared without audit from the corporation's books and records.

This requirement of an annual report shall not apply if the corporation receives less than twenty-five thousand dollars (\$25,000,000) in gross receipts during the fiscal year, provided, however, that

the information specified above for inclusion in the annual report must be furnished annually to all Directors and to any member who requests it in writing.

Section 4. Annual Statement of Certain Transactions and Indemnifications As part of the annual report to all members, or as a separate document if no annual report is issued, the corporation shall annually prepare and mail or deliver to each member and furnish to each Director a statement of any transaction or indemnification of the following kind within one hundred twenty (120) days after the end of the corporation's fiscal year:

- a. Any transaction (i) in which the corporation was a party, (ii) in which an "interested person" had a direct or indirect financial interest, and (iii) which involved more than fifty thousand dollars (50,000.000), or was one of a number of transactions with the same interested person involving, in the aggregate, more than fifty thousand dollars (50,000.00). For this purpose, an "interested person" is either of the following: (a) any Director or officer of the corporation or (b) any holder of more than ten percent (10%) of the voting power of the corporation.

The statement shall include a brief description of the transaction, the names of interested persons involved, their relationship to the corporation, the nature of their interest in the transaction, and if practicable, the amount of that interest, provided that if the transaction was with a partnership in which the interested person is a partner, only the interest of the partnership need be stated.

- b. Any indemnification or advances aggregating more than ten thousand dollars (\$10,000.00) paid during the fiscal year to any officer or Director of the corporation, unless that Indemnification has already been approved by the members under Section 5238(e)(2) of the California Corporations Code.

ARTICLE X

Record Date for Notice, Voting, Written Ballots and Other Actions

Section 1. Record Date Determined by Board of Directors For purposes of determining the members entitled to vote by written ballot, or entitled to exercise any rights with respect to any lawful action, the Board of Directors may, in advance, fix a record date. The record date so fixed:

- a. For notice of a meeting, shall not be more than ninety (90) days nor less than ten (10) days before the date of the meeting;
- b. For voting at a meeting, shall not be more than sixty (60) days before the date of the meeting;
- c. For voting by written ballot, shall not be more than sixty (60) days before the date on which the first written ballot is mailed or solicited: and
- d. For any action, shall not be more than sixty (60) days before that action.

Section 2. Record Date Not Determined by Board of Directors

- a. Record Date for Notice of Voting. If not otherwise fixed by the Board of Directors, the record date for determining members entitled (i) to receive notice of a meeting of the members shall

be the next business day preceding the day on which notice is given or, if notice is waived, the next business day preceding the day on which the meeting is held and (ii) to vote at the meeting shall be the day on which the meeting is held.

- b. Record Date for Action by Written Ballot. If not otherwise fixed by the Board of Directors, the record date for determining those members entitled to vote by written ballot shall be the day on which the first written ballot is mailed or solicited.
- c. Record Date for Other Actions. If not otherwise fixed by the Board of Directors. the record date for determining members entitled to exercise any rights with respect to any other lawful action shall be the date on which the Board of Directors adopts the resolution relating to that action, or the sixtieth {601h) day before the date of that action, whichever is later.

Section 3. Members of Record For purposes of Sections 1 and 2 of Article X of these Bylaws, a person holding membership at the close of business on the record date shall be a member of record.

ARTICLE XI **Indemnification**

Section 1. Right of Indemnity To the fullest extent permitted by law, this corporation shall indemnify its Directors, officers, employees and other persons described in Section 5238(a) of the California Corporations Code, including persons formerly occupying any such position, against all expenses, judgments, fines, settlements and other amounts actually and reasonably incurred by them in connection with any "proceeding" as that term is used in that Section, and including an action by or in the right of the corporation, by reason of the fact that the person is or was a person described in that Section. "Expenses" as used in this Section 1, shall have the same meaning as in Section 5238(a) of the California Corporations Code.

Section 2. Approval of Indemnity On written request to the Board of Directors by any person seeking indemnification under Section 5238(b) or 5238(c) of the California Corporations Code, the Board of Directors shall promptly determine under Section 5238(e) of the California Corporations Code whether the applicable standard of conduct so set forth has been met and, if so, the Board of Directors shall authorize indemnification. If the Board of Directors cannot authorize indemnification because the number of Directors who are parties to the proceeding with respect to which the indemnification is sought prevents the formation of a quorum of Directors who are not parties to that proceeding, the Board of Directors shall promptly call a meeting of the members. At that meeting the members shall determine under Section 5238(3) of the California Corporations Code whether the applicable standard of conduct so set forth has been met and, if so, the members present at the meeting in person shall authorize indemnification.

Section 3. Advancement of Expenses To the fullest extent permitted by law and except as otherwise determined by the Board of Directors in a specific instance, expenses incurred by a person seeking indemnification in defending any proceeding, on receipt by the corporation of an undertaking by or on behalf of that person that the advance will be repaid unless it is ultimately determined that the person is entitled to be indemnified by the corporation for those expenses.

Section 4. Insurance The corporation shall have the right to purchase and maintain insurance to the full extent permitted by law on behalf of its officers, Directors, employees and other agents, against any liability asserted against or incurred by any of such persons arising out of the officer's Director's, employee's or agent's status as such.

ARTICLE XII

Contracts, Checks, Deposits and Funds

Section 1. Contracts The Board of Directors may authorize any officer or officers of the corporation in addition to the officers so authorized by these Bylaws, to enter into any contract or to execute and deliver any instrument in the name of and on behalf of the corporation; such authority must be in writing and may be general or confined to specific instances.

Section 2. Checks and Drafts All checks, drafts, or other orders for the payment of money, notes of other evidence of indebtedness issued in the name of the corporation shall be signed by such officer or officers of the corporation and in such manner as shall from time to time be determined by written resolution of the Board of Directors. In the absence of such determination by the Board of Directors such instrument shall be signed by the Treasurer and countersigned by the President of the corporation.

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 of Directors may select.

Section 4. Gifts The Board of Directors may accept on behalf of the corporation any contribution, gift, bequest or devise for the general purposes or any special purpose of the corporation.