

Formally adopted by the Board of Directors effective July 31, 2013

Amendment 1: passed and effective July 31, 2013

Amendment 2: passed and effective July 31, 2013

Amendment 3: passed and effective October 15, 2013

Amendment 4: passed and effective September 30, 2014

**Bylaws  
of  
Veterans Park Foundation of Pensacola, Inc.**

**Article 1  
Offices**

**Section 1. Principal Office**

The principal office of the corporation is located in Escambia County, State of Florida

**Section 2. Change of Address**

The designation of the county or state of the corporation's principal office may be changed by amendment of these bylaws. The board of directors may change the principal office from one location to another within the named county by noting the changed address and effective date below, and such changes of address shall not be deemed, nor require, an amendment of these bylaws:

New Address: \_\_\_\_\_  
\_\_\_\_\_

Dated: \_\_\_\_\_, 20\_\_

New Address: \_\_\_\_\_  
\_\_\_\_\_

Dated: \_\_\_\_\_, 20\_\_

New Address: \_\_\_\_\_  
\_\_\_\_\_

Dated: \_\_\_\_\_, 20\_\_

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### **Section 3. Other Offices**

The corporation may also have offices at such other places, within or without its state of incorporation, where it is qualified to do business, as its business and activities may require, and as the board of directors may, from time to time, designate.

## **Article 2 Nonprofit Purposes**

### **Section 1. IRC Section 501(c)(3) Purposes**

This corporation is organized exclusively for one or more of the purposes as specified in Section 501(c)(3) of the Internal Revenue Code, including, for such purposes, the making of distributions to organizations that qualify as exempt organizations under Section 501(c)(3) of the Internal Revenue Code.

### **Section 2. Specific Objectives and Purposes**

The specific objectives and purposes of this corporation shall be to collaborate with the city of Pensacola, whose citizens exercise ownership and bear ultimate custodial responsibility for the Veterans Memorial Park, as may be formally known hereafter, and work as Advocate, Provider, Steward, and Protector for the Park. Areas of active support shall include, but not be limited to the following:

1. Assisting the City of Pensacola in developing, articulating and managing a unifying theme and mission for advancement and development of the Park.
2. Providing for the ongoing maintenance, preservation, and improvement and development of the Park.
3. Educating the community, especially our children, about the Park, its mission, and holding the sacrifices of those memorialized there as worthy of their gratitude, respect and emulation.
4. Promoting incorporation of the Park into the fabric and culture of our community as befitting its rightful place in the hierarchy of our heritage and history.
5. Employing all means available for a IRC 501(c)3 corporation to identify and obtain funding for the present and future needs of the Park.

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6. Undertaking such lawful actions and endeavors as complement or fulfill these objectives and purposes.

## **Article 3 Directors**

### **Section 1. Number**

The corporation shall have 13 directors and collectively they shall be known as the board of directors. The Mayor of the City of Pensacola shall appoint one ex officio non-voting member to the board of directors.

*Amendment 4:*

*Additionally, the immediate Past-President of the corporation, if not already a director serving his or her own term, shall serve as an ex-officio member of the Board of Directors for one year or until his or her succeeding President of the corporation shall have become the then Past-President. As an ex-officio member, the Past President shall have the right to attend meetings, speak in debate or discussion, and otherwise offer guidance to the Board, Executive Committee, and other committees of the Board, but he or she shall not have the right to make motions, second motions, or vote on actions or motions of the Board or business brought before the Board or its committees. His or her attendance at any duly called or noticed meeting shall not be considered for quorum purposes.*

### **Section 2. Qualifications**

Directors shall be of the age of majority in this state. The qualifications for a majority (at least 7) of the directors of this corporation shall be one of the following:

- To be an honorably discharged or retired military veteran.
- To be the spouse of an honorably discharged or retired veteran.
- To be the surviving spouse of a KIA or MIA veteran.

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- To be the lineal descendent of an honorably discharged, retired, KIA or MIA veteran.

The remaining directors shall be a resident of Escambia or Santa Rosa counties of Florida, and American citizenship or legally pursuing American citizenship.

No restrictions shall apply to the ex officio director appointed by the mayor.

### **Section 3. Powers**

Subject to the provisions of the laws of this state and any limitations in the articles of incorporation and these bylaws relating to action required or permitted to be taken or approved by the members, if any, of this corporation, the activities and affairs of this corporation shall be conducted and all corporate powers shall be exercised by or under the direction of the board of directors.

### **Section 4. Duties**

It shall be the duty of the directors 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 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;
- e. Register their addresses with the secretary of the corporation, and notices of meetings mailed or e-mailed to them at such addresses shall be valid notices thereof.
- f. Cause an annual audit to be prepared by an independent CPA of the finances of the corporation.

#### Amendment 2:

*All Directors will take the below oath to support the following mission of the corporation:*

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*Our mission, as embodied in the Statement of Purpose contained in our Bylaws and Articles of Incorporation:*

*The specific objectives and purposes of this corporation shall be to collaborate with the City of Pensacola, whose citizens exercise ownership and bear ultimate custodial responsibility for the Veterans Memorial Park and work as Advocate, Provider, Steward and Protector for the Park. Areas of active support shall include, but not be limited to the following:*

- 1. Assisting the City of Pensacola in developing, articulating and managing a unifying theme and mission for advancement and development of the Park.*
- 2. Providing for the ongoing maintenance, preservation, improvement and development of the Park.*
- 3. Educating the community, especially our children, about the Park, its mission, and holding the sacrifice of those memorialized there as worthy of their gratitude, respect and emulation.*
- 4. Promoting incorporation of the Park into the fabric and culture of our community as befitting its rightful place in the hierarchy of our heritage and history.*
- 5. Employing all means available for an IRC 501(c)3 corporation to identify and obtain funding for the present and future needs of the Park.*
- 6. Undertaking such lawful actions and endeavors as complement or fulfill these objectives and purposes.*

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*Oath of Office:*

*You are assuming the responsibility of serving the citizens of the City of Pensacola in the preservation, maintenance and jealous care of the Veterans Memorial Park. Do you agree with the mission of the Veterans Memorial Park Foundation of Pensacola, Inc. as stated in its founding Statement of Purpose and to give diligent effort in furthering the accomplishment of this mission? Do you pledge, with full attention to the principles of Fidelity, Stewardship and Accountability, and on your sacred honor, to hold the memory of the lives sacrificed and honored at the Park close and dear to your heart? Do you further pledge to honor them in your personal and official conduct and to be vigilant against any purpose or thing that would bring discredit or dishonor to their sacrifice? Do you further acknowledge that this Memorial, which exists by the heroic effort and sacrifice of many in our community, has a perpetual right to maintenance and care, and that by assuming this responsibility you pledge to provide no less than that? If so, please signify by saying "I do."*

**Section 5. Term of Office**

Each director shall hold office for a period of 3 years and until his or her successor is elected and qualifies. Each director can be re-elected for an additional 3 year period. One third of the directors will turnover each year. The first board shall be constituted such that 5 will serve for 1 year, 4 will serve for 2 years, and 4 will serve for 3 years.

**Section 6. Compensation**

Directors shall serve without compensation. They shall be allowed reasonable advancement or reimbursement of expenses incurred in the performance of their duties, as approved by the board of Directors.

**Section 7. Place of Meetings**

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Meetings shall be held at the principal office of the corporation unless otherwise provided by the board or at such other place as may be designated from time to time by resolution of the board of directors.

### **Section 8. Regular Meetings**

Regular meetings of directors shall be semi-annually. At the 4<sup>th</sup> Monday of October, and the 4<sup>th</sup> Monday of April, unless such day falls on a legal holiday, in which event the regular meeting shall be held at the same hour and place on the next business day.

If this corporation makes no provision for members, then, at the regular meeting of directors held on the 4<sup>th</sup> Monday of October, directors shall be elected by the board of directors. Voting for the election of directors shall be by written ballot. Each director shall cast one vote per candidate, and may vote for as many candidates as the number of candidates to be elected to the board. The candidates receiving the highest number of votes up to the number of directors to be elected shall be elected to serve on the board.

### **Section 9. Special Meetings**

Special meetings of the board of directors may be called by the chairperson of the board, the president, the vice president, the secretary, by any three(3) directors or, if different, by the persons specifically authorized under the laws of this state to call special meetings of the board. Such meetings shall be held at the principal office of the corporation or, if different, at the place designated by the person or persons calling the special meeting.

### **Section 10. Notice of Meetings**

Unless otherwise provided by the articles of incorporation, these bylaws, or provisions of law, the following provisions shall govern the giving of notice for meetings of the board of directors:

- a. Regular Meetings.** No notice need be given of any regular meeting of the board of directors.
- b. Special Meetings.** At least one week prior notice shall be given by the secretary of the corporation to each director of each special meeting of the board. Such notice may be oral or written, may be given personally, by first class mail, by telephone or by facsimile machine, e-mail and shall state the place, date, and time of the meeting and the matters proposed to be acted upon at the meeting. In the

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case of facsimile notification, the director to be contacted shall acknowledge personal receipt of the facsimile notice by a return message or telephone call within twenty-four hours of the first facsimile transmission.

- c. **Waiver of Notice.** Whenever any notice of a meeting is required to be given to any director of this corporation under provisions of the articles of incorporation, these bylaws, or the law of this state, a waiver of notice in writing signed by the director, whether before or after the time of the meeting, shall be equivalent to the giving of such notice.

### **Section 11. Quorum for Meetings**

A quorum shall consist of a majority of the members of the board of directors.

Except as otherwise provided under the articles of incorporation, these bylaws, or provisions of law, no business shall be considered by the board at any meeting at which the required quorum is not present, and the only motion which the chair shall entertain at such meeting is a motion to adjourn.

### **Section 12. Majority Action as Board Action**

Every act or decision done or made by a majority of the directors present at a meeting duly held at which a quorum is present is the act of the board of directors, unless the articles of incorporation, these bylaws, or provisions of law require a greater percentage or different voting rules for approval of a matter by the board.

### **Section 13. Conduct of Meetings**

Meetings of the board of directors shall be presided over by the chairperson of the board, or, if no such person has been so designated, or in his or her absence, the president of the corporation, or in his or her absence, by the vice president of the corporation, or in the absence of each of these persons, by a chairperson chosen by a majority of the directors present at the meeting. The secretary of the corporation 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 most current edition of Roberts Rules of Order, insofar as such rules are not inconsistent with or in conflict with the articles of incorporation, these bylaws, or with provisions of law.



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#### **Section 14. Vacancies**

Vacancies on the board of directors shall exist (1) on the death, resignation, or removal of any director, and (2) whenever the number of authorized directors is increased.

Any director may resign effective upon giving written notice to the chairperson of the board, the president, the secretary, or the board of directors, 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 notice to the office of the attorney general or other appropriate agency of this state.

Directors may be removed from office, with or without cause, as permitted by and in accordance with the laws of this state.

Unless otherwise prohibited by the articles of incorporation, these bylaws, or provisions of law, vacancies on the board may be filled by approval of the board of directors. If the number of directors then in office is less than a quorum, a vacancy on the board may be filled by approval of a majority of the directors then in office or by a sole remaining director. A person elected to fill a vacancy on the board shall hold office until the next election of the board of directors or until his or her death, resignation, or removal from office.

#### **Section 15. Non-liability of Directors**

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

#### **Section 16. Indemnification by Corporation of Directors and Officers**

The directors and officers of the corporation shall be indemnified by the corporation to the fullest extent permissible under the laws of this state.

#### **Section 17. Insurance for Corporate Agents**

Except as may be otherwise provided under provisions of law, the board of directors 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 liabilities 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

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power to indemnify the agent against such liability under the articles of incorporation, these bylaws, or provisions of law.

## **Article 4 Officers**

### **Section 1. Designation of Officers**

The officers of the corporation shall be a president, a vice president, a secretary, and a treasurer.

### **Section 2. Qualifications**

Any director may serve as officer of this corporation.

### **Section 3. Election and Term of Office**

Officers shall be elected by the board of directors, at any time, and each officer shall hold office until he or she resigns or is removed or is otherwise disqualified to serve, or until his or her successor shall be elected and qualified, whichever occurs first.

### **Section 4. Removal and Resignation**

Any officer may be removed, either with or without cause, by the board of directors, at any time. Any officer may resign at any time by giving written notice to the board of directors or to the president or secretary of the corporation. Any such resignation shall take effect at 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 above provisions of this section shall be superseded by any conflicting terms of a contract which has been approved or ratified by the board of directors 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 of directors. In the event of a vacancy in any office other than that of president, such vacancy may be filled temporarily by appointment by

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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 shall determine.

### **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 of directors, 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 of directors. Unless another person is specifically appointed as chairperson of the board of directors, the president shall preside at all meetings of the board of directors and, if this corporation has members, at all meetings of the members. Except as otherwise expressly provided 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 of directors.

### **Section 7. Duties of Vice President**

In the absence of the president, or in the event of his or her inability or refusal to act, the vice president shall perform all the duties of the president, and when so acting shall have all the powers of, and be subject to all the restrictions on, the president. The vice president shall have other powers and perform such other duties as may be prescribed by law, by the articles of incorporation, or by these bylaws, or as may be prescribed by the board of directors.

### **Section 8. Duties of Secretary**

The secretary shall:

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.

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 directors, and, if applicable, meetings of committees of directors and of members, 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.

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Ensure that the minutes of meetings of the corporation, any written consents approving action taken without a meeting, and any supporting documents pertaining to meetings, minutes, and consents shall be contemporaneously recorded in the corporate records of this corporation. "Contemporaneously" in this context means that the minutes, consents, and supporting documents shall be recorded in the records of this corporation by the later of (1) the next meeting of the board, committee, membership, or other body for which the minutes, consents, or supporting documents are being recorded, or (2) sixty (60) days after the date of the meeting or written consent.

See that all notices are duly given in accordance with the provisions of these bylaws or as required by law.

Be custodian of the records and of the seal of the corporation and affix the seal, as authorized by law or the provisions of these bylaws, to duly executed documents of the corporation.

Keep at the principal office of the corporation a membership book containing the name and address of each and any members, and, in the case where any membership has been terminated, he or she shall record such fact in the membership book together with the date on which such membership ceased.

Exhibit at all reasonable times to any director of the corporation, or to his or her agent or attorney, on request therefore, the bylaws, the membership book, and the minutes of the proceedings of the directors of the corporation.

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 of directors.

## **Section 9. Duties of Treasurer**

The treasurer shall:

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 Executive committee.

Receive, and give receipt for, monies due and payable to the corporation from any source whatsoever.

Disburse, or cause to be disbursed, the funds of the corporation as may be directed by the board of directors, taking proper vouchers for such disbursements.

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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.

Exhibit at all reasonable times the books of account and financial records to any director of the corporation, or to his or her agent or attorney, on request therefor.

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.

Prepare, or cause to be prepared, and certify, or cause to be certified, the financial statements to be included in any required reports.

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 of the corporation, or by these bylaws, or which may be assigned to him or her from time to time by the board of directors.

## **Section 10. Compensation**

The officers shall serve without compensation. They shall be allowed reasonable advancement or reimbursement of expenses incurred in the performance of their duties, as approved by the board of Directors.

## **Article 5 Committees**

### **Section 1. Executive Committee**

The board of directors will, by a majority vote of its members, designate an Executive Committee consisting of a President, vice President, Secretary, Treasurer, and the ex-officio director appointed by the mayor, who shall be a non-voting member of this committee. The board of directors may delegate to such committee the powers and authority of the board in the management of the business and affairs of the corporation, to the extent permitted, and, except as may otherwise be provided, by provisions of law. The executive Committee will meet at least quarterly.

By a majority vote of its members, the board may at any time revoke or modify any or all of the executive committee authority so delegated, increase or decrease but not below two (2) the number of the members of the executive committee, and fill vacancies on the

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Executive Committee from the members of the board. The executive committee shall keep regular minutes of its proceedings, cause them to be filed with the corporate records, and report the same to the board from time to time as the board may require.

## **Section 2. Other Committees**

The corporation shall have a nominating committee, a financial/fundraising committee, and such other committees as may from time to time be designated by resolution of the board of directors. These committees may consist of persons who are not also members of the board and shall act in an advisory capacity to the board.

*Amendment 1:*

*The President of the Corporation will appoint the chairpersons of committees subject to ratification by the executive committee.*

## **Section 3. Meetings and Action of Committees**

Meetings and action of committees shall be governed by, noticed, held, and taken in accordance with the provisions of these bylaws concerning meetings of the board of directors, with such changes in the context of such bylaw provisions as are necessary to substitute the committee and its members for the board of directors and its members, except that the time for regular and special meetings of committees may be fixed by resolution of the board of directors, the executive committee, or by the committee. The board of directors 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**

## **Execution of Instruments, Deposits, and Funds**

### **Section 1. Execution of Instruments**

The board of directors, 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

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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 of directors, 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 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 nonprofit purposes of this corporation.

# **Article 7 Corporate Records, Reports, and Seal**

## **Section 1. Maintenance of Corporate Records**

The corporation shall keep at its principal office:

- a. Minutes of all meetings of directors, committees of the board, and, if this corporation has members, of all meetings of members, 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,

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disbursements, gains, and losses; to include the most recent annual audit of the corporation.

- c. A record of its members, if any, indicating their names and addresses and, if applicable, the class of membership held by each member and the termination date of any membership;
- d. A copy of the corporation's articles of incorporation and bylaws as amended to date, which shall be open to inspection by the members, if any, of the corporation at all reasonable times during office hours.
- e. The minutes of all meetings of directors, committees of the board, and 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; shall be posted in a publicly accessible site.

## **Section 2. Corporate Seal**

The board of directors 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, and shall have such other rights to inspect the books, records, and properties of this corporation as may be required under the articles of incorporation, other provisions of these bylaws, and provisions of law.

## **Section 4. Right to Copy and Make Extracts**

Any inspection under the provisions of this article may be made in person or by agent or attorney and the right to inspection shall include the right to copy and make extracts.



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## **Section 5. Periodic Report**

The board shall cause any annual or periodic report required under law to be prepared and delivered to an office of this state or to the members, if any, of this corporation, to be so prepared and delivered within the time limits set by law.

## **Article 8 IRC 501(c)(3) Tax Exemption Provisions**

*Amendment 3:*

### **Section 1. Limitations on Activities (deleted)**

No substantial part of the activities of this corporation shall be the carrying on of propaganda, or otherwise attempting to influence legislation (except as otherwise provided by Section 501(h) of the Internal Revenue Code), and this corporation shall not participate in, or intervene in (including the publishing or distribution of statements), any political campaign on behalf of, or in opposition to, any candidate for public office.

Notwithstanding any other provisions of these bylaws, this corporation shall not carry on any activities not permitted to be carried on (a) by a corporation exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code, or (b) by a corporation, contributions to which are deductible under Section 170(c)(2) of the Internal Revenue Code.

### **Section 1. Limitations on Activities (revised)**

*All of the assets and income of the Foundation shall be used directly and only for the purposes herein above set out, including the payment of expenses incidental thereto; and no part of its assets or income shall be distributable to its members, trustees or officers, and no part of its activities shall be for the carrying on of propaganda or otherwise: attempting to influence legislation, and the Foundation shall not participate in or intervene in (including the publishing or distributing of statements) any political campaign on behalf of any candidate for public office.*

*Notwithstanding any other provisions of these bylaws, this corporation shall not carry on any activities not permitted to be carried on (a) by a corporation exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code, or (b) by a corporation, contributions to which are deductible under Section 170(c)(2) of the*

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*Internal Revenue Code.*

## **Section 2. Prohibition Against Private Inurement**

No part of the net earnings of this corporation shall inure to the benefit of, or be distributable to, its members, directors or trustees, officers, or other private persons, except that the corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes of this corporation.

*Amendment 3:*

## **Section 3. Distribution of Assets (deleted)**

Upon the dissolution of this corporation, its assets remaining after payment, or provision for payment, of all debts and liabilities of this corporation, shall be distributed for one or more exempt purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code or shall be distributed to the federal government, or to a state or local government, for a public purpose. Such distribution shall be made in accordance with all applicable provisions of the laws of this state.

### ***Section3 Distribution of Assets (revised)***

*In the event of dissolution or other termination of this corporation, title to all its assets remaining after payment or provision for payment, of all debts and liabilities of this corporation, shall vest to a successor foundation incorporated for the express purposes herein above set out, to be used exclusively for the purposes herein above set out, it being intended that no distribution or payment shall be made which will impair or destroy the tax exempt status of the Foundation or which will result in the denial of the tax exempt status of donations, contributions, legacies, bequests, or dues received by this Foundation, to the extent that such tax exempt status shall be allowed under any applicable laws or regulations.*

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Amendment 3: passed and effective October 15, 2013

Amendment 4: passed and effective September 30, 2014

## **Article 9**

### **Conflict of Interest**

### **Policies and Requirements for Outside Review**

#### **Section 1. Purpose of Conflict of Interest Policy**

The purpose of this conflict of interest policy is to protect this tax-exempt corporation's interest when it is contemplating entering into a transaction or arrangement that might benefit the private interest of an officer or director of the corporation 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 governing board 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.

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A financial interest is not necessarily a conflict of interest. Under Section 3, paragraph B, a person who has a financial interest may have a conflict of interest only if the appropriate governing 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 directors and members of committees with governing board 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/she shall leave the governing board or committee meeting while the determination of a conflict of interest is discussed and voted upon. The remaining board 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 at the governing board or committee meeting, but after the presentation, he/she shall leave the meeting during the discussion of, and the vote on, the transaction or arrangement involving the possible conflict of interest.

The chairperson of the governing board 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 governing 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 governing board or committee shall determine by a majority vote of the 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 governing board or committee has reasonable cause to believe a member has failed to disclose actual

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or possible conflicts of interest, it shall inform the member 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 governing 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 governing board and all committees with board 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 governing board's or committee's decision as to whether a conflict of interest in fact existed.
- 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. Annual Statements**

Each director, principal officer, and member of a committee with governing board delegated powers shall annually sign a statement 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 6. 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:

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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 7. Use of Outside Experts**

When conducting the periodic reviews as provided for in Section 6, the corporation may, but need not, use outside advisors. If outside experts are used, their use shall not relieve the governing board of its responsibility for ensuring periodic reviews are conducted.

## **Article 10 Amendment of Bylaws**

### **Section 1. Amendment**

Subject to the power of the members, if any, of this corporation to adopt, amend, or repeal the bylaws of this corporation and except as may otherwise be specified under provisions of law, these bylaws, or any of them, may be altered, amended, or repealed and new bylaws adopted by approval of the board of directors.

## **Article 11 Construction and Terms**

If there is any conflict between the provisions of these bylaws and the articles of incorporation of this corporation, the provisions of the articles of incorporation shall govern.

Should any of the provisions or portions of these bylaws be held unenforceable or invalid for any reason, the remaining provisions and portions of these bylaws shall be unaffected by such holding.

All references in these bylaws to the articles of incorporation shall be to the articles of incorporation, articles of organization, certificate of incorporation, organizational charter, corporate charter, or other founding document of this corporation filed with an office of this state and used to establish the legal existence of this corporation.

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All references in these bylaws to a section or sections of the Internal Revenue Code shall be to such sections of the Internal Revenue Code of 1986 as amended from time to time, or to corresponding provisions of any future federal tax code.

### ADOPTION OF BYLAWS

We, the undersigned, are all of the initial directors or incorporators of this corporation, and we consent to, and hereby do, adopt the foregoing bylaws, consisting of 19 preceding pages, as the bylaws of this corporation.

Dated: July 31, 2013

\_\_\_\_\_  
Jack P. Brown

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John B. Clark

\_\_\_\_\_  
Charles L. Switzer

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John H. Ochs

\_\_\_\_\_  
Wilhelm A. Hansen, Jr.

\_\_\_\_\_  
Jill Hubbs

\_\_\_\_\_  
Michael T. Swinehart

\_\_\_\_\_  
Roberto Rivera

\_\_\_\_\_  
David Glassman

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Roger E. Rowe

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Joseph A. Glover

\_\_\_\_\_  
Paul Entrekin

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Joseph Denmon