

SANTA BARBARA symphony

NIR KABARETTI, Music & Artistic Director

AMENDED AND RESTATED
BYLAWS
OF
SANTA BARBARA SYMPHONY ORCHESTRA ASSOCIATION
September 27, 2019

1.	NAME.....	1
2.	PRINCIPAL OFFICE	1
3.	PURPOSE	1
4.	BOARD OF DIRECTORS	1
5.	ELECTED OFFICERS.....	10
6.	CONFLICTS OF INTEREST	12
7.	INDEMNIFICATION	15
8.	COMMUNICATION, RECORDS,REPORTS & POLICIES.....	17
9.	AMENDMENTS.....	19

**Amended and Restated Bylaws of
Santa Barbara Symphony Orchestra Association**
a California Nonprofit Public Benefit Corporation

Effective as of September 27, 2019

ARTICLE 1. NAME

§ 1.1 The name of this corporation is Santa Barbara Symphony Orchestra Association hereinafter called the "Association."

ARTICLE 2. OFFICES

§ 2.1 **Principal Office.** The Association's principal office for its transaction of business is located in the City of Santa Barbara, California. The Board of Directors (below called the "Board") may change the location of the principal office by resolution.

§ 2.2 **Other Offices.** Additional offices may be established by the Board at any place or places.

ARTICLE 3. PURPOSE; MISSION; LIMITATIONS; DEDICATION OF ASSETS

§ 3.1 The Association is a nonprofit public benefit corporation and is not organized for the private gain of any person. It is organized under the Nonprofit Corporation Law of California ("California Nonprofit Corporation Law").

§ 3.2 The mission of the Association is to enrich our community by creating powerful musical experiences, performed with passion and excellence and by providing indispensable music education and community engagement.

§ 3.3 The Association has been formed under California Nonprofit Corporation Law for the charitable purposes described in Section 3.1 and 3.2, and it shall be nonprofit and nonpartisan. No substantial part of the activities of the Association shall consist of carrying on propaganda, or otherwise attempting to influence legislation, and the Association shall not participate in or intervene in any political campaign (including the publishing or distribution of statements) on behalf of, or in opposition to, any candidate for public office.

§ 3.4 The property of the Association is irrevocably dedicated to charitable purposes. No part of the net income or assets of the Association shall ever inure to the benefit of any of its Directors or Officers, or to the benefit of any private person, except that the Association is authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth in Section 3.1 and 3.2 hereof.

ARTICLE 4. DIRECTORS

§ 4.1 **Board of Directors.** Subject to the limitations of the Articles of Incorporation of the Association (the "Articles") and these Amended and Restated Bylaws, the activities

and affairs of the Association will be conducted and all corporate powers will be exercised by or under the direction of the Board of Directors ("Board"). The Board may delegate the management of the activities of the Association to any person or persons, a management company, or committees however composed, provided that the activities and affairs of the Association will be managed and all corporate powers will be exercised under the ultimate direction of the Board. Without prejudice to these general powers, but subject to the provisions just stated, it is declared that the Board will have these powers in addition to the other powers enumerated in these Amended and Restated Bylaws:

- a. To select and remove all the other officers, agents, and employees of the Association, prescribe qualifications, powers, and duties for them that are not inconsistent with law, the Articles, or these Amended and Restated Bylaws, fix their compensation and require from them security for faithful service.
- b. To conduct, manage, and control the affairs and activities of the Association and to make such rules and regulations therefor not inconsistent with law, the Articles, or these Amended and Restated Bylaws, as they may deem best.
- c. To adopt, make, and use a corporate seal and to alter its form occasionally as the Board may deem best.
- d. To borrow money and incur indebtedness for the Association and to cause to be executed and delivered therefor, in the corporate name, promissory notes, bonds, debentures, deeds of trust, mortgages, pledges, hypothecations, or other evidences of debt and securities for debt.

§ 4.2 Number of Directors. The authorized number of Directors shall be twenty-five.

§ 4.3 Election and Term of Office. Candidates for the Board of Directors shall be nominated by the Governance Committee, for election by the Board as set forth in these Bylaws. Each Director shall serve a term which expires three years following the date on which he or she is elected, or until his or her successor is elected and qualified. Directors may serve an unlimited number of terms provided they continue to perform their Board responsibilities as defined in these Bylaws and in the Board job descriptions approved by the full Board. At the completion of each three year term, Board members seeking reelection will go before the Governance Committee for consideration of nomination for reelection for any additional term.

§ 4.4 Vacancies. Any Director may resign effective upon giving written notice to the Chair of the Board, the President, the Secretary, or the Board, unless the notice specifies a later time for the effectiveness of the resignation; provided that, except upon notice to the Attorney General, no Director may resign if the Association would then be left without a duly elected Director or Directors in charge of its affairs.

A vacancy or vacancies in the Board will be deemed to exist in case of the death, resignation, or removal of any Director or if the authorized number of Directors is increased.

The Board may declare vacant the office of a Director declared of unsound mind by a final order of court, or convicted of a felony, or found by a final order of judgment of any court to have breached any duty arising under Article 3 of the California Nonprofit Corporation Law. The Board may remove any Director without cause by a vote of at least two thirds of the Directors then in office present at a meeting duly held at which a quorum is present. No reduction of the authorized number of Directors will remove any Director before expiration of the Director's term of office.

- § 4.5 Place of Meeting.** Meetings of the Board will be held at any place within California that has been designated by resolution of the Board or in the notice of meeting or, if not so designated, at the principal office of the Association.
- § 4.6 Annual Meetings.** The Board shall hold an annual meeting for election of officers and the transaction of other business. The Board shall fix a date each year for the annual meeting that is no more than 15 months after the prior annual meeting.
- § 4.7 Regular Meetings.** Each calendar quarter, the Board shall hold at least one regular meeting, at a time and place fixed by the Board. Other regular meetings of the Board may be held at such time and place as the Board may fix from time to time by resolution.
- § 4.8 Special Meetings.** Special meetings of the Board for any purpose or purposes may be called at any time by the Chair of the Board, the Vice Chair of the Board, or 20% of the Directors then in office. Special meetings of the Board will be held upon five days' notice by first-class mail or 48 hours' notice given personally or by telephone (including a voice messaging system or other system or technology designed to record and communicate messages), facsimile, electronic mail, or other electronic means. Any such notice will be addressed or delivered to each Director at the Director's address as shown upon the records of the Association or as may have been given to the Association by the Director for notice or, if the address is not shown on the Association's records or is not readily ascertainable, at the place where the meetings of the Directors are regularly held. Notice by mail will be deemed to have been given when a written notice is deposited in the United States mail, postage prepaid. Any other written notice will be deemed to have been given when it is delivered to the recipient or is delivered to a common carrier for transmission, or transmitted by the person giving the notice by electronic means, to the recipient. Oral notice will be deemed to have been given when 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.

§ 4.9 Quorum. A majority of the Directors then in office constitutes a quorum of the Board for the transaction of business, except to adjourn as provided in Section 4.12. 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, unless a greater number is required by law or by the Articles, except as provided in the next sentence. A meeting at which a quorum is initially present may continue to transact business notwithstanding the withdrawal of Directors, if any action taken is approved by at least a majority of the required quorum for that meeting.

§ 4.10 Participation in Meetings by Telephone and Electronic Transmission. Members of the Board may participate in a Directors' meeting through conference telephone, electronic video screen communication or electronic transmission by and to the Association. Participation in a Directors' meeting through conference telephone or electronic video screen communication constitutes presence in person at that meeting if all members participating in the meeting can hear one another.

§ 4.11 Notice of Meetings.

- a. Except when the time and place of a regular meeting is set by the Board by resolution in advance, notice of the time and place of all regular and special meetings shall be given to each Director by one of the following methods:
 - (i) Personal delivery of oral or written notice;
 - (ii) First-class mail, postage paid;
 - (iii) Telephone, including a voice messaging system or other system or technology designed to record and communicate messages; or
 - (iv) electronic mail ("e-mail") or other means of electronic transmission if the recipient has consented to accept notices in this manner.
- b. All such notices shall be given or sent to the Director's address, phone number, facsimile number or e-mail address as shown on the records of the Corporation. Any oral notice given personally or by telephone may be communicated directly to the Director or to a person who would reasonably be expected to promptly communicate such notice to the Director. Notice of regular meetings may be given in the form of a calendar or schedule that sets forth the date, time and place of more than one regular meeting.
- c. Notices sent by first-class mail shall be deposited into a United States mail box at least four days before the time set for the meeting. Notices given by personal delivery, telephone, voice messaging system or other system or technology designed to record and communicate messages, facsimile, e-mail or other electronic transmission shall be delivered at least 48 hours before the time set for the meeting.

- d. The notice shall state the time and place for the meeting, except that if the meeting is scheduled to be held at the principal office of the Association, the notice shall be valid even if no place is specified. The notice need not specify the purpose of the meeting unless required to elsewhere in these Bylaws.
- e. Notice of a meeting need not be given to any Director who signs a waiver of notice. All waivers, consents, and approvals as to a Board meeting will be filed with the corporate records or made a part of the minutes of the meeting.

§ 4.12 Adjournment. A majority of the Directors present, whether or not a quorum is present, may adjourn any Board meeting to another time and place. Notice of any adjournment to another time or place will be given before the time of the adjourned meeting to the Directors who were not present at the time of the adjournment.

§ 4.13 Action Without Meeting. Any action required or permitted to be taken by the Board may be taken without a meeting if all Directors individually or collectively consent in writing to the action. The consent or consents will have the same effect as a unanimous vote of the Board and will be filed with the minutes of the proceedings of the Board.

§ 4.14 Annual Report. The Board will cause an annual report to be distributed to all Directors by 120 days after the close of the Association's fiscal year. The report will set forth all of the following in detail:

- a. The assets and liabilities of the Association as of the end of the fiscal year for which the report is prepared.
- b. The principal changes in assets and liabilities during the fiscal year covered by the report.
- c. The revenue or receipts of the Association, both unrestricted and restricted to particular purposes, for the fiscal year covered by the report.
- d. The expenses or disbursements of the Association, for both general and restricted purposes, during the covered fiscal year.
- e. Information on transactions with interested persons and indemnifications, under California Corporations Code §6322.

§ 4.15 Rights of Inspection. Every Director will have the absolute right at any reasonable time to inspect the Association's books, records, and documents of every kind and physical properties, except those protected by donor privacy guidelines or materials protected by state and federal privacy laws. The inspection may be made in person or by the Director's agent or attorney. The right of inspection includes the Directors' right to copy or make extracts of documents, at their own expense.

§ 4.16 Committees. The following committees comprise the Association's standing committees: the Executive, Finance, Audit and Governance. In addition, the Board may establish or subsequently dissolve such other committees, each comprising two

or more Directors, and delegate to those committees any of the authority of the Board except authority to:

- a. Fill vacancies on the Board or on any committee;
- b. Amend or repeal Bylaws or adopt new Bylaws;
- c. Amend or repeal any resolution of the Board which by its express terms is not so amendable or repealable;
- d. Appoint other committees of the Board or members of other committees; or
- e. Approve any self-dealing transaction, as those transactions are defined in §5233(a) of the California Nonprofit Corporation Law.

Any committee to which any authority of the Board is delegated may only be created, and its members appointed, by resolution adopted by a majority of the Directors then in office. Any such committee may be designated an Executive Committee or given another name as the Board will specify. The Board may appoint, in the same manner, alternate members of any committee who may replace any absent member at any meeting of the committee. The Board will have the power to prescribe how proceedings of any meeting will be conducted. Absent prescription by the Board, a committee will have the power to prescribe how its proceedings will be conducted. Unless the Board or a committee will otherwise provide, the regular and special meetings and other actions of any such committee will be governed by this Article 4 applicable to meetings and actions of the Board.

All committee Chairs shall be appointed by the Chair of the Board, with the exception of the committee Chair of the Governance Committee who shall be elected by the Board, and the Chair of the Finance Committee, who is the Treasurer. All Committees, with the exception of the Executive Committee, may include members who are not Directors, but each Chair shall be a Director. Members of the Governance and Audit Committees shall be elected by the Board.

All Committee chairs shall submit minutes of each meeting to the Executive Committee in a timely manner. The minutes shall also be distributed to the Directors before each Board meeting, provided that the Chair of the Board or the Executive Committee may restrict such distribution to such Directors as do not have a conflict of interest addressed in such minutes.

§ 4.17 Executive Committee

- a. The Executive Committee shall consist of: All Board officers (excluding employee officers) elected under Article 5; the immediate past-Chair, provided that he/she is then a Director; and such other members as the Board may appoint from time to time

- b. The Executive Committee shall meet at such times as it shall fix, and shall also meet at the call of the Chair. At meetings of the Executive Committee, a quorum for transaction of business shall be at least one-half of the members of the Executive Committee. The Secretary shall keep (or cause to be kept) a record of its proceedings and minutes thereof.
- c. Within limits, if any, as may be set by resolution of the Board from time to time, the Executive Committee is delegated the authority of the Board to act on behalf of the Board on matters requiring Board action between regularly scheduled meetings when it is deemed by the Chair that it is impractical to convene the Board. The Executive Committee shall exercise this authority judiciously and with restraint. The Board shall be promptly informed of such actions.
- d. The Executive Committee shall review the work of the Board Committees, approve the agenda for Board meetings, monitor the Association's development plan and long-range and strategic plans, and make recommendations to the Board as it deems appropriate. The Executive Committee shall also have the responsibility to serve as adviser to the President and Chief Executive Officer as reasonably requested.

§ 4.18 Audit Committee.

- a. The Board shall (i) prepare, or cause to be prepared, annual financial statements using generally accepted accounting principles that are audited by an independent certified public accountant ("CPA") in conformity with generally accepted auditing standards; (ii) make the audit available to the Attorney General and to the public on the same basis that the Internal Revenue Service Form 990 is required to be made available; and (iii) appoint an Audit Committee.
- b. The Audit Committee shall not include paid or unpaid staff or employees of the Association, including, if staff members or employees, the President and Chief Executive Officer or the Treasurer or Chief Financial Officer (if any). The members of the finance committee shall constitute less than 50% of the membership of the Audit Committee and the chairperson of the Audit Committee shall not be a member of the finance committee. Subject to the supervision of the Board, the Audit Committee shall:
 - (i) make recommendations to the Board on the hiring and firing of the CPA;
 - (ii) confer with the CPA to satisfy Audit Committee members that the financial affairs of the Association are in order;
 - (iii) approve non-audit services by the CPA and ensure such services conform to standards in the Yellow Book issued by the United States Comptroller General; and

- (iv) if requested by the Board, negotiate the CPA's compensation on behalf of the Board. The Audit Committee, when one is appointed by the Board, shall assist the Board in fulfilling its oversight responsibilities by reviewing the financial information, reviewing the systems of internal controls which management and the Board have established, appointing, retaining and overseeing the performance of independent accountants, and overseeing the accounting and financial reporting processes and the audits (if any) of the Association's financial statements.
- c. The Audit Committee shall be given full and direct access to the Association's Chair of the Board, the President and Chief Executive Officer, and independent accountants as necessary to carry out these responsibilities. However, the Audit Committee's function is one of oversight only and shall not relieve management of its responsibilities for preparing financial statements which accurately and fairly present the Association's financial results and condition, or the responsibilities of independent accountants relating to the audit or review of financial statements.
- d. The Audit Committee shall be comprised of not less than two Directors. Each appointed Audit Committee member shall be subject to annual reconfirmation and may be removed by the Board at any time. All members of the Audit Committee should be able to read and understand fundamental financial statements, including a statement of financial position, statement of operations, and cash flow statement.
- e. To fulfill its responsibilities and duties, the Audit Committee shall:
 - (i) Review the significant accounting principles, policies, and practices followed by the Association in accounting for and reporting its financial results of operations.
 - (ii) Review the financial and risk management policies or practices followed by the Association in operating its business activities.
 - (iii) Review the Association's annual financial statements (including its audited financial statements, if any), related disclosures, and discuss matters required to be discussed by any applicable accounting standards or pronouncements, including (a) the quality as well as acceptability of the accounting principles applied in the financial statements, and (b) new or changed accounting policies; significant estimates, judgments, uncertainties or unusual transactions; and accounting policies relating to significant financial statement items.
 - (iv) Review any management letters or internal control reports prepared by independent accountants or the Association's internal auditors and responses to prior management letters, and review with the independent accountants (if any) the Association's internal financial controls,

including the budget, staffing and responsibilities of the Association's Internal Control Services department.

- (v) Review the effectiveness of any independent audit effort, including approval of the scope of, and fees charged in connection with any annual audit, quarterly reviews, and any non-audit services being provided.
- (vi) Be directly responsible for the appointment, determination of the compensation for, retention, and oversight of the work of any independent accountants employed to conduct an audit (including resolution of disagreements between independent accountants and management regarding financial reporting) or other audit, review, or attest services. Any independent accountants shall report directly to the Committee.

f. The Audit Committee will meet at least once each year and will hold special meetings as circumstances require. The timing of the meetings to be scheduled for an upcoming fiscal year shall be determined by the Audit Committee.

§ 4.19 Governance Committee. The Governance Committee shall oversee Governance, Human Resources and nominations of Board officers, Audit Committee members, Directors nominated for additional terms, and new Directors, in accordance with such policies as are adopted by the Board from time to time. At any time, it may submit nominations for Directors and any current or anticipated Board or officer vacancies.

§ 4.20 Advisory Committees. The Board may establish one or more standing or ad hoc advisory committees. Advisory committees serve to inform and advise the Board at its pleasure, and do not have any of the authority of the Board. Recommendations of an advisory committee must be affirmed by the Board to become the action of the Association.

§ 4.21 No Compensation. Directors and members of committees may receive such reimbursement of expenses as the Board may determine by resolution to be just and reasonable to the Association at the time that the resolution is adopted. Other than such reimbursement, Directors and committee members shall serve without compensation.

§ 4.22 Consent to Electronic Communications. A written notice given by the Association to a Director, or by a Director to the Association and/or other Directors, may be given by electronic mail or by other electronic transmission if each Director that is a sender or recipient has given the Association consent to electronic communications.

§ 4.23 Board as Members. The Board shall constitute the membership of the Association.

§ 4.24 Other "Members." Nothing in this Article 4 will limit the right of the Association to refer to persons associated with it as "members" even though those persons are not members as defined in Section 5056 of the California Nonprofit Corporation Law.

No such reference will create a membership or class of members with legal rights. The Association may confer by amendment of its Articles or of these Amended and Restated Bylaws some or all of the rights of a member, as set forth in the California Nonprofit Corporation Law, upon any person or persons who do not have the right to vote for the election of Directors or on a disposition of substantially all of the assets of the Association or on a merger or on a dissolution or on changes to the Association's Articles or Bylaws or for the selection of delegates who possess any of the preceding voting rights, but no such person will be a member within the meaning of Section 5056.

ARTICLE 5. OFFICERS

- § 5.1 Officers.** The officers of the Association will be a Chair of the Board, Vice Chair of the Board, Secretary and Treasurer. Such other officers and assistant officers, as determined from time to time by the Board may be elected or appointed under Section 5.2. Any number of offices may be held by the same person except as provided in the Articles, these Amended and Restated Bylaws, and applicable law. Under Corporations Code §5213, neither the Secretary nor the Treasurer may serve concurrently as the President or the Chair of the Board.
- § 5.2 Appointment.** The officers of the Association, except officers appointed under Section 5.9 or Section 5.4, will be nominated annually by the Governance Committee, will be elected by and serve at the pleasure of the Board for a one year term in accordance with such policies as are adopted by the Board from time to time. Each officer will hold office until his or her resignation, removal, or other disqualification from service or until his or her respective successor will be elected.
- § 5.3 Removal and Resignation.** Any officer may be removed, either with or without cause, by a vote of by at least two thirds of the Directors present at a meeting duly held at which a quorum is present. Any officer may resign by giving written notice to the Association addressed and sent to the Board, the Chair of the Board, or the Secretary. An officer's resignation will take effect at the date notice of resignation is received by the addressee or at any later time specified in the resignation and, unless otherwise specified in the resignation, the acceptance of the resignation will not be necessary to make it effective.
- § 5.4 Vacancies.** A vacancy in any office because of death, resignation, removal, disqualification, or any other cause will be filled in the manner prescribed in these Amended and Restated Bylaws for regular appointment to the office, provided that vacancies may be filled as they occur and not on an annual basis.
- § 5.5 Chair of the Board.** The Chair of the Board will serve as the Association's chief volunteer officer. The chair provides leadership in supporting the mission and goals of the organization and shall, in general, supervise and control all of the business of the Board of the Association. The Chair facilitates communication between the Board and the President and Chief Executive Officer. The Chair shall preside at all

meetings of the Board of Directors and the Executive Committee. In addition, the Chair may sign, with the President and Chief Executive Officer or any other proper officer of the Association, contracts or other instruments which the Board of Directors has authorized to be executed, except in cases where the signing and execution thereof shall be expressly delegated by the Board of Directors or by these Bylaws or by statute to some other officer or agent of the Association; and in general, shall perform all duties incident to the office of the Chair and such other duties as may be prescribed by the Board of Directors from time to time.

§ 5.6 Vice Chair. In the absence of the Chair or in event of his/her inability or refusal to act, the Vice-Chair shall perform the duties of the Chair and, when so acting, shall have all the powers of and be subject to all the restrictions upon the Chair. The Vice-Chair shall perform such other duties as from time to time may be assigned by the Chair or by the Board of Directors. At any time when the Board has appointed more than one Vice-Chair, the powers set forth in this Section 5.6 shall be exercised in the order that has been designated by the Board, e.g., First Vice-Chair, Second Vice-Chair, etc.

§ 5.7 Secretary. The Secretary will keep or cause to be kept, at the principal office or other place ordered by the Board, a book of minutes of all meetings of the Board and its committees, with the time and place of holding, whether regular or special, and if special, how authorized, the notice given of the meeting, the names of those present at Board and committee meetings, and the proceedings of the meetings. The Secretary will keep, or cause to be kept, at the principal office in the State of California the original or a copy of the Association's Articles and Bylaws, as amended to date. The Secretary shall keep, or cause to be kept, the seal of the Association in safe custody, and shall have other powers and perform such other duties prescribed by the Board.

§ 5.8 Treasurer. The Treasurer shall be the Chair of the Finance Committee. The Treasurer shall keep and maintain, or cause to be kept and maintained, adequate and correct books and accounts of the Association's properties and transactions. The Treasurer shall send or cause to be given to the Directors such financial statements and reports as are required to be given by law, by these Bylaws, or by the Board. The books of account shall be open to inspection by any Director at any reasonable time.

§ 5.9 President and Chief Executive Officer. The Board may appoint a President and Chief Executive Officer upon such terms and conditions and at such compensation as the Board deems proper. The President and Chief Executive Officer, upon appointment, will serve at the pleasure of the Board and will be responsible for the conduct of the business of the Association within its prescribed policies. He or she will report to the Chair and will be responsible for hiring, assigning, supervising, and terminating employees of the Association pursuant to the policies established by the Board (other than the Music and Artistic Director who shall serve at the pleasure of the Board). The President and Chief Executive Officer, if an employee of the

Association, shall not serve as a member of the Executive Committee or the Governance Committee.

§ 5.10 Music and Artistic Director. The Board may appoint a Music and Artistic Director, who shall formulate and implement the artistic programs of the Association, subject to such review as the Board may establish. The Music and Artistic Director, upon appointment, will serve at the pleasure of the Board and will report to the Chair.

§ 5.11 Authority. Unless specifically authorized by the Board, no officer, Director, Committee, Committee Chair, agent, affiliate, support group, or employee shall have any power or authority to bind the Association by any contract or engagement or to pledge its credit or render it liable for any purpose or for any amount.

§ 5.12 Compensation. The compensation, if any, of the President and Chief Executive Officer, the Music and Artistic Director and such other employees of the Association as the Board may determine from time to time shall be determined in accordance with the following rules:

- a. Review and approval.** Compensation of the person shall be reviewed and approved by the Executive Committee of the Association, provided that persons with conflicts of interest with respect to the compensation arrangement abstain from participating in meetings and voting therein
- b. Use of data on comparable compensation.** From time to time the compensation of the person shall be reviewed and approved using data as to comparable compensation for similarly qualified persons in functionally comparable positions in similarly situated Associations.
- c. Contemporaneous documentation and recordkeeping.** There will be contemporaneous documentation and recordkeeping regarding the deliberations and decisions regarding the compensation arrangement.

ARTICLE 6. CONFLICTS OF INTEREST

§ 6.1 Purpose. The purpose of this Conflict of Interest Policy (this "Conflict Policy") is to protect the interests of the Association when contemplating entering a transaction or arrangement that might benefit the private interest of an Officer or Director or might cause an excess benefit transaction. This Conflict Policy should supplement but not replace any state and federal laws governing conflict of interest applicable to nonprofit organizations.

§ 6.2 Definitions.

- a. **Interested Person.** Any Director, Officer, or member of a committee with Board-delegated powers, with a direct or indirect Financial Interest, as defined below, is an Interested Person.
- b. **Financial Interest.** A person has Financial Interest if the person has, directly or indirectly, through business, investment, or family:
 - (i) An ownership or investment interest in any entity with which the Association has a transaction or arrangement.
 - (ii) A compensation arrangement with the Association or with any entity or individual with which the Association has a transaction or arrangement; or
 - (iii) A potential ownership or investment interest in, or compensation arrangement with, any entity or individual with which the Association is negotiating a transaction or arrangement.

Compensation includes direct and indirect remuneration and gifts or favors that are not insubstantial.

A Financial Interest is not necessarily a conflict of interest. Under Section 6.3b, below, a person with a Financial Interest may have a conflict of interest only if the Board or committee decides that a conflict of interest exists.

§ 6.3 Procedures.

- a. **Duty to Disclose.** For any actual or possible conflict of interest, an Interested Person must disclose the existence of the Financial Interest and be given the opportunity to disclose all material facts to the Board considering the proposed transaction or arrangement.
- b. **Determining Whether a Conflict of Interest Exists.** After the Interested Person discloses the Financial Interest and all material facts to the Board, and after any discussion, the Interested Person will leave the Board meeting while the determination of a conflict of interest is discussed and voted upon. The remaining Board members will decide if a conflict of interest exists.
- c. **Procedures for Addressing the Conflict of Interest.**
 - (i) An Interested Person may make a presentation at the Board meeting, but after the presentation, he/she will leave the meeting during the discussion of, and the vote on, the transaction or arrangement involving the possible conflict of interest.
 - (ii) The chairperson of the Board meeting will, if appropriate, appoint a disinterested person or committee to investigate alternatives to the proposed transaction or arrangement.

- (iii) After exercising due diligence, the Board or committee will determine whether the Association 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.
- (iv) If a more advantageous transaction or arrangement is not reasonably possible under circumstances not producing a conflict of interest, the Board will determine by a majority vote of the disinterested Directors then in office, whether the transaction or arrangement is in the Association's best interests, for its own benefit, and whether it is fair and reasonable. In conformity with the above determination, the Board will decide whether to approve the transaction or arrangement.
- (v) The Board decision may be effected by unanimous written consent in lieu of a Board meeting, as allowed by law, with the Interested Person abstaining.
- (vi) The Association will provide all Board members with an annual report listing all transactions with or indemnification of any Interested Person, as and in the manner required by applicable law, including but not limited to California Corporations Code §6322.
- (vii) Prior to approving a transaction with an Interested Person, the Board of the Association will consider, with the advice of counsel, whether to notify the California Attorney General, as permitted by Title 11 California Code of Regulations §999.2, and whether to seek the prior approval of the Attorney General.

d. Violations of the Conflict of Interest Policy.

- (i) If the Board or committee has reasonable cause to believe an Interested Person has failed to disclose actual or possible conflicts of interest, it will inform the Interested Person of the basis for such belief and afford the Interested Person an opportunity to explain the alleged failure to disclose.
- (ii) If, after hearing the Interested Person's response and after making further investigation as warranted by the circumstances, the Board, or committee determines the Interested Person has failed to disclose an actual or possible conflict of interest, the Board will take appropriate disciplinary and corrective action.

§ 6.4 Records of Proceedings. The minutes of the Board and all committees with Board-delegated powers will contain:

- a. The names of the persons who disclosed or otherwise were found to have a Financial Interest for an actual or possible conflict of interest, the nature of the

Financial Interest, any action taken to determine whether a conflict of interest was present, and the Board's decision whether a conflict existed.

- b. The names of the persons 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 the proceedings.

§ 6.5 Annual Statements. Each Director, Officer, and member of a committee with Board-delegated powers will annually sign a statement which affirms such person has read and understands this Conflict Policy as part of the Bylaws of this Association, has agreed to comply with this Conflict Policy and understands that the Association is nonprofit and to maintain its federal exemption it must engage primarily in activities which accomplish one or more of its tax-exempt purposes. The annual statement will include a disclosure of the relationships that the person reasonably believes may give rise to a conflict of interest.

ARTICLE 7. INDEMNIFICATION

§ 7.1 Definitions. The following definitions apply for the purposes of this Article 7:

- a. "agent" means any person who is or was a Director, officer, employee, or other agent of the Association, or is or was serving at the request of the Association as a Director, officer, employee, or agent of another foreign or domestic entity;
- b. "proceeding" means any threatened, pending, or completed action or proceeding, whether civil, criminal, administrative, or investigative; and
- c. "expenses" includes without limitation attorneys' fees and any expenses of establishing a right to indemnification under Section 7.4 or Section 7.5b.

§ 7.2 Indemnification in Actions by Third Parties. The Association shall indemnify any person who was or is a party or is threatened to be made a party to any proceeding (other than an action by or in the right of the Association to procure a judgment in its favor, an action brought under §5233 of the California Nonprofit Corporation Law, or an action brought by the Attorney General or a person granted relator status by the Attorney General for any breach of duty relating to assets held in charitable trust), by reason of the fact that that person is or was an agent of the Association, against expenses, judgments, fines, settlements, and other amounts actually and reasonably incurred in connection with that proceeding if that person acted in good faith and in a manner that person reasonably believed to be in the best interests of the Association and, in the case of a criminal proceeding, had no reasonable cause to believe the conduct of that person was unlawful. The termination of any proceeding by judgment, order, settlement, conviction, or upon a plea of *nolo contendere* or its equivalent will not, of itself, create a presumption that the person did not act in good faith and in a manner which the person reasonably believed to be in the best interests

of the Association or that the person had reasonable cause to believe that the person's conduct was unlawful.

§ 7.3 Indemnification in Actions by or in the Right of the Association. The Association will have power to indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending, or completed action by or in the right of the Association, or brought under §5233 of the California Nonprofit Corporation Law, or brought by the Attorney General or a person granted relator status by the Attorney General for breach of duty relating to assets held in charitable trust, to procure a judgment in its favor by reason of the fact that the person is or was an agent of the Association, against expenses actually and reasonably incurred by that person in connection with the defense or settlement of that action, if the person acted in good faith, in a manner such person believed to be in the best interests of the Association, and with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances. No indemnification will be made under this Section 7.3:

- a. In respect of any claim, issue, or matter as to which that person shall have been adjudged to be liable to the Association in the performance of that person's duty to the Association, unless and only to the extent that the court in which the proceeding is or was pending shall determine upon application that, in view of all the circumstances of the case, the person is fairly and reasonably entitled to indemnity for the expenses which the court shall determine;
- b. Of amounts paid in settling or otherwise disposing of a threatened or pending action, with or without court approval; or
- c. Of expenses incurred in defending a threatened or pending action which is settled or otherwise disposed of without court approval, unless it is settled with the approval of the Attorney General.

§ 7.4 Indemnification Against Expenses. To the extent that an agent of the Association has been successful on the merits in defense of any proceeding referred to in Section 7.2 or Section 7.3 of this Article 7 or in defense of any claim, issue, or matter therein, the agent will be indemnified against expenses actually and reasonably incurred by the agent in connection therewith.

§ 7.5 Required Determinations. Except as provided in Section 7.4, any indemnification under this Article 7 will be made by the Association only if authorized in the specific case, upon a determination that indemnification of the agent is proper in the circumstances because the agent has met the applicable standard of conduct set forth in Section 7.2 or Section 7.3 of this Article 7, by:

- a. A majority vote of the Directors then in office who are not parties to the proceeding; or

- b. The court in which the proceeding is or was pending upon application made by the Association or the agent or the attorney or other person rendering services in connection with the defense, whether or not the application by the agent, attorney, or other person is opposed by the Association.

§ 7.6 Advance of Expenses. Expenses incurred in defending any proceeding may be advanced by the Association prior to the final disposition of the proceeding upon receipt of an undertaking by or on behalf of the agent to repay that amount unless it shall be determined ultimately that the agent is entitled to be indemnified as authorized in this Article 7.

§ 7.7 Other Indemnification. No provision made by the Association to indemnify its Directors or officers for the defense of any proceeding, whether contained in the Articles, Bylaws, a resolution of Directors, an agreement, or otherwise, will be valid unless consistent with this Article 7. Nothing in this Article 7 will affect any right to indemnification to which persons other than such Directors and officers may be entitled by contract or otherwise.

§ 7.8 Forms of Indemnification Not Permitted. No indemnification or advance will be made under this Article 7, except as provided in Section 7.4 or Section 7.5b, where:

- a. It would contravene a provision of the Articles, these Amended and Restated Bylaws, or an agreement in effect during the accrual of the alleged cause of action asserted in the proceeding in which the expenses were incurred or other amounts were paid, which prohibits or otherwise limits indemnification; or
- b. It would contravene any condition imposed by a court in approving a settlement.

§ 7.9 Insurance. The Association will have power to purchase and maintain insurance on behalf of any agent of the Association against any liability asserted against or incurred by the agent in that capacity or arising out of the agent's status whether or not the Association would have the power to indemnify the agent against liability under this Article 7, provided, however, that the Association will have no power to purchase and maintain such insurance to indemnify any agent of the Association for a violation of §5233 of the California Nonprofit Corporation Law.

§ 7.10 Nonapplicability to Fiduciaries of Employee Benefit Plans. This Article 7 does not apply to any proceeding against any trustee, investment manager, or other fiduciary of an employee benefit plan in such person's capacity as such, even though that person may also be an agent of the Association as defined in Section 7.1. The Association will have power to indemnify that trustee, investment manager, or other fiduciary to the extent permitted by §207(f) of the California General Corporation Law.

ARTICLE 8. COMMUNICATIONS, CORPORATE RECORDS, REPORTS, AND POLICIES.

- § 8.1 Electronic Communications and Records.** The Association may maintain records in digital form, except for those original documents which have inherent value or, on the advice of counsel, should be preserved for evidentiary purposes. The Association and its Directors may conduct communications and take written actions in electronic or digital form, if the parties consent in the manner required by California Corporations Code §§ 20 and 21.
- § 8.2 Keeping Records.** The Association must keep adequate and correct records of account and minutes of the proceedings of its Board and Board Committees. The minutes will be kept in written form. Other books and records will be kept in either written form or in any other form capable of being converted into written form.
- § 8.3 Whistleblower.** If any employee, Director or officer reasonably believes that a policy, practice, or activity of the Association is in violation of law, a written complaint must be filed by that employee with the Chair of the Board. It is the intent of the Association to adhere to all laws and regulations that apply to the Association and the underlying purpose of this policy is to support the Association's goal of legal compliance with Labor Code §1102.5 and any other statute or regulation applicable to whistleblower protection. The support of all employees is necessary in achieving compliance with various laws and regulations. An employee is protected from retaliation only if the employee brings the alleged unlawful activity, policy, or practice to the attention of the Association and provides the Association with a reasonable opportunity to investigate and correct the alleged unlawful activity. The protection described below is only available to employees that comply with this requirement.

The Association will not retaliate against someone who, in good faith, has made a protest or raised a complaint against a policy, practice, or activity of the Association, or of another individual or entity with whom the Association has a business relationship, on the basis of a reasonable belief that the practice is in violation of law, or a clear mandate of public policy.

The Association will not retaliate against employees who disclose or threaten to disclose to a supervisor or a public body, any activity, policy, or practice of the Association that the employee reasonably believes is in violation of a law, or a rule, or regulation mandated pursuant to law or is in violation of a clear mandate or public policy concerning the health, safety, welfare, or protection of the environment.

- § 8.4 Form 990 Review and Approval.** It is the responsibility of the Treasurer to prepare, or cause to be prepared, and approve the Association's federal and state tax returns and related filings, and to ensure their timely filing. The Treasurer shall make available to each member of the Board of Directors a draft of the Association's annual Form 990 federal tax return for their comments or questions at least five days prior to filing the return.

§ 8.5 Disclosure of Documents.

It is the Association's policy to fully comply with the Federal (and any state) public disclosure requirements, and to make such additional disclosures as the Board determines may be useful to foster constructive public comment and donor diligence.

The Board shall also, from time to time, assess the costs and benefits of different vehicles for making such documents publicly available, for example, on the Association's website or through third party websites.

- § 8.6** The Board shall establish a gifts and endowments policy pursuant to which any gifts shall be received or endowments shall be established. The purpose of such policy shall be to assure that all gifts received are in alignment with the Association's standing as a public benefit Association and with these Bylaws, do not compromise the Association's 501(c)(3) status, and follow best practices to protect the best interests and honor the intent of donors.

ARTICLE 9. AMENDMENTS.


- § 9.1** Any Director may propose new or amended Bylaws. After review by the Governance and Executive Committees, proposed changes to the Bylaws will be presented to the Board for review and comment.

- § 9.2** The proposed new or amended Bylaws will be presented for Board action at the next subsequent Board meeting. Any change in the Bylaws must be approved by at least two thirds of the Directors present at a meeting duly held at which a quorum is present, provided, that (a) Where any provision of these Bylaws requires the vote of a larger proportion of the Directors than otherwise is required by law, such provision may not be altered, amended or repealed except by the vote of such greater number; (b) No amendment may extend the term of a Director beyond that for which such Director was elected; and (c) If Bylaws are adopted, amended or repealed at a meeting of the Board, such action is authorized only at a duly called and held meeting for which written notice of such meeting, setting forth the proposed Bylaw revisions with explanations therefor, is given in accordance with these Bylaws, unless such notice is waived in accordance with these Bylaws.

CERTIFICATION BY SECRETARY

I, the undersigned Secretary of the Association, certify that the foregoing Amended and Restated Bylaws were approved by the Board of Directors on September 27, 2019

Date: 12/3/19



Pamela Johnston, Secretary