

# **Bylaws**

## **BYLAWS OF John Trigg Ester Library**

Article I: Name and Offices

Article II: Nonprofit Purposes

Article III: Members

Article IV: Meetings of Members

Article V: Directors

Article VI: Officers

Article VII: Committees of Directors

Article VIII: Execution of Instruments, Deposits, and Funds

Article IX: Corporate Records, Reports, and Seal

Article X: IRC 501 (c)(3) Tax Exemption Provisions

Article XI: Conflict of Interest and Compensation Approval Policies

Article XII: Amendment of Bylaws

### **ARTICLE I NAME AND OFFICES**

**Section 1. ORGANIZATION NAME.** The name of the corporation is the John Trigg Ester Library hereinafter called JTEL.

**Section 2. PRINCIPAL OFFICE.** The principal office of JTEL shall be in Ester, a census-designated place within the Fairbanks North Star Borough, Alaska.

**Section 3. OTHER OFFICES.** The corporation may also have offices at such other places where it is qualified to do business, as its business and activities may require, as designated by the board of directors.

### **ARTICLE II NONPROFIT PURPOSES**

**Section 1. IRC SECTION 501(C)(3) PURPOSE.** This organization is organized and operated exclusively for educational, literary and charitable purposes as specified in Section 501(c)(3) of the Internal Revenue Code.

**Section 2. SPECIFIC PURPOSES.** The JTEL is a home-grown community library that provides a welcoming and stimulating environment where community members can meet and share ideas and information. The purposes of the library are (a) to maintain a library open to the public (b) to instill a love of reading and learning (c) to showcase Ester-area history and culture (d) to sponsor workshops and lectures open to the general public on issues relating to literature, art, culture and other matters of benefit to the community (e) to provide resources that will enrich, assist or educate the whole community. The board of directors and members will do everything necessary and advisable for the accomplishment of

this mission, and to do all other things incidental to them that are not forbidden by other laws or by the Articles of Incorporation.

### **ARTICLE III MEMBERS**

**Section 1. MEMBER RIGHTS AND PROVISIONS.** JTEL will be controlled by its members. No member shall hold more than one membership in the corporation. All members shall have the same rights, privileges, restrictions and conditions.

**Section 2. QUALIFICATIONS OF MEMBERS AND ASSOCIATE MEMBERS.** Any natural person can choose to be a member of the JTEL. Any partnership, corporation, association or other legal entity may be an associate member. Associate members do not have voting privileges, nor can they be elected to office. Associate members may check out items and have all other rights and privileges of membership.

**Section 3. ADMISSION BY MEMBERSHIP DUES.** Anyone wishing to become a member of JTEL shall pay a membership fee in such amount as specified by resolution of the board of directors. Membership is granted upon payment of dues. Annual payment of dues is required to maintain membership rights and privileges.

**Section 4. NUMBER OF MEMBERS.** There is no limit on the number of members JTEL may admit.

**Section 5. MEMBERSHIP BOOK.** JTEL shall maintain a membership book containing the name and address of each member or associate member. The membership book will be kept in the principal place of business of the corporation.

**Section 6. NONLIABILITY OF MEMBERS.** No member by virtue of just being a member of JTEL shall be liable for the debts, liabilities or obligations of the corporation.

**Section 7. NONTRANSFERABILITY OF MEMBERSHIPS.** No member or associate member may transfer a membership or any right arising therefrom. All rights of membership cease upon the member's death, or the dissolution of an associate member's business, partnership or organization.

**Section 8. TERMINATION OF MEMBERSHIP.** A member's membership interest in JTEL shall terminate upon the occurrence of any of the following events:

1. Upon notice of such termination delivered to the president or secretary of the corporation personally or by mail, such membership to terminate upon the date of delivery of the notice or date of deposit in the mail.
2. Upon the death of a member, if a natural person, or the dissolution of the associate member, if a corporation, partnership or association.
3. Upon a failure of a member to renew membership by paying membership dues on or before the due date. Termination of membership for non-payment of dues occurs automatically without notice being given by JTEL. Membership will be reinstated in full on the date dues are paid.
4. After providing the member or associate member with reasonable written notice and an opportunity to be heard either orally or in writing, upon a determination by the board of directors that the member or associate member has engaged in conduct materially and seriously prejudicial to the interests or purposes of the corporation. All rights of a member in the corporation shall cease on termination of membership as herein provided.

## **ARTICLE IV MEETINGS OF MEMBERS**

**Section 1. PLACE OF MEETINGS.** Meetings of members shall be held at the principal office of the corporation or at such other place or places as may be designated by the board of directors.

**Section 2. ANNUAL MEETING.** A regular annual meeting of members shall be held on a weekend in October each year as determined by the board of directors for the purpose of electing directors and transacting other business as may come before the meeting. The candidates receiving the highest number of votes up to the number of directors to be elected shall be elected. Each voting member shall cast one vote, with voting by ballot. If only enough candidates for the open positions are nominated or volunteer, they may be elected without a secret ballot if all present agree to bypass the secret vote by voice or show of hands. Notice of the annual meeting shall be given to the membership not less than ten (10) days before the scheduled meeting is to take place according to Section 4 below.

**Section 3. SPECIAL MEETINGS.** Special meetings of members may be called for any purpose or purposes by (a) the Board of Directors or (b) by written request of no less than fifteen (15) members of JTEL. All requests for a special meeting of members must state the reason for which the special meeting is being sought. Requests to have a special meeting of members will be considered served on the board of directors if they are given to any member of the board of directors by either personal delivery or certified mail. Upon receipt of a valid request for a special meeting by not less than fifteen (15) members, the board of directors will schedule a special meeting not more than thirty (30), days from the receipt of the request. The board of directors shall give notice of the special meetings as per Section 4.

**Section 4. NOTICES OF MEETINGS.** Notices of member meetings shall be verbal or in writing. All notices of a members' meeting must contain a statement about the purpose for which the meeting is to be called and any special business which is to be conducted therein. The notice must also state the date, time and place of the meeting. Notice will be given through public signage at the Ester Post Office, library and other Ester businesses, by phone, in person or via e-mail to members. Notice shall be posted in at least three (3) locations frequented by the public. Notice shall be given to the membership not less than ten (10) days before the scheduled meeting is to take place.

**Section 5. QUORUM FOR MEETING.** If ten percent (10%) of the members entitled to vote are present either in person or by proxy, a quorum shall exist for conducting the meeting. If, however, a quorum does not exist either in person or by proxy, a valid meeting cannot be held, and the only motion which the chair shall entertain at such meeting is a motion to adjourn. If a quorum is present when the meeting is called, the members may continue to hold the meeting and transact business until adjournment, even if some members leave so that a quorum is no longer present, provided a majority of members who constituted the initial quorum still remain.

**Section 6. MAJORITY RULES.** At a duly called meeting with a present quorum, a majority vote of members, either in person or proxy, shall determine the passage of any corporate resolution or other business matter.

**Section 7. VOTING RIGHTS.** Each member is entitled to one vote on each matter submitted to a vote by the members. Voting at duly held meetings shall be by voice vote or show of hands. Election of directors, however, shall be by written ballot.

**Section 8. RECORDS DATE.** Only those persons or entities who are shown to be members in the records of JTEL on the day of any meeting of members shall be entitled to vote.

**Section 9. PROXIES.** At any member meeting, a member may be represented by a person to vote for the member. A proxy must be in writing. A proxy shall not be valid for more than thirty (30) days after the date of its execution. Once duly created, a proxy shall remain in effect until it expires, is revoked or another proxy is subsequently given to another person.

**Section 10. CONDUCT OF MEETING.** The president, if present and if not then the vice president, shall call a meeting of members together and preside over the meeting as the chair. If neither the president nor the vice president are present, the members shall appoint a person to serve as the chair. The secretary of the corporation, if present and if not a person chosen by the members, shall serve as the secretary of the meeting of members. Membership meetings will be conducted based on Robert's Rules of Order.

## **ARTICLE V DIRECTORS**

**Section 1. POWERS OF THE BOARD OF DIRECTORS.** The board of directors is responsible for the management of JTEL's business, legal affairs and 501(c)(3) purpose. Toward this end, the board will exercise all of the corporate powers to do such lawful acts which are not prohibited by either state law or the Articles of Incorporation.

**Section 2. NUMBER OF DIRECTORS.** The board of directors shall number seven (7): four (4) officers and three (3) additional elected directors.

**Section 3. QUALIFICATIONS FOR DIRECTORS.** All directors shall be at least eighteen and at least one director shall be an American citizen.

**Section 4. GEOGRAPHIC RELATIONSHIP OF MAJORITY OF BOARD TO THE COMMUNITY SERVED.** A majority of all board members shall be required to be residents of the Ester area, as defined by the Ester Fire Service District. Moving out of the Ester area shall be tantamount to resigning the board if the majority status is changed by such a move.

**Section 5. ELECTION AND TERM OF OFFICE OF DIRECTORS.** The directors shall be elected at the annual meeting of members except where a vacancy is filled pursuant to Section 15 below. Each director shall be elected to a term of 2 years. A staggered election, pursuant to the Board Members Roles and Responsibilities Policy, Section II, will be adhered to. The Board of Directors shall meet immediately after and at the same place as the Annual Meeting of Members to elect officer positions.

**Section 6. STANDARD OF CARE.** Directors shall perform their duties, including those of being a member on any corporate board, in good faith. Directors shall execute their duties through the use of the standard as to what in the director's opinion is in the best interests of the corporation and the Ester community. In making all decisions a director shall utilize such reasonable care and inquiry, as a reasonable prudent person in a like situation would employ.

**Section 7. DIRECTOR COMPENSATION.** Directors shall serve without compensation. They shall be allowed reimbursement of expenses incurred in the performance of their duties as permitted by JTEL's Financial Management policy. Any payments to directors shall be approved in advance in accordance with the corporation's conflict of interest policy as set forth in Article XI of these bylaws.

**Section 8. DIRECTORS' MEETINGS.** Regular meetings of the board of directors may be held with public notice at such time and place as agreed upon by the board of directors. Regular non-annual meetings of the board of directors shall be held at the corporate offices or such other places as may be designated, monthly, with time and date agreed upon in advance by the Board of Directors.

**Section 9. ANNUAL MEETING AGENDA.** The board shall meet to set the agenda of the annual meeting of members no less than ten (10) days before the date of the annual meeting.

**Section 10. SPECIAL MEETINGS.** Special meetings of the board of directors may be called by the president or secretary upon request to do so from a director. The actions taken at a special meeting of directors which was not properly called and noticed will nonetheless be considered valid if:

- (a) All of the directors are present at the meeting and sign a written consent to the meeting and the actions taken thereunder, or
- (b) A majority of the directors are present at the meeting and those directors not present sign a written consent to the meeting and the actions taken thereunder. Such consent may be given either before or after the meeting has been held. If a director attends a special meeting which was not properly called and noticed without objecting upon arrival, that director waives such notice and the actions taken thereunder shall be as valid as if the meeting was properly called.

**Section 11. NOTICE OF MEETINGS.** The following provisions shall govern the giving of notice for meetings of the board of directors:

- (a) Regular Meetings. No notice for regular meetings set in these Bylaws need be given. Regular meetings may be cancelled if notice has been given to all Board Members no less than seven (7) days prior to the regular meeting date.
- (b) Special Meetings. Notice of special meetings shall be given to each director at least seven (7) days prior to the meeting. Such notice shall be given either personally to each director or by phone, by e-mail or other good faith effort.

**Section 12. QUORUM.** A quorum shall consist of a majority of duly elected and appointed directors. At any meeting of the Board of Directors no action may be undertaken unless a quorum of Directors is present, and the only motion which the chair shall entertain at such meeting is a motion to adjourn.

**Section 13. CONDUCT OF MEETING.** The president, if present and if not then the vice president, shall preside over the meeting as the chair. If neither the president nor the vice president are present, the members shall appoint a person to serve as the chair. The secretary of the corporation, if present and if not a person designated by the president, shall serve as the secretary of the meeting of directors. Board of directors meetings will be conducted based on Robert's Rules of Order.

**Section 14. VACANCIES ON THE BOARD.** A vacancy on the Board shall be deemed to exist (1) upon the death, resignation or removal of any Director, (2) whenever the number of authorized directors is increased, (3) or upon a failure of the members to fill all board vacancies at any meeting of members to elect directors. Vacancies of the board and new positions created by increasing the number of directors may be temporarily filled by a vote of the majority of the remaining directors until the next annual meeting even though they may constitute less than a majority of the full board. The members may elect directors at any time to fill vacancies on the board which have not been filled by the directors. Such election shall require a majority of members at a regular or special meeting called in accordance with Article IV Section 5.

**Section 15. REMOVAL OF DIRECTORS.** The members may at any time remove the entire board of directors or any individual director at a duly called special membership meeting. The remaining board, or the members, at a special meeting, may elect directors to fill such vacancies as may result.

**Section 16. RESIGNATION.** A director may resign at any time effective upon giving written notice to the board of directors. Upon notice of the resignation the board shall notify the members and either fill the vacancy by appointment or schedule a special meeting of members for the election of a new director.

**Section 17. NONLIABILITY OF DIRECTORS.** The directors shall not be personally liable for the debts, liabilities or other obligations of the corporation.

**Section 18. INDEMNIFICATION BY CORPORATION OF DIRECTORS.** The directors and officers of the corporation shall be indemnified by the corporation to the fullest extent permissible under the laws of the state.

## **ARTICLE VI 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 elected board member may serve as officer of this corporation.

**Section 3. ELECTION AND TERM OF OFFICE.** Officers are members of the board of directors and are appointed by the board following election at the annual meeting of members. The term of office for the officers of the Corporation shall continue for a two-year term. Any officer may be removed from office by the Board at any time by a majority vote. Any vacancy in any office of the Corporation shall be filled by the Board of Directors.

**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.

**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 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. The president shall preside at all meetings of the board of directors and 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: (a) Certify and keep at the principal office of the corporation the original, or a copy, of these bylaws as amended or otherwise altered to date.

(b) Keep at the principal office of the corporation or at such other place as the board may determine, a book of minutes of all meetings of the 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, the names of those present or represented at the meeting, and the proceedings thereof.

(c) 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 recorded in the corporate records of this corporation within two weeks.

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

(e) Be custodian of the records.

(f) Keep at the principal office of the corporation a membership book containing the name and address of each and any members.

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

(h) 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:

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

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

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

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

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

(f) Render to the president and directors, whenever requested, an account of any or all of his or her transactions as treasurer and of the financial condition of the corporation.

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

(h) 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 salaries of the officers, if any, shall be fixed from time to time by resolution of the board of directors. In all cases, any salaries received by officers of this corporation shall be reasonable and given in return for services actually rendered to or for the corporation. All officer salaries shall be approved in advance in accordance with this corporation's conflict of interest policy, as set forth in Article XI of these bylaws.

## **ARTICLE VII COMMITTEES OF DIRECTORS**

**Section 1. UTILIZATION OF COMMITTEES.** The board of directors has the authority to create as it deems necessary committees of one or more directors to exercise the powers of the board of directors in specified areas of the corporation's business and legal affairs. A committee so formed may be given the power to affix the corporate seal to documents which it may execute.

**Section 2. COMMITTEE MINUTES.** All committees created by the Board shall keep regular and detailed records of their activities and make regular reports to the full Board of Directors. All committee heads will submit their meeting minutes to the Secretary for placement in Committee Meetings Binders at the monthly board meeting following the committee meeting.

**Section 3. CONSULTANTS.** The board of directors has the authority to appoint one or more persons to serve as consultants to the board or board committees. Such consultants perform such special assignments as delegated to them by the President and furnish such consultations on such matters as required by the board.

**Section 4. 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 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 VIII 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 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 2 officers 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 IX 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 of all meetings of members, indicating the time and place of holding such meetings, whether regular or special, how called, and the names of those present and the proceedings thereof;
- (b) Adequate and correct books and records of account, including accounts of its properties and business transactions and accounts of its assets, liabilities, receipts, disbursements, gains, and losses;
- (c) A record of its members 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 of the corporation at all reasonable times.

**Section 2. 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 3. MEMBERS' INSPECTION RIGHTS.** Each and every member shall have the following inspection rights, for a purpose reasonably related to such person's interest as a member:

- (a) To verify their membership record including name, addresses, and voting rights, at reasonable times, upon written demand on the secretary of the corporation, which demand shall state the purpose for which the inspection rights are requested.
- (b) To inspect at any reasonable time the books, records, or minutes of proceedings of the members or of the board or committees of the board, upon written demand on the secretary of the corporation by the member, for a purpose reasonably related to such person's interests as a member. Members 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. LIMITED 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 of the books, records, properties, or minutes of proceedings of the board of directors, shall include the right to copy and make extracts. Inspection of the membership book does not include the right to make copies or extracts and shall be limited by the library's privacy policy.

**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 to be so prepared and delivered within the time limits set by law. Members of the corporation will have the right to inspect any periodic report.

## **ARTICLE X IRC 501(c)(3) TAX EXEMPTION PROVISIONS**

**Section 1. LIMITATIONS ON ACTIVITIES.** No substantial part of the activities of this corporation shall be the carrying on of propaganda, or otherwise attempting to influence legislation, 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 by a corporation exempt from federal income tax under Section 501(c)(3) of the 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, 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.

**Section 3. DISTRIBUTION OF ASSETS.** In the event of dissolution of the corporation, no part of the corporation's earnings or assets shall inure to the benefit of any of its members; after payment of any debts, the residual assets of the corporation shall be distributed to the Ester Community Association if and only if that entity is exempt as an organization described in sections 501(c)(3) and 170(c)(2) of the Internal Revenue Code of 1986, or corresponding sections of any prior or future law. If the Ester Community Association is not exempt as described at the time of the dissolution of the corporation, then the assets shall be distributed according to a majority vote of the JTEL membership to one or more Section 501(c)(3) exempt organizations whose mission is complementary to that of the JTEL, or to the federal, state, or local government for exclusive public purpose. Such distribution shall be made in accordance with all applicable provisions of the laws of this state.

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

**Section 1. PURPOSE OF CONFLICT OF INTEREST POLICY.** The purpose of this conflict of interest policy is to protect 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. 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 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 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. COMPENSATION APPROVAL POLICIES.** A voting member of the governing board who receives compensation, directly or indirectly, from the corporation for services is precluded from voting on matters pertaining to that member's compensation. A voting member of any committee whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from the corporation for services is precluded from voting on matters pertaining to that member's compensation.

No voting member of the governing board or any committee whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from the corporation, either individually or collectively, is prohibited from providing information to any committee regarding compensation.

When approving compensation for directors, officers and employees, contractors, and any other compensation contract or arrangement, in addition to complying with the conflict of interest requirements and policies contained in the preceding and following sections of this article as well as the preceding paragraphs of this section of this article, the board or a duly constituted compensation committee of the board shall also comply with the following additional requirements and procedures:

- a. the terms of compensation shall be approved by the board or compensation committee prior to the first payment of compensation;
- b. all members of the board or compensation committee who approve compensation arrangements must not have a conflict of interest with respect to the compensation arrangement as specified in IRS Regulation Section 53.4958-6(c)(iii), which generally requires that each board member or committee member approving a compensation arrangement between this organization and a "disqualified person" (as defined in Section 4958(f)(1) of the Internal Revenue Code and as amplified by Section 53.4958-3 of the IRS Regulations):
  1. is not the person who is the subject of the compensation arrangement, or a family member of such person;
  2. is not in an employment relationship subject to the direction or control of the person who is the subject of the compensation arrangement;
  3. does not receive compensation or other payments subject to approval by the person who is the subject of the compensation arrangement;
  4. has no material financial interest affected by the compensation arrangement; and

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

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

1. compensation levels paid by similarly situated organizations, both taxable and taxexempt, for functionally comparable positions. "Similarly situated" organizations are those of a similar size, purpose, and with similar resources;
2. the availability of similar services in the geographic area of this organization;
3. current compensation surveys compiled by independent firms;
4. actual written offers from similar institutions competing for the services of the person who is the subject of the compensation arrangement;

As allowed by IRS Regulation 4958-6, if this organization has average annual gross receipts (including contributions) for its three prior tax years of less than \$1 million, the board or compensation committee will have obtained and relied upon appropriate data as to comparability if it obtains and relies upon data on compensation paid by three comparable organizations in the same or similar communities for similar services.

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

1. the terms of the compensation arrangement and the date it was approved;
2. the members of the board or compensation committee who were present during debate on the transaction, those who voted on it, and the votes cast by each board or committee member;
3. the comparability data obtained and relied upon and how the data was obtained;
4. If the board or compensation committee determines that reasonable compensation for a specific position in this organization or for providing services under any other compensation arrangement with this organization is higher or lower than the range of comparability data obtained, the board or committee shall record in the minutes of the meeting the basis for its determination;
5. If the board or committee makes adjustments to comparability data due to geographic area or other specific conditions, these adjustments and the reasons for them shall be recorded in the minutes of the board or committee meeting;
6. any actions taken with respect to determining if a board or committee member had a conflict of interest with respect to the compensation arrangement, and if so, actions taken to make sure the member with the conflict of interest did not affect or participate in the approval of the transaction (for example, a notation in the records that after a finding of conflict of interest by a member, the member with the conflict of interest was asked to, and did, leave the meeting prior to a discussion of the compensation arrangement and a taking of the votes to approve the arrangement);
7. The minutes of board or committee meetings at which compensation arrangements are approved must be prepared before the later of the date of the next board or committee meeting or 60 days after the final

actions of the board or committee are taken with respect to the approval of the compensation arrangements. The minutes must be reviewed and approved by the board and committee as reasonable, accurate, and complete within a reasonable period thereafter, normally prior to or at the next board or committee meeting following final action on the arrangement by the board or committee.

**Section 6. 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 7. PERIODIC REVIEW.** To ensure the corporation operates in a manner consistent with charitable purposes and does not engage in activities that could jeopardize its tax-exempt status, periodic reviews shall be conducted. The periodic reviews shall, at a minimum, include the following subjects:

- a. Whether compensation arrangements and benefits are reasonable, based on competent survey information, and the result of arm's-length bargaining.
- b. Whether partnerships, joint ventures, and arrangements with management organizations conform to the corporation's written policies, are properly recorded, reflect reasonable investment or payments for goods and services, further charitable purposes, and do not result in inurement, impermissible private benefit, or in an excess benefit transaction.

**Section 8. USE OF OUTSIDE EXPERTS.** When conducting the periodic reviews as provided for in Section 7, 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 XII AMENDMENT OF BYLAWS**

**Section 1. AGREEMENT TO CHANGE BYLAWS.** These bylaws may be adopted, repealed, or amended subject to a majority vote of members at an annual meeting, or a special meeting with such stated purpose, with a valid quorum.

Revised: 10-8-2017, 10-28-2018, 10-18-2021