

BY-LAWS OF

THE TEHACHAPI COMMUNITY ORCHESTRA FOUNDATION

ARTICLE I

Objects and Purposes

The Corporation and all of its business and other activities is to be operated and conducted in the promotion of its charitable objects and purposes as specified in its Articles of Incorporation; and in the conduct of its affairs the management shall at all times be mindful of these charitable objects and purposes.

ARTICLE II

Members

Section 1. Members. The members of the Corporation shall be:

Deborah Hand

Gayel Pitchford

Beverly Chapman-Roberts

Susan Winett

Karen Budai

Bruce Berger

Joan Samara

Mary Foster

B. J. Mitchell

No additional memberships in the Corporation shall be created without the prior written consent of a majority of the then existing members. Membership in the Corporation shall terminate due to voluntary resignation, death, or dissolution of the Corporation. Replacements for resigned members may be elected by majority vote of the remaining members.

ARTICLE III

Meetings

Section 1. Annual Meetings.

The members of the Corporation shall meet Annually for the election of Directors and the transaction of other business which may be brought before the meeting on January 15th at six o'clock p.m. at the offices of the Corporation. The Board of Directors may change the time and place of the Annual meetings providing that such meeting is within a 25-mile radius of Tehachapi City Hall. If the election of Directors shall not be held on the day of the annual meeting, the Board of Directors shall cause the election to be held at a special meeting called as soon thereafter as possible.

Section 2. Special Meetings.

Special meetings of the members of the Corporation may be held at any time upon the call of the Board of Directors, the President, the Vice-President/Secretary, or by members representing at least 15% of the membership of the Corporation, at a designated location and time.

Section 3. Notice of Meetings.

Written notice of the time, place and general purpose of every meeting shall be served personally or by first class mail not less than 10 days nor more than 60 days before the meetings.

Section 4. Quorum.

A majority of the membership of the Corporation shall constitute a quorum at any meeting of the members, but less than a quorum may adjourn the meeting from time to time until a quorum shall attend.

Section 5. Waivers of Notice.

The transactions of any meeting of members, however called and noticed, shall be valid as though had at a meeting duly held after regular call and notice, if a quorum be present in person, and if, either before or after the meeting, each of the members entitled to vote but not present in person, signs a written waiver of notice, or a consent to the holding of such meeting, or an approval of the minutes thereof. All such waivers, consents or approvals shall be filed with the corporate records or made part of the minutes of the meeting.

Section 6. Action Without a Meeting.

Any action which may be taken at a meeting of the members may be taken without a meeting if authorized by a writing signed by all of the members entitled to vote at a meeting for such a purpose, and filed with the Vice President/Secretary of the Corporation.

ARTICLE IV

Board of Directors

Section 1. Powers.

Subject to the limitation of the Articles of Incorporation, of these Bylaws and of the laws of the State of California, all powers of the Corporation shall be exercised by or under authority of, its property controlled and its affairs conducted and managed by, a Board of Directors. The primary function of the Board of Directors shall be to establish corporate policies for the officers and management of the Corporation, and to formulate the basic rules and regulations governing the operation and management of the Corporation.

Section 2. Number of Directors.

The number of Directors shall be nine (9) unless and until changed by amendment of the Articles of Incorporation, or by amendment of this Section 2.

Section 3. Interested Directors.

Not more than 49% of the persons serving on the Board of Directors at any time may be interested persons. An interested person is (1) any person currently being compensated by the Corporation for services rendered to it within the previous 12 months, whether as a full or part-time employee, independent contractor, or otherwise, excluding any reasonable compensation paid to a director as director; and (2) any brother, sister, ancestor, descendant, spouse, brother-in-law, sister-in-law, daughter-in-law, son-in-law, mother-in-law or father-in-law of any such person. However, any violation of the provisions of this Section shall not affect the validity or enforceability of any transaction entered into by the Corporation.

Section 4. Election of Directors and Term of Office.

(a) The Directors shall be elected at each annual meeting of members, but if any annual meeting is not held or the directors not elected at that time the Directors may be elected at a special meeting of the members called for that purpose. Members may vote for as many candidates as there are vacancies with the candidates receiving the highest number of votes being elected.

(b) All directors shall serve for a term of three years and until their successors are elected and take office.

(c) The authorized directors shall be divided into three groups as nearly equal in number as possible as follows:

- (i) Group I shall consist of directors having an initial term of office expiring on January 1, 1999, or when their successors are elected and take office;
- (ii) Group II shall consist of directors having an initial term of office expiring on January 1, 2000, or when their successors are elected and take office; and
- (iii) Group III shall consist of directors having an initial term of office expiring on January 1, 2001, or when their successors are elected and take office.

(d) After the expiration of the initial term of Group I, Group II, and Group III directors, the term of office of each of said groups shall be 3 years and until their successors are elected and take office. Directors may be re-elected for an unlimited number of successive terms.

Section 5. Vacancies.

(a) All vacancies on the Board of Directors, including vacancies caused by increase of the authorized number of directors, or by removal, may be filled by a majority vote of the entire remaining membership of the Board of Directors, though less than a quorum. Each director so elected to fill a vacancy shall hold office for the remainder of the predecessor's unexpired term and until the election of a successor at the annual meeting of the members of the corporation or at a special meeting called for that purpose.

(b) If the Board of Directors accepts the resignation of a director tendered to take effect at a future time, the Board shall have power to elect a successor to take office when the resignation shall become effective.

(c) No reduction in the number of directors shall have the effect of removing any director prior to the expiration of his/her term of office.

Section 6. Rights of Inspection.

Every director of this Corporation 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 this corporation.

Section 7. Removal of Directors.

A director may be removed from office only by the members of the Corporation.

Section 8. Committees.

The Board of Directors may appoint one or more committees, each consisting of two or more Directors to serve at the pleasure of the Board and delegate to such committee any of the authority of the Board except with respect to:

(a) The approval of any action for which the California Nonprofit Benefit Corporation Law also requires approval of the members or approval of a majority of directors acting as statutory members;

(b) the filling of vacancies on the Board of Directors or in any committee;

(c) the fixing of compensation of the directors for serving on the Board of Directors or any committee;

(d) the amendment or repeal of Bylaws or the adoption of new Bylaws;

(e) the amendment or repeal of any resolution of the Board of Directors which by its express terms is not amendable or repealable by a committee;

(f) the appointment of other committees of the Board of Directors or the members of committees; and

(g) the approval of any self-dealing transaction, as such transactions are defined in Section 5233(a) of the California Corporations Code.

Any committee shall be created, and the members thereof appointed, only by resolution adopted by a majority of the authorized number of directors then in office, providing a quorum is present. 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 may prescribe the manner in which proceedings of any such committee shall be conducted. In the absence of any such prescription, a committee may prescribe the manner in which its proceedings may be conducted. Unless the Board or a committee shall otherwise provide, the regular and special meetings and other actions of any committee shall be governed by the provisions of this Article IV, applicable to meetings and actions of the Board of Directors. Minutes shall be kept of each meeting by the chairperson of each committee or his/her designee.

Section 9. Executive Committee.

An Executive Committee may be established as a standing committee. It shall consist of from 3 to 5 directors appointed by the Board of Directors which shall determine the term of office of members of the Executive Committee. The President, Vice-President/Secretary, and chief financial officer of the Corporation, if not members of the Executive Committee, shall serve as regular advisors to that committee. The Executive Committee shall establish rules for the conduct of its affairs and shall have power to transact all regular business of the Corporation during the period between the meetings of the Board of Directors, subject to any prior limitation imposed by the Board or these By-laws, and shall exercise such additional power and authority as may be delegated to it from time to time by the Board of Directors.

Section 10. Fees and Compensation.

Directors shall serve without compensation for their services. They shall be reimbursed for actual and necessary expenses which are approved by the Board of Directors.

ARTICLE V

Meetings of Directors

Section 1. Place of Meetings.

All meetings of the Directors shall be held at the office of the Corporation in the State of California or at such other place as may be designated for that purpose from time to time by the Board of Directors.

Section 2. Regular Meetings.

Regular meetings of the Board of Directors shall be held monthly at such date and time as shall be designated by the Board. Notice shall be given of such regular meetings.

Section 3. Special Meetings.

Special meetings of the Board of Directors for any purpose shall be called at any time by the President, or, if that person is absent or unable or refuses to act, by the Vice-President/Secretary or by any two directors. The party calling such special meeting shall determine the date and time thereof.

Section 4. Notice of Special Meetings.

A notice of special meetings of the Board of Directors called in accordance with Section 3 hereof shall be given in writing by the Vice-President/Secretary, or in case of the Vice-President/Secretary's neglect or refusal, by any director, and shall specify the place, the day and the hour of the meeting and the nature of the business to be transacted. Such notice shall be sent to each Director at his or her address appearing on the books of the Corporation, or supplied by said Director for the purpose of notice, at least 4 days prior to such meeting. No items of business other than those specified in the notice of special meeting may be transacted at a special meeting.

Section 5. Consent to Meeting; Waiver of Notice.

The transaction of any meeting of the Board of Directors, however called and noticed and wherever held, shall be as valid as though had at a meeting duly held after regular call and notice if a quorum be present, and if, either before or after the meeting, each of the Directors entitled to vote, not present in person, signs a written waiver of notice, or a consent to the holding of such meeting, or an approval of the minutes thereof. All such waivers, consents or approvals shall be filed with the corporate records or made a part of the minutes of the meeting. Notice of a meeting need not be given to any director who attends the meeting without protesting, prior to or at the commencement of the meeting, the lack of notice to him/her.

Section 6. Quorum.

At all meetings of the Board of Directors a majority of the elected directors then in office shall constitute a quorum for the transaction of business except to adjourn as provided in Section 9 of this Article V. The act of a majority of the directors present at any time at which there is a quorum shall be the act of the Board of Directors, unless a greater number is required by law. Notwithstanding the previous provisions of this Section 6, a meeting at which a quorum is initially present may continue to transact business notwithstanding the withdrawal of Directors, if any action is approved by at least a majority of the required quorum for such meeting.

Section 7. Action Without a Meeting.

Any action which may be taken at a meeting of the Board of Directors may be taken without a meeting if all members of the Board of Directors shall consent in writing to such action. Such action by written consent shall have the same effect as a unanimous vote of such Directors. The written consents shall be filed with the minutes of the proceedings of the Board of Directors.

Section 8. Participation in Meetings by Conference Telephone.

Members of the Board of Directors may participate in a meeting through use of conference telephone or similar communications equipment, so long as all members participating in such meeting can hear one another.

Section 9. Adjournment

A majority of the directors present, whether or not a quorum is present, may adjourn any Directors' meeting to another time and place. Notice of the time and place of holding an adjourned meeting need not be given to absent Directors if the time and place be fixed at the meeting adjourned, except as follows: if the meeting is adjourned for more than 24 hours, notice of any adjournment to another time and place shall be given, prior to the time of the adjourned meeting, to the Directors who were not present at the time of the adjournment.

ARTICLE VI

Officers

Section 1. Officers.

The officers of the Corporation shall be a President of the Board, a Vice-President/Secretary, Treasurer, and Music Director. Officers shall be chosen by and hold office at the pleasure of the Board of Directors, subject to the rights, if any, of any officer under any contract of employment.

Section 2. Appointment of Officers.

The officers of the Corporation shall be chosen annually by the Board of Directors and each shall hold office until his or her successor shall be appointed and qualified to serve, or until he or she shall resign or shall be removed or disqualified to serve.

Section 3. Subordinate Officers.

The Board of Directors may elect or authorize the appointment of such officers other than those heretofore mentioned as the business of the Corporation may require, each of whom shall hold office for such period, have such authority, and perform such duties as are provided in these By-laws, or as the Board of Directors may from time to time authorize or determine.

Section 4. President.

The President of the Board shall, if present, preside at all meetings of the Board of Directors and exercise and perform such other powers and duties as may from time to time be assigned by the Board of Directors.

Section 5. Vice President/Secretary.

The Vice President/Secretary shall keep or cause to be kept, at the principal office of the Corporation in the State of California, the original or a copy of the Corporation's Articles of Incorporation and Bylaws, as amended to date. The Vice President/Secretary also shall keep or cause to be kept a book of minutes at the principal office, or at such other place as the Board may order, of all meetings of the Directors, with the time and place of holding, whether regular or special; and if special how authorized, the notice thereof given, the names of those present at Directors' meetings, and the proceedings thereof. The Vice President/Secretary shall give or cause to be given notice of all the meetings of the Board of Directors required by these Bylaws or by law to be given, and s/he shall have such other powers, including the power to vote, and perform such other duties as may be prescribed by the Board of Directors and by these Bylaws.

Section 6. Treasurer.

The Treasurer serves as chief financial officer and shall keep or cause to be kept adequate and correct accounts of the properties and business transactions of the Corporation, including accounts of its assets, liabilities, receipts, disbursements, gains, and losses. The books of account shall at all times be open to inspection by any Directors. The Treasurer shall deposit all moneys and other valuables in the name and to the credit of the Corporation in such depositories as may be designated by the Board of Directors. S/he shall disburse the funds of the Corporation as shall be ordered by the Board of Directors, shall render to the President and directors, whenever they request it, an account of all of his/her transactions as chief financial officer and the financial condition of the Corporation, shall take proper vouchers for all disbursements of the funds of the Corporation and shall have such other powers, including the power to vote, and perform such other duties as may be prescribed by the Board of Directors and by these Bylaws.

Section 7. Music Director.

The Music Director plans the musical performances, selects the music, auditions and selects the members of the orchestra, and rehearses and conducts the orchestra. S/he shall be an *ex officio* member of all standing committees, including the Executive Committee, if any, with power to vote. The Music Director shall have such other powers and duties as may be prescribed by the Board of Directors and these Bylaws.

Section 8. Removal and Resignation.

Any officer may be removed, either with or without cause, by the Board of Directors at any time. Any removal shall be without prejudice to the rights, if any, of the officer under any contract of employment of the officer. Any officer may resign at any time by giving written notice to the Corporation, but without prejudice to the rights, if any, of the Corporation under any contract to which the officer is a party. Any such resignation shall take effect at the date of the receipt of such notice or at any later time specified therein and, unless specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 9. Vacancies.

A vacancy in any office shall be filled in the manner prescribed in these Bylaws for regular election or appointment to such office, provided that such vacancies shall be filled as they occur and not on an annual basis.

ARTICLE VII

General Provisions

Section 1. Checks, Drafts, Etc.

All checks, drafts or other orders of payment of money, notes, or other evidence of indebtedness issued in the name of or payable to the Corporation and any and all securities owned or held by the Corporation requiring signature for the transfer shall be signed or endorsed by the person or persons and in the manner as from time to time shall be determined by the Board of Directors.

Section 2. Endorsement of Documents; Contracts.

Subject to the provisions of applicable law, and note, mortgage, evidence or indebtedness, contract, conveyance or other instrument in writing and any assignment or endorsement thereof executed or entered into between the Corporation and any other person, when signed by the President of the Board, the Vice President/Secretary, Treasurer, or other duly elected officer of the Corporation shall be valid and binding on the Corporation in the absence of actual knowledge on the part of the other person that the signing officer(s) had no authority to execute the same. Any such instruments may

be signed by any other person or persons and in such manner as from time to time shall be determined by the Board of Directors, and unless so authorized by the Board, 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 for any purpose or amount.

Section 3. Annual Report.

The Treasurer shall cause an annual report to be prepared and sent to each of the members, Directors, and others who may be designated by the Board of Directors, no later than 120 days after the close of the fiscal or calendar year. Such annual report shall be prepared in conformity with the requirements of the California Nonprofit Corporation Law now in effect and as it may hereafter be amended.

Section 4. Construction and Definition.

Unless the context otherwise requires, the general provisions, rules of construction and definitions contained in the general provisions of the California Nonprofit Corporation Law and in the California Nonprofit Public Benefit Corporation Law shall govern the construction of these Bylaws.

ARTICLE VIII

Indemnification

Section 1. Definitions.

For the purposes of this Article VIII, "Agent" means any person who is or was a Director, officer, employee or other agent of the Corporation, or is or was serving at the request of the Corporation as a Director, officer, employee or agent of another foreign or domestic corporation, partnership, joint venture, trust or other enterprise, or was a Director, officer, employee or agent of a foreign or domestic corporation which was a predecessor corporation of the Corporation or of another enterprise at the request of such predecessor corporation; and "proceeding" means any threatened, pending or completed action or proceeding, whether civil, criminal, administrative or investigative; and "expenses" includes without limitation attorneys' fees and any expenses of establishing a right to indemnification under Section 4 or 5(b) of this Article VIII.

Section 2. Indemnifications in Actions by Third Parties.

The Corporation shall indemnify any person who was or is a party or is threatened to be a party to any proceeding, (other than an action by or in the right of the Corporation to procure a judgment in its favor, an action brought under Section 5233 of the California Nonprofit Public Benefit Corporation Law, or an action brought by the Attorney General for any breach of duty relating to assets held in charitable trust) by reason of the fact that such person is or was an agent of the Corporation, against expenses, judgments, fines, settlements and other amounts actually and reasonably incurred in connection

with such proceeding if such person acted in good faith and in a manner such person reasonably believed to be in the best interests of the Corporation and, in the case of a criminal proceeding, had no reasonable cause to believe the conduct of such person was unlawful. The termination of any proceeding by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent shall 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 Corporation or that the person had reasonable cause to believe that the person's conduct was unlawful.

Section 3. Indemnification in Actions By or In the Right of the Corporation.

The corporation shall 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 Corporation, or brought under Section 5233 of the California Nonprofit Public Benefit 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 such person is or was an agent of the Corporation, against expenses actually and reasonably incurred by such person in connection with the defense or settlement of such action if such person acted in good faith, in a manner such person believed to be in the best interests of the Corporation and with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances. No indemnification shall be made under this Section 3:

- (a) in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable to the Corporation in the performance of such person's duty to the Corporation, unless and only to the extent that the court in which such proceeding is or was pending shall determine upon application that, in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for the expenses which such court shall determine;
- (b) of amount 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.

Section 4. Indemnification Against Expenses.

To the extent that an agent of the corporation has been successful on the merits in defense of any proceeding referred to in Sections 2 or 3 of this Article VIII or in defense of any claim, issue or matter therein, the agent shall be indemnified against expenses actually and reasonably incurred by the agent in connection therewith.

Section 5. Required Determinations.

Except as provided in Section 4 of this Article VIII any indemnification under this Article VIII shall be made by the Corporation 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 2 or 3 of this Article VIII, by:

- (a) a majority vote of a quorum of Directors who are not parties to such proceeding; or
- (b) the court in which such proceeding is or was pending upon application made by the Corporation or the agent or the attorney or other person rendering services in connection with the defense, whether or not such application by the agent, attorney or other person is opposed by the Corporation.

Section 6. Advance of Expenses.

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

Section 7. Other Indemnification

No provision made by the Corporation to indemnify its or its subsidiary's directors or officers for the defense of any proceeding, whether contained in the Articles of Incorporation, Bylaws, a resolution of members or directors, an agreement or otherwise, shall be valid unless consistent with this Article VIII. Nothing contained in this Article VIII shall affect any right to indemnification to which persons other than such directors and officers may be entitled by contract or otherwise.

Section 8. Forms of Indemnification Not Permitted.

No indemnification or advance shall be made under this Article VIII, except as provided in Sections 4 or 5(b), in any circumstances where it appears:

- (a) that it would be inconsistent with a provision of the Articles of Incorporation, these Bylaws, or an agreement in effect at the time of 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) that it would be inconsistent with any condition expressly imposed by a court in approving a settlement.

Section 9. Insurance

The Corporation may purchase and maintain insurance on behalf of any agent of the Corporation against any liability asserted against or incurred by the agent in such capacity or arising out of the agent's status as such whether or not the Corporation would have the power to indemnify the agent against such liability under the provisions of this Article VIII, provided, however, that the Corporation shall have no power to purchase and maintain such insurance to indemnify any agent of the Corporation for a violation of Section 5233 of the California Nonprofit Public Benefit Corporation Law.

ARTICLE IX

Amendment

These Bylaws and any part of them may be amended or repealed, and new bylaws may be adopted, by the members or by the Board of Directors at any meeting of the members or Board which has been called for that purpose. However, any amendment or new bylaws must be approved in writing by the members before they shall be effective.