

AMENDED AND RESTATED

BYLAWS

OF

West Valley Arts Foundation

A Utah Nonprofit Corporation

Effective September 21, 2022

**Amended and Restated
Bylaws
of
West Valley Arts Foundation**

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**Amended and Restated
Bylaws
of
West Valley Arts Foundation**

These amended and restated bylaws (the “**Bylaws**”) are adopted for the governance of West Valley Arts Foundation, a Utah nonprofit corporation (herein referred to as the “**Corporation**”) as provided in the Utah Revised Nonprofit Corporation Act (the “**Act**”).

**ARTICLE I
PURPOSES AND POWERS**

The Corporation is organized and shall be operated exclusively for charitable and educational purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, and the corresponding provisions of any subsequent federal tax law (the “**Code**”). Subject to the foregoing, the specific purposes and objectives of the Corporation shall include, but not be limited to creating opportunities to learn, experience and celebrate art, culture and community, and to support performances, exhibits, educational programs, festivals, public events and related programs in West Valley City.

The Corporation shall have all powers necessary and incidental under the Act to carry out the purposes for which the Corporation is formed.

**ARTICLE II
OFFICES**

Section 2.1. Business Offices. The principal office of the Corporation shall be at 3600 Constitution Blvd., West Valley City, UT 84119. The Corporation may at any time and from time to time change the location of its principal office. The Corporation may have such other offices, either within or outside Utah, as the Board of Directors (herein “**Board**”) may designate or as the affairs of the Corporation may require from time to time.

Section 2.2. Registered Office. The registered office required by Utah law to be maintained in Utah may be changed from time to time by the Board or by the officers of the Corporation.

**ARTICLE III
BOARD OF DIRECTORS**

Section 3.1. General Powers. Except as otherwise provided in the Act, the Articles of Incorporation or these Bylaws, all corporate powers shall be exercised by or under the authority of, and the business affairs of the Corporation shall be managed by, its Board, including overseeing the investment, use and distribution of all of the Corporation’s funds.

Section 3.2. Qualifications, Number, Election and Tenure.

(a) Qualifications. Each director must be a natural person who is twenty-one years of age or older. A director need not be a resident of Utah.

(b) Number. The total number of directors of the Corporation shall be established by the Board from time to time, with the approval of the President (“**President**” as used herein also includes the President’s designee), but shall not be less than four nor more than fifteen.

(c) Election. The Board shall have both permanent and elected members.

(1) Permanent Members. The permanent members shall include the following West Valley City officials: Assistant City Manager, Parks & Recreation Director, Strategic Communications Director, Asset Optimization Director, Assistant City Recorder and Finance Director. The Board with the approval of the President may also select other employees of West Valley City or other persons to be permanent members of the Board. There shall be no more than eight (8) permanent members of the Board, and permanent members shall always comprise a majority of the Board. Any individual new to a position whose occupant is a permanent member shall automatically become a permanent member, without further action on the part of the Corporation or any other person.

(2) Non-permanent Members. The Board with the approval of the President may elect other members of the Board, nominated in such manner as the Board may determine.

(d) Vacancies. Any vacancy occurring in the Board may be filled by an appointment as set forth in subsection (c) above. A non-permanent director appointed to fill a vacancy shall serve for the unexpired term of such director’s predecessor in office. Any directorship to be filled by reason of an increase in the number of directors shall be filled by an appointment made by the Board and approved by the President; a non-permanent director so chosen shall hold office until the end of the term designated for the position so created and thereafter until the director’s successor shall have been elected and qualified, or until the director’s earlier death, resignation or removal.

(e) Term and Tenure. Permanent Board members shall not be limited by a term of service, except upon their removal, death or resignation. Non-permanent Board members shall be elected for a term of three (3) years, whether appointed by reason of an increase in the number of directors or to succeed those whose terms expire and shall serve until their successors are duly elected and qualified or until their prior removal, death or resignation. Directors may serve such number of terms as the Board with the approval of the President may determine.

Section 3.3. Removal. Any director may be removed at any time, with or without cause, by the Board with the approval of the President. If a permanent director is removed, the Board in consultation with the President will reconcile that termination with the provisions of subsection 3.2(c) above.

Section 3.4. Resignation. Any director may resign at any time by giving written notice to an officer of the Corporation. Such resignation shall take effect at the time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 3.5. Compensation. By resolution of the Board and approval of the President, the Corporation may pay directors' out-of-pocket expenses, if any, of attendance at each meeting of the Board, and may pay directors a fee for attendance at Board meetings and an annual fee for serving as a member of the Board. A director may also serve the Corporation in other capacities and may receive reasonable compensation for such services; provided that each specific service and the rate of compensation therefor shall be approved by the Board in advance in each instance. Any fees or compensation paid hereunder shall be reasonable.

Section 3.6. Nonvoting Members of the Board. In the discretion of the Board, the Corporation may appoint directors known as "Ex Officio," "Emeritus," "Honorary," "Founding" or such other descriptions as the Board may designate. The Board with the approval of the President shall provide for the appointment and privileges thereof. As the Board may determine, persons given any such titles shall be entitled to receive notice of and attend Board meetings but the failure of such persons to receive notice of Board meetings shall not affect the validity of a meeting. Such persons shall not be entitled to vote on any matter that may arise before the Board and shall not be counted for the purpose of determining the number of directors serving or the existence of a quorum.

Section 3.7. Committees.

(a) Generally. For purposes of this Section 3.7, "Board" includes the President. By one or more resolutions, the Board may create one or more committees, each of which shall have and may exercise all of the authority of the Board granted to the committee by the resolution establishing the committee. See subsection 3.7(b) below for additional procedures relating to the Executive Committee. Each committee shall provide notice to the Board in its reasonable discretion no later than the next Board meeting scheduled of any action taken pursuant to an exercise of the authority of the Board. The Board shall select a chair and members for each committee, set the term of committee members and may remove or replace members at any time for any reason. Each committee shall be comprised of at least two directors appointed by the Board and may not include any individual who is not a director if such committee exercises any power or authority reserved to the Board. The delegation of authority to any committee shall not operate to relieve the Board from any responsibility imposed by law. Except as may otherwise be provided in subsection 3.7(b), rules governing procedures for meetings of any committee of the Board shall be as established by the Board, or in the absence thereof, by the committee itself.

(b) Executive Committee. The Corporation shall have an Executive Committee, which may exercise all of the authority of the Board granted to such committee and consistent with this subsection (b), except as provided in subsection 3.7(c). The presiding officer of the Executive Committee shall be the Chair of the Corporation. Except as provided in

subsection 3.7(c) and except as its powers may otherwise be limited by the Board, the Executive Committee, when the Board is not in session, shall have and may exercise the powers of the Board in the management of the business and affairs of the Foundation. Except as the Board may otherwise determine, the Executive Committee may fix its own rules and procedures which shall not be inconsistent with these Bylaws. It shall keep regular minutes of its proceedings and report the same to the Board for its information at the meeting thereof held next after the proceedings shall have been taken.

(c) **Limitations.** Neither the Executive Committee nor any other committee of the Board, shall have any of the authority of the Board with respect to (i) the amendment, alteration or repeal of the Articles of Incorporation, any Bylaw or any resolution of the Board; (ii) the adoption of a plan of merger or consolidation with another corporation or other entity, any reorganization or any action that might cause the Company to undergo a change in legal form; (iii) the authorization of the sale, lease, exchange, mortgage or pledge of all or substantially all of the Corporation's property or assets; (iv) the authorization of the Corporation's voluntary dissolution, the revocation of proceedings therefor, or the adoption of a plan for the distribution of the Corporation's assets on dissolution; (v) the confession of a judgment against the Corporation or submitting a Corporation claim to arbitration or litigation (other than collections of accounts receivable); (vi) the compensation of directors; or (vii) appointment or removal of any director, chief executive officer, president or chief financial officer.

Section 3.8. Advisory Boards. The Board may from time to time form one or more advisory boards, committees, auxiliaries, task forces or other advisory bodies composed of such members, having such rules of procedure, and having such chair, as the Board shall designate. The name, objectives and responsibilities of each such advisory board, and the rules and procedures for the conduct of its activities, shall be determined by the Board. An advisory body may provide such advice, service, and assistance to the Corporation, and carry out such duties and responsibilities for the Corporation as may be specified by the Board. However, no advisory body shall have authority to incur any corporate expense or make any representation or commitment on behalf of the Corporation without the express approval of the Board or the President of the Corporation.

Section 3.9. Emergency Powers. For purposes of this Section, an emergency shall be deemed to exist if a quorum of voting directors cannot readily be obtained because of a catastrophic event, within the meaning of that term under the Act. In the event of an emergency, notice of a meeting of the Board need be given only to those directors that practically can be reached, and notice can be given by any practicable manner, including by radio. Directors and officers of the Corporation present at the meeting of the Board may be considered voting directors, in order of rank and within the same rank in order of seniority, as necessary to achieve a quorum. During an emergency, the Board may modify seniority to accommodate the incapacity of any directors, officers, employees or agents, adopt Bylaws only to be effective during the emergency, relocate the Corporation's principal offices and take such other action as is necessary in good faith to further the Corporation's ordinary activities and purposes.

ARTICLE IV MEETINGS

Section 4.1. Regular Meetings. The Board may provide, by resolution, the time and place for the holding of regular meetings without other notice than such resolution.

Section 4.2. Special Meetings. Special Meetings of the Board may be called by or at the request of the Chair, President or any three voting directors of the Board. The person or persons authorized to call special meetings of the Board may fix the time and place, either within or outside Utah, for holding any special meeting of the Board called by them, subject to the approval of the President.

Section 4.3. Annual Meetings. One of the regular or special meetings of the Board shall be designated as the Annual Meeting for the purposes of organization, election of officers and the transaction of other business.

Section 4.4. Notice of Meetings.

(a) **Requirements.** Notice of each meeting of the Board stating the date, time and place of the meeting shall be given to each director at such address as the director provides to the Board. Unless the Articles of Incorporation, the Act or these Bylaws require a different period, notice of any meeting shall be given at least three (3) days prior thereto either orally, in person, by telephone, by any form of electronic communication including emails, by overnight carrier, by mail or by any other manner permitted by the Act. Notice of at least six (6) days prior to a special meeting (starting on the date notice is sent) shall be required if notice is given by overnight carrier or by mail. Unless required by the Act, these Bylaws, the Board or the President, neither the business to be transacted at, nor the purpose of, any special meeting of the Board need be specified in the notice or waiver of notice of such meeting.

(b) **Waiver of Notice.** Any director may waive notice of any meeting. Except as provided in the next sentence, the waiver must be in writing, signed by the director, before or after the meeting, and filed with the minutes or corporate records. The attendance of a director at a meeting shall constitute a waiver of notice of such meeting, except where a director attends a meeting for the express purpose of objecting to the transaction of any business and at the beginning of the meeting (or promptly upon his or her arrival) objects to holding the meeting or transacting business at the meeting, and does not thereafter vote for or assent to action taken at the meeting.

Section 4.5. Presumption of Assent. A director who is present at a meeting of the Board or a committee of the Board when corporate action is taken is deemed to have assented to the action taken unless: (i) the director objects at the beginning of the meeting (or promptly upon the director's arrival) to holding it or transacting business at the meeting; (ii) the director's dissent or abstention from the action taken is requested by such director to be entered in the minutes of the meeting; or (iii) the director delivers written notice of the director's dissent or abstention to the presiding officer of the meeting before its adjournment or to the Corporation immediately after

adjournment of the meeting. The right of dissent or abstention is not available to a director who votes in favor of the action taken.

Section 4.6. Quorum and Voting. A majority of the directors in office immediately before a meeting shall constitute a quorum for the transaction of business at any meeting of the Board, and, except as otherwise provided by the Act, the Articles of Incorporation or these Bylaws, the vote of a majority of the directors present in person at a meeting at which a quorum is present shall be the act of the Board. If less than a quorum is present at a meeting, a majority of the directors present may adjourn the meeting from time to time without further notice other than an announcement at the meeting, until a quorum shall be present.

Section 4.7. Voting by Proxy. For purposes of determining a quorum with respect to a particular proposal, and for purposes of casting a vote for or against a particular proposal, a director may be considered to be present at a meeting and to vote if the director has granted a signed written proxy:

(a) to another director who is present at the meeting and authorizing the other director to cast the vote that is directed to be cast by the written proxy with respect to the particular proposal that is described with reasonable specificity in the proxy; or

(b) to a person who is not a director if the proxy authorizes such person to cast the vote that is directed to be cast by the written proxy with respect to the particular proposal that is described with reasonable specificity in the proxy.

Section 4.8. Meetings by Telecommunication. Members of the Board or any committee thereof may participate in a meeting of the Board or committee by any means of communications so long as all individuals participating in the meeting can hear one another. Such participation shall constitute presence in person at the meeting.

Section 4.9. Action Without a Meeting. Any action required or permitted to be taken at a meeting of the Board may be taken without a meeting pursuant to either of the methods described in subsections (a) and (b).

(a) Unanimous Written Consent. Any action required or permitted to be taken at a meeting of the Board may be taken without a meeting if all members of the Board consent to the action in writing. Action is taken pursuant to this subsection (a) at the time the last director signs a writing describing the action taken, unless, before that time, any director revokes a consent by a writing signed by the director and received by the secretary or any other person authorized by the Board to receive the revocation.

(b) Action Following Notice. Any action required or permitted to be taken at a meeting of the Board may be taken without a meeting if notice of at least three (3) days (the “**Notice**”) is transmitted in writing to each member of the Board and each member of the Board by the time stated in the Notice (i) (A) signs a writing for such action, or (B) signs a writing against such action, abstains in writing from voting, or fails to respond or vote; and (ii) fails to demand in writing that action not be taken without a meeting.

(i) Notice. The Notice shall state: (A) the action to be taken; (B) the time by which a director must respond to the Notice; (C) that the failure to respond in writing by the time stated in the Notice will have the same effect as (1) abstaining in writing by the time stated in the Notice, and (2) failing to demand in writing by the time stated in the Notice that action not be taken without a meeting; and (D) any other matters the Corporation determines to include.

(ii) Effective Date of Action. Action is taken pursuant to this Section only if at the end of the time stated in the Notice: (A) the affirmative votes in writing for the action received by the Corporation (and not revoked by a director in a writing received by the Corporation by the time stated in the Notice) equal or exceed the minimum number of votes that would be necessary to take such action at a meeting at which all of the directors were present and voted; and (B) the Corporation has not received a written demand by a director that the action not be taken without a meeting (other than a demand that has been revoked in a writing received by the Corporation by the time stated in the Notice). Unless the Notice states a different effective date, action taken pursuant to this subsection 4.9(b) is effective at the end of the time stated in the Notice.

(iii) Demand. A director's right to demand that action not be taken without a meeting shall be considered to have been waived unless the Corporation receives such demand from the director in writing by the time stated in the Notice and the demand has not been revoked by the director in a writing received by the Corporation by the time stated in the Notice.

(c) For purposes of this Section, "writing" or "written" includes communication by electronic transmission including email, as described in Section 16-6a-813 of the Act.

ARTICLE V OFFICERS AND AGENTS

Section 5.1. Designation and Qualifications. The elected officers of the Corporation may include a chair of the Board ("Chair"), Vice Chair, President, Secretary, Treasurer (Secretary and Treasurer may be the same person) and such other officers, assistant officers and agents as the Board may consider necessary or useful. One person may hold more than one office at a time. Officers need not be directors of the Corporation. All officers must be natural persons who are twenty-one years of age or older. Election, appointment or designation of an officer or agent shall not itself create contract rights. The Board may also appoint or employ persons who are not officers to act in various executive capacities on behalf of, and under the direction of, the Board.

Section 5.2. Election and Term of Office. Except for the President, officers shall be appointed by the Board. Except as the Board may otherwise determine, the Board shall elect or appoint officers at or in conjunction with annual meetings of the Board. If the election of officers shall not be held at such meeting, such election shall be held as soon as convenient thereafter. Each officer shall hold office until the officer's successor shall have been duly elected and shall have qualified, or until the officer's earlier death, resignation or removal.

Section 5.3. Compensation. The compensation, if any, of each officer shall be as determined from time to time by the Board. To the extent reasonably feasible, the Board shall obtain data on the compensation of officers holding similar positions of authority within

comparable organizations, shall set the compensation based on such data and an evaluation of the officer's performance and experience as related to the requirements of the position, and shall document in the minutes of a Board meeting the basis for the determination, including the comparison data used, the requirements of the position and the evaluation of the officer's performance and experience. No officer shall be prevented from receiving a salary by reason of the fact that the officer is also a director of the Corporation. No payment or compensation (or payment or reimbursement of expenses) shall be made in any manner so as to result in the imposition of any liability under Section 4958 of the Internal Revenue Code of 1986 ("Code").

Section 5.4. Removal. Any officer or agent may be removed by the Board at any time, with or without cause.

Section 5.5. Vacancies. A vacancy in any office, however occurring, may be filled by the Board for the unexpired portion of the term. Any officer may resign at any time, subject to any rights or obligations under any existing contracts between the officer and the corporation, by giving written notice to the Chair or Secretary. An officer's resignation shall take effect upon receipt by the Corporation unless the notice specifies a later effective date, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective. An officer shall be deemed to have resigned in the event of such officer's incapacity as determined by a court of competent jurisdiction.

Section 5.6. Authority and Duties of Officers. The officers of the Corporation shall have the authority and shall exercise the powers and perform the duties specified below and as may be additionally specified by the Board or these bylaws, except that in any event each officer shall exercise such powers and perform such duties as may be required by law.

(a) Chair of the Board. The Chair shall (i) preside at all meetings of the Board, (ii) see that all resolutions of the Board are carried into effect; and (iii) perform all other duties incident to the office of Chair and as from time to time may be assigned the Chair by the Board.

(b) Vice Chair of the Board. In the absence of the Chair, or in the event of the Chair's death, 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 to him or her by the Board.

(c) President. The President of the Corporation shall be the City Manager of West Valley City. Any new City Manager shall automatically become the President of the Corporation, without further action on the part of the Corporation or any other person. The President's duties, as may be assisted by the President's designee, shall include the following:

- (1) Manage and oversee the day-to-day operations of the Corporation.
- (2) Manage and oversee all subordinate officers or employees in the performance of their duties as assigned by the President or as defined in the Bylaws; be responsible for and have authority over all personnel matters.

(3) Approve all donations, gifts or pledges and approve any grant or expenditure of the Corporation.

(4) Approve all contracts or agreements entered into by the Corporation.

(5) Retain, exercise and discharge all powers and duties normally incident to the position of president or chief executive officer of the Corporation.

(6) Perform such other duties as are set forth in the Articles of Incorporation or these Bylaws.

(d) Secretary. The Secretary shall (i) keep the minutes of the proceedings of the Board and any committees of the Board; (ii) see that all notices are duly given in accordance with the provisions of these bylaws or as required by law; (iii) be custodian of the corporate records of the seal of the Corporation; and (iv) in general, perform all duties incident to the office of Secretary and such other duties as from time to time may be assigned to such office by the President or by the Board. Assistant Secretaries, if any, shall have the same duties and powers, subject to supervision by the Secretary.

(e) Treasurer. The Treasurer shall: (i) have charge and custody of and be responsible for all funds and securities of the Corporation; (ii) receive and give receipts for moneys due and payable to the Corporation from any source whatsoever, and deposit all such moneys in the name of the Corporation in such banks, trust companies, or other depositories as shall be selected by the Board; and (iii) in general perform all of the duties incident to the office of treasurer and such other duties as from time to time may be assigned to him or her by the President or by the Board.

(f) Executive Director. The Corporation may appoint an Executive Director, who shall, if appointed by the Board, work under the advice and direction of the President and shall have duties to include such matters as assisting with the day-to-day affairs of the Corporation, overseeing and monitoring programs and services, coordinating programs for the Corporation with private organizations and agencies and assisting the President in such other matters as may be directed.

(g) Surety Bonds. The Board may require any officer or agent of the Corporation to execute to the Corporation a bond in such sums and with such sureties as shall be satisfactory to the Board, conditioned upon the faithful performance of such person's duties and for the restoration to the Corporation of all books, papers, vouchers, money and other property of whatever kind in such person's possession or under such person's control belonging to the Corporation.

ARTICLE VI FIDUCIARY MATTERS

Section 6.1. General Standards of Conduct for Directors and Officers.

(a) Discharge of Duties. Each director shall discharge the director's duties as a director, including the director's duties as a member of a committee of the Board, and each officer

with discretionary authority shall discharge the officer's duties under that authority (i) in good faith; (ii) with the care an ordinarily prudent person in a like position would exercise under similar circumstances; and (iii) in a manner the director or officer reasonably believes to be in the best interest of the Corporation.

(b) Reliance on Information, Reports, etc. In discharging duties, a director or officer is entitled to rely on information, opinions, reports or statements, including financial statements and other financial data, if prepared or presented by: (i) one or more officers or employees of the Corporation whom the director or officer reasonably believes to be reliable and competent in the matters presented; (ii) legal counsel, a public accountant or another person as to matters the director or officer reasonably believes are within such person's professional or expert competence; or (iii) in the case of a director, a committee of the Board of which the director is not a member if the director reasonably believes the committee merits confidence. A director or officer is not acting in good faith if the director or officer has knowledge concerning the matter in question that makes reliance otherwise permitted by this paragraph unwarranted.

(c) Liability to the Corporation. A director or officer shall not be liable as such to the Corporation for any action taken or omitted to be taken as a director or officer, as the case may be, unless (i) the director or officer has breached or failed to perform the duties of office in compliance with this Section, and (ii) the breach or failure to perform constitutes willful misconduct, intentional infliction of harm on the Corporation or gross negligence.

Section 6.2. Conflict of Interest.

(a) Definition. A conflict of interest arises when any "responsible person" or any "party related to a responsible person" has an "interest adverse to the Corporation." A "responsible person" is any individual in a position to exercise substantial influence over the affairs of the corporation, and specifically includes, without limitation, directors and officers of the Corporation. A "party related to a responsible person" includes the extended family (including spouse, ancestors, descendants and siblings, and their respective spouses and descendants) of the responsible person, an estate or trust in which the responsible person or any member of his or her extended family has a beneficial interest or a fiduciary responsibility, or an entity in which the responsible person or any member of his or her extended family is a director, trustee or officer or has a financial interest. "An interest adverse to the Corporation" includes any interest in any contract, transaction or other financial relationship with the Corporation and any interest in an entity whose best interests may be impaired by the best interests of the Corporation including an entity providing any goods or services to or receiving any goods or services from, the Corporation, an entity in which the Corporation has any business or financial interest, and an entity providing goods or services or performing activities similar to the goods or services or activities of the Corporation. A "Disinterested Director" with respect to a particular action by the Board is any director that does not have a conflict of interest with respect to such action.

(b) Disclosure. If a responsible person is aware that the Corporation is about to enter into any transaction or make any decision involving a conflict of interest, (a "conflicting interest transaction"), such person shall: (i) immediately inform those charged with approving the conflicting interest transaction on behalf of the Corporation of the interest or position of such person or any party related to such persons; and (ii) aid the persons charged with making the decision by

disclosing any material facts within the responsible person's knowledge that bear on the advisability of the Corporation entering into the conflicting interest transaction.

(c) Approval of Conflicting Interest Transactions. The Corporation may enter into a conflicting interest transaction provided either:

(i) The material facts as to the responsible person's relationship or interest and as to the conflict of interest transaction are disclosed or are known to the Board or to a committee of the Board that authorizes, approves or ratifies the conflicting interest transaction, and the Board or committee in good faith authorizes, approves or ratifies the conflicting interest transaction by the affirmative vote of a majority of the Disinterested Directors on the Board or committee, even though the Disinterested Directors are less than a quorum; or

(ii) The responsible person, who shall bear the burden of proof, demonstrates to the reasonable satisfaction of a majority of the Disinterested Directors that the conflicting interest transaction is fair as to the Corporation.

(iii) Notwithstanding any other provision in this Section 6.2, each responsible person shall review this policy annually and disclose at the Corporation's annual meeting any conflicts of interest with which such person may be involved.

(d) Notwithstanding any other provision in this Section 6.2, each responsible person shall review this policy annually and disclose at the Corporation's annual meeting any conflict of interest with which such person may be involved.

Section 6.3. *Loans to Directors and Officers Prohibited.* No loans shall be made by the Corporation to any of its directors or officers, a natural person related to its directors or officers or an entity in which a director, officer or natural person related to a director or officer has any ownership, management right or financial interest. Any director or officer who assents to or participated in the making of any such loan shall be liable to the Corporation for the amount of such loan until the repayment thereof.

ARTICLE VII INDEMNIFICATION AND LIABILITY

Section 7.1. Indemnification and Liability.

(a) To the fullest extent allowed by the Articles of Incorporation and applicable law, the Corporation shall indemnify any director or officer of the Corporation, successful on the merits in any proceeding or matter in the proceeding to which the director or officer was a party by reason of having served as a director or officer, against reasonable expenses incurred in the proceeding or matter therein, including reasonable attorney fees.

(b) The Corporation shall indemnify an individual made a party to a proceeding because the individual is or was a director, officer, employee, fiduciary or agent of the Corporation or of any other corporation or business entity dealing with the Corporation at the request of the Corporation, or by reason of any action alleged to have been taken, omitted or neglected by such

director, officer, employee, fiduciary or agent against reasonable expenses incurred in connection with the proceeding, if:

- (1) the individual's conduct was in good faith;
- (2) the individual reasonably believed that the individual's conduct was in the Corporation's (or any corporation's or other business entity's within the meaning of paragraph 6.1(b)) best interests; and
- (3) in the case of any criminal proceeding, the individual had no reasonable cause to believe the individual's conduct was unlawful.

(c) The Corporation shall not indemnify a director or officer, employee, fiduciary, or agent in connection with a proceeding in which such individual was adjudged liable to the Corporation, or in connection with any other proceeding charging that the individual derived an improper personal benefit, whether or not involving action in the individual's official capacity, in which proceeding the individual was adjudged liable on the basis that the individual derived an improper personal benefit.

Section 7.2. Advances of Costs and Expenses. The Corporation may pay for reasonable expenses incurred by a director, officer, employee or agent (in defending a civil or criminal action, suit or proceeding) who is a party to a proceeding in advance of final disposition of the proceeding if:

- (a) the individual furnishes the Corporation a written affirmation of the individual's good faith belief that the individual has met the applicable standard of conduct described above in Section 6.1.
- (b) at the Corporation's request, the individual furnishes the Corporation a written undertaking, executed personally or on the individual's behalf, to repay the advance, if it is ultimately determined that the individual did not meet the standard of conduct; and
- (c) a determination is made that the facts then known to those making the determination would not preclude indemnification.

Section 7.3. Insurance. By action of the Board, notwithstanding any interest of the directors in such action, the Corporation may, subject to Section 7.5, purchase and maintain insurance, in such amounts as the Board may deem appropriate, on behalf of any individual indemnified hereunder against any liability asserted against such individual and incurred by such individual in such individual's capacity of or arising out of such individual's status as a member, director, officer, employee or agent of the Corporation, whether or not the Corporation would have the power to indemnify such individual against such liability under applicable provisions of law. The Corporation may also purchase and maintain insurance, in such amounts as the Board may deem appropriate, to insure the Corporation against any liability, including without limitation, any liability for the indemnifications provided in this Article.

Section 7.4. Right to Impose Conditions to Indemnification. The Corporation shall have the right to impose, as conditions to any indemnification provided or permitted in this Article, such reasonable requirements and conditions as the Board may deem appropriate in each specific case, including but not limited to any one or more of the following: (a) that any counsel representing the individual to be indemnified in connection with the defense or settlement of any action shall be counsel that is mutually agreeable to the Corporation; (b) that the Corporation shall have the right, at its option, to assume and control the defense or settlement of any claim or proceeding made, initiated or threatened against the individual to be indemnified; and (c) that the Corporation shall be subrogated, to the extent of any payments made by way of indemnification, to all of the indemnified individual's right of recovery, and that the individual to be indemnified shall execute all writings and do everything necessary to assure such rights of subrogation to the Corporation.

Section 7.5. Limitation on Indemnification. Notwithstanding any other provision of these Bylaws, the Corporation shall neither indemnify any individual nor purchase any insurance in any manner or to any extent that would jeopardize or be inconsistent with qualification of the Corporation as an organization described in Section 501(c)(3) of the Code.

ARTICLE VIII FINANCIAL, LEGAL AND TAX MATTERS

Section 8.1 Financial Policies. The Corporation shall follow all financial policies and procedures as set forth in the West Valley City Code in addition to all other applicable federal and state financial policies and procedures.

Section 8.2. Checks, Drafts, etc. All checks, drafts and orders for payment of money, and notes or other evidences of indebtedness issued in the name of the Corporation shall be signed by such officer or officers, or agent or agents of the Corporation and in such manner as shall from time to time be determined by resolution of the Board.

Section 8.3. Loans. No loans shall be contracted on behalf of the Corporation and no evidences of indebtedness shall be issued in its name unless authorized by a resolution of the Board. Such authority may be general or confined to specific instances.

Section 8.4. Deposits. All funds of the Corporation not otherwise employed shall be deposited from time to time to the credit of the Corporation in such banks, trust companies, investment banks, securities brokerages or other depositories as the Board may select.

Section 8.5. Contracts. The Board may authorize any officer or officers, or agent or agents, 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.

Section 8.6 Books and Records. The Corporation shall keep complete and accurate books and records of account and shall also keep minutes of the proceedings of its members, Board and committees having any of the authority of the Board, and shall keep at the registered or principal office a record giving the names and addresses of Boards members. All books and records of the

Corporation may be inspected by any member of the Board for a proper purpose and at a reasonable time in the discretion of the Chair or President.

Section 8.7. Prohibition Against Sharing in Corporate Earnings. No part of the net earnings of the Corporation shall inure to the benefit of, or be distributable to its, directors, officers, or other private persons, except that the Corporation shall be authorized and empowered to pay reasonable compensation for services rendered. Upon the dissolution of the Corporation, the Corporation shall make distributions in final liquidation of the Corporation in the manner and upon the terms and conditions provided by law and in the Corporation's Articles of Incorporation.

Section 8.8. Exempt Activities. Notwithstanding any other provision of these Bylaws, no director, officer, employee, or representative of this Corporation shall take any action or carry on any activity by or on behalf of the Corporation not permitted to be taken or carried on by an organization described under Section 501(c)(3) of the Code and the regulations promulgated thereunder.

ARTICLE IX MISCELLANEOUS

Section 9.1. Fiscal Year. The Corporation shall follow the same fiscal year as West Valley City Corporation.

Section 9.2. Conveyances and Encumbrances. Property of the Corporation may be assigned, conveyed or encumbered by such officers of the Corporation as may be authorized to do so by the Board, and such authorized individuals shall have power to execute and deliver any and all instruments of assignment, conveyance and encumbrance; however, the sale, exchange, lease or other disposition of all or substantially all of the property and assets of the Corporation shall be authorized only in the manner prescribed by applicable statute.

Section 9.3. Designated Contributions. The Corporation may accept any contribution, including designated contributions, grants, bequests or devises consistent with its general tax-exempt purposes, as set forth in the Articles of Incorporation and consistent with applicable tax laws. As so limited, donor-designated contributions will be accepted for special funds, purposes or uses, and such designations generally will be honored. However, the Corporation shall reserve all right, title and interest in and to control of such contributions, as well as full discretion as to the ultimate expenditure or distribution thereof in connection with any special fund, purpose or use.

Section 9.4. References to Internal Revenue Code. All references in these Bylaws to provisions of the Internal Revenue Code are to the provisions of the Internal Revenue Code of 1986, as amended, and shall include the corresponding provisions of any subsequent federal tax laws.

Section 9.5. Amendment. These Bylaws may be amended, restated or repealed upon approval of a majority of the members of the Board and approval of the President.

Section 9.6. Severability. The invalidity of any provision of these Bylaws shall not affect the other provisions hereof, and in such event these Bylaws shall be construed in all respects as if such invalid provision were omitted.

Section 9.7. Construction. Whenever the singular number is used in this Agreement and when required by the context, the same shall include the plural and vice versa. The term “shall” is mandatory; the term “may” is permissive. The term “includes” or “including” is by way of example and not limitation. The table of contents, headings and bolded paragraph titles are for convenience only and shall have no significance in the interpretation of these Bylaws.

SECRETARY'S CERTIFICATE

I, the Undersigned, being the Secretary of West Valley Arts Foundation, do hereby certify the foregoing to be the adopted Bylaws of such Corporation effective September 21, 2022.



Tera Smith, Secretary

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