

Community Heritage Education Foundation (CHEF)

Immediately following the East Valley Water District regular board meeting

December 12, 2018

3111 Greenspot Road

Highland, CA 92346

AGENDA

CALL TO ORDER

1. Public Comments
2. Approval of Agenda
3. Approve Initial Board Organization
4. Adopt Community Heritage and Education Foundation Bylaws
5. Appoint Members to Public Committee
6. CEO Comments
7. Legal Counsel Comments
8. Board of Directors' Comments

ADJOURN

Pursuant to Government Code Section 54954.2(a), any request for a disability-related modification or accommodation, including auxiliary aids or services, that is sought in order to participate in the above agenda public meeting should be directed to the District Clerk at (909) 885-4900.

COMMUNITY HERITAGE EDUCATION FOUNDATION AGENDA STAFF REPORT

Agenda Item #3.
Meeting Date: December 12, 2018
Discussion Item

To: Board of Directors
From: Chief Executive Officer

Subject: Approve Initial Board Organization

RECOMMENDATION:

Staff recommends that the Board of Directors:

- a. Elect official officers for the positions of Board President and Vice President
- b. Appoint Chief Executive Officer, Treasurer and Board Secretary
- c. Set the time and place for holding meetings

BACKGROUND / ANALYSIS:

The Community Heritage Education Foundation is an opportunity to preserve our heritage and bring people together to inspire a greater sense of connectedness with our neighbors. The establishment of this foundation creates an entity separate from the District and can fill a niche to meet some important needs of our community.

The corporation is a nonprofit public benefit corporation and is organized under the Nonprofit Public Benefit Corporation Law for charitable and educational purposes. One element of this entity is the formal appointment of officers as required by law. The Board organization ensures efficient management of the foundation and reflects a dedication to the highest standards of integrity and accountability.

Staff is recommending that CHEF hold its board meetings at 31111 Greenspot Road, Highland CA, and its annual meeting on the 4th Wednesday in January immediately following East Valley Water Districts regular meeting.

REVIEW BY OTHERS:

This agenda item has been reviewed by the Administration Department.

FISCAL IMPACT

There is no fiscal impact associated with this agenda item.

Recommended by:

John Mura
Chief Executive Officer

COMMUNITY HERITAGE EDUCATION FOUNDATION AGENDA STAFF REPORT

Agenda Item #4.
Meeting Date: December 12, 2018
Discussion Item

To: Board of Directors
From: Chief Executive Officer

Subject: Adopt Community Heritage and Education Foundation Bylaws

RECOMMENDATION:

Staff recommends that the Board of Directors approve Bylaws for the Community Heritage and Education Foundation.

BACKGROUND / ANALYSIS:

The Community Heritage and Education Foundation (CHEF) has been established as nonprofit public benefit corporation and is organized under the Nonprofit Public Benefit Corporation Law. The purpose of CHEF is to preserve and educate the public about the agricultural history of the San Bernardino area, and to create an organization through which East Valley Water District can celebrate and instill in future generations the rich history of the region and civic pride in the community.

This formal organizational structure requires several actions to ensure clarity of purpose and expectations both from and operational and legal perspective. Adoption of Bylaws establishes the foundation's purpose, clearly lays out how the organization is to be regulated, and states the mechanisms expected regarding governance structure and operation. The Board is being asked to formally adopt the Community Heritage and Education Foundation Bylaws as part of the formation requirements.

REVIEW BY OTHERS:

This agenda item has been reviewed by the Administration Department.

FISCAL IMPACT

There is no fiscal impact associated with this agenda item.

Recommended by:

John Mura
Chief Executive Officer

ATTACHMENTS:

Description	Type
CHEF By-laws	Backup Material

**BYLAWS OF COMMUNITY
HERITAGE AND EDUCATION
FOUNDATION, A California
Nonprofit Public Benefit
Corporation**

Contents

ARTICLE 1 – OFFICES	1
SECTION 1. NAME	1
SECTION 2. PRINCIPAL OFFICE OF THE CORPORATION	1
SECTION 3. CHANGE OF ADDRESS OF PRINCIPAL OFFICE	1
ARTICLE 2 – PURPOSES	1
SECTION 1. OBJECTIVES AND PURPOSES	1
SECTION 2. DEDICATION OF ASSETS	1
SECTION 3. POLITICAL ACTIVITIES	2
SECTION 4. PROHIBITED ACTIVITIES	2
ARTICLE 3 – MEMBERS	2
SECTION 1. MEMBERS	2
ARTICLE 4 – BOARD OF DIRECTORS	2
SECTION 1. GENERAL POWERS	2
SECTION 2. SPECIFIC POWERS	3
SECTION 3. NUMBER OF DIRECTORS	3
SECTION 4. COMPENSATION	3
SECTION 5. TERMS OF DIRECTORS	4
SECTION 6. REMOVAL OF DIRECTOR	4
SECTION 7. VACANCIES	4
SECTION 8. LIMITED LIABILITY OF DIRECTORS	4
SECTION 9. OFFICERS	4
ARTICLE 5 – MEETING OF THE BOARD OF DIRECTORS	4
SECTION 1. PUBLIC MEETING REQUIREMENT	4
SECTION 2. PLACE OF BOARD MEETINGS	5
SECTION 3. ANNUAL MEETING	5
SECTION 4. REGULAR MEETINGS	5
SECTION 5. SPECIAL MEETINGS	5
SECTION 6. NOTICE OF SPECIAL MEETINGS	5
SECTION 7. QUORUM	5
SECTION 8. ADJOURNMENT	5
ARTICLE 6 – CHIEF EXECUTIVE OFFICER	5

SECTION 1. APPOINTMENT OF CHIEF EXECUTIVE OFFICER	5
SECTION 2. CHIEF EXECUTIVE OFFICER RESPONSIBILITIES	5
ARTICLE 7 - SECRETARY	6
SECTION 1. SECRETARY	6
SECTION 2. SECRETARY RESPONSIBILITIES	6
ARTICLE 8 - TREASURER	6
SECTION 1. TREASURER	6
SECTION 2. TREASURER RESPONSIBILITIES	6
ARTICLE 9 – PUBLIC COMMITTEE	7
SECTION 1. COMMITTEE PURPOSE	7
SECTION 2. COMMITTEE COMPOSITION	7
SECTION 3. COMMITTEE MEMBERS	8
SECTION 4. COMMITTEE MEETINGS	8
ARTICLE 10 – CORPORATE RECORDS AND REPORTS	8
SECTION 1. MAINTENANCE OF CORPORATE RECORDS	8
SECTION 2. DIRECTORS’ INSPECTION RIGHTS	8
SECTION 3. ANNUAL REPORT	8
SECTION 4. ANNUAL STATEMENT OF SPECIFIC TRANSACTIONS AND INDEMNIFICATIONS	9
ARTICLE 11 – FISCAL YEAR	9
ARTICLE 12 – CONFLICT OF INTEREST	9
ARTICLE 13 – AMENDMENT OF BYLAWS	10
SECTION 1. ARTICLES OF INCORPORATION	10
SECTION 2. BYLAWS	10
ARTICLE 14 – PROHIBITION AGAINST SHARING CORPORATE PROFITS AND ASSETS	10
SECTION 1. PROHIBITION AGAINST SHARING CORPORATE PROFITS AND ASSETS	10
SECTION 2. DISTRIBUTION OF ASSETS UPON DISSOLUTION	10
ARTICLE 15 – INDEMNIFICATION OF DIRECTORS, OFFICERS, EMPLOYEES AND AGENTS	11
SECTION 1. DEFINITIONS	11
SECTION 2. APPLICABILITY OF INDEMNIFICATION PROVISIONS	11
SECTION 3. ACTIONS BROUGHT BY PERSONS OTHER THAN THE CORPORATION ...	11
SECTION 4. ACTION BROUGHT BY OR ON BEHALF OF THE CORPORATION	12
SECTION 5. DETERMINATION OF AGENT’S GOOD FAITH CONDUCT	13

SECTION 6. LIMITATIONS..... 13
SECTION 7. ADVANCE OF EXPENSES 13
SECTION 8. CONTRACTUAL RIGHTS OF NON-DIRECTORS AND NON-OFFICERS..... 14
SECTION 9. INSURANCE 14

**BYLAWS OF
COMMUNITY HERITAGE AND EDUCATION FOUNDATION
A California Nonprofit Public Benefit Corporation**

ARTICLE 1 – OFFICES

SECTION 1. NAME

The name of this corporation is Cultural Heritage and Education Foundation.

SECTION 2. PRINCIPAL OFFICE OF THE CORPORATION

The principal office for the transaction of activities and affairs of this corporation is located at 31111 Greenspot Road, Highland, CA 92346.

SECTION 3. CHANGE OF ADDRESS OF PRINCIPAL OFFICE

The Board of Directors shall have full power and authority to change said principal office from one location to another within the State of California. Any such change shall be noted by the Secretary in these bylaws opposite this Section; alternatively, this Section may be amended to state the new location.

ARTICLE 2 – PURPOSES

SECTION 1. OBJECTIVES AND PURPOSES

This corporation is organized under the Nonprofit Public Benefit Corporation Law for educational purposes. The purpose of this corporation is to preserve, and educate the public about the social and agricultural history of the San Bernardino area including farming, irrigation and water use practices of prior generations of area residents, and to create an organization through which East Valley Water District, in partnership with the community, can celebrate and instill in future generations the rich history of the region and civic pride in the community.

SECTION 2. DEDICATION OF ASSETS

This corporation's assets are irrevocably dedicated to public benefit purposes. Not part of the net earnings, properties, or assets of the corporation, on dissolution or otherwise, shall inure to the benefit of any private person or individual, or to any director or officer of the corporation. On liquidation or dissolution, all properties and assets remaining after payment, or provision for payment, of all debts and liabilities of the corporation shall be distributed to a nonprofit fund foundation or corporation that is organized and operated exclusively for charitable purposes and that has established its exempt status under Internal Revenue Code section 501(c)(3).

SECTION 3. POLITICAL ACTIVITIES

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

SECTION 4. PROHIBITED ACTIVITIES

The Corporation shall not, except in any insubstantial degree, engage in any activities or exercise any powers that are not in furtherance of the purposes described in this Article. The Corporation may not carry on any activity for the profit of its Officers, Directors or other private persons or distribute any gains, profits or dividends to its Officers, Directors or other persons as such. Furthermore, nothing in Article 3 shall be construed as allowing the Corporation to engage in any activity not permitted to be carried on (i) by a corporation exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the "Code") or (ii) by a corporation, contributions to which are deductible under section 170(c)(2) of the Code.

ARTICLE 3 – MEMBERS

SECTION 1. MEMBERS

This corporation shall have no voting members within the meaning of the Nonprofit Corporation Law. The corporation's Board of Directors may, in its discretion, admit individuals to one or more classes of nonvoting members; the class or classes shall have such rights and obligations as the Board finds appropriate.

ARTICLE 4 – BOARD OF DIRECTORS

SECTION 1. GENERAL POWERS

Subject to the provisions and limitations of the California Nonprofit Public Benefit Corporation Law and any other applicable laws, and subject to any limitations of the articles of incorporation or by laws of this corporation, the activities and affairs of this corporation shall be managed and all corporate powers shall be exercised, by or under the direction of the Board of Directors.

SECTION 2. SPECIFIC POWERS

Without prejudice to the general powers set forth in Article 4, Section 1 of these bylaws, but subject to the same limitations, the Board of Directors shall have the power to do the following:

- A) Perform any and all duties imposed on them collectively or individually by law, by the Articles of Incorporation of this corporation or by these bylaws.
- B) Appoint and remove, at the pleasure of the Board, all corporate officers, agents and employees; prescribe power and duties for them as are consistent with the law, the articles of incorporation and these bylaws; fix their compensation; supervise their performance; and require from them security for faithful service.
- C) Change the principal office or the principal business office in California from one location to another; cause the corporation to be qualified to conduct its activities in any other state, territory, dependency, or country; and conduct its activities in or outside California.
- D) Borrow money and incur indebtedness on the corporation's behalf and cause to be executed and delivered for the corporation's purposes, in the corporate name, promissory notes, bonds, debentures, deeds of trust, mortgages, pledges, hypothecations, and other evidences of debt and securities.
- E) 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. Except for matters pertaining to the ordinary and necessary operation of the business of the corporation and as otherwise provided in Section 5214 of the California Corporations Code, 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 monetarily for any purpose or in any amount.
- F) Accept on behalf of the corporation any contribution, gift, bequest, or devise for the charitable or public purposes of this corporation.
- G) Adopt, use and, at will, alter a corporate seal.

SECTION 3. NUMBER OF DIRECTORS

The Board of Directors shall consist of five (5) directors. The five (5) directors shall be the current board members of the East Valley Water District, a California County Water District.

SECTION 4. COMPENSATION

Directors shall serve without compensation, but may receive such reimbursement of expenses as the Board may establish by resolution to be just and reasonable as to the corporation at the time that the resolution is adopted. The expenses shall not be more than what is permitted by California state law for publicly elected officials.

SECTION 5. TERMS OF DIRECTORS

Directors serve a term of four (4) years to coincide with their term in office as member of the East Valley Water District Board. Each term as director of the corporation shall be coterminous with that director's term as member of the East Valley Water District Board. The director's term shall start on the day in which that director was elected as member of East Valley Water District Board and shall end on the last day of their four (4) year term as member of the East Valley Water District Board. If the director is reelected as a member of the East Valley Water District Board, that Director shall serve another four (4) year term as director of the corporation to coincide with their new term as director of East Valley Water District.

SECTION 6. REMOVAL OF DIRECTOR

If a current director is no longer a member of the East Valley Water District Board, that director shall be removed as a director of the corporation at the next meeting of the corporation after the director vacates, either voluntarily or involuntarily, their position as a member of the East Valley Water District Board.

SECTION 7. VACANCIES

If a director is removed as a director of the corporation prior to the end of their four (4) year term, a new director shall be appointed by the Board. The newly appointed director shall serve out the remainder of the removed director's term to coincide with the remainder of the former director's term as a member of the East Valley Water District Board.

Any newly elected director of East Valley Water District shall be appointed as a director of the corporation by resolution at the first meeting after the elected director's start of their term.

SECTION 8. LIMITED LIABILITY OF DIRECTORS

Subject to their fiduciary responsibilities and standards of conduct for publicly elected officials, the directors shall not be personally liable for the debts, liabilities or other obligations of the corporation.

SECTION 9. OFFICERS

At its annual meeting, the Board of Directors shall elect one of its members to serve as President of the Board and one of its members to serve as Vice President of the Board. The term of office for President and Vice President shall be one year.

ARTICLE 5 – MEETING OF THE BOARD OF DIRECTORS

SECTION 1. PUBLIC MEETING REQUIREMENT

Each meeting of the Board of Directors shall be in accordance with the Brown Act (California Government Code 54950 et seq.).

SECTION 2. PLACE OF BOARD MEETINGS

Meetings of the Board shall be held at the principal office of the corporation unless another location is designated in the notice of the meeting as prescribed in accordance with the Brown Act (California Government Code 54950 et seq.).

SECTION 3. ANNUAL MEETING

The annual meeting of the Board of Directors shall be held within the month of January of the new calendar year.

SECTION 4. REGULAR MEETINGS

The Board of Directors by resolution may establish a schedule of regular meetings of the Board of Directors.

SECTION 5. SPECIAL MEETINGS

Special meetings of the Board of Directors may be called by the Chair of the Board or the Chief Executive Officer only for those purposes as denoted in the Brown Act (California Government Code 54950 et seq.) upon written notice in accordance with emergency meetings as designated in the Brown Act (California Government Code 54950 et seq.).

SECTION 6. NOTICE OF SPECIAL MEETINGS

Notice of the time, place, and contents of special meetings shall be completed in accordance with the Requirements for noticing said meeting in the Brown Act (California Government Code 54950 et seq.).

SECTION 7. QUORUM

A quorum shall be established when a majority of the Board of Directors are present for the transaction of business.

SECTION 8. ADJOURNMENT

A majority of the director's may adjourn any meeting to another time and place. If less than a quorum of Directors are present, the Secretary may adjourn the meeting to a future date.

ARTICLE 6 – CHIEF EXECUTIVE OFFICER

SECTION 1. APPOINTMENT OF CHIEF EXECUTIVE OFFICER

The Chief Executive Officer shall be the General Manager of the East Valley Water District. The Chief Executive Officer shall serve the Board as long as the Chief Executive Officer retains the role as the General Manager of East Valley Water District.

SECTION 2. CHIEF EXECUTIVE OFFICER RESPONSIBILITIES

The Chief Executive Officer shall have general supervision, direction, and control of the business and programs of the corporation, and general control of the employment, supervision and direction of the corporation's staff. He or she may, in the name of the

corporation, execute such deeds, mortgages, bonds, contracts, checks or other instruments that may, from time to time, be authorized by the Board of Directors or the Executive Committee.

ARTICLE 7 - SECRETARY

SECTION 1. SECRETARY

The Secretary shall be appointed by the Board of Directors and shall serve at the pleasure of the Board.

SECTION 2. SECRETARY RESPONSIBILITIES

- (A) Certify and keep or cause to be kept at the principal office of the corporation the Articles of Incorporation and the original or a copy of these bylaws as amended or otherwise altered to date.
- (B) Keep or cause to be kept at the corporation's principal office or such other place as the Board may direct, a book of minutes of all meetings, proceedings, action of the Board and of committees of the Board. The minutes of meetings shall include the time and place that the meeting was held; whether the meeting was annual, general, or special, and, if special, how authorized; the notice given and the names of persons present at Board and committee meetings.
- (C) Give or cause to be given notice of all meetings of the Board and of committees of the Board that these bylaws require to be given.
- (D) Be custodian of the seal of the corporation and see that the seal is affixed to all duly executed documents, the execution of which on behalf of the corporation under seal is authorized by law of these bylaws. Failure to affix the seal to corporate instruments, however, shall not affect the validity of any such instrument.
- (E) Exhibit or cause to be exhibited at all reasonable times to any director of the corporation, or to his or her agent or attorney on request thereof, the bylaws and the minutes of the proceedings of the directors of the corporation.
- (F) Perform all duties incident to the office of Secretary and such other duties as may be required by law, by the Articles of Incorporation of this corporation, or by these bylaws, or which may be assigned to him or her from time to time by the Board of Directors.

ARTICLE 8 - TREASURER

SECTION 1. TREASURER

The Treasurer shall be appointed by the Board of Directors and shall serve at the pleasure of the Board.

SECTION 2. TREASURER RESPONSIBILITIES

The Treasurer shall:

- (A) Have charge and custody of, and be responsible for, all funds and securities of the corporation and deposit, or cause to be deposited, 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) Disburse, or cause to be disbursed by the Chief Executive Officer, the funds of the corporation as may be directed by the Board of Directors, taking proper vouchers for such disbursements as the Board may order. Except as otherwise specifically determined by resolution of the Board of Directors, or as otherwise required by law, checks, drafts, promissory notes, orders for the payment of money, and other evidence of indebtedness of the corporation shall be signed by the Chief Executive Officer or by other individuals as authorized by the Board of Directors.
- (C) Oversee receipt of monies due and payable to the Corporation from any source whatsoever.
- (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 thereof.
- (F) Render to the Chair and directors, whenever requested, an account of any or all transaction and 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, or by these bylaws, or which may be assigned to him or her from time to time by the Board of Directors.

ARTICLE 9 – PUBLIC COMMITTEE

SECTION 1. COMMITTEE PURPOSE

The purpose of the Public Committee is providing discussion on the present and future projects or issues of the corporation. The Committee shall recommend projects or issues regarding the corporation for the Board of Directors to take under submission. The Chief Executive Officer shall have the sole right and power to determine which projects or issues recommended by the Committee shall be submitted to the Board of Directors for review.

SECTION 2. COMMITTEE COMPOSITION

The Committee members shall be comprised of at least seven (7) members, including: the Chief Executive Officer, the Secretary, Treasurer, a representative from the Board of Directors, and four (4) members of the public community. The Board of Directors shall have the power to increase the number of public community members in the Committee.

SECTION 3. COMMITTEE MEMBERS

Committee members shall be on a volunteer basis. Committee members from the public community cannot be an employee of East Valley Water District.

The initial Committee members shall submit their request to become a member to the Board of Directors. The initial Committee members' term shall expire on December 31, 2019.

After, Committee members shall be appointed by the Board of Directors at the annual meeting of an even numbered year. Each Committee member's term shall start after appointment at the even numbered year and terminate on December 31st of following odd numbered year. For example, if the committee member is appointed in January of 2020, that committee member's term shall expire on December 31, 2021.

The process and procedure for the election of committee members shall be established by resolution of the Board of Directors and shall be in accordance with these Bylaws.

SECTION 4. COMMITTEE MEETINGS

Committee meeting rules and frequency shall be established by resolution of the Board of Directors.

ARTICLE 10 – CORPORATE RECORDS AND REPORTS

SECTION 1. MAINTENANCE OF CORPORATE RECORDS

The corporation shall keep at its principal office in the State of California:

- (A) Minutes of all meetings of directors and committees of the Board, indicating the time and place of hold such meetings, whether regular or special, how called, the notice given and the names of those present and the proceedings thereof.
- (B) Adequate and correct books and records of account including accounts of its properties and business transactions and accounts of its assets, liabilities, receipts, disbursements, gains and losses.
- (C) A copy of the corporation's Articles of Incorporation and Bylaws as amended to date, which shall be open to inspection pursuant to the Public Records Act.

SECTION 2. DIRECTORS' INSPECTION RIGHTS

Every director shall have the absolute right at any reasonable time to inspect the corporation's books, records, documents of every kind, physical properties, and the records of each subsidiary. The inspection may be made in person or by the director's agent or attorney. The right of inspection includes the right to copy and make extracts of documents.

SECTION 3. ANNUAL REPORT

The Board shall cause an annual report to be furnished not later than one hundred and twenty (120) days after the close of the corporation's fiscal year to all directors of the corporation, which report shall contain the following information in appropriate detail:

- (A) The assets and liabilities, including the trust funds, of the corporation as of the end of the fiscal year;
- (B) The principal changes in assets and liabilities, including trust funds, during the fiscal year
- (C) The revenue or receipts of the corporation, both unrestricted and restricted to particular purposes for the fiscal year.
- (D) The expenses or disbursements of the corporation, for both general and restricted purposes, during the fiscal year;
- (E) Any information required by Section 4 of this Article;
- (F) An independent accountant's report or, if non, the certificate of an authorized officer of the corporation that such statements were prepared without audit from the corporation's books and records.

SECTION 4. ANNUAL STATEMENT OF SPECIFIC TRANSACTIONS AND INDEMNIFICATIONS

As part of the annual report, this corporation shall furnish to its directors a statement of any transaction of indemnification of a kind described in Section 6322, subdivision (d) or (e) of the California Nonprofit Public Benefit Corporation Code:

- (A) Any transaction (i) in which the corporation was a party, (ii) in which an "interested person" had a direct or indirect material financial interest, and (iii) which involved more than \$50,000 or was one of several transactions with the same interested person involving, in the aggregate, more than \$50,000. For this purpose, an "interested person" is either: (1) any director or officer of the corporation, or its parent or subsidiary; or (2) any holder of more than 10 percent of the voting power of the corporation, its partner or its subsidiary.
- (B) Any indemnifications or advances aggregating more than \$10,000 paid during the fiscal year to any officer or director of the corporation under Article 10, Section 1 of these bylaws, unless that indemnification has already been approved by the Board under Corporations Code Section 5238(e)(2).

ARTICLE 11 – FISCAL YEAR

The fiscal year of the corporation shall begin on July one (1) and end on June thirty (30) of each year.

ARTICLE 12 – CONFLICT OF INTEREST

Directors, Officers, and employees of the corporation shall be subject to applicable federal and state laws governing conflict of interest applicable to nonprofit organizations and California public agencies.

ARTICLE 13 – AMENDMENT OF BYLAWS

SECTION 1. ARTICLES OF INCORPORATION

The Articles of Incorporation may be amended in any manner at any regular or special meeting of the Board of Directors, provided that specific written notice of the proposed amendment of the Articles setting forth the proposed amendment or a summary of the changes to be effected thereby shall be given to each director at least three days in advance of such a meeting if delivered personally, by facsimile, or by email or at least five days if delivered by mail. AS required by the Articles, any amendment to Article III or Article IV of the Articles shall require the affirmative vote of all directors then in office. All other amendments of the Articles shall require the affirmative vote of an absolute majority of directors then in office.

SECTION 2. BYLAWS

Subject to any provision of law applicable to the amendment of bylaws of public benefit nonprofit corporations, these bylaws, or any of them, may be altered, amended, or repealed and new bylaws adopted by a majority vote of the entire Board of Directors.

These bylaws may not be amended to include any provision that conflicts with law or with the corporation's Articles of Incorporation.

ARTICLE 14 – PROHIBITION AGAINST SHARING CORPORATE PROFITS AND ASSETS

SECTION 1. PROHIBITION AGAINST SHARING CORPORATE PROFITS AND ASSETS

No director, officer, employee, or other person connected with this corporation, or any private individual, shall receive at any time any of the net earnings or pecuniary profit from the operations of the corporation, provided, however, that this provision shall not prevent payment to any such person of reasonable compensation for services performed for the corporation in effecting any of its public or charitable purposes, provided that such compensation is otherwise permitted by these bylaws and is fixed by resolution of the board of directors; and no such person or persons shall be entitled to share in the distribution of, and shall not receive, any of the corporate assets on dissolution of the corporation. All members, if any, of the corporation shall be deemed to have expressly consented and agreed that on such dissolution or winding up of the affairs of the corporation, whether voluntarily or involuntarily, the assets of the corporation, after all debts have been satisfied, shall be distributed as required by the articles of incorporation of this corporation and not otherwise.

SECTION 2. DISTRIBUTION OF ASSETS UPON DISSOLUTION

Upon the dissolution or winding up of the Corporation, its assets remaining after payment or provision for payment, of all debts and liabilities of the Corporation shall be distributed to the East Valley Water District, a California County Water District, or a nonprofit fund, foundation, or corporation which is organized and operated exclusively

for educational purposes and which has established its tax exempt status under Section 501(c)(3) of the Internal Revenue Code.

ARTICLE 15 – INDEMNIFICATION OF DIRECTORS, OFFICERS, EMPLOYEES AND AGENTS

SECTION 1. DEFINITIONS

- (A) “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 that was a predecessor corporation of the Corporation or of another enterprise at the request of the predecessor corporation;
- (B) “Proceeding” means any threatened, pending, or completed action or proceeding, whether civil, criminal, administrative, or investigative; and
- (C) “Expenses” includes, without limitation, all attorneys’ fees, costs, and any other expenses reasonably incurred in the defense of any claims or proceedings against an Agent by reason of his or her position or relationship as Agent and all attorneys’ fees, costs, and other expenses reasonably incurred in establishing a right to indemnification under this Article 15.

SECTION 2. APPLICABILITY OF INDEMNIFICATION PROVISIONS

- (A) Successful Defense of Agent - To the extent that an Agent has been successful on the merits in the defense of any proceeding referred to in this Article 15, or in the defense of any claim, issue, or matter therein, the Agent shall be indemnified against expenses actually and reasonably incurred by the Agent in connection with the claim.
- (B) Settlement or Unsuccessful Defense by Agent – If an Agent either settles any proceeding referred to in this Article 15, or any claim, issue, or matter therein, or sustains a judgment rendered against him, then the provisions of Section 3 through Section 6 of Article 15 shall determine whether the Agent is entitled to indemnification.

SECTION 3. ACTIONS BROUGHT BY PERSONS OTHER THAN THE CORPORATION

This Section applies to any proceeding other than an action “by or on behalf of the corporation” as defined in Section 4 below. Such proceedings that are not brought by or on behalf of the Corporation are referred to in this Section as “Third Party proceedings.”

- (A) Scope of Indemnification in Third Party Proceedings. Subject to the required findings to be made pursuant to Section 3(C), the Corporation [may OR shall] indemnify any person who was or is a party, or is threatened to be made a party, to any Third Party proceeding, by reason of the fact that such person is or was an Agent, for all expenses, judgments, fines, settlements, and other amounts actually and reasonably incurred in connection with the proceeding.

(B) Any indemnification granted to an Agent in Section 3(A) above is conditioned on the following. The Board must determine, in the manner provided in Section 5, that the Agent seeking reimbursement acted in good faith, in a manner he or she reasonably believed to be in the best interest of the Corporation, and, in the case of a criminal proceeding, he or she must have had no reasonable cause to believe that his or her conduct was unlawful. The termination of any proceeding by judgment, order, settlement, conviction, or on a plea of nolo contendere or its equivalent shall not, of itself, create a presumption that the person did not act in good faith or in a manner he or she reasonably believed to be in the best interest of the Corporation or that he or she had reasonable cause to believe that his or her conduct was unlawful.

SECTION 4. ACTION BROUGHT BY OR ON BEHALF OF THE CORPORATION

This Section applies to any proceeding brought (i) by or in the right of the Corporation, or (ii) by an Officer, Director or person granted relator status by the Attorney General, or by the Attorney General, on the ground that the defendant Director was or is engaging in self-dealing within the meaning of section 5233 of the California Nonprofit Corporation Law, or (iii) by the Attorney General or person granted relator status by the Attorney General for any breach of duty relating to assets held in charitable trust (any such proceeding is referred to in these Bylaws as a proceeding “by or on behalf of the Corporation”).

- (A) Scope of Indemnification in Proceeding By or On Behalf Of the Corporation - Subject to the required findings to be made pursuant to Section 4B, and except as provided in Sections 4C and 4D, the Corporation may indemnify any person who was or is a party, or is threatened to be made a party, to any proceeding by or on behalf of the Corporation, by reason of the fact that such person is or was an Agent, for all expenses actually and reasonably incurred in connection with the defense or settlement of such action.
- (B) Required Standard of Conduct for Indemnification in Proceeding By or On Behalf Of the Corporation - Any indemnification granted to an Agent in Section 4A is conditioned on the following. The Board must determine, in the manner provided in Section 5, that the Agent seeking reimbursement acted in good faith, in a manner he or she believed to be in the best interest of the Corporation and with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances.
- (C) Claims Settled Out of Court - If any Agent settles or otherwise disposes of a threatened or pending action brought by or on behalf of the Corporation, with or without court approval, the Agent shall receive no indemnification for amounts paid pursuant to the terms of the settlement or other disposition. Also, in cases settled or otherwise disposed of without court approval, the Agent shall receive no indemnification for expenses reasonably incurred in defending against the proceeding, unless the proceeding is settled with the approval of the Attorney General.

- (D) Claims and Suits Awarded Against Agent - If any Agent is adjudged to be liable to the Corporation in the performance of the Agent's duty to the Corporation, the Agent shall receive no indemnification for amounts paid pursuant to the judgment, and any indemnification of such Agent under Section 4A for expenses actually and reasonably incurred in connection with the defense of that action shall be made only if both of the following conditions are met:
- (a) The determination of good faith conduct required by Section 4B must be made in the manner provided for in Section 5; and
 - (b) Upon application, the court in which the action was brought must determine that, in view of all of the circumstances of the case, the Agent is fairly and reasonably entitled to indemnity for the expenses incurred. If the Agent is found to be so entitled, the court shall determine the appropriate amount of expenses to be reimbursed.

SECTION 5. DETERMINATION OF AGENT'S GOOD FAITH CONDUCT

The indemnification granted to an Agent in Section 3 and Section 4 is conditioned on the findings required by those Sections being made by:

- (A) the Board by a majority vote of a quorum consisting of Directors who are not parties to the proceeding; or
- (B) the court in which the proceeding is or was pending. Such determination may be made on application brought by the Corporation or the Agent or the attorney or other person rendering a defense to the Agent, whether or not the application by the Agent, attorney, or other person is opposed by the Corporation.

SECTION 6. LIMITATIONS

No indemnification or advance shall be made under this Article 15, except as provided in Section 2 A or Section 5 B, in any circumstances when it appears:

- (A) that the indemnification or advance would be inconsistent with a provision of the Articles of Incorporation, as amended, 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 the indemnification would be inconsistent with any condition expressly imposed by a court in approving a settlement.

SECTION 7. ADVANCE OF EXPENSES

Expenses incurred in defending any proceeding may be advanced by the Corporation before the final disposition of the proceeding on receipt of an undertaking by or on behalf of the Agent to repay the amount of the advance unless it is determined ultimately that the Agent is entitled to be indemnified as authorized in this Article 15.

SECTION 8. CONTRACTUAL RIGHTS OF NON-DIRECTORS AND NON-OFFICERS

Nothing contained in this Article 15 shall affect any right to indemnification to which persons other than Directors and Officers of the Corporation, or any of its subsidiaries, may be entitled by contract or otherwise.

SECTION 9. INSURANCE

The Board may adopt a resolution authorizing the purchase and maintenance of insurance on behalf of any Agent, as defined in this Article 15, against any liability asserted against or incurred by any 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 the liability under the provisions of this Article 15.

COMMUNITY HERITAGE EDUCATION FOUNDATION AGENDA STAFF REPORT

Agenda Item #5.
Meeting Date: December 12, 2018
Discussion Item

To: Board of Directors
From: Chief Executive Officer

Subject: Appoint Members to Public Committee

RECOMMENDATION:

Staff recommends that the Board of Directors appoint members to the Community Heritage and Education Foundation Public Committee.

BACKGROUND / ANALYSIS:

New opportunities for enhanced community engagement has been a common topic for discussion as District staff build relationships within our service area. Over the past year, the General Manager/CEO, Chairman Carrillo, and other members of staff have been meeting with a group of community-minded citizens to discuss the creation of a non-profit foundation to preserve and protect local history and provide a multi-functional events center available to the community, resulting in the creation of the Community Heritage and Education Foundation (CHEF).

The purpose of the committee will be to discuss and recommend present and future projects to the Board to educate the public about the social and agricultural history of the San Bernardino area and instill civic pride in the community. This forum allows for discussions and feedback from the public prior to any major actions by CHEF.

The committee shall be comprised of at least seven (7) members, including: the Chief Executive Officer, the Secretary, Treasurer, a representative from the Board of Directors and four (4) members of the public. The Board of Directors has the authority to increase the number of public community members in the Committee.

Staff is recommending the Board appoint the current slate of community members that have been attending these meetings which includes:

- Jim Cimino
- Dennis Johnson
- Wayne Brown
- Jim Imbierski
- Jody Scott
- Jim Nunn
- Charles Kiel
- Ron Arnott
- Penny Lilburn

REVIEW BY OTHERS:

This agenda item has been reviewed by the Administration Department.

FISCAL IMPACT

There is no fiscal impact associated with this agenda item.

Recommended by:

John Mura
Chief Executive Officer