

COPY

BYLAWS  
OF  
THE JIMMIE HEUGA CENTER FOUNDATION  
("the Corporation")

1. OFFICES.

The principal office of the Corporation in the State of Colorado is at 27 Main Street, Suite 303, Edwards, Colorado 81632. Other offices and places of business may be established from time to time by resolution of the Board of Directors.

2. SEAL.

The seal of the Corporation shall have inscribed thereon the name of the Corporation, and the words, "Colorado" and "Seal", and shall be in such form as may be approved by the Board of Directors. The Board of Directors shall have the power to alter the seal of the Corporation at its pleasure.

3. MEMBERS.

The Corporation shall have one Voting Member, which shall be the JIMMIE HEUGA CENTER. Such Voting Member shall have the voting power as provided and described by Article VI of the Articles of Incorporation. "Nonvoting Membership" designations and classifications may also be developed by the Board of Directors solely in recognition of donations made by individuals and entities in support of the purposes of the Corporation. Such Nonvoting Members shall not be entitled to vote on any matter.

4. DIRECTORS.

4-A. Board of Directors. Except for the initial Board of Directors named in the Corporation's Articles of Incorporation, all other affairs of the Corporation shall be managed solely by a Board of eight (8) persons. One (1) director shall be the then-acting Chairman of the JIMMIE HEUGA CENTER. Two (2) directors shall be appointed by the Corporation's Board of Directors from the members of the Board of Directors of the JIMMIE HEUGA CENTER. The remaining directors shall be persons not serving on the Board of Directors of the JIMMIE HEUGA CENTER and shall be appointed by this Corporation's Board of Directors, provided that at no time shall more than two (2) members of the Board of Directors at any time be "disqualified persons" as that term is defined in Section 509(a)(3)(C) of the Internal Revenue Code of 1986 as amended ("the Code"). Directors need not be residents of the State of Colorado. Directors shall hold office for a term of two (2) years, or until their successors have been elected or appointed and qualified. Directors may serve an unlimited number of terms. Each meeting of the Board of Directors shall be chaired by a director elected from their number by the directors attending such meeting.

4-B. Annual Meeting. The annual meeting of the Board of Directors shall be at the principal office of the Corporation and will be held on the second Tuesday of October of each year pursuant to notice as provided in Paragraph 4-E or on such other day or at such other place or time as may be determined by the

directors pursuant to notice as provided by Paragraph 4-E. The annual meeting of the Board of Directors shall be for the purpose of electing directors and officers and transacting such other business as may come before the meeting.

4-C. Regular Meetings. Regular meetings of the Board of Directors shall be held on a periodic basis as decided by the Board of Directors.

4-D. Special Meetings. Special meetings of the Board of Directors may be called at any time by the president or any one director.

4-E. Notice. Notice of any regular meeting shall be given to each director by the secretary either in writing by first class mail or by telephone at least ten (10) days prior to the date or time fixed for the meeting. Notice of any special meeting shall be given to each director by the secretary either in writing by first class mail or by telephone at least seven (7) days prior to the date or time fixed for the meeting. The presence of any director at a meeting shall constitute waiver of notice of such meeting except as otherwise provided by law. Unless specifically required by law, the Articles of Incorporation or these Bylaws, neither the business to be transacted at, nor the purpose of, any meeting of the Board of Directors need be specified in the notice or waiver of notice of such meeting.

4-F. Place of Meetings. Meetings may be held within or without the State of Colorado at such time and place as the notice or waiver thereof may specify.

4-G. Quorum. A quorum at all meetings of the Board of Directors shall consist of five (5) of the directors then in office, but a smaller number may adjourn from time to time without further notice, until a quorum is secured. The act of five (5) directors present at a meeting at which a quorum is present shall be the act of the Board of Directors, unless the act of a greater number is required by the Articles of Incorporation or these Bylaws.

4-H. Vacancies. Any vacancy occurring in the Board of Directors shall be filled in the manner and according to the requirements set forth for election of directors in Paragraph 4-A of these Bylaws. A director who fills a vacancy shall do so for the unexpired term of his or her predecessor in office and shall hold such office until his or her successor is duly appointed and qualified. Any directorship to be filled by reason of any increase in the number of directors shall be filled by the Board of Directors. A director chosen to fill a position resulting from an increase in the number of directors shall hold office until the next election of the Board of Directors.

4-I. Removal. Any director may be removed as a director by at least five (5) other members of the Board of Directors of the Corporation. The decision of the Board shall be final.

4-J. Resignation. Any director may resign at any time by giving written notice of such resignation to the Board of Directors, the president or the secretary.

4-K. Compensation and Expense Reimbursement. Directors of the Corporation may receive a reasonable salary or other reasonable compensation for services rendered as a director for the Corporation, provided that compensation shall only be paid for personal services which are reasonable and necessary to carry out the exempt purposes of the Corporation. A director may be reimbursed for actual expenses incurred to carry out his or her duties as a director.

4-L. Loans. No loans shall be made by the Corporation to its directors.

4-M. Advisory Board. The Board of Directors may appoint one or more advisory boards. The membership of any advisory board shall be determined solely by the Board of Directors. Members of any advisory board shall be authorized to attend all meetings of the Board of Directors and to advise the Board on any matter concerning the Corporation as requested by the Board of Directors. Members of any advisory board shall have no voting rights.

4-N. Executive and Other Committees. The Board of Directors, by resolution adopted by a majority of the number of directors, may designate from among its members an executive committee or one or more other committees, each of which shall consist of two or more directors. Each committee shall have and

may exercise such authority of the Board of Directors as shall be provided in the resolution, except as otherwise required by law.

5. OFFICERS.

5-A. Election. The elective officers of the Corporation shall be a president, a vice-president, a secretary, a treasurer and such other officers and assistant officers as may be deemed necessary. Any two offices, except those of president and secretary, may be held by the same person. All officers must also serve on the Board of Directors, provided however, that a recording secretary may be elected who need not be a member of the Board of Directors. Officers shall be elected by the Board of Directors at its first meeting. Unless removed in accordance with procedures established by law and these Bylaws, the officers shall serve until the next succeeding annual meeting of the Board of Directors and until their respective successors are elected and are qualified.

5-B. Officers. The officers of the Corporation shall exercise and perform the respective powers, duties and functions as are stated below, and as may be assigned by the Board of Directors.

5-B-1. The president shall be the chief executive officer of the Corporation and shall, subject to the control of the Board of Directors, have general supervision, direction and control of the affairs and officers of the Corporation. He or she shall preside at all meetings of the Board of Directors.

Unless some other person is specifically authorized by the Board of Directors, the president shall sign all bonds, deeds, mortgages, leases and contracts of the Corporation. The president shall perform all the duties commonly incident to this office and such other duties as the Board of Directors shall designate.

5-B-2. In the absence or disability of the president, the vice-president shall perform all duties of the president, and when so acting shall have all the powers of, and be subject to all the restrictions on the president; provided, however, that if the vice-president cannot so act, then the treasurer shall perform the duties of the president. The vice-president shall have such other powers and perform such other duties as may from time to time be assigned to him or her by the president.

5-B-3. The secretary shall keep accurate minutes of all meetings of the Board of Directors. He or she shall be responsible for the giving of notice of meetings of the Board of Directors. The secretary shall be the custodian of the records and of the seal of the Corporation and shall attest the affixing of the seal of the Corporation when so authorized. The secretary shall perform all duties commonly incident to his or her office and such other duties as may from time to time be assigned to him or her by the president.

5-B-4. The treasurer, subject to the order of the Board of Directors, shall have the care and custody of the money, funds, valuable papers and documents of the Corporation. He or

she shall keep correct and complete books and records of accounts of the Corporation's transactions, which shall be the property of the Corporation, and shall render financial reports and statements of condition of the Corporation when so requested by the Board of Directors or the president. The treasurer shall perform all duties commonly incident to his or her office and such other duties as may from time to time be assigned to him or her by the president.

5-C. Compensation and Expense Reimbursement. Officers of the Corporation may receive a reasonable salary or other reasonable compensation for services rendered as an officer of the Corporation, provided that compensation shall only be paid for personal services which are reasonable and necessary to carry out the exempt purposes of the Corporation. An officer may be reimbursed for actual expenses incurred to carry out his or her duties as an officer.

5-D. Disability. In the absence or disability of any officer, the Board of Directors may delegate the powers or duties of such officer to any other officer whom it may select.

5-E. Removal. Any officer or agent may be removed as an officer or agent by the Board of Directors at a special meeting called for such purpose. Such removal shall be without prejudice to the contract rights, if any, of the person so removed. Election or appointment of an officer or agent shall not, of itself, create contract rights.



5-F. Resignation. Any officer may resign at any time by giving written notice of such resignation to the Board of Directors, the president or the secretary.

5-G. Vacancies. Any vacancy occurring in any office may be filled by the affirmative vote of a majority of the directors then in office. An officer who fills a vacancy shall do so for the unexpired term of his or her predecessor in office and shall hold such office until his or her successor is duly appointed and qualified.

5-H. Loans. No loans shall be made by the Corporation to its officers.

6. FINANCE AND CONTRIBUTIONS.

6-A. Banking. The monies of the Corporation shall be deposited in the name of the Corporation in such bank or banks or trust company or trust companies, as the Board of Directors shall designate, and may be drawn out only on checks signed in the name of the Corporation by such person or persons as the Board of Directors by appropriate resolution may direct. Notes and commercial paper, when authorized by the Board of Directors, shall be signed in the name of the Corporation by such officer or officers or agent or agents as shall be authorized from time to time.

6-B. Fiscal Year. The fiscal year of the Corporation shall be determined by resolution of the Board of Directors.

6-C. Accountability. The Corporation shall provide financial statements to the JIMMIE HEUGA CENTER on at least a quarterly basis.

7. WAIVER OF NOTICE.

Any officer or director may waive, in writing, any notice of a meeting required to be given by law or these Bylaws, either before or after the time of such meeting.

8. ACTION WITHOUT A MEETING.

Any action required to be taken at a meeting of the Board of Directors or any action which may be taken at such meeting, may be taken without a meeting if a consent, in writing, setting forth the action so taken is signed by all members of the Board of Directors.

9. INDEMNIFICATION OF DIRECTORS, OFFICERS, EMPLOYEES AND AGENTS.

9-A. Definitions. For purposes of this Article, the following terms shall have the meanings set forth below:

9-A-1. "Corporation" means the Corporation and, in addition to the resulting or surviving corporation, any domestic or foreign entity that is a predecessor of a corporation by reason of a merger, consolidation or other transaction in which the predecessor's existence ceased upon consummation of the transaction.

9-A-2. "Director" means an individual who is or was a director of the Corporation, and an individual who, while such a director of the Corporation, is or was serving at the Corporation's request as a director, officer, partner, trustee, employee, fiduciary or agent of any other foreign or domestic corporation or other entity or employee benefit plan. A director shall be considered to be serving an employee benefit plan at the Corporation's request if his or her duties to the Corporation also impose duties on, or otherwise involve services by, the director to the plan or to participants in or beneficiaries of the plan. "Director" includes, unless the context otherwise requires, the estate or personal representative of a director.

9-A-3. "Expenses" means the actual and reasonable expenses, including counsel's fees, incurred by a party in connection with a proceeding.

9-A-4. "Liability" means the obligation incurred with respect to a proceeding to pay a judgment, settlement, penalty, fine (including an excise tax assessed with respect to a private foundation or an employee benefit plan) or reasonable expenses.

9-A-5. "Official capacity", when used with respect to a director of the Corporation, means the office of director in the Corporation and, when used with respect to a person in a capacity other than as a director (even if such person is also a director), means the office in the Corporation held by the officer or the employment, fiduciary, or agency

relationship undertaken by the employee, fiduciary, or agent on behalf of the Corporation in the performance of his or her duties in his or her capacity as such officer, employee, fiduciary, or agent. "Official capacity" does not include service for any other foreign or domestic corporation or for any other entity or employee benefit plan when acting directly on behalf of such other corporation, entity or employee benefit plan as a director, officer, employee, fiduciary or agent thereof.

9-A-6. "Party" means any person who was, is, or is threatened to be made, a named defendant or respondent in a proceeding by reason of the fact that such person is or was a director, officer, employee or fiduciary of the Corporation, and any person who, while a director, officer, employee or fiduciary of the Corporation, is or was serving at the request of the Corporation as a director, officer, partner, trustee, employee, fiduciary or agent of any other foreign or domestic corporation or of any other entity or employee benefit plan. A party shall be considered to be serving an employee benefit plan at the Corporation's request if such party's duties to the Corporation also impose duties on or otherwise involve services by such party to the plan or to participants in or beneficiaries of the plan. "Party" includes, unless the context otherwise requires, the estate or personal representative of such party.

9-A-7. "Proceeding" means any threatened, pending or completed action, suit or proceeding, or any appeal therein, whether civil, criminal, administrative, arbitratative or

investigative (including an action by or in the right of the Corporation) and whether formal or informal.

9-B. Right to Indemnification.

9-B-1. Standards of Conduct. Except as provided in Paragraph 9-B-4 below, the Corporation shall indemnify any party to a proceeding against liability incurred in or as a result of the proceeding if (a) such party conducted himself or herself in good faith, (b) such party reasonably believed (i) in the case of a director acting in his or her official capacity, that his or her conduct was in the Corporation's best interests, or (ii) in all other cases, that such party's conduct was at least not opposed to the Corporation's best interests, and (c) in the case of any criminal proceeding, such party had no reasonable cause to believe his or her conduct was unlawful. For purposes of determining the applicable standard of conduct under this Paragraph 9-B, any party acting in his or her official capacity who is also a director of the Corporation shall be held to the standard of conduct set forth in Paragraph 9-B-1(b)(i), even if such party is sued solely in a capacity other than as such director.

9-B-2. Employee Benefit Plan. A party's conduct with respect to an employee benefit plan for a purpose such party reasonably believed to be in the interests of the participants in or beneficiaries of the plan is conduct that satisfies the requirement of Paragraph 9-B-1(b)(ii). A party's conduct with respect to an employee benefit plan for a purpose that such party

did not reasonably believe to be in the interests of the participants in or beneficiaries of the plan shall be deemed not to satisfy the requirements of Paragraph 9-B-1(a).

9-B-3. Settlement. The termination of any proceeding by judgment, order, settlement or conviction, or upon a plea of nolo contendere or its equivalent, is not, of itself, determinative that the party did not meet the applicable standard of conduct set forth in Paragraph 9-B-1.

9-B-4. Indemnification Prohibited. Except as hereinafter set forth in Paragraph 9-B-5, the Corporation may not indemnify a party under this Paragraph 9-B either in connection with (a) any proceeding by or in the right of the Corporation in which the party is or has been adjudged liable to the Corporation, or (b) any proceeding charging that the party derived an improper personal benefit, whether or not involving action in the party's official capacity, in which proceeding the party is adjudged liable on the basis that he or she derived an improper personal benefit (even if the Corporation was not thereby damaged).

9-B-5. Court-Ordered Indemnification. Notwithstanding the foregoing, the Corporation shall indemnify any party if and to the extent required by the court conducting the proceeding, or any other court of competent jurisdiction to which the party has applied, if it is determined by such court, upon application by the party, that despite the adjudication of liability in the circumstances described in clauses (a) and (b)

of Paragraph 9-B-4 or whether or not the party met the applicable standard of conduct set forth in Paragraph 9-B-1, and in view of all relevant circumstances, the party is fairly and reasonably entitled to indemnification for such expenses as the court deems proper in accordance with the Colorado Nonprofit Corporation Act.

9-B-6. Claims by or in the Right of Corporation.

Indemnification permitted under this Paragraph 9-B in connection with a proceeding by or in the right of the Corporation shall be limited to reasonable expenses incurred in connection with the proceeding. If the corporation indemnifies or advances expenses to a party under this Article in connection with a proceeding by or in the right of the Corporation, the Corporation shall give written notice of such indemnification or advance to the voting members, if any, with or before the notice of the next members' meeting. If the next member action is taken without a meeting at the instigation of the Board of Directors, such notice shall be given to the voting members at or before the time the first member signs a writing consenting to such action.

9-B-7. Combined Proceedings. If any claim made by or in the right of the Corporation against a party is joined with any other claim against such party in a single proceeding, the claim by or in the right of the Corporation (and all expenses related thereto) shall nevertheless be deemed the subject of a separate and distinct proceeding for purposes of this Article.

9-C. Prior Authorization Required. Any indemnification under Paragraph 9-B (unless ordered by a court)

shall be made by the Corporation only if authorized in the specific case after a determination has been made that the party is eligible for indemnification in the circumstances because the party has met the applicable standard of conduct set forth in Paragraph 9-B-1 and after an evaluation has been made as to the reasonableness of the expenses. Any such determination, evaluation and authorization shall be made by the Board of Directors by a majority vote of a quorum of such Board, which quorum shall consist of all directors not parties to the subject proceeding, or by such other person or body as permitted by law.

9-D. Success on Merits or Otherwise. Notwithstanding any other provision of this Article, the Corporation shall indemnify a party to the extent such party has been wholly successful, on the merits or otherwise, including without limitation, dismissal without prejudice or settlement without admission of liability, in defense of any proceeding, against reasonable expenses incurred by such party in connection therewith.

9-E. Advancement of Expenses. The Corporation shall pay for or reimburse the reasonable expenses, or a portion thereof, incurred by a party in advance of the final disposition of the proceeding if: (1) the party furnishes the Corporation a written affirmation of such party's good-faith belief that he or she has met the standard of conduct described in Paragraph 9-B-1; (2) the party furnishes the Corporation a written undertaking, executed personally or on behalf of such party, to repay the



advance if it is ultimately determined that the party did not meet such standard of conduct; and (3) authorization of a payment and a determination that the facts then known to those making the determination would not preclude indemnification under this Article have been made in the manner provided in Paragraph 9-C. The undertaking required by clause (2) must be an unlimited general obligation of the party, but need not be secured and may be accepted without reference to financial ability to make repayment.

9-F. Payment Procedures. The Corporation shall promptly act upon any request for indemnification, which request must be in writing and accompanied by the order of court or other reasonably satisfactory evidence documenting disposition of the proceeding in the case of indemnification under Paragraph 9-D and by the written affirmation and undertaking to repay as required by Paragraph 9-E in the case of indemnification under such section. If no disposition of such claim is made within ninety (90) days after written request for indemnification is made, the claimant may apply by way of civil action in any court of competent jurisdiction for an adjudication as to the validity and extent of the claim. A party's expenses incurred in connection with successfully establishing such party's right to indemnification, in whole or in part, in any such proceeding shall also be paid by the Corporation.

9-G. Insurance. By action of the Board of Directors, notwithstanding any interest of the directors in such action, the

Corporation may purchase and maintain insurance in such amounts as the Board of Directors deems appropriate to protect itself and any person who is or was a director, officer, employee, fiduciary or agent of the Corporation, or who, while a director, officer, employee, fiduciary or agent of the Corporation, is or was serving at the request of the Corporation as a director, officer, partner, trustee, employee, fiduciary or agent of any other foreign or domestic corporation or of any other entity or employee benefit plan against any liability asserted against or incurred by such person in any such capacity or arising out of such person's status as such, whether or not the Corporation would have the power to indemnify such person against such liability under applicable provisions of law or this Article. Any such insurance may be procured from any insurance company designated by the Board of Directors, whether such insurance company is formed under the laws of Colorado or any other jurisdiction, including any insurance company in which the Corporation has an equity or any other interest, through stock ownership or otherwise. The Corporation may create a trust fund, grant a security interest or use other means (including, without limitation, a letter of credit) to ensure the payment of such sums as may become necessary to effect indemnification as provided herein.

9-H. 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 may appear appropriate to the Board of Directors in each specific case and circumstances, including but not limited to any one or more of the following: (1) that any counsel representing the party to be indemnified in connection with the defense or settlement of any proceeding shall be counsel mutually agreeable to the party and to the Corporation; (2) 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 party to be indemnified; and (3) that the Corporation shall be subrogated, to the extent of any payments made by way of indemnification, to all of the indemnified party's right of recovery, and that the party to be indemnified shall execute all writings and do everything necessary to assure such rights of subrogation to the Corporation.

9-I. Other Rights and Remedies. The indemnification provided by this Article shall be in addition to other rights to indemnification which a party may have or hereafter acquire by virtue of applicable statute.

9-J. Applicability; Effect. The indemnification provided in this Article shall be applicable to acts or omissions that occurred prior to the adoption of this Article, shall continue as to any party entitled to indemnification under this Article who has ceased to be a director, officer, employee, fiduciary or agent of the Corporation or, at the request of the Corporation, was serving as and has since ceased to be a

director, officer, partner, trustee, employee, fiduciary or agent of any other domestic or foreign corporation, or of any other entity or employee benefit plan, and shall inure to the benefit of the estate and personal representatives of each such person. The repeal or amendment of this Article or of any section or provision hereof that would have the effect of limiting, qualifying or restricting any of the powers or rights of indemnification provided or permitted in this Article shall not, solely by reason of such repeal or amendment, eliminate, restrict or otherwise affect the right or power of the Corporation to indemnify any person, or affect any right of indemnification of such person, with respect to any acts or omissions that occurred prior to such repeal or amendment. All rights to indemnification under this Article shall be deemed to be provided by a contract between the Corporation and each party covered hereby.

9-K. Indemnification of Agents. The Corporation shall have the right, but shall not be obligated, to indemnify any agent of the Corporation who is not otherwise covered by this Article to the fullest extent permissible by the laws of Colorado. Unless otherwise provided in any separate indemnification arrangement, any such indemnification shall be made only as authorized in the specific case in the manner provided in Paragraph 9-C.

9-L. Savings Clause; Limitation. If this Article or any paragraph or provision hereof shall be invalidated by any court on any ground, then the Corporation shall nevertheless

indemnify each party otherwise entitled to indemnification hereunder to the fullest extent permitted by law or any applicable provision of this Article that shall not have been invalidated. Notwithstanding any other provision of these Bylaws, the Corporation shall neither indemnify any person nor purchase any insurance in any manner or to any extent that would jeopardize or be inconsistent with the qualification of the Corporation as an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended ("Code"). Notwithstanding any other provision of these Bylaws, if the Corporation is found to be a private foundation in a final determination, then the Corporation shall neither indemnify any person nor purchase any insurance if such indemnification or purchase of insurance would be considered an act of self-dealing under Section 4941 of the Code.

10. EMERGENCY BYLAWS.

The Emergency Bylaws contained in this Article 10 shall be operative during any emergency in the conduct of the business of the Corporation resulting from an attack on the United States or any nuclear or atomic disaster, notwithstanding any different provision in these Bylaws or in the Articles of Incorporation of the Corporation or in the Colorado Nonprofit Corporation Act. To the extent not inconsistent with the provisions of this Article 10, the remainder of these Bylaws shall remain in effect during such emergency and upon its termination the Emergency Bylaws

shall cease to be operative. During any such emergency, a meeting of the Board of Directors may be called by any officer or member of the Board of Directors of the Corporation. Notice of the time and place of the meeting shall be given by the person calling the meeting to such of the members of the Board of Directors as it may be feasible to reach by any available means of communication. Such notice shall be given at such time in advance of the meeting as circumstances permit in the judgment of the person calling the meeting. The member or members of the Board of Directors in attendance at the meeting shall constitute a quorum. The members of the Board of Directors, either before or during any such emergency, may provide, and from time to time modify, lines of succession in the event that any or all officers or agents of the Corporation are for any reason rendered incapable of discharging their duties. The members of the Board of Directors either before or during such emergency, may, effective in the emergency, change the principal office, designate several alternative principal offices or regional offices, or authorize the officers to do so. No officer, member of the Board of Directors, or employee acting in accordance with any emergency bylaw shall be liable except for willful misconduct. No officer, member of the Board of Directors, or employee shall be liable for any action taken by him or her in good faith in any emergency in furtherance of the ordinary affairs of the Corporation even though not authorized by the Bylaws then in effect.

11. AMENDMENTS.

These Bylaws may be altered, amended, or repealed in accordance with the provisions of Article VI of the Articles of Incorporation.

AS APPROVED BY THE BOARD OF DIRECTORS OF  
THE JIMMIE HEUGA CENTER FOUNDATION  
effective October 14, 1997

By: \_\_\_\_\_  
Sanford M. Treat, Jr., Secretary

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