

**AMENDED AND RESTATED
BYLAWS
OF
THE NATOMAS BASIN CONSERVANCY,
A California Non-profit Public Benefit Corporation**

DRAFT

Revised Bylaws adopted by the Conservancy Board ~~December 7, 2016~~ December 3, 2019

**AMENDED AND RESTATED BYLAWS OF
THE NATOMAS BASIN CONSERVANCY,
A CALIFORNIA NON-PROFIT PUBLIC BENEFIT CORPORATION**

**ARTICLE I.
NAME**

The name of this corporation is The Natomas Basin Conservancy, a California Non-profit Public Benefit Corporation (the "Corporation").

**ARTICLE II.
OFFICES**

Section 1. Principal Office.

The principal office for the transaction of the activities and the affairs of the corporation shall be located in the County of Sacramento, California. The board of directors of the corporation (the "Board of Directors" or "Board") may change the principal office from one location to another, provided such location is within either the County of Sacramento or County of Sutter, State of California. Any such change of location of the principal office shall be noted by the Secretary of the corporation in these bylaws ("Bylaws") ~~but shall not be considered an amendment of said Bylaws opposite this section or this section may be amended to state the new location.~~

Section 2. Other Offices.

The corporation may establish such other branch or subordinate offices as the Board deems necessary from time to time on a geographical or functional basis, at any place or places where the corporation is qualified to conduct its activities.

**ARTICLE III.
PURPOSES**

This corporation is formed for public, scientific and educational purposes, including but not limited to, the study, preservation, protection or enhancement of land in its natural, scenic, historical, agricultural, or open space condition or use in order to preserve habitat values necessary for the plants and wildlife which inhabit such lands; the preservation, study and enhancement of habitat values on such lands used by candidate, threatened and endangered species listed under the Federal Endangered Species Act and the California Endangered Species Act, species of "Special Concern" as denominated by the California Department of Fish and Wildlife ("CDFW") (formerly, the California Department of Fish and Game), and other species of plant and wildlife; to acquire by fee title or by conservation easement lands pursuant to the Natomas Basin Habitat Conservation Plan (NBHCP), to preserve, enhance and/or restore the habitat values of such lands, to manage such lands and make productive use thereof as allowed by the ~~Natomas Basin Habitat Conservation Plan~~ NBHCP; and any other lawful purpose allowed for a corporation organized pursuant to the California Non-profit Public Benefit Corporation Law, as amended from time to time ~~and codified by the California Corporations Code (the "CCC Non-profit Public Benefit Corporation Law").~~

Notwithstanding any other provision of these Bylaws, the corporation shall not, except to

an insubstantial degree, engage in any activities or exercise any powers that are not in furtherance of the purposes of the corporation, and the corporation shall not carry on any other activities not permitted to be carried on (a) by a corporation exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code of 1954 or the corresponding provision of any future United States internal revenue law, or (b) by a corporation, contributions to which are deductible under Section 170(c)(2) of the Internal Revenue Code of 1954 or the corresponding provision of any future United States internal revenue law.

ARTICLE IV. MEMBERS

This corporation shall have no members as that term is defined by section 5056 of the CCC. Any action which would otherwise require a vote of members shall require only a vote of the Board of Directors and no meeting of members shall be required. Except as otherwise provided herein, all rights which would otherwise vest in members shall vest in the Board of Directors and it may refer to persons or entities associated with it as "members" even though those persons or entities are not voting members, but no such reference shall constitute anyone a member within the meaning of section 5056 of the CCC.

ARTICLE V. BOARD OF DIRECTORS

Section 1. Powers.

A. General Corporation Powers. Subject to the provisions and limitations of the California Non-profit Public Benefit Corporation Law and other applicable laws, and subject to any limitations of the corporation's articles of incorporation (the "Articles of Incorporation") or other sections of these Bylaws, all corporate powers of the corporation shall be exercised by or under the direction of, and the activities and affairs of the corporation shall be managed by or under, the Board of Directors.

B. Specific Powers. Without prejudice to the general powers set forth in Section 1 of Article V of these Bylaws, but subject to the same limitations, the Board of Directors shall have the authority to:

- (1) Select and remove, at the pleasure of the Board of Directors, officers and the Executive Director, without prejudice to any rights of an officer or the Executive Director under any contract of employment; prescribe such powers and duties for them as may be consistent with applicable law, the Articles of Incorporation, and these Bylaws; and fix their compensation and require from them security for faithful performance of their duties.
- (2) Conduct, manage, and control the affairs and business of the corporation, and to make rules and regulations consistent with applicable law, the Articles of Incorporation, and these Bylaws.
- (3) Borrow money and incur indebtedness on behalf of the corporation, 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, hypothecation, or evidence of debt and securities.

- (4) Change the principal office from one location to another within Sacramento County or Sutter County, California.

Section 2. Number and Qualifications of Directors.

A. Number. The authorized number of directors of the corporation (“Directors”) shall be a minimum of three (3) and a maximum of twelve (12). No reduction of the authorized number of Directors shall have the effect of removing any Director before that Director’s term of office expires.

B. Qualifications.

(1) ~~±~~ The Directors in every case shall be individuals who are willing to participate and attend scheduled meetings as members of the Board of Directors of the corporation.

(2) To avoid conflicts of interest, no Director shall be a current employee of the United States Fish and Wildlife Service (“USFWS”), the United States Department of the Interior, CDFW or the State of California’s Resources Agency at the time of serving as a Director. Additionally, no Director shall have or acquire an interest in real property located within the Natomas Basin and/or within a two (2) mile radius of the Mitigation Lands, as such locations are described in that certain Implementation Agreement for the NBHCP, dated December 8, 1997, and entered into by and between the USFWS, CDFW, the City of Sacramento, and the County of Sutter and the Corporation dated as of June 27, 2003 and July 10, 2003 (“Implementation Agreement”). An “interest in real property” includes any leasehold, beneficial or ownership interest or an option to acquire such an interest in real property located in the aforementioned locations, owned directly, indirectly or beneficially by a Director or his or her spouse if the fair market value of the interest is Five Hundred Thousand Dollars (\$500,000.00) or more. Interests in real property of a Director includes a pro-rata share of interests in real property of any business entity or trust in which the Director or his or her spouse, jointly or individually, owns, directly, or indirectly or beneficially a more than 35% percent of the combined voting powers, profit interests or beneficial interests or greater. Notwithstanding the preceding, an “interest in real property” shall not include the principal residence of a Director.

(3) As provided for in the Natomas Basin Habitat Conservation Plan (“NBHCP”) ~~NBHCP~~ Implementation Agreement, Directors must be willing to file with the ~~corporation~~ Corporation a verified State of California Fair Political Practices Commission (FPPC) Form 700 by the first Board of Directors meeting, free of errors and omissions, ~~updated annually on an annual basis.~~ In the event any Director becomes aware, or is notified, of an error and/or omission on his or her Form 700 after filing, such Director shall have fourteen (14) calendar days to cure the error and/or omission. If such Director fails to cure the error and/or omission within fourteen (14) calendar days, the Executive Director shall (i) file the Form 700; together with an explanation regarding the error or omission for public inspection; and (ii)

Commented [A1]: The location is a placeholder. We recommend that the Board deliberate the boundaries that are appropriate for Conservancy purposes.

Commented [A2]: Setting a threshold based on value is optional and can be removed if the Board’s preference is to exclude from membership of the Board anyone who holds an interest in real property within the stated area.

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notify the Board Chair of the Director's failure to cure. The Board Chair shall then inform the Board of Directors of the failure to cure at the next regularly scheduled board meeting and, subject to approval by a majority of the Board then present, so long as a quorum is present, shall notify the appropriate officials of the appointing body that such Director has failed to meet qualifications for membership on the Board of Directors and, therefore, is ineligible to serve on the Board of Directors.

~~(4)~~ Directors must complete the required AB1234 Ethics Training Course provided by the FPPC ~~is due~~ within one year of appointment and ~~updated every two years once during each two-year period afterwards.~~ Records of Form 700 filing and AB1234 Ethics Training completion shall be kept at the ~~corporation~~ Corporation's office and available for viewing and reproduction by the public.

C. Director as Interested Person. There shall be no persons serving on the Board of Directors at any time who are interested persons. For the purpose of the foregoing, "interested person" means any person ~~currently~~ being compensated by the corporation for services rendered to it within the previous twelve (12) months, whether as a full-time or part-time employee, independent contractor or otherwise (excluding any reasonable compensation paid to a Director as a Director), or any brother, sister, ancestor, descendant, spouse, brother-in-law, sister-in-law, son-in-law, daughter-in-law, mother-in-law or father-in-law of any such person.

Section 3. Term of Office.

The members of the Board of Directors shall be designated in accordance with Section 4 below. Each Director, including a Director designated to fill a vacancy, shall hold office until expiration of the term for which ~~he or she has been~~ designated and until a successor has been designated or until the death, disqualification, resignation or removal of the Director. ~~Initially, certain members of the Board of Directors shall serve staggered terms of one, two or three years as follows, following the expiration of initial terms, in~~ Members of the Board of Directors terms shall begin January 1 and expire December 31 of the year of term expiration.

A. City of Sacramento Appointees. The three (3) Directors appointed by the City of Sacramento shall have one (1) Director who serves for an initial one (1)-year term, one (1) Director who serves for an initial two (2)-year term, and one (1) Director who serves for an initial three (3)-year term; provided, however, that if the City of Sacramento in accordance with Section 4, below, appoints five (5) Directors, then two (2) Directors shall serve for an initial one (1)-year term, two (2) Directors who serve for an initial two (2)-year term, and one (1) Director who serve for an initial three (3)-year term;

If, following the appointment of five (5) Directors, the number of Directors appointed by the City of Sacramento is reduced to three (3), as soon as practicable thereafter, the terms of office to which the next three (3) Directors are appointed may be shorter or longer than the Directors' predecessors so as to return to the one (1), two (2) and three (3)-year staggering of terms.

B. County of Sacramento Appointees. At such time as the County of Sacramento executes an Implementation Agreement with the USFWS and CDFW and receives a Federal Endangered Species Act of 1973 Section 10(1)(1)(B) Permit from USFWS and a Section 2081 Management Authorization (the "Permits"), the County may appoint one (1) Director who serves for an initial one (1)-year term, one (1) Director who serves for an initial two (2)-year term, and

one (1) Director who serves for an initial three (3)-year term, except as provided for in Section 4, below.

C. County of Sutter Appointees. The three (3) Directors appointed by the County of Sutter shall have one (1) Director who serves for an initial one (1)-year term, one (1) Director who serves for an initial two (2)-year term, and one (1) Director who serves for an initial three (3)-year term; provided, however, that if the County of Sutter in accordance with Section 4, below, appoints five (5) Directors, then two (2) Directors shall serve for an initial one (1)-year term, two (2) Directors who serve for an initial two (2)-year term, and one (1) Director who serve for an initial three (3)-year term;

If, following the appointment of five (5) Directors, the number of Directors appointed by the County of Sutter is reduced to three (3), as soon as practicable thereafter, the terms of office to which the next three (3) Directors are appointed may be shorter or longer than the Directors' predecessors so as to return to the one (1), two (2) and three (3)-year staggering of terms.

D. Natomas Central Mutual Water Company Appointee. At such time as the Natomas Central Mutual Water Company executes an Implementation Agreement with the USFWS and CDFW and receives the Permits, it may appoint one (1) Director who serves for a three (3) year term.

E. Reclamation District 1000 Appointee. At such time as Reclamation District 1000 executes an Implementation Agreement with the USFWS and CDFW and receives the Permits, it may appoint one (1) Director who serves for a three (3) year term.

F. Metro Air Park Property Owners Association (MAPPOA). At such time MAPPOA begins constructive use of its Incidental Take Permit associated with the Metro Air Park Habitat Conservation Plan (MAPHCP). It may appoint two (2) Directors who each shall serve for a three (3)-year term.

If not otherwise designated by the appointing agency, selection of terms for the first Directors appointed by an agency shall be conducted by drawing lots at the first meeting attended by the Directors following their respective appointments. Except for the terms necessary to create the staggering of terms, the terms of the Directors' service shall be three (3) years.

Section 4. Designation of Directors.

A. Designation by City of Sacramento. The Mayor of the City of Sacramento, with the concurrence of a majority of the City Council, shall be entitled to designate three (3) Directors when the City of Sacramento has received the Permits; provided, however, that the Mayor of the City of Sacramento may, with the concurrence of a majority of the City Council, designate five (5) Directors when the City of Sacramento has received the Permits, if at that time the County of Sutter has received a Permit. If five (5) Directors are appointed pursuant to this provision, and if the County of Sacramento thereafter receives a Permit, then the Sacramento City Council shall forthwith act to reduce the number of its appointed Directors to three (3), unless the Natomas Basin Habitat Conservation Plan and the Implementation Agreement have been previously amended to increase the authorized number of Directors.

B. Designation by County of Sacramento. The Chair of the Board of Supervisors of

the County of Sacramento, with the concurrence of a majority of the Board of Supervisors, shall be entitled to designate five (5) Directors when the County of Sacramento has received the Permits unless the City of Sacramento and Sutter County have both received Permits. If the City of Sacramento and Sutter County have both received Permits, then the Chair of the Board of Supervisors of Sacramento County may, with the concurrence of a majority of the Board of Supervisors, appoint three (3) Directors. If five (5) Directors are appointed pursuant to this provision, and if both the City of Sacramento and the County of Sutter thereafter receive Permits, then the County of Sacramento shall forthwith act to reduce the number of its appointed Directors to three (3), unless the Natomas Basin Habitat Conservation Plan and the Implementation Agreement have been previously amended to increase the authorized number of Directors of the corporation.

C. Designation by County of Sutter. The Chair of the Board of Supervisors of the County of Sutter, with the concurrence of a majority of the Board of Supervisors, shall be entitled to designate five (5) Directors when the County of Sutter has received the Permits unless Sacramento County has received a Permit. If Sacramento County has received a Permit, then the Chair of the Board of Supervisors of the County of Sutter may, with the concurrence of a majority of the Board of Supervisors, appoint three (3) Directors. If five (5) Directors are appointed pursuant to this provision, and if the County of Sacramento thereafter receives a Permit, the County of Sutter shall forthwith act to reduce the number of its appointed Directors to three (3), unless the Natomas Basin Habitat Conservation Plan and the Implementation Agreement have been previously amended to increase the authorized number of Directors of the corporation.

D. Designation by Natomas Central Mutual Water Company. The Chair of the Board of Directors of Natomas Central Mutual Water Company, with the concurrence of a majority of the Board of Directors of the NCMWC, shall be entitled to designate one (1) Director when it has received the Permits.

E. Designation by Reclamation District 1000. The Chair of the Board of Directors of Reclamation District 1000, with the concurrence of a majority of the Board of Directors of RD 1000, shall be entitled to designate one (1) Director when it has received the Permits.

F. Metro Air Park Property Owners Association (MAPPOA). The Chair of the Board of Directors of Metro Air Park Property Owners Association, with the concurrence of a majority of the Board of Directors of Metro Air Park Property Owners Association, shall be entitled to designate two (2) Directors when MAPPOA begins constructive use of its Incidental Take Permit associated with the MAPHCP.

All Directors shall possess the qualifications described in these Bylaws for Directors of the corporation. Directors are not "representatives" of the appointing agency, insofar as Directors must act in the best interests of the corporation.

~~Section 5. — Vacancies.~~

~~A vacancy on the Board shall be deemed to exist in case of death, resignation, removal or disqualification of any Director or if the authorized number of Directors is increased or if the Board declares vacant the position of a Director whose term has expired. Such action may be placed on the agenda for Board decision at the direction of the Board Chair or by motion of a majority of the Board. Vacancies on the Board of Directors because of death, resignation,~~

~~removal, disqualification or otherwise shall be filled by the entity or person empowered in Section 4 to designate the member for such seat on the Board. A successor Director so designated shall serve for the remainder of the term for which designated.~~

Section ~~6~~5. Meetings of the Board of Directors.

A. Place of Meetings. Except as provided below annual, regular and special meetings of the Board of Directors shall be held at the principal office of the corporation. ~~Meetings may be held or~~ at any other place within the County of Sacramento or County of Sutter that has been designated from time to time in writing by resolution of the Board of Directors or by written consent of all members of the Board. ~~In the absence of any such designation, regular meetings shall be held at the principal office of the corporation.~~ Meetings may be held outside the County of Sacramento or County of Sutter for any of the following purposes or reasons:

- (1) To comply with state or federal law or court order, or attend a judicial or administrative proceeding to which the corporation is a party.
- (2) To inspect real or personal property which cannot be conveniently brought within the boundaries of the County of Sacramento or the County of Sutter, provided that the topic of the meeting is limited to items directly related to the real or personal property.
- (3) To participate in meetings or discussions of multiagency significance that are outside the County of Sacramento or the County of Sutter. However, any meeting or discussion held pursuant to this subdivision shall take place within the jurisdiction of one of the participating local agencies and be noticed by all participating agencies as provided for in this chapter.
- (4) To meet in the closest meeting facility if the corporation has no meeting facility within the County of Sacramento or the County of Sutter, or at the principal office of the corporation if that office is located outside the County of Sacramento or the County of Sutter.
- (5) To meet outside the County of Sacramento or the County of Sutter with elected or appointed officials of the United States or the State of California when a local meeting would be impractical, solely to discuss a legislative or regulatory issue affecting the corporation and over which the federal or state officials have jurisdiction.
- (6) To meet outside the County of Sacramento or the County of Sutter if the meeting takes place in or nearby a facility by the agency, provided that the topic of the meeting is limited to items directly related to the facility.
- (7) To visit the office of the corporation's legal counsel for a closed session on pending litigation held pursuant to Government Code ~~("Code")~~ Section 54956.9, when to do so would reduce legal fees or costs.

B. Annual Meeting. The annual meeting of the Board of Directors shall be for the purposes of orientation and organization of the Board and the transaction of other business.

The annual meeting of the Board of Directors shall be held no later than March 31 of each year at a place within the County of Sacramento or the County of Sutter as the Board of Directors may designate. Such meetings shall be held with notice as provided herein.

C. Regular Meetings. The regular meetings of the Board of Directors shall be held with notice at such time and place within the County of Sacramento or County of Sutter as shall from time to time be fixed by the Board of Directors.

D. Special Meetings. A special meeting may be called at any time by the Board Chair or by a majority of the Board of Directors by written notice delivered personally or by any other means (including, but not limited to, telephone call, message left on voice message system, facsimile and electronic mail) to each member of the Board and received at least twenty-four (24) hours before the time of the meeting as specified in the notice. The call and notice shall specify the time and place of the special meeting and the business to be transacted or discussed and shall be posted as set forth in Section F below. No other business shall be considered at these meetings by the Board of Directors. The written notice may be dispensed with as to any Board member who at or prior to the time the meeting convenes files with the Secretary or clerk of the corporation a written waiver of notice. The waiver may be given by electronic mail. The written notice may also be dispensed with as to any Board member who is actually present at the meeting at the time it convenes and who, before or at the start of the meeting does not protest the lack of notice to him or her.

E. Action by Teleconference. The Board of Directors may use teleconferencing in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all requirements of this Section 65 and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

Teleconferencing may be used for all purposes in connection with any meeting. All votes taken during a teleconferenced meeting shall be by roll call.

If the Board of Directors elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the Board. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the Board of Directors shall participate from locations within the County of Sacramento and the County of Sutter. The agenda shall provide an opportunity for members of the public to address the Board directly at each teleconference location.

For the purposes of this section, "teleconference" means a meeting of the Board of Directors, the members of which are in different locations, connected by electronic means, through either audio or video, or both. Nothing in this section shall prohibit the corporation from providing the public with additional teleconference locations. Participation in a teleconference meeting shall be deemed to constitute participation in person at the meeting if (1) each Board member participating in the meeting can communicate concurrently with all other Board members, and (2) each Board member is provided the means of participating in all matters before the Board, including the capacity to propose or to interpose an objection to, a specific action to be taken by the corporation.

F. Posting Agendas/Notices. The Secretary or his or her authorized representative shall post an agenda for each regular and Executive Session Board of Directors meeting or a notice for each special, regular or Ad Hoc Committee Board of Directors meeting containing a brief description of each item of business to be transacted or discussed at the meeting, together with the time and location of the meeting. Agendas/notices shall be posted at the corporation's principal office (at a location readily accessible to the public during normal business hours) and on the corporation's website at least seventy-two (72) hours in advance of each regular meeting and at least twenty-four (24) hours in advance of each special meeting. The Secretary or his or her authorized representative shall maintain a record of such posting.

G. Conduct of Meetings. Meetings of the Board shall be presided over by the Board Chair, or in his or her absence, by the Vice Chair.

G-H. Right of Public to Appear and Speak. At every regular meeting, members of the public shall have an opportunity to address the Board of Directors on matters within the corporation's subject matter jurisdiction. Except for matters scheduled for formal public hearing, public input and comment on matters on the agenda, as well as public input and comment on matters not otherwise on the agenda, shall be made during the time set aside for public comment; provided, however, that the Board of Directors may direct that public input and comment on matters on the agenda be heard when the matter regularly comes up on the agenda.

The Board Chair or presiding officer may limit the total amount of time allocated for public discussion by particular issues and/or the time allocated for each individual speaker.

H-I. Nonagenda Items. Matters brought before the Board of Directors at a regular meeting which were not placed on the agenda of the meeting shall not be acted upon by the Board at that meeting unless action on such matters is permissible pursuant to Section the Brown Act (California Government Code § 54950 et seq. of the Brown Act.) or if the subject item is otherwise excluded from the Brown Act, by the NBHCP. Those nonagenda items brought before the Board of Directors which the Board determines will require consideration and action and where Board action at that meeting is not so authorized shall either be placed on the agenda for the next regular meeting or referred to staff, as directed by the Board Chair or the presiding officer.

I-J. Quorum. A majority of the Directors then in office shall constitute a quorum for the transaction of any business except adjournment. ~~However, except that, if~~ However, if the number of Directors then in office is an even number, then a quorum shall be 50% of the number of Directors then in office, if the number of Directors then in office is an odd number, then the quorum calculation shall be rounded up so long as the quorum number is never less than the greater of either (a) 1/5 of the authorized number of Directors or (b) two, unless the authorized number of Directors is one, in which case a quorum may be one.

J-K. Required Vote of Directors.

(1) In General. Every action taken or decision made by a majority of the Directors present at a duly held meeting at which a quorum is present shall be an act of the Board, subject to the more stringent provisions contained in requirements of either (1) other provisions of these Bylaws or provided by the

or ~~(2)~~ the Non-profit Public Benefit Corporation Law CCC including, but not limited to, those provisions relating to (a) approval of contracts or transactions in which a Director has a direct or indirect material financial interest, (b) approval of certain provisions between corporations having common directorships, (c) creation of and appointments to committees of the board, and (d) indemnification of ~~director~~ Directors. A meeting at which a quorum is initially present may continue to transact business, notwithstanding the withdrawal of enough Directors to leave less than a quorum, if any action taken is approved by at least a majority of the required quorum for such meeting.

(2) Manner of Voting for Certain Actions. The voting on formal resolutions, on matters pertaining to any federal, state, county or city agency, and on such other matters as may be directed by the Board Chair or by a majority of the Directors then in office, shall be by roll call, and the ayes, noes and Board members present but not voting shall be entered upon the minutes of such meeting, except on the Board vote for election of officers, which may be by ballot.

~~K.~~ L. Adjournment. The Board of Directors may adjourn any regular, adjourned regular, special or adjourned special meeting to a time and place specified in the order of adjournment. Less than a quorum may so adjourn from time to time. If all Board members are absent from any regular or adjourned regular meeting, the ~~Secretary or clerk of the corporation~~ Assistant Secretary may declare the meeting adjourned to a stated time and place and he or she shall cause a written notice of the adjournment to be given in the same manner as provided for special meetings, unless such notice is waived as provided for special meetings. A copy of the order or notice of adjournment shall be conspicuously posted on or near the door of the place where the regular, adjourned regular, special or adjourned special meeting was held within twenty-four (24) hours after the time of adjournment. When an order of adjournment of any meeting fails to state the hour at which the adjourned meeting is to be held, it shall be held at the hour specified for regular meetings or by resolution.

~~L.~~ M. Brown Act Requirements. Except as otherwise explicitly provided in these Bylaws, the provisions contained in this Section ~~65~~ are intended to be consistent with the provisions set forth in the Ralph M. Brown Act, California Government Code Section 54950 et seq (the "Brown Act"). In the event any provision contained herein is inconsistent with the Brown Act, as it may be subsequently amended, the provisions contained in the Brown Act shall prevail, provided, however, that the provisions of the Brown Act regarding the disclosure of information with respect to real property transactions (including but not limited to ~~Gov~~ Government Code, §§ 54954.5(b); 54956.8 and 54957.1(a)(1)) whether such transactions are pending or completed, shall not apply. As used herein, "real property transactions" shall include options to purchase or lease, purchases, and leases of real property, as well as farming contracts affecting real property that the corporation has acquired or is in negotiations to acquire. This exception to the Brown Act shall only apply if the applicable habitat conservation plans (HCPs) and implementation agreements (IAs) have been amended to provide for this exception.

Section ~~67~~. Resignation.

Any Director may resign at any time by giving written notice of such resignation to the Board Chair, the Secretary or the Board of Directors of the corporation and to the Mayor of the City of Sacramento if appointed by the Mayor, or the Clerk of the Board of Supervisors of the appointing county if appointed by the county. ~~Such resignation shall take effect at the time~~

~~specified in the notice; provided, however, that if the resignation is not to be effective upon receipt of the notice by the corporation, the corporation must accept the effective date specified. The resignation shall be effective when the notice is given unless it specifies a later time for the resignation to become effective. If a Director's resignation becomes effective at a later time, a successor to that position shall be selected by the designating body as set forth in Article V, Section 4. Except upon notice to the Attorney General, no Director may resign where the corporation would then be left without a duly elected Director or Directors in charge of its affairs. If the resignation is effective at a future time, a successor may be appointed to take office when the resignation becomes effective.~~

Section ~~78~~. Removal.

The Board of Directors may declare vacant the office of a Director who has: (a) become subject to an entry by a court of competent jurisdiction that appoints a guardian or conservator for the Director or estate of the Director; (b) been convicted of a felony; or (c) been found by a final order or judgment of a court of competent jurisdiction to have breached any duty under ~~Non-profit Public Benefit Corporation Law~~ CCC Sections 5230 through 5239 or any successor provisions thereto.

A. Any Director may be removed with or without cause by the agency which designated the Director in accordance with Section 4 of Article V, above. Such removal shall be communicated to the Board of Directors by written notice and shall be effective immediately.

B. Any Director may be removed for cause in accordance with the following procedures:

(1) The process for the removal of a Director "for cause" shall be initiated by a two thirds (2/3) vote of the Board for any of the following actions: (i) violation of these Bylaws, including, but not limited to, failure to comply with Sections 2.B. (Qualifications) and 10 (Standards of Conduct) of Article V; or (ii) misconduct, neglect of duty of office, or behavior deemed to be injurious to, or prejudicial to the best interests of, the Corporation.

(2) For removal of Director for cause, it shall be necessary for the Board of Directors to hold a formal hearing. A statement of the charges shall be sent by registered mail to the last recorded address of the Director, accompanied by notice of the time and place of the meeting at which the charges shall be considered. At least thirty (30) days' notice shall be given, and the Director shall have the opportunity to appear in person or to be represented by counsel and to present any defense of such charges before action is taken.

(3) Immediately upon conclusion of the hearing, the Board shall take a vote on whether the Director shall be removed for cause. An affirmative vote of two-thirds (2/3) of the Board shall result in the removal of the Director. The Director subject to the removal action shall not participate in the vote.

~~A. Any or all Directors may be removed by the Board of Directors, with or without cause; provided that a Director who has been designated in accordance with Section 4 of Article V, above, may not be removed without cause by the Board without the written consent of the agency which designated the Director.~~

~~B. The agency which designated a Director in accordance with Section 4 of Article V, above, may remove its designated Director without cause.~~

~~C. No reduction of the authorized number of Directors shall have the effect of removing any Director prior to the expiration of such Director's term of office.~~

Section 8. Vacancies.

~~A. Declaration of Vacancy. The Board of Directors may declare vacant the office of a Director on the occurrence of the following: (a) the death, disqualification by the designating authority, resignation, removal in accordance with Article V, Section 7 above, suspension, expulsion or termination of any Director; (b) the increase in the authorized number of Directors; (c) the Board declares vacant the position of a Director whose term has expired; (d) the declaration by resolution of the Board of a vacancy in the office of a Director who has been declared of unsound mind by an order of any court, convicted of a felony or found by final order of judgment of any court to have breached a duty under CCC Sections 5230 through 5239 or any successor provisions thereto; or (e) failed to attend fifty percent (50%) of Board meetings during the immediately preceding calendar year.~~

~~B. Filling of Vacancy. Vacancies on the Board of Directors shall be filled by the entity or person empowered in Article V, Section 4 to designate the member for such seat on the Board. A successor Director so designated shall serve for the remainder of the term for which designated.~~

~~C.~~

Section 9. Compensation; Expense Reimbursement.

The corporation shall pay members of the Board of Directors a fee fixed by resolution of the Board for each meeting they attend. The fee shall be deemed to reimburse members of the Board of Directors for expenses incurred in the performance of their duties. The fee shall be fixed from time to time by resolution of the Board. Directors shall receive no other compensation or expense reimbursement for attending meetings of the Board of Directors. The Board may, however, authorize reimbursement for such extraordinary actual expenses paid while acting on behalf of the corporation as may be determined by the Board to be just and reasonable.

Section 10. Conflict of Interest Standards of Conduct.

A. Implementation Agreement Provisions.

- ~~(1) In accordance with the provisions of that certain Implementation Agreement for the Natomas Basin Habitat Conservation Plan, dated December 8, 1997, and entered into by and between the USFWS, CDFW, the City of Sacramento, the County of Sutter and the corporation dated as of June 27, 2003 and July 10, 2003 ("Implementation Agreement"), Section 1090. Directors and employees of the corporation shall be subject to and shall comply with the provisions set forth in Government Code Section 1090 et seq.~~
- ~~(2) Conflict of Interest. In addition, i~~In furtherance of the provisions of the Implementation Agreement, the corporation has ~~voluntarily~~ approved and

adopted a Conflict of Interest Code (“Conflict Code”) that is identical to the requirements and provisions set forth in the Political Reform Act, Code Section 81000 et seq., and the regulations adopted by the Fair Political Practices Commission, Title 2, California Code of Regulations, Section 18730. A copy of the Conflict Code and FPPC Form 700 filings shall be maintained in the offices of the corporation, and shall be available for public inspection and reproduction in accordance with Article X, Section 5 of these Bylaws. All Directors and employees of the corporation shall be subject to and shall comply with the requirements and provisions set forth in the Conflict Code, ~~including without limitation the disclosure and reporting requirements set forth in the Conflict Code.~~

(3) Consequences of Noncompliance. Failure to adhere to the preceding requirements as set forth in the Implementation Agreement could result in the suspension or revocation of permits granted to the Corporation. As such, strict compliance with the aforementioned requirements shall be required by all Directors and any violation of these requirements shall constitute the basis for a “for cause” removal of the Director in accordance with Article V, Section 8, Paragraph C of these Bylaws.

B. Corporate Obligations. In addition, †The corporation and its directorDirectors shall abide by the provisions of Section 5233 of the Non-profit Public Benefit Corporation Law regarding “self-dealing” transactions.

Section 11. Inspection by Directors.

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 of its subsidiaries, if any. 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 12. Standard of Care. A Director shall perform the duties of a director, including duties as a member of any committee of the Board on which the Director may serve, in good faith, in a manner such Director believes to be in the best interest of the Corporation and with such care, including reasonable inquiry, as an ordinarily prudent person in a like situation would use under similar circumstances. In performing the duties of a Director, a Director shall be entitled to rely on information, opinions, reports or statements, including financial statements and other financial data, in each case prepared and presented by:

A. One or more officers or employees of the Corporation whom the Director believes to be reliable and competent in the matters presented;

B. Counsel, independent accountants or other persons as to matters which the Director believes to be within such person’s professional or expert competence; or

C. A committee of the Board upon which the Director does not serve, as to matters within its designated authority, which committee the Director believes to merit confidence, as long as, in any such case, the Director acts in good faith, after reasonable inquiry when the need therefore is indicated by the circumstances and without knowledge that would cause such reliance to be unwarranted.

A person who performs the duties of a Director in accordance with the above shall have no liability based upon any failure or alleged failure to discharge that person’s obligations as a

Director.

ARTICLE VI. COMMITTEES

Section 1. Committees Generally.

The Board of Directors may by resolution adopted by a majority of the Directors then in office, provided a quorum is present, create one (1) or more committees, each consisting of two (2) or more Directors to serve at the pleasure of the Board for any purposes and delegate to such committees any of the powers and authorities of the Board to the extent permitted by section 5212 of the CCC. Any such committee shall have such authority of the Board as provided in the Board resolution, except that ~~no committee~~, regardless of Board resolution, no committee may take any action proscribed by Section 2 of this Article VI of these Bylaws or prohibited by any provision of the ~~Non-profit Public Benefit Corporation Law CCC~~ or other applicable law.

A. Committee Members. The Committee Chair of each standing committee, except as otherwise provided by the Board or by these Bylaws, shall be appointed by the Board Chair or the Board Chair may delegate selection of the Committee Chair to the full committee membership. All other members of any committee shall be appointed by the Board Chair or by a vote of a majority of the Directors then in office.

B. Tenure; Vacancies. The Committee Chair and each member of each standing committee shall serve at the pleasure of the Board of Directors and until his or her successor is appointed or until such committee is sooner terminated, or until such person is removed, resigns or otherwise ceases to qualify as a Committee Chair or member, as the case may be, of the committee. The Committee Chair and members may be removed by majority vote of the Directors then in office. Notwithstanding office. Notwithstanding the preceding, the term of a committee member shall not exceed such committee member's term as a Director. Vacancies on any committee may be filled for the unexpired portion of the term in the same manner as provided in the case of original appointment filled by assignment by the Board Chair.

C. Quorum; Meetings. Each committee shall meet as often as necessary to perform its duties, at such times and places as directed by its Committee Chair or by the Board. A majority of the members of a committee shall constitute a quorum of such committee and the act of a majority of the members present at a meeting at which a quorum is present shall be the act of the committee. Each committee shall keep accurate minutes of its meetings, the Committee Chair designating a secretary of the committee for this purpose, and shall make periodic reports and recommendations to the Board. Such minutes of each meeting of any committee of the Board shall be kept and filed with the corporate records. Each committee, including Ad Hoc committees shall designate a secretary of the committee to keep accurate minutes of its meetings and make periodic reports and recommendations to the Board. Minutes shall be maintained in the minute book of the corporation.

D. Regulatory. Meetings and actions of committees of the Board shall be governed by, held and taken in accordance with the provisions of these Bylaws concerning Board meetings

and Board actions, except that regular meetings of such committees and the calling of special meetings of such committees may be determined either by Board resolution or, if there is none, by resolution of the committee of the Board. The Board may adopt rules for the government of any committee, provided they are consistent with these Bylaws, or, in the absence of rules adopted by the Board, the committee may adopt such rules.

E. Expenditures. Except as may otherwise be provided by the Board or by these Bylaws, any expenditure of corporate funds by a committee shall require prior approval of the Board.

Section 2. Proscribed Committee Actions.

Regardless of any Board resolution or any contrary or inconsistent provision of these Bylaws, no committee of the Board shall have the authority to do any of the following:

- A. Fill vacancies on the Board or on any committee that has the authority of the Board;
- B. Fix compensation of the Directors for serving on the Board or on any committee;
- C. Amend or repeal Bylaws or adopt new Bylaws;
- D. Amend or repeal any resolution of the Board that by its express terms is not so amendable or repealable;
- E. Create any other committees of the Board or appoint the members of a committee of the Board;
- F. Exercise any of the specific powers granted to the Board under Section 1.B. of Article V of these Bylaws; or
- G. Approve any contract or transaction to which the corporation is a party and in which one (1) or more of its Directors have a material financial interest, except as special approval is provided for in ~~Non-profit Public Benefit Corporation Law~~ CCC Section 5233(d)(3).

Section 3. Technical Advisory Committee.

As required by the ~~Natomas Basin Habitat Conservation Plan~~ NBHCP, the NBHCP Technical Advisory Committee ("TAC") was formed. The TAC is not a committee of the Board of Directors, but serves an advisory role to the Board of Directors. The TAC is and shall be comprised of representatives from the USFWS, CDFW, the Permittees, and any other future Permittees to advise the corporation in implementing the NBHCP. Each Land Use Agency, Water Agency, or other Permittee, the USFWS, and CDFW will appoint one or more members to the TAC. In addition, the corporation's ~~Chair of the Board~~ Chair of Directors may invite, as needed, other qualified experts on Covered Species or marsh construction, administrative and legal personnel to assist the TAC, for limited time periods. The TAC's role under the NBHCP is intended to be strictly technical and scientific. It is to advise the corporation in making technical and biological decisions with respect to: reserve land selection, enhancement, and management; monitoring programs and needs; species relocation or reintroduction plans; and other issues

pertinent to technical implementation of the Plan. Only TAC representatives from the Permittees, the USFWS, and CDFW shall have the authority to vote with respect to any TAC decision.

Section 4. Audit Committee.

A. Composition. The corporation shall have an Audit Committee consisting of at least two (2) Directors, and may include nonvoting advisors. Directors who are employees or officers of the corporation or who receive, directly or indirectly, any consulting, advisory, or other compensatory fees from the corporation (other than for service as director) may not serve on the Audit Committee. A majority of the members of the Audit Committee may not concurrently serve as members of the Finance Committee, and the Committee Chair of the Audit Committee may not serve on the Finance Committee. Members of the Audit Committee shall not receive compensation for their services on the Audit Committee in excess of that provided to Directors for their service on the Board.

B. Duties. The Audit Committee shall perform the duties and adhere to the guidelines set forth in the corporation's Audit Committee charter as amended from time to time by the Board. Such duties include, but are not limited to:

- (1) Assisting the board in choosing an independent auditor and recommending termination of the auditor, if necessary;
- (2) Negotiating the auditor's compensation;
- (3) Conferring with the auditor regarding the corporation's financial affairs; and
- (4) Reviewing and accepting or rejecting the annual audit prepared by the auditor.

The Audit Committee shall also ensure that any non-audit services, if any, performed by the auditing firm conform with statutory and regulatory standards for auditor independence; and shall approve the performance of non-audit services, if any, by the auditing firm.

Section 5. Compensation and Governance Committee.

A. Composition. The corporation shall have a Compensation and Governance Committee consisting of at least two (2) Directors and no one who is not a Director. Directors who are also employees of the corporation may not serve on the Compensation and Governance Committee.

B. Duties. The Compensation and Governance Committee shall perform the duties and adhere to the guidelines set forth in the corporation's Compensation and Governance Committee charter as amended from time to time by the Board. Such duties include, but are not limited to:

- (1) Pursuant to Government Code section 12586(g) and the applicable provisions of Federal law, the Compensation and Governance Committee shall review the fairness of the compensation, including benefits, of any person, regardless of title, with powers, duties or responsibilities comparable to a president, chief executive officer, or

chief financial officer, including the Executive Director. Such review shall occur at least annually and upon the occurrence of any of the following events: (i) upon hiring, (ii) when the term of employment is extended or renewed, and (iii) whenever a modification in compensation is proposed. The review shall include an evaluation of the performance of the officers and an analysis of appropriate comparable data. Based on its review, the Compensation and Governance Committee shall recommend just and reasonable compensation amounts for the officers to the corporation. At the request of the Board Chair or the Board, the Compensation and Governance Committee shall review any issue involving staff compensation and benefits, including but not limited to housing, health, and retirement plans.

- (2) Developing and overseeing the corporation's policies and procedures regarding Board composition; determining qualifications and characteristics needed by Board members;
- (3) Developing and recommending to the Board and overseeing implementation of the corporation's corporate governance policies and practices, reviewing on a regular basis the overall corporate governance of the corporation and recommending improvements when necessary;
- (4) Providing guidance to management on issues related to organizational structure;
- (5) Coordinating and overseeing the annual evaluation of the role and performance of the Board, its committees, and management in the governance of the corporation;
- ~~(6)~~ ~~Coordinating and overseeing the orientation of new Board members;~~
- ~~(7)~~(6) Coordinating and overseeing the corporation's response to major governmental investigations;
- ~~(8)~~(7) Considering corporate governance issues that arise from time to time, and developing appropriate recommendations for the Board regarding such matters and reviewing and recommending to the Board for approval any changes in, if any, to the Directors; and
- ~~(9)~~(8) Ensuring that all Board Committee charters are consistent and taking responsibility for the update of and application of the corporation's ~~bylaws~~Bylaws.

Section 6. Finance Committee.

A. Composition. The corporation shall have a Finance Committee comprised of at least two (2) Directors. The committee shall act with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with these matters would use in the conduct of an enterprise of like character and with like aims to accomplish the purposes of the institution.

B. Duties. The Finance Committee shall perform the duties and adhere to the guidelines set forth in the corporation's Finance Committee charter as amended from time to time by the Board. Such duties include, but are not limited to:

- (1) Individual investments shall be considered as part of an overall investment strategy.
- (2) The committee shall consider present and future financial requirements, expected total return, general economic conditions, the appropriate level of risk, appropriate levels of income, growth and long-term net appreciation, and the probable safety of the funds.
- (3) The committee may retain professional money managers, and shall develop an investment policy that shall be reconsidered at least annually, in light of the changing factors that may affect the corporation's tolerance of risk and need for income.
- (4) The committee may recommend the retention of property contributed by a donor (whether or not it produces income), and a donor's request should be a factor in making the determination of whether to sell a particular asset contributed by a donor.

Section 7. Ad Hoc Committee.

A. Composition. The Board Chair, with the approval of the Board of Directors, may from time to time appoint an Ad Hoc Committee. An Ad Hoc Committee shall be comprised of at least (2) Directors appointed by the Board Chair and address matters of a one-time or temporary nature. Appointed members of an Ad Hoc Committee will be subject to Article VI, Section 1 & 2 of these Bylaws.

B. Duties. An Ad Hoc Committee shall perform the duties and adhere to the specific direction as directed by the Board Chair or the Board. Such duties may include, but are not limited to:

- (1) Research and collaboration on known issues with recommendations provided to the Board.
- (2) Develop and consider recommendations to the Board.
- (3) Other duties as assigned by the Board Chair or the Board.

**ARTICLE VII.
OFFICERS**

Section 1. Officers.

The officers of this corporation shall be a Board Chair, a Vice Chair, a Secretary, a Treasurer and an Executive Director. The corporation may also have, at the discretion of the Board of Directors, one (1) or more additional Vice Chairs, one (1) or more Assistant Secretaries, and such other officers as may be appointed in accordance with the provisions of Section 3. Any number of offices may be held by the same person; provided, however, that neither the Secretary

nor the Treasurer may serve concurrently as the Board Chair. No officer shall execute, acknowledge, or verify any instrument in more than one capacity, if such instrument is required to be executed, acknowledged or verified by two (2) or more officers.

Section 2. Election.

The Board of Directors shall elect officers of the corporation at the annual meeting. Officers shall serve at the pleasure of the Board, subject to the rights, if any, of any officer engaged under any contract of employment. Officers, other than the Board Chair and Vice Chair, need not be chosen from among the Directors.

Section 3. Subordinate Officers.

The Board of Directors may, and may authorize the Board Chair or other officer to, appoint such other officers as the business of the corporation may require, each of whom shall hold office for such period, have such authority and perform such duties as are required in these Bylaws or as the Board of Directors may from time to time determine. Each officer so appointed shall have the title, hold office for the period, have the authority, and perform the duties specified in these Bylaws or as determined by the Board.

Section 4. Removal.

Without prejudice to any rights of an officer under any contract of employment, any officer may be removed with or without cause by the Board, and, if the officer was not chosen by the Board, by any officer on whom the Board may confer the power of removal.

Section 5. Resignation.

Any officer may resign at any time by giving written notice to the corporation, subject to the rights, if any, of the corporation under any contract to which the officer is a party. Any such resignation shall take effect at the date of the receipt of such notice or at any later time specified therein; and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 6. Vacancies.

A vacancy in any office because of death, resignation, removal, disqualification or otherwise shall be filled for the unexpired term by nomination of a successor by the Board Chair nomination of a successor to and such nomination shall be approved by the Board of Directors at any meeting of the Board. in the manner prescribed in these Bylaws for regular appointments to that office.

Section 7. Responsibilities of Officers.

- A. Board Chair. The Board Chair shall, if present, preside at all meetings of the Executive Committee and the Board of Directors, and exercise and perform such other powers and duties as, from time to time may be assigned to him or her by the Board of Directors or prescribed by the Bylaws.

- B. Vice Chair. If the Board Chair is absent or disabled, the Vice Chair, if ~~any~~ present, shall perform all duties of the Board Chair. When so acting, the Vice Chair shall have all of the powers of and be subject to all restrictions on the Board Chair. The Vice Chair shall have such other powers and perform such other duties as may be prescribed by the Board or these Bylaws.
- C. Secretary. The Secretary or corporate designee as appointed by the Secretary shall keep or cause to be kept a book of minutes of all meetings, proceedings and actions of the Board and committees of the Board. The minutes shall include the time and place that the meeting was held; whether the meeting was annual, ~~regular~~ general or special and if special, how authorized; the notice given; and the names of the persons present at the Board meeting. The Secretary or corporate designee as appointed by the Secretary shall keep or cause to be kept at the corporation's principal office, a copy of the corporation's Article of Incorporation and Bylaws, as amended to date. The Secretary or corporate designee as appointed by the Secretary shall give or cause to be given, notice of all regular and executive session meetings of the Board and committees and special, regular and Ad Hoc committees of the Board that these Bylaws require to be given. The Secretary shall keep the seal of the corporation (if any) and affix the same to such papers and instruments as may be required in the regular course of business. The Secretary shall supervise the keeping of the corporate records of the corporation. The Secretary shall have such other powers and perform other duties as may be prescribed by the Board or these Bylaws.
- D. Treasurer. The Treasurer or corporate designee as appointed by the Treasurer shall keep and maintain or cause to be kept and maintained, adequate and correct books and accounts of the corporation's properties and transactions, including accounts of its assets, liabilities, receipts, disbursements, gains and losses. The Treasurer or corporate designee as appointed by the Treasurer shall send or cause to be given to the Directors and others necessary parties such financial statements and reports as are required to be given by law, by these Bylaws or by the Board. The Treasurer or corporate designee as appointed by the Treasurer shall receive and safely keep all funds of the corporation and deposit the same in such financial institution(s) as may be designated by the Board. Such funds shall be paid out on the check of the corporation signed by such person or persons as may be designated by the Board as authorized to sign the same or by electronic payment if at such time in the future it becomes available. The Treasurer or corporate designee as appointed by the Treasurer shall disburse the corporation's funds upon a check or draft of the corporation signed pursuant to the order of the Board. The Treasurer shall have such other powers and perform other duties as may be prescribed by the Board or these Bylaws.
- E. Assistant Secretary. The Assistant Secretary, if there shall be such an officer, shall have all the powers and perform all the duties of the Secretary in the absence or inability of the Secretary to act.
- F. Executive Director. The Board shall select and appoint an individual to act as the Executive Director of the corporation. The Executive Director shall be the chief executive officer of the Corporation and shall supervise, direct and control the corporation's staff and shall be responsible for implementing and administering the policies and decisions of the Board of Directors and managing the affairs of the

corporation in harmony with the policies and goals of the ~~Natomas Basin Habitat Conservation Plan~~~~NBHCP~~~~NBHCP~~. The Executive Director shall have such other powers and perform such other duties as may be prescribed by the Board. At the discretion of the Board, the Executive Director shall be known in the alternative as the President and CEO of the corporation.

Section 8. Compensation. The compensation, if any, of the officers who are also employees of the corporation shall be fixed from time to time by either the Board of Directors or a committee thereof, if such a committee is authorized, and no officer shall be prevented from receiving such compensation because the officer is also a Director of the corporation.

ARTICLE VIII. INDEMNIFICATION

Section 1. Rights of Indemnification.

A. For the purposes of this Section 1, "agent" means any person who is or was a ~~director~~~~Director~~, officer, employee or other agent of the corporation, or is or was serving at the request of the corporation as a ~~director~~~~Director~~, officer, employee or agent of another foreign or domestic corporation, partnership, joint venture, trust or other enterprise, or was a ~~director~~~~Director~~, officer, employee or agent of a foreign or domestic corporation which was a predecessor corporation of the corporation or of another enterprise at the request of such predecessor corporation; "proceeding" means any threatened, pending or completed action or proceeding, whether civil, criminal, administrative or investigative; and "expenses" includes, without limitation, attorneys' fees and any expenses of establishing a right to indemnification under these Bylaws or the ~~Non-profit Public Benefit Corporation Law~~~~CCC~~.

B. To the fullest extent permitted by law, the corporation shall indemnify any person who was or is a party or is threatened to be made a party to any proceeding (other than an action by or in the right of the corporation to procure a judgment in its favor, an action brought under ~~Non-profit Public Benefit Corporation Law~~~~CCC~~ Section 5233, or an action brought by the Attorney General or a person granted relator status by the Attorney General for any breach of duty relating to assets held in charitable trust) by reason of the fact that such person is or was an agent of the corporation, against expenses, judgments, fines, settlements and other amounts actually and reasonably incurred in connection with such proceeding if such person acted in good faith and in a manner which such person reasonably believed to be in the best interests of the corporation and, in the case of a criminal proceeding, had no reasonable cause to believe the conduct of such person was unlawful. The termination of any proceeding by judgment, order, settlement, conviction or upon a plea of nolo contendere, or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which the person reasonably believed to be in the best interests of the corporation or that the person had reasonable cause to believe that the person's conduct was unlawful.

C. To the fullest extent permitted by law, the corporation shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action by or in the right of the corporation, or brought under ~~Non-profit Public Benefit Corporation Law~~~~CCC~~ Section 5233, or brought by the Attorney General or a person granted relator status by the Attorney General for a breach of duty relating to assets held in

charitable trust, to procure a judgment in its favor by reason of the fact that such person is or was an agent of the corporation, against expenses actually and reasonably incurred by such person in connection with the defense or settlement of such action if such person acted in good faith, in a manner such person believed to be in the best interests of the corporation and with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances. However, no indemnification shall be made under this Section 1.C:

- (1) In respect of any claim, issue or matter as to which such person shall have been adjudged to be liable to the corporation in the performance of such person's duty to the corporation, unless and only to the extent that the court in which such proceeding is or was pending shall determine upon application that, in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for the expenses which such court shall determine;
- (2) Of amounts paid in settling or otherwise disposing of a threatened or pending action, with or without court approval; or
- (3) Of expenses incurred in defending a threatened or pending action which is settled or otherwise disposed of without court approval unless it is settled with the approval of the Attorney General.

D. To the extent that an agent of the corporation has been successful on the merits in defense of any proceeding referred to in Section 1.B or Section 1.C above, or in defense of any claim, issue or matter therein, the agent shall be indemnified against expenses actually and reasonably incurred by the agent in connection therewith.

E. Except as provided in Section 1.D above, any indemnification under this Section 1 shall be made by the corporation only if authorized in the specific case, upon a determination that indemnification of the agent is proper in the circumstances because the agent has met the applicable standard of conduct set forth in Section 1.B or Section 1.C, above, by:

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

F. No indemnification or advance shall be made under this Section 1, except as provided in Section 1.D or Section 1.E(2) above, in any circumstance where it appears that:

- (1) It would be inconsistent with a provision of the Articles of Incorporation, Bylaws or an agreement in effect at the time of the accrual of the alleged cause of action asserted in the proceeding in which the expenses were incurred or other amounts were paid, which prohibits or otherwise limits indemnification; or

- (2) It would be inconsistent with any condition expressly imposed by a court in approving a settlement.

G. On written request to the Board by any person seeking indemnification under Section 1.B or Section 1.C, above, the Board shall promptly decide, in accordance with the provisions of this Section 1 whether the applicable standard of conduct has been met and, if so, the Board shall authorize indemnification.

Section 2. Advancement of Expenses.

To the fullest extent permitted by law, and except as otherwise determined by the Board in a specific instance, expenses incurred by an agent seeking indemnification under these Bylaws in defending any proceeding may be advanced by the corporation before final disposition of the proceeding, on receipt by the corporation of an undertaking signed by or on behalf of the agent to repay such amount unless it is ultimately determined that the person is entitled to be indemnified by the corporation for those expenses as authorized in this Article VIII or in the ~~Non-profit Public Benefit Corporation Law~~CCC.

Section 3. Indemnification Consistent with Law.

Notwithstanding any contrary or inconsistent provision of these Bylaws, the provisions of this Article VIII shall be interpreted in a manner that is consistent with ~~Non-profit Public Benefit Corporation Law~~CCC Section 5238. No provision made by the corporation to indemnify its or its subsidiary's ~~director~~Directors or officers for the defense of any proceeding, whether contained in the Articles of Incorporation, these Bylaws, an agreement or otherwise shall be valid unless consistent with the provisions of Section 5238 of the Nonpublic Benefit Corporation Law. However, nothing in this Article VIII shall affect any right to indemnification to which persons other than such ~~director~~Directors and officers may be entitled by contract or otherwise.

Section 4. Insurance.

The corporation shall have the right to purchase and maintain insurance to the fullest extent permitted by law on behalf of its Directors, officers, employees, and other agents, against any liability asserted against or incurred by any Director, officer, employee, or agent in such capacity or arising out of the Director's, officer's, employee's, or agent's status as such, whether or not the corporation would have the power to indemnify the agent against such liability under the provisions of this Article VIII or the ~~Non-profit Public Benefit Corporation Law~~CCC.; ~~provided, however, that t~~The corporation shall have no power to purchase and maintain such insurance to indemnify any agent of the corporation for a violation of ~~Non-profit Public Benefit Corporation Law~~CCC Section 5233 (relating to self-dealing transactions).

Section 5. Enforcement: Survivability of Provisions.

The provisions of this Article VIII may be enforced against the Corporation by any agent (including, but not limited to, any present officer or ~~director~~Director of the Corporation as well as any former officer or ~~director~~Director of the Corporation) who served as an agent at the time that the provisions of this Article VIII were in effect. The provisions of this Article VIII shall survive and continue for the benefit of such agents even though the agent may have ceased to serve as an agent of the Corporation at the time of any proceeding and even though any or all of the provisions of this Article VIII may have been subsequently repealed, modified or replaced through the adoption of other bylaw provisions. To the extent permitted by law, the provisions of this Article VIII may also be enforced by the respective spouses, heirs, and personal and legal

representatives of such agents, and if an action is brought to enforce the provisions of this Article VIII, the prevailing party in such action shall be entitled to attorneys' fees and costs as determined by the court.

Section 6. Severability.

If any provision of this Article VIII is held or determined to be illegal, invalid or unenforceable for any reason (a) such provision will be fully severable, (b) this Article VIII will be construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part of this Article VIII, (c) the remaining provisions of this Article VIII will remain in full force and effect and will not be affected by the illegal, invalid or unenforceable provision or by its severance from this Article, and (d) in lieu of such illegal, invalid or unenforceable provision, there will be added automatically as a part of this Article VIII a legal, valid and enforceable provision as similar in terms to such illegal, invalid or unenforceable provision as may be possible.

**ARTICLE IX.
AMENDMENTS OF BYLAWS**

~~These Bylaws may be amended or repealed and new Bylaws adopted by the affirmative vote of the Board of Directors at any Board meeting; except that a Bylaw fixing or changing the number of Directors may be adopted, amended or repealed only by the vote or written consent of a majority of the Directors then in office.~~

Section 1. Amendment of Articles. The amendment or restatement of the Articles of Incorporation of the Corporation is provided for by California state law and requires the approval of a majority of the Directors of the Corporation at a meeting duly called for that purpose and shall also require the written approval of the Board unless required otherwise by the NBHCP or the Implementation Agreement. Such amendment or restatement of the Articles of Incorporation shall not be effective until the filing of a certificate of amendment with the Secretary of State.

Section 2. Amendment of Bylaws. These Bylaws may be amended or repealed, or new bylaws may be adopted, only by the affirmative vote of the Board at any meeting, unless required otherwise by the NBHCP or Implementation Agreement. Notwithstanding the preceding, any change to the Bylaws regarding the number of Directors may be adopted, amended or repealed by the vote of a majority of the Directors then in office unless required otherwise by the NBHCP or Implementation Agreement. Any conflict between these Bylaws and the Articles of Incorporation shall be resolved in favor of the Articles of Incorporation

**ARTICLE X.
RECORDS AND REPORTS**

Section 1. Books and Records.

The corporation shall keep adequate and correct books and records of account and written minutes of the proceedings of its Board of Directors and its committees. At its principal place of business, the corporation shall keep the ~~original or a copy of its Articles of Incorporation and Bylaws, as amended to date.~~following:

A. The record of all meetings of the Board including date, place, those attending and the proceedings thereof, a copy of the notice of the meeting and when and how given, and unanimous written consents to action of the Board without a meeting, and similarly as to meetings of committees of the Board established pursuant to these Bylaws.

B. A copy of the Articles of Incorporation, and all amendments thereof, and a copy of all certificates filed with the Secretary of State; and

A-C. A copy of these Bylaws, and all amendments hereof, duly certified by the Secretary.

Section 2. Form of Records.

Minutes shall be kept in written form. Other books and records shall be kept either in written or electronic form or in any other form capable of being converted into written form. If any record subject to inspection pursuant to the ~~Non-profit Public Benefit Corporation Law~~CCC is not maintained in written form, a request for inspection is not complied with unless and until the corporation, at its expense, makes such record available in written form.

Section 3. Annual Report.

The Board of Directors shall cause the corporation to prepare an annual report ("Annual Report") within one hundred twenty (120) days after the end of the corporation's fiscal year. Such ~~A~~annual ~~R~~eport shall be sent to the Directors and the City Manager of the City of Sacramento, the County Executive of the County of Sacramento, the Executive Director of Metro Air Park Property Owners Association, the County Executive of the County of Sutter, the Regional Director of USFWS, the Regional IX Manager of CDFW, and as may be requested, the General Manager of Reclamation District 1000, the General Manager of the Natomas Mutual Water Company, ~~the Executive Director of the Pleasant Grove Water District, the Executive Director of the Pleasant Grove Community Services District,~~ and the Director of the Sacramento Area Flood Control Agency. In addition to any other matters which the Board of Directors may require to be included in the Annual Report, such report shall contain the following information, in appropriate detail, for the fiscal year:

- A. The assets and liabilities (including any trust funds) of the corporation as of the end of the fiscal year;
- B. The principal changes in assets and liabilities (including any trust funds);
- C. The revenue or receipts of the corporation, both unrestricted and restricted to particular purposes;
- D. The amount of any charitable donations to the corporation;
- E. The expenses and disbursements of the corporation for both general and restricted purposes; and
- F. Any information required in accordance with Section 4, below.

The financial statements prescribed above shall be prepared as soon as reasonably practicable after the close of the fiscal year, but not later than the ~~fifteenth~~thirtieth

~~(1530th)~~ day of the fourth (4th) month after the close of said fiscal year. The ~~a~~Annual ~~r~~Report shall be accompanied by a report ~~on it~~ prepared by independent accountants, ~~or,~~ if there is no such report, the certificate of an authorized officer of the Corporation that such statements were prepared without audit from the books and records of the Corporation-

This requirement of an ~~a~~Annual ~~r~~Report shall not apply if the ~~corporation~~Corporation receives less than Twenty-Five Thousand Dollars (\$25,000) in gross receipts during the fiscal year; provided, however, that the information specified above for inclusion in an ~~a~~Annual ~~r~~Report must be furnished annually to all Directors and to the other specified parties above. If the Board approves, the corporation may send the report and any accompanying material sent pursuant to this Section 3 by electronic means.

~~Section 4:~~ Statement of Transactions and Indemnifications.

As part of the annual report described above, or as a separate document if no annual report is issued, the ~~corporation~~Corporation shall annually prepare and deliver to persons entitled to receive an annual report a statement of any indemnification of the following kind within one hundred twenty (120) days after the end of the ~~corporation~~Corporation's fiscal year, if such an indemnification took place:

A. — Any indemnifications or advances aggregating more than Ten Thousand Dollars (\$10,000) paid during the fiscal year to any officer or Director of the ~~corporation~~Corporation under these Bylaws. The statement shall describe briefly the amount and circumstances of the indemnifications or advances.

Section 4. Report of Transactions and Indemnifications.

As part of the annual report to all Directors required by these Bylaws, or a separate document if no annual report is issued, the Corporation shall annually prepare and mail, deliver or send by electronic transmission to all Directors a statement of any transaction between the Corporation and one of its officers or Directors or of any indemnification paid to any officer or Director. The statement shall be mailed within one hundred and twenty (120) days after the close of the fiscal year. The statement required by this Section shall describe briefly:

A. Covered Transactions. Any covered transaction during the previous fiscal year involving more than ten thousand dollars (\$10,000), or which was one of a number of covered transactions in which the same "interested person" had a direct or indirect material financial interest, and which transactions in the aggregate involved more than ten thousand dollars (\$10,000). The names of the "interested persons" involved in such transactions, stating such person's relationship to the Corporation, the nature of such person's interest in the transaction and, where practicable, the amount of such interest; provided, that in the case of a transaction with a partnership of which such person is a partner, only the interest of the partnership need be stated.

B. Indemnifications. The statement shall describe briefly the amount and circumstances of any indemnifications or advances aggregating to more than ten thousand dollars (\$10,000) paid during the fiscal year to any officer or Director of the Corporation pursuant to section 5238 of the CCC.

For purposes of this Section an "interested person" is (i) any Director or officer of the Corporation.

Section 5. Inspection of Public Records.

The corporation shall make its public records available at all times during the office hours of the corporation for inspection by any person. Any ~~reasonably agreeable~~ portion of a record shall be available for inspection by any person requesting the record, provided, however, that any documents relating to real property transactions, either pending or completed, of the corporation shall be exempt from disclosure. As used herein, "real property transactions" shall include options to purchase or lease, purchases and leases of real property, as well as farming contracts affecting real property that the corporation has acquired or is negotiations to acquire.

Except with respect to records exempt from disclosure by express provisions of law or these ~~bylaws~~ Bylaws, the corporation, upon a request for a copy of records that reasonably describes an identifiable record or records, shall make the records promptly available to any person, upon payment of fees covering direct costs of duplication, or a statutory fee, if applicable. Upon request, an exact copy shall be provided unless impracticable to do so. Computer data shall be provided in a form determined by the corporation.

"Public records" includes any writing containing information relating to the conduct of the public's business prepared, owned, used or retained by the corporation regardless of physical form or characteristics.

**ARTICLE XI.
INVESTMENTS**

In investing, reinvesting, purchasing, acquiring, exchanging, selling and managing the corporation's investments, other than assets held for use or used directly in carrying out a public or charitable program of the corporation, the Board of Directors shall avoid speculation, looking instead to the permanent disposition of the funds, considering the probable income as well as the probable safety of the corporation's capital. Unless limited by the Articles of Incorporation, the corporation may continue to hold property properly acquired or contributed to it if and as long as the Board of Directors, in the exercise of good faith and reasonable prudence, discretion and intelligence, may consider that retention is in the best interests of the corporation.

CERTIFICATE OF SECRETARY

I certify that I am the duly elected and acting Secretary of The Natomas Basin Conservancy, a California Non-profit Public Benefit Corporation, that the above Amended and Restated Bylaws, consisting of 23 pages, are the Bylaws of this corporation as adopted by the Board of Directors on December 7, 2016, and that they have not been amended or modified since that date.

IN WITNESS WHEREOF, I have hereunto subscribed my name this _____ day of _____, 2019. Executed on _____, at Sacramento, California.

SECRETARY