



BOARD OF DIRECTORS AGENDA REPORT

MEETING DATE: **OCTOBER 27, 2022** ITEM: **8A**

SUBJECT: **Discussion Regarding Heroes Hall Veterans Foundation and Centennial Farm Foundation MOUs, By-Laws and Relationship with District, and Vote to Provide Direction to Staff on Next Steps**

DATE: October 21, 2022

FROM: Michele Richards, CEO

PRESENTATION BY: Michele Richards CEO

Action Item

BACKGROUND

The current Memoranda of Understanding (MOUs) between the District and its two Foundations are both set to expire by the end of 2022. As such, each Foundation has approached the District with its intentions for the future.

The Centennial Farm Foundation (CFF) submitted the attached letter expressing the desire to renew its MOU with the District which includes a minimum contribution of \$25,000 per year. (See attached letter from Glen Johnson, CFF Board President.)

The Heroes Hall Veterans Foundation (HHVF) would like to allow its MOU to expire and continue to operate independently of the District, while still providing financial support to Heroes Hall. (See attached letter from Nick Berardino, HHVF Board President.)

History of District Foundations

Both CFF and HHVF were formed through action by the District Board of Directors.

CFF was incorporated as a 501(C)3 nonprofit in 1991 and has supported the work of Centennial Farm for over 30 years with financial contributions of over \$1.36 million since 1995 when electronic records started. In addition to cash donations, CFF raised funds to build Millennium Barn and the Silo Building at Centennial Farm, and continues to provide both operational equipment and educational supplies for Centennial Farm facilities and programs. The District entered into its first MOU with CFF on February 7, 2019. (See attached copy of current CFF MOU.)

HHVF was incorporated as a 501(C)3 nonprofit in 2015 and has supported the work of Heroes Hall with both direct and indirect contributions of over \$500,000. In addition to cash donations, HHVF secured the A4-M Skyhawk jet and has held various fundraising events to provide operational and programming support, as well as educational supplies to Heroes Hall. The District entered into its first MOU with HHVF on June 7, 2017. (See attached copy of HHVF current MOU.)

Centennial Farm Foundation Request

In order to accept the CFF's request to renew its current MOU with the District, the Board would need to agree to the \$25,000 annual contribution suggested by CFF. CFF would continue to use the Silo Building for its periodic meetings and comply with the provisions of the Bagley-Keene Open Meeting Act. Two District Board members would continue to serve as non-voting members of the CFF Board of Directors.

Heroes Hall Veterans Foundation Request

The HHVF was also formed by action of the District Board of Directors. (See attached staff report and Board minutes from March 15, 2015.)

Under Government Code, Section 11121, subdivision (d), a non-profit organization is subject to the requirements of the Bagley-Keene Open Meeting Act, if (1) the Board of the non-profit organization includes a member of the District's Board of Directors serving in his/her official capacity as a representative of the District, and (2) the non-profit organization "is supported, in whole or in part, by funds provided by" the District. The phrase "is supported, in whole or in part, by funds provided by" the District should be read broadly and would include direct or indirect support (e.g., use of District space for meetings or other Foundation activities).

Section 4.2 of the HHVF by-laws provides that the HHVF "shall have a minimum of five (5) and a maximum of fifteen (15) directors," all of whom shall be appointed by the District. Section 4.2 also provides that two of the directors of the HHVF "shall be members of the board of directors" of the District.

Section 11.1 provides that the by-laws or Articles of Incorporation may be amended or repealed, by an affirmative vote of a majority of the HHVF Board, "provided that no amendment shall be valid" without the District's "prior written consent" if such an amendment would have the effect of removing the District as the supported organization of the foundation or "eliminating or derogating in any way (a) [District's] power to appoint or remove any director of the [HHVF] or (b) [District's] right to receive assets of the [HHVF] upon its dissolution or winding up."

With this information in mind, HHVF could amend its by-laws to remove the language regarding District Board representation and the District could ensure that it does not provide any funds to support the Foundation. If the Board takes these actions, Section 11121, subdivision (d) would not apply and the Foundation would not be required to comply with the Bagley-Keene Open Meeting Act. (See attached HHVF by-laws.)

RECOMMENDATION

The Board will review and discuss each Foundation's request, and take action as deemed appropriate.

Attachments:

1. October 5, 2022 Letter from Centennial Farm Foundation
2. October 20, 2022 Letter from Heroes Hall Veterans Foundation
3. Current MOU with Centennial Farm Foundation
4. Current MOU with Heroes Hall Veterans Foundation
5. March 15, 2015 Board meeting minutes and staff report
6. HHVF by-laws



CENTENNIAL FARM FOUNDATION

*A foundation for the benefit
of Youth and Agriculture*

October 5, 2022

OC Fair & Event Center Board of Directors
OC Fair & Event Center
88 Fair Drive
Costa Mesa, CA. 92626

Dear OC Fair & Event Center Board Directors,

Since the pandemic started, the Centennial Farm Foundation has had its challenges for approximately two years in an effort to raise money for Centennial Farm. Unfortunately with not knowing if we could hold face-to-face fundraising events, we have been handicapped in our efforts to raise the monies we strive for.

Because of the continued Covid-19 related challenges, we would like to continue with the current MOU, dated December 16, 2021. Presently, the MOU agreement include a minimum of a \$25,000 contribution to the District to help offset operational expenses for Centennial Farm. In 2022, we were successful in holding our Fun Shoot at Raahauge Shooting Enterprises in Corona. Thank you for participating! We raised a net \$25,038.00 at this event. We would like to propose that we contribute the full net amount to the OC Fair & Event Center. We respectfully request that that the Board of Directors accept this contribution for 2022. We are redoubling our efforts in 2023 to conduct additional fundraising activities, which I would be happy to discuss with the Board at the October 27, 2022 meeting.

We appreciate your consideration of this request.

Respectfully,

Glen Johnson
Centennial Farm Foundation Board President



*The Centennial Farm
is located at the
Orange County Fair & Exposition Center
88 Fair Drive
Costa Mesa
California 92626
714/708-1680*



October 20, 2022

Mr. Doug La Belle, Chairman
OC Fair & Events Center
88 Fair Drive
Costa Mesa, CA 92686

RE: HEROES HALL VETERANS FOUNDATION

Dear Chairman La Belle:

As you know the Heroes Hall Foundation was formed to support the marvelous Heroes Hall Museum located on the Fairgrounds. We are proud to report that since 2017 we fortunately have been able to contribute over \$500,000 in financial and other donations.

Heroes Hall has progressed beyond our early expectations. Of course, this is largely due to the tremendous job by the staff and the support of your board of directors. We now are excited about moving to the next level of growth and support. The foundation like any organization must anticipate future impacts to its growth and development. In that regard we believe it's important to restructure our relationship with OCFEC.

Currently we are governed by the Bagley-Keene Act which was designed for public jurisdictions. The requirements of the Act are such that we have been forced to rely on the Orange County Employees Association for substantial administrative support. This support includes not only administrative tasks but all accounting and financial services. In addition, all our tax work is voluntarily provided by an accounting firm that handles our taxes and files other required documents.

We need to prepare for the possibility of losing our administrative support (from OCEA) in the future due to staffing changes, anticipated retirements and new leadership. If we no longer have such support; our compliance to Bagley-Keene will be extremely challenging. Additionally, many of our site development goals have been achieved (we have run out of space). However, there are still some projects like shade for the courtyard that remain; to complete our vision.

We have approximately \$380,000.00 left in our treasury which will wholly be devoted to enhancement and advancing the mission of Heroes Hall. However, we strongly believe that we have outgrown the need for the complicated current structure, and we wish to simplify our relationship.

The Foundation believes we have reached a tentative agreement with the OCFEC subject of course to the approval of your board and we are excited to begin a new and productive chapter in the wonderful Heroes Hall saga.

Sincerely,

Nick Berardino
Nick Berardino
President, Heroes Hall Foundation

88 FAIR DRIVE, COSTA MESA, CA 92626

MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING ("MOU") is made and entered into on December 16, 2021 by and between the 32nd District Agricultural Association, a state institution, *aka* Orange County Fair & Event Center ("District") and Centennial Farm Foundation, a 501(c)(3) California nonprofit public benefit corporation, ("Foundation"). District and Foundation are sometimes collectively referred to in this MOU as the "Parties".

Recitals

- A. District is a district agricultural association formed under the California Food and Agricultural Code as a state institution for the purposes of holding fairs, exhibitions, community-based programs and services, and constructing, maintaining, and operating recreational and cultural facilities of general public interest.
- B. Foundation is a California nonprofit public benefit corporation, with Articles of Incorporation filed April 4, 1991 with the California Secretary of State and qualified as a 501(c)(3) tax exempt organization pursuant to the Internal Revenue Service and the California Franchise Tax Board. Foundation was formed for the purpose of the solicitation, accumulation and disbursement of funds for the operation of Centennial Farm and other agriculturally and youth related education programs and exhibits of District.
- C. District and Foundation are separate and distinct legal entities; each with its own tax identification number and purpose.
- D. The Parties desire to enter into this MOU to define the relationship between the Foundation and District. The Parties, while working together towards accomplishing common goals, objectives, and purposes, will be managed and operated independently of the other party.

Agreement

In consideration of the mutual promises set forth in this MOU, the Parties agree to the following:

1. **Term:** This term of this MOU shall be for a one (1) year period, commencing on December 16, 2021 (the "Initial Term"), unless terminated earlier by either Party in accordance with the terms of this MOU. At the end of the Renewal Term, the Parties may extend the term of this MOU by the mutual written consent of the Parties.
2. **Independent Legal Entities:** Each Party acknowledges and agrees that the other Party is a separate and distinct legal entity and will act accordingly in its ongoing relationship and business dealings with the other Party.
3. **Joint Obligations of the Parties:** The Parties agree to the following:
 - a. To collaborate in good faith and to develop and implement a strategic plan (the "Plan") that is designed to fulfill mutually agreed-upon fundraising goals and priorities of

District and the Foundation for the benefit of Centennial Farm. Further, the Parties agree to meet on an annual basis to review the Plan and make mutually agreed upon amendments to the Plan if appropriate.

b. To share relevant information regarding, grants, advertising and donations sought, solicited, and secured by each of the Parties for Centennial Farm with the intent of working collaboratively to streamline solicitations and to ensure no duplication of fund raising tasks or efforts.

4. Individual Obligations of each Party: In furtherance of Paragraph 3 of this MOU, the Parties agree as follows:

a. District's Obligations:

i. Each year, District shall communicate District's priorities and long term plans for Centennial Farm to the Foundation.

ii. While District may seek input from the Foundation for District's strategic plan for Centennial Farm, District shall be exclusively and solely responsible for the administration, management and operation of Centennial Farm; and direction of Centennial Farm staff. This includes, but is not limited to all matters related to exhibit procurement and management, facilities management and repairs, capital improvements, and community education and volunteer program development and administration.

iii. District will have the exclusive right to secure sponsorships for Centennial Farm. All sponsorship activities and opportunities related to Centennial Farm must be referred to and coordinated by District.

iv. The Foundation will comply with the California Non-Profit Integrity Act. It will provide the District with a copy of its annual Form 990 each year when no independent audit is required.

v. District grants the Foundation a limited non-exclusive revocable license to use District's name, logo(s), or other identifying marks solely for the purpose of promotion and marketing provided the promotion and/or marketing is in furtherance of the contributions of Centennial Farm and youth related education programs and exhibits of District.

vi. In exchange for the Foundation's efforts in promoting and facilitating the Parties' objectives set forth in this MOU, and consistent with California law, including but not limited to the Political Reform Act of 1974 (Government Code §§ 81000, et seq.), the applicable regulations promulgated by the Fair Political Practices Commission, and all other applicable laws and regulations, and District's Ticket Distribution Policy, attached as Exhibit A to this MOU and incorporated as part of the MOU by this reference, District, at its sole discretion, may provide to each active Foundation Board member one (1) complimentary pass to District's annual county fair, which pass will may include an F Lot parking hang tag. The type and quantity of additional complimentary passes will

be assessed by the District on an annual basis and shall comply with California law and District's Ticket Distribution Policy. The distribution of passes under this section accomplishes the state public purpose of supporting programs or services rendered by non-profit organizations benefiting Orange County residents.

vii. District will remit to the Foundation all cash and check contributions donated to the Foundation by guests, students, schools and visitors to the Centennial Farm.

viii. District will provide Foundation with the following:

- logo placement on District's Website with link to Foundation website;
- Foundation presence in a mutually agreed location during District's annual county fair;
- space to conduct monthly Foundation meetings in the Silo Building located at District's Centennial Farm or another appropriate location on District's grounds. The Foundation's use of meeting space owned by District shall serve a public purpose, including promoting the mission of District in celebrating the communities, interests, agriculture and heritage of Orange County;
- reasonable space to store Foundation archives and records.

b. Foundation's Obligations:

i. District CEO or other designated member of District management team will serve as liaison to the Foundation Board of Directors.

ii. The purpose and objectives of the Centennial Farm Foundation shall be solicitation, accumulation and disbursement of funds for the operation of Centennial Farm and other agriculturally and youth related educational programs and exhibits of the OC Fair & Event Center. The Foundation will strive to create an environment conducive to maintaining and increasing levels of private support for the mission and priorities of the Foundations purpose. Foundation agrees to consider periodic and/or annual financial contributions of a minimum \$25,000 per year for operational expenses of Centennial Farm including, but not limited to, educational materials, farm supplies, and exhibit components.

iii. Pursuant to the Foundation's purpose, the Foundation will solicit grants, donations and other private contributions and resources for support of Centennial Farm; acknowledge and steward such contributions in accordance with the donor's intent and the Foundation's fiduciary responsibilities. Foundation will make fundraising for the financing and maintenance of Centennial Farm its primary objective. Notwithstanding the foregoing, District acknowledges that the Foundation may raise funds and engage in other activities to increase Foundation's revenue with no direct connection to a specific District purpose or objective, such as Foundation's operational and administrative costs, Foundation programs such as scholarships, and other activities that support the Foundation's mission.

iv. When distributing gift funds to District, Foundation will disclose, if applicable, any terms, conditions, or limitations imposed by the donor or legal determination of the gift. If such terms, conditions, or limitations are acceptable and approved by District then District will accept such gift funds and agree to abide by such terms, conditions, or limitations.

v. The Foundation shall maintain and abide by the terms of its Articles of Incorporation and current by-laws, copies of which are attached to this MOU as Exhibit B. Should the Foundation revise its Articles of Incorporation or its by-laws, it shall immediately provide the revised Articles of Incorporation and by-laws to District.

vi. The Foundation shall abide by the California Non-Profit Integrity Act.

vii. Foundation grants to District the revocable and limited right to use Foundation's name, logo(s), or other identifying marks in the promotion of Centennial Farm and the objectives of the parties as described in this MOU.

viii. If Foundation maintains a physical address, that physical address shall be separate and apart from the physical address maintained by the District. Foundation shall maintain its own web site, separate and apart from the Centennial Farm web site maintained by the District.

ix. Foundation shall maintain insurance coverage as provided in this Section 4(b)(ix). The insurance coverage provided by Foundation under this section shall be primary and any separate coverage or protection available to District or any other additional insured shall be secondary.

Nothing in this section shall be construed as limiting in any way the extent to which Foundation may be held responsible for damages resulting from Foundation's operations, acts, omissions, and/or negligence. Insurance coverage obtained in compliance with this section shall not relieve Foundation of liability in excess of such minimum coverage, nor shall it preclude District from taking other actions available to it under contract documents or by law.

Upon request by District, Foundation shall immediately furnish a complete copy of any policy required by this section, including all endorsements, certified by the insurance company issuing the policy to be a true and correct copy of the original policy.

a) **Worker's Compensation.** Foundation shall secure and maintain (if it maintains employees), at its own expense, during the Initial Term and any subsequent Renewal Term, Worker's Compensation insurance as required by California law for all of Foundation's employees and shall require the same coverage for any subsidiaries, agents, if any, and its employees, and shall carry a minimum of five million dollars (\$5,000,000) employers insurance coverage as part of the Worker's Compensation insurance.

b) Automobile Insurance. Foundation shall secure and maintain at its own expense during the Initial Term and any subsequent Renewal Term Commercial Automobile Liability coverage, on a per accident basis, at least as broad as the current ISO policy form # CA 0001, Symbol #1 (any auto), or any successor ISO policy form, with limits of not less than \$1,000,000 combined single limit per accident for contracts involving the use of Foundation's vehicles on the premises of District.

c) Commercial General Liability Insurance. Foundation shall secure and maintain at its own expense during the Initial Term and any subsequent Renewal Term of this Agreement a minimum of two million dollars (\$2,000,000) per occurrence combined single-limit commercial general liability insurance covering Foundation, its employees, agents and subsidiaries, for claims for damages for bodily injury, property damage, personal injury, liquor liability, automobile and maintenance vehicle liability insurance.

Foundation agrees that the general liability insurance required under this Section shall be in effect at all times during the Initial Term and any and all Renewal Terms. In the event Foundation's insurance coverage under this MOU expires at any time or times prior to or during the Initial Term or any Renewal Term, Foundation agrees to provide District at least consistent with the provision of this MOU, prior to any expiration date, a new certificate of insurance evidencing insurance coverage as provided for in this MOU for a term not less than the remainder of the Initial Term of the then-current Renewal Term, or for a period of not less than one (1) year. New certificates of insurance and additional insured endorsements are subject to the approval of District, the State of California, and California Fair Services Authority, and Foundation agrees that no work or services shall be performed prior the giving of such approval. In the event Foundation fails to keep in effect at all times insurance coverage as required under this section, District may, in addition to any other remedies it may have, terminate the MOU.

The following statement regarding additional insured must be included on all insurance certificates:

"That the State of California, the 32nd District Agricultural Association, the OC Fair & Event Center, and their respective agents, directors, officers, servants, and employees are made additional insureds but only insofar as the operations under this MOU are concerned."

In addition to the foregoing, Foundation shall provide a certified copy of an additional insured endorsement to District, Forms ISO CG 2005, 2010, 2012, 2024, showing the State of California, the 32nd District Agricultural Association, the OC Fair & Event Center, and their agents, directors, officers, servants, and employees are made additional insureds on Foundation's general liability insurance policy and automobile liability policy.

5. **Capital Improvements and Equipment:** Foundation may recommend that District make certain capital improvements or purchase certain equipment for the benefit of District and Centennial Farm, the cost of which may be covered by donations procured by Foundation under the terms of this MOU. District shall maintain sole and exclusive authority to accept or reject any capital improvement or equipment purchase recommendation made by Foundation under this MOU. District may provide Foundation with requests to fund capital contributions or purchase certain equipment for District in furtherance of this MOU. All capital improvements and equipment purchased by the Foundation for the benefit of District and/or Centennial Farm shall remain the property of District.

6. **Concessions or Other Events:** The Parties agree that any concession or event, including but not limited to the sale of alcohol at District events, that is to be conducted on the premises of District by the Foundation or as a co-produced event by District and the Foundation shall require a separate written agreement with substantially the same terms and conditions applicable to written contracts for interim events conducted by independent contractors on District premises. District, in its sole and absolute discretion, and with the prior approval of the District's Board of Directors at a public meeting, may provide the Foundation with discounted facility rental rates and auxiliary costs in order to accomplish the state public purpose of supporting programs or services rendered by non-profit organizations benefiting Orange County residents and promoting the mission of District in celebrating the communities, interests, agriculture and heritage of Orange County. Proceeds from the event conducted on District's premises by the Foundation or jointly by District and Foundation must be provided to District following the event to cover all contracted facility rental fees and auxiliary costs associated with the event.

7. **Default:** Either Party shall be in default under this MOU should it fail to perform or observe any of its obligations under this MOU, and such failure continues for a period of thirty (30) days following written notice by the non-defaulting Party specifying the default. If the default is of such nature that it cannot reasonably be remedied within the thirty (30) days, such Party will not be in default so long as it commences to remedy the default within the thirty (30) days and continues diligently until the default is corrected. In the event of an uncured default, this MOU may be terminated immediately by the non-defaulting party by providing written notice to the defaulting Party.

8. **Termination:** This MOU may be terminated by either Party at any time without cause upon thirty (30) days written notice.

9. **Modification/Amendments:** This MOU may be renegotiated, amended, or modified at any time by mutual agreement of the Parties. No modification or amendment of this MOU will be of any force or effect unless made in writing and executed by both parties.

10. **Dissolution of the Foundation:** In the event the Foundation should cease to function and terminate its operations for any reason the Foundation shall dissolve in accordance with its Articles of Incorporation and California law, and the Foundation shall distribute any remaining assets to one or more exempt 501(c)(3) organizations at its discretion in accordance with the Foundation's Articles of Incorporation and the California Non Profit Integrity Act or then applicable governing law.

11. Counterparts: This MOU may be executed in any number of counterparts and delivered by facsimile or other means of electronic transmission, each such counterpart being deemed to be an original instrument, and all such counterparts shall together constitute the same MOU.

12. Applicable Law: It is specifically stipulated that this MOU will be interpreted and construed according to the laws of the State of California. Venue for any dispute arising under this MOU shall be in the Superior Court of the State of California for the County of Orange.

13. Successors and Assigns: This MOU shall inure to the benefit of and be binding upon the District and Foundation and their respective legal representatives, successors and assigns. Notwithstanding the foregoing, this MOU may not be assigned by either party without the prior written consent of the other party, which consent may not be unreasonably withheld or delayed.

14. Severability: If any one or more of the provisions contained in this MOU are held to be invalid or unenforceable in any respect, such invalidity or unenforceability shall not affect any other provision hereof.

15. Headings: All headings in this MOU are inserted only for convenience and ease of reference, and are not to be considered in the construction or interpretation of any provision of this MOU.

16. Notices: Any notice required or permitted to be given under this MOU shall be in writing and shall be deemed duly given (i) if delivered personally, when received; (ii) if transmitted by electronic means, upon electronic confirmation that the notice has been successfully transmitted; (iii) if sent by recognized courier service, on the business day following the date of deposit with such courier service, or (iv) if sent by registered mail, postage prepaid, return receipt requested, on the third business day following the date of deposit in the United States mail. All such notices shall be addressed to a party at its address as set forth below, or to such other address or facsimile number as a party shall notify the other of in accordance with this MOU.

17. Representation by Legal Counsel: Each party acknowledges that it has been represented by legal counsel in connection with this MOU.

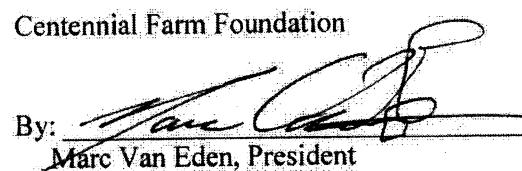
18. Interpretation: The Parties agree that this Agreement shall be interpreted in a manner which reflects that both parties participated equally in its drafting. Further, the provisions of this MOU shall be interpreted in a reasonable manner to effectuate the intent of the Parties.

19. Entire Agreement: This MOU constitutes the entire agreement between the Parties. No prior written or prior, contemporaneous, or subsequent oral promise or representation shall be binding.

20. Authority: Each individual executing this MOU on behalf of a party hereto, by his or her signature, represents that he or she maintains full authority on behalf of the applicable party to execute this MOU and thereby bind the applicable party to all covenants, duties, and obligations contained herein.

IN WITNESS WHEREOF, the Parties have executed this MOU on the date(s) shown below.

Centennial Farm Foundation

By: 
Marc Van Eden, President

Date: 1/23/2022

32nd District Agricultural Association

By: 
Michele Richards, CEO

Date: 1-28-22

MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING ("MOU") is made and entered into on June 24, 2022 by and between the 32nd District Agricultural Association, a state institution, *aka* OC Fair & Event Center ("District") and Heroes Hall Veterans Foundation, a 501(c)(3) California nonprofit public benefit corporation, ("Foundation"). District and Foundation are sometimes referred to collectively in this MOU as the "Parties".

Recitals

A. District is a district agricultural association formed under the California Food and Agricultural Code as a state institution for the purposes of holding fairs, exhibitions, community-based programs and services, and constructing, maintaining, and operating recreational and cultural facilities of general public interest.

B. Foundation is a California nonprofit public benefit corporation, with Articles of Incorporation filed April 28, 2015 with the California Secretary of State and qualified as a 501(c)(3) tax exempt organization pursuant to the Internal Revenue Service and the California Franchise Tax Board. Foundation was formed for the purpose of conducting or supporting activities for the benefit, or to carry out the purposes, of the District including, but not limited to, raising funds for and assisting in the financing of Heroes Hall, a permanent, year-round museum with exhibitions, performances and educational programs that celebrate the legacy of Orange County veterans ("Heroes Hall").

C. District and Foundation are separate and distinct legal entities; each with its own tax identification number and purpose.

D. The Parties desire to enter into this MOU to define the relationship between the Foundation and District. The Parties, while working together towards accomplishing common goals, objectives, and purposes, will be managed and operated independently of the other party.

Agreement

In consideration of the mutual promises set forth in this MOU, the Parties agree to the following:

1. Term: This term of this MOU shall be for a ~~one (1)~~ year period, commencing on June 24, 2022 and terminating on December 31, 2022 unless terminated earlier by either Party in accordance with the terms of this MOU. At the end of the Renewal Term, the Parties may extend the term of this MOU by the mutual written consent of the Parties.

2. Independent Legal Entities: Each Party acknowledges and agrees that the other Party is a separate and distinct legal entity and will act accordingly in its ongoing relationship and business dealings with the other Party.

3. Joint Obligations of the Parties: The Parties agree to the following:

a. To collaborate in good faith and to develop and implement a strategic plan (the "Plan") that is designed to fulfill mutually agreed-upon fundraising goals and priorities of District and the Foundation for the benefit of Heroes Hall. Further, the Parties agree to meet on an annual basis to review the Plan and make mutually agreed upon amendments to the Plan if appropriate.

b. To share relevant information regarding, grants, advertising and donations sought, solicited, and secured by each of the Parties for Heroes Hall with the intent of working collaboratively to streamline solicitations and to ensure no duplication of fund raising tasks or efforts.

4. Individual Obligations of each Party: In furtherance of Paragraph 3 of this MOU, the Parties agree as follows:

a. District's Obligations:

i. Each year, District shall communicate District's priorities and long term plans for Heroes Hall to the Foundation.

ii. While District may seek input from the Foundation for District's strategic plan for Heroes Hall, District shall be exclusively and solely responsible for the administration, management and operation of Heroes Hall; and direction of Heroes Hall staff. This includes, but is not limited to all matters related to Heroes Hall exhibit procurement and management, facilities management and repairs, capital improvements, and community education and volunteer program development and administration.

iii. District will have the exclusive right to secure sponsorships for Heroes Hall. All sponsorship activities and opportunities related to Heroes Hall must be referred to and coordinated by District.

iv. The Foundation will engage an independent accounting firm to conduct an audit of the Foundation's financial and operational records as required by California law, including but not limited to the California Non-Profit Integrity Act and/or at the discretion of the Foundation's Board of Directors. The Foundation will provide a copy of each audit to District.

v. District grants the Foundation a limited non-exclusive revocable license to use District's name, logo(s), or other identifying marks solely for the purpose of promotion and marketing provided the promotion and/or marketing is in furtherance of the contributions of Heroes Hall and youth related education programs and exhibits of District.

vi. In exchange for the Foundation's efforts in promoting and facilitating the Parties' objectives set forth in this MOU, and consistent with California law,

including but not limited to the Political Reform Act of 1974 (Government Code §§ 81000, et seq.), the applicable regulations promulgated by the Fair Political Practices Commission, and all other applicable laws and regulations, and District's Ticket Distribution Policy, attached as Exhibit A to this MOU and incorporated as part of the MOU by this reference, District, at its sole discretion, may provide to each active Foundation Board member, one (1) complimentary pass to District's annual county fair, which pass may include an F Lot parking hang tag. The type and quantity of additional complimentary passes will be assessed by the District on an annual basis and shall comply with California law and District's Ticket Distribution Policy. The distribution of passes under this section accomplishes the state public purpose of supporting programs or services rendered by non-profit organizations benefiting Orange County residents.

vii. District will provide Foundation with the following:

- Logo placement on District's Website with link to Foundation website;
- Foundation presence in a mutually agreed location during District's annual county fair; and
- Space for Foundation to conduct monthly meetings in the OC Room located at District's Administration Building or another appropriate location on District's grounds. The Foundation's use of District property for meeting space shall serve a public purpose, including promoting the mission of District in celebrating the communities, interests, agriculture and heritage of Orange County.

viii. District will provide space in Heroes Hall for a donation collection box and/or an electronic donation system, purchased and maintained by Foundation. The donation collection box and the electronic donation system will include a statement that the donation collection box and the electronic donation system are maintained by the Foundation and that all donations made through the donation collection box or the electronic donation system are Foundation funds. District acknowledges that all donations made through the donation collection box and the electronic donation system belong to Foundation. District will monitor the donations and inform Foundation when the funds in the donation collection box should be collected or if the electronic donation system is malfunctioning or needs repairs. District will open the cover of the donation collection box and allow an authorized Foundation representative to remove all cash donations during a day and time that Heroes Hall is closed to the public.

b. Foundation's Obligations:

i. District CEO or other designated member of District management team will serve as liaison to the Foundation Board of Directors.

ii. The Foundation acknowledges that its function is to pursue funds for new or improved facilities for Heroes Hall, and for the ongoing financing for operations and maintenance of Heroes Hall. The Foundation will strive to create an environment conducive to maintaining and increasing levels of private support for the mission and

priorities of the Foundation's purpose. Foundation agrees to annual financial contributions of a minimum \$25,000 for operational expenses of Heroes Hall including, but not limited to, educational materials, supplies, and exhibit components.

iii. Pursuant to the Foundation's purpose, the Foundation will solicit grants, donations and other private contributions and resources for support of Heroes Hall; acknowledge and steward such contributions in accordance with the donor's intent and the Foundation's fiduciary responsibilities. Foundation will make fundraising for the financing and maintenance of Heroes Hall its primary objective. Notwithstanding the foregoing, District acknowledges that the Foundation may raise funds and engage in other activities to increase Foundation's revenue with no direct connection to a specific District purpose or objective, such as Foundation's operational and administrative costs, Foundation programs such as scholarships, and other activities that support the Foundation's mission.

iv. When distributing gift funds to District, Foundation will disclose, if applicable, any terms, conditions, or limitations imposed by the donor or legal determination of the gift. If such terms, conditions, or limitations are acceptable and approved by District then District may, in its sole and absolute discretion, elect to accept such gift funds and agree to abide by such terms, conditions, or limitations.

v. The Foundation shall maintain and abide by the terms of its Articles of Incorporation and current by-laws, copies of which are attached to this MOU collectively as Exhibit B. Should the Foundation revise its Articles of Incorporation or its by-laws, it shall immediately provide the revised Articles of Incorporation and by-laws to District.

vi. The Foundation shall abide by the California Non-Profit Integrity Act.

vii. Foundation grants to District the revocable and limited right to use Foundation's name, logo(s), or other identifying marks in the promotion of Heroes Hall and the objectives of the parties as described in this MOU.

viii. Foundation shall maintain its own physical address and website, both of which shall be separate and apart from the physical address and website maintained by the District.

ix. Foundation will reimburse District for the cost of purchasing, maintaining and, if necessary, replacing the donation collection box and the electronic donation system used at Heroes Hall. Foundation will respond in a timely manner to District requests to empty, repair or replace the donation collection box and to repair or replace the electronic donation system. Foundation will contact District staff to arrange a specific date and time to collect the funds in the donation collection box. Foundation agrees that its authorized representative will collect the funds from the donation collection box during a day and time that Heroes Hall is closed to the public. Foundation will be responsible for handling all cash collected from the donation collection box and will provide District with a monthly report of collection dates and amounts collected from the donation collection box and the electronic donation system.

x. Foundation shall maintain insurance coverage as provided in this Section 4(b)(ix). The insurance coverage provided by Foundation under this section shall be primary and any separate coverage or protection available to District or any other additional insured shall be secondary.

Nothing in this section shall be construed as limiting in any way the extent to which Foundation may be held responsible for damages resulting from Foundation's operations, acts, omissions, and/or negligence. Insurance coverage obtained in compliance with this section shall not relieve Foundation of liability in excess of such minimum coverage, nor shall it preclude District from taking other actions available to it under contract documents or by law.

Upon request by District, Foundation shall immediately furnish a complete copy of any policy required by this section, including all endorsements, certified by the insurance company issuing the policy to be a true and correct copy of the original policy.

a) Worker's Compensation. Foundation shall secure and maintain, at its own expense, during the Initial Term and any subsequent Renewal Term, Worker's Compensation insurance as required by California law for all of Foundation's employees and shall require the same coverage for any subsidiaries, agents, if any, and its employees, and shall carry a minimum of five million dollars (\$5,000,000) employers insurance coverage as part of the Worker's Compensation insurance.

b) Automobile Insurance. Foundation shall secure and maintain at its own expense during the Initial Term and any subsequent Renewal Term Commercial Automobile Liability coverage, on a per accident basis, at least as broad as the current ISO policy form # CA 0001, Symbol #1 (any auto), or any successor ISO policy form, with limits of not less than \$1,000,000 combined single limit per accident for contracts involving the use of Foundation's vehicles on the premises of District.

c) Commercial General Liability Insurance. Foundation shall secure and maintain at its own expense during the Initial Term and any subsequent Renewal Term of this Agreement a minimum of two million dollars (\$2,000,000) per occurrence combined single-limit commercial general liability insurance covering Foundation, its employees, agents and subsidiaries, for claims for damages for bodily injury, property damage, personal injury, liquor liability, automobile and maintenance vehicle liability insurance.

Foundation agrees that the general liability insurance required under this Section shall be in effect at all times during the Initial Term and any and all Renewal Terms. In the event Foundation's insurance coverage under this MOU expires at any time or times prior to or during the Initial Term or any Renewal Term, Foundation agrees to provide District at least consistent with the provision of this MOU, prior to any expiration date, a new certificate of insurance evidencing insurance coverage as provided for in this MOU for a term not less than the remainder of the Initial Term of the then-current Renewal Term, or for a period of not less than one (1) year. New certificates of insurance and additional insured endorsements are subject to the approval of District, the State of California, and California Fair Services Authority, and Foundation agrees that no work or services shall be performed prior the giving of

such approval. In the event Foundation fails to keep in effect at all times insurance coverage as required under this section, District may, in addition to any other remedies it may have, terminate the MOU.

The following statement regarding additional insured must be included on all insurance certificates:

“That the State of California, the 32nd District Agricultural Association, the OC Fair & Event Center, and their respective agents, directors, officers, servants, and employees are made additional insureds but only insofar as the operations under this MOU are concerned.”

In addition to the foregoing, Foundation shall provide a certified copy of an additional insured endorsement to District, Forms ISO CG 2005, 2010, 2012, 2024, showing the State of California, the 32nd District Agricultural Association, the OC Fair & Event Center, and their agents, directors, officers, servants, and employees are made additional insureds on Foundation’s general liability insurance policy and automobile liability policy.

5. Capital Improvements and Equipment: Foundation may recommend that District make certain capital improvements or purchase certain equipment for the benefit of District and Heroes Hall, the cost of which may be covered by donations procured by Foundation under the terms of this MOU. District shall maintain sole and exclusive authority to accept or reject any capital improvement or equipment purchase recommendation made by Foundation under this MOU. District may provide Foundation with requests to fund capital contributions or purchase certain equipment for District in furtherance of this MOU. All capital improvements and equipment purchased by the Foundation for the benefit of District and/or Heroes Hall shall remain the property of District.

6. Concessions or Other Events: The Parties agree that any concession or event, including but not limited to the sale of alcohol at District events, that is to be conducted on the premises of District by the Foundation or as a co-produced event by District and the Foundation shall require a separate written agreement with substantially the same terms and conditions applicable to written contracts for interim events conducted by independent contractors on District premises. District, in its sole and absolute discretion, and with the prior approval of the District’s Board of Directors at a public meeting, may provide the Foundation with discounted facility rental rates and auxiliary costs in order to accomplish the state public purpose of supporting programs or services rendered by non-profit organizations benefiting Orange County residents and promoting the mission of District in celebrating the communities, interests, agriculture and heritage of Orange County. Proceeds from the event conducted on District’s premises by the Foundation or jointly by District and Foundation must be provided to District following the event to cover all contracted facility rental fees and auxiliary costs associated with the event.

7. Default: Either Party shall be in default under this MOU should it fail to perform or observe any of its obligations under this MOU, and such failure continues for a period of thirty (30) days following written notice by the non-defaulting Party specifying the default. If the default is of such nature that it cannot reasonably be remedied within the thirty (30) days, such Party will not be in default so long as it commences to remedy the default within the thirty (30) days and continues diligently until the default is corrected. In the event of an uncured default, this MOU may be

terminated immediately by the non-defaulting party by providing written notice to the defaulting Party.

8. Termination: This MOU may be terminated by either Party at any time without cause upon thirty (30) days written notice.

9. Modification/Amendments: This MOU may be renegotiated, amended, or modified at any time by mutual agreement of the Parties. No modification or amendment of this MOU will be of any force or effect unless made in writing and executed by both parties.

10. Dissolution of the Foundation: In the event the Foundation should cease to function and terminate its operations for any reason the Foundation shall dissolve in accordance with its Articles of Incorporation and California law, and the Foundation shall distribute any remaining assets in accordance with the Foundation's Articles of Incorporation and the California Non Profit Integrity Act or then applicable governing law.

11. Counterparts: This MOU may be executed in any number of counterparts and delivered by facsimile or other means of electronic transmission, each such counterpart being deemed to be an original instrument, and all such counterparts shall together constitute the same MOU.

12. Applicable Law: It is specifically stipulated that this MOU will be interpreted and construed according to the laws of the State of California. Venue for any dispute arising under this MOU shall be in the Superior Court of the State of California for the County of Orange.

13. Successors and Assigns: This MOU shall inure to the benefit of and be binding upon the District and Foundation and their respective legal representatives, successors and assigns. Notwithstanding the foregoing, this MOU may not be assigned by either party without the prior written consent of the other party, which consent may not be unreasonably withheld or delayed.

14. Severability: If any one or more of the provisions contained in this MOU are held to be invalid or unenforceable in any respect, such invalidity or unenforceability shall not affect any other provision hereof.

15. Headings: All headings in this MOU are inserted only for convenience and ease of reference, and are not to be considered in the construction or interpretation of any provision of this MOU.

16. Notices: Any notice required or permitted to be given under this MOU shall be in writing and shall be deemed duly given (i) if delivered personally, when received; (ii) if transmitted by electronic means, upon electronic confirmation that the notice has been successfully transmitted; (iii) if sent by recognized courier service, on the business day following the date of deposit with such courier service, or (iv) if sent by registered mail, postage prepaid, return receipt requested, on the third business day following the date of deposit in the United States mail. All such notices shall be addressed to a party at its address as set forth below, or to such other address or facsimile number as a party shall notify the other of in accordance with this MOU.

17. Representation by Legal Counsel: Each party acknowledges that it has been represented by legal counsel in connection with this MOU.

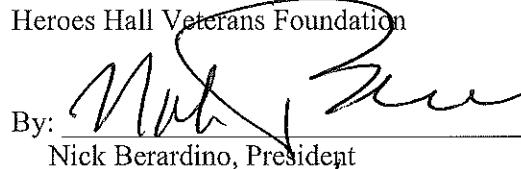
18. Interpretation: The Parties agree that this Agreement shall be interpreted in a manner which reflects that both parties participated equally in its drafting. Further, the provisions of this MOU shall be interpreted in a reasonable manner to effectuate the intent of the Parties.

19. Entire Agreement: This MOU constitutes the entire agreement between the Parties. No prior written or prior, contemporaneous, or subsequent oral promise or representation shall be binding.

20. Authority: Each individual executing this MOU on behalf of a party hereto, by his or her signature, represents that he or she maintains full authority on behalf of the applicable party to execute this MOU and thereby bind the applicable party to all covenants, duties, and obligations contained herein.

IN WITNESS WHEREOF, the Parties have executed this MOU on the date(s) shown below.

Heroes Hall Veterans Foundation

By: 
Nick Berardino, President

Date: 7/6/22

32nd District Agricultural Association

By: 
Michele Richards, CEO

Date: 7-6-22

Michele Richards, OCFEC Chief Business Development Officer, showed a few slides showing the progress of the Workers Memorial project.

Vice Chair Mouet on behalf of the Financial Monitoring Committee noted that they had met with staff to review OCFEC financials and will be taking a closer look at potential savings from moving to representation under the Attorney General's Office. He noted that staff is very busy with the RFP process and the Committee plans on meeting with staff in April.

Richards discussed the mayors and city managers breakfast to roll out the Cities Days at the 2015 OC Fair. She then discussed an Orange County City Managers Association meeting that she and Kramer had attended providing an opportunity to present plans for the OC Fair 125th anniversary celebration.

Director Nguyen on behalf of the Legislative Monitoring Task Force asked for an update from staff regarding AB315.

Director Tkaczyk on behalf of the OCC/OCFEC Parking Structure Task Force noted that the college is still in the review process.

Director Berardino requested that the Tenant Liaison Committee work with Tel Phil to coordinate storage space for vintage military vehicles owned by Cornell Illescu.

Chair Aitken then moved Item 9G forward in the meeting.

G. Discussion of Options Related to the Establishment of a Foundation for Fundraising for Agricultural and Educational Projects
Action Item

James Lowery spoke about the desire for the Operating Engineers to work on the Heroes Hall project.

Cindy Brenneman thanked the Board of Directors for saving the Memorial Gardens building and spoke in support of a separate and dedicated foundation, citing successful single-purpose groups operating at the fairgrounds such as the Centennial Farm Foundation, All-American Boys Chorus, the Orange County Wine Society, and the Orange County Market Place.

Director Tkaczyk noted that it is not an accurate comparison to the proposed Foundation since the Board of Directors has no affiliation with most of those groups she cited.

Beth Refakes thanked the Board of Directors for saving the Memorial Gardens building and spoke in support of a separate foundation established to fund the Heroes Hall project.

Doug Mangione, International Brotherhood of Electrical Workers, complimented the Board on their efforts and dedication to this project. He spoke in support of a separate, dedicated foundation for the Heroes Hall project.

Vice Chair Mouet noted that the recommendation before the Board is to choose the best option for the Heroes Hall project.

Director Bagneris noted that the original discussion centered on creating a foundation to address all fundraising efforts at OCFEC. She then noted that the scope for the foundation has been further defined to focus solely on the veterans' exhibit. With the Board of Directors' allocation of \$1 million in capital funds, she questioned the need to establish a foundation to perpetuate the Heroes Hall which would entail surrendering control over the donations. She then stated that OCFEC can receive donations instead.

Chair Aitken asked if donations to OCFEC could be deposited into a restricted account to be used only for Heroes Hall.

Vice Chair Mouet answered yes but donors are often reluctant to donate to government agencies versus a non-profit foundation. He then discussed the options before the Board.

Director Berardino spoke in support of establishing a dedicated foundation for the veteran's project because it would attract more donations than other avenues.

Director Bagneris stressed that the discussion was about the establishment of an educational and agricultural foundation, not a veterans foundation. She again stated that OCFEC does not need to create a separate foundation to fund the veterans project. She suggested tabling the discussion indefinitely.

Director Tkaczyk sought to clarify the need for establishing the foundation, asking what would be OCFEC's responsibility if a foundation is established.

Vice Chair Mouet noted that the name is not carved in stone because the paperwork has not been filed but he was prepared to make a motion to direct staff to work with counsel to establish a foundation that honors both the agricultural and military heritage of the fairgrounds.

Director Tkaczyk asked what would be the role of the foundation since OCFEC would be funding and operating the facility.

Director Bagneris stated that the foundation would simply raise additionally funding.

Chair Aitken stated that it seems like the discussion centers on semantics because the end result is the same.

Discussion ensued.

Director Cervantes stated that having OCFEC accept the donations is not what the community is seeking. She spoke in support of establishing a dedicated foundation.

Chair Aitken noted that if the Board votes to establish a foundation, the foundation needs to be named for and dedicated to the veterans project.

Director Tkaczyk asked what OCFEC's commitment will be in the future.

Director La Belle stated that any funds raised by a foundation would reduce that financial commitment of OCFEC for operating the exhibit.

Director Bagneris spoke in opposition to the motion.

ACTION: Director Berardino motioned and Vice Chair Mouet seconded to establish a foundation dedicated to the Heroes Hall project subject to the later approval of the bylaws. **MOTION PASSED WITH DIRECTOR BAGNERIS VOTING NO**

Grable suggested bringing back the articles of incorporation and bylaws at the next Board meeting then make appointments at a subsequent meeting.

B. 2015 OC Fair Imaginology Presentation

Information Item

Richards presented the staff report and introduced Joan Hamill, OCFEC Director of Community Relations.



Board of Directors Agenda Report

MEETING DATE: MARCH 26, 2015 ITEM NUMBER: 9G

SUBJECT: **Discussion of Options Related to the Establishment of a Foundation for Fundraising for Agricultural and Educational Projects**

DATE: March 23, 2015

FROM: OCFEC Educational & Agricultural Foundation Task Force

PRESENTATION BY: OCFEC Educational & Agricultural Foundation Task Force

RECOMMENDATION

At the discretion of the Board, discuss the merits of each option and direct staff on which option to proceed with.

BACKGROUND

At the February 21, 2014, the Board discussed the Veterans Exhibit Planning Process and approved staff to work with Manatt, Phelps & Phillips to establish a 501(c)3 foundation to allow for fundraising for large-scale education and agriculture-related projects at the OC Fair & Event Center, including the future Veterans Exhibit. This was a follow up to the Veterans Exhibit Task Force work with members of the veterans' community to plan the Veterans Exhibit project on January 27, 2014.

In April, 2014, Chair Tkaczyk appointed Director Mouet and Director Bagneris to serve as the OCFEC Educational & Agricultural Foundation Task Force to work with staff to finalize bylaws and policies of the new Foundation.

In May, 2014, the Board of Directors discussed whether they should reconsider the creation of a new foundation and contemplate on whether the scope of the Centennial Farm foundation could, within their existing bylaws, help meet the desired goals instead of establishing a new foundation. The Board directed the OCFEC Educational & Agricultural Foundation Task Force to conduct further study to determine the best course of action. The Task Force began meeting to review relevant documents and review and discuss options. The OCFEC Board discussed this matter at the January 22, 2015 and asked the Task Force to bring back the

various options with more detail so the Board can decide on direction. A series of meetings have taken place in order to prepare this report for the Board to consider and direct.

Option A: Establish a New Foundation

Direct staff to complete the work that Manatt, Phelps & Phillips has produced in preparing the creation of a 501(c)3 foundation to allow for fundraising for large-scale education and agriculture –related projects at the OC Fair & Event Center, including the establishment and ongoing programming of the Hero's Hall project.

The early part of the Orange County's history was deeply tied to agriculture and the development of a farm-based economy. The county community has been celebrating these agricultural roots for 125 years at the summer Fair. The construction of the Santa Ana Army Airbase played a major role in introducing Orange County to thousands of servicemen and women who would settle here after the war. The air base was located where the Orange County fairgrounds and Orange Coast College are now located. After World War II, Orange County experienced a massive growth that would help to transform it into the County we know today.

With these two big themes of agriculture and veterans, the new foundation would exist to support in honoring the legacy of these key aspects of the history of the Orange County Fair and help the overall community remember, learn, and celebrate this important past.

Discussions on the viability of this option took place with members of the veterans' community, the City Manager of Chino Hills, who has experience with the creation and managing a Foundation structurally similar to the one being proposed, and the staff of the Orange County Community Foundation. Representatives of the veterans' community continue to express their preference in the establishment of a new foundation.

Option B: Establish a Restricted Account to Receive Private Donations with Existing Non-Profit Organization

Centennial Farm Foundation (CFF), who has been in existence and doing volunteer work for Centennial Farms for the past 23 years, has expressed interest in supporting the Hero's Hall project and the need it will have with exhibit support by creating a restricted fund they would manage and develop a partnership process with OCFEC to access these funds. The Orange County Community Foundation has also shared their process to establish a similar account. The veterans' community have also expressed openness in supporting the Hero's Hall project and could also help with the establishment a restricted account within their non-profit structures.

Option C: No New Foundation and No Partnering with Non-Profit in Establishing a Restricted Account and Instead Directly Accept Private Donation to the OCFEC Organization

OCFEC staff reached out to the state government to get clarification if it can directly receive private donations that are tax deductible. The California Department of Food and Agriculture sent CEO Kathy Kramer a letter on February 20, 2015 stating that donations directly to OCFEC from individuals or businesses may be considered charitable contributions for tax reporting purposes provided the donations are solely for public purposes as determined by a tax consultant.

**BYLAWS
OF
HEROES HALL VETERANS FOUNDATION**

A California Nonprofit Public Benefit Corporation

**Adopted by the Board of Directors
as of June 1, 2015**

TABLE OF CONTENTS

	Page
ARTICLE 1 NAME, OFFICE AND PURPOSE.....	1
Section 1.1. Name	1
Section 1.2. Principal Office.....	1
Section 1.3. Purpose.....	1
ARTICLE 2 NONPARTISAN ACTIVITIES	2
Section 2.1. No Partisan Activities	2
Section 2.2. No Activities Not in Furtherance of Exempt Purposes.....	2
ARTICLE 3 DEDICATION OF ASSETS	2
Section 3.1. Dedication of Assets	2
Section 3.2. Assets Distributed on Liquidation	2
ARTICLE 4 BOARD OF DIRECTORS	2
Section 4.1. General Powers	2
Section 4.2. Number and Tenure	3
Section 4.3. Vacancies	3
Section 4.4. Place of Meetings.....	3
Section 4.5. Regular Meetings	4
Section 4.6. Special Meetings.....	4
Section 4.7. Notice of Meetings.....	4
Section 4.8. Waiver of Notice.....	4
Section 4.9. Quorum	4
Section 4.10. Manner of Acting.....	5
Section 4.11. Action Without a Meeting	5
Section 4.12. Participation in Meetings by Means of Other Than Physical Attendance	5
Section 4.13. Compensation	5
Section 4.14. Loans to Directors and Officers.....	5
Section 4.15. No Interest in Assets	5
Section 4.16. Non-Liability of Directors	5
Section 4.17. Restrictions on Directors.....	5
ARTICLE 5 OFFICERS.....	6

TABLE OF CONTENTS

(continued)

	Page
Section 5.1. Officers	6
Section 5.2. Election and Term of Office	6
Section 5.3. Removal	6
Section 5.4. Resignation	6
Section 5.5. President.....	6
Section 5.6. Secretary	7
Section 5.7. Treasurer	7
ARTICLE 6 COMMITTEES.....	7
Section 6.1. Board Committees	7
Section 6.2. Delegation of Authority to Board Committees.....	7
Section 6.3. Advisory Committees	7
Section 6.4. Audit Committee.....	8
Section 6.5. Meetings and Action of Committees	8
ARTICLE 7 INDEMNIFICATION OF DIRECTORS, OFFICERS AND OTHER CORPORATE AGENTS	8
Section 7.1. Indemnification Permitted	8
Section 7.2. Purchase of Insurance	8
ARTICLE 8 MISCELLANEOUS PROVISIONS.....	8
Section 8.1. Maintenance of Corporate Records	8
Section 8.2. Inspection Rights	9
Section 8.3. Annual Statement of Specific Transactions to Directors	9
Section 8.4. Annual Report.....	9
ARTICLE 9 EXECUTION OF INSTRUMENTS, DEPOSITS AND FUNDS	11
Section 9.1. Execution of Instruments	11
Section 9.2. Checks and Notes.....	11
Section 9.3. Deposits.....	11
Section 9.4. Gifts.....	11
ARTICLE 10 CONSTRUCTION AND DEFINITIONS	11
Section 10.1. Construction.....	11
ARTICLE 11 AMENDMENTS TO BYLAWS & ARTICLES OF INCORPORATION	11

TABLE OF CONTENTS
(continued)

	Page
Section 11.1. Approval of Amendments.....	12
Section 11.2. Copy of Proposed Amendments to Association & Directors	12

BYLAWS
of
HEROES HALL VETERANS FOUNDATION

A California Nonprofit Public Benefit Corporation

ARTICLE 1
NAME, OFFICE AND PURPOSE

Section 1.1. Name. The name of this Corporation is and shall be **HEROES HALL VETERANS FOUNDATION** (hereinafter, the "Corporation").

Section 1.2. Principal Office. The principal office of the Corporation shall be located at 88 Fair Drive, Costa Mesa, CA 92626. The principal office and additional offices may be located in such other places as may be determined from time to time by the Board of Directors of the Corporation (hereinafter, the "Board").

Section 1.3. Purpose.

(a) The Corporation is organized and shall be operated exclusively for charitable purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (hereinafter the "Code"), by conducting or supporting activities for the benefit, or to carry out the purposes, of the 32nd District Agricultural Association, an institution of the State of California, (the "Association"), a government unit of the State of California, including, but not limited to, raising funds for and assisting in the financing of the veterans memorial, Heroes Hall, a project of the Association.. If the Association ceases to be described in Internal Revenue Code Section 509(a)(1) and as a "governmental unit" under Internal Revenue Code Section 170(b)(1)(A)(v) and (c)(1), the Corporation shall be operated exclusively for the benefit, or to carry out the purposes, of one or more other governmental units as shall be selected by the Board of Directors of the Corporation.

(b) Solely for the above purposes, the Corporation is empowered to exercise all rights and powers conferred by the laws of the State of California upon nonprofit corporations, including, without limitation thereon, to receive gifts, devises, bequests and contributions in any form, and to use, apply, invest and reinvest the principal and/or income therefrom or distribute the same for the above purposes. The sale of assets received as gifts, devises, bequests or contributions shall constitute a proper use or application under the preceding sentence.

ARTICLE 2

NONPARTISAN ACTIVITIES

Section 2.1. No Partisan Activities. This Corporation has been formed under the Nonprofit Public Benefit Corporation Law for the purposes described in Section 1.3 above, and it shall be nonprofit and nonpartisan. No substantial part of the activities of this Corporation shall consist of carrying on propaganda, or otherwise attempting to influence legislation, and the Corporation shall not participate or intervene in any political campaign (including the publishing or distribution of statements) on behalf of or in opposition to any candidate for public office.

Section 2.2. No Activities Not in Furtherance of Exempt Purposes. 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 described in Section 1.3 above.

ARTICLE 3

DEDICATION OF ASSETS

Section 3.1. Dedication of Assets. The property of this Corporation is irrevocably dedicated to charitable purposes, and no part of the net income or assets of this Corporation shall ever inure to the benefit of any director or officer thereof or to the benefit of any private person.

Section 3.2. Assets Distributed on Liquidation. Upon the dissolution or winding up of the Corporation, its assets remaining after payment, or provision for payment, of all debts and liabilities of the Corporation shall be distributed exclusively for charitable purposes to Association, to be held or distributed by the Association for charitable purposes. If the Association is not then in existence, the assets of the Corporation shall be distributed to one or more organizations which are then described in Internal Revenue Code Sections 501(c)(3) and 509(a)(1) or (a)(2) and whose charitable purposes are substantially similar to those of the Corporation, as determined by the Board of Directors of the Corporation. Any of such assets not so distributed shall be distributed by the Superior Court in the county in which the principal office of the Corporation is then located, exclusively for the aforesaid purposes of the Corporation to such organization(s) as are described in Internal Revenue Code Sections 501(c)(3) and 509(a)(1) or (a)(2) as said Court shall determine.

ARTICLE 4

BOARD OF DIRECTORS

Section 4.1. General Powers. Subject to the limitations of these Bylaws, the Articles of Incorporation of the Corporation, and the laws of the State of California, the affairs of the Corporation shall be managed, and all corporate powers shall be exercised, by or under the direction of the Board.

Section 4.2. Number and Tenure.

(a) The Corporation shall have minimum of five (5) and a maximum of fifteen (15) directors, all of whom shall be appointed by Association. Two (2) such directors shall be members of the board of directors of the Association. A copy of the Articles of Incorporation and Bylaws of the Corporation, and any amendments thereto, shall be delivered to each new director upon taking office.

(b) Each director shall serve for a two (2) year term, and shall hold office until the annual meeting of the Board held at the expiration of such term or until a successor shall have been elected. A director may serve for consecutive terms without limitation.

Section 4.3. Vacancies.

(a) Events Causing Vacancy. A vacancy or vacancies shall be deemed to exist on the Board on the occurrence of any of the following: (i) the death, resignation, or removal of any director; (ii) 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 court or convicted of a felony or has been found by final order or judgment of any court to have breached a duty under the California Nonprofit Public Benefit Corporation Law; or (iii) the increase of the authorized number of directors.

(b) Resignations. Any director may resign, which resignation shall be effective on giving written notice to the President, the Secretary, or the Board of the Corporation, unless the notice specifies a later time for the resignation to become effective. If the resignation of a director is effective at a future time, a successor may be appointed by Association to take office as of the date when the resignation becomes effective. The Board may accept a resignation prior to filling that vacancy with a successor. No director may resign where the Corporation would then be left without a duly appointed director or directors in charge of its affairs, except upon notice to the California Attorney General.

(c) Removal. Any director may be removed, with or without cause, by Association.

(d) Filling Vacancies. Any vacancy occurring on the Board shall be filled by the individual appointed by Association. A director appointed to fill a vacancy shall hold office for the unexpired term of his or her predecessor in office or until his or her earlier death, resignation or removal from office.

Section 4.4. Place of Meetings. Meetings of the Board shall be held at the principal office of the Corporation unless otherwise provided by the Board or at such place within California that has been designated from time to time by resolution of the Board. In the absence of such designation, any meeting not held at the principal office shall be valid only if held on the written consent of all directors, given either before or after the meeting and filed with the Secretary of the Corporation or after all directors have been given written notice of the meeting as hereinafter provided for special meetings of the Board.

Section 4.5. Regular Meetings. Regular meetings of the Board shall be held at least once a year, at any place designated from time to time by resolution of the Board.

Section 4.6. [Special Meetings](#). Special meetings of the Board may be called by or at the request of the President, the Secretary or any two (2) directors. Unless approved by the President for an alternative location, the place of special meetings will be the principal office of the Corporation.

Section 4.7. [Notice of Meetings](#). Annual and regular meetings of the Board may be held without notice. Subject to waiver of notice as provided in Section 4.8 of these Bylaws, notice of the time and place of special meetings shall be given to each director by one of the following methods: (a) by personal delivery of written notice; (b) by first-class mail, postage prepaid; (c) by telephone, either directly to the director or to a person at the director's office who would reasonably be expected to communicate that notice promptly to the director; (d) by telegram, charges prepaid; or (e) by electronic mail. All such notices shall be given or sent to the director's address or telephone number as shown on the records of the Corporation. Notices sent by first-class mail shall be deposited in the United States mails at least four (4) days before the time set for the meeting. Notices given by personal delivery, telephone, telegraph or electronic mail shall be delivered, telephoned, or given to the telegraph company at least forty eight (48) hours before the time set for the meeting. Notice of meetings not herein dispensed with shall state the day and hour of the meeting, and the place if the place is other than the principal office of the Corporation. Notice need not specify the purpose of the meeting.

Section 4.8. [Waiver of Notice](#). The transactions of any meeting of the Board, however called and noticed or wherever held, are as valid as though the meeting had been duly held after proper call and notice, provided a quorum, as hereinafter defined, is present and provided that, either before or after the meeting, each director not present signs a waiver of notice, a written consent to the holding of the meeting, or an approval of the minutes of the meeting. The waiver of notice or consent need not specify the purpose of the meeting. All such waivers, consents, and approvals shall be filed with the corporate records or made a part of the minutes of the meetings. Notice of a meeting need not be given to any director who attends the meeting and does not protest, before or at the commencement of the meeting, the lack of notice to him or her.

Section 4.9. [Quorum](#).

(a) A majority of the directors holding office at any point in time shall constitute a quorum. Unless otherwise provided herein, the directors may continue to transact business during a meeting at which a quorum is initially present, notwithstanding the withdrawal of directors, if any action is approved by at least a majority of the required quorum for that meeting. No business shall be considered by the Board at any meeting at which a quorum is not present, and the only motion which may be entertained at such meeting is a motion to adjourn.

(b) A majority of the directors present, whether or not a quorum is present, may adjourn any meeting to another time and place. Notice of the time and place of holding an adjourned meeting need not be given unless the original meeting is adjourned for more than twenty four (24) hours. If the original meeting is adjourned for more than twenty four (24) hours, notice of any adjournment to another time and place shall be given, before the time of the adjourned meeting, to the directors who were not present at the time of the adjournment.

Section 4.10. [Manner of Acting](#). Action by the Board shall be by a majority of the directors present at a meeting duly held at which a quorum is present unless a greater number is required by these Bylaws or otherwise required by law.

Section 4.11. [Action Without a Meeting](#). Any action required or permitted to be taken by the Board may be taken without a meeting if all members of the Board, individually or collectively, shall consent in writing in advance to such action. Such action by written consent shall have the same force and effect as a unanimous vote of the Board. Such written consent or consents shall be filed with the minutes of the proceedings of the Board.

Section 4.12. [Participation in Meetings by Means of Other Than Physical Attendance](#). Any meeting of the Board, regular or special, may be held by:

- (a) conference telephone or electronic video screen communication, so long as all directors participating in such meeting can hear one another; or
- (b) electronic transmission by and to the Corporation (other than conference telephone and electronic video screen communication) so long as both of the following apply:
 - (i) all directors participating in such meeting can communicate with one another concurrently; and
 - (ii) each director participating in such meeting is provided the means of participating in all matters before the Board, including, without limitation, the capacity to propose, or to interpose an objection to, a specific action to be taken.

Section 4.13. [Compensation](#). Directors shall not receive compensation for their services as members of the Board. Nothing herein shall be construed to preclude any director from receiving reimbursement for reasonable expenses, as may be fixed or determined by resolution of the Board.

Section 4.14. [Loans to Directors and Officers](#). The Corporation shall not make any loan of money or property to or guarantee the obligation of any director or officer.

Section 4.15. [No Interest in Assets](#). No director shall possess any property right in or to the property of the Corporation. In the event the Corporation owns or holds any property upon its dissolution and winding up, after paying or adequately providing for its debts and obligations, the directors shall dispose of the remaining property in accordance with the provisions of the Articles of Incorporation of the Corporation and these Bylaws.

Section 4.16. [Non-Liability of Directors](#). Directors shall not be personally liable for the debts, liabilities, or other obligations of the Corporation.

Section 4.17. [Restrictions on Directors](#).

- (a) Not more than forty-nine percent (49%) of the persons serving on the Board at any time may be interested persons as defined in Section 5227 of the California Nonprofit Public Benefit Corporation Law.

(b) Not more than forty-nine percent (49%) of the persons serving on the Board at any time may be disqualified persons as defined in Code Section 4946; provided, however, a person shall not be considered a disqualified person solely by virtue of serving as a foundation manager, as defined in Code Section 4946(b).

ARTICLE 5 OFFICERS

Section 5.1. Officers. The officers of the Corporation shall be a President, a Secretary, a Treasurer, and such other officers as may be elected to offices created by the Board. Officers shall have powers and duties as specified herein and as may be additionally prescribed by the Board. One person may hold two or more offices, except neither the Secretary nor the Treasurer may serve concurrently as the President, and 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 or more officers. The Board (or a committee of the Board) shall review the compensation, including benefits, if any, of the President or Chief Executive Officer and Treasurer or Chief Financial Officer, as applicable, as and when required by state or federal law.

Section 5.2. Election and Term of Office. The officers of the Corporation shall be elected annually by the Board at the regular annual meeting of the Board. If the election of any officer shall not be held at such meeting, such election shall be held as soon thereafter as conveniently possible. New offices may be created and filled, and vacancies may be filled, at any meeting of the Board. Each officer shall hold office until a successor shall have been elected, unless otherwise removed.

Section 5.3. Removal. Subject to the rights, if any, of an officer under any contract of employment, any officer elected or appointed by the Board may be removed by the Board, with or without cause, whenever in its judgment the best interests of the Corporation would be served thereby.

Section 5.4. Resignation. Any officer may resign at any time by giving written notice to the Corporation. Any resignation shall take effect at the date of the receipt of that notice or at any later time specified in that notice; and, unless otherwise specified in that notice, the acceptance of the resignation shall not be necessary to make it effective. Any resignation is without prejudice to the rights, if any, of the Corporation under any contract to which the officer is a party.

Section 5.5. President. The President shall, if present, preside at all meetings of the Corporation. The President shall have general supervision, direction and control of the business of the Corporation. The President shall exercise and perform such other powers and duties as the Board may assign from time to time.

Section 5.6. Secretary. The Secretary shall be responsible for the mailing of notices and for the proper recording of proceedings of meetings of the Corporation. The Secretary shall maintain all official records of the Corporation. The Secretary shall automatically become

Treasurer if there is a vacancy in that office, if the Treasurer is unable to perform his or her duties, or if the Corporation has not elected a new Treasurer.

Section 5.7. Treasurer.

(a) The Treasurer shall be responsible for the Corporation's funds and financial records. The Treasurer shall collect and report, or supervise collection and reporting, of all income and expenditures, shall establish proper accounting procedures for the handling of the Corporation's funds, and shall be responsible for the keeping of the funds in such banks as approved by the Board, and shall keep and maintain adequate and correct accounts of the Corporation's properties and business transactions. The Treasurer shall report on the financial condition of the Corporation at meetings of the Board and at other times when called upon by the President.

(b) At the end of each fiscal year, the Treasurer shall prepare, or cause to be prepared, an annual report which shall, if required by the Board, be reviewed by a certified public accountant. At the expiration of the Treasurer's term of office, or upon removal, the Treasurer shall immediately deliver over to the person designated by the President all books, money and other property in his or her charge.

(c) The Treasurer shall prepare and file, or cause to be prepared and filed, income tax and other returns required by State and Federal authorities.

ARTICLE 6 COMMITTEES

Section 6.1. Board Committees. The Board may create an executive committee and such other Board committees as from time to time may be required. Each committee shall consist of at least two (2) members, all of whom shall be directors of the Corporation.

Section 6.2. Delegation of Authority to Board Committees. The Board may delegate to any committees which consist solely of directors any of the authority of the Board, other than that reserved to the Board under California Corporations Code Section 5212.

Section 6.3. Advisory Committees. The Board may establish one or more advisory committees to the Board. The members of any advisory committee may consist of directors and non-directors and may be appointed as the Board determines. Advisory committees may not exercise the authority of the Board to make decisions on behalf of the Corporation, but shall be restricted to making recommendations to the Board or Board committees, and implementing Board or Board committee decisions and policies under the supervision and control of the Board or Board committee.

Section 6.4. Audit Committee. The Board shall establish an audit committee, either as a Board committee or an advisory committee, as and when required by Government Code Section 12586(e).

Section 6.5. Meetings and Action of Committees. Meetings and action of committees shall be governed by, noticed, held and taken in accordance with the provisions of these Bylaws concerning meetings of the Board, with such changes in the context of such Bylaw provisions as are necessary to substitute the committee and its members for the Board and its members, except that the time for regular meetings of committees and the calling of special meetings of committees may be set either by resolution of the Board or, if none, by resolution of the committee. The Board may also adopt rules and regulations pertaining to the conduct of meetings of committees to the extent that such rules and regulations are not inconsistent with the provisions of these Bylaws. Each committee created by the Board shall serve at the pleasure of the Board, and shall be subject to the control and direction of the Board. Each such committee shall act by not less than a majority of the whole authorized number of its members.

ARTICLE 7

INDEMNIFICATION OF DIRECTORS, OFFICERS AND OTHER CORPORATE AGENTS

Section 7.1. Indemnification Permitted. The Corporation, to the extent allowed by applicable state and federal law, shall indemnify and hold harmless its officers, directors, agents and employees from and against any and all claims, actions, proceedings, whether threatened, pending or completed, brought by reason of their respective position with or relationships to the Corporation, including, without limitation, all reasonable attorneys' fees, costs and other expenses incurred in establishing a right to indemnification under this Article 7.

Section 7.2. Purchase of Insurance. The Corporation, to the extent permitted by applicable state and federal law, may purchase and maintain directors' and officers' liability insurance on behalf of any person who is or was a director or officer of the Corporation, or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation (domestic or foreign, nonprofit or for profit), partnership, joint venture, trust or other enterprise.

ARTICLE 8

MISCELLANEOUS PROVISIONS

Section 8.1. Maintenance of Corporate Records. The Corporation shall keep at the principal office of the Corporation:

- (a) Adequate and correct books and records of account, including accounts of its properties and business transactions and accounts of its assets, liabilities, receipts, disbursements, gains and losses;
- (b) Written minutes of the proceedings of its Board and committees of the Board; and
- (c) A copy of the Corporation's Articles of Incorporation and these Bylaws as amended to date, which shall be open to inspection by the directors at all reasonable times during office hours.

Section 8.2. Inspection Rights. Every director shall have the absolute right at any reasonable time to inspect and copy all books, records and documents of every kind and to inspect the physical properties of the Corporation. The inspection may be made in person or by an attorney or agent of the director. The right of inspection includes the right to copy and make extracts of documents. Any right of inspection extends to the records of any subsidiary of the Corporation.

Section 8.3. Annual Statement of Specific Transactions to Directors. The Corporation shall mail or deliver to all directors a statement within one hundred and twenty (120) days after the close of its fiscal year which briefly describes the amount and circumstances of any indemnification or any transaction in which the Corporation was a party, and in which any director or officer of the Corporation (a mere common directorship shall not be considered a material financial interest) had a direct or indirect material financial interest.

The above statement need only be provided with respect to a transaction during the previous fiscal year involving more than FIFTY THOUSAND DOLLARS (\$50,000) or which was one of a number of transactions with the same person involving, in the aggregate, more than FIFTY THOUSAND DOLLARS (\$50,000).

Similarly, the statement need only be provided with respect to indemnification or advances aggregating more than TEN THOUSAND DOLLARS (\$10,000) paid during the previous fiscal year to any director or officer.

Any statement required by this Section 8.3 shall briefly describe the names of the interested persons involved in such transactions, stating each person's relationship to the Corporation, the nature of such person's interest in the transaction and, where practical, 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.

Section 8.4. Annual Report. The Corporation shall mail or deliver to all directors an annual report within one hundred and twenty (120) days after the close of its fiscal year which shall contain the following information for the fiscal year:

- (a) The assets and liabilities, including trust funds, of the Corporation as of the end of the fiscal year;
- (b) The principal changes in assets and liabilities, including trust funds;
- (c) The revenue or receipts of the Corporation, both restricted and unrestricted to particular purposes; and
- (d) The expenses or disbursement of the Corporation for both general and specific purpose.

The annual report shall be accompanied by any report on it of independent accountants or, if there is no such report, by the certificate of an authorized officer of the Corporation, that such statements were prepared without audit from the Corporation's books and records.

ARTICLE 9
EXECUTION OF INSTRUMENTS, DEPOSITS AND FUNDS

Section 9.1. Execution of Instruments. The Board, except as otherwise provided in these Bylaws, may by resolution authorize any officer or agent of the Corporation to enter into any contract or execute and deliver any instrument in the name and on behalf of the Corporation, and such authority may be general or confined to specific instances. Unless so authorized, no officer, agent, or employee shall have any power or authority to bind the Corporation by any contract or engagement or to pledge its credit or to render it liable monetarily for any purpose or in any amount.

Section 9.2. Checks and Notes. All checks, drafts or other orders for the payment of money issued in the name of the Corporation shall be signed by such person or persons and in such manner as shall be determined from time to time by resolution of the Board; provided that, any such instrument for an amount in excess of Ten Thousand Dollars (\$10,000) shall require the signatures of two (2) persons so authorized by the Board. The Board may, from time to time by resolution, change the monetary threshold above which said instruments require two (2) signatures.

Section 9.3. Deposits. All funds of the Corporation shall be deposited from time to time to the credit of the Corporation in such banks, trust companies, or other depositories as the Board may select.

Section 9.4. Gifts. The Board may accept on behalf of the Corporation any contribution, gift, bequest, or devise for the charitable purposes of the Corporation.

ARTICLE 10
CONSTRUCTION AND DEFINITIONS

Section 10.1. Construction. Unless the context requires otherwise, the general provisions, rules of construction, and definitions in the California Nonprofit Corporation Law shall govern the construction of these Bylaws. Without limiting the generality of the preceding sentence, the masculine gender includes the feminine and neuter, the singular includes the plural, the plural includes the singular, and the term "person" includes both a legal entity and a natural person.

ARTICLE 11
AMENDMENTS TO BYLAWS & ARTICLES OF INCORPORATION

Section 11.1. Approval of Amendments. New bylaws may be adopted, or these Bylaws or the Corporation's Articles of Incorporation may be amended or repealed, by an affirmative vote of a

majority of the Board; provided that no amendment shall be valid without Association's prior written consent if such an amendment would have the effect of removing Association as the supported organization of the Corporation or eliminating or derogating in any way (a) Association's power to appoint or remove any director of the Corporation or (b) Association's right to receive assets of the Corporation upon its dissolution or winding up.

Section 11.2. Copy of Proposed Amendments to Association & Directors. A copy of the proposed amendment to the Bylaws or the Corporation's Articles of Incorporation or new bylaws shall be included in the notice of meeting given to each director at which the amendment(s) are to be considered, and a copy of the same shall be provided to Association prior to such meeting.

CERTIFICATE

I, Douglas La Belle, hereby certify:

That I am the duly elected and acting Secretary of HEROES HALL VETERANS FOUNDATION, a California nonprofit public benefit corporation; and

That the foregoing Bylaws, consisting of twelve (12) pages, including this one, constitute the Bylaws of said Corporation, as duly adopted by the Board of Directors by unanimous consent effective as of June 1, 2015.

IN WITNESS WHEREOF, I have hereunto set my hand this _____ day of _____, 2015.

Douglas La Belle, Secretary