

Livermore Area Recreation and Park District

Staff Report

TO: Chair Faltings and Board of Directors

FROM: Mat Fuzie, General Manager

PREPARED BY: Linda VanBuskirk, Executive Assistant to the General Manager

DATE: December 14, 2022

SUBJECT: LIVERMORE CULTURAL ARTS COUNCIL RESTATED BYLAWS

Recommendation: That the Board of Directors vote whether to approve the adoption of the proposed restated bylaws of the Livermore Cultural Arts Council (LCAC) and authorize Director Palajac to complete and submit the Ballot Regarding Restated Bylaws by the deadline of December 23, 2022.

Background: To be provided by Directors Palajac and Furst.

Attachments:

- 1) Ballot Regarding Restated Bylaws
- 2) Summary of 2022 Complete Amendment to and Restatement of the Bylaws of the Livermore Cultural Arts Council, A California Corporation
- 3) 2022 Complete Amendment and Restatement of the Bylaws of the Livermore Cultural Arts Council, A California Corporation

LIVERMORE CULTURAL ARTS COUNCIL

BALLOT REGARDING RESTATED BYLAWS

Background

In August 2021, a Strategic Planning Committee was formed. The Committee members are Beth Trutner (LCAC President), Lynn Seppala (LCAC Past President), Trish Munro (City Council Member), Peggy Kervin (Livermore Art Association), Arthur Barinque (Non-Profit professional), Bob Gausman (Livermore Arts Commission) and Cynthia Patton (Livermore Poet Laureate). The Committee first undertook to restate the mission and vision statements for LCAC, which statements were adopted by a vote of a majority of member representatives. The Committee spent considerable time formulating and debating the corporate Bylaws and has considered input received from the membership.

The Committee believes that the Livermore Cultural Arts Council plays a unique and important role in the promotion and viability of the non-profit cultural arts organizations in Livermore. The Committee recommends broadening that reach to encompass individuals and others active in the arts and cultural offerings in Livermore and streamlining management with a board of directors limited in size. The Committee members view this membership expansion and restructuring as beneficial to the City of Livermore, the residents of Livermore, its visitors, and those who perform and exhibit in Livermore. In our view, the increased membership and programming (leadership training, educational opportunities, advocacy at the local, county and state levels, networking, marketing, collaborations, etc.) will ensure the future viability of the current LCAC member organizations, and at the same time meaningfully support individuals throughout the City engaged in creative endeavors. As the organization expands, its impact will increase. To accomplish these objectives, a majority of the Committee members endorse the immediate adoption of Restated Bylaws to provide the structure for moving forward.

The Committee recognizes that the restated Bylaws significantly change the current corporate structure, and a majority is in favor of the structural changes. It is the view of a majority of the Committee Members that devoting additional time to studying alternative structures and timelines is not warranted, that the structure

needs to be adopted without further delay so that leadership and staff who will actively manage LCAC and decide on programming can be identified, *subject to the timeline set forth in the motion.*

The restated Bylaws contemplate: (a) open membership to entities and individuals, (b) a board of directors, and (c) paid staff. It is anticipated that programming will benefit organizations, individuals, and public entities. For the proposed restated Bylaws to be adopted, an affirmative vote of 75% of the current voting members is required.

MOTION

A motion was made on November 2, 2022, by Patricia Munro (City Council Member), and seconded by Chris Carter (LVPAC), to put to a vote of the membership, for approval, the attached proposed Restatement of the Bylaws of the LIVERMORE CULTURAL ARTS COUNCIL a copy of which is attached hereto and made a part hereof, *subject to* the conditions of the following timeline, and with the first board of directors elected by a majority of the current members of the LIVERMORE CULTURAL ARTS COUNCIL:

- 11/2/22 Special meeting membership at which motion was made. A proposed Ballot with proposed Bylaws were emailed in advance of the meeting
- 12/23/22 Final date to return ballots.
- 1/2023 Results of vote reported to membership by email.
- 1/28/23 If proposed bylaws are adopted, a Nominating Committee of at least five persons shall be formed by the Strategic Planning Committee, and a chairperson identified. Of the five, at least three must be representatives of LCAC member organizations as of 9/1/2022.
- 2/1/23 Regular LCAC membership meeting.
- 6/7/23 Regular membership meeting. Slate of nominated board candidates shared with LCAC membership.
- 7/2023 Election of board of directors. Until the election, LCAC shall be managed by its current Executive Committee pursuant to the Bylaws in place as of 9/1/2022. The first board of directors under the adopted

restated Bylaws shall be elected by a majority of the LCAC membership as of 9/1/2022. If at least seven (7) directors are not identified and elected by 7/30/23, a majority of the LCAC membership as of 9/1/2022 shall determine by majority vote whether to allow additional time or proceed with nullification of the restated Bylaws as offered with this motion.

8/2023 The newly elected board commences fund raising efforts and a membership drive.

As soon as the board of directors feels there are sufficient financial resources, or commitments of financial resources to hire staff, a staff position will be advertised and filled. The board of directors will determine whether the position will be hourly or salaried, the hours, the employee benefits, and other particulars.

2024 First Annual Membership Meeting with keynote speaker.

BALLOT

On behalf of _____
name of organization

the undersigned (mark one):

_____ DOES

_____ DOES NOT

approve of the adoption of the proposed restated Bylaws, a true and correct copy of which is provided with this ballot.

*signature of authorized person
and position*

DATED: _____

FOR NON-PROFIT ORGANIZATIONS, BALLOTS MUST BE SIGNED BY AN LCAC DELEGATE, PRESIDENT, OR CHAIRPERSON OF THE BOARD OF DIRECTORS/TRUSTEES, AFTER CONSIDERATION BY THE ORGANIZATION’S FULL BOARD.

FOR PUBLIC AGENCIES, BALLOTS MUST BE SIGNED BY THE LCAC REPRESENTATIVE, AFTER CONSIDERATION BY THE FULL BOARD/COUNCIL.

RETURN THIS PAGE OF YOUR SIGNED BALLOT TO THE LIVERMORE CULTURAL ARTS COUNCIL NO LATER THAN **DECEMBER 23, 2022**, BY MAIL TO:

**THE LIVERMORE CULTURAL ARTS COUNCIL
P.O. BOX 489
LIVERMORE, CA 94551
Email: LivermoreCulturalArtsCouncil@gmail.com**

THANK YOU FOR YOUR PARTICIPATION IN THIS PROCESS.

LIVERMORE CULTURAL ARTS COUNCIL

MISSION: The Livermore Cultural Arts Council (LCAC) is a collective of individuals, nonprofit organizations, and businesses with a shared passion for creative expression. We promote and celebrate the arts, in all their beauty and diversity, to enhance the lives of Tri-Valley residents and visitors alike. We unite and serve local artists to foster a vibrant and thriving cultural arts community.

VISION: The Livermore Cultural Arts Council (LCAC) knows that creative expression nourishes our individual and communal hearts and minds. We want Livermore to have a rich and diverse cultural arts community that entertains, educates, and enlightens. Our vision is to create an environment where arts and culture grow and thrive. To this end, LCAC will become a hub for creative collaboration, connection, and communication.

SUMMARY
OF
2022
COMPLETE AMENDMENT TO AND RESTATEMENT
OF THE BYLAWS OF THE
LIVERMORE CULTURAL ARTS COUNCIL
A California Corporation

ARTICLE I
NAME, PURPOSE, AND PRINCIPAL PLACE OF BUSINESS

This section sets forth the name and address of LCAC and confirms it was organized exclusively for charitable and educational purposes under Section 501(c) (3) of the Internal Revenue Code. This section also sets forth the previously adopted mission statement:

The Livermore Cultural Arts Council (LCAC) is a collective of individuals, nonprofit organizations, businesses, and local government representatives with a shared passion for creative expression. We promote and celebrate the arts, in all their beauty and diversity, to enhance the lives of Tri-Valley residents and visitors alike. We unite and serve local artists to foster a vibrant and thriving cultural arts community.

ARTICLE II
MEMBERSHIP

Any person, association, corporation, joint venture, or partnership with an interest in the cultural arts is eligible to membership in LCAC. Public agencies may not be Members of LCAC but are encouraged to designate liaisons to participate in LCAC activities. LCAC shall have membership categories and each Member shall be required to pay dues based on its assigned membership category. The categories and dues will be established at a later date.

Only those Members whose principal place of business, place of employment or residential street address is in Livermore, California, whether or not the physical address is within the City limits, and those Members who work or perform in Livermore on a regular basis or otherwise have a meaningful nexus to Livermore, may vote on LCAC matters.

Except to dissolve LCAC, 25% of the non-profit Member Groups in good standing of LCAC and 25% of the Individual Members in good standing of LCAC shall constitute a quorum for purposes of: (a) the election of members of the board of directors; (b) the annual budget; and

(c) any amendments to these Bylaws. The dissolution of the corporation known as The Livermore Cultural Arts Council shall require the affirmative vote of 70% of all Voting Members, Individual and Member Groups.

ARTICLE III BOARD OF DIRECTORS

The number of directors shall be not less than nine (9) nor more than nineteen (19), with the exact authorized number of directors to be fixed from time to time by resolution of the Board of Directors. Directors, when standing for election, shall be designated on the ballot as also standing for election as an officer, committee chair, or director at large. At least one-third (1/3) of the Board of Directors shall consist of Individual Members and at least one-third of the Board of Directors shall consist of delegates from Member Groups. No more than two board members of the same Member Group, including the delegate of the Member Group, may concurrently serve as Directors. Every director shall have the absolute right at any reasonable time to inspect and copy all books, records, and documents, and to inspect the physical properties of this corporation.

The Board of Directors shall review and approve any compensation packages (including all benefits) of all employees and independent contractors hired for the corporation, regardless of job title. Approval by the Board of Directors shall be given only after determining that the compensation is just and reasonable. Such approval shall be documented.

ARTICLE IV OFFICERS

The officers of this corporation shall be a President, a Vice President, a Secretary, and a Treasurer. The term of each officer shall correspond with that person's term as a director. The officers of LCAC shall be:

President: The President is the principal executive officer.

Vice President: The Vice President shall preside at any meetings of the Board of Directors or of the general membership from which the President is absent and shall support the President as needed in fulfilling the duties of the office of President.

Secretary: The Secretary shall conduct the official correspondence of LCAC and maintain an accurate record of the proceedings of LCAC.

Treasurer: The Treasurer is the financial officer of LCAC.

ARTICLE V COMMITTEES

The chairs of the LCAC standing committees identified hereinbelow shall be members of the Board of Directors elected by the LCAC membership to serve not only as directors but concurrently as standing committee chairs. The standing committees of LCAC shall be:

Executive Committee: The Executive Committee shall be comprised of the duly elected and then acting President, Past President, Vice-President, Secretary, Treasurer, and one other director elected by a majority of the members of the Board of Directors then in office.

Nominating/Annual Meeting: A Nominating Committee of at least five (5) Members, including the chair, shall be appointed by the Board of Directors. The Committee shall consist of three (3) Directors of the Board and two (2) people who are not current Directors. The Nominating Committee, with staff support, is tasked with identifying candidates for the Board of Directors, Officer positions, and Standing Committee chairs. The Nominating Committee is responsible for cultivating future LCAC leaders and is also responsible for overseeing elections, assessing board member performance, and planning and giving notice of the Annual Meeting.

Programs/Events: A Programs Committee of at least four (4) Members, including the chair and one other board member, shall be appointed by the Board of Directors. The Programs Committee is tasked with overseeing the planning and execution of advocacy, promotional, educational and networking opportunities.

Development/Fund Raising: A Development/Fund Raising Committee of at least four (4) Members, including the chair and one other board member, shall be appointed by the Board of Directors. The Development/Fund Raising Committee shall oversee raising funds for LCAC operations and programming primarily through donations and grants.

Public Relations/Social Media/Website: A Public Relations/Social Media/Website Committee of least four (4) Members, including the chair and one other board member, shall be appointed by the Board of Directors. The Public Relations/Social Media/Website Committee, with staff support, is responsible for community outreach, developing a social media presence, and maintaining the LCAC website.

Membership: A Membership Committee of at least four (4) Members, including the chair and one other board member, shall be appointed by the Board of Directors. The Membership Committee, with staff support, is responsible for developing a membership application, maintaining a membership roster, and categorizing Members as voting and

non-voting. The goal of the Membership Committee is to recruit and retain a diverse and inclusive membership.

Finance and Personnel: A Finance and Personnel Committee of at least four (4) Members, including the chair and one other board member, shall be appointed by the Board of Directors. The Finance and Personnel Committee is tasked with making recommendations to the Board on the budget and budget-related issues such as the amount of dues to be charged. The Finance and Personnel Committee is also responsible for making recommendations to the Board of Directors affecting the employment of staff. The elected Treasurer may not serve as chair of the Finance and Personnel Committee.

ARTICLE VI CERTAIN TRANSACTIONS

This section deals with loans, self-dealing, etc. and contains language fairly standard in non-profit bylaws.

ARTICLE VII INDEMNIFICATION AND INSURANCE

Again, this section is fairly routine and self-explanatory, and is intended to insure that the the directors are protected.

ARTICLE VIII MISCELLANEOUS

The fiscal year of this corporation shall commence on September 1 and shall end each year on August 31. This section addresses contracts, annual reports, and audits. In addition, this section requires that proposed amendments to the bylaws be submitted in writing to the directors at least one week in advance of any Board meeting at which they will be considered for adoption. The vote of two thirds or the unanimous written consent of the directors shall be required to adopt a Bylaw amendment.

2022
COMPLETE AMENDMENT AND RESTATEMENT
OF THE BYLAWS OF THE
LIVERMORE CULTURAL ARTS COUNCIL
A California Corporation

The Livermore Cultural Arts Council was incorporated on September 16, 1971, and Bylaws were initially adopted by the membership on or about that date. The membership has approved the amendment of the Bylaws, and their complete restatement as set forth below, by an affirmative vote of 75% of the voting Members. All prior versions of the Bylaws for the Livermore Cultural Arts Council are hereby superseded. Notice was given to all Members entitled to vote not less than 45 days nor more than 90 days from the date on which the vote was taken.

ARTICLE I
NAME, PURPOSE, AND PRINCIPAL PLACE OF BUSINESS

Section 1. Name and Address. The name of the corporation shall continue to be the LIVERMORE CULTURAL ARTS COUNCIL, INC. (commonly known as LCAC), and its principal place of business shall continue to be located in the City of Livermore, County of Alameda, California, or such other county as determined by the Board of Directors. The organization's mailing address is P.O. Box 489, Livermore, CA 94551. LCAC was formed for charitable purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code.

Section 2. Charitable Purpose. LCAC is organized exclusively for charitable and educational purposes under Section 501(c)(3) of the Internal Revenue Code or the corresponding section of any federal tax code.

Section 3. Mission. The Livermore Cultural Arts Council (LCAC) is a collective of individuals, nonprofit organizations, businesses, and local government representatives with a shared passion for creative expression. We promote and celebrate the arts, in all their beauty and diversity, to enhance the lives of Tri-Valley residents and visitors alike. We unite and serve local artists to foster a vibrant and thriving cultural arts community.

ARTICLE II
MEMBERSHIP

Section 1. Membership Eligibility. Any person, association, corporation, joint venture, or partnership with an interest in the cultural arts is eligible to membership in LCAC. Public

agencies may not be Members of LCAC but are encouraged to designate liaisons to participate in LCAC activities. As referred to in these Bylaws, “Individual Members” are persons who join LCAC in their individual capacities without reference to a business, association, corporation, joint venture, partnership or other group of individuals. “Member Groups” are those Members who are businesses, associations, corporations, partnerships, joint ventures, or other groups of individuals. The Board of Directors shall develop and adopt a membership application. Membership rights are not transferrable.

Section 2. Membership Categories and Dues. LCAC shall have membership categories and each Member shall be required to pay dues based on its assigned membership category. The Board of Directors shall have the authority to establish and modify membership categories, and assign an applicant or current Member to a category. The annual dues shall be set by the Board of Directors, and shall be due in January of each year. In the event a Member joins LCAC mid-year, dues shall nevertheless be due for the entire year and shall not be pro-rated. The dues shall provide for the reasonable expenses of LCAC. The Board of Directors shall serve a written notice of annual dues on each Member of LCAC.

Section 3. Membership Voting Rights. Only those Members whose principal place of business, place of employment or residential street address is in Livermore, California, whether or not the physical address is within the City limits, and those Members who work or perform in Livermore on a regular basis or otherwise have a meaningful nexus to Livermore, may vote on LCAC matters. Voting rights shall not be unreasonably denied. Such Members shall be referred to in these Bylaws as Voting Members. Applying these parameters, the LCAC Board of Directors shall determine whether a Member is a Voting Member and inform each Member in writing of their status. Each organization which is a Voting Member must appoint a delegate/liaison to exercise the organization’s voting rights.

Section 4. Public Agencies. Local governmental departments and agencies with a nexus to the cultural arts are requested to provide liaisons to LCAC. Governmental departments and agencies, however, may not be Voting Members and are not required to pay dues.

Section 5. Rights of Voting Members. Individual Members and Member Groups shall have separate voting rights. Each Individual Member shall have one vote, and each Member Group shall have one vote. Dues paying Voting Members who are in good standing shall have voting rights as follows:

1. If more than one member of a person’s immediate family is a Member of LCAC, each dues paying family member who is the age of 18 or older shall have one vote.

2. Each Member Group (e.g. joint venture, association, partnership, limited liability company or corporation, for-profit or non-profit) which is a Member shall have one vote. Each Member Group shall designate a delegate to exercise the voting right on behalf of the Member Group, and shall provide the delegate's name to the LCAC secretary in writing in January of each year.
3. Any individual who sits on the governing board of an organization which is a Voting Member may also be a Voting Member in their individual capacity. One individual may not vote as a delegate for more than one Member Group.
4. A Member shall be considered to be in good standing if their obligation to pay dues has been satisfied and they have been a member for more than six (6) months.
5. Voting Members shall vote on: (a) the election of members of the board of directors; (b) the annual budget; (c) any changes to these Bylaws; and (d) the dissolution of the LCAC corporation. All other management of LCAC shall be undertaken by LCAC's duly elected board of directors, its officers, and its committees.

Section 6. Requirements and Quorum for Membership Voting. Except as provided below, twenty-five percent (25%) of the non-profit Member Groups in good standing of LCAC and Twenty-five percent (25%) of the Individual Members in good standing of LCAC shall constitute a quorum for purposes of: (a) the election of members of the board of directors; (b) the annual budget; and (c) any amendments to these Bylaws. A majority of votes cast on any issue at any meeting or by secret ballot (in person, mailed, electronic) at which a quorum is present, shall be sufficient to pass the issue voted upon. If at the time a vote is taken there are fewer than fifteen non-profit Member Groups entitled to vote and fewer than fifteen Individual Members entitled to vote, then an affirmative vote of at least 70% of the voting membership shall be required to elect board members, approve the budget and/or amend the bylaws.

The dissolution of the corporation known as The Livermore Cultural Arts Council shall require the affirmative vote of 70% of all Voting Members, Individual and Member Groups.

Section 7. Open Meetings. The Voting Members shall be permitted to attend all meetings of the Board of Directors unless a closed session is warranted and announced.

ARTICLE III BOARD OF DIRECTORS

Section 1. Powers. This corporation shall have all of the powers conferred on corporations to the full extent allowed by law. All powers and activities of this corporation shall be exercised and managed by the Board of Directors of this corporation directly or, if delegated, under the ultimate direction of the Board.

Section 2. Number and Qualification of Directors. The number of directors shall be not less than nine (9) nor more than nineteen (19), with the exact authorized number of directors to be fixed from time to time by resolution of the Board of Directors.

Section 3. Voting Member Requirement. An individual may stand for election and be elected to the Board of Directors only if the individual is an Individual Voting Member or a duly appointed delegate of a Voting Member Group.

Section 4. Limitations on Interested Persons. At all times, not more than 20% of the directors of this corporation may be interested persons. An interested person means either:

(a) any person currently being compensated by LCAC for services rendered to it within the previous twelve months, whether as a full-time or part-time employee, independent contractor, or otherwise, excluding any reasonable compensation paid to a director in his or her capacity as director; or

(b) any brother, sister, ancestor, descendant, spouse, brother-in-law, sister-in-law, son-in-law, daughter-in-law, mother-in-law, or father-in-law of any such person.

Section 5. Election and Term of Directors. The Board of Directors required by the enactment of these Bylaws shall be elected by a majority of the Members of LCAC entitled to vote as of the date these restated Bylaws are adopted. After the initial election of a Board of Directors subsequent to the adoption of these restated Bylaws, the Board of Directors required by the enactment of these Bylaws shall be elected by the vote of 50% plus one of a quorum of the membership as required by Article II, Section 6, of these Bylaws. Directors shall be elected from the nominees presented by the Nominating Committee and additional nominees from the floor. Only directors may serve as officers and as chairs of the standing committees identified in these bylaws. Directors, when standing for election, shall be designated on the ballot as also standing for election as an officer, committee chair, or director at large. At least one-third (1/3) of the Board of Directors shall consist of Individual Members and at least one-third of the Board of Directors shall consist of delegates from Member Groups. No more than two board members of the same Member Group, including the delegate of the Member Group, may concurrently serve as Directors. The delegate of a Member Group must commit to representing the group on

the LCAC board of directors for a minimum of one two-year term. Each Director shall be elected to serve for a two-year term or until they resign or are removed pursuant to the provisions of Section 7. Each director may serve for no more than three (3) consecutive two-year terms, except that: (a) any officer or committee chair elected to a two-year term may complete the two year term and remain as a director if such term extends beyond the described six year term limit; and (b) the immediate past-president may serve for an additional two-year term as a director. Any director not also elected as an officer or committee chair, including the past-president, shall be considered a Director At-Large. Members of the Board of Directors may not vote by proxy. Two members may share an elected Board position. The shared position shall have one (1) vote on the Board. To the extent possible, terms of Board members shall be staggered.

Section 6. Vacancies. A vacancy shall be deemed to exist on the Board in the event that the actual number of directors is less than the authorized number for any reason. Vacancies may be filled by the remaining directors for the unexpired portion of a departing director's term.

Section 7. Resignation and Removal. Resignations shall be effective upon receipt in writing by the President, the Secretary, or the Board of Directors of LCAC, unless a later effective date is specified in the resignation.

Section 8. Quarterly Meetings. A meeting of the Board of Directors shall be held on a regular basis, at least four times per calendar year. Meetings shall be called by the President, Vice President, or any two directors, and noticed in accordance with Section 10.

Section 9. Special Meetings. Special meetings of the Board of Directors may be called by the President, Vice President, or any two directors, and noticed in accordance with Section 10.

Section 10. Notice. Notice of all meetings of the Board of Directors shall state the date, place and time of the meeting and shall be given to each director at least forty-eight (48) hours before any such meeting by first class mail, by telephone, including a voice messaging system, or by other electronic transmission such as e-mail and facsimile transmission, in compliance with Article VIII, Section 5, of these Bylaws.

Section 11. Waiver of Notice. The transactions of any meeting of the Board of Directors, however called and noticed and wherever held, shall be valid as though taken at a meeting duly held after proper call and notice, if a quorum is present, and if, either before or after the meeting, each of the directors not present signs a written waiver of notice, a consent to holding the meeting, or an approval of the minutes. The waiver of notice or consent need not specify the purpose of the meeting. All waivers, consents and approvals shall be filed with the corporate records or made a part of the minutes of the meeting. Notice of a meeting shall also be

deemed given to any director who attends the meeting without protesting the lack of adequate notice before the meeting or at its commencement.

Section 12. Quorum of Directors. A majority of the total number of directors then in office or three directors, whichever is larger, shall constitute a quorum. The act of a majority of the directors present at a meeting at which a quorum is present shall be the act of the Board of Directors, except as otherwise provided in these Bylaws or in the California Nonprofit Public Benefit Corporation Law. A meeting at which a quorum is initially present may continue to transact business notwithstanding the withdrawal of directors, if any action taken is approved by at least a majority of the required quorum for such meeting.

Section 13. 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 shall individually or collectively consent to such action in writing. Such written consents shall be filed with the minutes of the proceedings of the Board, and shall have the same force and effect as the unanimous vote of such directors.

Section 14. Telephone and Electronic Meetings. Directors may participate in a meeting through use of conference telephone, electronic video screen communication, or other electronic transmission in compliance with Article VIII, Section 5, of these Bylaws so long as the following apply:

- (a) each director participating in the meeting can communicate with all of the other directors concurrently; and
- (b) each director is provided with the means of participating in all matters before the Board, including the capacity to propose, or to interpose an objection to, a specific action to be taken by the corporation.

Section 15. Standard of Care.

A. General. A director shall perform the duties of a director, including duties as a member of any Board Committee on which the director may serve, in good faith, in a manner such director believes to be in the best interest of this corporation and with such care, including reasonable inquiry, as an ordinarily prudent person in a like situation would use under similar circumstances.

In performing the duties of a director, a director shall be entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, in each case prepared or presented by:

(I) one or more officers or employees of this corporation whom the director believes to be reliable and competent as to the matters presented;

(ii) counsel, independent accountants, or other persons as to matters which the director believes to be within such person's professional or expert competence; or

(iii) a Board Committee upon which the director does not serve, as to matters within its designated authority, provided that the director believes such Committee merits confidence;

so long as in any such case, the director acts in good faith after reasonable inquiry when the need therefore is indicated by the circumstances and without knowledge that would cause such reliance to be unwarranted.

Except as provided hereinbelow, a person who performs the duties of a director in accordance with this Section shall have no liability based upon any failure or alleged failure to discharge that person's obligations as a director, including, without limiting the generality of the foregoing, any actions or omissions which exceed or defeat a public or charitable purpose to which a corporation, or assets held by it, are dedicated.

B. Investments. Except with respect to assets held for use or used directly in carrying out this corporation's charitable activities, in investing, reinvesting, purchasing or acquiring, exchanging, selling, and managing this corporation's investments, the Board shall avoid speculation, looking instead to the permanent disposition of the funds, considering the probable income as well as the probable safety of this corporation's capital. No investment violates this section where it conforms to provisions authorizing such investment contained in an instrument or agreement pursuant to which the assets were contributed to this corporation.

Section 16. Inspection. Every director shall have the absolute right at any reasonable time to inspect and copy all books, records, and documents, and to inspect the physical properties of this corporation.

Section 17. Compensation. The Board of Directors shall serve without compensation. The Board of Directors may, however, authorize the advance or reimbursement to a director of actual reasonable expenses incurred in carrying out his or her duties as a director, such as for attending meetings of the Board and Board Committees.

Section 18. Staff Compensation and Review. The Board of Directors shall review and approve any compensation packages (including all benefits) of all employees and independent contractors hired for the corporation, regardless of job title. Approval by the Board of Directors

shall be given only after determining that the compensation is just and reasonable. Such approval shall be documented.

ARTICLE IV OFFICERS

Section 1. Officers. The officers of this corporation shall be a President, a Vice President, a Secretary, and a Treasurer. The Past President shall be a Director At-Large. The corporation may also have, at the discretion of the directors, such other officers as may be appointed by the Board of Directors. Any number of offices may be held by the same person, except that neither the Secretary nor the Treasurer may serve concurrently as the President.

Section 2. Election and Terms. The term of each officer shall correspond with that person's term as a director. Replacement of an officer shall be in accordance with the procedure for replacement of a director. Each officer shall serve at the pleasure of the Board, subject to the rights, if any, of an officer under any contract of employment.

Section 3. Removal. Subject to the rights, if any, of an officer under any contract of employment, any officer may be removed, with or without cause, by a majority of the Board of Directors then in office, or by an officer on whom such power of removal may be conferred by a majority of the Board of Directors.

Section 4. Resignation. Any officer may resign at any time by giving written notice to this corporation. The resignation of an officer who is necessarily a director which constitute that director's resignation. Any resignation shall take effect on receipt of that notice by any other officer than the person resigning or at any later time specified by 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 this corporation under any contract to which the officer is a party.

Section 5. Vacancies. A vacancy in any office for any reason shall be filled in the same manner as these Bylaws provide for election to that office.

Section 6. Officers. The officers of LCAC shall be members of the Board of Directors elected by the LCAC membership to serve not only as directors but concurrently as specific officers. The officers of LCAC shall be:

President: The President is the principal executive officer and shall preside at all meetings, and shall distribute the agenda and minutes of the past meeting at least one week prior to each meeting. The President shall be responsible for overseeing the implementation of policies and procedures and, in coordination with the Secretary,

providing appropriate notice and reminders for all meetings. The President shall be an ex-officio member of all committees, and shall oversee all elections.

Vice President: The Vice President shall preside at any meetings of the Board of Directors or of the general membership from which the President is absent and shall support the President as needed in fulfilling the duties of the office of President. In the event of a vacancy in the office of President for any reason, the Vice President shall be responsible for calling a special membership meeting within 60 days of the occurrence of the vacancy to elect a new President. The newly elected President shall complete the departing President's term.

Secretary: The Secretary shall conduct the official correspondence of LCAC and maintain an accurate record of the proceedings of LCAC. The Secretary shall be responsible for maintaining and making available to all Members the minutes from past membership meetings. In coordination with the President, the Secretary shall provide appropriate notice and reminders for all meetings, and shall provide notice for all other actions for which notice to the membership is required. The Secretary shall be responsible for maintaining a current membership roster. The Secretary shall be responsible for maintaining an electronic and/or physical collection of committee reports and other information pertaining to LCAC activities for the current fiscal year and preceding seven years.

Treasurer: The Treasurer is the financial officer of LCAC and shall keep all the books, ledgers, bills, accounts and other financial papers and records incident to the office. The Treasurer shall be responsible for all accounts of LCAC. The Treasurer shall receive, hold and administer any and all stocks, bonds, certificates, bequests, notes, securities of all kinds and nature whatsoever belonging to LCAC, and may not dispose of them, or any part of them, in any manner without previous directions of the Board of Directors. The Treasurer shall not be liable for the purchase, retention or sales of any investment or reinvestment of LCAC, nor for any loss to, or diminution of its funds unless due to his/her own negligence, willful misconduct, or lack of good faith.

ARTICLE V COMMITTEES

Section 1. Standing Board Committee Chairs. The chairs of the LCAC standing committees identified hereinbelow shall be members of the Board of Directors elected by the LCAC membership to serve not only as directors but concurrently as standing committee chairs. The LCAC Board of Directors shall authorize and define the powers of all committees. Each committee chair shall report to the full Board of Directors and inform the Board of Directors of any actions taken by the committee.

Section 2. Other Committees. The Board of Directors may, by resolution adopted by a majority of the directors then in office, create any number of additional Board Committees, each consisting of at least one director, to serve at the pleasure of the Board. Appointments of board members and those not members of the Board to any Board Committee shall be by a majority vote of the directors then in office.

Section 3. Authority of Committees. Board Committees may be given all the authority of the Board, except for:

(a) The approval of any action for which this part also requires approval of the members (Corp. Code Section 5034) or approval of a majority of all members (Corp. Code Section 5033), regardless of whether the corporation has members.

(b) The filling of vacancies on the board or in any committee which has the authority of the board.

(c) The fixing of compensation of the directors for serving on the board or on any committee.

(d) The amendment or repeal of bylaws or the adoption of new bylaws.

(e) The amendment or repeal of any resolution of the board which by its express terms is not so amendable or repealable.

(f) The appointment of committees of the board or the members thereof.

(g) The expenditure of corporate funds to support a nominee for director after there are more people nominated for director than can be elected.

(h) The approval of any self-dealing transaction except as provided in paragraph (3) of subdivision (d) of Corp. Code Section 5233 .

Section 4. Standing Committees. The standing committees of LCAC shall be:

Executive Committee: The Executive Committee shall be comprised of the duly elected and then acting President, Past President, Vice-President, Secretary, Treasurer, and one other director elected by a majority of the members of the Board of Directors then in office.

Nominating/Annual Meeting: A Nominating Committee of at least five (5) Members, including the chair, shall be appointed by the Board of Directors. The Committee shall

consist of three (3) Directors of the Board and two (2) people who are not current Directors. The Nominating Committee, with staff support, is tasked with identifying candidates for the Board of Directors, Officer positions, and Standing Committee chairs. The Nominating Committee is responsible for cultivating future LCAC leaders and is also responsible for overseeing elections, assessing board member performance, and planning and giving notice of the Annual Meeting.

Programs/Events: A Programs Committee of at least four (4) Members, including the chair and one other board member, shall be appointed by the Board of Directors. The Programs Committee is tasked with overseeing the planning and execution of advocacy, promotional, educational and networking opportunities.

Development/Fund Raising: A Development/Fund Raising Committee of at least four (4) Members, including the chair and one other board member, shall be appointed by the Board of Directors. The Development/Fund Raising Committee shall oversee raising funds for LCAC operations and programming primarily through donations and grants.

Public Relations/Social Media/Website: A Public Relations/Social Media/Website Committee of least four (4) Members, including the chair and one other board member, shall be appointed by the Board of Directors. The Public Relations/Social Media/Website Committee, with staff support, is responsible for community outreach, developing a social media presence, and maintaining the LCAC website.

Membership: A Membership Committee of at least four (4) Members, including the chair and one other board member, shall be appointed by the Board of Directors. The Membership Committee, with staff support, is responsible for developing a membership application, maintaining a membership roster, and categorizing Members as voting and non-voting. The goal of the Membership Committee is to recruit and retain a diverse and inclusive membership.

Finance and Personnel: A Finance and Personnel Committee of at least four (4) Members, including the chair and one other board member, shall be appointed by the Board of Directors. The Finance and Personnel Committee is tasked with making recommendations to the Board on the budget and budget-related issues such as the amount of dues to be charged. The Finance and Personnel Committee is also responsible for making recommendations to the Board of Directors affecting the employment of staff. The elected Treasurer may not serve as chair of the Finance and Personnel Committee.

Section 5. Advisory Committees. The Board of Directors may establish one or more Advisory Committees to the Board. The members of any Advisory Committee may consist of directors or 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 this 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. Audit Committee. For any tax year in which this corporation has gross revenues of \$2 million or more, this corporation shall have an Audit Committee whose members shall be appointed by the Board of Directors, and who may include both directors and non-directors who do not have a conflict of interest.

Section 7. Meetings.

A. Of Board Committees. Meetings and actions of Board Committees shall be governed by and held and taken in accordance with the provisions of Article III of these Bylaws concerning meetings and actions of the Board of Directors, with such changes in the content of those Bylaws as are necessary to substitute the Board Committee and its members for the Board of Directors and its members. Minutes shall be kept of each meeting of any Board Committee and shall be filed with the corporate records.

B. Of Advisory Committees. Subject to the authority of the Board of Directors, Advisory Committees may determine their own meeting rules and whether minutes shall be kept.

The Board of Directors may adopt rules for the governance of any Board or Advisory Committee not inconsistent with the provisions of these Bylaws.

Section 8. Compensation. Committee members shall not be compensated for services rendered, but shall be supported by paid staff.

ARTICLE VI CERTAIN TRANSACTIONS

Section 1. Loans. Except as permitted by Section 5236 of the California Nonprofit Public Benefit Corporation Law, this corporation shall not make any loan of money or property to, or guarantee the obligation of, any current or past director or officer; provided, however, that this corporation may advance money to a current or past director or officer of this corporation or any paid employee or subsidiary for expenses reasonably anticipated to be incurred in performance of the duties of such director or officer so long as such individual would be entitled to be reimbursed for such expenses absent that advance.

Section 2. Self-Dealing Transactions. Except as provided in Section 3 below, the Board of Directors shall not approve, or permit the corporation to engage in, any self-dealing transaction. A self-dealing transaction is a transaction to which this corporation is a party and in which one or more of its current or past directors has a material financial interest, unless the transaction comes within California Corporations Code Section 5233(b).

Section 3. Approval. This corporation may engage in a self-dealing transaction if the transaction is approved by a court or by the Attorney General. This corporation may also engage in a self-dealing transaction if the Board determines before the transaction, that (a) this corporation is entering into the transaction for its own benefit; (b) the transaction is fair and reasonable to this corporation at the time; and (c) after reasonable investigation, the Board determines that it could not have obtained a more advantageous arrangement with reasonable effort under the circumstances. Such determinations must be made by the Board in good faith, with knowledge of the material facts concerning the transaction and the current or past director's interest in the transaction, and by unanimous vote of the directors then in office, without counting the vote of the interested director or directors.

Where it is not reasonably practicable to obtain approval of the Board before entering into a self-dealing transaction, a Board Committee may approve such transaction in a manner consistent with the requirements above; provided that, at its next meeting, **a majority of the full Board** determines in good faith that the Board Committee's approval of the transaction was consistent with the requirements above and that it was not reasonably practical to obtain advance approval by the full Board, and ratifies the transaction by all of the directors then in office without the vote of any interested director.

ARTICLE VII INDEMNIFICATION AND INSURANCE

Section 1. Right of Indemnity. To the fullest extent allowed by California law, this corporation may indemnify and advance expenses to its agents, in connection with any proceeding.

Section 2. Approval of Indemnity. On written request to the Board of Directors in each specific case by any agent seeking indemnification, to the extent that the agent has been successful on the merits, the Board shall promptly authorize indemnification. Otherwise, the Board may authorize indemnification to the extent deemed appropriate.

Section 3. Advancing Expenses. The Board of Directors may authorize the advance of expenses incurred by or on behalf of an agent of this corporation in defending any proceeding prior to final disposition, if the Board finds that:

- (a) the requested advances are reasonable in amount under the circumstances; and
- (b) before any advance is made, the agent will submit a written undertaking satisfactory to the Board to repay the advance unless it is ultimately determined that the agent is entitled to indemnification for the expenses under this Article.

The Board shall determine whether the undertaking must be secured, and whether interest shall accrue on the obligation created thereby.

Section 4. General Liability Insurance. The Board of Directors may adopt a resolution authorizing the purchase of insurance on behalf of any agent against any liability asserted against or incurred by the agent in such capacity or arising out of the agent's status as such, and such insurance may provide for coverage against liabilities beyond this corporation's power to indemnify the agent under law.

Section 5. Directors and Officers Insurance. The Board of Directors shall secure directors and officers insurance with limits of liability as determined by the Board.

ARTICLE VIII MISCELLANEOUS

Section 1. Fiscal Year. The fiscal year of this corporation shall commence on September 1 and shall end each year on August 31.

Section 2. Contracts, Notes, and Checks. All contracts entered into on behalf of this corporation must be authorized by the Board of Directors or the person or persons on whom such power may be conferred by the Board from time to time, and, except as otherwise provided by law, every check, draft, promissory note, money order, electronic transfer of funds, or other evidence of indebtedness of this corporation shall be signed by the person or persons on whom such power may be conferred by the Board from time to time.

Section 3. Annual Reports to Directors. Within 120 days after the end of this corporation's fiscal year, the President shall furnish a written report to all directors of this corporation containing the following information:

- (a) the assets and liabilities, including the trust funds of this corporation, as of the end of the fiscal year;
- (b) the principal changes in assets and liabilities, including trust funds, during the fiscal year;

(c) the revenue or receipts of this corporation, both unrestricted and restricted to particular purposes, for the fiscal year;

(d) the expenses or disbursements of this corporation, for both general and restricted purposes, for the fiscal year; and

(e) any transaction during the previous fiscal year involving more than \$20,000 between this corporation (or its parent or subsidiaries, if any) and any of its directors or officers (or the directors or officers of its parent or subsidiaries, if any) or any holder of more than ten percent of the voting power of this corporation or its parent or subsidiaries, if any, or any of a number of such transactions in which the same person had a direct or indirect material financial interest, and which transactions in the aggregate involved more than \$20,000, as well as the amount and circumstances of any indemnifications or advances aggregating more than \$10,000 paid during the fiscal year to any director or officer of this corporation. For each transaction, the report must disclose the names of the interested persons involved in such transaction, stating such person's relationship to this corporation, the nature of such person's interest in the transaction and, where practicable, the value of such interest.

The foregoing report shall be accompanied by any report thereon of independent accountants or, if there is no such report, the certificate of an authorized officer of this corporation that such statements were prepared without an audit from the books and records of this corporation. The report and any accompanying material may be sent by electronic transmission in compliance with Article VIII, Section 5 of these Bylaws.

Section 4. Required Financial Audits. This corporation shall obtain a financial audit for any tax year in which it receives or accrues gross revenue of \$2 million or more, excluding grant or contract income from any governmental entity for which the governmental entity requires accounting. Whether or not they are required by laws, any audited financial statements obtained by this corporation shall be made available for inspection by the Attorney General and the general public within nine months after the close of the fiscal year to which the statements relate, and shall remain available for three years (1) by making them available at this corporation's principal, regional, and district offices during regular business hours and (2) either by mailing a copy to any person who so requests in person or in writing or by posting them on this corporation's website.

Section 5. Electronic Transmissions. Unless otherwise provided in these Bylaws, and subject to any guidelines and procedures that the Board of Directors may adopt from time to time, the terms "written" and "in writing" as used in these Bylaws include any form of recorded message in the English language capable of comprehension by ordinary visual means, and may include electronic transmissions, such as facsimile or email, provided (i) for electronic transmissions from the corporation, the corporation has obtained an unrevoked written consent

from the recipient to the use of such means of communication; (ii) for electronic transmissions to the corporation, the corporation has in effect reasonable measures to verify that the sender is the individual purporting to have sent such transmission; and (iii) the transmission creates a record that can be retained, retrieved, reviewed, and rendered into clearly legible tangible form.

Section 6. Amendments. Proposed amendments to these Bylaws shall be submitted in writing to the directors at least one week in advance of any Board meeting at which they will be considered for adoption. The vote of two thirds or the unanimous written consent of the directors shall be required to adopt a Bylaw amendment.

Section 7. Governing Law. In all matters not specified in these Bylaws, or in the event these Bylaws shall not comply with applicable law, the California Nonprofit Public Benefit Corporation Law as then in effect shall apply.

CERTIFICATE OF SECRETARY

I, DENISE LEDDON, certify that I am presently the duly elected and acting Secretary of the LIVERMORE CULTURAL ARTS COUNCIL, a California nonprofit corporation, and that the above Bylaws, consisting of sixteen (16) pages, including this page are the Amended and Restated Bylaws of this corporation as adopted by the Membership on _____.

Dated:

DENISE LEDDON, Secretary

I, ELIZABETH E. TRUTNER, certify that I am presently the duly elected and acting President of the LIVERMORE CULTURAL ARTS COUNCIL, a California nonprofit corporation, and that the above Bylaws, consisting of sixteen (16) pages, including this page are the Amended and Restated Bylaws of this corporation as adopted by the Membership on _____.

Dated:

ELIZABETH E. TRUTNER, President