

NEW MEXICO PUBLIC REGULATION COMMISSION

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DISTRICT 2 DAVID KING
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CORPORATION DEPARTMENT

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APRIL 10, 2003

NMOC
PO BOX 27192
ALBUQUERQUE, NM 87125

RE: NEW MEXICO ONE-CALL SYSTEM, INC.
SCC#1459965

THIS COMMISSION APPROVED AND FILED THE AMENDED BYLAWS ON APRIL 9, 2003 (REFERENCE #3260734) FOR THE ABOVE CAPTIONED CORPORATION; SUBSEQUENT AMENDED/REVISED/RESTATED BYLAWS MUST BE FILED IN THIS OFFICE BEFORE THEY ARE EFFECTIVE AS REQUIRED BY LAW. FILING FEE OF \$10.00 MUST ACCOMPANY EACH DOCUMENT AND SAID DOCUMENT MUST BE SIGNED BY THE CHIEF OFFICER AND SECRETARY.

THE REFERENCED APPROVAL DOES NOT CONSTITUTE AUTHORIZATION FOR THE ABOVE REFERENCED CORPORATION TO TRANSACT ANY BUSINESS WHICH REQUIRES COMPLIANCE WITH OTHER APPLICABLE FEDERAL OR STATE LAWS, INCLUDING, BUT NOT LIMITED TO, STATE LICENSING REQUIREMENTS. IT IS THE CORPORATION'S SOLE RESPONSIBILITY TO OBTAIN SUCH COMPLIANCE WITH ALL LEGAL REQUIREMENTS APPLICABLE THERETO PRIOR TO ENGAGING IN THE BUSINESS FOR WHICH IT HAS OBTAINED APPROVAL OF THE REFERENCED DOCUMENT.

YOUR CANCELLED CHECK, AS VALIDATED BY THIS COMMISSION, IS YOUR RECEIPT. IF YOU HAVE ANY QUESTIONS, PLEASE CONTACT THE CHARTERED DOCUMENT DIVISION AT (505) 827-4511 FOR ASSISTANCE.

CHARTERED DOCUMENT DIVISION
JG

AMENDED AND RESTATED BYLAWS
OF
NEW MEXICO ONE CALL, INC.

Article I

Name and Place of Business

Section 1. Name. The name of this corporation will be “NEW MEXICO ONE-CALL, INC.”

Section 2. Principal Office. The principal office of this corporation shall be located in the metropolitan area of Albuquerque, New Mexico.

Section 3. Registered Office. The registered office of this corporation shall be as specified in the Articles of Incorporation of this corporation or as may be changed by act of the corporation from time to time.

Article II

Purposes

The members agree to cooperate with the purposes of the corporation and will do everything necessary to ensure the one-call system is followed. The purposes for which the corporation is organized are:

- (1) to operate a one-call system within the state of New Mexico to receive notification prior to excavation or prior to any activity which may damage underground utility lines;
- (2) to relay such notification to the corporation’s regular members;
- (3) to minimize the risk of death, injury, and property damage, loss or curtailment of services vital to public health and safety, and damage to underground facilities;

- (4) to otherwise comply with section 62-14-1 et seq. N.M.S.A. 1978;
and
- (5) to perform any act or exercise any power necessary or incidental to accomplish the foregoing purposes which are granted to non-profit corporations under section 53-8-5 N.M.S.A. 1978.

All of the foregoing purposes and powers shall be exercised exclusively for the promotion of social welfare within the meaning of Section 501(c)(4) of the Internal Revenue Code of 1986, as such section currently exists and as such section shall hereafter be in force and effect from time to time. Such purposes and powers shall likewise be exercised in order that the corporation will qualify as a business league under Section 510(c)(6) of the Internal Revenue Code of 1986, as such section currently exists and as such section shall hereafter be in force and effect from time to time.

Article III

Membership

Section 1. Qualification. Regular Membership in this corporation shall be open to any individual, partnership, corporation, association, cooperative, public trust, government agency, municipal corporation, or any other owner or operator of underground lines, systems, or other facilities, and appurtenances thereto, located within the state of New Mexico used for producing, storing, conveying, transmitting, or distributing communications, electricity, power, light, heat, gas, oil, petroleum products, water, steam, sewage, or other commodities or services which (i) has elected to participate in the one-call system operated by this corporation or which this corporation has caused to be in operation; and (ii) in the case of initial members of the corporation,

has paid to the corporation the total assessments and fees as prescribed by the board of directors for the previous calendar year and has paid or arranged with the corporation to pay the total assessments and fees as prescribed by the board of directors for the current calendar year; or in the case of new members, has paid or arranged with the corporation to pay the total assessments and fees as prescribed by the board of directors for the current calendar year.

Section 2. Qualification. Associate Membership in this corporation shall be open to any individual, partnership, corporation, association, cooperative, public trust, government agency, or any other group that has an interest in (i) supporting damage prevention and the one-call industry and (ii) the education and training of the general public on the merits of safe excavation practices and techniques; but does not own or operate any underground facilities.

Section 3. Member Classifications. Each entity applying for membership shall apply in one of the following classifications, and shall be admitted to membership as a member in one and only one of the classifications:

- (i) Telecommunications (including cable TV)
- (ii) Pipelines
- (iii) Gas distribution
- (iv) Electric
- (v) Municipalities governmental owners
- (vi) Water and waste water associations, districts and systems
- (vii) Associate memberships (includes excavators, contract locating, vendors, and others).

Applicants may be qualified in more than one classification, but nevertheless shall be admitted in one classification only. In the event that an applicant is qualified in more than one classification, that applicant shall select the classification of membership in which such applicant will participate. Once made, this selection may not be changed for three (3) years. Applicants for and who become Associate members will not receive any notices of excavations.

Section 4. Honorary Membership. An Honorary Member is any individual nominated and selected by majority vote of the board of directors. Honorary Members shall be admitted under the Associate Member classification, and each shall be entitled to one vote. Honorary Members shall pay no assessments, fees or dues during the period of their honorary membership. Honorary members shall be nominated and selected based on their contribution to the corporation and to the one-call industry. The significance of their contribution shall be considered by the board of directors in determining the period during which they are designated as Honorary Members. Honorary Memberships shall be issued of one of two types:

A. A Limited Honorary Member shall be so designated by a certificate issued by the President of the Board of Directors of the corporation as an Honorary Member for the period of one calendar year.

B. A Lifetime Honorary Member shall be so designated by a certificate issued by the full Board of Directors of the corporation as an Honorary Member for the remainder of the individual's life.

Section 5. Rights of Members.

A. Property Rights. No member of this corporation shall have any right or interest in or to the property or assets of this corporation; all property and assets of this corporation shall be subject to the direction, control of, and expenditure by the members and/or the Board of Directors of this corporation in the manner and to the extent provided by the laws of the state of New Mexico; and should this corporation be liquidated or dissolved or otherwise discontinue activity, the property and assets of this corporation shall be distributed as follows: all liabilities and obligations of the corporation shall be paid, satisfied, and discharged, or provision shall be made therefore; any assets held on the condition they be returned, transferred, or conveyed upon dissolution shall be disposed of in accordance with such requirements; and all remaining assets of every nature and description whatsoever shall be distributed to one or more corporations, funds, or foundations qualified for exemption from tax under any of Sections 501(c)(3), 501(c)(4), or 501(c)(6) of the Internal Revenue Code of 1986, as such sections currently exist and as such sections shall hereafter be in force and effect from time to time.

B. Voting. Only members of this corporation shall be entitled to vote at any annual or special meeting of the members of this corporation, and each member of this corporation, shall be entitled to one (1) vote at such meeting for each full \$100.00 increment paid or assessed in fees and assessments for the year for which the vote is taken. Each member shall be entitled in any event to at least one (1) vote. Voting may be in person or by proxy at any such meeting on all matters submitted or required to be submitted to the membership.

Section 6. Marking Notification and other Action. After the one-call center has given a regular member proper notice of proposed excavation in the area of that

member's underground facilities, the member will mark the location of the facilities in accordance with the standards for Underground Plant Location adopted by the corporation. This will entail at least one of the following actions by the affected member:

- A. the member shall mark the location of its underground facilities in the area of the proposed excavation;
- B. the member shall notify the excavator that the member has no facilities in the area; or
- C. the member shall take such other action as the member deems necessary to protect its facilities under the circumstances.

Section 7. Notice to Excavate. Members shall, so far as practical:

- A. give notice of any such member's proposed excavation to the one-call center; and
- B. use its best efforts in requiring its contractors to give notice of any proposed excavation for and on behalf of said member.

After the one-call center has become operational, the notice provided for in this section shall be given at least two (2) working days, excluding Saturdays, Sundays, and legal holidays (as identified in the Standards for Underground Plant Location adopted by the corporation) prior to the commencement of such work. The regular member, however, reserves the right, when the member in its sole judgment determines that an emergency exists that endangers life, health, or property or when necessary in the member's sole judgment to restore service to a customer, to begin excavation operations immediately, notifying the one-call center of such excavations operations as promptly as possible under the circumstances.

Section 8. Facilities Information. Each regular member shall be responsible for furnishing such information concerning its underground facilities to the one-call center as may be reasonably required for the operation of the one-call center. Each regular member shall be required to install a telecommunications linked terminal or computer to receive notifications when its usage rate first exceeds three hundred (300) notifications during any twelve (12) consecutive calendar months.

Article IV

Admission and Charges

Section 1. Application. Applications for membership shall be submitted to the secretary of this corporation on forms approved by the board of directors. If the secretary determines that the applicant is eligible for membership, the secretary shall cause to be prepared and sent to such member a certificate of membership in this corporation, the form of which is to be approved by the board of directors. A list of new applicants accepted into membership by the secretary shall be furnished to the board of directors at each regular meeting of such board.

If the secretary deems the applicant not to be eligible for membership or is uncertain as to such eligibility, the matter will be submitted by the secretary to the board of directors at its next regular meeting for final determination.

Section 2. Charges. Assessments, fees, dues, and other charges required to be paid by the members of this corporation shall be as determined by the board of directors from time to time.

Section 3. Termination. Termination of membership by a member of the corporation shall be communicated by written notice delivered, or sent by registered or certified mail,

proper postage attached thereto, to the secretary of the corporation. Such termination of membership is to become effective upon actual receipt by the secretary; however, such termination shall not eliminate the obligation of such member for the charges which he would have had to pay had he remained a member of the corporation through the end of the then calendar year. The New Mexico Public Regulation Commission shall be notified when a regular member terminates membership.

Section 4. Suspension. A member who fails to pay any charges as they become due is subject to suspension from membership and removal by the board of directors.

Section 5. Removal. Any member may be removed for reasonable cause shown by a majority of the board of directors. Removal of any member terminates all membership and privileges accompanying said membership immediately upon the removal. In the event of such removal, the member shall nonetheless remain obligated for all assessments, fees, and dues payable for any preceding years and for the year of removal. The New Mexico Public Regulation Commission shall be notified when a regular member is removed.

Article V

Meetings of the Membership

Section 1. Annual Meeting. The annual meeting of the members of the corporation shall be held each year on such date as may be fixed by the board of directors. However, the interval between annual meetings shall not in any event exceed thirteen (13) months. The annual meeting shall be held for the election of directors and transaction of such other business as may properly come before it. Voting by proxy shall be allowed. At each such annual meeting, the board of directors shall submit to the membership a report

of the corporation's business activities during the preceding year and the general financial condition of the corporation.

Section 2. Special Meetings. Special meetings of the members of the corporation may be called at any time by the president of the board of directors. In addition, upon the written request of one-third (1/3) of the members of the corporation, the president shall call a meeting of the members. The purpose of the special meeting shall be stated in the notice of the meeting, and no other business shall be transacted.

Section 3. Notice of Meetings. Notice of any meetings, annual or special, shall specify the time, place, and in the case of a special meeting, the purpose or purposes of the meeting and shall be sent by the secretary to all members at their respective addresses as shown on the corporation's records. Notice for an annual or special meeting shall be sent no earlier than fifty (50) days prior to such a meeting, and not later than ten (10) days prior to such a meeting. Notices shall be given personally or by mail. If mailed, the notice shall be deemed to be delivered when deposited in the United States mail addressed to the member at his address as it appears on the records of the corporation with postage thereon prepaid.

Section 4. Quorum. At any meeting of the members, members holding a majority of the number of votes outstanding shall constitute a quorum, and a majority vote of such quorum shall be sufficient to transact any and all business properly before such members.

Section 5. Voting. All members in good standing shall have the voting privileges specified in Article III, Section 3, and in the election of directors shall have the voting privileges set forth in Article VI. All acts and resolutions of the corporation shall be

deemed adopted upon a favorable vote of the majority of the votes cast by members qualified to vote on such act or resolution.

Section 6. Voting by Proxy. Voting by proxy shall be allowed.

Article VI

Board of Directors

Section 1. Directors. The corporation shall have a board of directors consisting of one (1) member from each of the classifications of membership set forth in Article III, Section 2. Directors shall serve a term of three (3) years, except that initially one director shall serve a one (1) year term and two directors shall serve two (2) year terms. The one and two year directors will be selected by lot after the first election and their successors shall be elected for the full three (3) year term.

Section 2. Advisory Directors. The executive director of the corporation shall serve as a non-voting advisory member of the board of directors.

Section 3. Vacancies. Vacancies on the board of directors may be filled for the unexpired term by a majority vote of the remaining directors at any meeting of the board of directors at which a quorum is present. The replacement director will be selected from the same membership classification as the directorship for which a vacancy exists.

Section 4. Powers and Duties of Directors. The board of directors shall have control and exercise general management over the affairs, property, and business of the corporation and, subject to the provisions of these bylaws, may adopt from time to time such rules and regulations for that purpose and for the conduct of its meetings as such board of directors may deem proper. Such powers shall include, but shall not be limited to, the appointment and removal of the officers of the corporation specified herein.

Section 5. Election of Directors. The election of directors shall be held at the annual meeting of the membership or at a special meeting of the members called for that specific purpose. The election shall be conducted by secret ballot. The nominee receiving the greatest number of votes from each membership classification as set forth in Article III shall be appointed as director. A member shall be entitled to vote only for nominees for directors from its class of membership.

Section 6. Nominating Committee. Not less than three (3) months prior to the date of the annual meeting of the members of the corporation, or of a special meeting called for the purpose of electing directors, the president of the corporation shall appoint a nominating committee which shall include, at a minimum, a representative from each of the membership classifications set forth in Article III. At least two (2) of such committee members must be current directors who are not nominees for reelection.

Section 7. President of the Board of Directors. From among its members, the board of directors shall elect a president and vice president of the board. The president shall preside at the meetings of the board of directors, and the vice president shall preside in the absence of the president. The president of the board shall be the president of the corporation. The vice president shall be the vice president of the corporation, with the authority to act in the president's absence.

Section 8. Salary. No stated salary shall be paid to directors, as such, for their services; but by resolution of the board of directors, a fixed sum and the expenses of attendance, if any, may be permitted for attendance at each regular or special meeting of the board. Also, by resolution of the board of directors, directors may be reimbursed for expenses incurred in connection with travel performed for the corporation. Nothing

herein contained, however, shall be construed to preclude any director from serving the corporation in any other capacity and receiving reasonable compensation therefore.

Section 9. Affidavit. Prior to serving on the board, each member of the board of directors, upon his or her election and/or re-election thereto, shall file with the corporation his or her signed affidavit stating that he or she consents to being a director. Such affidavit shall be kept on file with the corporation as required by law.

Article VII

Meetings of Directors

Section 1. Annual Meeting. The annual meeting of the board of directors shall be held immediately after and at the same place as the annual meeting of the membership. The meeting will be held for the purpose of electing officers, appointing such committees as shall be deemed necessary, and for the transaction of any other business which may properly come before the board. No notice shall be required for the annual meeting of the board of directors.

Section 2. Bimonthly and Special Meetings. Bimonthly meetings of the board of directors shall be held on the second Tuesday of alternating months. Special meetings of the board of directors may be called at any time by the president. On the written request to the president of any three (3) directors, the president shall call a meeting of the board of directors. Meetings shall be held at the registered office of this corporation, or at any such other place as may be designated in the notice of the meeting.

Section 3. Notice of Meetings. Except for the annual meeting of the board of directors, notice of the time, place, and purpose of any meeting of the board of directors shall be given, either written or orally, not less than five (5) days prior to such meeting.

Notice shall be given personally or by mail. If mailed, the notice shall be deemed to be delivered when deposited in the United States mail addressed to the director at his address as it appears on the records of the corporation, with postage thereon prepaid.

Section 4. Quorum. At all meetings of the board of directors, a majority of the directors in office, excluding advisory directors, shall constitute a quorum for the transaction of business; and a vote by the majority of such quorum shall be sufficient to transact any and all business properly before the board. At any meeting of the board of directors, each director, excluding advisory directors, shall have one (1) vote. Voting by proxy shall not be permitted.

Article VIII

Executive Committee

Section 1. Executive Committee Members. There may be formed an executive committee, which shall consist of three (3) directors, of which the president shall be a member by virtue of his office; the remaining two (2) members shall be nominated by the president and elected by the directors.

Section 2. Meetings. Meetings of the executive committee may be called at any time by the president. On the written request to the president of either of the other members of the executive committee, the president shall call a meeting of the executive committee. Reasonable notice, written or oral, as determined by the president, shall be given of each meeting of the executive committee. Meetings of the executive committee shall be held at the office of this corporation, or at such other place as may be designated in the notice.

Section 3. Quorum. At all meetings of the executive committee, a majority of all members of the executive committee shall constitute a quorum for the transaction of business.

Section 4. Powers and Duties. The executive committee shall have full power to act in all matters for and on behalf of the board of directors during the time between regular meetings of the board of directors. When, in these bylaws, powers and duties are designated to the board of directors, those powers and duties are delegated to the executive committee as well, without exception. The executive committee, however, shall be subordinate to the board of directors and shall carry out all instructions issued to it by the board of directors.

Article IX

Other Committees

Section 1. Establishment. The board of directors may establish such committees as it deems appropriate to advise it on matters affecting the business and affairs of this corporation and the one-call center. At least two (2) members of each such committee must be directors of this corporation.

Section 2. Committee Memberships and Duties. Each committee shall have the number of members and shall have such duties as the board of directors shall deem appropriate and shall direct.

Section 3. Meetings. Each such committee shall meet on the call of its chairperson upon not less than five (5) days prior written or oral notice. The chairperson of each such committee shall be designated by the president of this corporation and shall serve at the pleasure of the president.

Section 4. Committee Expenses. The board of directors of the corporation may by resolution approve the reimbursement of expenses incurred by committee members and, in addition, may set reasonable fees to be paid by the corporation for the attendance at committee meetings.

Article X

Officers and Duties

Section 1. Officers. The officers of the corporation shall consist of a president (who shall also serve as the president of the board of directors), one or more vice presidents (one of whom shall serve as the vice president of the board of directors), an executive director, a treasurer and a secretary. Any person may hold more than one office except the offices of president and secretary. Officers shall be chosen annually by the board of directors at the annual meeting of the board of directors. A vacancy in any office may be filled by the board of directors at any regular meeting or at any special meeting of the board called for that purpose. The corporation may from time to time have such other officers as the board of directors may deem necessary, with such terms, authority, and duties as may be prescribed from time to time by the board of directors of the corporation.

Section 2. President. The president, or the vice presidents who holds such office by virtue of being vice president of the board of directors, shall have the authority to sign all contracts and other instruments on behalf of the corporation, except as such authority may be restricted by resolutions of the board of directors adopted from time to time.

Section 3. Executive Director. The executive director shall, subject to the control of the board of directors, have general charge and management responsibility on a daily basis of the business affairs and property of the corporation. The executive director is empowered and shall perform all such duties which may be incidental to his office or which may be properly required of him from time to time by the board of directors of the corporation.

Section 4. Vice President. The vice president serving by virtue of being vice president of the board of directors shall perform the duties of the president in his/her

absence; and he/she, together with any other vice president, shall have such powers and discharge such duties as may be assigned to him/her from time to time by the board of directors.

Section 5. Treasurer. The treasurer shall have general supervisory power over the care and custody of the funds and securities of the corporation, and shall deposit the same or cause the same to be deposited in the name of the corporation in such bank, banks, trust company, or trust companies, as the board of directors may designate. He/she shall keep or cause to be kept full and accurate accounts of all receipts and disbursements of the corporation; and whenever required by the board of directors, he/she shall render or cause to be rendered financial statements of the corporation. He/she shall prepare, execute, and file any annual or other reports or statements which may be required by law.

Section 6. Secretary. The secretary shall keep the minutes and act as secretary of all meetings of the corporation and the board of directors. He/she shall be the custodian of the corporate records and of the corporate seal. He/she shall in general perform all duties usually incident to the office of secretary as those duties are specified in these bylaws, together with such other duties as may from time to time be assigned to him/her by the board of directors.

Section 7. Compensation of Officers. The officers of the corporation shall receive such compensation, if any, as may be fixed from time to time by the board of directors.

Section 8. Bonds. The board of directors shall have power to require any officer, agent or employee of the corporation to provide a surety bond for the faithful discharge of his duties in such form and with such surety or sureties as the board of directors may deem advisable.

Section 9. Removal. Any officer elected or appointed may be removed by the persons authorized to elect or appoint the office whenever, in their judgement, the best interest of the corporation shall be served thereby. The removal of an officer shall be without prejudice to the contract rights, if any, of the officer so removed. Election or appointment of an officer or agent shall not, of itself, create employee contract rights.

Article XI

Negotiable Instruments

All checks, drafts, bills of exchange, notes or other obligations or orders for the payment of money shall be signed in the name of the corporation by such officer, officers, \person, or persons as the board of directors of the corporation may designated by resolution from time to time.

Article XII

Indemnification

Section 1. Member Indemnity. Each present or future member shall indemnify and hold the corporation harmless from any and all damages incurred by such member, including special, indirect and consequential, or injuries to person or property, or loss of use caused by the acts or omissions of the corporation in the performance of its duties other than for acts or omissions stemming from gross negligence of the corporation, and no present or future member shall institute or bring any suit, litigation or action of any kind against the corporation for damages or injuries, whether direct or otherwise, incurred by such member as a result of acts or omissions of the corporation, other than acts and omissions attributable to gross negligence of the corporation.

Section 2. Good Faith Actions. Other than an action by or in right of the corporation, the corporation shall indemnify any person who was or is a party, or is threatened to be made a party, to any threatened, pending, or completed action, suit or proceeding, whether civil, criminal, administrative, or investigative, by reason of the fact that he/she is or was a director, officer, employee, or agent of the corporation, or is or was serving at the request of the corporation as an officer, agent, or representative in another corporation, partnership, joint venture, trust, employee benefit plan, or trust, or other incorporated or unincorporated enterprise, against expenses, judgments, fines, and amounts paid in settlement actually and reasonably incurred by him/her in connection with such action, suit, or proceeding, including attorney's fees, if he/she acted in good faith and in a manner he/she reasonably believed to be in or not opposed to the best interests of the corporation; and with respect to any criminal action or proceeding, provided such person had no reasonable cause to believe his/her conduct was unlawful under the circumstances. The termination of any action, suit, or proceeding by judgment, order, settlement, conviction, or upon a plea of *nolo contendere* or its equivalent, shall not, of itself, either create a presumption that the person did not act in good faith and in a manner which he/she reasonably believed to be in or not opposed to the best interest of the corporation, or with respect to any criminal action or proceeding, had reasonable cause to believe that his/her conduct was unlawful.

Section 3. Exclusion for Willful Misconduct or Recklessness. No indemnification shall be made with respect to any claim, or matter as to which such person shall have been adjudged to be liable on the basis that he has breached or failed to perform the duties of his office and the breach or failure to perform constitutes willful misconduct or

recklessness in the performance of his/her duty to the corporation unless and only to the extent that the court in which such action or suit was brought shall determine upon application made that, despite the adjudication of liability (but in view of all the circumstances of the case) such person is fairly and reasonably entitled to indemnity for such expenses.

Section 4. Fees and Expenses. To the extent that a director, officer, employee, or agent of the corporation has been successful on the merits or otherwise in defense of any action, suit, or proceeding referred to in Sections 1 and 2 of this Article XII above, or in defense of any claim, issue, or matter herein, he/she shall be indemnified against expenses actually and reasonably incurred by him/her in connection therewith, including attorneys' fees.

Section 5. Coverage Determined by Board of Directors. Any indemnification under Sections 1 and 2 of this Article XII, unless otherwise ordered by a court of competent jurisdiction, shall be made by the corporation only as authorized in the specific case upon a determination that indemnification of the director, officer, employee, or agent is proper under the circumstances because he/she has met the applicable standard of conduct as set forth in Sections 1 and 2 of this Article XII. Such determination shall be made (a) by the board of directors by a majority vote of a quorum consisting of directors who were not parties to such action, suit, or proceeding; (b) if such quorum is not obtainable, or even if obtainable, a quorum of disinterested directors so directs, by independent legal counsel in written opinion; or (c) by the majority vote of the members of the corporation.

Section 6. Advance Payment for Fees and Expenses. Expenses incurred in defending a civil or criminal action, suit, or proceeding may be paid by the corporation in advance

of the final disposition of such action, suit, or proceeding to the extent authorized by the board of directors in a specific case. Advance payment shall only be made to the extent the director, officer, employee, or agent agrees to repay such amount, which agreement shall remain in effect until it shall ultimately be determined that he/she is entitled to be indemnified by the corporation as authorized in this Article XII.

Section 7. Nonexclusive Remedy. The indemnification provisions of this Article XII shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any bylaw, agreement, vote of the members or disinterested directors, or otherwise, both as to action in his/her official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be a director, officer, employee, or agent, and shall inure to the benefit of the heirs, devisees, legatees, and personal representatives of such a person.

Section 8. Insurance. The corporation shall have the power to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee, or agent of the corporation against any liability asserted against him/her and incurred by him/her in any such capacity, or arising out of the status of such, whether or not the corporation would have the power to indemnify him/her against such liability under the provisions of this Article XII.

Article XIII

Amendments

These bylaws may be altered or repealed, or new bylaws may be adopted, by a majority vote of a quorum of the board of directors at any annual, regular, or special meeting, duly convened after proper notice to the directors setting out the purpose of the

meeting, subject to the power of the members to alter or repeal such bylaws; provided, however, the board shall not adopt or alter any bylaws fixing the number, qualifications, classifications, or terms of office of the directors. Any such alteration, repeal or adoption of any bylaws by the members shall be effected on the majority vote of a quorum of the members at any annual, regular, or special meeting duly convened after proper notice to the members setting out the purpose of the meeting.

Article XIV

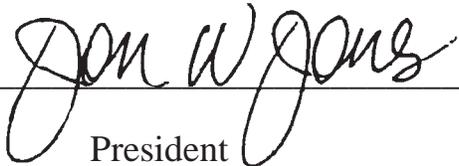
Fiscal Year

The fiscal year of the corporation shall begin on the first day of January of each year and end on the last day of December of that year.

Article XV

Seal

The board of directors may, at its discretion, adopt and approve a corporate seal for the corporation. The directors of the corporation adopted bylaws for the corporation the 16th day of November 1989 and amended the same by three separate amendments thereafter. These amended and restated bylaws are effective as of the date of their adoption which adoption was approved by the members of the corporation at a special meeting of the members held the 14th day of May, 2003.



President

ATTEST:



Secretary

