

Date: Adopted November 8, 2017

## **BYLAWS OF THE GENESEE FOUNDATION**

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### **ARTICLE I PURPOSES AND POWERS**

**1.1 General Purposes.** The Foundation was formed to exercise the functions and to fulfill the responsibilities set forth in the Declaration of Covenants, Conditions and Restrictions made as of March 10, 1975 and recorded in Book 2714 at Page 901 of the records of Jefferson County, Colorado, as supplemented (the "Declaration"), with respect to the real property (the "Property") which is and will be subject to the provisions of the Declaration.

**1.2 Specific Purposes.** The Foundation shall (i) provide for the maintenance, preservation and architectural control of, the Property, (ii) promote the recreation, health, safety and welfare of the members (the "Members") of the Foundation, and (iii) own and maintain the "General Common Properties" for the benefit of the Members.

**1.3 Powers.** The Foundation shall have those powers set forth in the Declaration, the Articles of Incorporation (the "Articles") of the Foundation, these Bylaws and/or the applicable laws of the State of Colorado.

### **ARTICLE II MEMBERSHIP AND VOTING**

**2.1 Membership.** The Members shall be determined in accordance with the provisions of Article III of the Declaration and Article V of the Articles, which provide that the following shall be Members:

(a) Each person or entity who is a record owner of a fee or undivided fee interest in any Lot or Unit;

(b) Each person who is an occupant of any Lot or Unit.

**2.2 Voting Rights.** The number of votes which each Member holds shall be determined in accordance with the provisions of Article III of the Declaration and Article VI of the Articles.

(a) There shall be two votes for each Lot and each Unit;

(b) If the Owner resides at the Lot or Unit or the Lot is vacant or the home on the Lot is unoccupied, the Owner shall cast two votes. If the Lot or Unit is occupied by a registered tenant, the tenant shall cast one vote and the Owner shall cast one vote;

(c) A tenant is properly registered upon the filing of the Genesee Foundation Registered Tenant Form with the Foundation office by the property owner. If a Lot or Unit is occupied by an unregistered tenant, it shall be treated as an unoccupied Lot or Unit and the owner shall cast two votes.

(d) In the event a Member has a covenant violation which has remained uncured for more than three months, or is in arrears in payment of assessments for two quarters or more, said Member shall not be entitled to vote at any election or meeting of the members.

**2.3 Quorum.** The presence in person, by proxy or by absentee ballot of Members holding at least ten percent (10%) of the total eligible votes shall constitute a quorum at a meeting of the Members. If an election or other vote is held at an annual election (as described in Section 5.6 below), the casting of at least ten percent (10%) of the total eligible votes at such annual election shall be deemed to be the equivalent of constituting a quorum for the purposes of such election or other vote.

**2.4 Methods of Voting.** Votes may be cast either in person, by proxy or by absentee ballot. Every proxy and absentee ballot (i) must be executed by the Member or his duly authorized attorney-in-fact, and (ii) must be presented in accordance with procedures established by these Bylaws or established from time to time by the Board of Directors of the Foundation (the "Board").

**2.5 Joint Ownership or Occupancy.** If Lot or a Unit is owned (or occupied) jointly, any joint owner (or joint occupant) may cast the vote(s) allocable to the ownership of such Lot or Unit, either in person, by proxy or by absentee ballot.

**2.6 Record Date; Eligible Votes.** The Board may fix the record date for the purpose of determining those Members entitled to vote at each meeting of the Members or annual or

special election. Such record date shall be not more than thirty nor less than ten days before the date of the applicable meeting or annual or special election. If no record date is fixed by the Board, the record date shall be ten days prior to such meeting or Annual election. Any Member who is in violation of the provisions of Section 2.2 (d) above on a record date shall not be eligible to vote at the applicable meeting or annual election.

**2.7 Resolution of Conflicts.** In the event any conflict or question arises regarding the validity of membership in the Foundation, eligibility to cast votes or any related matters, the Board (or a person or committee designated by the Board) shall have the authority and responsibility to resolve all such conflicts or questions in compliance with the principles and spirit of the Declaration, the Articles and these Bylaws. It shall be the responsibility of each person who claims the right to cast a vote to demonstrate proof of such right if requested to do so. In the event of an unresolved dispute among joint owners or joint occupants or among representatives of an entity relating to the authority to cast votes, the Board (or such designated person or committee) shall have the right to cause such disputed votes to be forfeited or invalidated. A Director who is then running for re-election may not vote on Board decisions under this section.

### **ARTICLE III OBLIGATIONS OF MEMBERS**

**3.1 Proof of Membership; Address.** In order to be deemed to be in good standing and entitled to vote, each Member must provide the Foundation with adequate proof of the validity of his membership in the Foundation and with his current address. It shall be the responsibility of each Member, including tenants occupying Lots or Units, to confirm that his address is accurately shown in the records of the Foundation. Joint owners or joint occupants of a Lot or a Unit shall have one and the same mailing address to be used by the Foundation for all purposes.

**3.2 Assessments.** All Members shall be obligated to pay assessments as provided in the Declaration. Annual assessments shall be due quarterly, in advance, unless otherwise determined by the Board. The Board has the power to levy and collect special assessments whenever in the opinion of the Board it is necessary to do so in order to fulfill the responsibilities of the Foundation.

### **ARTICLE IV**

#### **MEETINGS OF MEMBERS**

**4.1 Place of Meetings.** The Board shall designate the time and place of each meeting of the Members.

**4.2 Annual Meeting.** The annual meeting of the Members shall be held each year in November on the first Thursday following Election Day, or on such other day in November as may be designated by the Board.

**4.3 Special Meetings.** Special meetings of the Members may be called by the Board. Special meetings of the Members must be called by the Board upon receipt by the President or the Secretary of a petition requesting a special meeting and signed by Members holding at least twenty-five percent (25%) of the total eligible votes. Each such petition must state the purpose(s) of the requested special meeting. Any such special meeting shall take place within forty-five days of receipt by the Board of such petition. The subject matter of each special meeting shall be limited to those purposes stated in the notice of such meeting.

**4.4 Notice of Meetings.** Written notice of each annual or special meeting of the Members shall be given by the Board not less than ten nor more than thirty days before the date of such meeting. Such notice must state the time and place of the meeting. In addition, if the meeting is a special meeting, such notice must state the purpose(s) thereof. Notice of a meeting shall be deemed given to a Member at the time such notice is (i) personally delivered to such Member, (ii) placed in or adjacent to such Member's mailbox, or (iii) deposited in the United States mail, postage prepaid, addressed to such Member at his address as shown in the records of the Foundation, or (iv) sent by Email to the person(s) to whom the notice is being provided. The giving of notice to one joint owner (or joint occupant) of a Lot or a Unit shall constitute the giving of notice to the other joint owners (or joint occupants) of such Lot or Unit.

**4.5 Adjourned Meetings.** If a quorum is not obtained at any meeting of the Members, the Members who are present may, by majority vote, adjourn the meeting from time to time until a quorum is obtained.

**4.6 Order of Business.** The order of business at each meeting of the Members shall be determined by the Board.

**4.7 Special Elections.** The Board may also call for the conduct of a special election if the Board deems it desirable or necessary for the purpose of amending the Declaration, amending these Bylaws, for the annexation of property into the Foundation, or for any other purpose deemed appropriate by the Board.

**4.8 Rules of Meetings.** The Board may establish rules for the conducting of orderly meetings of the Members.

## **ARTICLE V BOARD OF DIRECTORS**

**5.1 Governing Body.** The affairs of the Foundation shall be managed and governed by the Board.

**5.2 Number and Qualification.** The Board shall consist of seven individuals.

**5.3 General Powers and Responsibilities.** The Board shall have all the powers and responsibilities granted to the Foundation and/or the Board in the Declaration, the Articles, these Bylaws and/or the applicable laws of the State of Colorado, subject to any specific limitations set forth therein, in order to do all those things necessary and reasonable to carry out the governing and operating of the Foundation. The board shall have the power to borrow funds in order to pay for any expenditure deemed necessary by the Board pursuant to the authority granted by the provisions of the Declaration and by these Bylaws, and to execute all such instruments evidencing such indebtedness as the Board may deem necessary.

**5.4 No Waiver of Rights.** The omission or failure of the Board or any Member to enforce any of the covenants, conditions, restrictions, easements, uses, limitations, obligations or other provisions of the Declaration, the Articles, the Bylaws, or any of the rules and regulations adopted pursuant thereto, shall not constitute or be deemed a waiver, modification or release thereof, and the Board or its designee shall have the right to enforce the same thereafter.

**5.5 Term of Office.** The term of office of each Director shall be two years. The terms of three of the Directors (the "Odd Year Directors") shall expire at the end of the annual meeting of the Members scheduled to be held in each odd-numbered year. The terms of the other four Directors (the "Even Year Directors") shall expire at the end of the annual meeting of the Members scheduled to be held in each even-numbered year. Except as may be otherwise provided in these Bylaws, each class of Directors shall hold office until their successors have been duly elected.

**5.6 Election of Directors.**

(a) At a place or places within Genesee as determined by the Board, the annual election of Directors shall be held from 7:00 am to 6:00 pm on the first Tuesday after the first Monday of November of each year.

(b) Provided that the quorum requirement described in Section 2.3 above is met, (i) in those annual elections at which the three Odd Year Directors are being elected, the three Members receiving the highest vote totals shall be deemed to have been elected, and (ii) in those annual elections at which the four Even Year Directors are being elected, the four Members receiving the highest vote totals shall be deemed to have been elected. In the event of an exact tie, the winner shall be determined by an equitable procedure to be

determined by the Board (as constituted prior to the annual election);

(c) At each annual election, each Member shall have the right to cast his votes for as many different persons as there are Directors to be elected. Cumulative voting is not permitted, but "vote-splitting" is permitted. For example, if a Member is entitled to cast two votes, and if three Directors are being elected at the applicable annual election, such Member may cast two votes for each of three nominees (or one vote for each of six nominees, etc.); however, in no event may such Member cast more than two votes or a fractional vote (i.e., other than a whole number of votes) for any single nominee;

(d) Not later than three weeks nor more than four weeks prior to each annual election, a "Candidates' Night" shall be conducted, at which time Members may be nominated, or may self-nominate, for Director positions which will be filled at the forthcoming annual election. The Board shall establish the time and place of Candidates' Night and of any subsequent "Open Forums" at which candidates may discuss issues and answer questions. Only those Members who are so nominated and who accept such nomination in writing (which acceptance must be delivered to a Director or to the Foundation office not later than the third day after Candidates' Night) shall have their names printed on the election ballots. The election ballots shall also provide space for write-in candidates.

(e) Notice of the annual election, absentee ballots and election proxies shall be sent or delivered at least ten (10) but not more than twenty (20) days prior to the annual election date. In order to be valid, absentee ballots or election proxies must be received at the Foundation office not later than 6:00 pm on the day of the annual election.

(f) The Board (as constituted prior to the annual election) shall establish those procedures for each Candidates' Night, Open Forum and annual election as are necessary to provide for a systematic and equitable election process, provided that such procedures are not inconsistent with the provisions of these Bylaws. Such Board may also designate other matters (i.e., in addition to the election of Directors and the election of the one elected Architectural Review Committee member) which are to be voted upon as part of such annual election. Any such other matters must be described in the notice of the annual election and shall be included in the agenda for the applicable Candidates' Night, which agenda shall be established by the Board.

(g) Notwithstanding the foregoing, if the Board (as constituted prior to the annual election) determines that it is reasonably necessary to modify the provisions of this Section in order to provide for a systematic and equitable election process in light of then existing circumstances, the provisions of this Section may be modified accordingly. By way of example only, it may be advisable to modify certain dates and deadlines set forth in this Section if it appears that the occurrence of a local or national event will unduly interfere with the election process. A Director who is then running for re-election may not vote on Board decisions under this subsection.

(h) The election for the elected member of the ARC shall be held at the same election as for the Board of Directors, using the same procedure.

**5.7 Vacancies.** Vacancies on the Board caused by any reason shall be filled by vote of a majority of the remaining Directors, even though they may constitute less than a quorum, and each person so elected shall be a Director until his or her successor is duly elected. In the event a Director vacates his or her office or is removed from office prior to the holding of Candidates' Night during any year of his or her term, at the next succeeding annual election, a special election shall be conducted, as part of the annual election, to elect a successor to fill the office for the remainder of the term of that vacating member. Such special election shall be conducted in accordance with the provisions of Section 5.6 above. In the event of a vacancy on the Board of Directors occurring within six months of the next annual election of Directors, the remaining Directors, in their discretion, may determine to defer filling that vacancy until the next annual election of directors in which event the vacancy shall be filled following the nomination and election procedure set forth in Section 5.6, for the remainder of the term of the vacating or removed Director.

**5.8 Removal of Directors.** Any one or more of the Directors may be removed at any annual or special meeting of the Members (the notice of which annual or special meeting describes the proposed removal) by a majority of the votes cast at such meeting.

**5.9 Regular Meetings.** Regular meetings of the Board may be held at such time and place as shall be determined, from time to time, by a majority of the Directors, but at least one such meeting shall be held during each calendar quarter. Notice of regular meetings of the Board shall be given to each Director, personally or by mail, telephone or email, at least three days prior to the day of such meeting.

**5.10 Special Meetings.** Special meetings of the Board may be called by the President on three days' notice to each Director, given personally or by mail, telephone or email, which notice shall state the time, place and purpose(s) of the meeting. Special meetings of the Board must be called by the President or Secretary in like manner and on like notice on the written request of at least three Directors.

**5.11 Waiver of Notice.** Before, at or after any meeting of the Board, any Director may, in writing, waive notice of such meeting, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Director at any meeting of the Board shall constitute a waiver of notice by him of the time and place thereof. If all Directors are present at any meeting of the board, no notice shall be required and any business may be transacted at such meeting.

**5.12 Board Quorum.** At all meetings of the Board, a majority of the Directors shall constitute a quorum for the transaction of business, and the acts of the majority of the Directors present and voting at a meeting at which a quorum is present shall be the acts of the

Board. If, at any meeting of the Board there be less than a quorum present, the majority of those present may adjourn the meeting from time to time until a quorum is obtained.

**5.13 Fidelity Bonds.** The Board, at its sole discretion, may require any or all employees or community manager of the Foundation to furnish adequate fidelity bonds. The premiums on such bonds shall be a common expense of the Owners.

**5.14 Limitation on Terms of Office.** At each annual election commencing with the 1986 annual election, no person who has previously been elected to two consecutive two-year terms on the Board will be eligible to run for a third consecutive two-year term on the Board.

**5.15 Membership Requirement.** In order to serve on the Board of Directors, a person must be a Member of the Foundation, as defined in Section 2.1 above. If a person serving on the Board of Directors ceases to be a Member of the Foundation during his or her term of office, that person shall be deemed to have automatically resigned from the Board of Directors as of the date that they are no longer a Member of the Foundation and a replacement director may be appointed by the remaining members of the Board of Director (See Section 5.7 above).

## **ARTICLE VI OFFICERS**

**6.1 Designation.** The officers of the Foundation shall be a President, a Vice President, a Secretary and a Treasurer, all of whom shall be elected by and from the Board, and such assistant officers as the Board shall, from time to time, elect. Such assistant officers need not be members of the Board.

**6.2 Election of the Officers.** The officers of the Foundation shall be elected by the Board and shall hold office at the pleasure of the Board.

**6.3 Removal of the Officers.** Any officer may be removed, whether with or without cause, and a successor elected at any regular meeting of the Board or at any special meeting of the Board called for such purpose.

**6.4 President.** The President shall be the chief executive officer of the Foundation and shall preside at all meetings of the Members and of the Board. The President shall have all of the general powers and duties which are usually vested in the office of president of a non-profit corporation.

**6.5 Vice President.** The Vice President shall have all the powers and authority and per-



form all the functions and the duties of the President, in absence of the President performing the same, or because of the President's inability for any reason to exercise such powers and functions or perform such duties.

**6.6 Secretary.** The Secretary shall keep (or cause to be kept) all the minutes of the meetings of the Board and the minutes of all meetings of the Members; shall have charge of such books and papers as the Board may direct; and shall, in general, perform all the duties incident to the office of secretary of a non-profit corporation. The Secretary (or another person designated by the Board) shall compile and keep up to date at the Foundation office a complete list of Members, their number of votes held and their last known addresses as shown on the records of the Foundation. Such list shall also identify the Lot or Unit and address thereof owned by such Member. Such list shall be open to inspection by Members and other persons lawfully entitled to inspect the same at reasonable times during regular business hours.

**6.7 Treasurer.** The Treasurer shall have responsibility for Foundation funds and shall be responsible for the deposit of all monies and valuable effects in the name, and to the credit, of the Foundation in such depositories as may from time to time be designated by the Board.

## **ARTICLE VII COMMITTEES AND MANAGING AGENT**

**7.1 Architectural Review Committee.** There shall be an Architectural Review Committee (ARC) in accordance with the provisions of the Declaration. The Board may appoint an alternate or alternates as ARC members. Any alternates appointed shall serve only in an advisory capacity to the ARC and shall not be voting members, unless one or more of the regular members of the ARC is absent or has recused him/herself from a particular matter, in which even the alternate(s) may vote.

**7.2 Other Committees.** The Foundation shall also be served by such committees and task forces, performing such functions as shall, from time to time, be assigned by the Board. Such committees and task forces shall derive their authority from, and shall be responsible to, the Board.

## **ARTICLE VIII INDEMNIFICATION OF DIRECTORS; CONTRACTS**

**8.1 Indemnification.** The Foundation shall, to the fullest extent allowed by law, indemnify every Director, officer, manager and employee of the Foundation and their respective successors, personal representative and heirs against all loss, costs and expenses including counsel fees reasonably incurred by them in connection with any action, suit or proceeding to which they may be made a party by reason of their being or having been a

Director, officer or manager or employee of the Foundation.

## **ARTICLE IX FISCAL MANAGEMENT**

**9.1 Supplementary Provisions.** The provisions for fiscal management for and on behalf of all of the Members as set forth in the Declaration, shall be supplemented by the following provisions:

(a) The funds and expenditures by and through the Foundation shall be credited and charged to accounts and funds (including, without limitation, a Maintenance and Replacement Fund and a Capital Improvements Fund) under appropriate classifications as determined from time to time by the Board;

(b) The balance sheets and related statements of expenditures and revenues and the accounting records of the Foundation shall be audited from time to time (but not less frequently than once every three years) by a qualified independent accountant. The results of such audits shall be reported to the Members.

## **ARTICLE X AMENDMENTS TO BYLAWS**

**10.1 Amendment by Members.** Except as set forth in Section 10.2 below, these Bylaws may be amended only by a majority of the eligible votes cast at a meeting of the Members or at an annual or special election, provided that the applicable quorum requirements are met, and provided further that notice of the proposed amendment has been given in accordance with Section 4.4 above or subsection 5.6(e) above. Amendments to these Bylaws may be proposed only by the Board or by a petition signed by Members holding at least five percent (5%) of the total eligible votes, provided that such petition is presented to the Board at least forty-five days prior to the meeting of the Members or the annual or special election at which the proposed amendment is to be voted upon. No amendment made by members may be changed by the Board.

**10.2 Amendment by Board.** The Bylaws may be amended from time to time by the Board for the limited purpose of causing these Bylaws to comply with applicable requirements so that residences within the Property may be eligible for mortgage loans which are guaranteed by the Veterans Administration, insured by the Federal Housing Administration and/or acceptable for sale in the secondary mortgage market, provided that the Board determines that the applicable amendment is reasonable under the circumstances.

## **ARTICLE XI**

## **ANNEXATION OF PROPERTY**

**11.1 Approval by Members.** Real property may be added to the scheme of the Declaration and subjected to the jurisdiction of the Foundation upon approval by two-thirds (2/3) of the eligible votes of all members (see Declaration Article 8, Section 3 (b)) at a meeting of the Members or at an annual or special election.

## **ARTICLE XII MISCELLANEOUS PROVISIONS**

**12.1 Non-profit Status.** The Foundation is not organized for profit. No Member, Director or officer shall receive any profit from the operation of the Foundation, and in no event shall any part of the funds or assets of the Foundation be paid as salary or compensation to any Member, Director or officer. Notwithstanding the foregoing, however, (i) reasonable compensation may be paid to any Member, Director or officer for services rendered in any other capacity for the benefit of the Foundation, and (ii) any Member, Director or officer may, from time to time, be reimbursed by the Foundation for his actual and reasonable expenses incurred in connection with the administration of the affairs of the Foundation.

**12.2 Authorized Signatures.** Unless otherwise designated by the Board, the persons who shall be authorized to execute any and all documents on behalf of the Foundation shall be the President or Vice President, Treasurer, and the Secretary or Assistant Secretary of the Foundation.

**12.3 Examination of Books.** Each Member and his first mortgagee shall be permitted to examine the books of the Foundation at reasonable times and upon reasonable notice, in accord with applicable law.


**12.4 Gender.** Words used in these Bylaws, regardless of the gender specifically used, shall be deemed and construed to include and mean any other gender (masculine, feminine or neuter) as the context requires.

**12.5 Conflicts.** In the event of any conflicts between the provisions of these Bylaws and the provisions of the Declaration, the provisions of the Declaration shall be deemed to control.

**12.6 Definitions.** Terms which are not defined in these Bylaws but which are defined in the Declaration shall have the same meanings herein as in the Declaration.

**12.7 New Bylaws.** These Bylaws supersede all previous bylaws of the Foundation, as amended.

Adopted Nov. 8, 2017

By:   
Secretary