

**BYLAWS OF
THE
CALIFORNIA TRAVEL AND TOURISM COMMISSION
A California Nonprofit Mutual Benefit Corporation**

Amended as of April 28, 2009

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A California Nonprofit Mutual Benefit Corporation
(as amended through April 28, 2009)**

**ARTICLE 1
Recitals and Purpose**

Section 1. Name of Corporation. The name of this Corporation shall be the California Travel and Tourism Commission, and it shall sometimes hereinafter be referred to as the “Corporation.”

Section 2. Corporation is a Private, Nonprofit Entity. In accordance with the California Tourism Marketing Act (Government Code §§ 13995 *et seq.* (the Act)¹), the Corporation has been formed pursuant to the California Nonprofit Mutual Benefit Corporation Law as a nonprofit mutual benefit corporation. The Corporation is not part of state government, the procedures adopted from time to time by the Corporation shall not be subject to the Administrative Procedure Act (§§ 11340, *et seq.*), and the Corporation shall not in any manner be construed to be a public entity. [§ 13995.42(a)].

Section 3. Specific Purpose. Pursuant to, and as more specifically set forth in, the Act, the purpose for which the Corporation is organized is to increase the number of persons traveling to and within California. [§ 13995.41]. More specifically, it is the purpose of the Corporation to market and promote travel and tourism to and within California in order to expand and strengthen the travel and tourism industry in the state by utilizing generic promotional methods and techniques which will mutually benefit travel and tourism businesses of all sizes and categories, and thereby enhance the overall economy of the State of California.

**ARTICLE II
Principal Office**

Section 1. Location of Principal Office. The principal office of the Corporation shall be located at such place within the State of California as the board may from time to time designate by resolution.

Section 2. Other Offices. The board may at any time establish branch or subordinate offices at any place or places where the Corporation is qualified to conduct its activities.

¹ For purposes of clarity and consistency with the enabling legislation which underlies the Corporation, cross-references will be made throughout these Bylaws to the applicable provisions of the California Tourism Marketing Act. These cross-references will be indicated by Government Code sections in [], and they are not intended to be part of the actual text of the Bylaws. Unless otherwise noted, all statutory references in these Bylaws are to the Government Code.

ARTICLE III
Members

Section 1. Corporation Without Members. The Corporation shall have no members. Election and appointment of Commissioners shall be as set forth in the Act by assessed businesses as defined therein. Unless otherwise provided herein or in the California Nonprofit Mutual Benefit Corporation Law, any action which would otherwise require approval by a majority of all members or approval by the members shall require only approval of the board of Commissioners. All rights which would otherwise vest in the members under the California Corporations Code or otherwise by law shall vest in the Commission.

ARTICLE IV
Board of Directors

Section 1. General Corporate Powers. Subject to the provisions and limitations of the Act, the California Nonprofit Mutual Benefit Corporation Law, and any other applicable laws, the Corporation's activities and affairs shall be managed, and all corporate power shall be exercised, by and under the direction of a "board of commissioners" (sometimes hereinafter referred to as the "**Commission**"), which shall function as the board of directors for purposes of the California Nonprofit Mutual Benefit Corporation Law. [§ 13995.40(a)].

Section 2. Specific Powers. Without prejudice to the general powers set forth in Section 1 of this article, the Commission shall have the power to:

- (a) Exercise all powers vested in the Commission under the laws of the State of California.
- (b) Except to the extent provided in the Act, remove all officers of the Corporation and other Corporation employees; prescribe any powers and duties for such persons that are consistent with law, the Articles of Incorporation, and these Bylaws; and fix corporation employee compensation.
- (c) Appoint such agents and employ such other employees, including attorneys and accountants, as it sees fit to assist in the operations of the Corporation, and to fix their duties and to establish their compensation.
- (d) Adopt and establish rules and regulations governing the affairs and activities of the Corporation, and take such steps as they seem necessary for the enforcement of such rules and regulations; provided notice and hearing are provided as more particularly set forth in Corporations Code § 7341.

- (i) Not later than six months following the initial referendum, [see §§ 13995.20(i), 13995.60(a)], the Commission shall adopt procedures concerning the operation of the Commission in order to provide due process rights for assessed businesses.
 - (ii) In the event that the Commission fails to adopt the procedures described in subdivision (i) within the specified timeframe, the Secretary of Business, Transportation and Housing shall adopt procedures for use by the Commission until the Commission adopts its own procedures. [§§ 13995.42(b), (c)].
- (e) Enforce all applicable provisions of these Bylaws.
- (f) Contract for and pay premiums for insurance and bonds (including indemnity bonds) which may be required from time to time by the Corporation.
- (g) Pay all taxes and charges which are or would become a lien on any portion of the Corporation's real or personal property.
- (h) Contract for and pay for construction or reconstruction of any portion or portions of the Corporation's property which have been damaged or destroyed and which are to be rebuilt.
- (i) Except to the extent provided in the Act, delegate its duties and powers hereunder to the officers of the Corporation or to committees established by the Commission, subject to the limitations expressed in Article VI hereof.
- (j) Subject to the provisions of the Act, see [§ 13995.45(a)], prepare budgets and maintain a full set of books and records showing the financial condition of the affairs of the Corporation in a manner consistent with generally accepted accounting principles, and prepare an annual report, a copy of which shall be delivered to each requesting assessed business.
- (k) Appoint the committees prescribed in these Bylaws and such other committees as it deems necessary from time to time in connection with the affairs of the Corporation in accordance with Article VI hereof.
- (l) Fill vacancies to the extent, and in the manner, provided in these Bylaws.
- (m) Open bank accounts and borrow money on behalf of the Corporation and designate the signatories to such bank accounts. Furthermore, if the Commission believes that the administration of its annual marketing plan will be promoted thereby, the Commission may borrow money, with or

without interest, to carry out the provisions of the marketing plan, and it may hypothecate anticipated assessment collections for such purpose. [§ 13995.48]

- (n) Bring and defend actions on behalf of the Corporation to protect the interests of the Corporation, as such, so long as the actions are pertinent to the operations of the Corporation.
- (o) With the Office of Tourism (also popularly referred to as the Division of Tourism, within the Business, Transportation and Housing Agency), [see § 13995.20(g)], be the official state representatives of California tourism. [§ 13995.40(k)].
- (p) Lease space from the Office of Tourism. [§ 13995.40(j)].
- (q) Appointment of Honorary Commissioners as prescribed in these Bylaws.

Section 3. Conditions on Powers. Commissioners shall comply with the requirements of the Political Reform Act of 1974 [§ 13995.40(o)], and all Commission and committee meetings shall be subject to the requirements of the Bagley-Keene Open Meeting Act (§§ 11120, et seq.). [§ 13995.40(p)].

Section 4. Number and Qualifications. The board of commissioners shall consist of 37 commissioners and *ex officio* commissioners comprising the following [§ 13995.40(b)]:

- (a) The Secretary of Business, Transportation and Housing (“**Secretary**”), who shall serve as chairperson.²
- (b) Twelve commissioners, who are professionally active in the tourism industry, representing each of the twelve officially designated tourism regions and diverse elements of the industry, shall be appointed by the Governor (**Appointed Commissioners**). Appointed Commissioners are not limited to or required to represent assessed businesses, as defined in § 13995.20(b). [§ 13995.40(b)(2)].
- (c) Twenty-four elected commissioners, as defined in § 13995.20(d) (**Elected Commissioners**), at least one of whom is a representative of a travel agency or tour operator that is an assessed business, as defined in § 13995.20(b). Elected Commissioners are limited to and required to represent assessed businesses, as defined in § 13995.20(b) or a trade association representing such businesses.

² Note that the Secretary of Business, Transportation and Housing refers to the Secretary of California’s Business, Transportation and Housing Agency, and not to the corporate office of “secretary.” The corporate office of secretary is filled by the executive director at such time as an executive director has been selected [see § 13995.40(q)]. See, also, Article VIII.

- (d) No more than six Honorary Commissioners that are determined beneficial to the tourism industry by the Board of Commissioners and can provide incomparable service to the Corporation, whether or not they are a past member of the Commission or industry related.

Section 5. Selection of Commissioners.

- (a) Appointment of Appointed Commissioners. Appointed Commissioners shall be appointed by the Governor.
- (b) Election of Elected Commissioners. Elected Commissioners shall be elected by industry category, [see § 13995.20(e)] in a referendum, [see § 13995.20(i)]. Regardless of the number of ballots received for a referendum, the nominee for each Elected Commissioner position with the most weighted votes from assessed businesses within that industry category shall be elected Commissioner. The number of Elected Commissioners elected from each industry category shall be determined by the weighted percentage of assessments from that industry category. Assessed businesses shall vote only for Elected Commissioners representing their respective industry categories. [§§ 13995.40(d), (n)]. Notwithstanding the foregoing, nothing in this subdivision or in any other provision of these Bylaws shall be deemed to constitute any assessed business as a “member,” as defined in § 5056.
- (c) Appointment of Honorary Commissioners. Honorary Commissioners shall require unanimous approval by the Nominating Committee and obtain a majority vote of the Board of Commissioners for approval.

Section 6. Terms of Office.

- (a) Length of Terms. Except for the original Commissioners, all Commissioners shall serve four-year terms. One-half of the Commissioners originally appointed or elected shall serve two-year terms, while the remainder shall serve four-year terms. Every two years thereafter, one-half of the Commissioners shall either be appointed by the Governor or elected by referendum, as appropriate, to four-year terms. [§ 13995.40(g)]. All Honorary Commissioners shall serve two-year terms from the date of their appointment.
- (b) Number of Terms. Except for the Secretary, no Commissioner shall serve for more than two consecutive terms (whether two-year or four-year). [§ 13995.40(f)]. Honorary Commissioners shall not have a maximum number of terms.

- (c) Expiration of Terms.
- (i) Each elected Commissioner, including a Commissioner elected or appointed to fill a vacancy, shall hold office from January 1 of the year in which such term is to begin until the latter of December 31 of the year in which such Commissioner's term expires or until a successor has been elected or appointed, qualified, and installed.
 - (ii) Each Appointed Commissioner's term shall expire on December 31st of the year in which the term for the position to which such Commissioner was appointed expires, unless reappointed by the Governor.
 - (iii) With respect to the original Commissioners elected or appointed to the Commission, two (2) year terms shall be deemed to run until December 31, 1999 and four (4) year terms shall be deemed to run until December 31, 2001.
 - (iv) Honorary Commissioner terms shall expire two-years from the date of their appointment, unless reappointed by unanimous approval of the Nominating Committee and majority vote of the Board of Commissioners.
- (d) Term Limit. A Commissioner may not serve more than two (2) consecutive terms [13995.40(g)]. The phrase "two consecutive terms" shall not include partial terms. The Commission deems a term of less than two (2) years a "partial term." Terms are not consecutive if at least two (2) years have expired between terms. Honorary Commissioners shall have no term limits.

Section 7. Removal of Commissioners and Filling
Vacancies on the Board of Commissioners.

- (a) Vacancies, Generally. A vacancy or vacancies on the Commission shall be deemed to exist on the occurrence of any of the following: (i) the death or resignation of a Commissioner, (ii) the removal of an Elected Commissioner pursuant to subsection (c) of this section, (iii) an increase in the number of Commissioners authorized pursuant to the Act, (iv) the failure of assessed businesses at any referendum to elect the requisite number of Commissioners; or (v) the failure of the Governor to appoint an Appointed Commissioner upon the expiration of the term of an Appointed Commissioner. In addition, the Commission may, by a majority vote, declare vacant the office of any Elected Commissioner who fails or ceases to meet any required qualification of office that was in effect at the beginning of his or her term of office, such as an Elected Commissioner who has changed industry category [§ 13995.20(f)] while serving as an Elected Commissioner, is no longer within the industry category to which

elected, or is no longer associated with an assessed business [§ 13995.20)g)]; provided, however, that an Elected Commissioner may not be removed solely due to moving to another business within the same industry category within which such person was initially elected; and provided further that the end of the term of service of any Elected Commissioner under this provision shall occur within 120 days of such majority vote, or at the next regularly scheduled meeting where adequate notice can be had, whichever is earlier.

- (b) Resignation of Commissioners. Any Commissioner may resign, which resignation shall be effective on giving written notice to the Secretary or to the Commission, unless the notice specifies a later time for the resignation to become effective.

- (c) Authority of the Commission, Secretary, to Remove Elected Commissioners. The Commission may remove Elected Commissioners and declare his or her office vacant if he or she (i) has been declared of unsound mind by a final order of court, (ii) has been convicted of a felony, (iii) has been found by a final order or judgment of any court to have breached any duty under Corporations Code §§ 7230 through 7238 (relating to the standards of conduct of directors), or (iv) has failed to attend, without sufficient excuse, two or more consecutive regular meetings of the Commissioners which have been duly noticed in accordance with the Bylaws and the Bagley-Keene Open Meeting Act. The Secretary may remove any Elected Commissioner following a hearing at which the Elected Commissioner is found guilty of abuse of office or moral turpitude. [§ 13995.40(e)].

- (d) Filling of Vacancies.
 - (i) In the event that there is a vacancy in the position of any Appointed Commissioner, such vacancies on the commissioners may be filled by the Governor.

 - (ii) Any vacancy in the position of Elected Commissioner may be filled by the affirmative vote of a majority of the remaining Commissioners then in office at a duly held meeting. Such Commissioner shall meet the requirements of Article IV, Section 4.

 - (iii) Honorary Commissioner shall be held to the same standard as appointed and elected officials.

Section 8. Compensation. Commissioners shall not be entitled to compensation for serving as Commissioners, although they may be reimbursed for reasonable expenses actually incurred while on authorized Commission business.

[§ 13995.40(m)]. Elected Commissioners may not be employees of the Commission or receive remuneration for services rendered to the Commission, directly or indirectly.

- a) Honorary Commissioners shall not be entitled to compensation for serving as an Honorary Commissioner, although they may be reimbursed for reasonable expenses actually incurred while on authorized Commission business.

ARTICLE V

Commission Meetings

Section 1. Meetings Subject to Bagley-Keene Open Meeting Act. All meetings of the Commission shall be subject to the requirements of the Bagley-Keene Open Meeting Act (§§ 11120, et seq.). [§ 13995.40(p)]. The provisions set forth below in this Article V are intended to comply fully with the provisions of the Bagley-Keene Open Meeting Act, but in the event that there is any conflict between any provision of these Bylaws and any provision of that act, the provision(s) of the Bagley-Keene Open Meeting Act shall take precedence. All meetings of the Commission shall be open and public, and all persons shall be permitted to attend such meetings; provided, however, that the Commission shall be entitled to adjourn at any time for purposes of convening in executive session as provided in Section 9 of this Article V. Honorary Commissioners may participate in all aspects of commission meetings and receive all board-meeting documents, with the exception of closed session business. Honorary Commissioners must obtain written permission from the Executive Director to participate and receive in closed session business. Honorary Commissioners shall participate in non-voting roles, to support priorities and programming and shall not be considered as part of quorum requirements.

Section 2. Place of Meetings; Meetings by Teleconference.

- (a) Place of Meetings. Regular and special meetings of the Commission may be held at any place within the State of California [§ 13995.40(1)] as stated in the notice of the meeting.
- (b) Meetings by Teleconference. Any meeting, regular or special, open or closed, may be held by teleconference if the convening at one location of a quorum of the Commission is difficult or impossible. For purposes of this subdivision, “teleconference” means a conference of individuals in different locations, connected by electronic means, through either audio or video, or both. Any such meeting may be held by teleconference only if all of the following conditions are satisfied:
 - (i) The teleconferenced meeting shall comply with all requirements of the Bagley-Keene Open Meeting Act applicable to teleconferenced meetings.

- (ii) Except for any portion of a meeting held in closed session pursuant to Section 9, the meeting shall be open and audible to the public at the location specified in the notice of the meeting.
- (iii) Each teleconference location shall be identified in the notice of the meeting and shall be accessible to the public.
- (iv) All votes taken during a teleconferenced meeting shall be by rollcall.
- (v) At least one Commissioner shall be physically present at the location specified in the notice of the meeting.

Section 3. Regular Meetings. Regular meetings of the Commission shall be held at least three times per year. The date, time, and place of such regular meetings shall be fixed by the Commission annually.

Section 4. Special Meetings. Special meetings of the Commission for any purpose may be called at any time by the Chairperson, Executive Committee, executive director, or by written request of five (5) or more Commissioners filed with the Commission's executive director, [see § 13995.43(a)]. In the case of Commissioner-requested special meeting, the executive director shall give notice of such meeting within five days of such request. If the executive director shall refuse or fail to give notice of such meeting, the chairperson, any vice chairperson, or any other officer designated by the Commissioners making the request may give such notice. The date fixed for such meeting shall not be less than ten nor more than 20 days from the date of notice.

Section 5. Notice of Meetings.

- (a) Manner and Timing of Giving Notice to Commissioners. Notice of the time and place of regular and special meetings of the Commission shall be given to each Commissioner by one of the following methods: (i) by personal delivery of written notice, (ii) by first-class mail, postage prepaid, (iii) by telephone communication, either directly to the Commissioner or to a person at his or her home or office who would reasonably be expected to communicate such notice promptly to the Commissioner, (iv) by voice messaging system or other system or technology designed to record and communicate messages, including the recipient's designated voice mail box or address on such a system, (v) by facsimile, electronic mail, or other electronic device, or (vi) by telegraphic transmission with charges prepaid. All such notices shall be given or sent to the Commissioner's address or telephone, telegraphic, facsimile, or other electronic transmission number or address as shown on the records of the Corporation. Notice shall be deemed to have been given at the time when delivered personally in writing or by telephone, deposited in the mail, or sent by telegraphic or facsimile transmission, voice messaging, electronic mail, or other electronic device.

Notices sent by first-class mail shall be deposited into a United States mailbox at least four days before the final date upon which notice must be given. Notices given by personal delivery, telephone, voice messaging, electronic mail, or other electronic device, telegraph, or facsimile shall be delivered, telephoned, transmitted, or faxed no later than the final date on which notice must be given. Notice of a regular meeting shall be given no later than ten (10) days prior to the date of such meeting, and notice of a special meeting shall be given at least ten (10) but not more than twenty (20) days prior to the date of such meeting.

- (b) Manner and Time of Giving Notice to the Public. The Commission shall provide notice of its meeting or meetings to any person who requests such notice in writing. Notice shall be given at least ten days in advance of the meeting, as provided in the Bagley-Keene Open Meeting Act, unless a shorter time period is permitted by law.
- (c) Notice Contents. Each notice shall state the date, time, place of the meeting, and it shall include the name, address, and telephone number of any person who can provide further information prior to the meeting. In the event of a teleconferenced meeting, the notice shall identify each teleconference location. However, the notice does not need to include a list of witnesses expected to appear at the meeting. The notice requirement shall not preclude the acceptance of testimony at meetings from members of the public; provided, however, that no action is taken by the Commission at the same meeting on matters brought before it by

members of the public unless such matters were included in the agenda for the meeting. The notice shall also include a specified agenda for the meeting, which shall include the items of business to be transacted or discussed, and no item shall be added to the agenda subsequent to the provision of the notice.

Section 6. Quorum Requirements. Twelve of the authorized number of Commissioners shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the Commissioners present at a meeting duly held at which a quorum is present shall be regarded as the act of the Commission, subject to the provisions of the Act and of the California Nonprofit Mutual Benefit Corporation Law. A meeting at which a quorum is initially present may continue to transact business, notwithstanding the withdrawal of Commissioners below a quorum, if any action taken is approved by at least a majority of the required quorum for that meeting.

Section 7. Opportunity for Public to Address Commission. Except as otherwise provided in § 11125.7, the Commission shall provide an opportunity for members of the public to directly address the Commission on each agenda item before or during the Commission's discussion or consideration of the item. This requirement shall not apply to an agenda item that has already been considered by a committee composed exclusively of Commissioners at a public meeting where interested members of the public were afforded the opportunity to address the committee on the item, before or during the committee's consideration of the item, unless the item has been substantially changed since the committee heard the item, as determined by the Commission. Also, this requirement shall not apply to closed sessions held pursuant to Section 8 of this Article V.

The Commission may adopt reasonable regulations to ensure that the intent of this section is carried out, including, but not limited to, regulations limiting the total amount of time allocated for public comment on particular issues and for each individual speaker. If no regulations or rules are adopted or do not address a given situation, the chairperson, vice chairperson or Commissioner presiding over the meeting shall be entitled to establish reasonable procedures at any meeting as required for orderly conduct of the meeting.

Section 8. Closed Sessions. Nothing in these Bylaws shall be construed to prevent the Commission from holding closed sessions during a regular or special meeting to consider the appointment, employment, or dismissal of an employee or to hear complaints or charges brought against that employee by another person or employee unless the employee requests a public hearing. Any such closed session shall be held only as provided in § 11126(a). Further, nothing in these Bylaws shall be construed to prevent the Commission from holding closed sessions, based on the advice of its legal counsel, to confer with, or receive advice from, its legal counsel regarding pending litigation (as defined in § 11126(e)) when discussion in open session concerning those matters would prejudice the position of the Commission in the litigation. The Commission may also hold closed sessions as may be otherwise permitted pursuant to § 11126. A majority of the Commissioners present, whether constituting a quorum, may

adjourn for purposes of convening in executive session. However, the topic(s) to be considered in executive session must first be announced, in general terms, in open session and in the agenda.

Section 9. Continuance. Any meeting being held, and any hearing being held, or noticed or ordered to be held by the Commission at any meeting, may, by notice of continuance, be continued or recontinued to any subsequent date with respect to which notice is provided as set forth in the Bagley-Keene Open Meeting Act. A copy of the notice of continuance shall be conspicuously posted on or near the door of the place where and when the meeting was held or to be held; provided that if the hearing is continued to a time less than 24 hours after the time specified in the notice of the meeting, a copy of the notice of continuance of meeting shall be posted immediately following the meeting at which the declaration of continuance was adopted or made.

ARTICLE VI **Committees**

Section 1. Committees Generally. Except to the extent otherwise provided in this Article VI, the Commission from time to time may, by resolution adopted by a majority of the Commissioners then in office, designate one or more committees, each consisting of two or more Commissioners, to serve at the pleasure of the Commission. The Commission may also establish from time to time any other committees it deems appropriate and may appoint non-Commissioners to the committees. [§ 13995.47(b)]. If the Commission or Executive Committee does not appoint members to a committee or fill a vacancy on any committee, with the exception of the Executive Committee, the Secretary may appoint members to any committee, with the exception of the Executive Committee. Honorary Commissioners may participate on all committees with the exception of Executive Committee and Nominating Committee. Honorary Commissioners shall participate in non-voting roles, to support priorities and programming.

Section 2. Industry Marketing Advisory Committees. The Commission shall establish one or more Industry Marketing Advisory Committees, which may include noncommissioners as members. [§ 13995.47(a)]. The role of the Industry Marketing Advisory Committees is solely advisory in nature, and such committees shall be structured so that, in the aggregate, they include, to the maximum extent feasible and reasonable, representatives from every geographic region of the state and every segment of the state's travel and tourism industry. The Commission shall establish procedures for the operation of the Industry Marketing Advisory Committees that will provide appropriate opportunity for every geographic region of the state and every segment of the travel and tourism industry to offer advice and recommendations to the Commission relative to the development of its written marketing plan pursuant to the Act.

Section 3. Marketing Committee. The Commission shall establish a Marketing Committee, which shall consist of two or more Commissioners and the executive director, who shall sit *ex officio*, without vote. The Marketing Committee shall

bear the primary responsibility each year for initiating and overseeing the development and implementation of the annual marketing plan, subject to the ultimate overall approval of the Commission. The Marketing Committee shall also have such other responsibilities as the Commission might from time to time designate.

Section 4. Executive Committee. The Executive Committee shall consist of the Secretary, such Appointed Commissioners and Elected Commissioners as elected by the Commission no less frequently than every two years, as well as the executive director who shall sit *ex officio*, without vote. The number of Commissioners serving on the Executive Committee shall be as established from time to time by the Commission. The Executive Committee shall be a Committee of the Board, and is hereby empowered to act on the Commission's behalf without having to obtain the ultimate approval of the full Commission. More specifically, the Executive Committee (and other Committees of the Board comprised solely of Commissioners, if any, established by the Commission) shall have all the authority of the Commission with respect to matters within their area of assigned responsibility, except that no committee, regardless of Commission resolution, may:

- (a) Fill vacancies on the Commission or on any committee which has been delegated any authority of the Commission.
- (b) Amend, repeal, or adopt Bylaws or Articles of Incorporation.
- (c) Amend or repeal any resolution of the Commission unless the express terms of the resolution authorizing such amendment or repeal by a committee.
- (d) Appoint any other Committees of the Board or the member of those committees.
- (e) Expend Commission funds to support a nominee for Commissioner after there are more people nominated for director than can be elected.
- (f) Approve or amend marketing plan.
- (g) Approve any transaction (i) to which the Commission is a party and one or more Commissioners have a material financial interest, (ii) between the Commission and one or more of its Commissioners, or (iii) between the Commission and any person in which one or more of the Commission's Commissioners have a material financial interest.
- (h) Exercise any power granted to the Commission pursuant to the Act.
- (i) Call special meetings of the Commission.

Section 5. Nominating Committee. A Nominating Committee shall be elected at least every two years by the Commission to nominate one or more qualified persons for each open elected Commissioner position, positions on the executive committee and officers. Subcommittees for each industry category may be established to recommend nominees within such category. The Nominating Committee may, but is not required to, convene to recommend appointments to vacant positions.

Section 6. Meetings and Actions of Committees. Meetings and actions of committees shall be governed by, and held and taken in accordance with, the provisions of Article V of these Bylaws concerning meetings of Commissioners, with such changes in the context of those Bylaws as are necessary to substitute the committee and its members for the Commission and its members, except that the time for regular meetings of committees may be determined either by resolution of the Commission or by resolution of the committee. Special meetings of committees may also be called by a committee chairperson or executive director. Notice of special meetings of committees shall also be given pursuant to the Bagley-Keene Open Meeting Act to any and all alternates members who shall have the right to attend all meetings of the committee and all Commissioners. Minutes shall be kept of each meeting of each committee and shall be filed with the Corporation's records. Not more than 20 days following the conclusion of each meeting of any committee, the chairperson of the committee shall submit minutes of such meeting to the secretary, who shall provide a copy of such minutes to all members of the committee and all Commissioners. The Commission may adopt rules not inconsistent with the provisions of these Bylaws and the Bagley-Keene Open Meeting Act for the government of any committee. A quorum for committee action shall be thirty three percent (33%) or more of the authorized members of such committee.

ARTICLE VII

Officers

Section 1. Officers. The officers of the Corporation shall be the Secretary, acting as chairperson, (§ 13995.40(b)(1)) – one or more vice chairpersons, a chief financial officer, and a secretary (who shall be the executive director [see § 13995.40(g)]). The Corporation may also have, at the discretion of the Commission, such other officers as may be appointed in accordance with the provisions of Section 3 of this Article VII. No person may hold more than one office simultaneously.

Section 2. Election of Officers. The Secretary shall be the chairperson. [§ 13995.40(b)(1)]. One or more vice chairpersons shall be elected by the Commission from among the Elected Commissioners. [§ 13995.40(i)]. The executive director shall serve as secretary to the Commission, a nonvoting position.³ [§ 13995.40(g)]. Officers shall be elected no less frequently than every two years.

Section 3. Other Officers. The Commission may appoint, and may authorize the chairperson or any vice chairperson to appoint, any other officers that the Corporation

³ See Article VIII.

may require. Each officer so appointed shall have the title, hold office for the period, have the authority, and perform the duties specified in these Bylaws or determined by the Commission.

Section 4. Removal of Officers. Any officer other than the Secretary may be removed, with or without cause, either; a) by a two-thirds vote of the Commission at any regular or special meeting; or b) by the Secretary.

Section 5. Resignation of Officers. Any officer other than the Secretary may resign at any time by giving written notice to the Commission. The resignation shall take effect as of the date the notice is received or at any later time specified in the notice and, unless otherwise specified in the notice, the resignation need not be accepted to be effective.

Section 6. Vacancies. A vacancy in any office due to the death, resignation, removal, disqualification, or other cause shall be filled as follows:

- (a) If any office of vice chairperson is vacant, the vacancy shall be filled from among the Elected Commissioners by vote of the Commission. [§ 13995.40(i)].
- (b) Other vacancies shall be filled by vote of the Commission.

Section 7. Chairperson. The chairperson shall preside at Commission meetings, and, except as otherwise provided by law or by the Act, shall exercise and perform such other powers and duties as the Commission may assign from time to time.⁴

Section 8. Vice Chairperson(s). In the absence or disability of the chairperson, a vice chairperson, or in their absence, a Commissioner appointed by the Commission at such meeting to serve in such capacity, shall perform all of the duties of the chairperson; when so acting, and except as otherwise provided by law or by the Act, such vice chairperson shall have all the powers of, and be subject to all the restrictions upon, the chairperson except for the removal of officers. The vice chairperson(s) shall have such other powers and perform such other duties as from time to time may be prescribed by the Commission or the Bylaws.

Section 9. Chief Financial Officer. The chief financial officer shall keep and maintain, or cause to be kept and maintained, adequate and correct books and accounts of the corporation's properties and transactions. The chief financial officer shall send or cause to be given to the Commissioners and to assessed businesses such financial statements and reports as are required by the Act or otherwise by law, by these Bylaws, or by the Commission to be given. The books of account shall be open to inspection by any Commissioner or duly authorized agent at all reasonable times.

⁴ Corporations Code § 7213(a) provides that the chairperson is the "general manager and chief executive officer of the corporation, unless otherwise provided in the articles or bylaws." See Article VIII pertaining to duties of the executive director vis-à-vis the Secretary.

Section 10. Secretary. The executive director as secretary shall keep or cause to be kept, at the Corporation's principal office, a book of minutes of all meetings, proceedings, and actions of the Commission and of committees. The minutes of meetings shall include the time and place of holding, whether the meeting was regular or special and, if special, how authorized, the notice given, and the names of those present. The secretary shall keep or cause to be kept, at the principal office in California, a copy of the articles of incorporation and the Bylaws, as amended to date.

ARTICLE VIII **Executive Director**

Section 1. Executive Director. The Corporation shall be administered by an executive director. That individual must be a tourism industry marketing professional, recommended by a vote of the Commissioners and approved by the Governor. The executive director shall serve at the pleasure of both the Commission and the Governor. [§ 13995.43(a)].

Section 2. Duties. The executive director shall be the primary administrator of the day-to-day operations of the Corporation. The executive director shall report to and receive overall guidance from the Commission, and he or she shall implement the Commission's annual tourism marketing plan. The executive director shall report to the Secretary for day-to-day managerial and financial responsibilities. [§ 13995.43(b)].

Section 3. Director of Office of Tourism. The executive director shall serve simultaneously as the director of the Office of Tourism [see § 13995.20(g)], with the title of Deputy Secretary for Tourism of the Business, Transportation and Housing Agency, and that individual shall be an exempt employee, employed by the state. [§ 13995.43(c)]. So long as the Corporation is in existence, the only Director of the Office of Tourism shall be the executive director of the Commission. Notwithstanding any other provision of law, the executive director may supervise both employees of the Commission and employees of the Office of Tourism, notwithstanding the fact that the Commission's employees are not employees of the state. [§ 13995.43(c)].

Section 4. Salary and Benefits. The salary and benefits of the executive director shall be determined by the Commission, and approved by the Secretary, based upon industry standards for a director of a marketing budget of similar size. The entire salary and all benefits of the executive director shall be paid from assessments collected by the Corporation. [§ 13995.43(d)].

ARTICLE IX **Annual Marketing Plan**

Section 1. Annual Marketing Plan. See, § 13995.45. The Commission shall annually prepare, or cause to be prepared, a written marketing plan. In developing the plan, the Commission shall utilize each year, as appropriate, the advice and

recommendations of the staff of the Office of Tourism, as well as those of the industry marketing advisory committee or committees established pursuant to Section 1 of Article VI hereof. [§ 13995.45(a)]. The Commission may amend the annual marketing plan at any Commission meeting, and all expenditures shall be consistent with the annual marketing plan.

Section 2. Contents of Annual Marketing Plan. The annual marketing plan shall promote travel to and within California, and it shall include, but not be limited to, the following: [§ 13995.45(b)].

- (a) An evaluation of the previous year's budget, activities, and key learnings.
- (b) Review of California tourism trends, conditions, and opportunities.
- (c) Marketing strategies, objectives, targets, and tactics.
- (d) Target audiences for tourism marketing expenditures.
- (e) Budget for the current year.

Section 3. Review by Destination Marketing Organizations. Before final adoption of the plan, the Commission shall provide each known destination marketing organization in California notice of the availability of the proposed marketing plan and suitable opportunity, which may include public meetings, to review the plan and to comment upon it. The Commission shall take into consideration any recommendations submitted by the destination marketing organizations, except that the final determination as to the nature, extent, and substance of the plan shall in all respects rest solely within the ultimate discretion of the Commission, except as provided in Section 4 of this Article VIII. [§ 13995.45(c)].

Section 4. Approval of Annual Marketing Plan by Secretary. The final adoption of the annual marketing plan shall be subject to the review and approval of the Secretary of. However, any decision of the Secretary related to the plan may be overridden by a vote of three-fifths or more of the Commissioners then in office. [§ 13995.45(d)]. In the event that the Secretary does not act either to approve or to disapprove a particular marketing plan within 30 days of its submission, such inaction shall be deemed to constitute a disapproval of the plan, and the Commission may approve such plan by a vote of three-fifths or more of the Commissioners then in office.

ARTICLE X

Finances and Budget

Section 1. Fiscal Year. The fiscal year of the Corporation shall be as set by the Commission from time to time.

Section 2. Accounts. The Commission shall maintain any accounts it shall deem necessary to carry out the purposes of the Corporation.

Section 3. Checks. All checks or demands for money and notices of the Corporation, for an amount greater than \$5,000, shall be signed by the executive director and by such other officer(s) or such person(s) as the Commission may from time to time designate. Checks in an amount less than \$5,000 can be signed by the executive director or such other officers of the Commission. Any checks made payable to the Executive Director shall be signed by any two of the following: the chairperson, a vice chairperson, the chief financial officer, or any person(s) so designated by the Commission for such purpose.

Section 4. Contracts with Nonassessed Businesses. The Commission may, by written contract, accept a voluntary assessment from any person that is not an assessed business. Any such contract will be subject to the conditions and restrictions provided in the Act. [§ 13995.49].

Section 5. Annual Budget. The Commission's annual budget shall be subject to the review and approval of the Secretary. However, any decision of the Secretary related to the budget may be overridden by a vote of three-fifths or more of the Commissioners then in office. [§ 13995.44(a)(2)]. In the event that the Secretary does not act either to approve or to disapprove a particular budget within 30 days of its submission, such inaction shall be deemed to constitute a disapproval of the budget, and the Commission may approve such budget by a vote of three-fifths or more of the Commissioners then in office.

Section 6. Books, Records, and Financial Statements.

- (a) Maintenance of Books and Records. The Corporation shall keep (i) correct and complete books and records of account including financial statements and quarterly balance sheets, and (ii) written minutes of the proceedings of the Commission and committees. The Commission shall also maintain a report on the percentage assessment allocation between industry categories and industry segments. [See, §§ 13995.20(e), (f)]. This report shall be updated every time the assessment allocations are amended, and the report shall be made available to any assessed business. [§ 13995.44(b)].
- (b) Annual Report to Assessed Businesses. The Commission shall annually provide to all assessed businesses a report on the activities and budget of the Commission including, but not limited to, income and expenses, the fund balance, a summary of the tourism marketing plan, and a report of progress in achieving the goals set forth in the plan. The portions of the report that pertain to the Commission's income and expenses and the fund balance, as well as those other portions that the Commission may from time to time deem appropriate, shall be audited by independent

accountants retained by the Commission for this purpose. [§ 13995.44(a)].

- (c) Inspection by Commissioners. Every Commissioner shall have the absolute right at any reasonable time to inspect the Corporation's books, records, documents of every kind, physical properties, and the records of each of its subsidiaries. The inspection may be made in person or by the Commissioner's agent or attorney. The right of inspection includes the right to copy and make extracts of documents.

Section 7. Investment of Funds. Funds of the commission shall be invested solely at the direction of the Chief Financial Officer and Vice Chair-Operations. Such funds shall be invested solely in funds permitted for the State of California.

ARTICLE XI

Indemnification of Corporation Agents

Section 1. Limitation on Liability. Commissioners and employees of the Commission are not responsible individually in any way whatsoever to any person for liability for any good faith activity of the Commission. [§ 13995.46].

Section 2. Right of Indemnity. To the fullest extent permitted by law, this Corporation shall indemnify its Commissioners, officers, employees, and other persons described in Corporations Code § 7237(a), including persons formerly occupying those positions, against all expenses, judgments, fines, settlements, and other amounts actually and reasonably incurred by them in connection with any "proceeding," as that term is used in Corporations Code § 7237(a), and including an action by right or in the right of the Corporation, by reason of the fact that such person is or was a person described in Corporations Code § 7237(a). "Expenses," as used in this Article XI, shall have the same meaning as in Corporations Code § 7237(a).

Section 3. Approval of Indemnity. On written request to the Commission by any person seeking indemnification under Corporations Code §§ 7237(b) or (c), the Commission shall promptly determine in accordance with Corporations Code § 7237(a) whether the applicable standard of conduct set forth in Corporations Code §§ 7237(b) or 7237(c) has been met and, if it has, the Commission shall authorize indemnification. If the Commission cannot authorize indemnification because the number of Commissioners who are parties to the proceeding with respect to which indemnification is sought prevents the formation of a quorum of Commissioners who are not parties to that proceeding, the indemnification can be authorized by the court in which such proceeding is or was pending upon application made as provided in Corporations Code § 7237(e).

Section 4. Advancement of Expenses. To the fullest extent permitted by law, and except as is otherwise determined by the Commission in a specific instance, expenses incurred by a person seeking indemnification under Sections 2 and 3 of this Article XI in defending any proceeding covered by those sections shall be advanced by the

Corporation before final disposition of the proceeding, on receipt by the Corporation of an undertaking by or on behalf of that person that the advance will be repaid unless it is ultimately determined that the person is entitled to be indemnified by the Corporation for those expenses.

Section 5. Insurance. The Corporation shall have the power to purchase and maintain insurance on behalf of its officers, Commissioners, employees, and other agents against any liability asserted against or incurred by any officer, Commissioner, employee, or agent in such capacity, or arising out of the officer's, Commissioner's, employee's, or agent's status as such.

ARTICLE XII **Miscellaneous**

Section 1. Corporate Seal. The Corporation shall have a seal in circular form having within its circumference the name of the Corporation, the date of incorporation, and the words "State of California."

Section 2. Amendment of Bylaws. Except to the extent provided by the Act or otherwise by law, these Bylaws may be adopted, amended, or repealed by majority vote of the Commission.

Section 3. Voting. No Commissioner may act by proxy or through a designee on any matter.

Section 4. Construction and Definitions. Unless the context requires otherwise or a term is specifically defined herein, the general provisions, rules of construction, and definitions in the California Nonprofit Mutual Benefit Corporation Law shall govern the construction of these Bylaws; provided, however, that any specific provision of the Act shall control over an inconsistent provision of such law. Without limiting the generality of the foregoing, the masculine gender includes the feminine and neuter, and the singular number includes the plural and the plural number includes the singular as the context so requires.

SECRETARY'S CERTIFICATE OF ADOPTION OF BYLAWS
OF
CALIFORNIA TRAVEL AND TOURISM COMMISSION

I, the undersigned, do hereby certify:

1. That I am the duly elected and acting Secretary of CALIFORNIA TRAVEL AND TOURISM COMMISSION, a California Nonprofit Mutual Benefit Corporation.

2. That the foregoing Bylaws constitute the Bylaws of said corporation as adopted by the Directors of said corporation at a duly called and held meeting of the Board of Directors on January 13, 1998, and as amended on March 10, 1998, April 7, 1999, May 24, 2001, January 24, 2002, October 17, 2002, October 23, 2004, May 15, 2007, and September ____, 2008.

IN WITNESS WHEREOF, I have hereunto subscribed my name this ____ day of _____, 2009.

Caroline Beteta
Secretary