



# Rotary Club of Martinez Foundation

## Bylaws

### ROTARY CLUB OF MARTINEZ FOUNDATION

A California Nonprofit Public Benefit Association

#### ARTICLE I

##### NAME, OFFICE AND DURATION

1. The name of this Association is ROTARY CLUB OF MARTINEZ FOUNDATION. It is a California nonprofit public benefit Association with a principal office in the County of Contra Costa, State of California.
2. The Board of Directors (herein called the "Board") is granted full power and authority to change said principal office from one location to another.
3. The Association shall have perpetual existence.

#### ARTICLE II

##### PURPOSE

1. This Association is a nonprofit public benefit Association and is not organized for the private gain of any person. It is organized pursuant to California Corporations Code Section 21300 under the Nonprofit Public Benefit Association Law for charitable purposes. A further description of the Association's purposes includes, but is not limited to, the following: to help meet the educational, charitable and benevolent needs of the local community.

### ARTICLE III

#### MEMBERSHIP

1. Membership. The Association shall have no members. Any action which would otherwise require approval by members shall only require approval of the Board. All rights which would otherwise vest in the members shall vest in the Board.

### ARTICLE IV

#### BOARD OF DIRECTORS

1. Election. The Association shall designate a Board of Directors who shall initially be appointed a majority of the incorporators to serve as Directors until such Director's death, resignation, or removal as provided by these bylaws.
2. Number. The initial number of Directors shall be three (3) and may be increased or decreased without further amendment of these bylaws. At no time may the number of Directors be less than three (3).
3. Qualifications. To serve as a Director, an individual shall have prior experience serving on a not for profit board, general business or entrepreneurial experience, and shall have a desire to pay it forward with what they have, know, or have access to.
4. Powers. The Board of Directors shall have all corporate authority, except such powers as are otherwise provided in these bylaws and the laws of the State of California, to conduct the affairs of the Association in accordance with these bylaws. The Board of Directors may by general resolution delegate to committees of their own number, or to officers of the Association such powers as they deem appropriate.
5. Meetings. Regular meetings of the Board of Directors shall be held at the place and time designated by the Board of Directors including phone conference calls, monthly or annual meetings, or otherwise called by a majority of the Board of Directors.
6. Special Meetings. Special meetings may be called by the President of the Association or a majority of the Board of Directors. Persons authorized to call special meetings shall provide notice of the time and location of such meetings and state the purpose thereof, and no other matter shall be considered by the Board of Directors at such special meeting except upon unanimous vote of all Directors present. Special meetings of the Board may be called by the Chairperson of the Board, or the President or any Vice-President or the Secretary or any two directors.

7. Annual Meetings. Directors may meet each year for the purpose of organization, the election of officers, and transaction of other business. The time and location of such meeting shall be noticed in writing.
8. Notice and Waiver. Notice of regular meetings and special meetings need not be in writing. Attendance at any meeting shall be considered waiver of the notice requirement thereof.
9. Quorum. A quorum shall consist of a majority of the Directors. If at any meeting, less than a quorum is present, the majority may adjourn the meeting without further notice to the absent Director.
10. Vacancy. Any vacancy occurring in the Board of Directors shall be filled by majority vote of the remaining Directors, though less than a quorum. Each person so elected shall serve until the duration of the unexpired term, or until the next annual meeting. The incorporating Board of Directors shall serve initial terms of three years unless otherwise asked and agreed upon by a majority of the Board of Directors.
11. Removal. Any Director may be removed, with or without cause, by a majority vote of the remaining Directors for failure to act in the best interests of the Association, or lack of sympathy with the stated purpose of the Association.
12. Compensation. Directors shall receive no compensation for their service as Directors.
13. Interest Person as Director. Any other provision of these Bylaws notwithstanding, not more than forty-nine percent (49%) of the persons serving on the Board may be interested persons.

For the purpose of this Section, "interested persons" means either: (1) any person currently being compensated by the Association for services rendered to it within the previous twelve (12) months, whether as a full- or part-time employee, independent contractor, or otherwise, excluding any reasonable compensation paid to a director as director; or (2) any brother, sister, ancestor, descendant, spouse, brother-in-law, sister-in-law, son-in-law, daughter-in-law, mother-in-law, or father-in-law of any such person.

14. Members of the Board may participate in a meeting through use of conference telephone, electronic video screen communication or other communications equipment, so long as all of the following apply:

- (a) Each member participating in the meeting can communicate with all of the other members concurrently.
- (b) Each member is provided the means of participating in all matters before the Board, including the capacity to propose, or to interpose an objection, to a specific action to be taken by this Association.
- (c) This Association adopts and implements some means of verifying both of the following:

- 1) A person communicating by telephone, electronic video screen, or other communications equipment is a director entitled to participate in the Board meeting.
- 2) All statements, questions, actions, or votes were made by that director and not by another person not permitted to participate as a director.

15. Adjournment. A majority of the directors present, whether or not a quorum is present, may adjourn any directors' meeting to another time and place. Notice of the time and place of holding an adjourned meeting need not be given to absent directors if the time and place be fixed at the meeting adjourned, except as provided in the next sentence. If the meeting is adjourned for more than twenty-four (24) hours, notice of any adjournment to another time or place shall be given prior to the time of the adjourned meeting to the directors who were not present at the time of the adjournment.

16. Action Without Meeting. Any action required or permitted to be taken by the Board may be taken without a meeting if all members of the Board shall individually or collectively consent in writing to such action. Such consent or consents shall have the same effect as a unanimous vote of the Board and shall be filed with the minutes of the proceedings of the Board.

17. Right of Inspection. Every director shall have the absolute right at any reasonable time to inspect and copy all books, records and documents of every kind and to inspect the physical properties of this Association.

18. Committees. Committees of the Board may be appointed by resolution of the Board. Official Board committees shall be composed of two or more members of the Board, and shall have such powers of the Board as may be expressly delegated to it by resolution of the Board, except with respect to:

- (a) The approval of any action for which the California Unincorporated Nonprofit Association Law also requires members' approval;
- (b) The filling of vacancies on the Board or on any committee;
- (c) The fixing of compensation of the directors for serving on the Board or on any committee;
- (d) The amendment or repeal of Bylaws or the adoption of new Bylaws;
- (e) The amendment or repeal of any resolution of the Board which by its express terms is not so amendable or repeal able;
- (f) The appointment of other committees of the Board or the members thereof;
- (g) The expenditure of corporate funds to support a nominee for director after there are more people nominated for director than can be elected; or
- (h) The approval of any self-dealing transaction except as provided in paragraph (3) of subdivision (d) of Section 5233 of the California Associations Code.

Any such committee may be designated an Executive Committee or by such other name as the Board shall specify. The Board shall have the power to prescribe the manner in which proceedings of any such committee shall be conducted. In the absence of any such prescription, such committee shall have the power to prescribe the manner in which its proceedings shall be conducted. Unless the Board or such committee shall otherwise provide, the meetings and other actions of any such committee shall be governed by the provisions of this Article applicable to meetings and actions of the Board. Minutes shall be kept of each meeting of each committee.

19. Advisory Board. The Foundation will have a standing Advisory Board to provide the Foundation officers with expert advice or make recommendations and/or provide key information and materials to the formal Board of Directors. The Advisory Board shall consist of the Executive Committee of the Rotary Club of Martinez. The Advisory Board does not have formal authority to govern the organization and cannot issue directives that must be followed. No advisor shall receive compensation for services rendered, except for payment of reasonable expenses in accordance with policies established by the Board of Directors.

20. The Annual Reports and Statements. If required by Sections 6321 and 6322 of the California Nonprofit Public Benefit Association Law, the Board shall cause a report and a statement of certain transactions and indemnifications to be sent annually to the directors of this Association.

## ARTICLE V

### OFFICERS

1. Designation of Officers. The officers of the Association shall be the President, Vice President, Secretary, and Treasurer, and they shall have authority to carry out the duties prescribed in these bylaws. The initial officers of the Association shall be designated by the incorporators, and shall serve for one year. One person may hold more than one office, except no person may hold the office of President and Secretary.

2. Election and Term. Officers of the Association shall be reelected at the annual meeting of the Board of Directors, and shall serve for one year or until their replacements are elected and qualified.

3. Removal. At any regular or special meeting, any officer may be removed by majority vote of the Board of Directors for failure to carry out the duties of the office as prescribed by these bylaws, conduct detrimental to the Association, or for lack of sympathy with the stated purpose of the Association. Any officer proposed to be removed is entitled to five (5) business days' notice of the meeting at which the removal shall be considered and may address the Board of Directors at such meeting.

4. Compensation. Officers of the Association shall receive reasonable compensation as fixed by the Board of Directors. The fact that any officer is also a Director shall not preclude receipt of reasonable compensation for services provided under Article V of these bylaws.

5. Vacancy. Vacancies, in any office for any reason, shall be filled by the Board of Directors for the unexpired term of office.

6. Duties of Offices.

A. President: The President is the Chief Executive Officer of this Association and will, subject to the control of the Board of Directors or any Committees, supervise and control the affairs of the Association. The President will perform all duties incident to the office of President and any other duties that may be required by these Bylaws or prescribed by the Board of Directors.

B. Vice President: The Vice-President will perform all duties and exercise all powers of the President when the President is absent or is otherwise unable to act. The Vice-President will perform any other duties that may be prescribed by the Board of Directors.

C. Secretary: The Secretary will keep minutes of all meetings of Members and of the Board of Directors, by the custodian of the corporate records, give all notices as are required by law or by these Bylaws, and generally perform all duties incident to the office of Secretary and any other duties as may be required by law, by the Bylaws, or which may be assigned by the Board of Directors.

D. Treasurer: The treasurer will have charge and custody of all funds of this Association, and will deposit the funds as required by the Board of Directors, keep and maintain adequate and correct accounts of the Association's properties and business transactions, and render reports and accountings to the Directors. The Treasurer will perform all duties incident to the office of Treasurer, and any other duties that may be required by these Bylaws or prescribed by the Board of Directors.

## ARTICLE VI

### INDEMNIFICATION OF AGENTS

1. Definitions.

For purposes of this Article, "agent" means any person who is or was a director, officer, employee or other agent of this Association, or is or was serving at the request of this

Association as a director, officer, employee or agent of another foreign or domestic Association, partnership, joint venture, trust or other enterprise, or was a director, officer, employee or agent of a foreign or domestic Association which was a predecessor Association of this Association or of another enterprise at the request of such predecessor Association; "proceeding" means any threatened, pending or completed action or proceeding, whether civil, criminal, administrative or investigative; and "expenses" includes, without limitation, attorneys' fees and any expenses of establishing a right to indemnification under Sections 4 or 5(b) of this Article.

## 2. Indemnification in Actions by Third Parties.

This Association shall have the power to indemnify any person who was or is a party, or is threatened to be made a party, to any proceeding (other than an action by or in the right of this Association to procure judgment in its favor, an action brought under Section 5233 of the California Nonprofit Public Benefit Association Law, or an action brought by the Attorney General or a person granted relator status by the Attorney General for any breach of duty relating to assets held in charitable trust) by reason of the fact that such person is or was an agent of this Association, against expenses, judgments, fines, settlements and other amounts actually and reasonably incurred in connection with such proceeding, if such person acted in good faith and in a manner such person reasonably believed to be in the best interests of this Association and, in the case of a criminal proceeding, has no reasonable cause to believe the conduct of such person was unlawful. The termination of any proceeding by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent shall not, of itself, create a presumption that the person did not act in good faith and in a manner which the person reasonably believed to be in the best interests of this Association or that the person had reasonable cause to believe that the person's conduct was unlawful.

## 3. Indemnification in Actions.

This Association shall have the power to indemnify any person who was or is a party, or is threatened to be made a party, to any threatened, pending or completed action by or in the right of this Association or brought under Section 5233 of the California Nonprofit Public Benefit Association Law, or an action brought by the Attorney General or a person granted relator status by the Attorney General for any breach of duty relating to assets held in charitable trust to procure a judgment in its favor by reason of the fact that such person is or was an agent of this Association, against expenses actually and reasonably incurred by such person in connection with the defense or settlement of such action if such person acted in good faith, in a manner such person believed to be in the best interests of this Association and with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances. No indemnification shall be made under this Section 3:

- (a) In respect of any claim, issue or matter as to which such person shall have been adjudged to be liable to this Association in the performance of such person's duty to this Association, unless and only to the extent that the court in which such proceeding is or was pending shall determine upon application that, in view of all the circumstances of the case,

such person is fairly and reasonably entitled to indemnity for the expenses which such court shall determine;

(b) Of amounts paid in settling or otherwise disposing of a threatened or pending action, with or without court approval; or

(c) Of expenses incurred in defending a threatened or pending action which is settled or otherwise disposed of without court approval, unless it is settled with the approval of the Attorney General.

#### 4. Indemnification Against Expenses.

To the extent that an agent of this Association has been successful on the merits in defense of any proceeding referred to in Section 2 or 3 of this Article or in defense of any claim, issue or matter therein, the agent shall be indemnified against expenses actually and reasonably incurred by the agent in connection therewith.

#### 5. Required Indemnification.

Except as provided in Section 4 of this Article, any indemnification under this Article shall be made by this Association only if authorized in the specific case, upon a determination that indemnification of the agent is proper in the circumstances because the agent has met the applicable standard of conduct set forth in Section 2 or 3, by:

(a) A majority vote of a quorum consisting of directors who are not parties to such proceeding; or

(b) The court in which such proceeding is or was pending, upon application made by this Association or the agent or the attorney or other person rendering services in connection with the defense, whether or not such application by the agent, attorney or other person is opposed by this Association.

6. Advance of Expenses. Expenses incurred in defending any proceeding may be advanced by this Association prior to the final disposition of such proceeding upon receipt of an undertaking by or on behalf of the agent to repay such amount unless it shall be determined ultimately that the agent is entitled to be indemnified as authorized in this Article.

7. Other Indemnification. No provision made by the Association to indemnify its or its subsidiary's directors or officers for the defense of any proceeding, whether contained in the Articles, Bylaws, a resolution of directors, an agreement or otherwise, shall be valid unless consistent with this Article. Nothing contained in this Article shall affect any right to indemnification to which persons other than such directors and officers may be entitled by contract or otherwise.



8. Forms of Indemnification Not Permitted. No indemnification or advance shall be made under this Article, except as provided in Sections 4 or 5(b) in any circumstances where it appears:

(a) That it would be inconsistent with a provision of the Articles of InAssociation, these Bylaws or an agreement in effect at the time of accrual of the alleged cause of action asserted in the proceeding in which the expenses were incurred or other amounts were paid, which prohibits or otherwise limits indemnification; or

(b) That it would be inconsistent with any condition expressly imposed by a court in approving a settlement.

9. Insurance. The Association shall have power to purchase and maintain insurance on behalf of any agent of the Association against any liability asserted against or incurred by the agent in such capacity or arising out of the agent's status as such whether or not the Association would have the power to indemnify the agent against such liability under the provisions of this Article; provided, however, that this Association shall have no power to purchase and maintain such insurance to indemnify any agent of the Association for a violation of Section 5233 of the California Nonprofit Public Benefit Association Law.

10 Nonapplicability to Fiduciaries of Employee Benefit Plans.

This Article does not apply to any proceeding against any trustee, investment manager or other fiduciary of an employee benefit plan in such person's capacity as such, even though such person may also be an agent of the Association as defined in Section 1 of this Article. The Association shall have power to indemnify such trustee, investment manager or other fiduciary to the extent permitted by subdivision (f) of Section 207 of the California General Association Law.

## ARTICLE VII

### RESTRICTION ON ACTIONS

1. All the assets and earnings of the Association shall be used exclusively for its exempt purposes, including the payment of expenses incidental thereto. No part of any net earnings shall inure to the benefit of any employee of the Association or be distributed to its Directors, officers, or any private person, except that the Association shall be empowered to pay reasonable compensation for services rendered and make payments and distributions in furtherance of the purposes set forth in Article II of these bylaws.

2. Notwithstanding any other provision of these bylaws, the Association will not carry on any activities not permitted by an organization exempt under Section 501(c)(3), Internal Revenue Code, 1986, or the corresponding provision of any future federal law, or organizations whose contributions which are exempt under Section 170(c)(2), Internal Revenue Code, 1986, or the corresponding provision of any future federal law. The Association shall have no capital stock, pay no dividends, distribute no part of its net income or assets to any Directors, Officers, and

private property of the subscribers, Directors or Officers shall not be liable for the debts of the Association.

3. No substantial part of the Association's activity shall be for the carrying on of a campaign of propaganda or otherwise attempting to influence legislation. The Association shall not participate in any political campaign, will not engage in political campaigns or attempt to influence legislation or interfere with any political campaign on behalf or in opposition to any candidate for public office.

4. In particular, but not without limitation of the generality of the foregoing paragraph, during such time as the Association may be considered a private foundation as defined by Section 509(a), Internal Revenue Code, 1986, or the corresponding provision of any future federal law, it shall not:

A. Fail to distribute its income for each taxable year at such time and in such manner as not to become subject to the tax on undistributed income imposed by Section 4942, Internal Revenue Code, 1986, or the corresponding provision of any future federal law.

B. Engage in any act of self-dealing as defined in Section 4941(d), Internal Revenue Code, 1986, or the corresponding provision of any future federal law.

C. Retain any excess business holdings as defined in Section 4943(c), Internal Revenue Code, 1986, or the corresponding provision of any future federal law.

D. Make any investment on such manner as to subject it to tax under Section 4944, Internal Revenue Code, 1986, or the corresponding provision of any future federal law.

E. Make any taxable expenditure as defined in Section 4945(d), Internal Revenue Code, 1986, or the corresponding provision of any future federal law.

## ARTICLE VIII

### CONTRACTS, CHECKS, DEPOSITS & FUNDS

1. **Contracts.** The Board of Directors may authorize, by general resolution, a Director or Directors, an agent or agents, in addition to persons authorized by these bylaws to enter into any contract on behalf of the Association.

2. **Checks, Drafts and Orders of Payment.** All checks, drafts, notes, or orders of payment or other evidence of indebtedness issued in the name of the Association shall be signed by the Officer or Board agent such as the Board of Directors may from time to time designate by general resolution of the Board of Directors.

3. Deposits. All funds of the Association shall be deposited from time to time to the credit of the Association in such banks, trust companies, or other depositories as the Board of Directors may designate.

4. Gifts. The Directors, collectively or individually, any officer or designated agent may accept gifts, contributions, bequests, or devise of any property on behalf of the Association.

5. Loans. No Director, Officer or agent shall have the authority, on behalf to the Association, to enter into a loan or any other contract of indebtedness except by unanimous vote in a specific resolution of the Board of Directors. The authority designated by this provision shall be limited to a single and specific instance.

6. This Association shall keep at its principal executive office:

- (a) The original or a copy of its Articles of InAssociation and Bylaws as amended to date;
- (b) Adequate and correct books and records of account; and
- (c) Minutes of the proceedings of its Board and committees of the Board.

## ARTICLE IX

### DISSOLUTION

1. Upon dissolution of the Association, the Board of Directors shall, after paying or making provision for payment of all liabilities of the Association, including the costs and expenses of such dissolution, dispose of all the assets of the Association exclusively for the exempt purposes of the Association or distributed to an organization described in Section 501 (c)(3) or 170 (c)(2) of the Internal Revenue Code, 1986 or the corresponding provisions of any future federal law, as shall be selected by the last Board of Directors. None of the assets will be distributed to any officer or director of the Association. Any such assets so disposed of shall be disposed of by, and in the manner designated by, the state court having jurisdiction over the matter.

## ARTICLE X

### Statement of Nondiscrimination

Notwithstanding any provision of these bylaws, the Association shall not discriminate against any director, officer, employee, applicant, or participant on the basis of sex, race, color, ethnicity or national origin.

## ARTICLE XI

The Board of Directors shall have the power to amend, alter, make and repeal the bylaws of the Association by majority vote.

I hereby certify that I am the secretary of the Rotary Club of Martinez Foundation and that the foregoing bylaws are the bylaws as adopted by the Board of Directors on **DATE, 2013,** and that these bylaws have not been amended or modified since that date.

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