

**BYLAWS OF  
TGWA SCHOLARSHIP FOUNDATION**

ARTICLE I - NAME

The name of this organization shall be TGWA Scholarship Foundation (“Foundation”).

ARTICLE II - LOCATION AND PURPOSE

**2.01 Generally.** The Foundation is organized exclusively for charitable, religious, scientific and educational purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the “Code”). The Foundation may administer scholarship programs, make distributions and provide other aid to other organizations which qualify as exempt organizations under Code Section 501(c)(3) and in support of activities which further the exempt purposes of the Foundation. The Foundation may carry on all other lawful business and activities which are necessary and proper for the accomplishment of any of the above described purposes or which are incidental to the powers named in these bylaws or which enhance the goals of the Foundation.

**2.02 Restrictions.** In all events and under all circumstances, the following provisions shall apply:

A. The Foundation shall not devote more than an insubstantial part of its activities to attempting to influence legislation (except as provided in Section 501(h) of the Code), or participate in or intervene in (including the publishing or distribution of statements) any political campaign on behalf of or in opposition to any candidate for public office.

B. No part of the net earnings of the Foundation shall inure to the benefit of, or be distributable to, its directors, officers, or other private persons, except that the Foundation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth in Section 2.01. Nothing in these bylaws shall preclude directors or officers from also serving as employees of the Foundation.

C. Regardless of any other provisions of these Bylaws, the Foundation shall not carry on any other activities not permitted to be carried on:

- (1) By a corporation exempt from federal income tax under Section 501(c)(3) of the Code (or the corresponding provision of any future United States internal revenue law); or
- (2) By a corporation contributions to which are deductible under Section 170(c)(2) of the Code (or the corresponding provision of any future United States internal revenue law).

**2.03 Office.** The principal place of business of the Foundation will initially be in Austin, Texas. The Foundation may have such other offices as the Board of Directors may determine.

**2.04 Registered Office and Agent.** The Foundation shall continuously maintain in the State of Texas a registered office and a registered agent whose office is identical with the registered office, as required by the Texas Business Organizations Code, as amended (“TBOC”). The registered office may be, but need not be, identical with the principal office of the Foundation in the State of Texas.

**2.05 Powers of the Foundation.** To accomplish the objectives and purposes of the Foundation, the Foundation shall have all appropriate powers, including to:

A. Solicit, accept, and collect pledges, donations, contributions in cash or property, real, personal, and mixed.

B. Take by will or by gift, in trust or absolutely, cash or property, subject to any terms, conditions or limitations which may be contained in the instrument by which said cash or property is acquired.

C. Acquire by purchase, lease, contract or otherwise, any property, real, personal or mixed.

D. Borrow money and execute notes, mortgages, and other contracts.

E. Have and maintain one or more offices and to conduct any or all of its operations and business from such offices.

F. Do any or all things set forth in these bylaws as principal, agent, trustee or otherwise, along or in company with others.

G. Do any and all such further acts and things and to exercise any and all such further powers as may be necessary, incidental, conducive, appropriate or desirable for the accomplishment or carrying out or attainment of all or any of the objectives or purposes enumerated in the Certificate of Formation; and to have and to exercise all the powers conferred by the laws of the State of Texas upon non-profit corporations, as such laws are now in effect or may at any time hereafter be enacted or amended.

### **ARTICLE III – BOARD OF DIRECTORS**

**3.01 Government.** The government of the Foundation, the direction and management of its affairs, and the control of its property, shall be vested in the Board of Directors which may exercise all such powers of the Foundation and do all such lawful acts and things as provided by statute or by the Certificate of Formation or by these Bylaws; provided, however, that the Foundation will not carry on any activities not permitted to be carried on by a corporation exempt from federal income tax under Section 501(c)(3) of the Code or by a corporation contributions to which are deductible under Section 170(c)(2) of the Code.

**3.02 Number; Qualification.** The Board of Directors shall consist of no less than three and no more than 15 members. A majority of the Board of Directors shall also be board members of the Texas Ground Water Association. From time to time and as appropriate, any member of the Board of Directors shall make recommendations to the full Board of Directors regarding nominees for election to the Board of Directors.

Each of the initial Directors of the Corporation as of the effective date of these Bylaws (being those persons named and designated as such in the Corporation's authorizing resolution approved concurrently with the adoption of these Bylaws) shall hold office for the Initial Term designated in such authorizing resolution and until his or her successor is chosen and qualified, or until his or her earlier death, re-election, resignation, retirement, disqualification or removal from office. Thereafter each Director shall hold office for a three (3) year term, each such term to begin on January 1 of the calendar year of the effective date of election, and to end on December 31 of the calendar year at the end of such three (3) year term. A Director will serve until such Director's successor is chosen and qualified, or until such Director's earlier death, re-election, resignation, retirement, disqualification or removal from office. Directors may serve an unlimited number of three (3) year terms; provided, however, that Directors may not serve more than two (2) consecutive three (3) year terms. It is understood that a term of less than three (3) years shall not be included in the determination of any such successive consecutive terms.

Directors shall be divided into three (3) classes such that the Directors will serve for staggered three (3) year terms, with each such class consisting generally of one-third (1/3) of the then number of Directors

on the whole Board; provided, however, that nothing in this provision shall be construed to require exact equality in the number of Directors in each class. At each annual meeting of the Board, the successors to the class of Directors whose term shall expire that year shall be elected to hold office for a term of three (3) years, so that the term of office of one (1) class of directors (or approximately one-third (1/3) of the Directors) shall expire every year. The number of Directors in each class shall be determined by the Board.

**3.03 Change in Number.** The number of Directors may be increased or decreased from time to time by a majority vote of the Board of Directors but no decrease shall have the effect of shortening the term of any incumbent Director. Any membership to be filled by reason of an increase in the number of Directors may be filled by election at a special meeting of the Board of Directors called for that purpose or at a regular meeting if notice of the nominee and the proposed election is given in the same manner as provided for a special meeting. The number of Directors shall never be less than three.

**3.04 Election.** The annual election of members to the Board of Directors shall proceed as follows. From time to time and as appropriate, any member of the Board of Directors shall make recommendations to the full Board of Directors regarding nominees for election to the Board of Directors. The act of a majority of the members of the Board of Directors at a meeting at which a quorum is present shall be the act of the Board of Directors.

**3.05 Vacancies.** When a vacancy occurs on the Board of Directors by reason of death, resignation, removal or otherwise, the Board of Directors shall have the right to fill the vacancy before the unexpired term or until a successor has been elected and qualified, even though less than a quorum of the Board of Directors remains.

**3.06 Meetings.** The Board of Directors shall meet regularly at such time and place as the Board of Directors shall provide, but not less than annually. No notice shall be required to be given of regular meetings held in accordance with the Board of Directors' schedule for regular meetings. Such other meetings of the Board of Directors shall be called by the President after five (5) days notice of such meetings, as he in his discretion, shall deem necessary. The annual meeting of the Board of Directors shall be held upon the date and at the hour designated by the Board of Directors from time to time.

**3.07 Removal.** Any Board of Directors member may be removed with or without cause or if he or she has had three (3) unexcused absences (as determined by the President) from Board of Directors meetings during a twelve (12) month period by action of a majority of the remaining Directors at any meeting of the Board of Directors called for that purpose.

**3.08 Actions Without Meeting.** Any action required or permitted to be taken at a meeting of the Board of Directors may be taken without a meeting if a consent in writing setting forth the action so taken, is signed by all the members of the Board of Directors. Such consent shall have the same force and effect as a unanimous vote at a meeting. A telegram, telex, email, facsimile, cablegram or other electronic transmission by a party consenting to an action to be taken and transmitted by a Director is considered written, signed and dated for the purposes of this provision if the transmission sets forth or is delivered with the information from which the Foundation can determine that the transmission was transmitted by the party and the date on which the party transmitted the transmission.

**3.09 Quorum; Required Vote.** A quorum of the Board of Directors shall be constituted by the attendance and participation of a majority of the members of the Board of Directors. The act of a majority of the members of the Board of Directors at a meeting at which a quorum is present shall be the act of the Board of Directors.

Unless otherwise provided in the resolution of the Board of Directors designating such committee, a quorum of any other committee shall be constituted by the attendance and participation of a majority of the

members of such committee, and the act of a majority of the members of the committee at a meeting at which a quorum is present shall be the act of the committee.

If a quorum is not present at a meeting of the Board of Directors, the members present may adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum is present.

**3.10 Procedure.** The Board of Directors shall keep regular minutes of its proceedings. The minutes shall be placed in the minute book of the Foundation.

**3.11 Compensation.** No compensation shall be paid to any member of the Board of Directors in their capacity as Director; however, nothing in these Bylaws shall be construed to prohibit paying members of the Board of Directors for services rendered in their capacity as employees or contractors.

**3.12 Advisory Board of Directors.** The Board of Directors shall have the right to elect members to one or more Advisory Board(s). Advisory Board members will provide advice and counsel to the Board of Directors but will not be entitled to vote and will not be considered members of the Board of Directors of the Foundation. Such Advisory Board(s) may be designated as the Foundation's Board of Directors or such other designations as the Board of Directors may from time to time determine. The members of such Advisory Board(s) may be designated as Directors, or such other designations as the Board of Directors may from time to time determine.

**3.13 Proxy.** A Director may vote or, to the maximum extent allowed by law, discharge his duties by proxy executed in writing by the Director. No proxy shall be valid after three months from the date of its execution. Each proxy shall be revocable unless expressly provided therein to be irrevocable, and unless otherwise made irrevocable by law.

**3.14 Duties of Directors.** Directors shall discharge their duties in good faith, with ordinary care, and in a manner they reasonably believe to be in the best interest of the Foundation. Ordinary care is care that ordinarily prudent persons in similar positions would exercise under similar circumstances. In the discharge of any duty imposed or power conferred on directors, they may in good faith rely on information, opinions, reports or statements, including financial statements and other financial data, concerning the Foundation or another person that were prepared or presented by officers and employees of the Foundation, professional advisors or experts, or accountants or legal counsel. A director is not relying in good faith if the director has knowledge concerning a matter in question that renders reliance unwarranted.

#### **ARTICLE IV - NOTICE AND TELEPHONE MEETINGS**

**4.01 Method.** Whenever by statute or the Certificate of Formation or these Bylaws, notice is required to be given to a Director, and no provision is made as to how the notice shall be given, it shall not be construed to mean personal notice, but any such notice may be given (a) in writing, by mail, postage prepaid, addressed to the Director at the address appearing on the books of the Foundation, or (b) in any other method permitted by law, including by way of illustration and not limitation electronic transmissions. Any notice required or permitted to be given by mail shall be deemed given at the time when the same is deposited in the United States mails.

**4.02 Waiver.** Whenever, by statute or the Certificate of Formation or these Bylaws, notice is required to be given to Directors, a waiver of such notice in writing signed by the person or persons entitled to such notice, whether before or after the time stated in such notice, shall be equivalent to the giving of such notice. Attendance of a Director at a meeting shall constitute a waiver of notice of such meeting, except where a

Director attends for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened.

**4.03 Electronic Meetings.** Subject to the requirements of the TBOC or these Bylaws for notice of meetings, members of the Board of Directors, or members of any committee or Advisory Board designated by the Board of Directors may participate in and hold a meeting of the Board of Directors or committee or Advisory Board by means of a conference telephone or similar communications equipment, or another suitable electronic communications system, including videoconferencing technology or the Internet, by means of which all persons participating in the meeting can hear each other, and participation in a meeting pursuant to this Section 4.03 shall constitute present in person at such meeting, except where a person participates in the meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened.

## ARTICLE V - OFFICERS

**5.01 Number; Election; Term.** The Foundation shall have a President and a Secretary, and may have such other officers and assistant officers and agents as the Board of Directors may deem necessary.

Officers shall be elected by the Board of Directors on the expiration of an officer's term or whenever a vacancy exists. From time to time and as appropriate, the President shall make recommendations to the full Board of Directors regarding nominees for election as officers. Unless otherwise specified by the Board of Directors at the time of election or appointment, each officer and agent shall serve for one (1) year, ending on December 31 of the calendar year of the effective date of election. Each officer shall serve until the end of his or her term, or, if earlier, his or her death, resignation or removal.

**5.02 President.** The President shall preside over meetings of the Board of Directors and have authority to execute such documents on behalf of the Foundation and to do such other things as he or she may, in his or her reasonable discretion, deem necessary and appropriate in connection with supervision of the activities and affairs of the Foundation. The President shall see that all orders and resolutions of the Board of Directors are carried into effect and exercise and perform such other powers and duties as from time to time may be assigned to him or her by the Board of Directors or prescribed by these Bylaws.

**5.03 Treasurer.** If required by the Board of Directors, the Treasurer shall give a bond for the faithful discharge of his or her duties in such sum and with such surety or sureties as the Board of Directors shall determine. He or she shall have charge and custody of and be responsible for all funds and securities of the Foundation; receive and give receipts for monies due and payable to the Foundation from any source whatsoever, and deposit all such monies in the name of the Foundation in such banks, trust companies, or other depositories as shall be selected; and in general perform all the duties incident to the office of Treasurer and such other duties as from time to time may be assigned to the Treasurer by the President or by the Board of Directors.

**5.04 Secretary.** The Secretary shall keep the minutes of the meeting of the Board of Directors in one or more books provided for that purpose; give all notices in accordance with the provisions of these Bylaws or as required by law; be custodian of the corporate records and the seal of the Foundation if one is adopted, and affix the seal of the Foundation to all documents, the execution of which on behalf of the Foundation under its seal is duly authorized in accordance with the provisions of these Bylaws; keep a register of the post office address of each member which shall be furnished to the Secretary by each member; and, in general, perform all duties incident to the office of Secretary and such other duties as from time to time may be assigned to the Secretary by the President or by the Board of Directors.

**5.05 Removal.** Any officers of the Foundation may be removed at any time by an affirmative vote of a majority of the Board of Directors. The Board of Directors shall meet and elect a new officer to fill the unexpired term of such removed officer.

**5.06 Vacancies.** Any vacancy occurring in any office of the Foundation (by death, resignation, removal or otherwise) may be filled by the Board of Directors.

**5.07 Assumption of Duties and Transfer of Records.** Each new officer shall assume his or her duties immediately after his or her election, and each outgoing officer shall continue in office until his or her successor is elected and qualified. Each officer, upon expiration of his or her tenure of office, shall transfer all official records and property of the Foundation then in his or her possession to his or her duly qualified successor in office.

**5.08 Compensation.** No salary or other compensation shall be paid any officer of the Foundation, except when specifically provided for by action of the Board of Directors.

## **ARTICLE VI - GENERAL PROVISIONS**

**6.01 Disbursements.** All disbursements shall be by check. Signatories for bank accounts of the Foundation shall be as set forth by resolution of the Board of Directors. However, the Board of Directors may establish a “petty cash” fund for incidental expenses and disbursements.

**6.02 Distribution of Net Earnings Prohibited.** No part of the net earnings of the Foundation shall inure to the benefit or be distributed to any of its officers, directors, Board of Directors members or other private persons, except that the Foundation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments in furtherance of its stated purpose notwithstanding any other provision of these Bylaws, the Foundation shall not carry on any other activities not permitted to be carried.

**6.03 Disposition on Dissolution.** Upon the dissolution of the Foundation, the Board of Directors shall, after paying or making provision for the payment of all of the liabilities of the Foundation, dispose of all of the assets of the Foundation in such a manner, or to such organization or organizations organized or operated exclusively for charitable, educational, religious or scientific purposes as shall at the time qualified as an exempt organization or organizations under Section 501(c)(3) of the Code or the corresponding provision of any future United States internal revenue law, as the Board of Directors shall determine.

**6.04 Amendment of Bylaws.** These Bylaws may be altered, amended, or repealed at any meeting of the Board of Directors at which a quorum is present, by the affirmative vote of a majority of the Board of Directors members present, provided notice of the proposed alteration, amendment, or repeal is contained in the notice of such meeting, mailed by the Secretary (or other officer designated by the President) to each Board of Directors member not less than ten (10) nor more than fifty (50) days prior to such meeting.

**6.05 Fiscal Year.** The fiscal year of the Foundation shall end on the last day of December, unless otherwise determined by the Board of Directors.

**6.06 Indemnification and Insurance.**

A. *Reference to Statute.* Reference is made to the TBOC as it may be amended from time to time. Terms used in this Section 6.06 and not otherwise defined shall have the same meanings as used in the TBOC. In the event of any conflict between the provisions of this Section 6.06 and the TBOC, the provisions of the TBOC shall apply. It is the intention and purpose of this Section 6.06 to establish guidelines for the

administration of indemnification of those directors and agents of the Foundation who have an action, claim, or proceeding brought against them arising out of their good faith performance of duties on behalf of or at the direction of the Foundation. This Section 6.06 is meant to incorporate and conform to the greatest extent possible with the applicable provisions of the TBOC regarding the provision of indemnification and insurance.

B. *Indemnification and Advance of Expenses.* The Foundation shall indemnify and/or advance expenses to a person who was, is, or is threatened to be made a named defendant or respondent in a proceeding because the person is or was a governing person, former governing person or delegate of the Foundation (each, an “Indemnified Person”) to the fullest extent permitted by, and in accordance with the determinations, procedures and limitations set forth in, Chapter 8, Subchapter C of the TBOC and any other applicable laws. It is the intention and purpose of this Section 6.06 to make mandatory the permissive indemnification provisions of Chapter 8, Subchapter C of the TBOC.

C. *Insurance.* Subject to Chapter 8, Subchapter D of the TBOC, the Foundation may purchase and maintain insurance on behalf of any Indemnified Person against any liability asserted against or incurred by the Indemnified Person in such a capacity or arising out of his or her status as an Indemnified Person, whether or not the Foundation would have the power to indemnify him or her against that liability under this Section 6.06 or otherwise.

D. *Savings Clause.* If this Section 6.06 or any portion of this Section 6.06 shall be invalidated on any ground by any court of competent jurisdiction, then the Foundation shall nevertheless indemnify and hold harmless each Indemnified Person as to costs, charges and expenses (including attorneys’ fees), judgments, fines and amounts paid in settlement with respect to any action, suit or proceeding, whether civil, criminal, administrative or investigative, to the full extent permitted by any applicable portion of this Section 6.06 that shall not have been invalidated and to the fullest extent permitted by applicable law.

**6.07 Loans to Directors and Officers Prohibited.** No loan shall be made by the Foundation to its directors or officers.

I hereby certify that the above and foregoing Bylaws of the Foundation were adopted as the bylaws of the Foundation by action of its governing body.

Approved to be effective as of February 21, 2018; amended on January 23, 2020

By: \_\_\_\_\_

Name/Title: \_\_\_\_\_