

**AGENDA ITEM # IV-B.**

**BYLAWS**

**OF**

**COLOR COUNTRY FOUNDATION, INC.**

"Draft"

**ARTICLE 1  
OFFICE**

**SECTION 1. PRINCIPAL OFFICE**

The principal office of the corporation is located in Kane County, State of Utah.

**SECTION 2. CHANGE OF ADDRESS**

The designation of the county or state of the corporation's principal office may be changed by amendment of these Bylaws. The Board of Directors may change the principal registered agent office location within Kane County and such changes of address shall not be deemed, nor require, an amendment of these Bylaws. Any change of registered agent address or registered agent shall be filed by the executive director or chairperson of the Board of Directors of this corporation with the State of Utah Department of Commerce.

**SECTION 3. OTHER OFFICES**

The corporation may also choose to have offices at such places, within or without its state of incorporation, where it is qualified to do business, as its business and activities may require, and as the Board of Directors may, from time to time, designate.

**ARTICLE 2  
NONPROFIT PURPOSES**

**SECTION 1. TAX EXEMPT PURPOSE CLAUSE**

This corporation is organized exclusively for one or more of the purposes as specified in Section 501 (c) (3) of the Internal Revenue Code, including, for such purposes, the making of distributions to organizations that qualify as exempt organizations under Section 501 (c) (3) of the Internal Revenue Code.

**SECTION 2. SPECIFIC OBJECTIVES AND PURPOSES**

The specific and primary purpose of this organization shall be:

To provide support to the various missions of the Five County Association of Governments (FCAG), a political subdivision of the State of Utah established under provisions of the Interlocal Cooperation Act. These missions include services to elderly and low income individuals and

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families, planning and technical assistance to local governments (cities, towns, and counties) and help to businesses for the purpose of creating jobs.

**ARTICLE 3  
DIRECTORS**

SECTION 1. NUMBER

The corporation shall have fifteen (15) directors and collectively they shall be known as the Board of directors.

SECTION 2. QUALIFICATIONS

Directors shall be 18 years or older. Other qualifications for Directors of this corporation shall be as follows:

The powers of this corporation shall be exercised, its properties controlled, and its affairs conducted by a governing board of fifteen (15) persons, to be known as the Board of Directors. Except as provided herein, the number of Directors and the corporation's General Rules regarding the manner to conduct the internal affairs of this organization shall be established in the Bylaws.

The Board of Directors for the Color Country Foundation shall be comprised of the same members as the Governing Board of the Five County Association of Governments, namely, Beaver, Garfield, Iron, Kane and Washington Counties, and will be selected as follows:

County Representatives to the Board of Directors: Each of the five counties – Beaver, Garfield, Iron, Kane and Washington Counties -- shall be entitled to nominate to and have three (3) representatives from their individual county serve on the Board of Directors of the corporation at the same time.

SECTION 3. POWERS

Subject to the provisions of the laws of the State of Utah and any limitations in the Articles of Incorporation and these Bylaws relating to action required or permitted to be taken or approved by the members, if any, of this corporation, the activities and affairs of this corporation shall be conducted and all corporate powers shall be exercised by or under the direction of the Board of Directors.

SECTION 4. DUTIES

It shall be the duty of the Board of Directors to:

(a) Perform any and all duties imposed on them collectively or individually by law, by the Articles of Incorporation, or by these Bylaws;

## **AGENDA ITEM # IV-B. (Continued)**

(b) Appoint and remove, employ and discharge, and, except as otherwise provided in these Bylaws, prescribe the duties and fix the compensation, if any, of all officers, agents and employees of the corporation;

(c) Supervise all officers, agents and employees of the corporation to assure that their duties are performed properly;

(d) Meet at such times and places as required by these Bylaws;

(e) Register their addresses with the executive director of the corporation, or chairperson of the Board of Directors, if necessary, and notices of meetings mailed to them at such addresses shall be valid notices thereof.

### **SECTION 5. TERM OF OFFICE, AND INITIAL BOARD TERMS**

Each Director shall hold office for a period of three (3) years or until his or her successor is elected and qualifies. Directors are not prohibited from succeeding themselves.

Initial Board member terms shall be staggered such that five new (or possibly reappointed) Board members will join the Board of Directors at the beginning of the Board term; specifically, five Board members of the initial Board of Directors shall have three (3) year terms, and five members shall have two (2) year terms, and five shall have one (1) year terms. At the end of the initial Board year, and when the one (1) year terms expire, new Board members may be appointed at that time. This process will allow for the Board of Directors to be strong, sustainable and able to bring on and quickly integrate new members.

### **SECTION 6. COMPENSATION**

Directors shall serve without compensation except that they shall be allowed reasonable reimbursement of expenses incurred in the performance of their duties for the corporation. These reimbursements may not be used as incentives to individuals for serving on the Board.

### **SECTION 7. PLACE OF MEETINGS**

Meetings shall be held at the principal office of the corporation unless otherwise provided by the Board of Directors or at such other place as may be designated from time to time by resolution of the Board of Directors.

### **SECTION 8. REGULAR MEETINGS**

Regular meetings of the Board of Directors will, as necessary, be held ...

BRAG meets bi-monthly on the fourth Tuesday of the month at 1:00 p.m. (Bryan, how shall we do this?)

## **AGENDA ITEM # IV-B. (Continued)**

### SECTION 9. SPECIAL MEETINGS

Special meetings of the Board of Directors may be called by the Chairperson or Chair-Elect of the Board of Directors, by any two Directors, or by the persons specifically authorized under the laws of the State of Utah to call special meetings of the Board of Directors. Such meetings shall be held at the principal office of the corporation or, if different, at the place designated by the person or persons calling the special meeting.

### SECTION 10. NOTICE OF MEETINGS

Unless otherwise provided by the Articles of Incorporation, these Bylaws, or provisions of law, the following provisions shall govern the giving of notice for meetings of the Board of Directors:

Regular meetings. No notice need be given of any regular meeting of the Board of Directors. See Section 8, above.

(a) Special meetings. At least one week prior notice shall be given by the executive director, Chairperson, Chair-Elect, or other Director of the corporation to each member of the Board of Directors of each special meeting of the Board of Directors. Such notice must be written and may be given or sent personally by hand-delivery, by first class mail, by telephone (text, email), by facsimile transmission, by electronic mail (e-mail) or by other regularly acceptable computer or electronic transmission, and shall state the place, date and time of the meeting and the matters proposed to be acted upon at the meeting. In the case of facsimile, telephone, e-mail or other electronic notification, it is the obligation of the member of the Board of Directors to be contacted to acknowledge personal receipt of said notice by return message, transmission or telephone call within twenty-four hours of the transmission.

(b) Waiver of Notice. Whenever any notice of a meeting is required to be given to any Director of this corporation under provisions of the Articles of Incorporation, these Bylaws, or the laws of the State of Utah, a waiver of notice in writing signed by the Director, whether before or after the time of the meeting, shall be equivalent to the giving of such notice.

(c) Written Resolution. The Board of Directors may act without convening in general or special meeting by written resolution.

### SECTION 14. VACANCIES

Vacancies on the Board of Directors shall exist (1) on the death, resignation or retirement from public office of any Director, and (2) whenever the number of authorized Directors is increased by action of the Board of Directors.

Any Director may resign effective upon giving notice to the Chairperson of the Board of Directors, the executive director, or the Board of Directors, unless the notice specifies a later time for the effectiveness of such resignation.

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A person appointed to fill a vacancy on the Board of Directors shall hold office until the next election of the Board of Directors or until his or her death, resignation or retirement from public office consistent with Article 3, Section 2 of these Bylaws.

### **SECTION 15. NON-LIABILITY OF DIRECTORS**

The Directors shall not be personally liable for the debts, liabilities, or other obligations of the corporation.

### **SECTION 16. INDEMNIFICATION BY CORPORATION OF DIRECTORS AND OFFICERS**

The Directors and Officers of the corporation shall be indemnified and held harmless by the corporation to the fullest extent permissible under the laws of the State of Utah.

### **SECTION 17. INSURANCE FOR CORPORATE AGENTS**

Except as may be otherwise provided under provisions of law, the Board of Directors hereby adopts a resolution authorizing the purchase and maintenance of insurance on behalf of any agent of the corporation (including a director, officer, employee or other agent of the corporation) against liabilities asserted against or incurred by the agent in such capacity or arising out of the agent's status as such, whether or not the corporation would have the power to indemnify the agent against such liability under the Articles of Incorporation, these Bylaws or provisions of the law.

## **ARTICLE 4 OFFICERS**

### **SECTION 1. DESIGNATION OF OFFICERS**

The officers of the corporation shall be as follows: (a) Chairperson of the Board of Directors, (b) Chair-Elect of the Board of Directors, (c) Secretary of the Board of Directors. These three officers shall comprise the Executive Committee of the Board of Directors. Additional Officers of the corporation will include an executive director and financial controller; these two officers are not members of the Board of Directors but shall serve at the pleasure of the Board of Directors. The corporation may also have other such officers with such titles as may be determined from time to time by the Board of Directors.

### **SECTION 2. ELECTION AND TERM OF OFFICE**

Officers of the Board of Directors shall be elected by the Board of Directors at the Board's January meeting, and each Officer shall hold office until his or her successor shall be elected and qualified. The executive director and controller shall continue to hold office until the Board of Directors deems it to be otherwise.

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### SECTION 3. REMOVAL AND RESIGNATION

Any officer may be removed, either with or without cause, by the Board of Directors, at any time. Any officer may resign at any time by giving written notice to the Board of Directors or to the chairperson of the corporation. Any such resignation shall take effect at the date of receipt of such notice or at any later date specified therein, and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective. The above provisions of this section shall be superseded by any conflicting terms of a contract which has been approved or ratified by the Board of Directors relating to the employment of any officer of the corporation.

### SECTION 4. VACANCIES

Any vacancy caused by the death, resignation, removal, disqualification, or otherwise, of any officer shall be filled by the Board of Directors. In the event of a vacancy in any office other than that of executive director or controller, such vacancy may be filled temporarily by appointment by the Board of Directors. Vacancies occurring in offices or officers appointed at the discretion of the Board of Directors may or may not be filled as the Board of Directors shall determine.

### SECTION 5. DUTIES OF EXECUTIVE DIRECTOR.

The executive director shall be the chief executive officer ("C.E.O.") of the corporation and shall, subject to the control of the Board of Directors, supervise and control the affairs of the corporation and the activities of the staff. She or he shall perform all duties incident to her or his office and such other duties as may be required by law, by the Articles of Incorporation, or by these Bylaws, or which may be determined from time to time by the Board of Directors. He or she will assure compliance with the laws and regulations applicable to the corporation's nonprofit and tax-exempt status. Except as otherwise expressly provided by law, by the Articles of Incorporation, or by these Bylaws, he or she shall, in the name of the corporation, execute such deeds, mortgages, bonds, contracts, checks, or other instruments which may from time to time be authorized by the Board of Directors.

The executive director shall also:

Certify and keep at the principal office of the corporation the original, or a copy, of these Bylaws as amended or otherwise altered to date.

Keep at the principal office of the corporation or at such other place as the Board of Directors may determine, a book of minutes of all meetings of the Directors, and, if applicable, meetings of committees of Directors, recording therein the time and place of holding, whether regular or special, how called, how notice thereof was given, the names of those present or represented at the- meeting, and the proceedings thereof.

See that all notices are duly given in accordance with the provisions of these Bylaws, or as required by law.

Be custodian of the records and of the seal of the corporation, if any, and affix the seal, as authorized by law or the provisions of these Bylaws, to duly executed documents of the corporation.

## **AGENDA ITEM # IV-B. (Continued)**

Exhibit at all reasonable times to any Director of the corporation, or to her or his agent or attorney, on request therefor, the Bylaws and the minutes of the proceedings of the Directors of the corporation.

Assure the corporation maintains a current registered agent and registered agent's address.

In general, perform all duties incident to the office of executive director and such other duties as may be required by law, by the Articles of Incorporation, or by these Bylaws, or which may be assigned to him or her from time to time by the Board of Directors.

### **SECTION 6. DUTIES OF CONTROLLER**

The controller shall:

Have charge and custody of, and be responsible for, all funds and securities of the corporation, and deposit all such funds in the name of the corporation in such banks, trust companies, or other depositories as shall be selected by the Board of Directors.

Receive, and give receipt for, monies due and payable to the corporation from any source whatsoever.

Disburse, or cause to be disbursed, the funds of the corporation as may be directed by the Board of Directors and authorized by the executive director, taking proper vouchers for such disbursements.

Keep and maintain adequate and correct accounts of the corporation's properties and business transactions, including accounts of its assets, liabilities, receipts, disbursements, gains and losses.

Exhibit at all reasonable times the books of accounts and financial records to any officer or trustee of the corporation, or to his or her agent or attorney, on request therefor.

Render to the executive director and Board of Directors, whenever requested, an account of any or all of his or her transactions as treasurer, financial analyst or controller and of the financial condition of the corporation.

Prepare, or cause to be prepared, and certify, or cause to be certified, the financial statements to be included in any required reports.

Assure compliance with laws and regulations applicable to the corporation's nonprofit and tax-exempt status, requesting outside assistance if necessary.

In general, perform all duties incident to the office of controller and such other duties as may be required by law, by the Articles of Incorporation of the corporation, or by these Bylaws, or which may be assigned to him or her from time to time by the Board of Directors.

**AGENDA ITEM # IV-B. (Continued)**

SECTION 7. COMPENSATION

The salaries of the executive director and controller shall be fixed from time to time by resolution of the Board of Directors. In all cases, any salaries received by the executive director and controller of this corporation shall be reasonable and given in return for services actually rendered to or for the corporation.

**ARTICLE 5  
EXECUTION OF INSTRUMENTS, DEPOSITS AND FUNDS**

SECTION 1. EXECUTION OF INSTRUMENTS

The Board of Directors, except as otherwise provided in the Bylaws, may by resolution authorize any officer or agent of the corporation to enter into any contract or execute and deliver any instrument in the name of and on behalf of the corporation, and such authority may be general or confined to specific instances. Unless so authorized, no officer, agent, or employee shall have any power or authority to bind the corporation by any contract or engagement or to pledge its credit or to render it liable monetarily for any purpose or in any amount.

SECTION 2. CHECKS AND NOTES

Except as otherwise specifically determined by resolution of the Board of Directors, or as otherwise required by law, checks, drafts, promissory notes, orders for the payment of money, and other evidence of indebtedness of the corporation shall be signed by approved signatories.

SECTION 3. DEPOSITS

All funds of the corporation shall be deposited from time to time to the credit of the corporation in such banks, trust companies, credit unions, or other depositories as the Board of Directors may select. Funds may be held in either or both a checking and savings account.

SECTION 4. GIFTS

Only the executive director and controller may accept on behalf of the corporation any contribution, gift, bequest, or device for the nonprofit purposes of the corporation and give receipt and valuations thereof in order to ensure compliance with restrictions which may be associated with a gift. Gifts of real property and all other tangible and intangible property which may have contingent obligations are subject to approval by the Board of Directors.

**ARTICLE 6  
CORPORATE RECORDS, REPORTS AND SEAL**

SECTION 1. MAINTENANCE OF CORPORATE RECORDS

The corporation shall keep at its principal office:

## **AGENDA ITEM # IV-B. (Continued)**

(a) Minutes of all meetings of the board of Directors, indicating the time and place of holding such meetings, whether regular or special, how called, the notice given, and the names of those present and the proceedings thereof;

(b) Adequate and correct books and records of accounts, including accounts of its properties and business transactions and accounts of its assets, liabilities, receipts, disbursements, gains and losses;

(c) A copy of the corporation's Articles of Incorporation and Bylaws as amended to date, which shall be open to inspection by the members, if any, of the corporation at all reasonable times during office hours and documentation pertaining to its nonprofit and tax-exempt status.

### **SECTION 2. CORPORATE SEAL**

The Board of Directors may adopt, use, and own a corporate seal. Such seal shall be kept at the principal office of the corporation. Failure to affix the seal to corporate instruments, however, shall not affect the validity of any such instrument.

### **SECTION 3. DIRECTOR'S INSPECTION RIGHTS**

Every officer or Director shall have the right at any reasonable time, for proper purposes, to inspect and copy all books, records and documents of every kind and to inspect the physical properties of the corporation and shall have such other rights to inspect the books, records and properties of this corporation as may be required under the Articles of Incorporation, other provisions of these Bylaws, and provisions of law.

### **SECTION 4. RIGHT TO COPY AND MAKE EXTRACTS**

Any inspection authorized under the provisions of this Article may be made in person or by agent or attorney and the right to inspection shall include the right to copy and make extracts.

### **SECTION 5. PERIODIC REPORT**

The officers shall cause any annual or periodic report required under law to be prepared and delivered to an office of this state to be so prepared and delivered within the time limits set by law.

## **ARTICLE 7 IRC 501 (c) (3) TAX PROVISIONS**

### **SECTION 1. LIMITATIONS ON ACTIVITIES**

No substantial part of the activities of this corporation shall be the carrying on of propaganda, or otherwise attempting to influence legislation (except as otherwise provided by Section 501 (h) of the Internal Revenue Code), and this corporation shall not participate in, or

## **AGENDA ITEM # IV-B. (Continued)**

intervene in (including the publishing or distribution of statements), any political campaign on behalf of, or in opposition to, any candidate for public office.

Notwithstanding any other provisions of these Bylaws, this corporation shall not carry on any activities not permitted to be carried on (a) by a corporation exempt from federal income tax under Section 501 (c) (3) of the Internal Revenue Code, or (b) by a corporation, contributions to which are deductible under Section 170 (c) (2) of the Internal Revenue Code.

### **SECTION 2. PROHIBITION AGAINST PRIVATE INUREMENT**

No part of the net earnings of this corporation shall inure to the benefit of, or be distributable to, its members, Directors, officers, or other private persons, except that the corporation shall be authorized and empowered to pay reasonable compensation for services rendered and empowered and to make payments and distributions in furtherance of the purposes of this corporation.

### **SECTION 3. DISTRIBUTION OF ASSETS**

Upon the dissolution of this corporation, its assets remaining after payment, or provision for payment, or all debts and liabilities of this corporation shall be distributed for one or more exempt purposes within the meaning of Section 501 (c) (3) of the Internal Revenue Code or shall be distributed to the federal government, or to a state or local government, for a public purpose. Such distribution shall be made in accordance with all applicable provisions of the laws of the State of Utah.

### **SECTION 4. PRIVATE FOUNDATION REQUIREMENTS AND RESTRICTIONS**

In any taxable year in which this corporation is a private foundation as described in Section 509 (a) of the Internal Revenue Code, the corporation 1) shall distribute its income for said period at such time and manner as not to subject it to tax under Section 4942 of the Internal Revenue Code; 2) shall not engage in any act of self-dealing as defined in Section 4941(d) of the Internal Revenue Code; 3) shall not retain any excess business holdings as defined in Section 4943(c) of the Internal Revenue Code; 4) shall not make any investments in such manner as to subject the corporation to tax under Section 4944 of the Internal Revenue Code; and 5) shall not make any taxable expenditures as defined in Sections 4945(d) of the Internal Revenue Code.

## **ARTICLE 8 CONFLICT OF INTEREST**

### **SECTION 1. PURPOSE**

The purpose of the conflict of interest policy is to protect this tax-exempt organization's interest when it is contemplating entering into a transaction or arrangement that might benefit the private interest of an officer or director of this corporation or tax-exempt organization or might result in a possible excess benefit transaction. This policy is intended to supplement but not replace any applicable state and federal laws governing conflict of interest applicable to nonprofit and charitable organizations.

## **AGENDA ITEM # IV-B. (Continued)**

### SECTION 2. DEFINITION

A. Interested Person. Any director, principal officer, or member of a committee with governing Board-delegated powers, who has a direct or indirect financial interest, as defined below, is an interested person.

B. Financial Interest. A person has a financial interest if the person has, directly or indirectly, through business, investment, or family:

(1) An ownership or investment interest in any entity with which this corporation or tax-exempt organization has a transaction or arrangement,

(2) A compensation arrangement with this corporation or tax-exempt organization or with any entity or individual with which this corporation or tax-exempt organization has a transaction or arrangement, or

(3) A potential ownership or investment interest in, or compensation arrangement with, any entity or individual with which this corporation or tax-exempt organization is negotiating a transaction or arrangement.

Compensation includes direct and indirect remuneration as well as gifts or favors that are substantial.

A financial interest is not necessarily a conflict of interest. Under Section 3, part B, a person who has a financial interest may have a conflict of interest only if the governing Board decides that a conflict of interest exists.

### SECTION 3. PROCEDURES

A. Duty to Disclose. In connection with any actual or possible conflict of interest, an interested person must disclose the existence of the financial interest and be given the opportunity to disclose all material facts to the Directors.

B. Determining Whether a Conflict of Interest Exists. After disclosure of the financial interest and all material facts, and after any discussion with the interested person, he/she shall leave the governing Board meeting while the determination of a conflict of interest is discussed and voted upon. The remaining Board of Directors or committee members shall decide if a conflict of interest exists.

C. Procedures for Addressing the Conflict of Interest.

(1) An interested person may make a presentation to the governing Board of Directors, but after the presentation, he/she shall leave the meeting during the discussion of, and the vote on, the transaction or arrangement involving the possible conflict of interest.

## **AGENDA ITEM # IV-B. (Continued)**

(2) The chairperson of the governing Board of Directors shall, if appropriate, appoint a disinterested person or committee to investigate alternatives to the proposed transaction or arrangement.

(3) After exercising due diligence, the governing Board of Directors shall determine whether this corporation or tax-exempt organization can obtain with reasonable efforts a more advantageous transaction or arrangement from a person or entity that would not give rise to a conflict of interest.

(4) If a more advantageous transaction or arrangement is not reasonably possible under circumstances not producing a conflict of interest, the governing Board of Directors shall determine by a majority vote of the disinterested directors whether the transaction or arrangement is in this corporation or tax-exempt organization's best interest, for its own benefit, and whether it is fair and reasonable. In conformity with the above determination it shall make its decision as to whether to enter into the transaction or arrangement.

### **D. Violations of the Conflicts of Interest Policy.**

(1) If the governing Board of Directors has reasonable cause to believe a member has failed to disclose actual or possible conflicts of interest, it shall inform the member of the basis for such belief and afford the member an opportunity to explain the alleged failure to disclose.

(2) If, after hearing the member's response and after making further investigation as warranted by the circumstances, the governing Board of Directors determines the member has failed to disclose an actual or possible conflict of interest, it shall take appropriate disciplinary and corrective action.

## **SECTION 4. RECORDS OF PROCEEDINGS**

The minutes of the governing Board of Directors and all committees with Board-delegated powers or responsibilities shall contain:

A. The names of the persons who disclosed or otherwise were found to have a financial interest in connection with an actual or possible conflict of interest, the nature of the financial interest, any action taken to determine whether a conflict of interest was present, and the governing Board of Directors' or committee's decision as to whether a conflict of interest in fact existed.

B. The names of the persons who were present for discussions and votes relating to the transaction or arrangement, the content of the discussion, including any alternatives to the proposed transaction or arrangement, and a record of any votes taken in connection with the proceedings.

**AGENDA ITEM # IV-B. (Continued)**

**ARTICLE 9  
AMENDMENT OF BYLAWS**

**SECTION 1. AMENDMENT**

These Bylaws may be altered, amended, or repealed and new Bylaws adopted by approval by a majority of the Board of Directors currently in office, except as may otherwise be specified under provisions of law.

**ARTICLE 10  
CONSTRUCTION AND TERMS**

If there is any conflict between the provisions of these Bylaws and the Articles of Incorporation of this corporation or tax-exempt organization, the provisions of the Articles of Incorporation shall govern.

Should any of the provisions or portions of these Bylaws be held unenforceable or invalid for any reason, the remaining provisions and portions of these Bylaws shall be unaffected by such holding.

All references in these Bylaws to a section or sections of the Internal Revenue Code shall be to such sections of the Internal Revenue Code of 1986 as amended from time to time, or to corresponding provisions of any future federal tax code.

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**AGENDA ITEM # IV-B. (Continued)**

**ADOPTION OF BYLAWS**

We, the undersigned, are all of the initial Directors (and/or Incorporators) of this corporation, and we consent to, and hereby do, adopt the foregoing Bylaws, consisting of preceding pages, as the Bylaws of this corporation.

NAME

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_