

SCP Foundation Minutes

1/3/2017

Attendees: Hollie Cost, Dee Woodham & Herman Lehman

Dee Woodham made a motion to approve the Minutes from the December 28, 2016 meeting. Hollie Cost seconded. ALL AYES . . . MOTION APPROVED.

The Foundation members discussed moving forward with the SCP RFO.

The following amendments as highlighted were made to the bylaws, as moved by Dee Woodham, seconded by Hollie Cost and approved by all:

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**BYLAWS**  
**OF**  
**SHOAL CREEK PARK FOUNDATION**

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Adopted September 25, 2015

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**BYLAWS**  
**OF**  
**SHOAL CREEK PARK FOUNDATION**

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BYLAWS  
OF  
SHOAL CREEK PARK FOUNDATION

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**ARTICLE I**  
**Board of Directors**

**Section 1. Creation of Board** . All corporate powers of the Shoal Creek Park Foundation (the "Corporation") shall be exercised by or under the authority of, and the business and affairs of the Corporation shall be managed under the direction of, a Board of Directors (the "Board"). All of the powers and duties conferred or imposed upon a board of directors by the provisions of Chapter 3, Title 10A of the Code of Alabama (1975) as amended and the provisions of Chapter 1, Title 10A of the Code of Alabama (1975) as amended, to the extent applicable to nonprofit corporations (the "Alabama Nonprofit Corporation Law"), shall be exercised and performed by the Board. The number of members of the Board shall be established by the Board, but such number shall not be less than three nor more than 15. Directors shall be elected by the Board at its annual meeting.

**Section 2. Terms of Directors** . Except as provided in this Article I, each director shall hold office for a 3 year, staggered term ending on the date of the annual meeting following such director's election; provided, however, that the director shall continue to serve in such office after such annual meeting until the director is re-elected, or a successor is elected, to such office.

**Section 3. Resignation of a Director** . Any director may resign at any time upon written notice to the Corporation addressed to it at its principal office or to its President or Secretary. Any resignation shall become effective at the time or upon the happening of the condition, if any, specified therein, or, if no such condition or time is specified, upon its receipt. Unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

**Section 4. Removal, Disqualification, or Incapacity of a Director** . A director may be removed or may be declared disqualified to serve or incapable of serving by a majority vote of the remaining directors, even if the notice of meeting cannot be given to the director who is the subject of such Board action, and even if the remaining directors shall constitute less than a quorum of the Board.

**Section 5. Vacancy Among Directors** . Upon the removal of a director, the resignation or death of a director, or a declaration that a director is

disqualified from service or incapable of serving, such office shall be vacant, and the number of directors shall be deemed to be decreased accordingly. A person may, at any time, be elected to fill a vacancy in the Board in the same manner in which a person may initially be elected to the Board, and such successor shall fill the term remaining.

**Section 6. Annual Meeting of the Board** . The annual meeting of the Board shall be held at such time and place as the Board may determine.

**Section 7. Regular Meetings of the Board** . Regular meetings of the Board shall be held at such times and places as the Board may determine.

**Section 8. Special Meetings of the Board** . Special meetings of the Board may be called by either (a) the Chairman of the Board, (b) the Secretary, (c) a majority of the directors then in office, or (d) any employee of the Corporation, at the direction of one of the foregoing. Each special meeting shall be held at such time and place as may be specified in the notice of the special meeting.

**Section 9. Notice of Meetings** . Notice of the time, day, and place of all meetings of the Board shall be given to all directors in person or by telephone, mail, e-mail, or facsimile. If the notice is sent by mail, it must be deposited in the United States first class mail or with a private mail carrier for overnight delivery, postage prepaid and addressed to the director at his or her address as it appears on the records of the Corporation, at least five days before the day of the meeting. If the notice is sent by any other method or is delivered in person, the notice must be sent or delivered before the meeting. A waiver of notice in writing signed by the person or persons entitled to notice, whether before or after the time stated therein, shall be equivalent to the giving of notice.

**Section 10. Quorum** . One third of the directors then in office shall constitute a quorum at any meeting of the Board for the transaction of business. The act of a majority of the directors present at any meeting at which there is a quorum shall be an act of the Board, except as may be otherwise specifically provided by the Alabama Nonprofit Corporation Law, by the Certificate of Formation, or by these Bylaws. Directors may participate in any meeting of the Board by means of a conference telephone or similar communications equipment so long as all persons participating at the meeting can hear each other at the same time, and participation by such means shall constitute presence in person at a meeting.

**Section 11. Written Consent Actions** . Any action required to be taken or permitted to be taken by the Board may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the directors entitled to vote with respect to the subject matter thereof. The written consent action shall have the same force and effect as a unanimous vote of the Board and shall be filed with the minutes of the proceedings of the Board.

**Section 12. Compensation of Directors**

Directors shall not receive compensation for their services in such office; provided, however, that the Board may provide for the reimbursement of reasonable expenses.

## **ARTICLE II Committees**

**Section 1. In General** The Board may, by a resolution passed by a majority of the directors then in office, create such committees as it may deem necessary or useful to promote the purposes and carry on the work of the Corporation. Each such committee shall consist of at least two directors who are elected to membership in such committee by the Board. To the extent authorized to do so in an enabling resolution, committees may exercise the power of the Board, except that no committee shall have the power to do any of the following:

- (a) Amend or restate the Certificate of Formation;
- (b) Amend, alter, or repeal the Bylaws;
- (c) Adopt a plan for the distribution in liquidation of the assets of the Corporation;
- (d) Effect a dissolution of the Corporation;
- (e) Authorize the sale, lease, exchange, or mortgage of all or substantially all of the property and assets of the Corporation;
- (f) Adopt a plan of merger or consolidation;
- (g) Authorize the conversion of the Corporation into another form of entity;
- (h) Elect, appoint, or remove any member of any such committee or any director or officer of the Corporation; or
- (i) Amend, alter, or repeal any action or resolution of the Board unless by its terms such resolution provides that it may be amended, altered, or repealed by such committee.

The Board may by resolution create other committees not having or exercising the authority of the Board. Persons serving on such committees need not be directors.

**Section 2. Terms** Except as provided in Section 4 of this Article II and unless the committee shall sooner be terminated by the Board, each member of a committee shall hold office for a term ending on the date of the annual meeting following such member's election; provided, however, that the member shall continue to serve in such office after such annual meeting until the member is re-elected, or a successor is elected, to such office.

**Section 3. Chairmen of Committees** . Except as provided in this Article II, the Board shall appoint one member of each committee as chairman.

**Section 4. Vacancies** . Any member of a committee may resign at any time upon written notice to the Corporation addressed to it at its principal office or to its President or Secretary. A member of a committee may be removed or may be declared disqualified to serve or incapable of serving by the person or persons who, or body which, made the initial election or selection. Upon the removal of a member of a committee, the resignation or death of a member of a committee, or a declaration that a member of a committee is disqualified from service or incapable of serving, such office shall be vacant, and the number of members of the committee shall be deemed to be decreased accordingly. A person may, at any time, be elected or selected to fill a vacancy in such committee in the same manner in which a person may initially be elected or selected for such committee.

**Section 5. Meetings** . Regular meetings of a committee shall be held at such times and places as the committee may determine. Special meetings of a committee may be called by (a) the chairman of the committee, (b) any officer of the Corporation, (c) a majority of the members of the committee, or (d) any employee of the Corporation, at the direction of one of the foregoing. Special meetings shall be held at such time and place as may be specified in the notice of the special meeting.

**Section 6. Notice of Meetings** . Notice of the time, day, and place of all meetings of committees shall be given to all members of such committee in person or by telephone, mail, e-mail, or facsimile. If the notice is sent by mail, it must be deposited in the United States first class mail or with a private mail carrier for overnight delivery, postage prepaid and addressed to the member at his or her address as it appears on the records of the Corporation, at least five days before the day of the meeting. If the notice is sent by any other method or is delivered in person, the notice must be sent or delivered at least 24 hours before the meeting. A waiver of notice in writing signed by the person or persons entitled to notice, whether before or after the time stated therein, shall be equivalent to the giving of notice.

**Section 7. Quorum** . Unless otherwise provided by resolution of the Board, a majority of the whole committee shall constitute a quorum. Members available to participate by electronic means shall also be counted toward a quorum.

**Section 8. Written Consent Actions** . Any action required to be taken or permitted to be taken by a committee of the Board may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the members of the committee entitled to vote with respect to the subject matter thereof. The written consent action shall have the same force and effect as a unanimous vote of such committee and shall be filed with the minutes of the proceedings of such committee.

**Section 9. Ratification of Committee Actions** . It shall not be necessary for the Board to ratify any action of any committee, so long as the committee

is acting within the powers granted herein. Any actions undertaken by the Executive Committee which are listed in Section 1 of this Article II, which are disclosed to the Board at its next meeting, and which are not rescinded by the Board shall become actions of the Board at the conclusion of such Board meeting.

**Section 10. Rules of Governance** . Each committee may adopt rules for its own governance not inconsistent with the Certificate of Formation, these Bylaws, or rules adopted by the Board. If a committee does not adopt such rules, the rules applicable to the Board shall apply to the committee.

### **ARTICLE III Officers**

**Section 1. In General** . The officers of the Corporation shall consist of a Chairman of the Board, a President, one or more Vice Presidents, a Secretary, and a Treasurer. Such officers shall be elected by the Board at its annual meeting and shall serve upon such conditions as the Board deems appropriate.

The Board may appoint such other officers, assistant officers, and agents as it deems necessary to carry out the business of the Corporation. Such other officers, assistant officers, and agents shall hold their offices upon such conditions and shall exercise such powers and perform such duties as shall be determined from time to time by the Board. Two or more offices may be held by the same person, except that the President may not also serve as Secretary. No officer, other than the Chairman of the Board, need be a director. No provision in these Bylaws shall be deemed to change the at-will employment status of any paid officer of the Corporation.

The enumeration herein of particular powers shall not restrict in any way the general powers and authority of the officers.

**Section 2. Terms** . Except as provided in Section 3 of this Article III, each officer shall hold office for a term ending on the date of the annual meeting following such officer's election; provided, however, that the officer shall continue to serve in such office after such annual meeting until the officer is re-elected, or a successor is elected, to such office. No one term of an officer shall exceed **six (6)** years.

**Section 3. Vacancies** . Any officer may resign at any time upon written notice to the Corporation addressed to it at its principal office or to its President or Secretary. An officer may be removed or may be declared disqualified to serve or incapable of serving by the Board. Upon the removal of an officer, the resignation or death of an officer, or a declaration that an officer is disqualified from service or incapable of serving, such office shall be vacant. A person may, at any time, be elected or named to fill such a vacancy in the same manner in which a person may initially be elected or named to such office. The removal of an officer shall be undertaken only upon a finding that the best interests of the Corporation will be served thereby and shall be without prejudice to the contractual rights, if any, of the officer so removed.

**Section 4. Duties of the Chairman of the Board** . The Chairman of the Board shall, when present, preside at all meetings of the Board. In general, such person shall perform all the duties incident to the office of chairman of the board. The Chairman of the Board shall perform such other duties as may be prescribed by these Bylaws or assigned to such person by the Board.

**Section 5. Duties of the President** . The President shall be the chief executive officer of the Corporation and shall be subject to the general direction of the Board. The President shall exercise day-to-day leadership and management of operations and functions of the Corporation and shall be responsible for the overall administration and management of the Corporation, including communications, operations, and fundraising. The President shall exercise general supervision over the property, business, and affairs of the Corporation, shall perform such other duties as may be prescribed by these Bylaws or assigned to such person by the Board, and shall coordinate the work of the other officers of the Corporation.

**Section 6. Duties of Vice Presidents** . The Vice Presidents, as designated by the Board in the absence, inability, or disability of the President, shall perform the duties and exercise the powers of said office, and when so acting shall be subject to all restrictions upon the President. At all other times the Vice Presidents shall exercise powers incumbent with the title of such office and such other powers as may be prescribed by these Bylaws or assigned to such person by the Board or the President.

**Section 7. Duties of the Secretary** . The Secretary shall record the minutes of the meetings of the Board and shall perform such other duties as may be delegated to the Secretary by the President or the Board.

**Section 8. Duties of the Treasurer** . The Treasurer shall have charge and custody of the funds, securities, and other like property of the Corporation and shall be responsible for the receipt, investment, safeguarding, and disbursement of the funds of the Corporation. The Treasurer shall perform such other duties and exercise such other powers as may be prescribed by these Bylaws or assigned to such person by the Board or the President.

**Section 9. Compensation of Officers and Employees** . The officers and employees of the Corporation may receive such reasonable compensation for services rendered as the Board may deem appropriate. The Board will approve all compensation arrangements in advance of paying compensation and will document such arrangements in writing. Such documentation will include the names of those persons who decided or voted on the compensation arrangements, information about compensation paid by similarly-situated taxable or tax-exempt organizations for similar services (including any compensation surveys compiled by independent firms or actual written offers from similarly-situated organizations), and any other information on which the Board relied in making its decision. The Board shall review its compensation arrangements periodically.

The Corporation shall make no loans to its directors or officers.

## **ARTICLE IV Conflicts of Interest**

**Section 1. Purpose** . It is the policy of the Corporation that all persons who exercise substantial influence over the affairs of the Corporation should be free from the influence of conflicting interests when they act on behalf of the Corporation, and that they should act solely in the best interests of the Corporation, without regard to personal considerations. All transactions with persons who exercise substantial influence over the affairs of the Corporation shall satisfy the requirements to meet the rebuttable presumption of reasonableness under Section 4958 of the Internal Revenue Code of 1986, as amended (or the corresponding provision of any subsequent federal tax law), and the regulations currently or hereafter promulgated thereunder (the "Code").

This Article IV provides procedures to be observed when the Corporation is contemplating entering into a Transaction that might benefit the private interest of a person who exercises substantial influence over the affairs of the Corporation, to require the reporting of such private benefits, to address the making of compensation determinations and the receipt of gifts, and to require annual statements of compliance with this Article IV. This Article IV is intended to supplement but not replace any applicable state and federal laws governing conflicts of interest applicable to the Corporation, including Section 4958 of the Code.

**Section 2. Definitions** . For purposes of this Article IV:

- (a) A "Conflict of Interest" exists where any of the following are present:
- (1) The Corporation is contemplating entering into a Transaction or Compensation Arrangement with an Interested Person or a Related Person; or
  - (2) The Corporation is contemplating entering into a Transaction in which an Interested Person's personal interests (or those of a Related Person), or interests which the Interested Person (or a Related Person) owes to others, arise simultaneously or appear to clash with those interests of the Corporation.

A Conflict of Interest does not exist when the Transaction will result in benefits to an Interested Person (or a Related Person) which are also available to a large group, or when the benefits are of inconsequential value. Further, a Conflict of Interest does not exist when an Interested Person votes on the election of the Interested Person or others to unpaid positions.

- (b) "Compensation Arrangement" includes direct and indirect remuneration as well as gifts or favors.

- (c) “Governing Board” means the Corporation’s Board of Directors or other body which is considering a Transaction.
- (d) “Influential Persons” means the employees and officers of the Corporation and any other persons who, based on all facts and circumstances, are in a position to exercise substantial influence over the affairs of the Corporation. Such term does not include Interested Persons.
- (e) “Interested Person” means the persons who are members of the Governing Board.
- (f) “Related Person” means (1) an Interested Person’s spouse, siblings, ancestors, descendants, and the spouses of descendants and (2) a corporation, partnership, trust, or estate in which the Interested Person or any person described in (1) owns or will potentially own an investment or beneficial interest.
- (g) “Transaction” means a transaction, arrangement, or decision to be entered into by the Corporation.

**Section 3. Disclosure of an Interested Person’s Conflict of Interest**

An Interested Person shall disclose any Conflict of Interest of the Interested Person to the Governing Board. Disclosure of the Conflict of Interest, including all material facts, shall be accomplished by written or oral notice delivered to the Governing Board at a meeting of the Governing Board. Thereafter, the Interested Person shall leave the meeting if requested to do so.

**Section 4. Actions for Addressing an Interested Person’s Conflict of Interest**

With respect to any Conflict of Interest of an Interested Person disclosed to or identified by the Governing Board pursuant to this Article IV, the Governing Board shall take the following action:

- (a) The chairman of the Governing Board shall, if appropriate, appoint a disinterested person or committee to investigate a reasonable alternative to the Transaction;
- (b) After exercising due diligence, the Governing Board shall determine whether the Corporation can secure, with reasonable efforts, a more advantageous Transaction such that no Conflict of Interest is present; and
- (c) If a more advantageous Transaction cannot be secured without creating a Conflict of Interest, the Governing Board shall determine whether the Transaction is fair and reasonable to the Corporation, in its best interest, and for its own benefit. The Corporation shall thereafter make its decision as to whether to enter into the Transaction.

No Transaction between the Corporation and an Interested Person or a Related Person shall be either void or voidable solely because of a Conflict of Interest, if the Conflict of Interest is disclosed to the Governing Board, and the underlying Transaction is found to be fair and reasonable to the Corporation and in the best interest of the Corporation, in accordance with this Article IV.

All decisions of the Governing Board shall be taken by a majority vote of the disinterested members of the Governing Board. With respect to proceedings required by this Section 4, the minutes of meetings of the Governing Board shall contain:

- (aa) The names of the Interested Persons who disclosed or otherwise were found to have a Conflict of Interest;
- (bb) The nature of the Conflict of Interest;
- (cc) Any action taken to determine whether the Transaction was or would be fair and reasonable to the Corporation and in its best interest;
- (dd) The determination of the Governing Board as to whether the Transaction in fact was or would be in the best interest of the Corporation; and
- (ee) The names of the persons who were present for discussions and votes relating to the Transaction, the content of the discussion, including any alternatives to the Transaction, and a record of any votes taken in connection with the proceedings.

**Section 5. Conflicts of Interest for Influential Persons** .\_\_\_\_\_The preceding sections of this Article IV apply to Conflicts of Interest involving Interested Persons. Influential Persons shall also be subject to this Article IV as follows:

- (a) The definitions of "Conflict of Interest" and "Related Person" shall be applied by substituting "Influential Person" for "Interested Person."
- (b) In the event that an Influential Person has a role in the contemplation of a Transaction which is a Conflict of Interest, the Influential Person shall disclose the Conflict of Interest to a supervisor who is disinterested. The Influential Person shall thereafter not be involved in the Transaction. Rules similar to those in Section 4 of this Article IV shall be applicable to the deliberations of the disinterested supervisor.

**Section 6. Failure to Disclose a Conflict of Interest** . If the Board has reasonable cause to believe any Interested Person or Influential Person has failed to make the disclosure required by this Article IV, the Board shall inform the person of the basis for such belief and afford the person an opportunity to explain the alleged failure

to disclose. After hearing the response, if any, of the person, and after making further investigation as warranted by the circumstances, the Board shall take appropriate disciplinary and corrective action.

**Section 7. Annual Statements** . Each year at the Board's annual meeting, the Board shall identify the Interested Persons and the Influential Persons. Thereafter, each Interested Person and each Influential Person shall complete and affirm a statement, in the form of **Exhibit A** attached hereto, that such person (a) has received a copy of this Article IV; (b) has read and understands this Article IV; (c) has agreed to comply with this Article IV; and (d) understands the Corporation is a nonprofit organization and that, in order to maintain its tax-exempt status, the Corporation must engage primarily in activities which accomplish one or more of its exempt purposes.

**Section 8. Periodic Reviews** . To ensure the Corporation operates in a manner consistent with its purposes and does not engage in activities that could jeopardize its tax-exempt status, periodic reviews shall be conducted by the Board. Any such review shall be conducted at or in conjunction with an annual meeting of the Board and shall address the following subjects:

- (a) whether compensation arrangements and benefits are reasonable, based on competent survey information, and the result of arm's length bargaining; and
- (b) whether partnerships, joint ventures, and arrangements with management organizations in which the Corporation participates, conform to the Corporation's written policies, are properly recorded, reflect reasonable investments or payments for goods and services, further the purposes of the Corporation, and do not result in any inurement, impermissible private benefit or in any excess benefit transaction.

When conducting the periodic reviews provided for in this Section 8, the Corporation may, but need not, use outside advisors. Use of outside experts shall not relieve the Board of its responsibility for ensuring periodic reviews are conducted.

## **ARTICLE V Whistleblower Policy**

The Corporation will adhere to all laws and regulations that apply to it. The support of all employees, officers, and directors is necessary to achieving compliance with various laws and regulations. The Corporation will not retaliate against an employee, officer, or director who, in good faith, has made a protest as to, complained about, disclosed, or threatened to disclose some practice of the Corporation to a supervisor, public body, or law enforcement officer on the basis of a reasonable belief that the practice is in violation of a law, rule, or regulation or is in violation of a clear mandate of public policy.

Employees, officers, and directors are encouraged to make such protests, complaints, and disclosures within the Corporation prior to seeking redress outside the Corporation. Any employee may make such complaints in writing to such employee's supervisor, any officer, or any director. Any officer may make such complaints in writing to any superior officer or any director. Any director may make such complaints in writing to the Chairman of the Board.

Any person receiving such a complaint shall immediately report it to the Chairman of the Board (or to some other director of the Corporation who is not implicated by the complaint), and the receiver of the report shall appoint a committee of three directors to investigate the complaint. The results of such investigation shall be distributed to the Board within thirty days of appointment of such committee. If, given the nature of the complaint, a committee of the Board cannot be appointed, legal counsel shall be consulted and appropriate actions taken.

An employee, officer, or director who files a complaint must be acting in good faith and must have reasonable grounds for believing the information disclosed indicates a violation of a law, rule, or regulation or is in violation of a clear mandate of public policy. Any allegations that prove not to be substantiated and which prove to have been made maliciously or with knowledge of their falsity will be subject to disciplinary action.

## **ARTICLE VI**

### **Document Retention Policy**

**Section 1. Purpose** . This Article VI provides for the systematic review, retention and destruction of documents received or created by the Corporation in connection with the transaction of the Corporation's business. This Article VI covers all records and documents, regardless of physical form and contains guidelines for how long certain documents should be kept and how records should be destroyed. This Article VI is intended to ensure compliance with federal and state laws and regulations, to eliminate accidental or innocent destruction of records, and to facilitate the Corporation's operations by promoting efficiency and freeing up valuable storage space.

**Section 2. Document Retention** . The Corporation shall abide by the document retention time periods provided below. Documents that are not listed but are substantially similar to a document which is listed shall be retained for the length of time provided for the listed document.

#### **Corporate Records**

Certificate of Formation	Permanent
Bylaws	Permanent
Board and Committee Minutes	Permanent
Annual Reports to Secretary of State/Attorney General	Permanent

IRS Form 1023 (Application for Tax-Exempt Status)	Permanent
IRS Determination Letter	Permanent
State Tax Correspondence	Permanent

**Accounting and Corporate Tax Records**

Annual Audits and Financial Statements	Permanent
General Ledgers	Permanent
IRS Form 990 (Tax Returns)	Permanent
Business Expense Records	7 years
IRS Form 1099s	7 years
Journal Entries	7 years
Invoices	7 years
Donor Records and Acknowledgement Letters	7 years
Grant Agreements and Applications	5 years after completion
Sales Records	5 years

**Bank Records**

Check Registers	Permanent
Bank Deposit Slips	7 years
Bank Statements and Reconciliation	7 years
Electronic Fund Transfer Documents	7 years
Petty Cash Vouchers	3 years
Cash Receipts	3 years
Credit Card Receipts	3 years

**Other**

Insurance Policies	Permanent
Real Estate Documents	Permanent
Stock and Bond Records	Permanent
Copyright Registrations	Permanent
Contracts	7 years after completion
Leases	6 years after expiration
Correspondence	3 years

**Section 3. Electronic Documents and Records** . Electronic documents will be retained as if they were paper documents. Therefore, any electronic files, including records of donations made online, will be maintained for the appropriate amount of time if they are listed in Section 2 of this Article VI. Email messages which are required to be maintained shall be printed in hard copy and placed in the appropriate file or stored in an archive computer file folder. Backup and recovery methods will be tested on a regular basis.

**Section 4. Emergency Planning** . The Corporation's records will be stored in a safe, secure and accessible manner. Documents and financial files that are essential to the Corporation's operations during emergencies will be duplicated or backed up at least every week and maintained off site.

**Section 5. Document Destruction** . The Corporation's officers shall be responsible for implementing this Article VI. Any documents which are due for destruction but which contain confidential or proprietary information shall be shredded. Absent legal advice to the contrary as well as the consent of the Chairman of the Board, no documents shall be destroyed during the course of any investigation or lawsuit which involves the Corporation or its employees, officers, directors, or agents.

**Section 6. Compliance** . Failure on the part of officers and employees to follow this Article VI can result in disciplinary action. The Chairman of the Board will periodically review this Article VI with legal counsel or the Corporation's certified public accountant.

**ARTICLE VII  
Investments**

The Corporation shall have the right to retain all or any part of any securities or property acquired by it in any manner whatsoever and to invest and reinvest any funds held by it according to the judgment of the Board; provided, however, that no action

shall be taken by or on behalf of the Corporation if such action is a prohibited transaction or if it would result in the denial or loss of status as a tax-exempt organization under the provisions of Section 501(c)(3) of the Code. This Article VII shall not be applicable to any funds which are subject to the Alabama Uniform Prudent Management of Institutional Funds Act, Sections 19-3C-1, et seq., Code of Alabama (1975) as amended.

## **ARTICLE VIII Execution of Documents**

**Section 1. Powers Generally** . The Chairman of the Board, the President, and any Vice President are authorized, in their discretion and to the extent permitted herein and by the Alabama Nonprofit Corporation Law, to do and perform any and all corporate and official acts in carrying on the Corporation's business, including but not limited to the authority to make, execute, acknowledge, and deliver all written instruments that may be necessary in the purchase, sale, lease, assignment, transfer, management, or handling in any way of property of any description held or controlled by the Corporation in any capacity. The Board may authorize any other officer or officers or agent or agents to enter into such instruments, and such authority may be delegated by the person so authorized. The Secretary, Treasurer, or any Assistant Secretary or Assistant Treasurer is authorized to attest the signature of another officer on such instruments; provided, however, that no person holding two offices shall attest his or her own signature.

**Section 2. Expenditure Authorization** . The Board may authorize any expenditures by the adoption of a budget. Other expenditures may be authorized by one officer, if less than \$500, or by any two officers if at least \$500 but less than \$3000. In applying this Section 2 to a contract with multiple payments, the aggregate of the payments under the contract shall be the "expenditure."

**Section 3. Checks** . All checks written on an account of the Corporation shall be signed by any two officers. The Treasurer may give receipts and endorse checks, drafts, and other instruments for the payment of money for deposit or collection by the Corporation.

## **ARTICLE IX Principal Place of Business**

The principal place of business of the Corporation shall be in Shelby County, Alabama, or at such other place or places as may be designated from time to time by the Board.

## **ARTICLE X Fiscal Year**

The fiscal year of the Corporation shall begin on January 1 and shall end on December 31, but may be changed by the Board.

## ARTICLE XI Amendments

These Bylaws may be amended, repealed, or altered in whole or in part by the Board at any meeting which is duly convened after notice of such purpose.

## ARTICLE XII Immunity

**Section 1. Statutory Immunity for Officers** . Pursuant to Sections 10A-20-16.01, *et seq.*, Code of Alabama (1975) as amended, each noncompensated officer and member of a governing body of the Corporation shall be immune from suit and not subject to civil liability arising from the conduct of the affairs of the Corporation except as follows: (a) his or her act or omission gives rise to a cause of action and amounts to willful or wanton misconduct or fraud, or gross negligence, (b) the civil action is brought by the Corporation, (c) the cause of action relates to a personal injury to, or death of, another person or property damage arising from an accident inflicted by the officer or director acting within the line and scope of his or her duties, or (d) an action is brought by the Department of Examiners of Public Accounts.

**Section 2. Statutory Immunity for Volunteers** . Pursuant to Section 6-5-336, Code of Alabama (1975) as amended, all volunteers shall be immune from civil liability on the basis of any act or omission of such volunteer resulting in damage or injury if both (a) the volunteer was acting in good faith and within the scope of such volunteer's official functions and duties for the Corporation, and (b) the damage or injury was not caused by willful or wanton misconduct by such volunteer. For purposes of this Section 2, the term "volunteer" shall include all persons performing services for the Corporation without compensation (other than reimbursement for actual expenses incurred), and such term shall include any such person serving as a director, officer, trustee, or direct service volunteer.

**Section 3. Other Statutes** . If the Alabama Nonprofit Corporation Law, any successor statute thereto, or any other statute should authorize the further elimination or limitation of the liability of an officer of the Corporation, then the liability of an officer or director of the Corporation shall be so eliminated or limited without any further action of this Corporation.

## ARTICLE XIII Indemnification

**Section 1. Definition** . For purposes of this Article XIII, the term "officer" shall include current and former officers, directors, trustees, and the members of any other governing body of an entity, as well as the respective heirs, executors, and administrators of any of the foregoing.

**Section 2. In General** . The Corporation intends to provide the broadest indemnification that is authorized and permitted by law to its officers. All persons

covered by the immunity provisions referred to in Article XII shall receive the full benefit of those provisions.

**Section 3. Scope of Indemnification** . The Corporation shall indemnify any officer of the Corporation and any officer of the Corporation who is or was serving at the request of the Corporation as an officer of another profit or nonprofit enterprise, against all liabilities and expenses incurred in any threatened, pending, or completed proceeding in which the person is made a party by reason of being or having been an officer, except such liabilities and expenses as are incurred because of the person's gross negligence or gross misconduct in the performance of his or her duties. The Board is hereby empowered to cause the Corporation to indemnify or contract in advance to indemnify any person not otherwise specified in this Section 3.

**Section 4. Payment of Expenses in Advance** . Unless a determination has been made that indemnification is not permissible, the Corporation shall make advances and reimbursements for expenses incurred in a proceeding by the persons who are indemnified in this Article XIII upon receipt of an undertaking from the person to repay the same if it is ultimately determined that the person is not entitled to indemnification. Such undertaking shall be an unlimited, unsecured general obligation of such person and shall be accepted without reference to the person's ability to make repayment.

**Section 5. Indemnification Insurance** . The Corporation may purchase and maintain insurance to indemnify it against the whole or any portion of the liability assumed by it in accordance with this Article XIII and may also procure insurance, in such amounts as the Board may determine, on behalf of any person who is an officer of another profit or nonprofit enterprise, against any liability asserted against or incurred by such person in any such capacity or arising from such person's status as such, whether or not the Corporation would have power to indemnify such person against such liability under the provisions of this Article XIII.

**Section 6. Legal Determinations** . Unless ordered by a court, indemnification pursuant to this Article XIII shall be made only after a determination that indemnification meets the standards set forth herein. Such determination shall be made by the Board, if a quorum can be assembled of persons who were not parties to, or who have been wholly successful with respect to, such proceeding. If a quorum cannot be assembled, or if the Board shall so direct, then the determination shall be made in a written legal opinion issued by legal counsel agreed upon by the Board and the proposed indemnitee. If the Board and the proposed indemnitee are unable to agree upon such special legal counsel, the Board and the proposed indemnitee each shall select a nominee, and the nominees shall select such special legal counsel.

**Section 7. Amendments to Article XIII** . The provisions of this Article XIII shall be applicable to all actions, claims, suits, or proceedings commenced after the adoption hereof, whether arising from any action taken or failure to act before or after such adoption. No amendment, modification, or repeal of this Article XIII shall diminish the rights provided hereby or diminish the right to indemnification with respect to any

claim, issue, or matter in any then-pending or subsequent proceeding that is based in any material respect on any alleged action or failure to act prior to such amendment, modification, or repeal.

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**ANNUAL DISCLOSURE STATEMENT**  
**FOR**  
**SHOAL CREEK PARK FOUNDATION**

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I, \_\_\_\_\_, hereby certify the following:

1. I have received a copy of the Conflicts of Interest Policy included in Article IV of the Bylaws of the Shoal Creek Park Foundation (the "Policy");
2. I have read the Policy;
3. I understand the Policy;
4. I agree to comply with the Policy; and
5. I have previously disclosed any conflicts of interest in accordance with the Policy.

Dated \_\_\_\_\_, \_\_\_\_', \_\_\_\_'.

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Possible Board members were discussed.

No other business was conducted and the meeting was adjourned.

Submitted by: HERMAN LEHMAN