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AGREEMENT OF MERGER

**FILED**  
In the Office of the Secretary of State  
of the State of California

JUL 3 1 2002 *PLS*

*Bill Jones*  
BILL JONES, Secretary of State

The parties to this Agreement of Merger (hereinafter "Agreement") are Odd Fellows Home of California, a California non-profit public benefit corporation (hereinafter referred to as "Saratoga Corporation" or the "surviving corporation"), California Odd Fellows Housing of Napa, Incorporated, a California non-profit public benefit corporation (hereinafter referred to as "Napa Corporation" or the "disappearing corporation"), and Grand Lodge of California, Independent Order of Odd Fellows, a California non-profit mutual benefit corporation (hereinafter referred to as "Grand Lodge").

This Agreement is made with reference to the following facts:

A. Saratoga Corporation owns and operates a retirement community located in Saratoga, California, called "Saratoga Retirement Community." Saratoga Corporation has received a determination letter from the Internal Revenue Service that it is an organization described under Section 501(c)(3) of the Internal Revenue Code of 1986 (the "Code") and is exempt from federal income taxation under Section 501(a) of the Code. Napa Corporation owns and operates a retirement community in Napa, California, called "The Meadows of Napa Valley." Napa Corporation has received a determination letter from the Internal Revenue Service that it is an organization described under Section 501(c)(3) of the Code and is exempt from federal income taxation under Section 501(a) of the Code.

B. Grand Lodge is a fraternal organization described in Section 501(c)(8) of the Code, and exempt from federal income taxation under Section 501(a) of the Code, whose purposes may be effected, among other means, through the establishment of subordinate corporations devoted to specific non-profit public benefit purposes. Saratoga Corporation and Napa Corporation have been established under the authority of the Grand Lodge. Under powers granted in the Constitution of the Grand Lodge which are applicable to both Saratoga Corporation and Napa Corporation pursuant to their respective corporate organizational

documents, the merger of Saratoga Corporation and Napa Corporation is subject to the approval of the Grand Lodge.

C. Saratoga Corporation and Napa Corporation each financed facilities through the issuance of tax-exempt Certificates of Participation (respectively, the "Saratoga Corporation Certificates" and the "Napa Corporation Certificates"). Each corporation sold the applicable facility to a joint powers authority (respectively, the "Saratoga Corporation Authority" and the "Napa Corporation Authority") pursuant to the terms of certain Installment Purchase Agreements with the Saratoga Corporation Authority or the Napa Corporation Authority, as applicable. Each of the Saratoga Corporation Authority and the Napa Corporation Authority then sold the facility back to the applicable non-profit corporation pursuant to the terms of certain Installment Sale Agreements with Saratoga Corporation or Napa Corporation, as applicable. The payments under each Installment Purchase Agreement are payable solely from payments made by each corporation under the related Installment Sale Agreement. The Saratoga Corporation Certificates and the Napa Corporation Certificates were issued pursuant to the terms of a Trust Agreement between the Saratoga Corporation Authority or the Napa Corporation Authority, as applicable, and a trustee and evidence proportionate interests of the certificate holders in installment payments made by the Saratoga Corporation Authority or the Napa Corporation Authority, as applicable, under the related Installment Purchase Agreement. (In the case of each of Saratoga Corporation and Napa Corporation, the Installment Purchase Agreement, the Installment Sale Agreement, the Trust Agreement and the Regulatory Agreement (hereinafter defined) are hereinafter referred to as the "Financing Documents" of such corporation.)

D. The State of California Office of Statewide Health Planning and Development ("Cal Mortgage") insured the Saratoga Corporation Certificates and the Napa Corporation Certificates pursuant to the terms of a Regulatory Agreement with each of the corporations. The interests of each of the trustees (respectively, the "Saratoga Corporation Trustee" and the "Napa Corporation Trustee") and Cal Mortgage were secured by a deed of trust on the facility financed with certificate proceeds and related leases and earnings (respectively, the "Saratoga Corporation

Deed of Trust” and the “Napa Corporation Deed of Trust”), as well as by a security interest in other assets, including the gross revenues, of the applicable corporation. In addition, Grand Lodge has guaranteed payments by each of Saratoga Corporation and Napa Corporation under the Financing Documents.

E. In order to finance proposed additional improvements to Saratoga Corporation’s facilities, and to achieve other economies and efficiencies, Saratoga Corporation, Napa Corporation and Grand Lodge have agreed that Napa Corporation should be merged with Saratoga Corporation. Saratoga Corporation, Napa Corporation and Grand Lodge acknowledge that the merger will be subject to certain terms and conditions set forth in the Financing Documents and have requested Cal Mortgage’s consent to the merger and a statement that Cal Mortgage’s insurance for each of the Saratoga Corporation Certificates and the Napa Corporation Certificates will remain in effect.

In consideration of the facts stated above, the mutual covenants set forth in this Agreement, and for other valuable consideration, receipt of which each party hereby acknowledges, the parties agree as follows:

1. Merger of Constituent Corporations.

(a) Saratoga Corporation and Napa Corporation are the constituent corporations, as that term is defined in Section 5044 of the Non-Profit Public Benefit Corporation Law of California, to the merger described in this Agreement.

(b) Napa Corporation shall be merged into Saratoga Corporation, and Saratoga Corporation is to be the surviving corporation, as that term is defined in Section 5074 of the Non-Profit Public Benefit Corporation Law of California, to the merger described in this Agreement.

2. Bylaws of Surviving Corporation.

(a) The Bylaws of Saratoga Corporation shall be amended and restated, as of the effective date of the merger, to read as set forth in Exhibit “A” attached to this Agreement, which exhibit is incorporated by reference as if fully set forth.

(b) The Amended and Restated Bylaws shall continue in full force thereafter as the Bylaws of the surviving corporation until amended as provided therein or as provided by law.

3. Directors and Officers.

(a) The names of the directors and officers of the surviving corporation who shall hold office commencing as of the effective date of the merger are as follows:

Directors

1. Peter Bregman
2. Wayne Thornton
3. Joan Pike
4. Joyce Rosgen
5. Jack Reasoner
6. Merrill Burnett
7. Diana Carranza
8. June Jacobs
9. David Fullmer
10. Don Smith
11. Violet Manes
12. Gerald Poarch
13. George Hannaford

Officers

1. Wayne Thornton, Chairperson of the Board
2. Joan Pike, Vice-Chairperson of the Board
3. Gerald Poarch, Secretary
4. George Hannaford, Treasurer
5. Violet Manes, Assistant Secretary
6. June Jacobs, Assistant Treasurer

(b) The directors and officers named above shall continue in office until such time as their respective successors have been elected or appointed and qualified, or until removed, in accordance with the Amended and Restated Bylaws of the surviving corporation.

4. Representations of the Parties.

(a) Saratoga Corporation represents that it is a non-profit public benefit corporation duly organized, validly existing and in good standing under the laws of the State of California and that it has no members.

(b) Napa Corporation represents that it is a non-profit public benefit corporation duly organized, validly existing and in good standing under the laws of the State of California and that it has no members.

(c) Each of Saratoga Corporation, Napa Corporation and Grand Lodge represents that it has had the opportunity to investigate and review the assets, liabilities, business and contracts of the constituent corporations and is satisfied with such investigation and review.

(d) Grand Lodge represents that it has received all necessary approvals from its members to its proceeding with the execution of this Agreement and the consummation of the merger described in this Agreement.

(e) Each of Saratoga Corporation, Napa Corporation and Grand Lodge represents that it has had the opportunity to review with and receive advice from its own professional advisors and legal counsel with respect to this Agreement and the transactions contemplated by this Agreement.

5. Interim Covenants.

(a) Pending consummation of the merger, each of the constituent corporations shall carry on its business in substantially the same manner as heretofore and will use its best efforts to maintain its business organization intact and comply with all of its contractual and legal obligations.

(b) Except in the normal course of business and for adequate value, neither constituent corporation shall dispose of any of its assets.

6. Effect and Effective Date of Merger.

(a) The effect of the merger shall be as prescribed by applicable California law, including, without limitation, Sections 6020, 6021 and 6022 of the Non-Profit Public Benefit Corporation Law.

(b) The merger will be effective ("Effective Date") as prescribed by law.

7. Document Filings.

(a) To effect the merger, the surviving corporation shall file with the California Secretary of State on or before December 31, 2001, or on such other date as may be agreed upon by the parties, a copy of the Agreement, together with an Officer's Certificate for each of the constituent corporations in the form required by law. In addition, the surviving corporation shall file with the California Secretary of State and Franchise Tax Board a Request for Tax Clearance Certificate-Exempt Organizations in the form required by law.

(b) The surviving corporation shall provide a copy of the Agreement to the California Attorney General at least twenty (20) days prior to the consummation of the merger.

(c) Following the consummation of the merger, the surviving corporation shall file with the California Secretary of State an Amended Form SO-100 (setting forth the names and addresses of the officers and agent of the surviving corporation).

(d) Following the consummation of the merger, the surviving corporation shall file a copy of the Agreement, certified by the California Secretary of State, with the County Recorder of Napa County (evidencing record ownership by the surviving corporation of all interest of the disappearing corporation in and to real property owned by Napa Corporation that is located in Napa County).

(e) Following the consummation of the merger, the surviving corporation may file with the County Clerk of Napa County a Fictitious Business Name Statement in the form

required by law indicating that Saratoga Corporation is doing business as The Meadows of Napa Valley.

(f) Following the consummation of the merger, the surviving corporation shall file all reports required to be filed by charitable corporations and trustees, including, without limitation, Form RRF-1 (with the Registrar of Charitable Trusts in the Office of the California Attorney General) and Form 990 (with the Internal Revenue Service) and including relevant information pertaining to Napa Corporation.

8. Further Assignments or Assurances. If at any time the surviving corporation shall consider or be advised that any assignments or assurances are necessary to vest or to perfect or to confirm of record in the surviving corporation the title to any property or rights of the disappearing corporation, or otherwise carryout the provisions hereof, the proper officers and directors of Napa Corporation, as of the effective date of the merger, shall execute and deliver all proper deeds, assignments, confirmations and assurances in law, and do all acts proper to vest, perfect and confirm title to the property or rights in the surviving corporation, and otherwise carryout the provisions of this Agreement.

9. Conditions Precedent to Merger.

(a) As of the effective date of the merger, Saratoga Corporation, pursuant to an amendment to the Regulatory Agreement between Napa Corporation and Cal Mortgage, shall have expressly assumed Napa Corporation's obligations under the Napa Corporation Financing Documents. The amendment to the Regulatory Agreement shall contain such other provisions as may be required and acceptable to the parties.

(b) Consummation of the merger described in this Agreement shall be subject to the prior consent or approval of each of the following persons or organizations:

- (i) The members and the Board of Directors of Grand Lodge;
- (ii) The Board of Directors of Napa Corporation;
- (iii) The Board of Directors of Saratoga Corporation;
- (iv) Cal Mortgage.

In each case, the form or evidence of the consent or approval shall be subject to the mutual agreement of the parties and any requirements of Cal Mortgage. The consent of Cal Mortgage shall include its statement that the insurance provided by Cal Mortgage for each of the Saratoga Corporation Certificates and the Napa Corporation Certificates will remain in effect.

(c) If required by Cal Mortgage, the applicable rating agency for each of the Saratoga Corporation Certificates and the Napa Corporation Certificates shall have confirmed its rating on such certificates assuming the consummation of the merger and any modifications of the Financing Documents associated therewith.

(d) Prior to the effective date of the merger, Napa Corporation and Saratoga Corporation shall have filed all applications, given all notices and received all approvals required by applicable California law for the issuance of all necessary Residential Care Facility for the Elderly and Skilled Nursing Facility licenses for their respective facilities and for the continuous operation of such facilities prior to the date of issuance of such licenses.

(e) Prior to the effective date of the merger, Napa Corporation and Saratoga Corporation shall take such actions as may be required to secure new or amended Medicare and Medicaid provider agreements for the skilled nursing facility at Napa.

(f) Prior to the effective date of the merger, Saratoga Corporation shall give timely notice to the California Department of Social Services of changes, as a result of the merger, in its application for a Certificate of Authority to enter into continuing care contracts with residents of the continuing care retirement community ("CCRC") at Saratoga.

10. Termination of Agreement. This Agreement may be terminated and the merger provided for herein may be abandoned at any time prior to the effective date of the merger (a) by mutual consent of the parties to this Agreement, or (b) upon a determination by Grand Lodge that there has been a material adverse change in the business or financial condition of either of the constituent corporations.



11. Miscellaneous Provisions.

(a) Any notice or other communication required or permitted hereunder shall be properly given when deposited in the United States Mail for transmittal by certified or registered mail, postage pre-paid, or when transmitted by facsimile transmission and confirmed by U.S. Mail, and addressed, in the case of Saratoga Corporation, Napa Corporation and/or Grand Lodge, to the corporate secretary at Odd Fellows Home of California, P. O. Box 2669, Saratoga, California 95070-0669, or at such other or additional address as may from time-to-time be furnished in such manner by any party to each of the other parties.

(b) This Agreement and the attached exhibits contain the entire agreement between and among the parties with respect to the contemplated merger. It may be executed in any number of counterparts, each of which shall be deemed an original, and those counterparts together shall constitute one and the same instrument. This Agreement may be modified only by a writing signed by each of the parties.

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(c) The validity, interpretation and performance of this Agreement shall be controlled by and construed under the laws of the State of California.

Executed on December 8, 2001, at Saratoga, California.

ODD FELLOWS HOME OF CALIFORNIA,  
a California non-profit public benefit corporation

By: Diana L. Carranza  
Diana L. Carranza  
Its: Chairperson of the Board

By: Max Holloway  
Max Holloway  
Its: Secretary

CALIFORNIA ODD FELLOWS HOUSING OF  
NAPA, INCORPORATED, a California non-profit  
public benefit corporation

By: Peter M. Bregman  
Peter M. Bregman  
Its: Chairperson of the Board

By: Joan M. Pike  
Joan M. Pike  
Its: Assistant Secretary

GRAND LODGE OF CALIFORNIA,  
INDEPENDENT ORDER OF ODD  
FELLOWS, a California non-profit mutual  
benefit corporation

By: Pete Pohlhammer  
Pete Pohlhammer  
Its: President

By: Max Holloway  
Max Holloway  
Its: Secretary

EXHIBIT "A"

AMENDED AND RESTATED BYLAWS OF ODD FELLOWS HOME OF CALIFORNIA

**AMENDED AND RESTATED  
BYLAWS OF THE  
ODD FELLOWS HOME OF CALIFORNIA  
A CALIFORNIA NON PROFIT PUBLIC BENEFIT CORPORATION**

**R E C I T A L S**

A. Grand Lodge of California, Independent Order of Odd Fellows, a California non-profit mutual benefit corporation (the "Grand Lodge"), was founded in 1853 by the Sovereign Grand Lodge of the Independent Order of Odd Fellows, the highest organization within the Order of Odd Fellows in the United States.

B. In 1912, the Grand Lodge founded an Odd Fellows retirement home for seniors in Saratoga, California which subsequently was established under California law, under the name Odd Fellows Home of California, as a non-profit public benefit corporation and became known as Saratoga Retirement Community. The home was governed by a Board of Trustees (and upon incorporation, a Board of Directors) elected by representatives of the Grand Lodge.

C. In 1964 at a Grand Lodge Session, the elected representatives of the Grand Lodge, as a courtesy to its sister organization, Rebekah Assembly of California, Independent Order of Odd Fellows, a California non-profit mutual benefit corporation (the "Rebekah Assembly"), and to acknowledge Rebekah Assembly members' service to the Order, voted to change the Roberts Code of California Odd Fellow laws, the body of law which governs the Grand Lodge, to allow members of the Rebekah Assembly to serve on the Board of Trustees (and later, Board of Directors) of the Saratoga Retirement Community.

D. To further service seniors, the Grand Lodge in 1992 purchased a senior retirement facility in Napa, California which was then established under California law, under the name California Odd Fellows Housing of Napa, Incorporated, as a non-profit public benefit corporation and subsequently became known as The Meadows of Napa Valley. This home is also governed by a Board of Directors elected by the Grand Lodge and the Rebekah Assembly. The Rebekah Assembly and its subordinate Rebekah Lodges, while having the right to elect a minority of the members of the Board of Directors of Saratoga Retirement Community and The Meadows of Napa Valley, nevertheless, have no ownership interest in these homes or in any Grand Lodge facilities.

E. At the 2001 Grand Lodge Session held in Ontario, California, the elected representatives of the Grand Lodge voted to merge the Saratoga Retirement Community and The Meadows of Napa Valley into a single corporation under the name Odd Fellows Home of California.

**ARTICLE I NAME**

Sec. 1.1 The name of this corporation is ODD FELLOWS HOME OF CALIFORNIA

D.B.A.: Saratoga Retirement Community  
D.B.A.: The Meadows of Napa Valley

## **ARTICLE II OFFICE**

Sec. 2.1 Principal Office. The principal office for the transaction of affairs and activities of this corporation is located in Saratoga, Santa Clara County, California. The Board of Directors may change the principal office from one location to another. Any change shall be noted in the Bylaws, or this section may be amended to state the new location.

Sec. 2.2 Other Offices. The Board may at any time establish branch or subordinate offices at any place or places where the corporation is qualified to conduct its activities.

## **ARTICLE III MEMBERS**

Sec. 3.1 This corporation shall have no members.

## **ARTICLE IV DEFINITIONS**

Sec. 4.1 "Grand Lodge" shall mean the Grand Lodge of the Independent Order of Odd Fellows of California

Sec. 4.2 "Rebekah Assembly" shall mean the Rebekah Assembly of California an organization duly chartered by the Grand Lodge of the Independent Order of Odd Fellows of California.

Sec. 4.3 "Grand Master" shall mean the Grand Master of the Grand Lodge of the Independent Order of Odd Fellows of California.

Sec. 4.4 "President" shall mean the President of the Rebekah Assembly of California.

Sec. 4.5 "Board" and "Board of Directors" shall mean the Board of Directors of this corporation.

## **ARTICLE V POWERS**

Sec. 5.1 Powers.

(1) Subject to the provisions and limitations of the California Public Benefit Corporation Law, the laws and disciplines of the Grand Lodge of California, the Laws of the Sovereign Grand Lodge of the Independent Order of Odd Fellows and other applicable laws, all activities of the corporation shall be exercised directly by or under the directions of the Board of Directors of this corporation.

(2) In addition to all other powers conferred by law, the Board of Directors, of the corporation, is empowered:

(a) to construct, operate, maintain, and improve; and to buy, sell, convey, assign, mortgage, or lease any Real Estate and personal property necessary and incident to the provision of the facilities specified in the Articles of Incorporation.

(b) to borrow money and issue evidence of indebtedness in furtherance of any or all objects of its business, to secure the same by mortgage,

pledge, or other lien.

Sec. 5.2 Number of Directors. The number of Directors shall thirteen (13).

Sec. 5.3 Appointment, term of office and qualifications of Directors.

(1) Directors shall be elected by the Grand Lodge of California and Rebekah Assembly as follows:

(a) Six (6) Directors shall be elected by the Grand Lodge of California.

(b) Five (5) Directors shall be elected by the Rebekah Assembly of California.

(c) The Grand Secretary and Grand Treasurer of the Grand Lodge shall be ex-officio members of the Board of Directors and shall be counted in the total number of Directors in Section 5.2 and have all rights and privileges of a Director including voice and vote.

(2) The term of office shall be three (3) years ( except that the initial Board of Directors shall serve for terms of one, two and three years) with approximately one-third of the Directors being elected annually. The term of office shall be staggered with the Grand Lodge and Rebekah Assembly electing two Directors annually with the exception of every third year, when the Rebekah Assembly will elect only one Director.

Sec. 5.4 Compensation and reimbursement of Directors. No salary shall be paid Directors for their service nor shall pecuniary benefit inure to them emanating directly from such services or otherwise though they may be reimbursed for their reasonable expenditure of moncys on behalf of the corporation.

Sec. 5.5 Restriction on interested persons as Directors. No interested person may serve on the Board of Directors. An interested person is:

(1) any person compensated by the corporation for services rendered, whether full-time or part-time employee, independent contractor or otherwise

(2) any brother, sister, ancestor, descendent, spouse, brother-in-law, sister-in-law, son-in-law, daughter-in-law, mother-in-law or father-in-law, of such person.

Sec. 5.6 Vacancies on the Board of Directors. A vacancy shall be deemed to exist:

(1) in the event of death, resignation of any Director

(2) if declared of unsound mind, by order of the court

(3) if convicted of a felony

Sec. 5.7 Removal of Directors. Any Director may be removed for cause by the elected body (Grand Lodge or Rebekah Assembly) or upon recommendation of the Board. The recommendation must be approved by two thirds majority of the Board at a regular meeting. The Director will be notified by certified mail and placed under suspension until the ruling of the

elected body or for 60 days which ever comes first.

(1) The definition of cause shall include but not be limited to the following:

(a) Attendance. A Director having unexcused absences of two or more consecutive regular board meetings or any absences in excess of 25% at regular meetings in a calendar year may be grounds for removal.

(b) Ethical Conduct. A Director shall perform the duties of a Director as prescribed, in good faith, in the interest of the Order and in compliance with all applicable laws. A Director must at all times maintain high ethical standards that are not adverse to the health, morals or welfare of the board members or any member of the Order, or any individual engaged in any activity related to their or any board of the Order.

(c) Breach of Confidentiality. A Director may not disclose or cause to be disclosed any confidential and proprietary board information to anyone not authorized to receive same.

Sec. 5.8 Resignation of Directors. Any Director may resign by giving written notice to the Chairperson or Secretary of the Board. The Secretary shall notify the Grand Master or President of the Rebekah Assembly of the resignation. The written notice of resignation, to become effective when the notice is given unless it specifies a later time for resignation to become effective. Except on notice of the Attorney General of California, no Director may resign if corporation is left without a duly elected Director or Directors. If the resignation of a Director is effective for a future date, the Board may recommend a successor to take office when the resignation becomes effective.

Sec. 5.9 Filling vacancies. A vacancy of an Odd Fellow Director shall be filled by the Grand Master with the concurrence of the Grand Lodge Board of Directors. A vacancy of a Rebekah Director shall be filled by appointment by the President of the Rebekah Assembly with the concurrence of the Executive Committee of the Rebekah Assembly. Any appointment to fill a vacancy shall be effective until the next annual session to the Grand Lodge and Rebekah Assembly, when the appointee may run for the remainder of the term.

Sec. 5.10 No vacancy on reduction of the number of Directors. No reduction of the number of authorized number of Directors shall have effect of removing any Director before the Director's term of office expires,

Sec. 5.11 Meetings of the Directors. The Board of Directors shall hold regular meetings, at least quarterly, at such time and place as shall be fixed by the Directors for the purpose of transacting corporate business. The first order of business at the first regular or special meeting following the election of Directors at the annual session of Grand Lodge shall be the election of officers and the appointment of the standing committees.

Sec. 5.12 Special Meetings. Special meetings of the Board for any purpose may be called at any time by the Chairperson, Vice-Chairperson, or any three (3) Directors.

Sec. 5.13 Notice. Notice of a special meeting shall be given and received by the Directors not less than four (4) days prior to the meeting if delivered by First Class mail or not less than forty-eight (48) hours prior to the next meeting if notice is given personally or by

telephone or fax. The notice must state the date, time, place and purpose of the meeting.

Sec. 5.14 Waiver of Notice. Notice of a meeting need not be given to any Director who, either before or after the meeting signs a waiver of notice, written consent to the holding of the meeting, or an approval of the minutes of the meeting. The waiver of notice or consent need not specify the purpose of the meeting. All such waivers, consents, and approval shall be filed with the corporate records or made a part of the minutes of the meeting. Notice of a meeting need not be given to any Director who attends the meeting and does not protest, before or at the commencement of the meeting, the lack of notice to him or her.

Sec. 5.15 Quorum. A majority of the authorized number of Directors shall constitute a quorum for the transaction of business, except to adjourn. Every action taken or decision made by a majority of the Directors present at a duly elected meeting of which a quorum is present shall be the act of the Board.

Sec. 5.16 Adjournment. A majority of the Directors present, whether or not a quorum is present, may adjourn any meeting to another time and place. If the meeting is adjourned for more than twenty-four (24) hours, notice of any adjournment to another time and /or place shall be given to the Directors who were not present at the time of adjournment.

Sec. 5.17 Action without a meeting. Action required or permitted by law to be taken at the Board of Directors meeting may be taken without a meeting if the action is taken by all members of the Board of Directors. The action shall be evidenced by one or more written consents describing the action taken, signed by each Director, and included in the minutes reflecting the action taken. Action is effective when the last Director signs the consent, unless the consent specifies an earlier or later effective date. A consent signed under this section has the effect of a meeting vote and may be described as such in any document. All such consents shall be filed with the minutes of the proceedings of the Board.

Sec. 5.18 Meetings by conference telephone. Members of the Board of Directors may participate in meetings through the use of conference telephone or similar communications equipment, so long as all persons participating in the meeting can hear one another. Participation by Directors in a meeting in the manner provided in this section constitutes presence in person at the meeting.

Sec. 5.19 Committees of the Directors. The Board of Directors shall establish the following standing committees:

(a) Finance Committee - four Directors

(b) Resident Services Committee - four Directors

(c) Executive Committee - Chairperson, Vice Chairperson, Secretary, Treasurer, Assistant Secretary, and Assistant Treasurer

(1) Additional committees. The Board of Directors may, by resolution adopted by a majority of the Directors then in office, appoint one or more Board committees, each consisting of two or more Directors, to serve at the pleasure of the Board. Members of the Grand Lodge or Rebekah Assembly who are not Directors may be appointed to special committees. Appointments to such committees shall be by a majority vote of the Directors then in office. Any committee, to the extent provided in this resolution, shall have all the authority of the Board,



except that no committee, regardless of resolution may:

- (a) Fill vacancies on the Board of Directors or any committee;
- (b) Establish or approve compensation for Directors for serving on the Board or a committee;
- (c) Amend or repeal bylaws or adopt new bylaws;
- (d) Amend or repeal any resolution of the Board of Directors which by its express terms is not amendable or repealable;
- (e) Appoint any other committees of the Board of Directors or the members of these committees;
- (f) Openly and actively endorse, promote or clectioneer for any candidate for the Board.

(2) Advisory committees. In addition to the committees identified above, the Board of Directors may appoint an advisory committee or committees, a majority of which need not be members of the Board of Directors. Action and recommendations of such committees shall not be binding on the Board.

Sec. 5.20 Committee meetings. Meetings and actions of the committees shall be governed by and held and taken in accordance with the provisions of this Article V concerning meetings of Directors. Minutes shall be kept of each meeting of any committee and be filed with the corporate records.

Sec. 5.21 Standard of Care - General. A Director shall perform the duties of Director, including as a member of any committee on the Board on which the Directors may serve, in good faith in a manner such Director believes to be in the best interest of this corporation and with such care, including reasonable inquiry, as an ordinarily prudent person in like situation would use under similar circumstances. In performing the duties of a Director, a Director shall be entitled to rely on information, opinions, reports or statements, including financial statements and other financial data, in each case prepared and presented by:

(1) One or more officers or employees of the corporation whom the Directors believe to be reliable and competent in matters presented;

(2) Counsel, independent accountants or other such person as to matters which the Director believes to be within such person's professional or expert competency in matters presented.

(3) A committee of the Board upon which the Director does not serve, as to matters within the committee's designated authority, which committee the Director believes to merit confidence, so long as in any such case, the Director acts in good faith, after reasonable inquiry when the need thereof is indicated by the circumstances and without knowledge that would cause such reliance to be unwarranted. Except in the case of a self-dealing Director, described in Section 5.23 of these bylaws, a person that performs the duties of a Director in accordance with the above shall have no liability based upon any failure or alleged failure to discharge that person's obligations as a Director, including, without limiting the generality of the foregoing, any actions or omissions which exceed or defeat a public or charitable purpose to

which the corporation, or assets held by it, are dedicated.

Sec. 5.22 Standard of Care - Investments. Except with respect to assets held for use or used directly in carrying out this corporation's charitable activities, in investing, reinvesting, purchasing, acquiring, exchanging, selling and managing this corporation's investments, the Board shall avoid speculation, looking instead to the permanent disposition of the funds, considering the probable income, as well as the safety of this corporation's capital. The provisions of Sec. 5.21 of these bylaws shall apply to this Section.

Sec. 5.23 Self-dealing transactions. Except as provided below, the Board shall not approve self-dealing transactions. A self-dealing transaction is one which the corporation is a party and in which one or more of the Directors has a material financial interest.

Sec. 5.24 Inspection. Every Director shall, at his or her expense, have the absolute right at any time during business hours of the corporation to inspect and copy all books, records, and documents, and to inspect the physical properties of the corporation.

Sec. 5.25 Additional Restrictions. No active Director shall be a resident of the corporation's retirement facilities while a member of the Board.

## ARTICLE VI OFFICERS

Sec. 6.1 Officers of the Corporation. The officers of the corporation shall be a Chairperson, Vice Chairperson, Secretary, Assistant Secretary, Treasurer, and Assistant Treasurer. The corporation may also have, at the Board's discretion one or more vice chairpersons, one or more assistant financial officers and such other officers as may be appointed in accordance with Section 6.3 of these bylaws.

Sec. 6.2 Election of Officers. The officers of the corporation, except those appointed under Section 6.3 of these bylaws, shall be chosen annually by a majority of the Board and shall serve at the pleasure of the Board. Officers must be chosen from among the Directors of the corporation, except that the Grand Secretary shall be the Secretary for the Board and the Grand Treasurer shall be the Treasurer of the Board.

Sec. 6.3 Other Officers. The Board may appoint or may authorize a Board Committee to appoint any other officers from among the Board members that the corporation may require. Each officer so appointed shall have the title, hold the office for a period of time, have the authority, and perform the duties specified in the bylaws or determined by the Board.

Sec. 6.4 Removal of Officers. Any officer may be removed with or without cause by the Board of Directors at any regular or special meeting.

Sec. 6.5 Resignation of Officers. Any officer may resign at any time by giving written notice to the Chairperson or Secretary of the corporation. The resignation shall take effect as of the date the notice is received or at a later time specified in the notice and unless otherwise specified in the notice, the resignation need not be accepted to be effective. Any resignation shall not affect the rights, if any, of the corporation under any contract to which the officer is a party. Nor shall the resignation of any officer from the office he or she holds affect his or her position as Director of the corporation.

Sec. 6.6 Vacancies in Office. A vacancy in any office because of death, resignation, removal, disqualification, or any other cause shall be filled in the manner prescribed in these bylaws for regular appointments to that office provided, however, that the vacancies may be filled as they occur.

Sec. 6.7 Chairperson. The Chairperson shall preside at the meetings of the Board of Directors and shall exercise and perform such other powers and duties as may from time to time be assigned to the Chairperson of the Board of Directors.

Sec. 6.8 Vice Chairperson. If the Chairperson is absent or disabled, the Vice Chairperson shall perform all the duties of the Chairperson. When so acting, the Vice Chairperson shall have all the powers of and be subjected to all restrictions on the Chairperson. The Vice Chairperson shall have such other powers and perform such other duties as the Board of Directors or the bylaws may prescribe.

Sec. 6.9 Secretary. The Secretary shall have the following:

(1) The Secretary shall keep or cause to be kept, at the corporation's principal office a book of minutes of all meetings, proceedings, and actions of the Board and committees of the Board. The minutes of the meetings shall include the time and place the meeting was held, whether the meeting was regular or special, and if special how authorized and how notice was given.

(2) The Secretary shall keep or cause to be kept at the principal office, a copy of the articles of incorporation and a copy of the bylaws of the corporation.

(3) The Secretary shall give, or cause to be given, notice of all meetings of the Board and of committees of the Board required by these bylaws to be given. The Secretary shall keep the corporate seal in safe custody and shall have such powers and perform such other duties as the Board or bylaws prescribe.

Sec. 6.10 Treasurer. The Treasurer shall render to the Board of Directors, upon their request, an account of the financial condition of the corporation. The Treasurer shall have such other powers and perform such other duties as the Board of Directors or these bylaws may prescribe.

## ARTICLE VII MISCELLANEOUS

Sec. 7.1 Fiscal Year. The fiscal year of the corporation shall be from the first day of April to the last day of the following March.

Sec. 7.2 Corporate Seal. This corporation shall have a seal which shall be specified by resolution of the Board of Directors. The seal may be affixed to any corporate instruments as directed by the Board or any of its officers, but failure to affix it shall not effect the validity of the instrument.

Sec. 7.3 Contracts. All contracts entered into on behalf of this corporation that exceed \$5,000.00 but are less than \$25,000.00 may be authorized by Executive Committee. All contracts entered into on behalf of this corporation that exceed \$25,000.00 must be authorized by

the Board of Directors.

Sec. 7.4 Execution of Checks. Except as otherwise provided by law, every check, draft, promissory note, or other evidence of indebtedness of the corporation shall be signed by at least two individuals as are authorized by the Board of Directors.

Sec. 7.5 Indemnification. This corporation shall indemnify its Directors, employees, and agents, including persons formerly occupying such positions, to the fullest extent permitted by law, against all expenses, judgments, fines and other amounts actually reasonably incurred by them in connection with threatened, pending or completed action or proceeding, whether it is civil, criminal, administrative or investigative. In all cases where indemnification is sought, the corporation shall be subject to the following restrictions and requirements:

(1) Where action or proceeding is brought on behalf of the corporation or involves self-dealing transactions, as defined in Section 5.32 of these bylaws, the corporation shall not indemnify against amounts paid in settlement or judgment amounts, but shall upon express authorization of the Board, indemnify the Director, officer, employee or agent against expenses incurred in defense of an action arising from his/her relation on the corporation. To indemnify in such cases the Board must find the person met the statutorily prescribed standard of care by acting:

(a) in good faith,

(b) in the best interests of the corporation, and

(c) with the care including reasonable inquiry, of any ordinary prudent person under the circumstances.

(2) When the person seeking indemnification under this action has been liable to the corporation, or has settled his/her liability to the corporation, the corporation shall not indemnify against expenses without approval of the court or Attorney General.

(3) The Board shall determine whether the person seeking indemnification has acted in accordance with the standard of care set forth in the subsection (a) of this section by a majority vote of a quorum consisting of disinterested Directors. The termination of any proceeding in a manner adverse to the defendant seeking indemnification shall not create a presumption that such failed to meet the standard of care.

(4) Where the person seeking indemnification has been successful on the merits in defense or any action or proceeding brought on behalf of the corporation or in defense of any claim or issue involved in such action or proceeding, the corporation shall indemnify against all expenses actually or reasonably incurred.

(5) The corporation shall not advance any money to the person seeking indemnification for the purpose of defending any action or proceeding without the receipt of an undertaking by such person to repay all advances unless it is ultimately determined that he/she is entitled to indemnification.

Sec. 7.6 Insurance. The Board of Directors may adopt a resolution authorizing the purchase of insurance on behalf of any Director, officer, employee or agent of this corporation against any liability asserted against or incurred by the Director, officer, employee or agent in such capacity or arising out of the Director's, officer's, employee's or agent's status as such,

whether or not this corporation would have the power to indemnify the Director, officer, employee or agent against that liability under the law, except the corporation may not purchase insurance to protect self-dealing Directors (as defined in Section 5.23 of these bylaws from liability.

Sec. 7.7 Reports to Directors. The Chairperson and Treasurer shall furnish a written report at the first regular meeting of the next fiscal year to all Directors of this corporation containing the following information for the preceding fiscal year:

(1) The assets and liabilities, including trust funds, of this corporation as of the end of the fiscal year.

(2) The principal changes of assets and liabilities including trust funds, during the fiscal year.

(3) The revenue or receipts of this corporation both restricted and unrestricted for particular purposes during the fiscal year.

(4) The expenses or disbursements of this corporation, both general and restricted purposes during the fiscal year.

Regardless of the gross receipts of the corporation, the Chairperson must furnish a written report to all Directors that lists each transaction during the prior fiscal year involving one thousand dollars (\$1,000.00) or more between this corporation or subsidiary and any Director or officer of this corporation or subsidiary. The report must disclose the name of the Director or officer and the relationship to the corporation, the nature of the person's interest in the transaction and where practical, the amount of such interest. The Chairperson must also furnish an annual written report to all Directors disclosing the amounts and circumstances of any indemnification or advances aggregating more than one thousand dollar (\$1,000.00) paid during the prior fiscal year to any officer or Director of this corporation.

Sec. 7.8 Financial Reports. The Treasurer will see that each Board member is given an interim budget report at each regular meeting. The report shall contain the following:

(1) The amounts budgeted for each budget item for the fiscal year.

(2) The revenues or receipts for the reporting period and year to date expressed in dollars and cents.

(3) The expenses or disbursements for the reporting period and the year to date, expressed in dollars and cents.

Sec. 7.9 Reports to Grand Lodge. The Board of Directors shall make an annual report to the Grand Lodge which shall include:

(1) An exhibit of the progress made by the corporation during the prior year.

(2) Any proposals for significant future changes.

(3) A copy of the financial report specified in Section 7.8.

## ARTICLE VIII AMENDMENTS

Sec. 8.1 Amendment of Bylaws. The bylaws may be amended or repealed and new bylaws adopted by a two thirds vote of the members of the Board of Directors and two thirds vote of the working members of Grand Lodge who are present and voting upon the motion to amend at the Annual Session of Grand Lodge or a Special Session of the Grand Lodge called for that specific purpose. Such amended or newly adopted bylaws shall be subject to ratification by the Grand Lodge and shall take effect upon ratification or at a later date if such is specified in the motion to adopt.

*Santoya*

OFFICERS' CERTIFICATE

(Approval of Agreement of Merger)

We, the undersigned, do hereby certify as follows:

1. We are the duly elected or appointed and qualified Chairperson of the Board of Directors and Secretary of Odd Fellows Home of California (the "Corporation"), a non-profit public benefit corporation duly organized and existing under the laws of the State of California and the surviving corporation in the merger which is described in the Agreement of Merger attached hereto.

2. On November 17, 2001, the Board of Directors of the Corporation duly approved the attached Agreement of Merger, which was duly ratified and reapproved by the Board on June 8, 2002. The Corporation has no members, and the Agreement of Merger was entitled to be and was approved by the required vote of the Board of Directors alone.

3. The principal terms of the Agreement of Merger are required to be approved by the members and Board of Directors of Grand Lodge of California, Independent Order of Odd Fellows ("Grand Lodge"), a non-profit mutual benefit corporation duly organized and existing under the laws of the State of California, and the principal terms of the Agreement of Merger were duly approved by the required vote of the members of Grand Lodge and the Board of Directors of Grand Lodge, respectively.

4. Except for the approval by the other constituent corporation to the merger, no other approvals are required.

5. The Attorney General of the State of California has been given notice of the merger.

We further declare under penalty of perjury under the laws of the State of California that the matters set forth in this Certificate are true and correct of our own knowledge.

Dated: June 8, 2002.

Wayne Thornton  
Wayne Thornton, Chairperson of the Board

Gerald A. Poarch  
Gerald A. Poarch, Secretary

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OFFICERS' CERTIFICATE

(Approval of Agreement of Merger)

We, the undersigned, do hereby certify as follows:

1. We are the duly elected or appointed and qualified Chairperson of the Board of Directors and Secretary of California Odd Fellows Housing of Napa, Incorporated (the "Corporation"), a non-profit public benefit corporation duly organized and existing under the laws of the State of California and the disappearing corporation in the merger which is described in the Agreement of Merger attached hereto.

2. On November 17, 2001, the Board of Directors of the Corporation duly approved the attached Agreement of Merger, which approval was duly ratified and reapproved by the Board on June 8, 2002. The Corporation has no members, and the Agreement of Merger was entitled to be and was approved by the required vote of the Board of Directors alone.

3. The principal terms of the Agreement of Merger are required to be approved by the members and Board of Directors of Grand Lodge of California, Independent Order of Odd Fellows ("Grand Lodge"), a non-profit mutual benefit corporation duly organized and existing under the laws of the State of California, and the principal terms of the Agreement of Merger were duly approved by the required vote of the members of Grand Lodge and the Board of Directors of Grand Lodge, respectively.

4. Except for the approval by the other constituent corporation to the merger, no other approvals are required.

5. The Attorney General of the State of California has been given notice of the merger.

We further declare under penalty of perjury under the laws of the State of California that the matters set forth in this Certificate are true and correct of our own knowledge.

Dated: June 8, 2002.

Wayne Thornton  
Wayne Thornton, Chairperson of the Board

Gerald A. Poarch  
Gerald A. Poarch, Secretary