ORDINANCE NO. 19-02

AN ORDINANCE OF THE BUSINESS COUNCIL OF THE BLUE LAKE RANCHERIA AUTHORIZING THE FORMATION OF NON-PROFIT CORPORATIONS BY THE BUSINESS COUNCIL

CHAPTER 1. Findings and Declarations. The Business Council of the Blue Lake Rancheria finds and declares that:

a.) The Blue Lake Rancheria ("Tribe") has a rich history of generous efforts to sponsor, sustain, and endorse programs that enrich the lives of local communities.

b.) The Tribe has proven itself capable on numerous occasions to be an effective agent for positive change for its members and for local communities.

c.) The Tribe is dedicated to seeking out and implementing new opportunities to engage in activities that directly support tribal members and local communities, financially and otherwise.

d.) The Tribe wishes to enact legislation that would authorize the Tribal Business Council, under the laws detailed in the Constitution of the Blue Lake Rancheria, tribal ordinances, tribal resolutions, and all other legislation passed by the Tribe, with the goal of assisting tribal members and local communities.

CHAPTER 2. Definitions

"Benefits" means compensation paid by employers to employees over and above regular salary of wages.

"Blue Lake Rancheria" or "Tribe" means the Blue Lake Rancheria of California, a federally recognized Indian tribe.

"Business Council" means the Tribal Business Council of the Blue Lake Rancheria of California, the elected-governing body of the Tribe.

"Certificate of incorporation" means a document issued by the Business Council to a corporation that shall verify in writing the commencement of corporation's existence.

"Claim" means a legal demand by a person seeking some type of compensation or reimbursement.

"Incorporator" means an individual responsible for the process of incorporating the corporation.

"Intentional misconduct" means any action taken by an individual to knowingly harm the operations of a corporation.

"Newspaper" means a locally syndicated professional news source.

"Non-Profit Corporation" or "Corporation" means a business organization that may serve a public purpose and is not designed for profit making.

"Tribal law" means any law enacted by the Business Council of California.

"Tribal members" means members of the Blue Lake Rancheria of California.

CHAPTER 3. Powers, Limitations, and Requirements

a.) Every non-profit corporation incorporated under the sovereign powers of the Tribe has the purpose of engaging in any lawful activity unless a more limited purpose is set forth in the articles of incorporation. Unless its articles of incorporation provide otherwise, every non-profit corporation has perpetual duration and succession in its corporate name and has the same powers as an individual to do all things necessary or convenient to carry out its affairs.

b.) A Non-Profit Corporation:

1. Shall not have or issue shares of stock.

2. Shall not pay dividends or make any disbursement of income to its members or directors.

3. Shall not loan money or credit to its members or directors.

4. May pay compensation only up to a reasonable amount to its employees.

5. May confer benefits upon its members only in conformity with its purposes.

CHAPTER 4. Formation

Section 1. Scope of Title

a.) Unless otherwise provided, the provisions of this Title apply to all non-profit corporations formed under the sovereign powers of the Tribe.

b.) Nothing in this Ordinance may be construed as a waiver of sovereign authority over any business activities within the Tribe's jurisdiction when the exercise of Tribal powers is necessary to safeguard and promote the peace, safely, morals, and general welfare of the Tribe and Rancheria as prescribed by law.

Section 2. Defense of Ultra Vires

No act of a non-profit corporation and no conveyance or transfer of real or personal property to or by a non-profit corporation shall be invalid by reason of the fact that the corporation was without capacity or power to do such act or to make or receive such conveyance or transfer, but such lack of capacity or power may be asserted:

a.) In a proceeding by a member or director against the doing of any act or acts or the transfer of real or personal property by or to the non-profit corporation, if any unauthorized acts or transfer sought to be enjoined are being, or are to be, performed or made pursuant to any contract to which the non-profit corporation is a party, the court may, if all the parties to the contract are parties to the proceeding and if it deems the same to be equitable, set aside and enjoin the performance of such contract and in so doing may allow to the corporation or to the other parties to the contract, as the case may be, compensation for the loss or damage sustained by either of them which may result from the action of the court in setting aside and enjoining the performance of such contract, but anticipated profits to be derived from the performance of the contract shall not be awarded by the court as a loss or damage sustained.

b.) In a proceeding by the non-profit corporation, whether acting directly or through a legal representative, or through members in a representative suit, against the incumbent or former members and directors of the non-profit corporation.

c.) In a proceeding by the Business Council, as provided in Chapter 7, to dissolve the non-profit corporation, or to enjoin the non-profit corporation from the transaction of unauthorized business.

Section 3. Articles of Incorporation

a.) The articles of incorporation shall set forth:

1.) The name of the non-profit corporation.

2.) That it is a non-profit corporation;

3.) The purpose or purposes for which the non-profit corporation is organized.

4.) The name and address of its initial directors.

5.) The name and address of each incorporator.

6.) Any other provisions not inconsistent with this ordinance, the Constitution of the Blue Lake Rancheria, or any other Tribal or federal law.

b.) The articles of incorporation may set forth:

1. Provisions not inconsistent with law regarding:

    i. Managing and regulating the affairs of the non-profit corporation;

    ii. Defining, limiting, and regulating the powers of the corporation, its Board of Directors, and members (or any class of members); and

    iii. The characteristics, qualifications, rights, limitations, and obligations attaching to each or any class of members.

2. Any provision that under this Title is required or permitted to be set forth in the bylaws.

c.) Each incorporator and director named in the articles must sign the articles.

The articles may be amended at a future date by majority vote by the Board of Directors. In addition, articles of amendment must be provided to the Business Council, that detail the following:

1. The name of the corporation.

2. The text of each amendment adopted.

3. The vote tally and date of each amendment's adoption.

Section 4. Resolution and Recognition

When completed, the articles of incorporation are to be delivered to the Business Council, to be approved of and filed by the Tribe. Upon the filing of the articles of incorporation, the corporate existence shall begin. The certificate of incorporation shall be conclusive evidence that all conditions precedent required to be performed by the incorporators have been

complied with and that the corporation has been incorporated under this Title, except as against the Tribe in a proceeding to cancel or revoke the certificate of incorporation or for involuntary dissolution of the corporation.

CHAPTER 5. Directors

Section 1. Appointment and Removal

a.) The affairs of a non-profit corporation shall be managed by a board of directors. All corporate powers shall be exercised by or under the authority of and the affairs of the corporation managed under the direction of its Board of Directors.

b.) The number of directors of a non-profit corporation shall not be less than three. Any limitation on the number of directors that can be appointed shall be fixed by an individual non-profit corporation's bylaws.

c.) The directors of a non-profit corporation shall be selected and appointed by the Business Council. Selection and appointment shall occur prior to the filing of the articles of incorporation.

d.) Once appointed a director, an individual shall serve continuously as a director for the perpetual duration of the non-profit corporation. A director may cease serving in said position with the dissolution of the corporation (see Chapter 7), a signed letter of resignation submitted to the Business Council, or removal by the Business Council.

e.) The Business Council reserves the power to remove a Director for any reason at any time. Removal will be accomplished by majority vote of the members of the Business Council when a quorum is present.

f.) Should a vacancy on the Board of Directors of a non-profit corporation exist, the Business Council may appoint a new Director, in accordance with the regulations present in this Ordinance and any other Tribal law.

Section 2. Standards and Liabilities

a.) A Director shall discharge his or her duties as a director, including duties as a member of a Board/committee:

1. In good faith;
2. With the care an ordinarily prudent person in a like position would exercise under similar circumstances; and
3. In a manner he or she reasonably believes to be in the best interests of the non-profit corporation and the Blue Lake Rancheria Tribe.

b.) There shall be no personal liability to a third party, or to the non-profit

corporation or its members for monetary damages on the part of a director of a nonprofit corporation caused by that person's act or omission in the performance of that person's duties as a director or officer, if the act:

1. was within the scope of the director's duties;
2. was performed in good faith;
3. was not a breach of duty, intentional misconduct, or a violation of the law.

SECTION 3. Records

a.) Each corporation shall keep correct and complete books and records of account and shall keep minutes of the proceedings of its members. The corporation may appoint a secretary to record minutes of the proceedings.

b.) A corporation shall provide the Business Council with the following documents:

1. Articles of Incorporation
2. Articles of Amendment, if any
3. A list of names and addresses of Board of Directors
4. A list of names of members, if any
5. Each year's Form 990

CHAPTER 6. Members

SECTION 1. Bylaws

a.) The bylaws of a non-profit corporation shall be created, enforced, and amended by the Board of Directors. These bylaws will dictate whether the corporation will elect to have members. It is not a requirement for a corporation to have members.

b.) The bylaws may contain provisions for the regulation and management of the affairs of the corporation not inconsistent with the law or articles of incorporation.

SECTION 2. Members

a.) A corporation may admit any person as a member. The bylaws shall establish criteria or procedures for admission; provided, however, that no person shall be admitted as a member without his or her consent.

b.) All members shall have the same rights and obligations with respect to voting, dissolution, redemption, and transfer, unless the articles or bylaws establish classes of membership with different rights or obligations. Members shall have the same rights and

obligations with respect to any other matters, except as set forth in or authorized by the bylaws.

c.) Meetings of members may be held at any place that the bylaws designate. In the absence of such a provision, meetings will be held at the principal office of the corporation.

d.) Members may resign at any time.

e.) No member may be expelled or suspended, and no membership may be terminated or suspended except pursuant to a procedure which is fair and reasonable under the circumstances and is carried out in good faith. All procedures and termination or suspension decisions will be carried out by the Board of Directors.

CHAPTER 7. Dissolution

SECTION 1. Dissolution of Non-Profit Corporations by Directors

a.) The Board of Directors of a corporation that has no members may, subject to any approval by the bylaws, dissolve the corporation by delivering Articles of Dissolution to the Business Council.

b.) Dissolution shall be approved by a vote of a majority of the directors in office at the time the transaction is approved.

c.) The directors in approving dissolution shall adopt a plan of dissolution indicating to whom the assets owned or held by the corporation will be distributed after all creditors have been paid.

SECTION 2. Articles of Dissolution

a.) At any time after dissolution is authorized by the Directors, the corporation may dissolve by delivering to the Business Council Articles of Dissolution setting forth:

1. The name of the corporation.

2. The date dissolution was authorized.

3. A statement that dissolution was approved by a sufficient vote of the Board of Directors

4. The effective date of the articles of dissolution.

b.) After the Articles of Dissolution have been accepted for filing by the Business Council, a corporation is dissolved upon the effective date stated in its Articles of Dissolution.

c.) A dissolved corporation continues its corporate existence but may not carry on any business except that appropriate to wind up and liquidate its business and affairs.

SECTION 3. Dissolution by Business Council

a.) The Business Council may dissolve a corporation at any time, for any reason, by majority vote.
b.) If voted to dissolve, a corporation must proceed to wind up and liquidate its businesses and affairs.

SECTION 4. Known Claims Against Dissolved Corporation

a.) A dissolved corporation may dispose of the known claims against it by following the procedure described in this Section.
b.) The dissolved corporation shall notify its known claimants in writing of the dissolution at any time after its effective date. The written notice shall:

1. Describe information that must be included in a claim.

2. Provide a mailing address where a claim may be sent.

3. State the deadline, which may not be fewer than one-hundred (120) days from the effective date of the written notice, by which the dissolved corporation must receive the claim.

4. State that the claim shall be barred if not received by the deadline.

c.) A claim against the dissolved corporation is barred:

1. If a claimant who was given written notice does not deliver the claim to the dissolved corporation by the deadline.

2. If a claimant whose claim was rejected by the dissolved corporation does not commence a proceeding to enforce the claim within ninety (90) days from the effective date of the rejection notice.

d.) For purposes of this Section, "claim" does not include a contingent liability or a claim based on an event occurring after the effective date of dissolution.

SECTION 5. Unknown Claims Against Dissolved Corporation

a.) A dissolved corporation may also publish notice of its dissolution and request that persons with claim against the corporation present them in accordance with the notice.

b.) The notice must:

1. Be published one time for one week in a newspaper of general circulation in the county where the dissolved corporation's principal office is or was last located and in a newspaper of general circulation on the Rancheria.

2. Describe the information that must be included in a claim and provide a mailing address where the claim may be sent.

3. State that a claim against the corporation will be barred unless a proceeding to enforce the claim is commenced within two years after the publication of the notice.

c.) If the dissolved corporation publishes a newspaper notice in accordance with b.), the claim of each of the following claimants if barred unless the claimant commences a proceeding to enforce the claim against the dissolved corporation within two years after the publication date of the newspaper notice:

1. A claimant who did not receive written notice under Section 4.

2. A claimant whose claim was timely sent to the dissolved corporation but not acted on.

3. A claimant whose claim is contingent or based on an event occurring after the effective date of dissolution.

d.) A claim may be enforced under this Section:
1. Against the dissolved corporation, to the extent of its undistributed assets; or
2. If the assets have been distributed in liquidation, against any person, other than a creditor of the corporation, to whom the corporation distributed its property to the extent of the distributee's pro rata share of the claim or the corporate assets distributed to such person in liquidation, whichever is less, but the distributee's total liability for all claims under this Section may not exceed the total amount of assets distributed to as the distributes.

CERTIFICATION

As the Chairperson of the Blue Lake Rancheria Business Council of the Blue Lake Rancheria Tribe of California, I hereby certify that the Blue Lake Rancheria Business Council adopted this Ordinance by a vote of 4 for, with ~~0~~ against, with ~~0~~ abstaining, with 1 absent on this 1 day of August of 2019.

Claudia Brundin — 8-1-19

Claudia Brundin, Chairperson — Date of Approval

ATTEST:

Leslie Albright — 8-1-19

Leslie Albright, Tribal Executive Secretary — Date of Approval