

Local Diversity of Ownership

Neither the applicant nor any party holding an attributable interest in the applicant holds an attributable interest in any other broadcast station or construction permit that has a principal community contour that overlaps, or comes within ten miles of, the principal community contour of the facility proposed in the instant application. As is evidenced by Article X of the attached Texas Public Radio Bylaws, the applicant's corporate documents require that local diversity of ownership, as defined in Section 73.7003 of the Commission's rules, be maintained. Also attached is a copy of the text of the Resolutions adopting Article X prohibiting the applicant, the applicant's officers and the applicant's directors from holding an attributable interest in any broadcast station or construction permit if the principal community contour of such facility would overlap the principal community contour of the station proposed in the instant application.

# TEXAS PUBLIC RADIO BYLAWS

TEXAS PUBLIC RADIO, a Texas non-profit corporation, is organized to engage in the production and non-commercial broadcasting of educational and cultural programs pursuant to licenses and permits granted under the terms of applicable statutes and regulations, including the Federal Communications Act, by operating one or more public or community supported radio stations.

Texas Public Radio's mission is to engage in the non-commercial broadcasting and production of informational, educational, cultural and entertainment radio programs for the listening public

## ARTICLE I: OFFICES AND AGENT

Section A. Principal Office. The principal office of the Corporation shall be in San Antonio.

Section B. Registered Office and Registered Agent. The Corporation shall maintain a registered office in the State of Texas and a registered agent whose office is identical with the registered office as required by the Texas Non-Profit Corporation Act. The address of the registered office and the identity of the registered agent may be changed from time to time by the Board of Directors.

## ARTICLE II: BOARD OF DIRECTORS

Section A. General Powers. The affairs of the Corporation shall be managed by its Board of Directors, and by its Executive Committee and officers acting under the direction of the Board of Directors.

Section B. Number, Tenure, and Qualifications of Directors. The Board of Directors shall consist of up to eighteen, but no fewer than three elected Directors. Directors shall serve three year terms, which shall be staggered so that, to the extent possible, one-third of the Directors are elected annually. Directors may be elected to no more than two consecutive three-year terms, but are eligible to serve again following a break in service of one year. Directors shall be supporting members of the Corporation to at least the McClain Circle level.

Section C. Election of Directors. Directors shall be elected by the Board at its Annual Meeting. Nominations of prospective Directors shall be made by the Nominating Committee and mailed or e-mailed to the voting Directors at least ten days before the Annual Meeting. In addition, Directors, at least thirty days before the Annual Meeting, may propose to the Nominating Committee the names of persons whom they would want to be considered for nomination.

The ballot for election of Directors shall be written. The Chair shall appoint a committee to canvas the ballots and report the results of the election. If the number of persons nominated exceeds the number of Director positions to be filled, election of Directors shall begin with the person receiving the highest number of votes and proceed in diminishing order until all positions have been filled.

Section D. Resignation and Removal of Directors. Any Director may resign at any time, upon written notice addressed to the Board of Directors mailed, e-mailed, or personally delivered to the Chair or the Secretary. Any Director absent from three consecutive regular meetings of the Board or four meetings in any twelve-month period shall automatically be terminated. If circumstances warrant it, a director terminated from the board may be nominated for the board at a later time.

Section E. Annual Meeting. The Annual Meeting of the Board of Directors shall be held on a date at least thirty days, but not more than sixty days, after the end of the Corporation's fiscal year. At the Annual Meeting the Board shall elect Directors, Officers, the Executive Committee, and the Community Advisory Board and shall transact any other business to come before the Board.

Section F. Regular Meetings. The Board shall meet every other month to receive the reports of the Officers and Committees and to take any action required. The date, time, and place shall be set by the Chair of the Board.

Section G. Special Meetings. Special meetings of the Board may be called by the Chair, by any seven Directors, or by the Executive Committee. Written notice of any special meeting of the Board of Directors shall be given by the Chair at least five days before the meeting by hand delivering, mailing or e-mailing to all persons entitled to notice at their address as shown on the records of the Corporation. Notice by mail shall be deemed delivered when deposited in the United States mail with proper postage affixed. The notice of a special meeting shall specify the date, time, place, and shall specify the agenda of business to be transacted. Any Director entitled to notice may waive notice. Attendance at a special meeting of the Board shall constitute a waiver of notice unless the person attending does so for the purpose of objecting to the legality of the meeting or the notice of the meeting.

Section H. Public Attendance. To the extent required by law, meetings of the Board of Directors shall be open to the public. Notice of Board Meetings shall be given to the public as required by law.

### ARTICLE III: PROCEDURE

Section A. Quorum. One more than one-half of the Directors, in person or by proxy, shall constitute a quorum for the transaction of business at any meeting of the Board of Directors.

Section B. Action Binding. If a quorum is present at a regular or special meeting of the Board of Directors, actions taken by a majority vote at that meeting shall be the act of the Board unless a supermajority is required by these bylaws or by law.

Section C. Proxies. At any meeting of the Board of Directors, a Director entitled to vote may vote by proxy executed in writing by the Director or by his/her duly authorized attorney. The proxy shall be valid only for the meeting specified, unless otherwise provided by the proxy.

Section D. Action by Written Consent. Any action required or permitted to be taken at a meeting of the Board of Directors may be taken without a meeting if all members of the Board agree in writing or by e-mail to ratify the action taken.

Section E. Vacancies on the Board. Vacancies on the Board of Directors may be filled immediately by a majority of the Board acting on nominations forwarded by the Nominating Committee. A person elected to fill a vacancy shall finish the term of the Director being replaced, and shall be eligible to serve an additional full term.

#### ARTICLE IV: OFFICERS

Section A. Officers. The officers of the Corporation shall include the Chair, the Vice-Chair, the Secretary, the Treasurer, the President/General Manager, and such other officers as the Board may designate.

Section B. Election of Officers. Officers shall be elected at the Annual Meeting of the Board of Directors and shall be elected by a majority vote of the Board of Directors.

Section C. Terms of Office. The officers specified in Section A of this Article shall hold office for a term of one year. An officer elected by the Board of Directors may be removed at any time by an affirmative vote of the majority of the Board whenever, in the judgment of the Board, the best interests of the Corporation would be served by removal. A vacancy occurring in any office may be filled by the Board for the remainder of the term.

Section D. Chair of the Board. The Chair shall preside at meetings of the Corporation and the Executive Committee and shall be an ex-officio member of all committees. The Chair shall be responsible for overseeing implementation of the policies and decisions of the Board of Directors.

Section E. Vice Chair of the Board. In addition to any other responsibilities specified in these bylaws, the Vice Chair shall, in the absence or disability of the Chair, perform the duties and exercise the authority of the Chair. The Vice Chair shall have such other duties as the Board may determine.

Section F. Secretary. The Secretary shall be responsible for recording and preserving the proceedings of all meetings of the Board and Executive Committee. The Secretary shall have other duties as the Board may determine.

Section G. Treasurer. The Treasurer shall chair the Finance and Audit Committee of the Board and at each Board meeting shall report to the Board such financial information about the financial affairs of the Corporation as the Board may require. The Treasurer shall be responsible for Board liaison with independent auditors employed to review the financial books and records of the Corporation. The Treasurer shall have other duties as the Board may determine.

Section H. President/General Manager. The Board shall hire a President/General Manager and shall determine the terms and conditions of his or her employment. The President/General Manager shall serve as Chief Executive Officer of the Corporation and shall exercise such authority as is required to implement the policies of the Board and to manage the affairs of the Corporation. The President/General Manager shall be an ex-officio member of the Board of Directors and the Executive Committee without voting rights and shall not be counted in determining a quorum for a meeting of the Board or Executive Committee.

#### ARTICLE V: SERVICES OF DIRECTORS AND OFFICERS TO THE CORPORATION

Section A. Services. The Corporation recognizes that Directors serve as volunteers. Each Director is free to serve other associations or entities, whether similar in nature or purpose to this Corporation or not, without breach of duty to this Corporation.

Section B. Transactions with the Corporation. Directors and entities in which they have an interest shall not be disqualified from contracting or otherwise doing business with the Corporation, provided that such interest shall be appropriately disclosed to the Board and recorded in the minutes, and approved by the Board.

Section C. Compensation. Board members shall receive no compensation other than reasonable reimbursement for expenses related to Board duties.

Section D. Limitation on Liability to the Corporation. To the fullest extent permitted by law a Director of the Corporation shall not be liable to the Corporation for monetary damages for an act or omission in the Director's capacity as Director.

Section E. Indemnification. Section 8.101 et seq. of the Texas Business Organizations Code (the "Code") permits the Corporation to indemnify its present and former members, directors and officers to the extent and under the circumstances set forth therein. In addition, in some circumstances, indemnification is required by the Code. The Corporation hereby elects to and does hereby indemnify all such persons to the fullest extent permitted or required by the Code promptly upon request of any such person making a request for indemnity hereunder. Such obligation to so indemnify and to so make such determination may be specifically enforced by resort to any court of competent jurisdiction. Further, the Corporation shall pay or reimburse the reasonable expenses of such persons covered hereby in advance of the final disposition of any proceedings to the fullest extent permitted by the Code and subject to the conditions thereof.

Section F. Insurance. The Corporation may purchase and maintain insurance against any liability asserted against and incurred by any officer or director in a capacity described in these Bylaws or arising out of the status of such a person, whether or not the Corporation would have the power to indemnify such person against that liability under this Article.

#### ARTICLE VI: COMMITTEES

Section A. Executive Committee. The Executive Committee shall consist of the Chair of the Board of Directors, the Vice Chair, the Secretary, the Treasurer, the President/General Manager appointed by the Chair and ratified by Board as a whole. Members of the Executive Committee shall serve for terms of one year, which may be successive. Executive Committee members other than the President/General Manager shall be Directors of the Corporation. The President/General Manager shall be an ex-officio member of the Executive Committee.

Subsection A.1. General Powers. The Executive Committee shall act under the direction of the Board of Directors. It shall transact the business of the Corporation requiring Board action between meetings of the Board, and shall transact such other business as may be delegated to it by the Board. Actions of the Executive Committee shall be ratified by the Board of Directors at the next Board meeting.

Subsection A.2. Regular Meetings. The date, time and place of regular meetings of the Executive Committee shall be set by the Chair of the Board. Actions required or permitted to be taken by the Executive Committee may be taken without a meeting if all members consent to the action being taken in writing or by e-mail.

Subsection A.3. Special Meetings. Special meeting of the Executive Committee may be called by the Chair or by any three members of the Executive Committee.

Subsection A.3. Quorum. Three members of the Executive Committee, in person or by proxy, shall constitute a quorum for the transaction of business at any Executive Committee meeting.

Subsection A.4. Vacancies. When a vacancy occurs on the Executive Committee, the position shall be filled by the person elected to succeed in the office represented or, by a person appointed by the Chair. A person filling a vacancy shall serve for the unexpired term of the individual he or she is replacing.

Section B. Standing Committees. Standing Committees shall be: the Finance and Audit Committee, the Development Committee, the Planning and Operations Committee, the Bylaws Committee, and the Nominating Committee. The Chair shall appoint the members of the standing committees with the advice and consent of the Board. Members of the standing committees shall serve terms of one year and may be reappointed.

Subsection B.1. Finance and Audit Committee. The Finance and Audit Committee shall be composed of the Treasurer and least two Directors. It shall oversee the management of the financial affairs of the Corporation and shall receive the report of the independent auditors.

Subsection B.2. Development/Endowment Committee. The Development/Endowment Committee shall be composed of at least four Directors. It shall advise and assist the Board and the staff of the Corporation in fundraising and promotion projects and activities.

Subsection B.3. Planning and Operations Committee. The Planning and Operations Committee shall be composed of at least four Directors. It shall recommend revisions of strategic and business plans and policies of the Corporation to the Board and shall oversee implementation of Board-approved plans and policies.

Subsection B.4. Bylaws Committee. The Bylaws Committee shall be composed of at least two Directors. It shall assure that the bylaws are kept current and that the Board complies with bylaw requirements.

Subsection B.5. Nominating Committee. The Nominating Committee shall consist of at least two Directors. It shall propose nominees for Directors, Officers, and Community Advisory Board members to be voted on at each Annual Meeting and shall also propose nominees for appointment to fill vacancies on the Board and Community Advisory Board.

Section C. Ad Hoc Committees: The Board Chair has the option of appointing Ad Hoc committees as needed.

## ARTICLE VII: COMMUNITY ADVISORY BOARD

The Corporation shall have a Community Advisory Board to serve as required by the Communications Act, which states "The (community advisory) board shall review the programming goals established by the station (TPR), the service provided by the station, and the significant policy decisions rendered by the station." Members shall be elected by the Board at its Annual Meeting. Vacancies may be filled by the Board at any time. Criteria for membership on the Community Advisory Board shall be determined by the Board to ensure conformity with the requirements of law and to meet such other needs as may be identified by the Board. Each member of the Community Advisory Board shall serve a term of three years. Members may serve consecutive terms. The Chair of the Community Advisory Board shall be a member of the Board of Directors, to be elected at the Annual Meeting of the Board. The Community Advisory Board shall meet twice annually at such times and places as may be determined by its Chair.

## ARTICLE VIII: AMENDMENTS TO THESE BYLAWS

These bylaws shall be adopted, amended, or repealed by a two-thirds majority of the Board of Directors present at any Regular Meeting of the Board. Notice of any proposed change in the bylaws shall be mailed or e-mailed to the Directors at least ten days prior to the meeting at which the change will be considered.

## ARTICLE IX: PARLIMENTARY AUTHORITY

The rules contained in the current edition of Robert's Rules of Order, Newly Revised, shall govern the transaction of business at all meetings of the Board. To the extent that Robert's Rules may be inconsistent with these bylaws, the bylaws shall govern.

## ARTICLE X: LOCAL DIVERSITY OF OWNERSHIP

Section A. Maintenance of Local Diversity of Ownership. Neither the Corporation nor any officer or director of the Corporation shall have an FCC-defined attributable interest in another broadcast station or construction permit for a broadcast station if such station has or, in the case of a construction permit for a station would have upon completion of construction, a principal community contour that overlaps, in whole or in part, the principal community contour of a Proposed Station. It is the intention of the Corporation that this provision be construed in such a manner as to ensure that local diversity of ownership that would entitle the Corporation to credit for local diversity of ownership under Section 73.7003(b)(2) of the rules of the Federal Communications Commission, or any successor provision of the rules of the Federal Communications Commission, and the calculation of the principal community contours required under this subsection shall be made in accordance with such Section 73.7003(b)(2) or any successor provision of the rules of the Federal Communications Commission. Without in any way limiting the

previous sentence, this subsection shall be construed as proscribing the possession of an FCC-defined attributable interest in any broadcast facility or application for a broadcast facility that would prevent the Corporation from receiving credit for local diversity of ownership including, without limitation, any interest in a translator station.

Section B. Local Diversity of Ownership. Notwithstanding any other provision of these By-laws to the contrary, the By-Laws of the Corporation may not be amended in any manner which makes the provisions thereof in contradiction to or in violation of Article X, Section A, above, and provided further that Article X, Section A, shall not be amended in any manner that causes the Corporation to lose its qualification for local diversity of ownership credit under FCC Rule Section 73.7003(b)(2), or any successor provision, for as long as the Corporation has an application for a new noncommercial educational radio station pending and, if applicable, for the holding period under FCC Rule Section 73.7005, or any successor provision.

Waiver of Notice and Unanimous Written  
Consent in lieu of Regular Meeting  
of the Directors of Texas Public Radio

Each director of Texas Public Radio (the "Directors"), being all of the Directors of Texas Public Radio, a Texas corporation (the "Corporation"), hereby waives all notice of the time, place and purposes of a regular meeting of the Company's Board of Directors and hereby consents to, and ratifies, the adoption of the following preambles and resolutions with the same force and effect as if they had been adopted at a duly convened regular meeting of the Company's Board of Directors. This Consent may be executed in counterparts and all counterparts so executed shall constitute one Consent, notwithstanding that all of the Directors are not signatories to the original of the same counterpart. Signatures on this Consent transmitted by facsimile shall be deemed to be original signatures for all purposes of this Agreement and any agreement to this Consent transmitted by e-mail shall be as effective as an original signature.

**WHEREAS**, the Corporation, in furtherance of its educational and cultural purposes, wishes to file applications for permits to construct new noncommercial educational FM radio stations, hereinafter the "Proposed Stations," to serve Llano, Uvalde, Yoakum, Del Rio and Alpine, Texas; and

**WHEREAS**, the Federal Communications Commission (the "FCC") has determined that, in the process of comparing mutually-exclusive applicants for new noncommercial FM stations, it will prefer applicants that qualify for local diversity of ownership pursuant to 47 C.F.R. Section 73.7003(b)(2), such that the applicant, its officers and its board members do not hold an attributable interest in any other radio broadcast station or authorized construction permit for a radio station the principal community contour of which overlaps that of a Proposed Station, and that the applicant's governing documents require that such diversity be maintained; and

**WHEREAS**, the Corporation, none of its officers and no member of its Board of Directors has any attributable interest in any radio station or authorized construction permit for a radio station whose principal community contour overlaps the principal community contour of a Proposed Station; and

**WHEREAS**, the directors of the Corporation seek to amend the By-Laws of the Corporation to commit to provide local diversity of ownership so as to permit the Corporation to receive credit for local diversity of ownership.

**NOW THEREFORE, BE IT RESOLVED**, that the By-Laws of the Corporation are hereby amended to add a new Article X, Section A, to read as follows:

Section A. Maintenance of Local Diversity of Ownership. Neither the Corporation nor any officer or director of the Corporation shall have an FCC-defined attributable interest in another broadcast station or construction permit for a broadcast station if such station has or, in the case of a construction permit for a station would have upon completion of construction, a principal community contour that overlaps, in whole or in part, the principal community contour of a Proposed Station. It is

the intention of the Corporation that this provision be construed in such a manner as to ensure that local diversity of ownership that would entitle the Corporation to credit for local diversity of ownership under Section 73.7003(b)(2) of the rules of the Federal Communications Commission, or any successor provision of the rules of the Federal Communications Commission, and the calculation of the principal community contours required under this subsection shall be made in accordance with such Section 73.7003(b)(2) or any successor provision of the rules of the Federal Communications Commission. Without in any way limiting the previous sentence, this subsection shall be construed as proscribing the possession of an FCC-defined attributable interest in any broadcast facility or application for a broadcast facility that would prevent the Corporation from receiving credit for local diversity of ownership including, without limitation, any interest in a translator station.

**RESOLVED FURTHER**, that the By-Laws of the Corporation are hereby amended to add a new Article X, Section B, to read as follows:

Section B. Local Diversity of Ownership. Notwithstanding any other provision of these By-laws to the contrary, the By-Laws of the Corporation may not be amended in any manner which makes the provisions thereof in contradiction to or in violation of Article X, Section A, above, and provided further that Article X, Section A, shall not be amended in any manner that causes the Corporation to lose its qualification for local diversity of ownership credit under FCC Rule Section 73.7003(b)(2), or any successor provision, for as long as the Corporation has an application for a new noncommercial educational radio station pending and, if applicable, for the holding period under FCC Rule Section 73.7005, or any successor provision.

## Relevant FCC Rules

### §73.7000 Definition of terms (as used in Subpart K only).

**Attributable interest.** An interest of an applicant, its parent, subsidiaries, their officers, and members of their governing boards that would be cognizable under the standards in the notes to §73.3555. Also an interest of an entity providing more than 33 percent of an applicant's equity and/or debt that also either (1) supplies more than 15% of the station's weekly programming, or (2) has an attributable interest pursuant to §73.3555 in media in the same market.

**Established local applicant.** An applicant that has, for at least the two years (24 months) immediately preceding application, met the definition of local applicant.

**Local applicant.** An applicant physically headquartered, having a campus, or having 75% of board members residing within 25 miles of the reference coordinates for the community to be served, or a governmental entity within its area of jurisdiction.

**On-air operations.** Broadcast of program material to the public pursuant to Commission authority, generally beginning with program test authority, for periods of time that meet any required minimum operating schedule, e.g. §73.561(a).

### §73.7003 Point system selection procedures.

(b) Based on information provided in each application, each applicant will be awarded a predetermined number of points under the criteria listed:

(1) Established local applicant. Three points for local applicants as defined in §73.7000 who have been local continuously for no fewer than the two years (24 months) immediately prior to application, if the applicant's own governing documents (e.g. by-laws, constitution, or their equivalent) require that such localism be maintained.

(2) Local diversity of ownership. Two points for applicants with no attributable interests as defined in §73.7000, in any other broadcast station or authorized construction permit (comparing radio to radio and television to television) whose principal community (city grade) contour overlaps that of the proposed station, if the applicant's own governing documents (e.g. by-laws, constitution, or their equivalent) require that such diversity be maintained. The principal community (city grade) contour is the 5 mV/m for AM stations, the 3.16 mV/m for FM stations calculated in accordance with §73.313(c), and the contour identified in §73.685(a) for TV. Radio applicants will count commercial and noncommercial AM, FM, and FM translator stations other than fill-in stations. Television applicants will count UHF, VHF, and Class A stations.

### §73.7005 Holding period.

(a) Assignments/Transfers. NCE stations awarded by use of the point system in §73.7003 shall be subject to a holding period. From the grant of the construction permit and continuing until the facility has achieved four years of on-air operations, an applicant proposing to assign or transfer the construction permit/license to another party will be required to demonstrate the following two factors: that the proposed buyer would qualify for the same number of or greater points as the assignor or transferor originally received; and that consideration received and/or promised does not exceed the assignor's or transferor's legitimate and prudent expenses. For purposes of this section, legitimate and prudent expenses are those expenses reasonably incurred by the assignor or transferor in obtaining and constructing the station (e.g. expenses in preparing an application, in obtaining and installing broadcast equipment to be assigned or transferred, etc.). Costs incurred in operating the station are not recoverable (e.g. rent, salaries, utilities, music licensing fees, etc.). Any successive applicants proposing to assign or transfer the construction permit/license prior to the end of the aforementioned holding period will be required to make the same demonstrations.

(b) Technical. In accordance with the provisions of §73.7002, an NCE applicant receiving a decisive preference for fair distribution of service is required to construct and operate technical facilities substantially as proposed, and can not downgrade service to the area on which the preference is based for a period of four years of on-air operations.

(c) The holding period in this section does not apply to construction permits that are awarded on a non-comparative basis, such as those awarded to non-mutually exclusive applicants or through settlement.