RECORDING REQUESTED BY:

Afuera De Chorro Mutual Water Company

AND WHEN RECORDED MAIL TO:

Attn: Patrick Rusco
1590 Tiburon Way
San Luis Obispo, CA 93401

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THIRD AMENDED AND RESTATED BYLAWS

OF

AFUERA DE CHORRO MUTUAL WATER COMPANY

DATE OF APPROVAL MAY 7, 2018

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THIRD AMENDED AND RESTATED BYLAWS
OF
AFUERA DE CHORRO MUTUAL WATER COMPANY

ARTICLE I

NAME AND LOCATION

The name of the company is AFUERA DE CHORRO MUTUAL WATER COMPANY. The principal office of the Company shall be located in the County of San Luis Obispo, State of California.

ARTICLE II

DEFINITIONS

2.01 **"Additional Water Service Connection"** shall mean any water service connection on a lot in addition to the Water Service Connection to the first Residence on that lot.

2.02 **"Articles"** shall mean the Articles of Incorporation of the Company, as amended from time to time.

2.03 **"Assessments"** shall mean charges levied by the Board pursuant to Article V and other provisions of the Bylaws. Assessments include the **"Regular Assessments"**, **"Special Assessments"**, **"Use Assessments"**, and **"New Service Assessments"** as defined herein.

2.04 **"Board"** shall mean the Board of Directors of the Company.

2.05 **"Bylaws"** shall mean the Bylaws of the Company.

2.06 **"Company"** shall mean AFUERA DE CHORRO MUTUAL WATER COMPANY, a California nonprofit mutual benefit corporation.

2.07 **"County"** shall mean the County of San Luis Obispo, State of California.

2.08 **"Electronic transmission"** means a communication (a) delivered by facsimile telecommunications or electronic mail when directed to the facsimile number or electronic mail address, respectively, of the recipient on record with the Company, (b) to a recipient who has not provided an unrevoked consent to the use of those means of transmissions, and (c) that creates a record that is capable of retention, retrieval, and review, and that may thereafter be rendered into clearly legible tangible form.

2.09 **"Lot"** shall mean any plot of land that is located wholly or partially within the Service Area shown as a separate lot or parcel upon any recorded final map or parcel map of any portion of the Service Area, including any new parcels created by the County's approval of an application for subdivision and to which the Company has issued a final will-serve letter.

2.10 **"Member"** shall mean the record owner or owners of each Lot, whether by sole ownership, joint tenancy, co-tenancy, partnership, joint venture or community property interest, including contract sellers and excluding those whose interest in a Lot is limited to that of security for the performance of an obligation. Thus, there may be multiple Members with respect to any one Lot.

2.11 **"Membership"** shall mean the rights of membership in the Company as defined under California law and these Bylaws. Regardless as to the number of Members holding an ownership interest in a Lot, each Lot shall have only one Membership.

2.12 **"Membership Address"** shall mean the Member's current mailing address, and, if the Member has consented to notice by facsimile or electronic transmission, shall also mean the facsimile number and/or the electronic mail address of the Member, for official notice from the Company of any matters pertaining to Membership in the Company. The Members owning each Lot shall be obligated to keep a current Membership Address, including a facsimile number and/or electronic mail address, if consent to notice by facsimile and/or electronic mail has been given, on file with the Company at all times to facilitate prompt notice of Company matters.

2.13 **"Mortgage"** shall mean a deed of trust as well as a mortgage encumbering a Lot.

2.14 **"Mortgagee"** shall mean the beneficiary of a deed of trust as well as the mortgagee of a Mortgage.

2.15 **"New Service Assessment"** shall mean an Assessment on any Lot newly created by subdivision approved by the County within the Service Area, or an assessment on any additional Residence constructed on a Lot within the Service Area, as further described in these Bylaws.

2.16 **"Regular Assessment"** shall mean the Assessment for each Residence and each unimproved lot determined annually by the Board to meet the fixed expenses of the Company, including the establishment of reserve accounts, for the next fiscal year based upon the annual budget adopted by the Board pursuant to these Bylaws.

2.17 **"Residence"** shall mean any single-family residence duly permitted and constructed within the Service Area in accordance with all applicable federal, state, and local laws.

2.18 **"Service Area"** shall mean the real property located in the unincorporated area of San Luis Obispo County, California, and, as described in Exhibit A attached hereto.

2.19 **"Special Assessment"** shall mean an Assessment that the Board, in its discretion, determines necessary in the event the Company's available funds are or will become inadequate to meet the estimated expenses of the Company for the fiscal year, as well as monetary penalties imposed on Members pursuant to, and as further described in, these Bylaws.

2.20 **"Use Assessment"** shall mean the charge, at a rate per unit of water as determined by the Board from time to time, for water supplied to each Residence based on the reading from the water meter which measures water delivered to each Residence.

2.21 **"Water System"** shall mean the water distribution and treatment system and its components installed within the Service Area for the purpose of providing water for domestic use and fire protection, including without limitation, wells, pumps, storage tanks, distribution lines, fire hydrants, and related equipment.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

3.01 **Membership**. One (1) Membership shall be appurtenant to each Lot. Existing Memberships, therefore, shall transfer with title to each Lot without the formal action of the Company. Under no circumstances, however, shall the termination of an ownership interest in a Lot relieve or release any former Member from any liability or obligations incurred as a Member or impair any rights or remedies which the remaining Members have, either through the Board of Directors of the Company or directly, against such Member arising out of or in any way connected to the covenants and obligations incidental to Membership in the Company. No fractional Memberships shall be permitted.

3.02 **Voting**.

(a) **One Vote Per Lot**. Except as otherwise provided in these Bylaws, Members shall be entitled to one (1) collective vote for each Lot owned regardless as to whether such Lot is improved or unimproved. No fractional votes shall be permitted.

(b) **Multiple Residences**. Members holding an ownership interest in a Lot upon which more than one Residence exists shall be entitled to one (1) collective vote for each Residence thereon.

(c) **Loss of Voting Rights**. No vote shall be allowed for any Lot that is (i) not current in its payment of Assessments or other fees imposed hereunder, (ii) not in compliance with the Articles, these Bylaws or Company policies promulgated pursuant hereto, or (iii) not in compliance with all applicable federal, state, and local laws and regulations, at the time of voting.

3.03 **New Lots**. The issuance of a new Membership or any related will-serve letter in connection with the subdivision of a Lot shall be conditioned on all of the following: (i) the capacity of the Water System and the Company's water supply to provide water for domestic use by one Residence on the proposed new Lot pursuant to these Bylaws and all applicable federal, state and local laws and regulations without adversely affecting the Company's capacity to serve existing Members and provide fire protection to the entire Service Area, (ii) the issuance of a valid permit from the California Department of Corporations (DOC) for issuance of the new membership, and (iii) payment by the subdividing Member or Members of a new membership fee of an amount determined from time to time by the Board (but never less than the costs incurred by the Company, whether administrative, legal, engineering or otherwise, related to the due issuance of the new Membership), and any related Assessments. Until changed by resolution of the Board, the minimum new membership fee shall be $250.00 per new membership. Such fee shall be imposed in addition to any Assessments levied under Article V. Under no circumstances shall the Company issue a final will-serve letter or new Membership prior to the satisfaction of each of the conditions set forth under this Section 3.03. Each will-serve letter may contain additional conditions specific to the costs of providing service to the particular lot and the Company is further entitled to charge for a pro-rata share of the costs of obtaining any engineering studies related to providing service to the new lot or for the DOC permit.

3.04 **Additional Water Service Connections**. Each Residence shall be connected to the Water System by separate water service connections. Any Residence built in addition to the first Residence on a Lot shall be referred to as an additional Residence and each additional Residence shall require an Additional Water Service Connection. The installation of each Additional Water Service Connection in conjunction with the construction of an additional Residence on a lot shall be conditioned on (i) the capacity of the Water System and the Company's water supply to provide water for domestic use and fire protection to the additional Residence pursuant to these Bylaws and all applicable federal, state and local laws and regulations without adversely affecting the Company's capacity to serve existing Members and provide fire protection to the entire Service Area, and (ii) payment by the Member or Members proposing to construct the additional Residence of a new residence fee of an amount determined from time to time by the Board (but never less than the costs incurred by the Company, whether administrative, legal, engineering or otherwise, related to the due approval of the construction of the additional Residence), and any related Assessments. Until changed by resolution of the Board, the minimum new residence fee shall be $250.00 per new residence.

ARTICLE IV

ACTIVITIES OF THE COMPANY

4.01 **Provision of Water**. Subject to the provisions of the Articles and Bylaws, the Company shall provide water to each Member for domestic use and fire prevention within the Service Area.

4.02 **Other Activities**. The Company shall operate, maintain, repair, and improve the Water System. The Company shall utilize the services of qualified persons in performing these responsibilities.

ARTICLE V

ASSESSMENTS

5.01 **Purpose of Assessments**. The Assessments levied by the Company shall be used to maintain, repair, operate, and improve the Water System for the benefit of all Members, to discharge the obligations of the Company as set forth in these Bylaws, and to reimburse the Company for costs incurred in bringing any Member or Members into compliance with these Bylaws and rules and regulations adopted by the Board.

5.02 **Covenant of Owner**. Whether or not it shall be so expressed in the deed, by acceptance of a deed to a Lot, each holder of an ownership interest in a lot simultaneously becomes a holder of an interest in a Membership in the Company and, as a result, covenants to pay Regular, Special, Use and New Lot Assessments to the Company, as such Assessments are established and collected pursuant to these Bylaws. The foregoing covenant and related obligation to pay Assessments may not be assigned apart from the Membership in the Company.

5.03 **Regular, Special, Use and New Service Assessments**. The Board shall levy Assessments sufficient to allow the Company to perform its responsibilities under these Bylaws. The Board shall provide Notice of any increase in the Regular Assessment, the rates at which the Use Assessment is levied, or of any Special Assessment. All Notices shall be sent by first-class mail or hand delivered to each designated Membership Address and must be received not fewer than thirty (30) days nor more than one hundred eighty (180) days prior to the increased Regular Assessment or Special Assessment becoming due or the change in Use Assessment rates becoming effective.

5.04 **Payment of Assessments**.

(a) **Delinquent Assessments and Late Charges**. The due dates for all Assessments shall be established by the Board. Any Assessment shall be delinquent if not paid within fifteen (15) days of becoming due. Late charges in the amount of five percent (5%) of the delinquent Assessment shall be charged on all delinquent Assessments.

(b) **Personal Obligation and Creation of Lien**. The Assessments, together with late charges with interest at the rate of ten percent (10%) per annum or the lower maximum rate allowed by law commencing to accrue thirty (30) days after the Assessment becomes due, costs, late charges pursuant to Section 5.04(a), above, and reasonable attorneys' fees, shall, except as stated below, be a continuing lien upon the Lot against which each such Assessment is made, such lien to become effective upon recordation of a notice of Assessment. No Owner may defeat liability for Assessments levied by the Company, nor release the Lot owned by such Owner from the liens and charges hereof by waiver of the use or enjoyment of the Water System or by abandonment of such Owner's Lot.

(c) **Notice and Recordation of Lien**. Before the Company may place a lien upon a Lot to collect a debt which is past due, the Company shall notify the Member(s) in writing by certified mail to the Membership Address of the fee and penalty procedures of the Company, provide an itemized statement of the charges owed by the Member(s), including items on the statement which indicate the principal owed, any late charges and the method of calculation, any attorneys' fees and the collection practices used by the Company, including the right of the Company to the reasonable costs of collection. Any payments toward such a debt shall be first applied to the principal owed, and only after the principal owed is paid in full shall such payments be applied to interest or collection expenses. At any time after any Assessments levied by the Company affecting any Lot have become delinquent and the Board has complied with the notice provisions set forth above, the Board may file for recording in the Official Records of the County a notice of delinquency as to such Lot, which notice shall state all amounts which have become delinquent with respect to such Lot and the costs, including attorneys' fees, interest and late charges which have accrued thereon, the amount of any Assessments relating to such Lot which is due and payable although not delinquent, a description of the Lot with respect to which the delinquent Assessments are owed, the name of the record or reputed record owner or owners of such Lot and the name and address of the trustee authorized by the Company to enforce the lien by sale. Such notice shall be signed by an officer of the Company or its authorized agent and mailed in the manner set forth under California Civil Code section 2924b to all record owners of such Lot no later than ten (10) calendar days after recordation of the notice of delinquency.

(d) **Lien Rights**. Immediately upon recording any notice of delinquency pursuant to the preceding provisions of this Section, the amounts delinquent, as set forth in such notice, together with the costs of collection (including attorneys' fees, late charges and interest accruing thereon, shall be and become a lien upon the Lot described therein, which lien shall also secure all other payments and Assessments which shall become due and payable with respect to the Lot following such recording, and all costs (including attorneys' fees), late charges and interest accruing thereon. When a notice of Assessment has been recorded, such Assessment shall constitute a lien on each respective Lot prior and superior to all other liens, except all taxes, bonds, Assessments and other levies which, by law, would be superior thereto, and any Mortgage senior to the Assessment lien under California Civil Code section 2898.

(e) **Certificate**. The Company shall within ten (10) days after delivery of a written request and for a fee which does not exceed the Company's reasonable cost to prepare and reproduce the certificate, furnish a certificate signed by an officer of the Company or its agent setting forth whether the Assessments on a specified Lot have been paid. If a certificate states an Assessment has been paid, such certificate shall be conclusive evidence of such payment and be binding upon the Company as of the date of its issuance.

5.05 **Rate of Assessments**. The Company shall levy upon each Membership Regular, Special, Use, and New Service Assessments pursuant to these Bylaws.

(a) **Rate Schedule for Regular and Use Assessments**. Each fiscal year the Board shall establish a rate structure for Regular and Use Assessments that will be sufficient to fund all actual operational costs and to maintain a contingency fund sufficient to pay the repair and replacement expenses for the water supply, distribution and fire protection system that the Company reasonably projects it will incur during that fiscal year and the following two fiscal years. The rates charged shall bear a reasonable relationship to the cost of providing water. The Board has the discretion to institute what is commonly referred to as a "reverse-block rate schedule" or any other rate schedule intended to encourage water conservation and to protect and maintain the Company's water supply. Unimproved lots may, in the discretion of the Board, be charged lower Regular Assessments than Residences but they must bear a proportionate share of the cost of repair and replacement of the Water System.

(b) **Special Assessments**. The Board shall also have the power to levy Special Assessments in the event that the Company's available funds are or will become inadequate to meet the estimated expenses of the Company for the fiscal year. The cumulative amount of Regular and Special Assessments assessed in any fiscal year shall not exceed the budget by more than ten percent (10%) unless the additional notice required by Section 13.03 is given at least thirty (30) days before levying the Special Assessment. The Board, in its discretion, may levy an entire Special Assessment immediately or in installments over a period the Board determines appropriate. Additionally, the Board may levy a Special Assessment against a particular Owner as a monetary penalty under Section 7.02.

(c) **New Service Assessments**. The Board shall levy New Service Assessments on any additional Residence built on a new or on an existing Lot or for An Additional Water Service Connection on a new unimproved Lot in an amount equal to all costs incurred by the Company in issuing a new membership and/or making improvements to the Water System required to serve an Additional Water Service Connection, or as otherwise necessary to provide water service to the New Lot or additional Residence. The New Service Assessment shall be in addition to any new membership fee, new residence fee, or other fees and Assessments imposed under these Bylaws.

5.06 **Notice of Release**. In the event the delinquent Assessments and all other Assessments which have become due and payable with respect to a Lot together with all costs (including attorneys' fees), late charges and interest accrued thereon, are fully paid or otherwise satisfied prior to the completion of any sale held to foreclose the lien provided for in this Article, the Board shall record a further notice, similarly signed, stating the satisfaction and releasing of such lien.

5.07 **Foreclosure Procedure and Power of Sale**. After expiration of One Hundred Eighty (180) days following the recording of a lien created pursuant to Section 5.04, each Assessment lien may be foreclosed in the same manner as the foreclosure of a mortgage upon real property under the laws of the State of California, or may be enforced by sale pursuant to California Civil Code section 2924 et seq., and to that end a power of sale is hereby conferred upon the Company. The Company, acting on behalf of the Members, shall have the power to bid for the Lot at a foreclosure sale, and to acquire and hold, lease, mortgage and convey the same. In the alternative, the Company shall be entitled to maintain a suit to recover a money judgment for unpaid Assessments, rent and attorneys' fees without foreclosing or waiving the lien securing the same.

ARTICLE VI

WATER CONSERVATION POLICY

6.01 **Purpose**. The sole water supply for the Company is water flowing through the fractured rock beneath the Service Area. Reports on the short and long term sufficiency of this water supply prepared by qualified independent professional hydro-geologists and engineers have established that this water supply varies greatly with seasonal rainfall, and recommended that the Company adopt a water conservation policy to ensure that the reasonable water demands and requirements of the Members can be satisfied without depleting the water supply to the extent there would be insufficient water for domestic use and fire protection purposes.

6.02 **Authorization**. Immediately following the adoption of these Bylaws, the Board shall develop a water conservation policy to pursue the purposes set forth in Section 6.01. The Board shall hire the services of any independent qualified professionals, including without limitation, engineers, hydrologists and/or hydro-geologists, reasonably necessary to assist the Board in developing an effective water conservation policy. Said water conservation policy shall be based on "best management practices" and may include permanent, seasonal, and/or emergency basis measures.

6.03 **Development and Adoption of the Water Conservation Policy**.

(a) **Presentation of Draft Policy**. The Board shall complete an initial draft of the water conservation policy (the "Draft Policy") no more than one hundred twenty (120) days after the adoption of these Bylaws. At that time, if not earlier, the Board shall present the Draft Policy to the Members at a special meeting of Members. During the special meeting, and for a period of thirty (30) days following the date of such meeting (the "Comment Period"), the Members shall have an opportunity to review and comment on the Draft Policy. The Board shall accept all comments submitted orally at said special meeting or in writing prior to the expiration of the Comment Period.

(b) **Review Period**. The Board shall have thirty (30) days from the expiration of the Comment Period, to complete a good faith review of all timely submitted comments, and prepare a final draft of the Draft Policy (the "Final Draft Policy"). The Board's good faith review shall include the consultation of qualified independent professionals. The Final Draft Policy shall incorporate only those comments deemed appropriate by such qualified independent professionals and the Board.

(c) **Membership Approval**. The Board shall call a special meeting of the Members to present the Final Draft Policy. The written consent of at least a majority of the voting power of the Members shall be required to adopt the Final Draft Policy. Once adopted, it shall be referred to as the "Water Conservation Policy of Afuera de Chorro Mutual Water Company" or the "Water Conservation Policy". Thereafter, the Board shall have the power, and be obligated, to implement and enforce the Water Conservation Policy.

6.04 **Limited Consumption and Monetary Penalties**. The Water Conservation Policy shall include provisions that impose reasonable limits on water consumption and monetary penalties in accordance with Section 7.02.

6.05 **Periodic Updates**. Following the adoption of the Water Conservation Policy, the Board shall be obligated to update the Policy as new information becomes available. On the fifth (5th) anniversary of the adoption of the Water Conservation Policy and every fifth (5th) year thereafter, the Board shall comprehensively review the Water Conservation Policy, including then-current hydro-geologic and engineering data pertaining to the water supply and/or the Water System, and best management practices recommended by the State of California.

ARTICLE VII

MEMBERSHIP RIGHTS, PRIVILEGES AND PENALTIES

7.01 **Rights and Privileges**. Unless otherwise provided by these Bylaws and subject to the rules and regulations of the Board, each Member shall have the right to receive a pro rata share, but no more, of the entire available water supply of the Water System based on the ratio of the number of Service Connections owned by the Member divided by the total number of Service Connections in the Service Area. The water provided to each Member shall be used only for domestic and fire prevention purposes within the Service Area. If a Lot or a Residence has been leased, the tenant and not the Member shall have the right to receive water from the Water System.

7.02 **Suspensions and Penalties**. The Board may suspend the membership rights and privileges, including the right to receive water, together with the voting rights of any Member, for any period in which the Assessments on such Member's Lot remain delinquent, such Member's water consumption exceeds its pro rata allocation if and when limitations are imposed under the Water Conservation Policy, or such Member otherwise fails to comply with the terms and conditions of these Bylaws. Pursuant to Company policies approved by at least a majority of the voting power of the Members, the Board may also impose monetary penalties for violations of such policies. Before suspending any membership rights or imposing monetary penalties, however, the Board must first provide the charged Member (i) thirty (30) days' prior written notice of the proposed suspension or monetary penalty and the reasons therefor, and (ii) an opportunity to be heard, either orally or in writing, before the Board no fewer than ten (10) days prior to the effective date of the suspension. The notice may be given by any method reasonably calculated to provide actual notice. A monetary penalty, other than a penalty for failure to pay Assessments, shall not be a lien against the Member's Lot. Notwithstanding any provision of these Bylaws, the Board may not, under any circumstances, sell or transfer the rights of membership attributable to a delinquent or suspended membership without the land, or suspend a Member's access to fire protection services.

ARTICLE VIII

MEETING OF MEMBERS

8.01 **Place and Procedure of Meetings**. Meetings of Members shall be held within the Service Area or at such other location in the County in reasonable proximity to the Service Area, as may be designated in the notice of meeting. Meetings of Members shall be conducted in accordance with a recognized system of parliamentary procedure, or such parliamentary procedures as the Board may adopt.

8.02 **Annual Meetings**. Annual meetings of the Members shall be held on the first Monday of May at 7:30 p.m., or at such other time as the Board may choose. If the day for any annual meeting of the Members is a legal holiday, the meeting will be held at the same place and hour on a day on the first day following that is not a legal holiday.

8.03 **Special Meetings**. Special meetings of the Members, for any purpose, may be called at any time by the president of the Company or by a majority of a quorum of the Board, and shall be called by the Board upon receipt of a written request for a special meeting of one-third (1/3) or more of the voting power of the Members.

8.04 **Notice of Meetings**. Written notice of each meeting of the Members, regular or special, shall be given by or at the direction of the Board by personal service, by electronic transmission by the Company, or by mail or other means of written communication addressed to each Member at his or her respective address appearing on the books of the Company or given by the Member to the Company for purpose of notice. Notice shall not be given by electronic transmission by the Company after the Company is unable to deliver two (2) consecutive notices to a Member by that means, or the inability to so deliver the notices to a Member becomes known to the Secretary or other person responsible for giving of the notice. The notice shall be given no fewer than ten (10), but not more than sixty (60), days before the meeting to each Member entitled to vote, addressed to the Member's address last appearing on the books of the Company or supplied by the Member to the Company for purpose of notice. The notice shall specify the place, day and hour of the meeting and those matters which the Board at the time of the mailing of the notice intends to present for action by the Members; however, except as otherwise provided by law, any matter may be presented at the meeting.

8.05 **Quorum**. The presence at the meeting of Members entitled to cast, or of proxies entitled to cast, thirty five percent (35%) of the voting power of the Members shall constitute a quorum for any action except as otherwise provided by the Articles or the Bylaws. The Members present at a duly called or held meeting at which a quorum is present may continue to do business until adjournment notwithstanding the withdrawal of enough voting power to leave less than a quorum. If, however, such quorum shall not be present or represented at the meeting, the Members present in person or by proxy may not transact business but shall have the power to adjourn to another time. Any such adjournment shall be to a date not less than five (5) days and not more than thirty (30) days from the original meeting date. If a time and place for the adjourned meeting is not fixed by those in attendance at the original meeting, then notice of the time and place of the adjourned meeting shall be given to Members in the manner prescribed for regular meetings.

8.06 **Proxies**. Every person entitled to vote or execute consents shall have the right to do so either in person or by a written proxy executed by the person and filed with the secretary of the Company. Any proxy form or written ballot distributed to the Members shall afford the opportunity to specify approval and disapproval of each matter or group of matters to be acted upon, except it shall not be mandatory that a candidate for election to the Board be named in the proxy or written ballot. The proxy or written ballot shall provide that, where the Member specifies a choice, the vote shall be cast in accordance with that choice. The proxy shall also identify the person or persons authorized to exercise the proxy and the length of time it will be valid; however, no proxy shall be valid for more than eleven (11) months following the date of the proxy. The transfer of title to any Lot shall void any outstanding proxy pertaining to the voting rights of the membership appurtenant to such Lot.

8.07 **Presumption of Notice**. A recitation in the minutes of a membership meeting that notice of the meeting had been properly given shall be prima facie evidence that notice was so given.

8.08 **Consent by Absentees**. The transactions of any meeting of Members, however called and noticed, shall be as valid as though conducted at a meeting duly held after regular call and notice, if a quorum be present either in person or by proxy and if, either before or after the meeting, each of the Members entitled to vote, not present in person or by proxy, signs a written waiver of notice, or a consent to the holding of the meeting or an approval of the minutes of the meeting. All waivers, consents or approvals shall be filed with the records of the Company or made part of the minutes of the meeting.

8.09 **Action without Meeting**. Any action required or permitted to be taken by the vote of the Members may be taken without a meeting, provided that such action is taken in compliance with section 7513 of the California Corporations Code.

8.10 **Voting**. Voting of the Members at a meeting may be by voice or by ballot, and if requested the election of the directors shall be by secret written ballot.

ARTICLE IX

ELECTION AND REMOVAL OF DIRECTORS

9.01 **Number and Qualifications**. The affairs of the Company shall be managed by a Board of five (5) directors. Directors must be Members of the Company.

9.02 **Term of Office**. The first meeting of the Members after the adoption of these Bylaws but no later than the 2008 annual meeting, the Members shall elect three (3) directors to serve terms of one (1) year and two directors to serve terms of two (2) years with all terms expiring as of the annual meeting in the appropriate year. Thereafter, beginning with the May 2009 annual meeting, directors shall be elected at each annual meeting to fill the positions of the directors whose terms expire at that meeting. Except for the initial terms, all terms of directors shall be two years.

9.03 **Election**. Election to the Board shall be by secret written ballot if requested by any member. Cumulative voting will not be permitted. The candidates receiving the highest number of votes up to the number of directors to be elected shall be elected.

9.04 **Removal**. Any director may be removed from office, with or without cause, prior to the expiration of his or her term only upon the vote of a majority of the voting power of Members.

9.05 **Vacancies**.

(a) Vacancies on the Board created by death or resignation may be filled by a majority of the remaining directors, though less than a quorum, and each director so elected shall hold office until the next annual meeting when a successor shall be elected by the Members to serve the balance of the term.

(b) Vacancies on the Board created by the removal of any directors may be filled only by the vote of the Members

(c) The Members may at any time elect to fill any vacancy not filled by the directors. In addition, the Members may elect additional directors at the meeting at which an amendment of these Bylaws is adopted, authorizing an increase in the number of directors. No reduction of the number of directors authorized shall have the effect of removing any director prior to the expiration of his or her term of office.

9.06 **Committees**. The Board shall appoint committees as deemed appropriate in carrying out its purposes and obligations.

9.07 **Compensation**. No director shall receive compensation from the Company for any services he or she may render to the Company; provided, however, any director may be reimbursed by the Company for his or her reasonable actual expenses incurred in the performance of his or her duties.

ARTICLE X

MEETINGS OF DIRECTORS

10.01 **Place of Meetings**. Meetings of the Board shall be held within the Service Area unless adequate space for the meeting is not available, in which event, the meeting shall be held at the nearest reasonable location with adequate space.

10.02 **Annual and Regular Meetings**. The Board shall schedule a regular meeting after the annual meeting of Members for the purpose of organizing its affairs, electing officers and the transaction of other business. The Board shall also meet no less than 3 additional times per year to review and conduct the business of the Company. Notice of the regular meetings shall be posted on the Company web site 7 days prior to the meeting.

10.03 **Special meetings**. Special meetings of the Board of Directors may be called by written notice signed by the President of the Company or by any two (2) directors other than the president.

10.04 **Notice of Special Meetings**. Notice of special meetings of the Board shall be given to each director by personal delivery of written notice, first-class mail, or electronic transmission to any director that has given written consent to the Board to notice by facsimile or electronic mail; provided, however, notice of a special meeting of the Board need not be given to a director who has signed a waiver of notice or a written consent to the holding of the meeting. Notice of a special meeting of the Board shall specify the time and place of the meeting and the nature of any business to be conducted, and shall be sent to each director's address, facsimile number, or electronic-mail address as shown on the corporation's records.

Notices sent by first-class mail shall be deposited in the United States mail at least four (4) days before the time set for the meeting. Notices given by personal delivery shall be delivered and notices given by facsimile or electronic mail shall be sent, at least forty-eight (48) hours before the time set for the meeting.

10.05 **Quorum**. A majority of the number of directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board

10.06 **Attendance**. Regular and special meetings of the Board shall be open to all Members. The Board may, upon the vote of a majority of a quorum, adjourn a meeting and reconvene in executive session to discuss and vote upon personnel matters, litigation in which the Company is or may become involved and matters which relate to the formation of contracts with third parties. In any matter relating to the suspension of, or imposition of monetary penalties on, a Membership, the Board shall meet in executive session if requested by a Member and any Member that will be affected by the decision shall be entitled to attend the executive session. Except as otherwise provide in this Section, only members of the Board and its invited consultants shall be entitled to attend executive sessions. The nature of any and all business to be considered in executive session shall first be announced in open session. Any matter discussed in executive session shall be generally noted in the minutes of the Board. The Board shall permit any Member to speak at any meeting of the directors, except meetings of the Board held in executive session. A reasonable time limit for all Members of the Company to speak to the Board or before a meeting of Members shall be established by the Board.

10.07 **Action without Meeting**. Any action required or permitted to be taken by the Board may be taken without meeting, if all members of the Board consent in writing to the action. Action by written consent shall have the same force and effect as a unanimous vote of the Board. Written consent or consents shall be filed with the minutes of the proceedings of the Board. An explanation of the action to be taken or actually taken by the Board shall be given to the Members of the Company within three (3) business days after all written consents have been obtained. The explanation shall be given in the same manner as provided by the Bylaws for the giving of notice of regular meetings to the Board. Failure to give notice shall not render the action to be taken or actually taken invalid.

10.08 **Telephonic Meetings**. Any meeting, regular or special, may be held by conference telephone or similar communication equipment so long as all directors participating in the meeting can hear one another and all such directors shall be deemed to be present in person at such meeting. Any action then taken pursuant to this Section shall be set forth in a written explanation which shall be given to the Members within three (3) days of such action.

ARTICLE XI

POWERS AND DUTIES OF THE BOARD OF DIRECTORS

Subject to the provisions of the Articles and the California Nonprofit Mutual Benefit Corporation Law, the Board shall have the following powers and duties:

11.01 **Enforcement**. To enforce the provisions of the Articles, these Bylaws, policies, rules and regulations adopted pursuant hereto, any agreement to which the Company is a party and other instruments for the ownership, management and control of the Water System.

11.02 **Payment of Taxes**. To pay taxes and assessments which are, or could become, a lien on any property owned by the Company.

11.03 **Insurance**. To procure and maintain fire, casualty, liability, fidelity and other insurance adequately insuring the Company and any property owned or maintained by the Company.

11.04 **Goods and Services**. To contract and pay for goods and services relating to the Water System and to hire employees, contractors, consultants, engineers, or other personnel necessary for the operation and maintenance of the same, including legal and accounting services.

11.05 **Permits**. To apply for and maintain in effect all permits, certificates or other authorizations required for the operation of the Water System by any governmental body or agency having jurisdiction.

11.06 **Delegation**. To delegate any of its rights and duties to others, including committees, officers or employees.

11.07 **Budgets and Financial Statements**. To prepare budgets and financial statements as provided in these Bylaws.

11.08 **Rules**. To adopt rules, regulations and policies governing the use of the Water System and facilities owned or controlled by the Company.

11.09 **Membership Certifi**cates. To prescribe the form of membership certificate if any, and alter the same from time to time.

11.10 **Right to Enter**. To enter onto any Lot as necessary in connection with the maintenance, repair, replacement, or improvement of the Water System.

11.11 **Select Officers**. To select, remove and supervise officers, agents and employees of the Company and prescribe their powers and duties.

11.12 **Fill Vacancies of Board**. To fill vacancies on the Board, except for a vacancy created by the removal of a director by vote of the Members or a vacancy created by the end of a director's term.

11.13 **Capital Expenditures**. To make appropriate and necessary capital expenditures for and on behalf of the Company.

11.14 **Management of the Business**. To conduct, manage, and control the affairs of the business of the Company.

11.15 **Management of Property**. To manage, operate, maintain and repair the Water System and all Water System improvements.

11.16 **Payment of Utilities**. To pay all charges for all utility services for the Water System.

11.17 **Compensation of Officers and Employees**. To determine the compensation of any officer or employee of the Company based on such officer or employee's responsibilities, skills, and experience; provided, however, in no event shall such officer or employee's compensation exceed that paid to other similarly situated utility or governmental officers and employees.

11.18 **Issuance of Will-Serve Letters**. To adopt procedures consistent with these Bylaws for the issuance of will-serve letters and the terms and conditions of such letters pertaining to applications for subdivision of a Lot.

11.19 **Water Shortage Emergency**. To declare a water shortage emergency condition and adopt rules and regulations in connection therewith pursuant to California Water Code section 350 et seq., in addition to or in lieu of those set forth in the Water Conservation Policy, whenever the Board determines that the reasonable water demands and requirements of the Members cannot be satisfied without depleting the Water System's water supply to the extent that there would be insufficient water for domestic use and fire prevention purposes.

11.20 **General Rights and Powers**. To exercise for the Company all powers and duties vested in or delegated to the Company and not reserved to the Members by the Articles or Bylaws.

ARTICLE XII

OFFICERS

12.01 **Enumeration of Officers**. The officers of the Company shall be a president and vice president, who shall at all times be a member of the Board, and a secretary and chief financial officer, and such other officers as the Board may from time to time by resolution create.

12.02 **Election of Officers**. The election of officers shall take place at each annual meeting of the Board following each annual meeting of the Members.

12.03 **Term**. The officers of the Company shall be elected annually by the Board, and each shall hold office until he shall resign, or be removed, or is otherwise disqualified to serve.

12.04 **Resignation and Removal**. Any officer may be removed from office with or without cause by the Board. Any officer may resign at any time by giving written notice to the Board, the president or the secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified, therein and the acceptance of such resignation shall not be necessary to make it effective.

12.05 **Vacancies**. A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the reminder of the term of the officer he or she replaces.

12.06 **Multiple Offices**. Neither the Secretary nor the Chief Financial Officer may serve concurrently as the President, Chairman of the Board, or Vice President. The offices of Secretary and Chief Financial Officer may be held by the same person.

12.07 **Duties**. The duties of the officers are as follows:

(a) **President**. The president shall preside at all meetings of Members and the Board; shall see that orders and resolutions of the Board are carried out; shall sign all leases, mortgages, deeds and other written instruments and shall be authorized to sign checks, promissory notes and make electronic disbursements on behalf of the Company.

(b) **Vice President**. The vice president shall act in the place and stead of the president in the event of his or her absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board.

(c) **Secretary**. The secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the Members; serve notice of meeting of the Board and of the Members; keep appropriate current records showing the Members of the Company together with their addresses and shall perform such other duties as required by the Board.

(d) **Chief Financial Officer**. The chief financial officer shall receive and deposit in appropriate bank account(s) all monies of the Company and shall disburse funds as necessary to conduct the business of the Company or as directed by resolution of the Board; shall be authorized to sign checks, promissory notes and make electronic disbursements of funds on behalf of he Company; keep proper books of account; if directed by the Board, cause an annual audit of the Company's books to be made by a public accountant at the completion of each fiscal year; and prepare an annual budget and statement of income and expenditures to be presented to the membership and delivered to each of the Members.

12.08 **Compensation**. Any officer of the Company may receive reasonable compensation from the Company for services actually provided to the Company upon the approval of the Board, and any officer may be reimbursed by the Corporation for his or her reasonable actual expenses incurred in the performance of his or her duties.

12.09 **Limitation on Power**. No officer may obligate the Company in excess of Five Thousand Dollars ($5,000.00) without authority from the Board in the form of a resolution.

ARTICLE XIII

BOOKS AND RECORDS

13.01 **Books and Records**. Members shall have access to Company records in accordance with California Corporations Code section 8330 et seq. The membership register, including Members' mailing addresses and telephone numbers, books of account and minutes of meetings of the Members, the minutes, minutes proposed for adoption that are marked to indicate draft status, or a summary of the minutes, of any meeting of the Board, other than executive sessions (which shall be available to Members within thirty (30) days following the Board meeting, and which shall be distributed to any Member upon written request and upon reimbursement to the Company of the cost of distribution), and copies of the Bylaws and rules and regulations of the Board shall, during reasonable business hours, be subject to inspection and copying by any Member or by his duly appointed representative at the principal office of the Company or at another location within the Service Area as the Board may prescribe. The Board shall establish reasonable rules with respect to:

(a) Notice to be given to the custodian of the records by the Member wishing to make the inspection;

(b) Hours and days of the week when such an inspection may be made; and

(c) Payment of the costs of reproducing the copies of documents requested by a Member.

Every director shall have the absolute right at any reasonable time to inspect all books, records, documents, and physical properties of the Company. The right of inspection by a director shall include the right at his expense to make extracts and copies of documents.

13.02 **Financial Statements**. The Board shall cause:

(a) An annual report consisting of the following to be distributed to the Members within one hundred five (105) days after the close of the Company's fiscal year:

(1) A balance sheet as of the end of the fiscal year;

(2) An income and expense statement for the fiscal year;

(3) A statement of changes in financial position for the fiscal year;

(4) A statement of the place where the names and addresses of the current Members are located;

(5) Any information required to be reported under California Corporations Code section 8322; and

(6) For any fiscal year in which the gross income to the Company exceeds $75,000, a copy of a review of the annual report prepared in accordance with generally accepted accounting principals by a licensee of the California State Board of Accountancy.

If the annual report referred to above is not prepared by an independent accountant, it shall be accompanied by the certificate of an authorized officer of the Company stating that the report was prepared from the books and records of the Company without independent audit or review.

(b) A statement of the Company's policies and practices in enforcing its remedies against Members for default in the payment of Assessments, including the recording and foreclosing of liens against the Member's Lot, to be distributed to the Members within sixty (60) days prior to the beginning of each fiscal year.

13.03 **Budget**. The Board shall cause a pro forma operating statement (budget) for the Company to be prepared for each fiscal year of the Company, a copy of which shall be distributed personally or by mail to the Members not fewer than forty-five (45) nor more than sixty (60) days prior to the beginning of the fiscal year to which the budget relates. The budget shall include the following information:

(a) The estimated revenue and expenses of the Company for the next fiscal year.

(b) A summary of the Company's reserves based upon the most recent review or study conducted pursuant to Section 13.04.

(c) A statement as to whether the Board has determined or anticipates that the levy of one or more Special Assessments will be required to repair, replace or restore any major component or to provide adequate reserves to repair, replace or restore any major component of the Water System, the maintenance and replacement of which is the responsibility of the Company.

(d) A general statement setting forth the procedures used by the Board in the calculation and establishment of reserves to defray the costs of repair, replacement or additions to the Water System, the maintenance and replacement of which is the responsibility of the Company.

The budget shall be reviewed and approved by the Membership at the Annual Membership meeting. If at any time the Board determines that expenditures will exceed the approved budget by more than 10% then the Board shall promptly inform the membership in writing of the increase and the reasons for the increase. The Board may in its discretion and shall call a special meeting to discuss the increase if requested by one third (1/3) or more, of the voting power of the members.

13.04 **Review of Operating and Reserve Accounts**.

(a) The Board shall review, at least quarterly:

(1) A current reconciliation of the Company's operating accounts.

(2) A current reconciliation of the Company's reserve accounts.

(3) The current year's actual reserves, revenues and expenses compared to the current year's budget.

(4) The latest account statements prepared by the financial institutions where the Company has its operating and reserve accounts.

(5) An income and expense statement for the Company's operating and reserve accounts.

(b) At least once every three (3) years the Board shall cause to be conducted a reasonably competent and diligent visual inspection of the accessible areas of the major components of the Water System which the Company is obligated to repair, replace or maintain as part of a study of the reserve account requirements. The inspection shall be performed by a qualified engineer, and the study shall include a statement of the engineer of:

(1) The estimated cost of maintenance of the Water System.

(2) The estimated useful life of the components of the Water System.

(3) The estimated cost of replacement of the Water System.

(4) The monthly or annual amount which should be charged to establish a reasonable reserve for maintenance and replacement of the Water System based on the estimates made pursuant to subsections (b)(1) through (3) of this Section.

13.05 **Withdrawal from Reserve Accounts**.

(a) Except as provided in subsection (b) of this Section, the Board shall not expend funds designated as reserve funds for any purpose other than the repair, restoration, replacement or maintenance of, or litigation involving, the repair, restoration, replacement or maintenance of major components of the Water System which the Company is obligated to repair, restore, replace or maintain, and for which the reserve fund was established.

(b) The Board may authorize the temporary transfer of money from a reserve fund to the Company's general operating fund to meet short-term cash flow requirements or other expenses, provided the Board has made written findings, included in the Board's minutes, explaining the reasons the transfer is needed and describing when and how the money will be repaid to the reserve fund. The transferred funds shall be restored to the reserve fund within one (1) year following the date of the initial transfer, except that the Board may, upon making a finding supported by documentation that a temporary delay would be in the best interests of the Company, temporarily delay the restoration. The Board shall exercise prudent fiscal management in maintaining the integrity of the reserve account, and shall, if necessary, levee a Special Assessment to recover the full amount of the transferred funds within the time limits imposed by these Bylaws. The Board may extend the date the payment of the Special Assessment is due. Any extension shall not prevent the Board from pursuing any legal remedy to enforce the collection of an unpaid Special Assessment.

(c) In the event the Board decides to use reserve funds or to temporarily transfer money from the reserve funds to pay for litigation, the Board shall notify the Members of the decision in the next available mailing to Members pursuant to California

Corporations Code section 5016 and of the availability of an accounting of those expenses. The Board shall provide an accounting of expenses related to the litigation at least quarterly and shall make the accounting available for inspection by Members at the office of the Company.

(d) The signatures of at least two persons, either two directors, or director and an officer who is not a director, shall be required for the withdrawal of monies from the Company's reserve accounts. As used in these Bylaws, "reserve accounts" means monies the Board has identified for use to defray the future repair or replacement of, or additions to, those major components of the Water System which the Company is obligated to maintain.

ARTICLE XIV

AMENDMENTS

14.01 **Amendments**. These Bylaws may be amended, at a regular or special meeting of the Members, by the affirmative vote (in person or by proxy) or written consent of Members representing at least a majority of the voting power of the Members. Notwithstanding the above, the percentage of voting power necessary to amend a specific clause or provision shall not be less that the prescribed percentage of affirmative votes required for action to be taken under that clause.

14.02 **Recordation**. Any amendment to these Bylaws shall become effective only upon recordation in the Office of the County Recorder of the County of an instrument in writing signed by the secretary of the Company certifying that: (i) at least a majority of the voting power of the Members has approved the amendment; and (ii) setting forth in full the provision of these Bylaws as amended.

ARTICLE XV

TAX-EXEMPT STATUS

15.01 **Tax-Exempt Status**. The Board and the Members of the Company shall conduct the business of the Company in such manner that the Company qualify and be considered an organization exempt from the federal and state income taxes pursuant to the Internal Revenue Code section 501(c)(12) and provisions of the California Revenue and Taxation Code, as amended.

15.02 **Filing**. The Board shall cause to be timely filed annual elections and applications for tax-exempt status as may be required under federal or state law, and shall undertake to cause the Company to comply with the statutes, rules and regulations which have been, or shall be, adopted by federal and state agencies pertaining to such exemptions.

ARTICLE XVI

INDEMNIFICATION AND INSURANCE

16.01 **Indemnification**. As set forth in Articles of Incorporation, as amended, the Company is authorized to indemnify the directors and officers of the Company to the fullest extent permissible under California law. In the event any present or former director or officer of the Company is made a party to a civil or criminal proceeding by reason of the fact the director or officer was an agent of the Company, the Company shall indemnify the director or officer against expenses, judgments, fines, settlements and other amounts actually incurred to the fullest extent authorized by California Corporations Code section 7237, or any successor statute, and may advance to the person funds to pay expenses that may be incurred in defending any action or proceeding on receipt of an undertaking by or on behalf of the person to repay the amount unless it is ultimately determined that the person was entitled to indemnification under this provision.

16.02 **Insurance**. The Company shall have the power to purchase and maintain insurance on behalf of its directors, officers and/or other agents (collectively, "Agent" or "Agents") against any liability asserted against or incurred by any Agent in such capacity or arising out of such Agent's status as such.

ARTICLE XVII

MISCELLANEOUS

17.01 **Fiscal Year**. The fiscal year of the Company shall begin on the first day of April and end on the 31st day of March of each year.

17.02 **Conflict**. In the event of any conflict between the Articles and the Bylaws, the Articles shall control.

17.03 **Statutory References**. Several Sections of these Bylaws refer to or briefly summarize certain California statues in order to provide information to the Members and Board about those statutes. However, (i) the references are only summary in nature and the full statutory provision should be reviewed, (ii) no attempt has been made to refer to all applicable statutes, and (iii) there is no intent to limit application of any future statutory amendments or any new statutory provisions.

17.04 **Covenants Running with the Land**. The provisions herein contained are covenants that bind and benefit each Lot within the Service Area and have been made with the intent of satisfying the requirements of California Civil Code section 1468.

EXHIBIT A

LEGAL DESCRIPTION OF SERVICE AREA

TRACT 681 IN THE COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA, ACCORDING TO MAP RECORDED ON MAY 25, 1982, IN BOOK 10, PAGE 94 OF MAPS, OFFICIAL RECORDS OF SAID COUNTY

CERTIFICATION OF SECRETARY

I, the undersigned, do hereby certify:

1. That I am a duly elected and acting secretary of AFUERA DE CHORRO MUTUAL WATER COMPANY, a California nonprofit mutual benefit corporation; and

2. That the foregoing restated Bylaws constitute the Bylaws of said Company, as duly adopted at a meeting of the members thereof held on MAY 7, 2018.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of the Company this 9 day of OCTOBER, 2018.

PAT RUSCO, SEC

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT **CIVIL CODE § 1189**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of San Luis Obispo)

On Oct. 9, 2018 before me, Martha G. Monge, a notary public,
Date *Here Insert Name and Title of the Officer*

personally appeared Patrick Rusco
Name(s) of Signer(s)

____,

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

MARTHA G. MONGE
Notary Public - California
San Luis Obispo County
Commission # 2240802
My Comm. Expires May 29, 2022

Signature ____________________
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document
Title or Type of Document: Third Amendment and Restatement of Afuera de Charro Bylaws Document Date: 10/9/2018
Number of Pages: 24 Signer(s) Other Than Named Above: ______________

Capacity(ies) Claimed by Signer(s)

Signer's Name: ______________
☐ Corporate Officer — Title(s): ______________
☐ Partner — ☐ Limited ☐ General
☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator
☐ Other: ______________
Signer Is Representing: ______________

Signer's Name: ______________
☐ Corporate Officer — Title(s): ______________
☐ Partner — ☐ Limited ☐ General
☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator
☐ Other: ______________
Signer Is Representing: ______________