ORIGINAL-FILE WITH IRS

Form **990-PF**

Department of the Treasury
Internal Revenue Service

Return of Private Foundation
or Section 4947(a)(1) Nonexempt Charitable Trust Treated as a Private Foundation

Note. The foundation may be able to use a copy of this return to satisfy state reporting requirements.

OMB No 1545-0052

2009

For calendar year 2009, or tax year beginning , and ending

G Check all that apply: ☐ Initial return ☐ Initial return of a former public charity ☐ Final return
☐ Amended return ☐ Address change ☐ Name change

Use the IRS label. Otherwise, print or type. See Specific Instructions.

Name of foundation
YARBOROUGH FOUNDATION

Number and street (or P O box number if mail is not delivered to street address) | Room/suite
200 N LORAINE, SUITE 1400

City or town, state, and ZIP code
MIDLAND, TX 79701

A Employer identification number
75-2919532

B Telephone number
432-684-8578

C If exemption application is pending, check here ▶☐
D 1. Foreign organizations, check here ▶☐
2. Foreign organizations meeting the 85% test, check here and attach computation ▶☐
E If private foundation status was terminated under section 507(b)(1)(A), check here ▶☐
F If the foundation is in a 60-month termination under section 507(b)(1)(B), check here ▶☐

H Check type of organization: [X] Section 501(c)(3) exempt private foundation
☐ Section 4947(a)(1) nonexempt charitable trust ☐ Other taxable private foundation

I Fair market value of all assets at end of year *(from Part II, col. (c), line 16)* ▶$ 5,224,116.
J Accounting method: [X] Cash ☐ Accrual ☐ Other (specify) *(Part I, column (d) must be on cash basis.)*

Part I **Analysis of Revenue and Expenses** (The total of amounts in columns (b), (c), and (d) may not necessarily equal the amounts in column (a).)

		(a) Revenue and expenses per books	(b) Net investment income	(c) Adjusted net income	(d) Disbursements for charitable purposes (cash basis only)
Revenue	1 Contributions, gifts, grants, etc., received	1,430,442.		N/A	
	2 Check ▶☐ if the foundation is not required to attach Sch B				
	3 Interest on savings and temporary cash investments	59,624.	59,624.		STATEMENT 1
	4 Dividends and interest from securities	65,121.	59,716.		STATEMENT 2
	5a Gross rents				
	b Net rental income or (loss)				
	6a Net gain or (loss) from sale of assets not on line 10	-144,285.			
	b Gross sales price for all assets on line 6a -144,285.				
	7 Capital gain net income (from Part IV, line 2)		0.		
	8 Net short-term capital gain				
	9 Income modifications				
	10a Gross sales less returns and allowances				
	b Less Cost of goods sold				
	c Gross profit or (loss)				
	11 Other income	225.	225.		STATEMENT 3
	12 **Total.** Add lines 1 through 11	1,411,127.	119,565.		
Operating and Administrative Expenses	13 Compensation of officers, directors, trustees, etc	0.	0.		0.
	14 Other employee salaries and wages				
	15 Pension plans, employee benefits				
	16a Legal fees STMT 4	25,457.	25,359.		0.
	b Accounting fees STMT 5	4,850.	4,831.		0.
	c Other professional fees STMT 6	22,054.	21,969.		0.
	17 Interest				
	18 Taxes STMT 7	4,393.	3,133.		0.
	19 Depreciation and depletion				
	20 Occupancy				
	21 Travel, conferences, and meetings	8,258.	8,226.		0.
	22 Printing and publications				
	23 Other expenses STMT 8	7,338.	6,793.		0.
	24 **Total operating and administrative expenses.** Add lines 13 through 23	72,350.	70,311.		0.
	25 Contributions, gifts, grants paid	244,354.			244,354.
	26 **Total expenses and disbursements.** Add lines 24 and 25	316,704.	70,311.		244,354.
	27 Subtract line 26 from line 12:				
	a Excess of revenue over expenses and disbursements	1,094,423.			
	b **Net investment income** (if negative, enter -0-)		49,254.		
	c **Adjusted net income** (if negative, enter -0-)			N/A	

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Part II Balance Sheets

Attached schedules and amounts in the description column should be for end-of-year amounts only

		Beginning of year	End of year	
		(a) Book Value	(b) Book Value	(c) Fair Market Value
Assets	1 Cash - non-interest-bearing			
	2 Savings and temporary cash investments	1,170,075.	1,235,140.	1,235,140.
	3 Accounts receivable ▶			
	Less: allowance for doubtful accounts ▶			
	4 Pledges receivable ▶			
	Less: allowance for doubtful accounts ▶			
	5 Grants receivable			
	6 Receivables due from officers, directors, trustees, and other disqualified persons			
	7 Other notes and loans receivable ▶			
	Less: allowance for doubtful accounts ▶			
	8 Inventories for sale or use			
	9 Prepaid expenses and deferred charges			
	10a Investments - U.S. and state government obligations			
	b Investments - corporate stock			
	c Investments - corporate bonds			
	11 Investments - land, buildings, and equipment basis ▶			
	Less accumulated depreciation ▶			
	12 Investments - mortgage loans			
	13 Investments - other STMT 9	2,215,498.	3,244,856.	3,988,976.
	14 Land, buildings, and equipment: basis ▶ 7,679.			
	Less accumulated depreciation STMT 10 ▶ 7,679.			
	15 Other assets (describe ▶)			
	16 **Total assets** (to be completed by all filers)	3,385,573.	4,479,996.	5,224,116.
Liabilities	17 Accounts payable and accrued expenses			
	18 Grants payable			
	19 Deferred revenue			
	20 Loans from officers, directors, trustees, and other disqualified persons			
	21 Mortgages and other notes payable			
	22 Other liabilities (describe ▶)			
	23 **Total liabilities** (add lines 17 through 22)	0.	0.	
Net Assets or Fund Balances	**Foundations that follow SFAS 117, check here ▶ [X] and complete lines 24 through 26 and lines 30 and 31.**			
	24 Unrestricted	3,385,573.	4,479,996.	
	25 Temporarily restricted			
	26 Permanently restricted			
	Foundations that do not follow SFAS 117, check here ▶ [ ] and complete lines 27 through 31.			
	27 Capital stock, trust principal, or current funds			
	28 Paid-in or capital surplus, or land, bldg., and equipment fund			
	29 Retained earnings, accumulated income, endowment, or other funds			
	30 **Total net assets or fund balances**	3,385,573.	4,479,996.	
	31 **Total liabilities and net assets/fund balances**	3,385,573.	4,479,996.	

Part III Analysis of Changes in Net Assets or Fund Balances

1	Total net assets or fund balances at beginning of year - Part II, column (a), line 30 (must agree with end-of-year figure reported on prior year's return)	1	3,385,573.
2	Enter amount from Part I, line 27a	2	1,094,423.
3	Other increases not included in line 2 (itemize) ▶	3	0.
4	Add lines 1, 2, and 3	4	4,479,996.
5	Decreases not included in line 2 (itemize) ▶	5	0.
6	Total net assets or fund balances at end of year (line 4 minus line 5) - Part II, column (b), line 30	6	4,479,996.

Part IV Capital Gains and Losses for Tax on Investment Income

	(a) List and describe the kind(s) of property sold (e.g., real estate, 2-story brick warehouse; or common stock, 200 shs. MLC Co.)	(b) How acquired P - Purchase D - Donation	(c) Date acquired (mo., day, yr.)	(d) Date sold (mo., day, yr.)
1a				
b	SEE ATTACHED STATEMENTS			
c				
d				
e				

	(e) Gross sales price	(f) Depreciation allowed (or allowable)	(g) Cost or other basis plus expense of sale	(h) Gain or (loss) (e) plus (f) minus (g)
a				
b				
c				
d				
e	-144,285.			-144,285.

Complete only for assets showing gain in column (h) and owned by the foundation on 12/31/69

	(i) F.M.V. as of 12/31/69	(j) Adjusted basis as of 12/31/69	(k) Excess of col. (i) over col. (j), if any	(l) Gains (Col. (h) gain minus col. (k), but not less than -0-) or Losses (from col. (h))
a				
b				
c				
d				
e				-144,285.

2 Capital gain net income or (net capital loss)	If gain, also enter in Part I, line 7 If (loss), enter -0- in Part I, line 7	2	-144,285.
3 Net short-term capital gain or (loss) as defined in sections 1222(5) and (6): If gain, also enter in Part I, line 8, column (c). If (loss), enter -0- in Part I, line 8		3	N/A

Part V Qualification Under Section 4940(e) for Reduced Tax on Net Investment Income

(For optional use by domestic private foundations subject to the section 4940(a) tax on net investment income.)

If section 4940(d)(2) applies, leave this part blank.

Was the foundation liable for the section 4942 tax on the distributable amount of any year in the base period? ☐ Yes ☒ No

If "Yes," the foundation does not qualify under section 4940(e). Do not complete this part.

1 Enter the appropriate amount in each column for each year; see instructions before making any entries.

(a) Base period years Calendar year (or tax year beginning in)	(b) Adjusted qualifying distributions	(c) Net value of noncharitable-use assets	(d) Distribution ratio (col. (b) divided by col. (c))
2008	0.	1,839,741.	.000000
2007	10,500.	451,249.	.023269
2006	11,150.	357,495.	.031189
2005	179,809.	458,790.	.391920
2004	189,714.	545,860.	.347551

2 Total of line 1, column (d)	2	.793929
3 Average distribution ratio for the 5-year base period - divide the total on line 2 by 5, or by the number of years the foundation has been in existence if less than 5 years	3	.158786
4 Enter the net value of noncharitable-use assets for 2009 from Part X, line 5	4	3,531,925.
5 Multiply line 4 by line 3	5	560,820.
6 Enter 1% of net investment income (1% of Part I, line 27b)	6	493.
7 Add lines 5 and 6	7	561,313.
8 Enter qualifying distributions from Part XII, line 4	8	244,354.

If line 8 is equal to or greater than line 7, check the box in Part VI, line 1b, and complete that part using a 1% tax rate. See the Part VI instructions.

Part VI | Excise Tax Based on Investment Income (Section 4940(a), 4940(b), 4940(e), or 4948 - see instructions)

1a Exempt operating foundations described in section 4940(d)(2), check here ▶ ☐ and enter "N/A" on line 1. Date of ruling or determination letter: ______ (attach copy of letter if necessary-see instructions)				
b Domestic foundations that meet the section 4940(e) requirements in Part V, check here ▶ ☐ and enter 1% of Part I, line 27b			1	985.
c All other domestic foundations enter 2% of line 27b. Exempt foreign organizations enter 4% of Part I, line 12, col. (b)				
2 Tax under section 511 (domestic section 4947(a)(1) trusts and taxable foundations only. Others enter -0-)			2	0.
3 Add lines 1 and 2			3	985.
4 Subtitle A (income) tax (domestic section 4947(a)(1) trusts and taxable foundations only. Others enter -0-)			4	0.
5 **Tax based on investment income.** Subtract line 4 from line 3. If zero or less, enter -0-			5	985.
6 Credits/Payments:				
a 2009 estimated tax payments and 2008 overpayment credited to 2009	6a	1,030.		
b Exempt foreign organizations - tax withheld at source	6b			
c Tax paid with application for extension of time to file (Form 8868)	6c			
d Backup withholding erroneously withheld	6d			
7 Total credits and payments. Add lines 6a through 6d			7	1,030.
8 Enter any **penalty** for underpayment of estimated tax. Check here ☒ if Form 2220 is attached			8	
9 **Tax due.** If the total of lines 5 and 8 is more than line 7, enter **amount owed** ▶			9	
10 **Overpayment.** If line 7 is more than the total of lines 5 and 8, enter the **amount overpaid** ▶			10	45.
11 Enter the amount of line 10 to be: **Credited to 2010 estimated tax** ▶ 45. **Refunded** ▶			11	0.

Part VII-A | Statements Regarding Activities

		Yes	No
1a During the tax year, did the foundation attempt to influence any national, state, or local legislation or did it participate or intervene in any political campaign?	1a		X
b Did it spend more than $100 during the year (either directly or indirectly) for political purposes (see instructions for definition)?	1b		X
If the answer is "Yes" to **1a** *or* **1b**, *attach a detailed description of the activities and copies of any materials published or distributed by the foundation in connection with the activities.*			
c Did the foundation file **Form 1120-POL** for this year?	1c		X
d Enter the amount (if any) of tax on political expenditures (section 4955) imposed during the year: (1) On the foundation. ▶ $ 0. (2) On foundation managers. ▶ $ 0.			
e Enter the reimbursement (if any) paid by the foundation during the year for political expenditure tax imposed on foundation managers. ▶ $ 0.			
2 Has the foundation engaged in any activities that have not previously been reported to the IRS? *If "Yes," attach a detailed description of the activities.*	2		X
3 Has the foundation made any changes, not previously reported to the IRS, in its governing instrument, articles of incorporation, or bylaws, or other similar instruments? *If "Yes," attach a conformed copy of the changes*	3	X	
4a Did the foundation have unrelated business gross income of $1,000 or more during the year?	4a		X
b If "Yes," has it filed a tax return on **Form 990-T** for this year? N/A	4b		
5 Was there a liquidation, termination, dissolution, or substantial contraction during the year? *If "Yes," attach the statement required by General Instruction T.*	5		X
6 Are the requirements of section 508(e) (relating to sections 4941 through 4945) satisfied either: • By language in the governing instrument, or • By state legislation that effectively amends the governing instrument so that no mandatory directions that conflict with the state law remain in the governing instrument?	6	X	
7 Did the foundation have at least $5,000 in assets at any time during the year? *If "Yes," complete Part II, col. (c), and Part XV.*	7	X	
8a Enter the states to which the foundation reports or with which it is registered (see instructions) ▶ TX			
b If the answer is "Yes" to line 7, has the foundation furnished a copy of Form 990-PF to the Attorney General (or designate) of each state as required by *General Instruction G? If "No," attach explanation*	8b	X	
9 Is the foundation claiming status as a private operating foundation within the meaning of section 4942(j)(3) or 4942(j)(5) for calendar year 2009 or the taxable year beginning in 2009 (see instructions for Part XIV)? *If "Yes," complete Part XIV*	9		X
10 Did any persons become substantial contributors during the tax year? If "Yes," attach a schedule listing their names and addresses STMT 11	10	X	

Part VII-A Statements Regarding Activities *(continued)*

		Line	Yes	No
11	At any time during the year, did the foundation, directly or indirectly, own a controlled entity within the meaning of section 512(b)(13)? If "Yes," attach schedule (see instructions)	11		X
12	Did the foundation acquire a direct or indirect interest in any applicable insurance contract before August 17, 2008?	12		X
13	Did the foundation comply with the public inspection requirements for its annual returns and exemption application?	13		X

Website address ▶ N/A

14 The books are in care of ▶ ANN JACKSON Telephone no. ▶ 432-684-8578

Located at ▶ 200 N. LORAINE, SUITE 1400, MIDLAND, TX ZIP+4 ▶ 79701

15 Section 4947(a)(1) nonexempt charitable trusts filing Form 990-PF in lieu of Form 1041 - Check here ▶ ☐

and enter the amount of tax-exempt interest received or accrued during the year ▶ | 15 | N/A

Part VII-B Statements Regarding Activities for Which Form 4720 May Be Required

File Form 4720 if any item is checked in the "Yes" column, unless an exception applies.

			Line	Yes	No
1a	During the year did the foundation (either directly or indirectly):				
	(1) Engage in the sale or exchange, or leasing of property with a disqualified person?	☐ Yes ☒ No			
	(2) Borrow money from, lend money to, or otherwise extend credit to (or accept it from) a disqualified person?	☐ Yes ☒ No			
	(3) Furnish goods, services, or facilities to (or accept them from) a disqualified person?	☐ Yes ☒ No			
	(4) Pay compensation to, or pay or reimburse the expenses of, a disqualified person?	☐ Yes ☒ No			
	(5) Transfer any income or assets to a disqualified person (or make any of either available for the benefit or use of a disqualified person)?	☐ Yes ☒ No			
	(6) Agree to pay money or property to a government official? (**Exception.** Check "No" if the foundation agreed to make a grant to or to employ the official for a period after termination of government service, if terminating within 90 days.)	☐ Yes ☒ No			
b	If any answer is "Yes" to 1a(1)-(6), did **any** of the acts fail to qualify under the exceptions described in Regulations section 53.4941(d)-3 or in a current notice regarding disaster assistance (see page 20 of the instructions)?	N/A	1b		
	Organizations relying on a current notice regarding disaster assistance check here	▶ ☐			
c	Did the foundation engage in a prior year in any of the acts described in 1a, other than excepted acts, that were not corrected before the first day of the tax year beginning in 2009?		1c		X
2	Taxes on failure to distribute income (section 4942) (does not apply for years the foundation was a private operating foundation defined in section 4942(j)(3) or 4942(j)(5)):				
a	At the end of tax year 2009, did the foundation have any undistributed income (lines 6d and 6e, Part XIII) for tax year(s) beginning before 2009?	☐ Yes ☒ No			
	If "Yes," list the years ▶ ______, ______, ______, ______				
b	Are there any years listed in 2a for which the foundation is **not** applying the provisions of section 4942(a)(2) (relating to incorrect valuation of assets) to the year's undistributed income? (If applying section 4942(a)(2) to **all** years listed, answer "No" and attach statement - see instructions.)	N/A	2b		
c	If the provisions of section 4942(a)(2) are being applied to **any** of the years listed in 2a, list the years here. ▶ ______, ______, ______, ______				
3a	Did the foundation hold more than a 2% direct or indirect interest in any business enterprise at any time during the year?	☐ Yes ☒ No			
b	If "Yes," did it have excess business holdings in 2009 as a result of (1) any purchase by the foundation or disqualified persons after May 26, 1969; (2) the lapse of the 5-year period (or longer period approved by the Commissioner under section 4943(c)(7)) to dispose of holdings acquired by gift or bequest; or (3) the lapse of the 10-, 15-, or 20-year first phase holding period? *(Use Schedule C, Form 4720, to determine if the foundation had excess business holdings in 2009.)*	N/A	3b		
4a	Did the foundation invest during the year any amount in a manner that would jeopardize its charitable purposes?		4a		X
b	Did the foundation make any investment in a prior year (but after December 31, 1969) that could jeopardize its charitable purpose that had not been removed from jeopardy before the first day of the tax year beginning in 2009?		4b		X

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Part VII-B Statements Regarding Activities for Which Form 4720 May Be Required (continued)

5a During the year did the foundation pay or incur any amount to:

(1) Carry on propaganda, or otherwise attempt to influence legislation (section 4945(e))? ☐ Yes ☒ No

(2) Influence the outcome of any specific public election (see section 4955); or to carry on, directly or indirectly, any voter registration drive? ☐ Yes ☒ No

(3) Provide a grant to an individual for travel, study, or other similar purposes? ☐ Yes ☒ No

(4) Provide a grant to an organization other than a charitable, etc., organization described in section 509(a)(1), (2), or (3), or section 4940(d)(2)? ☐ Yes ☒ No

(5) Provide for any purpose other than religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals? ☐ Yes ☒ No

b If any answer is "Yes" to 5a(1)-(5), did any of the transactions fail to qualify under the exceptions described in Regulations section 53.4945 or in a current notice regarding disaster assistance (see instructions)? N/A | 5b |

Organizations relying on a current notice regarding disaster assistance check here ▶ ☐

c If the answer is "Yes" to question 5a(4), does the foundation claim exemption from the tax because it maintained expenditure responsibility for the grant? N/A ☐ Yes ☐ No

If "Yes," attach the statement required by Regulations section 53.4945-5(d)

6a Did the foundation, during the year, receive any funds, directly or indirectly, to pay premiums on a personal benefit contract? ☐ Yes ☒ No

b Did the foundation, during the year, pay premiums, directly or indirectly, on a personal benefit contract? | 6b | | X |

If "Yes" to 6b, file Form 8870.

7a At any time during the tax year, was the foundation a party to a prohibited tax shelter transaction? ☐ Yes ☒ No

b If yes, did the foundation receive any proceeds or have any net income attributable to the transaction? N/A | 7b |

Part VIII Information About Officers, Directors, Trustees, Foundation Managers, Highly Paid Employees, and Contractors

1 List all officers, directors, trustees, foundation managers and their compensation.

(a) Name and address	(b) Title, and average hours per week devoted to position	(c) Compensation (If not paid, enter -0-)	(d) Contributions to employee benefit plans and deferred compensation	(e) Expense account, other allowances
NONE	0.00	0.	0.	0.

2 Compensation of five highest-paid employees (other than those included on line 1). If none, enter "NONE."

(a) Name and address of each employee paid more than $50,000	(b) Title, and average hours per week devoted to position	(c) Compensation	(d) Contributions to employee benefit plans and deferred compensation	(e) Expense account, other allowances
NONE				

Total number of other employees paid over $50,000 ▶ 0

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Part VIII **Information About Officers, Directors, Trustees, Foundation Managers, Highly Paid Employees, and Contractors** *(continued)*

3 Five highest-paid independent contractors for professional services. If none, enter "NONE."

(a) Name and address of each person paid more than $50,000	(b) Type of service	(c) Compensation
NONE		
Total number of others receiving over $50,000 for professional services ▶		0

Part IX-A **Summary of Direct Charitable Activities**

List the foundation's four largest direct charitable activities during the tax year. Include relevant statistical information such as the number of organizations and other beneficiaries served, conferences convened, research papers produced, etc.	Expenses
1 N/A	
2	
3	
4	

Part IX-B **Summary of Program-Related Investments**

Describe the two largest program-related investments made by the foundation during the tax year on lines 1 and 2.	Amount
1 N/A	
2	
All other program-related investments. See instructions.	
3	
Total. Add lines 1 through 3 ▶	0.

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Part X Minimum Investment Return (All domestic foundations must complete this part. Foreign foundations, see instructions.)

1	Fair market value of assets not used (or held for use) directly in carrying out charitable, etc., purposes:		
a	Average monthly fair market value of securities	1a	3,306,766.
b	Average of monthly cash balances	1b	278,945.
c	Fair market value of all other assets	1c	
d	**Total** (add lines 1a, b, and c)	1d	3,585,711.
e	Reduction claimed for blockage or other factors reported on lines 1a and 1c (attach detailed explanation) 1e 0.		
2	Acquisition indebtedness applicable to line 1 assets	2	0.
3	Subtract line 2 from line 1d	3	3,585,711.
4	Cash deemed held for charitable activities. Enter 1 1/2% of line 3 (for greater amount, see instructions)	4	53,786.
5	**Net value of noncharitable-use assets.** Subtract line 4 from line 3. Enter here and on Part V, line 4	5	3,531,925.
6	**Minimum investment return.** Enter 5% of line 5	6	176,596.

Part XI Distributable Amount (see instructions) (Section 4942(j)(3) and (j)(5) private operating foundations and certain foreign organizations check here ▶ ☐ and do not complete this part.)

1	Minimum investment return from Part X, line 6	1	176,596.
2a	Tax on investment income for 2009 from Part VI, line 5 2a 985.		
b	Income tax for 2009. (This does not include the tax from Part VI.) 2b		
c	Add lines 2a and 2b	2c	985.
3	Distributable amount before adjustments. Subtract line 2c from line 1	3	175,611.
4	Recoveries of amounts treated as qualifying distributions	4	0.
5	Add lines 3 and 4	5	175,611.
6	Deduction from distributable amount (see instructions)	6	0.
7	**Distributable amount** as adjusted. Subtract line 6 from line 5. Enter here and on Part XIII, line 1	7	175,611.

Part XII Qualifying Distributions (see instructions)

1	Amounts paid (including administrative expenses) to accomplish charitable, etc., purposes:		
a	Expenses, contributions, gifts, etc. - total from Part I, column (d), line 26	1a	244,354.
b	Program-related investments - total from Part IX-B	1b	0.
2	Amounts paid to acquire assets used (or held for use) directly in carrying out charitable, etc., purposes	2	
3	Amounts set aside for specific charitable projects that satisfy the:		
a	Suitability test (prior IRS approval required)	3a	
b	Cash distribution test (attach the required schedule)	3b	
4	**Qualifying distributions.** Add lines 1a through 3b. Enter here and on Part V, line 8, and Part XIII, line 4	4	244,354.
5	Foundations that qualify under section 4940(e) for the reduced rate of tax on net investment income. Enter 1% of Part I, line 27b	5	0.
6	**Adjusted qualifying distributions.** Subtract line 5 from line 4	6	244,354.

Note. The amount on line 6 will be used in Part V, column (b), in subsequent years when calculating whether the foundation qualifies for the section 4940(e) reduction of tax in those years.

Part XIII Undistributed Income (see instructions)

	(a) Corpus	(b) Years prior to 2008	(c) 2008	(d) 2009
1 Distributable amount for 2009 from Part XI, line 7				175,611.
2 Undistributed income, if any, as of the end of 2009				
a Enter amount for 2008 only			0.	
b Total for prior years: ______ , ______ , ______		0.		
3 Excess distributions carryover, if any, to 2009:				
a From 2004 169,993.				
b From 2005 157,501.				
c From 2006				
d From 2007				
e From 2008				
f Total of lines 3a through e	327,494.			
4 Qualifying distributions for 2009 from Part XII, line 4: ▶ $ 244,354.				
a Applied to 2008, but not more than line 2a			0.	
b Applied to undistributed income of prior years (Election required - see instructions)		0.		
c Treated as distributions out of corpus (Election required - see instructions)	0.			
d Applied to 2009 distributable amount				175,611.
e Remaining amount distributed out of corpus	68,743.			
5 Excess distributions carryover applied to 2009 (If an amount appears in column (d), the same amount must be shown in column (a).)	0.			0.
6 Enter the net total of each column as indicated below:				
a Corpus Add lines 3f, 4c, and 4e Subtract line 5	396,237.			
b Prior years' undistributed income. Subtract line 4b from line 2b		0.		
c Enter the amount of prior years' undistributed income for which a notice of deficiency has been issued, or on which the section 4942(a) tax has been previously assessed		0.		
d Subtract line 6c from line 6b. Taxable amount - see instructions		0.		
e Undistributed income for 2008. Subtract line 4a from line 2a. Taxable amount - see instr.			0.	
f Undistributed income for 2009. Subtract lines 4d and 5 from line 1. This amount must be distributed in 2010				0.
7 Amounts treated as distributions out of corpus to satisfy requirements imposed by section 170(b)(1)(F) or 4942(g)(3)	0.			
8 Excess distributions carryover from 2004 not applied on line 5 or line 7	169,993.			
9 Excess distributions carryover to 2010. Subtract lines 7 and 8 from line 6a	226,244.			
10 Analysis of line 9:				
a Excess from 2005 157,501.				
b Excess from 2006				
c Excess from 2007				
d Excess from 2008				
e Excess from 2009 68,743.				

Part XIV Private Operating Foundations (see instructions and Part VII-A, question 9) N/A

1 a If the foundation has received a ruling or determination letter that it is a private operating foundation, and the ruling is effective for 2009, enter the date of the ruling ▶

b Check box to indicate whether the foundation is a private operating foundation described in section ☐ 4942(j)(3) or ☐ 4942(j)(5)

	Tax year	Prior 3 years			
	(a) 2009	(b) 2008	(c) 2007	(d) 2006	(e) Total
2 a Enter the lesser of the adjusted net income from Part I or the minimum investment return from Part X for each year listed					
b 85% of line 2a					
c Qualifying distributions from Part XII, line 4 for each year listed					
d Amounts included in line 2c not used directly for active conduct of exempt activities					
e Qualifying distributions made directly for active conduct of exempt activities. Subtract line 2d from line 2c					
3 Complete 3a, b, or c for the alternative test relied upon: a "Assets" alternative test - enter: (1) Value of all assets					
(2) Value of assets qualifying under section 4942(j)(3)(B)(i)					
b "Endowment" alternative test - enter 2/3 of minimum investment return shown in Part X, line 6 for each year listed					
c "Support" alternative test - enter: (1) Total support other than gross investment income (interest, dividends, rents, payments on securities loans (section 512(a)(5)), or royalties)					
(2) Support from general public and 5 or more exempt organizations as provided in section 4942(j)(3)(B)(iii)					
(3) Largest amount of support from an exempt organization					
(4) Gross investment income					

Part XV Supplementary Information (Complete this part only if the foundation had $5,000 or more in assets at any time during the year-see the instructions.)

1 **Information Regarding Foundation Managers:**

a List any managers of the foundation who have contributed more than 2% of the total contributions received by the foundation before the close of any tax year (but only if they have contributed more than $5,000). (See section 507(d)(2).)

NONE

b List any managers of the foundation who own 10% or more of the stock of a corporation (or an equally large portion of the ownership of a partnership or other entity) of which the foundation has a 10% or greater interest

NONE

2 **Information Regarding Contribution, Grant, Gift, Loan, Scholarship, etc., Programs:**

Check here ▶ [X] if the foundation only makes contributions to preselected charitable organizations and does not accept unsolicited requests for funds. If the foundation makes gifts, grants, etc. (see instructions) to individuals or organizations under other conditions, complete items 2a, b, c, and d.

a The name, address, and telephone number of the person to whom applications should be addressed:

b The form in which applications should be submitted and information and materials they should include:

c Any submission deadlines:

d Any restrictions or limitations on awards, such as by geographical areas, charitable fields, kinds of institutions, or other factors:

Part XV Supplementary Information (continued)

3 Grants and Contributions Paid During the Year or Approved for Future Payment

Recipient Name and address (home or business)	If recipient is an individual, show any relationship to any foundation manager or substantial contributor	Foundation status of recipient	Purpose of grant or contribution	Amount
a *Paid during the year*				
SEE STATEMENT 12				
Total			▶ 3a	244,354.
b *Approved for future payment*				
NONE				
Total			▶ 3b	0.

Part XVI-A Analysis of Income-Producing Activities

Enter gross amounts unless otherwise indicated.	Unrelated business income		Excluded by section 512, 513, or 514		(e) Related or exempt function income
	(a) Business code	(b) Amount	(c) Exclusion code	(d) Amount	
1 Program service revenue:					
a					
b					
c					
d					
e					
f					
g Fees and contracts from government agencies					
2 Membership dues and assessments					
3 Interest on savings and temporary cash investments			14	59,624.	
4 Dividends and interest from securities			14	65,121.	
5 Net rental income or (loss) from real estate:					
a Debt-financed property					
b Not debt-financed property					
6 Net rental income or (loss) from personal property					
7 Other investment income			18	225.	
8 Gain or (loss) from sales of assets other than inventory			19	-144,285.	
9 Net income or (loss) from special events					
10 Gross profit or (loss) from sales of inventory					
11 Other revenue:					
a					
b					
c					
d					
e					
12 Subtotal. Add columns (b), (d), and (e)		0.		-19,315.	0.

13 Total. Add line 12, columns (b), (d), and (e) 13 -19,315.

(See worksheet in line 13 instructions to verify calculations.)

Part XVI-B Relationship of Activities to the Accomplishment of Exempt Purposes

Line No. ▼	Explain below how each activity for which income is reported in column (e) of Part XVI-A contributed importantly to the accomplishment of the foundation's exempt purposes (other than by providing funds for such purposes).

Part XVII Information Regarding Transfers To and Transactions and Relationships With Noncharitable Exempt Organizations

		Yes	No
1 Did the organization directly or indirectly engage in any of the following with any other organization described in section 501(c) of the Code (other than section 501(c)(3) organizations) or in section 527, relating to political organizations?			
a Transfers from the reporting foundation to a noncharitable exempt organization of:			
(1) Cash	1a(1)		X
(2) Other assets	1a(2)		X
b Other transactions:			
(1) Sales of assets to a noncharitable exempt organization	1b(1)		X
(2) Purchases of assets from a noncharitable exempt organization	1b(2)		X
(3) Rental of facilities, equipment, or other assets	1b(3)		X
(4) Reimbursement arrangements	1b(4)		X
(5) Loans or loan guarantees	1b(5)		X
(6) Performance of services or membership or fundraising solicitations	1b(6)		X
c Sharing of facilities, equipment, mailing lists, other assets, or paid employees	1c		X

d If the answer to any of the above is "Yes," complete the following schedule. Column (b) should always show the fair market value of the goods, other assets, or services given by the reporting foundation. If the foundation received less than fair market value in any transaction or sharing arrangement, show in column (d) the value of the goods, other assets, or services received.

(a) Line no	(b) Amount involved	(c) Name of noncharitable exempt organization	(d) Description of transfers, transactions, and sharing arrangements
		N/A	

2a Is the foundation directly or indirectly affiliated with, or related to, one or more tax-exempt organizations described in section 501(c) of the Code (other than section 501(c)(3)) or in section 527? ☐ Yes ☒ No

b If "Yes," complete the following schedule.

(a) Name of organization	(b) Type of organization	(c) Description of relationship
N/A		

Sign Here

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than taxpayer or fiduciary) is based on all information of which preparer has any knowledge

Ann A Jackson 5/6/10 Secretary

Signature of officer or trustee — Date — Title

Paid Preparer's Use Only

Preparer's signature: Laura Buckner CPA	Date: 5/5/10	Check if self-employed ☐	Preparer's identifying number
Firm's name (or yours if self-employed), address, and ZIP code: BUCKNER & TILLEY P.C. 500 W ILLINOIS AVE, SUITE 1150 MIDLAND, TX 79701		EIN	
		Phone no. 432-687-5577	

923622
02-02-10

Schedule B
(Form 990, 990-EZ, or 990-PF)
Department of the Treasury
Internal Revenue Service

Schedule of Contributors

▶ **Attach to Form 990, 990-EZ, or 990-PF.**

OMB No 1545-0047

2009

Name of the organization	**Employer identification number**
YARBOROUGH FOUNDATION	75-2919532

Organization type (check one):

Filers of:	**Section:**
Form 990 or 990-EZ	☐ 501(c)( ) (enter number) organization
	☐ 4947(a)(1) nonexempt charitable trust **not** treated as a private foundation
	☐ 527 political organization
Form 990-PF	☒ 501(c)(3) exempt private foundation
	☐ 4947(a)(1) nonexempt charitable trust treated as a private foundation
	☐ 501(c)(3) taxable private foundation

Check if your organization is covered by the **General Rule** or a **Special Rule.**
Note. Only a section 501(c)(7), (8), or (10) organization can check boxes for both the General Rule and a Special Rule. See instructions.

General Rule

☒ For an organization filing Form 990, 990-EZ, or 990-PF that received, during the year, $5,000 or more (in money or property) from any one contributor. Complete Parts I and II.

Special Rules

☐ For a section 501(c)(3) organization filing Form 990 or 990-EZ that met the 33 1/3% support test of the regulations under sections 509(a)(1) and 170(b)(1)(A)(vi), and received from any one contributor, during the year, a contribution of the greater of **(1)** $5,000 or **(2)** 2% of the amount on (i) Form 990, Part VIII, line 1h or (ii) Form 990-EZ, line 1. Complete Parts I and II.

☐ For a section 501(c)(7), (8), or (10) organization filing Form 990 or 990-EZ that received from any one contributor, during the year, aggregate contributions of more than $1,000 for use *exclusively* for religious, charitable, scientific, literary, or educational purposes, or the prevention of cruelty to children or animals. Complete Parts I, II, and III.

☐ For a section 501(c)(7), (8), or (10) organization filing Form 990 or 990-EZ that received from any one contributor, during the year, contributions for use *exclusively* for religious, charitable, etc., purposes, but these contributions did not aggregate to more than $1,000. If this box is checked, enter here the total contributions that were received during the year for an *exclusively* religious, charitable, etc., purpose. Do not complete any of the parts unless the **General Rule** applies to this organization because it received nonexclusively religious, charitable, etc., contributions of $5,000 or more during the year. . . . . ▶ $ ____________

Caution. An organization that is not covered by the General Rule and/or the Special Rules does not file Schedule B (Form 990, 990-EZ, or 990-PF), but it **must** answer "No" on Part IV, line 2 of its Form 990, or check the box on line H of its Form 990-EZ, or on line 2 of its Form 990-PF, to certify that it does not meet the filing requirements of Schedule B (Form 990, 990-EZ, or 990-PF).

Name of organization

YARBOROUGH FOUNDATION

Employer identification number

75-2919532

Part I **Contributors** (see instructions)

(a) No.	(b) Name, address, and ZIP + 4	(c) Aggregate contributions	(d) Type of contribution
1	YARBOROUGH CHARITABLE LEAD ANNUITY TRUST 200 N. LORAINE, SUITE 1400 MIDLAND, TX 79701	$ 1,430,442.	Person [X] Payroll [ ] Noncash [ ] (Complete Part II if there is a noncash contribution.)
		$	Person [ ] Payroll [ ] Noncash [ ] (Complete Part II if there is a noncash contribution.)
		$	Person [ ] Payroll [ ] Noncash [ ] (Complete Part II if there is a noncash contribution.)
		$	Person [ ] Payroll [ ] Noncash [ ] (Complete Part II if there is a noncash contribution.)
		$	Person [ ] Payroll [ ] Noncash [ ] (Complete Part II if there is a noncash contribution.)
		$	Person [ ] Payroll [ ] Noncash [ ] (Complete Part II if there is a noncash contribution.)

Part IV Capital Gains and Losses for Tax on Investment Income

	(a) List and describe the kind(s) of property sold, e.g., real estate, 2-story brick warehouse; or common stock, 200 shs. MLC Co.	(b) How acquired P - Purchase D - Donation	(c) Date acquired (mo., day, yr.)	(d) Date sold (mo., day, yr.)
1a	ST GAIN ALLCAP GROWTH EQUITY	P		
b	LT GAIN ALLCAP GROWTH EQUITY	P		
c	ST GAIN CORE INVESTMENT GRADE BOND	P		
d	LT GAIN CORE INVESTMENT GRADE BOND	P		
e	ST GAIN HIGH YIELD BOND	P		
f	LT LOSS HIGH YIELD BOND	P		
g	ST LOSS INCOME OPPORTUNITY	P		
h	LT LOSS INCOME OPPORTUNITY	P		
i	ST LOSS INTERNATIONAL GROWTH INVESTMENT	P		
j	LT LOSS INTERNATIONAL GROWTH INVESTMENT	P		
k	ST LOSS INTERNATIONAL INVESTMENT	P		
l	LT LOSS INTERNATIONAL INVESTMENT	P		
m	ST LOSS LARGECAP EQUITY	P		
n	LT LOSS LARGECAP EQUITY	P		
o	ST LOSS MIDCAP VALUE EQUITY	P		

	(e) Gross sales price	(f) Depreciation allowed (or allowable)	(g) Cost or other basis plus expense of sale	(h) Gain or (loss) (e) plus (f) minus (g)
a	186.			186.
b	44,815.			44,815.
c	11.			11.
d	7,925.			7,925.
e	16,374.			16,374.
f	-8,136.			-8,136.
g	-6,475.			-6,475.
h	-30,492.			-30,492.
i	-16,353.			-16,353.
j	-21,489.			-21,489.
k	-23,002.			-23,002.
l	-23,187.			-23,187.
m	-34,816.			-34,816.
n	-14,044.			-14,044.
o	-6,815.			-6,815.

	Complete only for assets showing gain in column (h) and owned by the foundation on 12/31/69			(l) Losses (from col. (h)) Gains (excess of col. (h) gain over col. (k), but not less than "-0-")
	(i) F.M.V. as of 12/31/69	(j) Adjusted basis as of 12/31/69	(k) Excess of col. (i) over col. (j), if any	
a				186.
b				44,815.
c				11.
d				7,925.
e				16,374.
f				-8,136.
g				-6,475.
h				-30,492.
i				-16,353.
j				-21,489.
k				-23,002.
l				-23,187.
m				-34,816.
n				-14,044.
o				-6,815.

2	Capital gain net income or (net capital loss) { If gain, also enter in Part I, line 7 / If (loss), enter "-0-" in Part I, line 7 }	2	
3	Net short-term capital gain or (loss) as defined in sections 1222(5) and (6): If gain, also enter in Part I, line 8, column (c). If (loss), enter "-0-" in Part I, line 8	3	

Part IV Capital Gains and Losses for Tax on Investment Income

	(a) List and describe the kind(s) of property sold, e.g., real estate, 2-story brick warehouse; or common stock, 200 shs. MLC Co.	(b) How acquired P - Purchase D - Donation	(c) Date acquired (mo., day, yr.)	(d) Date sold (mo., day, yr.)
1a	LT LOSS MIDCAP VALUE EQUITY	P		
b	ST LOSS REIT INVESTMENT	P		
c	LT LOSS REIT INVESTMENT	P		
d	ST GAIN SMALLCAP GROWTH EQUITY	P		
e	ST GAIN SMALLCAP VALUE EQUITY	P		
f	LT LOSS SMALLCAP VALUE EQUITY	P		
g	ST LOSS SMIDCAP EQUITY	P		
h	LT LOSS SMIDCAP EQUITY	P		
i				
j				
k				
l				
m				
n				
o				

	(e) Gross sales price	(f) Depreciation allowed (or allowable)	(g) Cost or other basis plus expense of sale	(h) Gain or (loss) (e) plus (f) minus (g)
a	-6,556.			-6,556.
b	-2,906.			-2,906.
c	-15,206.			-15,206.
d	1,874.			1,874.
e	2,007.			2,007.
f	-709.			-709.
g	-2,536.			-2,536.
h	-4,755.			-4,755.
i				
j				
k				
l				
m				
n				
o				

	Complete only for assets showing gain in column (h) and owned by the foundation on 12/31/69			(l) Losses (from col. (h)) Gains (excess of col. (h) gain over col. (k), but not less than "-0-")
	(i) F.M.V. as of 12/31/69	(j) Adjusted basis as of 12/31/69	(k) Excess of col. (i) over col. (j), if any	
a				-6,556.
b				-2,906.
c				-15,206.
d				1,874.
e				2,007.
f				-709.
g				-2,536.
h				-4,755.
i				
j				
k				
l				
m				
n				
o				

2	Capital gain net income or (net capital loss) { If gain, also enter in Part I, line 7 / If (loss), enter "-0-" in Part I, line 7 }	2	-144,285.
3	Net short-term capital gain or (loss) as defined in sections 1222(5) and (6): If gain, also enter in Part I, line 8, column (c). If (loss), enter "-0-" in Part I, line 8	3	N/A

2009 DEPRECIATION AND AMORTIZATION REPORT

FORM 990-PF PAGE 1 990-PF

Asset No	Description	Date Acquired	Method	Life	Line No	Unadjusted Cost Or Basis	Bus % Excl	Reduction In Basis*	Basis For Depreciation	Accumulated Depreciation	Current Sec 179	Current Year Deduction
1	ORGANIZATIONAL COSTS	032301		60M	43	6,073.			6,073.	6,073.		0.
2	ORGANIZATIONAL COSTS	041701		60M	43	300.			300.	300.		0.
3	ORGANIZATIONAL COSTS	051701		60M	43	306.			306.	306.		0.
4	ORGANIZATIONAL COSTS	091401		60M	43	1,000.			1,000.	1,000.		0.
	* TOTAL 990-PF PG 1 DEPR & AMORT					7,679.		0.	7,679.	7,679.	0.	0.

928102
06-24-09

(D) - Asset disposed

* ITC, Section 179, Salvage, Bonus, Commercial Revitalization Deduction

YARBOROUGH FOUNDATION 75-2919532

FORM 990-PF	INTEREST ON SAVINGS AND TEMPORARY CASH INVESTMENTS	STATEMENT 1

SOURCE	AMOUNT
WESTWOOD INTEREST	59,624.
TOTAL TO FORM 990-PF, PART I, LINE 3, COLUMN A	59,624.

FORM 990-PF	DIVIDENDS AND INTEREST FROM SECURITIES	STATEMENT 2

SOURCE	GROSS AMOUNT	CAPITAL GAINS DIVIDENDS	COLUMN (A) AMOUNT
WESTWOOD DIVIDENDS	65,121.	0.	65,121.
TOTAL TO FM 990-PF, PART I, LN 4	65,121.	0.	65,121.

FORM 990-PF	OTHER INCOME	STATEMENT 3

DESCRIPTION	(A) REVENUE PER BOOKS	(B) NET INVEST-MENT INCOME	(C) ADJUSTED NET INCOME
CLASS ACTION SETTLEMENT	225.	225.	
TOTAL TO FORM 990-PF, PART I, LINE 11	225.	225.	

FORM 990-PF	LEGAL FEES	STATEMENT 4

DESCRIPTION	(A) EXPENSES PER BOOKS	(B) NET INVEST-MENT INCOME	(C) ADJUSTED NET INCOME	(D) CHARITABLE PURPOSES
LEGAL FEES	25,457.	25,359.		0.
TO FM 990-PF, PG 1, LN 16A	25,457.	25,359.		0.

FORM 990-PF ACCOUNTING FEES STATEMENT 5

DESCRIPTION	(A) EXPENSES PER BOOKS	(B) NET INVEST- MENT INCOME	(C) ADJUSTED NET INCOME	(D) CHARITABLE PURPOSES
ACCOUNTING FEES	4,850.	4,831.		0.
TO FORM 990-PF, PG 1, LN 16B	4,850.	4,831.		0.

FORM 990-PF OTHER PROFESSIONAL FEES STATEMENT 6

DESCRIPTION	(A) EXPENSES PER BOOKS	(B) NET INVEST- MENT INCOME	(C) ADJUSTED NET INCOME	(D) CHARITABLE PURPOSES
MANAGEMENT FEES	22,054.	21,969.		0.
TO FORM 990-PF, PG 1, LN 16C	22,054.	21,969.		0.

FORM 990-PF TAXES STATEMENT 7

DESCRIPTION	(A) EXPENSES PER BOOKS	(B) NET INVEST- MENT INCOME	(C) ADJUSTED NET INCOME	(D) CHARITABLE PURPOSES
FEDERAL INCOME TAXES	1,260.	0.		0.
FOREIGN TAXES	3,133.	3,133.		0.
TO FORM 990-PF, PG 1, LN 18	4,393.	3,133.		0.

FORM 990-PF OTHER EXPENSES STATEMENT 8

DESCRIPTION	(A) EXPENSES PER BOOKS	(B) NET INVEST- MENT INCOME	(C) ADJUSTED NET INCOME	(D) CHARITABLE PURPOSES
INSURANCE EXPENSE	991.	987.		0.
MEALS AND ENTERTAINMENT	1,042.	521.		0.
SEMINARS AND EDUCATION	5,305.	5,285.		0.
TO FORM 990-PF, PG 1, LN 23	7,338.	6,793.		0.

FORM 990-PF	OTHER INVESTMENTS	STATEMENT 9

DESCRIPTION	VALUATION METHOD	BOOK VALUE	FAIR MARKET VALUE
WESTWOOD INVESTMENTS	COST	3,244,856.	3,988,976.
TOTAL TO FORM 990-PF, PART II, LINE 13		3,244,856.	3,988,976.

FORM 990-PF	DEPRECIATION OF ASSETS NOT HELD FOR INVESTMENT	STATEMENT 10

DESCRIPTION	COST OR OTHER BASIS	ACCUMULATED DEPRECIATION	BOOK VALUE
ORGANIZATIONAL COSTS	6,073.	6,073.	0.
ORGANIZATIONAL COSTS	300.	300.	0.
ORGANIZATIONAL COSTS	306.	306.	0.
ORGANIZATIONAL COSTS	1,000.	1,000.	0.
TOTAL TO FM 990-PF, PART II, LN 14	7,679.	7,679.	0.

FORM 990-PF	LIST OF SUBSTANTIAL CONTRIBUTORS PART VII-A, LINE 10	STATEMENT 11

NAME OF CONTRIBUTOR	ADDRESS
YARBOROUGH CHARITABLE LEAD ANNUITY TRUST	200 N. LORAINE, SUITE 1400 MIDLAND, TX 79701

FORM 990-PF GRANTS AND CONTRIBUTIONS PAID DURING THE YEAR STATEMENT 12

RECIPIENT NAME AND ADDRESS	RECIPIENT RELATIONSHIP AND PURPOSE OF GRANT	RECIPIENT STATUS	AMOUNT
ALPINE PUBLIC LIBRARY 203 N. 7 ST ALPINE, TX 79830	NEW BUILDING FUND		5,000.
APHASIA CENTER OF WEST TEXAS INC. 5214 THOMASON DR. MIDLAND, TX 79703	OPERATING EXPENSES		15,000.
BIG BEND EDUCATION CORPORATION P.O. BOX 256 TERLINGUA, TX 79852	BUILDING FUND		5,000.
BYNUM SCHOOL P.O. BOX 80175 MIDLAND, TX 79708	OPERATING EXPENSES		5,000.
CHRISTMAS IN ACTION INC. P.O. BOX 3744 MIDLAND, TX 79701	OPERATING EXPENSES		5,000.
COMMEMORATIVE AIR FORCE P.O. BOX 62000 MIDLAND, TX 79711	2010 MEMORIAL DAY EVENT		5,000.
COMMUNITY & SENIOR SERVICES OF MIDLAND INC. 3301 SINCLAIR AVE MIDLAND, TX 79702	MEAL-ON-WHEELS PROGRAM		5,000.
EASTSIDE COMMUNITY CONNECTION 5810 BERKMAN DR. AUSTIN, TX 78723	NEW FULL TIME STAFF FUNDING		5,000.

GRAND·COMPANIONS HUMANE SOCIETY P.O. BOX 1156 FORT DAVIS , TX 79734	NEW BUILDING FUND	10,000.
HILLCREST SCHOOL INC. 3510 NORTH A BLDG C MIDLAND, TX 79705	SCHOLARSHIP FUND	10,000.
HILLCREST SCHOOL INC. 3510 NORTH A BLDG C MIDLAND, TX 79705	OPERATING EXPENSES	5,000.
HOPSICE OF MIDLAND INCORPORATED 911 W. TEXAS AVE MIDLAND, TX 79701	RAYS OF HOPE PROGRAM	10,000.
I-20 WILDLIFE PRESERVE & JENNA WELCH NATURE STUDY CENTER P.O. BOX 2906 MIDLAND, TX 79702	OPERATING EXPENSES	5,000.
ISLAND DOLPHIN CARE INC. 150 LORELANE PLACE KEY LARGO , FL 33037	SCHOLARSHIP FUND	5,000.
KEEP MIDLAND BEAUTIFUL INC. P.O. BOX 50432 MIDLAND, TX 79710	OPERATING EXPENSES	2,500.
MAKE-A-WISH FOUNDATION OF NORTH TEXAS 207 N BIG SPRING STE 208 MIDLAND, TX 79701	OPERATING EXPENSES	5,000.
MANOR PARK INC. 2208 N LOOP 250 W MIDLAND, TX 79707	OPERATING EXPENSES	5,000.
MCCALLIE SCHOOL INC. 500 DODDS AVE CHATTANOOGA, TN 37404	SCHOLARSHIP FUND	10,000.

MIDLAND CHILDRENS REHABILITATION CENTER INC. 802 VENTURA MIDLAND, TX 79705	NEW POOL FUND	12,500.
MIDLAND CITIZENS FIRE ACADEMY ALUMNI ASSOCIATION 1501 W. WALL ST MIDLAND, TX 79701	EQUIPMENT	5,000.
MIDLAND COLLEGE FOUNDATION INC. 3600 N. GARFIELD MIDLAND, TX 79705	NURSING SCHOLARSHIP	10,000.
MIDLAND ISD EDUCATION FOUNDATION 615 W MISSOURI #220-E MIDLAND, TX 79701	OPERATING EXPENSES	6,854.
MIDLAND MEMORIAL FOUNDATION 2200 W. ILLINOIS AVE MIDLAND, TX 79701	SUPPORT NURSES	10,000.
MIDLAND NEED TO READ INC. 1709 W. WALL ST MIDLAND, TX 79701	OPERATING EXPENSES SMART BOARD PROGRAM	10,000.
MIDLAND POLICE DEPARTMENT, CITY OF MIDLAND 601 N. LORAINE ST MIDLAND, TX 79701	EQUIPMENT	5,000.
MIDLAND SOUP KITCHEN MINISTRY 1401 ORCHARD LANE MIDLAND, TX 79701	OPERATING EXPENSES	5,000.
MUSUEM OF THE SOUTHWEST 1705 W. MISSOURI ST MIDLAND, TX 79701	OPERATING EXPENSES	5,000.
NATIONAL MULTIPLE SCLEROSIS SOCIETY 1031 ANDREWS HWY STE 201 MIDLAND, TX 79701	ASSISTANCE PROGRAM	5,000.

NATIONAL SOCIETY TO PREVENT BLINDNESS 2000 W. WALL ST MIDLAND, TX 79701	OPERATING EXPENSES	5,000.
PALMER DRUG ABUSE PROGRAM MIDLAND TEXAS INC. 1208 W. WALL ST MIDLAND, TX 79701	OPERATING EXPENSES	2,500.
PBAF NONPROFIT MANAGEMENT CENTER OF THE PERMIAN BASIN 200 N. LORAINE ST STE 500 MIDLAND, TX 79701	OPERATING EXPENSES	5,000.
PBAF NONPROFIT MANAGEMENT CENTER OF THE PERMIAN BASIN 200 N. LORAINE ST STE 500 MIDLAND, TX 79701	GENERATIONS PROGRAM	5,000.
RONALD MCDONALD HOUSE CHARITIES OF THE SOUTHWEST INC. 1030 ANDREWS HWY STE 109A MIDLAND, TX 79701	OPERATING EXPENSES	10,000.
SAN ANTONIO ACADEMY OF TEXAS 117 E. FRENCH PLACE SAN ANTONIO, TX 78212	OPERATING EXPENSES	10,000.
SPRINGBOARD CENTER 112 S. LORAINE ST STE 410 MIDLAND, TX 79701	OPERATING EXPENSES	5,000.
VISION ASSISTANCE NETWORK P.O. BOX 5167 MIDLAND, TX 79704	OPERATING EXPENSES	5,000.
WEST TEXAS FOOD BANK 1008 E 2ND ST ODESSA, TX 79761	OPERATING EXPENSES	5,000.
TOTAL TO FORM 990-PF, PART XV, LINE 3A		244,354.

AMENDED AND RESTATED BYLAWS OF THE YARBOROUGH FOUNDATION

These Amended and Restated Bylaws govern the affairs of THE YARBOROUGH FOUNDATION, a Texas nonprofit corporation (the "Corporation").

ARTICLE I.

Offices

Section 1.1 — Principal Office. The Corporation's principal office in Texas will be located at 200 N. Loraine, Suite 1400, Midland, Texas. The Corporation may have such other offices, in Texas or elsewhere, as the Board of Directors may determine. The Board may change the location of any office of the Corporation.

Section 1.2 — Registered Office and Agent. The Corporation will maintain a registered office and a registered agent in Texas. The registered office may, but need not, be identical with the Corporation's principal office in Texas. The Board may change the registered office and the registered agent as permitted in the Texas Business Organizations Code.

ARTICLE II.

Board of Directors

Section 2.1 — Management of Corporation. The Board will manage corporate affairs.

Section 2.2 — Number, Qualifications, and Tenure of Directors. The Board of Directors shall consist of such number of directors as may be determined from time to time by the Board of Directors; provided, that at no time shall the number of directors be less than three (3) nor more than nine (9), and no decrease in number shall have the effect of shortening the term of any incumbent director. Directors need not be Texas residents. Each director will serve for a term of three (3) years.

Section 2.3 — Nominating Directors. At any meeting at which the election of a director is held, a director may nominate a person with the second of any other director. In addition to nominations made at meetings, a nominating committee will consider possible nominees and make nominations for each election of directors. The secretary will include the names nominated by that committee, and any report of the committee, with the notice of the meeting at which the election occurs.

Section 2.4 — Electing Directors. A person who meets the qualifications for director and who has been duly nominated may be elected as a director. Directors will be elected by the majority vote of the Board. Each director will hold office until a successor is elected and qualifies. A director may be elected to succeed himself or herself as director.

Section 2.5 — Vacancies. The Board will fill any vacancy in the Board and any director position to be filled due to an increase in the number of directors. A vacancy is filled by the affirmative vote of a majority of the remaining directors, even if it is less than a quorum of the

Board, or if it is a sole remaining director. A director selected to fill a vacancy will serve for the unexpired term of his or her predecessor in office.

Section 2.6 — Annual Meeting. The annual meeting of the Board may be held without notice other than these Bylaws. The annual Board meeting will be held the first Monday in May of each year at the corporation's registered office in Texas.

Section 2.7 — Regular Meetings. The Board may provide for regular meetings by resolution stating the time and place of such meetings. The meetings may be held inside or outside Texas, and will be held at the Corporation's registered office in Texas if the resolution does not specify the location of the meetings. No notice of regular Board meetings is required other than a Board resolution stating the time and place of the meetings.

Section 2.8 — Special Meetings. Special Meetings of the Board may be called by, or at the request of, the president or any two (2) directors. A person or persons authorized to call special meetings of the Board may fix any place within or without Texas as the place for holding a special meeting. The person or persons calling a special meeting will inform the secretary of the corporation of the information to be included in the notice of the meeting. The secretary of the Corporation will give notice to the directors as these Bylaws require.

Section 2.9 – Notice. Written or printed notice of any special meeting of the Board will be delivered to each director not less than five (5) nor more than thirty (30) days before the date of the meeting. The notice will state the place, day, and time of the meeting; who called it; and the purpose or purposes for which it is called.

Section 2.10 – Quorum and Manner of Acting. At all meetings of the Board of Directors the presence of a majority of the number of directors then in office shall be necessary and sufficient to constitute a quorum for the transaction of business, except as otherwise provided by statute, by the Certificate of Formation or by these Bylaws. Directors present by proxy may not be counted toward a quorum. The act of a majority of the directors present in person or by proxy at a meeting at which a quorum is present shall be the act of the Board of Directors unless the act of a greater number is required by statute, by the Certificate of Formation or by these Bylaws, in which case the act of such greater number shall be requisite to constitute the act of the Board. A director may vote in person or by proxy executed in writing by the director. No proxy shall be valid after three (3) months from the date of its execution. Each proxy shall be revocable unless expressly provided therein to be irrevocable and unless otherwise made irrevocable by law. If a quorum shall not be present at any meeting of the directors, the directors present thereat may adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present. At any such adjourned meeting at which a quorum shall later be present, any business may be transacted which might have been transacted at the meeting as originally convened.

Section 2.11 — Duties of Directors. Directors will discharge their duties, including any duties as committee members, in good faith, with ordinary care, and in a manner they reasonably believe to be in the Corporation's best interest. In this context, the term "ordinary care" means the care that ordinarily prudent persons in similar positions would exercise under similar circumstances. In discharging any duty imposed or power conferred on directors, directors may, in good faith, rely on information, opinions, reports, or statements, including financial statements and other financial data, concerning the Corporation or another person that has been prepared or presented by a variety of persons, including officers and employees of the Corporation, professional advisors or experts such as accountants or legal counsel. A director is not relying in good faith if he or she has knowledge concerning a matter in question that renders reliance unwarranted.

Directors are not deemed to have the duties of trustees of a trust with respect to the Corporation or with respect to any property held or administered by the Corporation, including property that may be subject to restrictions imposed by the donor or transferor of the property.

Section 2.12 — Duty to Avoid Improper Distributions. Directors who vote for or assent to improper distributions are jointly and severally liable to the Corporation for the value of improperly distributed assets, to the extent that, as a result of the improper distribution or distributions, the Corporation lacks sufficient assets to pay its debts, obligations, and liabilities. Any distribution made when the Corporation is insolvent, other than in payment of corporate debts, or any distribution that would render the Corporation insolvent, is an improper distribution. A distribution made during liquidation without payment and discharge of or provision for payment and discharge of all known debts, obligations, and liabilities is also improper. Directors present at a Board meeting at which the improper action is taken are presumed to have assented, unless they dissent in writing or such dissent is entered in the minutes of the meeting. The written dissent must be filed with the secretary of the Corporation before adjournment of the meeting in question or mailed to the secretary by registered mail immediately after adjournment.

A director is not liable if, in voting for or assenting to a distribution, the director (1) relies in good faith and with ordinary care on information, opinions, reports, or statements, including financial statements and other financial data, prepared or presented by one or more officers or employees of the Corporation; legal counsel, public accountants, or other persons as to matters the director reasonably believes are within the person's professional or expert competence; or a committee of the Board of which the director is not a member; (2) while acting in good faith and with ordinary care, considers the Corporation's assets to be at least that of their book value; or (3) in determining whether the Corporation made adequate provisions for paying, satisfying, or discharging all of its liabilities and obligations, relied in good faith and with ordinary care on financial statements or other information concerning a person who was or became contractually obligated to satisfy or discharge some or all of these liabilities or obligations. Furthermore, directors are protected from liability if, in exercising ordinary care, they acted in good faith and in reliance on the written opinion of an attorney of the Corporation.

Directors held liable for an improper distribution are entitled to contribution from persons who accepted or received the improper distribution knowing that they were improper. Contribution is in proportion to the amount received by each such person.

Section 2.13 — Delegating Duties. Directors may select advisors and delegate duties and responsibilities to them, such as full power to buy or otherwise acquire stocks, bonds, securities, and other investments on the Corporation's behalf; and to sell, transfer, or otherwise dispose of the Corporation's assets and properties at a time and for a consideration that the advisor deems appropriate. The directors have no liability for actions taken or omitted by the advisor if the

Board acts in good faith and with ordinary care in selecting the advisor. The Board may remove or replace the advisor at any time and without any cause whatsoever.

Section 2.14 — Compensation. The compensation, if any, of all directors shall be set by the Board of Directors. A director may serve the Corporation in any other capacity and receive compensation for those services. Any compensation that the Corporation pays to a director will be reasonable and commensurate with the services performed. Notwithstanding the foregoing, the compensation of any "disqualified person" with respect to the Corporation within the meaning of Section 4946 of the Internal Revenue Code shall be determined in accordance with any applicable policies of the Corporation adopted by the Board of Directors.

Section 2.15 — Removing Directors. Any director may be removed, either for or without cause, at any meeting of the Board of Directors by the affirmative vote of a majority of the number of directors then in office, if notice of the intention to act upon such matter shall have been given in the notice of such meeting.

ARTICLE III.

Officers

Section 3.1 — Officer Positions. The Corporation's officers include a president, a secretary, an assistant secretary, two vice presidents, a treasurer and an assistant treasurer. The same person may hold any two or more offices, except for president and secretary.

Section 3.2 — Election and Term of Office. The Corporation's officers will be appointed annually by the Board at the annual Board meeting. If officers are not appointed at this time, they will be appointed as soon thereafter as possible.

Each officer will hold office until a successor is duly selected and qualifies. An officer may be elected to succeed himself or herself in the same office.

Section 3.3 — Removal. Any officer elected or appointed by the Board may be removed by the Board of Directors, either for or without cause.

Section 3.4 — Vacancies. The Board may select a person to fill a vacancy in any office for the unexpired portion of the officer's term.

Section 3.5 — The President. The president is the Corporation's chief executive officer. He or she will supervise and control all of the Corporation's business and affairs and will preside at all meetings of the Board. The president may execute any deeds, mortgages, bonds, contracts, or other instruments that the Board authorizes to be executed. However, the president may not execute instruments on the Corporation's behalf if this power is expressly delegated to another officer or agent of the Corporation by the Board, these Bylaws, or statute. The president will perform such other duties and have such other authority and powers as the Board may from time to time prescribe and all duties incident to the office of president.

Section 3.6 — Vice President. When the president is absent, cannot act, or refuses to act, a vice president will perform the president's duties. When acting in the president's place, the vice president has all the powers of - and is subject to all the restrictions on - the president. If there is more than one vice president, the vice presidents will act for the president in the order of appointment. A vice president will perform other duties as assigned by the president or Board.

Section 3.7 — The Treasurer. The treasurer will:

(a) Have charge and custody of - and be responsible for - all the Corporation's funds and securities.

(b) Receive and give receipts for moneys due and payable to the Corporation from any source.

(c) Deposit all moneys in the Corporation's name in banks, trust companies or other depositories as these Bylaws provide or as the Board or president directs.

(d) Write checks and disburse funds to discharge the Corporation's obligations.

(e) Maintain the Corporation's financial books and records.

(f) Prepare financial reports at least annually.

(g) Perform other duties as assigned by the president or the Board.

(h) If the Board requires, give a bond for faithfully discharging his or her duties in a sum and with a surety as determined by the Board.

(i) Perform all of the duties incident to the office of treasurer.

Any or all of the duties of the Treasurer may be delegated to one or more appointive officers or employees of the Corporation upon the approval of such delegation by the Board of Directors.

Section 3.8 — The Secretary. The secretary will:

(a) Give all notices as provided in the Bylaws or as required by law.

(b) Take minutes of the meetings of the Board and keep the minutes as part of the corporate records.

(c) Maintain custody of the corporate records and seal.

(d) Affix the corporate seal to all documents as authorized.

(e) Keep a register of the mailing address of each director, officer, and employee of the Corporation.

(f) Perform duties as assigned by the president or the Board.

(g) Perform all duties incident to the office of secretary.

ARTICLE IV.

Committees

Section 4.1 — Committees of the Board. The Board may adopt a resolution establishing one or more committees delegating specified authority to a committee, and appointing or removing members of a committee. A committee will include two or more directors and may include persons who are not directors. If the Board delegates any of its management authority to a committee, the majority of the committee will consist of directors. The Board may also delegate to the president its power to appoint and remove members of a committee that has not been delegated any management authority of the Board. The Board may establish qualifications for membership on a committee.

Establishing a committee or delegating authority to it will not relieve the Board, or any individual director, of any responsibility imposed by these Bylaws or otherwise imposed by law. No committee has the authority of the Board to:

(a) Amend the Restated Certificate of Formation of the Corporation.

(b) Adopt a plan of merger or consolidation with another corporation.

(c) Authorize the sale, lease, exchange, or mortgage of all or substantially all of the Corporation's property and assets.

(d) Authorize voluntary dissolution of the Corporation.

(e) Revoke proceedings for voluntary dissolution of the Corporation.

(f) Adopt a plan for distributing the Corporation's assets.

(g) Amend, alter, or repeal these Bylaws.

(h) Elect, appoint, or remove a member of a committee or a director or officer of the Corporation.

(i) Approve any transaction to which the Corporation is a party and that involves a potential conflict of interest as defined in paragraph 5.4, below.

(j) Take any action outside the scope of authority delegated to it by the Board.

<u>Section 4.2</u> — <u>Term of Office</u>. Each committee member will continue to serve on the committee until a successor is appointed. However, a committee member's term may terminate earlier if the committee is terminated, or if the member dies, ceases to qualify, resigns or is removed as a member. A vacancy on a committee may be filled by an appointment made in the same manner as an original appointment. A person appointed to fill a vacancy on a committee will-serve for the unexpired portion of the terminated committee member's term.

<u>Section 4.3</u> — <u>Chair and Vice-Chair</u>. One member of each committee will be designated as the committee chair, and another member of each committee will be designated as the vice-chair. The chair and vice-chair will be appointed by the president. The chair will call and preside at all meetings of the committee. When the chair is absent, cannot act, or refuses to act, the vice-chair will perform the chair's duties. When a vice-chair acts for the chair, the vice-chair has all the powers of - and is subject to all the restrictions on - the chair.

<u>Section 4.4</u> — <u>Notice of Meetings</u>. Written or printed notice of a committee meeting will be delivered to each member of a committee not less than five (5) nor more than thirty (3) days before the date of the meeting. The notice will state the place, day, and time of the meeting, and the purpose or purposes for which it is called.

Section 4.5 — Quorum; Manner of Acting. Unless otherwise provided in the resolution of the Board of Directors designating a committee of directors or advisory board or committee, a majority of the whole board or committee shall constitute a quorum, and the act of the majority of the members present at a meeting at which a quorum is present shall be the act of the board or committee. A committee member may not vote by proxy.

Section 4.6 — Compensation. Committee members may receive compensation for their services. The Board may adopt a resolution providing for compensating committee members a fixed sum and expenses of attendance, if any, for attending each meeting of the committee. A committee member may serve the Corporation in any other capacity and receive compensation for those services. Any compensation that the Corporation pays to a committee member will be reasonable and commensurate with the services performed.

Section 4.7 — Rules. Each committee may adopt its own rules, consistent with these Bylaws or with other rules that may be adopted by the Board.

ARTICLE V.

Transactions of Corporation

Section 5.1 — Contracts. The Board may authorize any officer or agent of the Corporation to enter into a contract or execute and deliver any instrument in the name of, and on behalf of, the Corporation. This authority may be limited to a specific contract or instrument, or it may extend to any number and type of possible contracts and instruments.

Section 5.2 — Deposits. All the Corporation's funds will be deposited to the credit of the Corporation in banks, trust companies, or other depositories that the Board selects.

Section 5.3 — Gifts. The Board may accept, on the Corporation's behalf, any contribution, gift, bequest, or devise for the general purposes or for any special purpose of the Corporation. The Board may make gifts and give charitable contributions not prohibited by these Bylaws, the Restated Certificate of Formation, state law, and provisions set out in federal tax law that must be complied with to maintain the Corporation's federal and state tax status.

Section 5.4 —Conflicts of Interest. No contract or agreement may be entered into by and between the Corporation and any of following: (a) a director, officer, committee member, or employee of the Corporation (hereinafter an "Insider"); or (b) any corporation, partnership, trust, sole proprietorship or any other entity (hereinafter an "Entity ") in which an interest is owned or held, directly or indirectly, by or for the benefit of an Insider, unless (i) the transaction is approved in accordance with Section 22.230 of the Texas Business Organizations Code; and (ii) if one or more of the parties to the contract or transaction is a "disqualified person" with respect to the Corporation within the meaning of Section 4946 of the Internal Revenue Code, such transaction does not result in act of self-dealing under Section 4941 of the Internal Revenue Code; provided, however, that the following contracts and agreements shall not be subject to the foregoing prohibition: a wholly gratuitous transfer of assets or promise to transfer assets to the Corporation of any kind, including but not limited to, a charitable contribution of cash or property to the Corporation, an interest-free loan or a wholly gratuitous lease, a pledge, a guarantee, or an assumption of liability. All Insiders shall, as a condition of qualifying and continuing to qualify as a director, officer, committee member and/or employee of the Corporation, abide by such conflict of interest policies as the Board of Directors may adopt from time to time, and file such conflict of interest disclosure statements as the Board of Directors shall direct.

Section 5.5 — Prohibited Acts. As long as the Corporation exists, and except with the Board's prior approval, no director, officer, or committee member of the Corporation may:

(a) Do any act in violation of these Bylaws or a binding obligation of the Corporation.

(b) Do any act with the intention of harming the Corporation or any of its operations.

(c) Do any act that would make it impossible or unnecessarily difficult to carry on the Corporation's intended or ordinary business.

(d) Receive an improper personal benefit from the operation of the Corporation.

(e) Use the Corporation's assets, directly or indirectly, for any purpose other than carrying on the Corporation's business.

(f) Wrongfully transfer or dispose of Corporation property, including intangible property such as good will.

(g) Use the Corporation's name or any substantially similar name or any trademark or trade name adopted by the corporation, except on behalf of the Corporation in the ordinary course of its business.

(h) Disclose any of the Corporation's business practices, trade secrets, or any other information not generally known to the business community to any person not authorized to receive it.

ARTICLE VI.

Books and Records

Section 6.1 — Required Books and Records. The Corporation will keep correct and complete books and records of account. The books and records shall include:

(a) A file-endorsed copy of all documents filed with the Texas Secretary of State relating to the Corporation, including but not limited to the Restated Certificate of Formation, and any articles of amendment, restated articles, articles of merger, articles of consolidation, and statement of change of registered office or registered agent.

(b) A copy of all Bylaws, including these Bylaws, and any amended versions or amendments to them.

(c) Minutes of the proceedings of the Board, and committees having any authority of the Board.

(d) A list of the names and addresses of the directors, officers and any committee members of the Corporation.

(e) A financial statement showing the Corporation's assets, liabilities, and net worth at the end of the three (3) most recent fiscal years.

(f) A financial statement showing the Corporation's income and expenses for the three (3) most recent fiscal years.

(g) All rulings, letters, and other documents relating to the Corporation's federal, state, and local tax status.

(h) The Corporation's federal, state, and local tax information or income-tax returns for each of the Corporation's three (3) most recent tax years.

Section 6.2 — Inspection and Copying. Any director, officer or committee member of the Corporation may inspect and receive copies of all the Corporate books and records required to be kept under the Bylaws. Such a person may, by written request, inspect or receive copies if he or she has a proper purpose related to his or her interest in the Corporation. He or she may do so through his or her attorney or other duly authorized representative. The inspection may take place at a reasonable time, no later than five (5) working days after the Corporation receives a proper written request. The Board may establish reasonable copying fees, which may cover the cost of materials and labor. The Corporation will provide requested copies of books or records no later than five (5) working days after receiving a proper written request.

ARTICLE VII.

FISCAL YEAR

The fiscal year of the Corporation will begin on the first day of January and end on the last day in December in each year.

ARTICLE VIII.

NOTICES

Section 8.1 — Manner of Giving Notice. Whenever, under the provisions of any statute, the Restated Certificate of Formation or these Bylaws, notice is required to be given to any director, advisory board member or committee member of the Corporation, and no provision is made as to how such notice shall be given, it shall not be construed to require personal notice, but any such notice may be given in writing by hand delivery, by facsimile transmission, by electronic mail or other form of electronic communication if permitted by the Texas Business Organizations Code, or by mail, postage prepaid, addressed to such director or advisory board member or committee member at such person's address as it appears on the records of the Corporation. Any notice required or permitted to be given by mail shall be deemed to be delivered at the time when the same shall be thus deposited in the United States mails, as aforesaid. Any notice required or permitted to be given by facsimile transmission or electronic mail or other form of electronic communication shall be deemed to be given upon successful transmission of such facsimile or electronic mail or other form of electronic communication.

Section 8.2 — Signed Waiver of Notice. Whenever any notice is required by law or under the Restated Certificate of Formation or these Bylaws, a written waiver signed by the person entitled to receive such notice is considered the equivalent to giving the required notice. A waiver of notice is effective whether signed before or after the time stated in the notice being waived.

Section 8.3 — Waiving Notice by Attendance. A person's attendance at a meeting constitutes waiver of notice of the meeting unless the person attends for the express purpose of objecting to the transaction of any business because the meeting was not lawfully called or convened.

ARTICLE IX.

SPECIAL PROCEDURES CONCERNING MEETINGS

Section 9.1 — Meeting by Remote Communication Technology. Subject to the provisions of applicable law and these Bylaws regarding notice of meetings, members of the Board of Directors or members of any committee designated by such Board may, unless otherwise restricted by statute, by the Certificate of Formation or by these Bylaws, participate in and hold a meeting of such Board of Directors or committee by using conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other, and participation in a meeting pursuant to this Section shall constitute presence in person at such meeting, except when a person participates in the meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting was not lawfully called or convened.

Section 9.2 — Actions Without Meetings. Any action required or permitted to be taken at any meeting of directors or committee members may be taken without a meeting, if a consent or consents in writing, setting forth the action so taken, shall be signed by at least a majority (or such greater percentage as may be required for the particular action under the Texas Business Organizations Code or these Bylaws), of all the directors or committee members, as the case may be. Prompt notice of the taking of any action by the directors or the members of a committee without a meeting by less than unanimous written consent shall be given to those directors or committee members who did not consent in writing to the action.

Section 9.3 — Proxy Voting. A person authorized to exercise a proxy may not exercise the proxy unless it is delivered to the officer presiding at the meeting before the business of the meeting begins. The secretary or other person taking the minutes of the meeting will record in the minutes the name of the person who executed the proxy and the name of the person authorized to exercise the proxy. If a person who has duly executed a proxy personally attends a meeting, the proxy will not be effective for that meeting. A proxy filed with the secretary of the corporation or other designated officer remains in force until the first of the following occurs:

(a) An instrument revoking the proxy is delivered to the secretary or other designated officer.

(b) The proxy authority expires under the proxy's terms.

(c) The proxy authority expires under the terms of these Bylaws.

ARTICLE X.

AMENDING BYLAWS

These Bylaws may be altered, amended, or repealed, and new Bylaws may be adopted by the affirmative vote of at least a majority of the directors then in office. The notice of any meeting at which these Bylaws are altered, amended, or repealed, or at which new Bylaws are adopted will include the text of the proposed Bylaw provisions as well as the text of any existing provisions proposed to be altered, amended, or repealed. Alternatively, the notice may include a fair summary of those provisions.

ARTICLE XI.

MISCELLANEOUS PROVISIONS

Section 11.1 — Legal Authorities Governing Construction of Bylaws. These Bylaws will be construed under Texas law. All references in these Bylaws to statutes, regulations, or other sources of legal authority will refer to the authorities cited, or their successors, as they may be amended from time to time.

Section 11.2 — Legal Construction. To the greatest extent possible, these Bylaws shall be construed to conform to all legal requirements and all requirements for obtaining and maintaining all tax exemptions that may be available to nonprofit corporations. If any Bylaw provision is held invalid, illegal, or unenforceable in any respect, the invalidity, illegality, or unenforceability will not affect any other provision, and the Bylaws will be construed as if they had not included the invalid, illegal or unenforceable provision.

Section 11.3 — Headings. The headings used in the Bylaws are for convenience and may not be considered in construing the Bylaws.

Section 11.4 — Number. All singular words include the plural, and all plural words include the singular.

Section 11.5 — Power of Attorney. A person may execute any instrument related to the Corporation by means of a power of attorney if an original executed copy of the power of attorney is provided to the secretary to be kept with the Corporate records.

Section 11.6 — Parties Bound. The Bylaws will bind and inure to the benefit of the directors, officers, committee members, employees and agents of the Corporation and their respective heirs, executors, administrators, legal representatives, successors, and assigns except as these Bylaws otherwise provide.

CERTIFICATE OF SECRETARY

I certify that I am the duly elected and acting secretary of The Yarborough Foundation, and that these Amended and Restated Bylaws constitute the Corporation's Bylaws. These Bylaws were duly adopted at a meeting of the Board of Directors held on ____________________, 2009.

Dated:__________________

____
Ann A. Jackson, Secretary

RESTATED CERTIFICATE OF FORMATION

FOR

THE YARBOROUGH FOUNDATION

ARTICLE ONE

The Yarborough Foundation, pursuant to the provisions of Sections 3.057, 3.058, 3.059, 3.061 and 22.107 of the Texas Business Organizations Code, hereby adopts a Restated Certificate of Formation which accurately copies its Certificate of Formation and all amendments thereto that are in effect to date and as further amended by such Restated Certificate of Formation as hereinafter set forth, and which contains no other change in any provision thereof.

ARTICLE TWO

The Certificate of Formation is amended by the Restated Certificate of Formation as follows:

A. Article II is hereby deleted in its entirety.

B. Article IV is hereby amended to clarify the purposes of the corporation.

C. Article V is hereby deleted in its entirety.

D. Article VI is hereby amended to clarify the provisions regarding the distributions of the assets of the corporation upon its dissolution and to make minor changes in wording.

E. Articles VII and VIII are hereby amended to make minor changes in wording.

F. Article IX is hereby amended to list the names and addresses of the current directors of the corporation.

G. Article X is hereby amended to provide for the maximum limitation of liability for directors of the corporation that is permissible under Texas law.

H. Article XI is hereby amended to provide for the maximum indemnification of the officers and directors of the corporation that is permissible under Texas law.

I. Article XII is hereby amended to make minor changes in wording.

J. Article XIII is hereby amended to conform to the requirements of the Texas Business Organizations Code.

K. New Articles II and V are added that shall read in their entirety as provided in the Restated Certificate of Formation set forth in Article Four hereof and that shall: (i) clarify the powers, duties, authorizations and responsibilities of the Corporation; and (ii) provide that the Board of Directors shall have the exclusive power to adopt, alter, amend or repeal the Bylaws of the Corporation and shall have the exclusive power to amend or restate the Certificate of Formation.

ARTICLE THREE

The Corporation has no members with voting rights at this time. Each amendment made by this Certificate of Formation has been effected in conformity with the provisions of the Texas Business Organizations Code, and such Restated Certificate of Formation, including each such amendment, were duly adopted by unanimous written consent of the directors of the Corporation in office on __________________, 2009.

ARTICLE FOUR

The Certificate of Formation of The Yarborough Foundation, a Texas nonprofit corporation, and all amendments and supplements thereto are hereby superseded by the following Restated Certificate of Formation which accurately copies the entire text thereof, as amended as set forth above:

RESTATED CERTIFICATE OF FORMATION

OF

THE YARBOROUGH FOUNDATION

ARTICLE I
NAME

The name of the corporation (the "Corporation") is The Yarborough Foundation.

ARTICLE II
POWERS

The Corporation is a nonprofit corporation and shall have all of the powers, duties, authorizations and responsibilities applicable to nonprofit corporations as provided in the Texas Business Organizations Code. Notwithstanding the foregoing, the Corporation shall neither have nor exercise any power, nor engage directly or indirectly in any activity, that would invalidate its status as an organization exempt from federal income tax and described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, or the corresponding provision or provisions of any subsequent United States Internal Revenue law or laws (the "Code").

ARTICLE III
DURATION

The Corporation will continue in perpetuity.

ARTICLE IV
PURPOSES

The Corporation is organized and shall be operated exclusively for charitable, religious and educational purposes within the meaning of Section 501(c)(3) of the Code. The Corporation shall carry out these purposes by, among other things, making grants, primarily to other organizations that are organized and operated exclusively for one or more of such purposes. The Corporation shall focus its grantmaking activities primarily in Brewster County and the surrounding Texas counties. The assets and properties of the Corporation are hereby pledged for use in performing its exempt functions.

ARTICLE V
ORGANIZATIONAL DOCUMENTS

The power to adopt, alter, amend or repeal the Bylaws of the Corporation and the power to amend or restate this Restated Certificate of Formation shall be vested exclusively in the Board of Directors of the Corporation.

ARTICLE VI
RESTRICTIONS AND REQUIREMENTS

The Corporation may not take any action that would be inconsistent with the requirements for a tax exemption under Internal Revenue Code Section 501(c)(3) and related regulations, rulings, and procedures. Nor may it take any action that would be inconsistent with the requirements for receiving tax-deductible charitable contributions under Internal Revenue Code Section 170(c)(2) and related regulations, rulings, and procedures. Regardless of any other provision in this Restated Certificate of Formation or state law, the Corporation may not:

1. Engage in activities or use its assets in manners that do not further one or more exempt purposes, as set forth in this Restated Certificate of Formation and defined by the Internal Revenue Code and related regulations, rulings, and procedures, except to an insubstantial degree.

2. Serve a private interest other than one clearly incidental to an overriding public interest.

3. Devote more than an insubstantial part of its activities to attempting to influence legislation by propaganda or otherwise, except as provided by the Internal Revenue Code and related regulations, rulings, and procedures.

4. Participate in or intervene in any political campaign on behalf of or in opposition to any candidate for public office. The prohibited activities include publishing or distributing statements and any other direct or indirect campaign activities.

5. Have objectives characterizing it as an "action organization" as defined by the Internal Revenue Code and related regulations, rulings, and procedures.

6. Distribute its assets on dissolution other than for one or more exempt purposes. In the event the Corporation is dissolved, after all liabilities and obligations of the Corporation are paid or provision is made therefor, the Board of Directors of the Corporation shall adopt a plan for the distribution of the remaining assets of the Corporation to such organization or organizations organized and operated exclusively for charitable, religious or educational purposes, as shall at that time have purposes similar to those of the Corporation set forth in Article Four hereof and that qualify as charitable, religious or educational organizations described in Section 501(c)(3) of the Code. Any of such assets not so disposed of shall be disposed of by the

Probate Court of the county in which the principal office of the Corporation is then located, exclusively for such purposes. No Director or officer of the Corporation and no private individual will be entitled to share in the distribution of any assets of the Corporation in the event of its dissolution.

7. Permit any part of the Corporation's net earnings to inure to the benefit of any Director or any private individual.

8. Carry on an unrelated trade or business, except as a secondary purpose related to the Corporation's primary, exempt purposes.

In addition, the Corporation shall make distributions at such times and in such manners to avoid the tax under Internal Revenue Code Section 4942. Also, the Corporation may not:

1. Engage in any act of self-dealing as defined in Internal Revenue Code Section 4941(d).

2. Retain excess business holdings as defined in Internal Revenue Code Section 4943(c).

3. Make any investments that would subject it to the tax described in Internal Revenue Code Section 4944.

4. Make any taxable expenditures as defined in Internal Revenue Code Section 4945(e).

ARTICLE VII
MEMBERSHIP

The Corporation will have no members.

ARTICLE VIII
REGISTERED OFFICE AND AGENT

The address of the registered office of the Corporation is 200 N. Loraine, Suite 1400, Midland, Texas 79701, and the name of the registered agent at such address is Ann A. Jackson.

ARTICLE IX
MANAGING BODY OF THE CORPORATION

The management of the corporation is vested in its Board of Directors and such committees of the board that the board may, from time-to-time, establish. The Bylaws will provide the qualifications, manner of selection, duties, terms, and other matters relating to the Board of Directors.

The names and addresses of the individuals currently serving as members of the Board of Directors are as follows:

NAME	ADDRESS
Linda B. Yarborough	200 N. Loraine, Suite 1400 Midland, Texas 79701
James L. Yarborough	200 N. Loraine, Suite 1400 Midland, Texas 79701
William Blake Yarborough, Jr.	200 N. Loraine, Suite 1400 Midland, Texas 79701
Ann A. Jackson	200 N. Loraine, Suite 1400 Midland, Texas 79701

The number of directors may be increased or decreased by amending the Bylaws. The number of directors may not be decreased to fewer than three.

ARTICLE X
LIMITATION OF LIABILITY OF DIRECTORS

A Director of the Corporation shall not be personally liable to the Corporation for monetary damages for any act or omission in such Director's capacity as a Director, except that this Article does not authorize the elimination or limitation of the liability of a Director to the extent the Director is found liable for: (i) a breach of the Director's duty of loyalty to the Corporation; (ii) an act or omission not in good faith that constitutes a breach of duty of the Director to the Corporation or an act or omission that involves intentional misconduct or a knowing violation of the law; (iii) a transaction from which the Director received an improper benefit, whether or not the benefit resulted from an action taken within the scope of the Director's office; or (iv) an act or omission for which the liability of a Director is expressly provided by an applicable statute. The foregoing elimination of liability to the Corporation shall not be deemed exclusive of any other rights, limitations of liability or indemnity to which a Director may be entitled under any other provision of the Certificate of Formation or Bylaws of the Corporation, contract or agreement, vote of directors, principle of law or otherwise. Any repeal or amendment of this Article shall be prospective only, and shall not adversely affect any limitation on the personal liability of a Director of the Corporation existing at the time of such repeal or amendment. In addition to the circumstances in which a Director of the Corporation is not personally liable as set forth in the foregoing provisions of this Article, the liability of a Director shall be eliminated to the full extent permitted by any amendment to the Texas Business Organizations Code hereafter enacted that further eliminates or permits the elimination of the liability of a Director.

ARTICLE XI
INDEMNIFICATION

The Corporation shall indemnify any person who was, is, or is threatened to be made a named defendant or respondent in a proceeding (as hereinafter defined) because the person (i) is or was a director or officer of the Corporation or (ii) while a director or officer of the Corporation, is or was serving at the request of the Corporation as a director, officer, partner, venturer, proprietor, trustee, employee, agent or similar functionary of another foreign or domestic corporation, partnership, joint venture, sole proprietorship, trust, employee benefit plan or other enterprise, against all expenses (other than taxes (including taxes imposed by Chapter 42 of the Code), penalties, or expenses of correction), including attorneys' fees, to the fullest extent that a corporation may grant indemnification to a director under the Texas Business Organizations Code, as the same exists or may hereafter be amended. In addition to any indemnification to which a person may be entitled pursuant to the foregoing sentence of this Article, the Corporation shall indemnify a foundation manager for Compensatory Expenses (as hereinafter defined) incurred by or imposed upon such person to the extent, and only to the extent, that when such payment or reimbursement is added to any other compensation paid to such person, such person's total compensation from the Corporation is reasonable under Chapter 42 of the Code. As used herein, a Compensatory Expense shall mean (a) any penalty, tax (including a tax imposed by Chapter 42 of the Code), or expense of correction that is owed by a person; (b) any expense not reasonably incurred by the person in connection with a proceeding arising out of a person's performance of services on behalf of the Corporation; or (c) any expense resulting from an act or failure to act with respect to which a person has acted willfully and without reasonable cause. The rights conferred by this Article shall be contract rights and shall include the right to be paid by the Corporation expenses incurred in defending any such proceeding in advance of its final disposition to the maximum extent permitted under the Texas Business Organizations Code, as the same exists or may hereafter be amended. If a claim for indemnification or advancement of expenses hereunder is not paid in full by the Corporation within ninety (90) days after a written claim has been received by the Corporation, the claimant may at any time thereafter bring suit against the Corporation to recover the unpaid amount of the claim, and if successful in whole or in part, the claimant shall be entitled to also be paid the expenses of prosecuting such claim. It shall be a defense to any such action that such indemnification or advancement of costs of defense is not permitted under the Texas Business Organizations Code, but the burden of proving such defense shall be on the Corporation. Neither the failure of the Corporation (including its Board of Directors or any committee thereof, special legal counsel or members) to have made its determination prior to the commencement of such action that indemnification of, or advancement of costs of defense to, the claimant is permissible in the circumstances nor an actual determination by the Corporation (including its Board of Directors or any committee thereof, special legal counsel or members) that such indemnification or advancement is not permissible shall be a defense to the action or create a presumption that such indemnification or advancement is not permissible. In the event of the death of any person having a right of indemnification under the foregoing provisions, such right shall inure to the benefit of such person's heirs, executors, administrators and personal representatives. The rights conferred above shall not be exclusive of any other right which any employee or agent of the Corporation or other person may have or hereafter acquire under any statute, bylaw, resolution of members or directors, agreement or otherwise. The Corporation may additionally indemnify any person covered by the grant of mandatory indemnification contained in this Article to such further extent as is permitted by law and may indemnify any other person to the fullest extent permitted by law. The Corporation may purchase and maintain insurance or a similar arrangement (including, but not limited to, a trust fund, self-insurance, a security interest or lien on the assets of the Corporation, or a letter of credit, guaranty or surety arrangement) on behalf of any person who is serving the Corporation (or another entity at the request of the Corporation) against any liability asserted against such person and incurred by such person in such a capacity or arising out of status as such a person, whether or not the Corporation would have the power to indemnify such person against that liability under this Article or by statute. Notwithstanding the other provisions of this Article, the Corporation may not indemnify or maintain insurance or a similar arrangement on behalf of any person if such indemnification or maintenance of insurance or similar arrangement would subject the Corporation to income or excise tax under the Code. For purposes of this Article, the term "expenses" includes court costs and attorney's fees, and the term "proceeding" means any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative, arbitrative or investigative, any appeal in such action, suit or proceeding, and any inquiry or investigation that could lead to such an action, suit or proceeding.

ARTICLE XII
CONSTRUCTION

All references in this Restated Certificate of Formation to statutes, regulations, or other sources of legal authority refer to the authorities cited, or their successors, as they may be amended from time to time.

ARTICLE XIII
ACTION BY WRITTEN CONSENT

Any action required or permitted to be taken at any meeting of the Board of directors or committee members of the Corporation may be taken without a meeting, if a consent or consents in writing setting forth the action so taken shall be signed by at least a majority of the directors or committee members, as the case may be, then in office (or such greater number as may be required by this Certificate of Formation, the Bylaws of the Corporation or the Texas Business Organizations Code). Prompt notice of the taking of any action by the Board of Directors or a committee without a meeting by less than unanimous written consent shall be given to those directors or committee members who did not consent in writing to the action.

IN WITNESS WHEREOF, this Restated Certificate of Formation has been executed on

this ___ day of ____________, 2009, by the undersigned officer, thereunto duly authorized.

____

__________________, President