

**AMENDED AND RESTATED BYLAWS
OF THE
COLLEGE OF THE DESERT FOUNDATION
A CALIFORNIA NONPROFIT PUBLIC BENEFIT CORPORATION**

ARTICLE I

Purposes

The College of the Desert Foundation (the "Foundation") has been established as an auxiliary organization of the Desert Community College District, hereinafter called DISTRICT, which is a political subdivision of the State of California.

A. The Foundation is a nonprofit public benefit corporation and is not organized for the private gain of any person. It is organized under the Nonprofit Public Benefit Corporation Law for charitable purposes.

B. The specific purpose of the Foundation is to engage in the solicitation, receipt, and administration of property and, from time to time, to disburse such property and the income there from, to, or for the benefit of the students of the College of the Desert for cultural, educational, and community service purposes.

C. The mission of the Foundation is to act as advocates for the College of the Desert and to secure financial support enhancing the educational opportunities for all students.

ARTICLE II

Board of Directors

1. Conduct of Business, Election of Directors:

The Foundation shall be administered by a Board of Directors consisting of a minimum of 15 Directors and a maximum number of Directors to be established from time to time by a majority vote of the Board. All references in these Bylaws to a vote by the Board shall mean a vote by Voting Directors.

2. There shall be two classes of Directors:

a. Voting Directors: Voting Directors are members who are in good standing. As used in this sub-section, the phrase "in good standing" shall mean that all financial obligations of the Director relating to the Foundation have been satisfied and the Director is otherwise in compliance with all membership requirements of the Foundation Board.

- b. Ex-Officio Non-Voting Directors: Persons who become Directors by virtue of a District Office they hold are Ex-Officio Non-Voting Directors, The Ex-Officio Non-Voting Directors are: (1) the Superintendent/ President of the College, (2) College Vice President of Administrative Services, (3) the Academic Senate President and (4) a member of the Board of Trustees of the District,(5) Student Representative of the College of the Desert. Ex-Officio Non-Voting Directors are not subject to the financial obligations of Voting Directors. The term of office of an Ex-Officio Non-Voting Director shall coincide with the Ex-Officio Non-Voting Director's term of office as Superintendent/President, Vice President of Administrative Services. President of the Academic Senate, Trustee and Student Representative of the College . Ex-Officio Non-Voting Directors have no voting rights as directors. within the meaning of the California Corporations Code. Ex-Officio Non-Voting Directors do not count towards meeting the authorized number of Directors as provided for in Section 1 of this Article and their presence may not be counted towards meeting a quorum at a board meeting. References to any vote by the "Board of Directors" in these Bylaws, the Articles of Incorporation, and the California Corporations Code shall not require or include any vote by an Ex-Officio Non-Voting Director. Ex-Officio Non-Voting Directors may only be removed by the District.
- c. Student Representative of the College of the Desert: One (1) member from the Student Body shall serve on the Board as a director and retain an advisory non-voting role. The identified student shall be selected by the Associated Students of the College of the Desert (ASCOD) and serve a one-year term.
- d. The Foundation may recognize an unlimited number of Emeritus Members. Emeritus Members shall be appointed as honorary ambassadors to the Board in recognition of demonstrated commitment to the Foundation as an elected Director. Elected Directors shall be eligible for consideration for Emeritus Member recognition only after serving a minimum of three years as a director, past Chair or at the discretion of the board. Emeritus Members shall not be considered Directors, nor have voting powers.
- e. All business of the Foundation shall be conducted in accordance with the Nonprofit Public Benefit Corporation Law (Corporations Code Sections 5110 et seq.) and the Ralph M. Brown Act. (Government Code Sections 54950 et seq.)

3. Powers and Authority:

- a. Subject to the provisions of the Foundation's Articles of Incorporation, these Bylaws, applicable law and the terms of any Master Agreement existing between the Foundation and the District, the Board shall have all powers and authority required to carry out the purposes and functions of the Foundation.
- b. The Foundation shall maintain appropriate records concerning the membership of the Board of Directors, including the terms of each office, and the names, addresses, telephone numbers and other relevant data concerning each Director.

4. Election of Officers and Directors:

- a. The Governance Committee shall from time to time, provide the Executive Committee with a list of potential candidates for the position of Director. Directors shall be elected by a majority vote of the Board.
- b. The Governance Committee two months before the Foundation's Annual Meeting, shall

prepare a proposed slate of nominees consisting of qualified persons willing to serve as Officers for the ensuing year. The slate shall first be forwarded to the Executive Committee of the Board who will, at the last Board Meeting immediately prior to the Annual Meeting, send the approved slate to the Board of Directors for information purposes. Suggested additions or deletions, if any, shall be sent to the Chair who shall promptly circulate such names to the Governance Committee. The proposed slate of Officers shall be voted upon by the Board at the Annual Meeting.

- c. If the Board of Directors does not approve one or more of the persons nominated to be Officers the Governance Committee, prior to the first Board meeting after the Annual Meeting, shall nominate qualified persons to fill the vacancies so created. The names of such nominees shall be circulated to the Board of Directors prior to that first meeting and shall be voted upon by the Board at that meeting.
- d. Officers elected at the Annual Meeting may serve for up to two terms of two years each or until a successor has been elected and qualified.
- e. Voting Directors elected on or after the Annual Meeting shall serve until such time as the Director resigns, is disqualified or is removed in accordance with Article 2 – Section 5.

5. Resignations and Removal:

Any Director may resign effective upon giving written notice to the Chair unless the notice specifies a later time for the effectiveness of the resignation. A vacancy or vacancies in the Board shall be deemed to exist in case of the death, resignation, or removal of any Voting Director, or if the authorized number of Directors is increased. The Board may declare vacant the office of a Voting Director who has been declared of unsound mind by a final order of court, or convicted of a felony, or has been found by a final order or judgment of any court to have breached any duty arising under the California Nonprofit Public Benefit Corporation Law. No reduction of the authorized number of Voting Directors shall have the effect of removing any Voting Director prior to the Annual Meeting immediately following the approval of such reduction. Any Voting Board member may be removed from office with or without cause by a majority vote of the authorized number of Voting Directors then in office.

6. Disqualified and Interested Directors Doing Business with the Foundation:

No College of the Desert or Foundation employee, Director or Officer of the Foundation (or their spouses or either's relatives by blood or marriage) may engage in any transaction or business relationship with the Foundation that results in such person or persons receiving an economic benefit of any kind or nature whatsoever from the Foundation which does not comply with the law of the State of California. At all times, the Directors shall avoid even the appearance of any conflict of interest.

7. Place of Meetings:

All Board meetings must take place within the geographic boundaries of the District unless an exception under the Brown Act allows a Board meeting to take place outside the District.

8. Annual Meeting:

The Annual Meeting of the Board of Directors shall be held during the month of April or May of each year. The date, time and place will be determined by the Chair with the approval of the

Foundation Executive Committee. The purpose of the Annual Meeting shall be for the election of Officers and the transaction of other business.

9. Notice of Meetings:

Notice of the time and place of meetings of the Board shall be given to all Directors by (a) personal delivery of written notice; (b) first-class mail, postage pre-paid; (c) telephone, including a voice messaging system or other system of technology designed to record and communicate messages, or by electronic transmission, either directly to the Director or to a person at the Director's office who would reasonably be expected to communicate that notice promptly to the Director; (d) electronic mail; or (e) other electronic means. All such notices shall be given or sent to the director's address or telephone number as shown on the Foundation's records.

Notices sent by first-class mail shall be deposited in the United States mails at least 5 business days before the time set for the meeting. Notices given by personal delivery, telephone, or electronic transmission shall be delivered, telephoned, or sent, respectively at least 72 hours in advance before the time set for the meeting. Notices of all meetings and agendas shall be prepared and posted to the public in compliance with the Brown Act.

10. Meetings.

All meetings of the Board shall be open and public, and all persons shall be permitted to attend any meeting of the Board; provided, however that the Board or a Committee may hold closed sessions during any meeting to consider those matters that may lawfully be considered in closed sessions under the Brown Act.

11. Quorum:

During the months of November through May, fifty percent (50%) of the Voting Directors then authorized by these Bylaws and holding office shall constitute a quorum for the transaction of business. During the months of June through October, twenty-five percent (25%) of the

Voting Directors then authorized by these Bylaws and holding office shall constitute a quorum for the transaction of business. However, in no event shall the required quorum be less than one fifth of the authorized number of Voting Directors or two Voting Directors, whichever is larger. Any meeting at which a quorum is initially present may continue to do business until adjournment, notwithstanding the withdrawal of Directors leaving less than a quorum in attendance. In the absence of a quorum at any meeting of the Board of Directors, a majority of the Directors present may adjourn the meeting. Every item acted upon, or decision made by a majority of the Directors present at a meeting duly held at which a quorum is present shall be regarded as the act of the Board of Directors. Proxies are not permitted for Board votes.

The Chair will establish a meeting schedule of an annual meeting and two or more general meetings. In that event, the Board of Directors delegates to the Executive Committee all of the powers and authority of the Board in the management of the business affairs of the Foundation, subject to confirmation at the next general Board meeting, except the power to adopt, amend or repeal the Bylaws.

12. Adjournment:

A majority of the Directors present, whether or not constituting a quorum, may adjourn any meeting to another time and place. Notice of the time and place for holding an adjourned meeting shall be in accordance with the Ralph M. Brown Act. (Government Code Section 54950 et seq.)

13. Chair:

At all meetings of the Board of Directors, the Chair, or Chair Elect, or in their absence, the Secretary or Treasurer shall preside.

ARTICLE III

Officers

1. Officers:

The officers of the Foundation shall be a Chair, Chair Elect, Secretary, and Treasurer. The Foundation may also have at the discretion of the Board of Directors, one or more additional Directors and such other officers as may be appointed in accordance with the provisions of Section 3 of this article. One person may hold two or more offices, except that neither the Secretary nor the Treasurer may serve concurrently as the Chair. The Chair and Chair Elect shall be non-voting, ex-officio members of all committees provided however if the Chair Elect is serving as a committee chair or as an appointed member then the Chair Elect may vote on all matters before the committee.

2. Election of Officers:

The Officers of the Foundation shall be elected by the Board of Directors following the procedure set forth in Article II, Section 4, above. Newly elected officers shall assume their responsibilities immediately following the Annual Meeting. There is no limit on the

total number of terms; however, no Officer shall hold the same office for more than two consecutive terms of two years each.

3. Subordinate Officers:

The Board of Directors may appoint and may authorize the Chair or another officer to appoint, any other officers that the business of the Foundation may require, each of whom shall have the title, hold the office for the period, have the authority, and perform the duties specified in the Bylaws or determined from time to time by the Board of Directors.

4. Removal of Officers:

Any officer may be removed with or without cause by the Board of Directors, at any regular or special meetings of the Board.

5. Resignation of Officers:

Any officer may resign at any time by giving notice to the Chair. Any resignation shall take effect at the date of the receipt of that notice or at any later time specified in that notice. Unless otherwise specified in that notice, the acceptance of the resignation shall not be necessary to make it effective.

6. Vacancies:

A vacancy in any office because of death, resignation, removal, disqualification, or any other cause, may be filled by action of the Chair, or in the absence of the Chair, the Chair Elect, and the approval by a majority vote of the Board of Directors.

7. Responsibilities of Officers:

- Chair: The Chair shall preside at all meetings of the Board of Directors and Executive Committee and shall have such other duties and powers as prescribed by the Board, these Bylaws, and those ordinarily pertaining to a Board Chair of a nonprofit public benefit corporation. The immediate Past Chair is that officer who has completed one full year term in office, or that person who holds the office of Chair on the occasion of the Annual Meeting and election of a new Chair.
- Chair Elect: The Chair-Elect shall preside over meetings in the absence or disability of the Chair and perform all the duties of the Chair and when so acting may have all the powers and be subject to all the restrictions upon the Chair. Develop with guidance from the Executive Director and the current board chair a plan to prepare for assuming the chair role. The Chair Elect may also serve as a chair for a standing committee.
- Secretary: It shall be the duty of the Secretary to maintain a current list of Directors of the Board, give notices of meetings, take the Minutes of all Board and Executive Committee meetings, and maintain the official Minute Book of the Foundation. Any or all functions of the Secretary may be delegated by the Board

of Directors to staff personnel.

- Treasurer and Chair of Finance and Investment Committee: It shall be the duty of the Treasurer and Chair of Finance and Investment Committee to supervise the maintenance of all financial records, preparation of required financial statements and proposed budgets. The Treasurer shall serve as chair of the Finance and Investment Committee. Any of the functions of the Treasurer may be delegated by the Board to Foundation staff.
 - Director of Resource Development and Stewardship: The Director of Resource Development is appointed by the Nominating Committee and is responsible for the oversight and guidance of vital fundraising areas of the Foundation including cultivation. The Director of Resource Development shall have such other powers and perform such other duties as from time to time as may be prescribed for them specifically by the Board of Directors.
 - Director of Recognition and Outreach: The Director of Recognition and Outreach is appointed by the Nominating Committee and is responsible for assisting the Executive Director with oversight and guidance of internal and external relations of the Foundation. The Director of Recognition and Outreach shall have such other powers and perform such other duties as from time to time as may be prescribed for them specifically by the Board of Directors.
 - Director of Programs and Campus Connections: The Director of Programs and Campus Connections is appointed by the Nominating Committee and is responsible for assisting the Executive Director with Foundation programs which help support outreach efforts of the Foundation. The Director of Programs ~~Allocations~~ and Campus Connections shall have such other powers and perform such other duties as from time to time as may be prescribed for them specifically by the Board of Directors.
 - Director of Operations and Governance: The Director of Operations and Governance will be led by a board member of the Foundation and is responsible for assisting the Chair and Executive Director to identify potential new board members. The Director of Operations and Governance shall have such other powers and perform such other duties as from time to time as may be prescribed for them specifically by the Board of Directors.
 - Past Chair – The Immediate Past Chair provides continuity, leadership, and support to the current Chair. The Immediate Past Chair is a Voting Director and, serves on Executive Committee and is responsible for overseeing Emeritus and Past President members and will oversee board member engagement.
8. Executive Director:

The President of the College shall appoint a person to be the Executive Director of the Foundation. The Executive Director is not an officer of the Foundation. The duties of the Executive Director shall be governed by his/her employment agreement with the District and by the Master Agreement.

All employment decisions concerning the Executive Director shall be made by the President of the College, who shall consider in good faith, any input from the Foundation's Board President and/or its Executive Committee.

ARTICLE IV

Committees

1. Committees of the Board:

The Board of Directors may by resolution adopted by a majority of the Directors then in office, provided a quorum is present, create one or more committees, each consisting of two or more Directors, to serve at the pleasure of the Board. Appointments to committees of the Board shall be by majority vote of the Directors then in office. Vacancies in the membership of any committees shall be filled by action of the Board. The Board may delegate to such committees any of the authority of the Board except with respect to:

- a. The setting of the number of Directors within a range specified in these Bylaws and the election and removal of Directors,
- b. The filling of vacancies on the Board or on any committee that has the authority of the Board,
- c. The amendment or repeal of the Bylaws or the adoption of the new Bylaws,
- d. The amendment or repeal of any resolution of the Board, which by its express terms is not so amendable or cannot be repealed by a committee,
- e. The appointment of other committees of the Board or the members of committees of the Board; and
- f. The expenditure of corporate funds to support a nominee for Voting Director after there are more people nominated for director than can be elected.
- g. Only Board members may serve on committees authorized to exercise any Board authority. Committees authorized to exercise any Board Authority are those committees that may take action on behalf of the Foundation, without first consulting the full Board for approval. All other committees are ad-hoc committees. The members of any ad-hoc committee may consist of Directors or non-Directors and may be appointed as the Board determines. Ad-hoc committees may not exercise the authority of the Board to make decisions on behalf of the Foundation and are instead restricted to making recommendations to the Board or Board Committees and implementing Board or Board Committee decisions and policies under the supervision and control of the Board or Board Committee.

2. Minutes and Actions of Committees.

Minutes of each meeting of any committee of the Board shall be kept and shall be filed with the corporate records and posted on the Foundation website for public viewing. The Board of Directors may adopt rules for the governance of any committee, provided they are consistent with these Bylaws, or in the absence of rules adopted by the Board, the committee may adopt such rules not inconsistent with these Bylaws

3. Compliance with the Brown Act.

All committees designated as Standing Committees shall conduct their meetings, procedures and votes in accordance with the Brown Act.

4. Standing Committees:

The Executive Committee, Finance and Investment, Audit and Governance, are Standing Committees. The chair and other members of each standing committee who are directors shall be appointed and may be removed at any time by the Chair.

All standing committees shall meet only when there is a quorum. An agenda of the meeting will be sent to each member prior to the meeting and a staff member will be present to record the Minutes.

5. Functional Committees

The Advancement and Stewardship, and Academic Angel Committees are working committees of the Board. The chair and other members of each committee shall be appointed and may be removed at any time by the Chair.

All the committees shall meet only when there is a quorum. An agenda of the meeting will be sent to each member prior to the meeting and a staff member will be present to record the Minutes.

6. Ad Hoc Committees

Special committees may be appointed by the Chair for such special tasks as circumstances warrant. The chair and other members of such committees who are Directors shall be appointed and may be removed by the Chair. Committee members who are not Directors may be appointed and may be removed at any time by the chair of such committee.

A special committee shall limit its activities to the accomplishment of the task for which it is appointed. Upon completion of the task for which appointed, such special committee shall stand discharged. The chair of any such special committee shall be a Director, but the committee may include persons who are not Directors.

7. Chair of Committees:

The chair of a committee shall serve until the next annual election of officers, at which

time the Chair will appoint a chair for each committee. Chairs and Directors of ad hoc committees shall serve as such for the life of the committee unless they are sooner removed, resign, or cease to qualify as the chair or member of such committee.

8. Vacancies:

Vacancies on any committee may be filled for the unexpired portion of the term in the same manner as provided in Section 4, above.

9. Quorum:

During the months of November through May, a 51% majority of the Voting Directors of a whole committee shall constitute a quorum of such committee, and the act of a majority of members present at a meeting when a quorum is present, shall be the act of the committee. During the months of June through October, twenty-five percent (25%) of the Voting Directors of a whole Committee shall constitute a quorum of such committee for the transaction of business.

Composition and Roles of Committees

1. Executive Committee:

- a. The Executive Committee shall consist of the Chair, Chair-Elect, Past Chair, Treasurer; Secretary, Director of Resource Development and Stewardship; Director of Recognition and Outreach Director of Programs and Campus Connections, Director of Operations, the Past Chair and may include members at large as appointed by the Chair. The following Non- Voting Directors and representatives of the District are entitled to attend all Executive Committee meetings and to participate in the affairs of the Executive Committee, except for those activities and actions which may only be conducted by a Voting Director under these Bylaws, the Master Agreement or applicable law; the College Superintendent/President, College Vice President of Administrative Services, the District Trustee, and the Executive Director of the Foundation. The Executive Committee shall meet as needed.
- b. If the Board of Directors adopts a meeting schedule of an annual meeting and two or three general Board meetings, the Board delegates to the Executive Committee all of the powers and authority of the Board in the management of the business and affairs of the Foundation, except for those matters which require a vote of the Board of Directors under the Nonprofit Corporation Law and/or the Nonprofit Public Benefit Corporation Law, as amended.

2. Finance and Investment Committee:

- a. The Finance and Investment Committee shall consist of the Treasurer as chair, and other directors as appointed by the Board. Finance and Investment Committee members need to be Voting Directors. The Finance and Investment Committee shall be responsible for:
 - b. reviewing of monthly financial reports;

- c. preparing and recommending Annual Operating Budget for the Foundation;
- d. recommending necessary adjustments to the Operating Budget, if any, to the full Board; maintaining funds coming into the operational budget and funds being disbursed through the operational budget;
- e. overseeing the investment of the Foundation's assets in accordance with an investment Policy Statement adopted by the Board;
- f. meet quarterly or as needed to review the investments with the designated financial advisors;
- g. recommend any changes in advisors for the Board's consideration, and to inform the Board of any matters which may be of interest to the Board as it pertains to the investments.

3. Governance Committee:

- a. The Nominating Committee shall consist of Voting Directors, one of whom shall be nominated by the Chair and the remainder by the Executive Committee. All nominees for the Governance Committee shall be approved by a majority vote of the Board. Any Governance Committee seat becoming vacant shall be filled by appointment of the Chair.
- b. The Committee will meet regularly through the year to identify a pool of potential new Voting Directors for review and consideration
- c. At least two months prior to the Annual Meeting, the Chair shall direct the Governance Committee to prepare a slate of officers for the coming year. All candidates for office will have declared their intention to serve, if elected. The slate shall be presented in accordance with Article 2 Section 4.
- d. The governance committee is accountable for the board's governance and guideline policies.

4. Audit Committee:

- a. The Audit Committee is a standing committee consisting of Directors appointed by the Chair. The members of the Audit Committee shall be approved by a majority vote of the Board. The Audit Committee members shall include only Voting Directors and are subject to the following limitations: (a) a majority of the members of the Audit Committee may not consist of members of the Finance and Investment Committee; (b) the chair of the Audit Committee may not be a member of the Finance and Investment Committee; (c) the Audit Committee may not include any member of the Foundation staff nor the Executive Director; and (d) the Audit Committee may not include any person who has a material financial interest in any entity doing business with this Corporation. The Audit Committee shall (1) recommend to the Board of Directors the retention and, when appropriate, the termination of an independent certified public accountant

to serve as auditor and negotiate the independent auditor's compensation on behalf of the Board, (2) confer with the auditor to satisfy the Audit Committee members that the financial affairs of this Corporation are in order, (3) review and determine whether to recommend to the Board to accept the audit, and (4) shall assure that any non-audit services performed by the auditing firm conform with standards for auditor independence.

Functional Committees

a. Advancement and Stewardship Committee

- The Advancement and Stewardship Committee shall provide leadership, oversight and guidance relating to the Foundation's Stewardship, Fund Raising and Alumni Engagement efforts. The Director of Resource Development and Stewardship shall appoint the Chair. The appointment shall be approved by a majority vote of the Board. The Stewardship Committee shall meet monthly or on an as needed basis.

b. Academic Angels

- The Academic Angels are organized as an ad hoc Committee of the Foundation. The chair of the Academic Angels shall be appointed by the Chair. The Academic Angels are organized to assist the Board of Directors in achieving the mission of the Foundation. The Academic Angels shall consist of at least three members and shall meet as needed to conduct business.

Ad Hoc Committees

a. Campus Grants Committee

- The Campus Grants committee shall meet to review, score and rank proposals received from the campus community. The Campus Grants committee chair shall be appointed by the Director of Programs and Campus Connections. Upon determination of recipients, the campus grants committee will bring their recommendations to the full board for approval by a majority vote.

b. Bylaws Committee

- The Bylaws Committee's duties include recommending action to the Governance Committee for structural changes to ensure the company is in compliance with its legal and fiduciary duties.

c. Legacy Leaders Committee:

- The Legacy Leaders Ad Hoc is organized as an ad-hoc of the Foundation. The Chair of the Legacy Leaders committee shall be appointed by the Chair and is organized to cultivate and assist donors with their future estate plans.

Legacy Leaders committee shall meet or plan as necessary.

d. President's Ambassadors Vision Exchange (PAVE):

- PAVE is organized to assist the Advancement and Stewardship Committee in achieving the fund-raising goals of the Foundation. It shall meet at the direction of the Chair of the Advancement and Stewardship Committee to organize events which work towards achieving that goal.

e. Stepping Out for COD Gala Committee:

- The Stepping Out for COD Gala Committee is organized as an ad hoc Committee of the Foundation. The chair of the Stepping Out for COD Gala Committee shall be appointed by the Chair. The Stepping Out for COD Gala Committee is organized to assist the Board of Directors in achieving the mission of the COD Foundation. This Committee shall consist of six or more members and shall meet as needed.

ARTICLE V

Indemnification of Agents of the Corporation

1. Definitions.

For purposes of this section, references to the "Corporation" means the Foundation; "agent" means any person who is or was a Voting Director, Ex- Officio Non-Voting Director, Emeritus Member, Officer, employee or other agent of this corporation, or is or was serving at the request of this corporation as a director, officer, employee or agent of another foreign or domestic corporation, partnership, joint venture, trust or other enterprise, or was a director, officer, employee or agent of a foreign or domestic corporation which was a predecessor corporation of this corporation or of another enterprise at the request of such predecessor corporation; "proceeding" means any threatened, pending, or completed action or proceeding, whether civil, criminal, administrative or investigative; and "expenses" includes, without limitation, attorneys' fees and any expenses of establishing a right to indemnification under Section 4 or 5(c) of this Article.

2. Indemnification in Actions by Third Parties:

This corporation shall have the power to indemnify any person who was or is a party, or is threatened to be made a party to any proceeding (other than an action by or in the right of this corporation to procure judgment in its favor, an action brought under Section 5233 of the California Nonprofit Public Benefit Corporation Law, or an action brought by the Attorney General or a person granted relator status by the Attorney General for any breach of duty relating to assets held in charitable trust) by reason of the fact that such person is or was an agent of this corporation, against expenses,

judgments, fines, settlements and other amounts actually and reasonably incurred in connection with such proceeding if such person acted in good faith and in a manner such person reasonably believed to be in the best interests of the corporation and, in the case of a criminal proceeding, had no reasonable cause to believe the conduct of such person was unlawful. The termination of any proceeding by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent shall not, of itself, create a presumption that the person did not act in good faith and in a manner which the person reasonably believed to be in the best interests of this corporation or that the person had reasonable cause to believe that the person's conduct was unlawful.

3. Indemnification in Actions by or in the Right of the Corporation.

This corporation shall have the power to indemnify any person who was or is a party, or is threatened to be made a party, to any threatened, pending or completed action by or in the right of this corporation or brought under Section 5233 of the California Nonprofit Public Benefit Corporation Law, or an action brought by the Attorney General or a person granted relator status by the Attorney General for breach of duty relating to assets held in charitable trust, to procure a judgment in its favor by reason of the fact that such person is or was an agent of this corporation, against expenses actually and reasonably incurred by such person in connection with the defense or settlement of such action if such person acted in good faith, in a manner such person believed to be in the best interests of this corporation and with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances. No indemnification shall be made under this Section 3:

- (a) In respect of any claim, issue or matter as to which such person shall have been adjudged to be liable to this corporation in the performance of such person's duty to this corporation, unless and only to the extent that the court in which such proceeding is or was pending shall determine upon application that, in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for the expenses which such court shall determine;
- (b) Of amounts paid in settling or otherwise disposing of a threatened or pending action, with or without court approval; or
- (c) Of expenses incurred in defending a threatened or pending action which is settled or otherwise disposed of without court approval unless it is settled with the approval of the Attorney General.

4. Indemnification Against Expenses.

To the extent that an agent of this corporation has been successful on the merits in defense of any proceeding referred to in Section 2 or 3 of this Article in defense of any claim, issue or matter therein, the agent shall be indemnified against expenses actually and reasonably incurred by the agent in connection therewith.

5. Required Indemnification.

Except as provided in Section 4 of this Article, indemnification under this Article shall be made by this corporation only if authorized in the specific case, upon a determination that indemnification of the agent is proper in the circumstances because the agent has met the applicable standard of conduct set forth in Section 2 or 3, by:

- (a) A majority vote of a quorum consisting of Directors who are not parties to such proceeding; or
- (b) The court in which such proceeding is or was pending, upon application made by this corporation or the agent, attorney or other person rendering services in connection with the defense, whether such application by the agent, attorney or other person is opposed by this corporation.

6. Advances of Expenses.

Expenses incurred in defending any proceeding may be advanced by this corporation prior to the final disposition of such proceeding upon receipt of an undertaking by or on behalf of the agent to repay such amount unless it shall be determined ultimately that the agent is entitled to be indemnified as authorized in this Article.

7. Other Indemnification.

No provision made by the corporation to indemnify its or its subsidiary's Directors or Officers for the defense of any proceeding, whether contained in the Articles, Bylaws, a resolution of Directors, an agreement or otherwise, shall be valid unless consistent with this Article. Nothing contained in this Article shall affect any right to indemnification to which persons other than such Directors and Officers may be entitled by contract or otherwise.

8. Forms of Indemnification Not Permitted.

No indemnification or advance shall be made under this Article, except as provided in Sections 4 or 5(b) in any circumstances where it appears: That it would be inconsistent with a provision of the Articles of Incorporation, these Bylaws or an agreement in effect at the time of the accrual of the alleged cause of action asserted in the proceeding in which the expenses were incurred or other amounts were paid, which prohibits or otherwise limits indemnification; or

- (a) That it would be inconsistent with any condition expressly imposed by a court in approving a settlement.

9. Insurance.

The corporation shall have the power to purchase and maintain insurance on behalf of any agent of the corporation against any liability asserted against or incurred by the agent in such capacity or arising out of the agent's status as such whether or not the corporation would have the power to indemnify the agent against such liability under the provisions of this Article; provided, however, that this corporation shall have no power to purchase and maintain such insurance to indemnify any agent of the corporation for a violation of Section 5233 of the California Nonprofit Public Benefit Corporation Law.

10. Non-applicability to Fiduciaries of Employee Benefit Plans.

This Article does not apply to any proceeding against any trustee, investment manager or other fiduciary of an employee benefit plan in such person's capacity as such, even though such person may also be an agent of the corporation as defined in Section 1 of this Article. The corporation shall have power to indemnify such trustee, investment manager or other fiduciary to the extent permitted by subdivision (f) of Section 207 of the California General Corporation Law.


ARTICLE VI


Amendments

These Bylaws may be amended by a majority vote of the Board of Directors at a noticed meeting.

CERTIFICATE OF SECRETARY

I, the undersigned, certify that I am the presently elected and acting Secretary of College of the Desert Foundation, a California Nonprofit Corporation, and that the above Bylaws are the Bylaws of this corporation adopted at a meeting of the Board of Directors held on 2025.

By:  1/31/2025
Barbara Foster Monachino DATE
Secretary of the Board of Directors

 January 31, 2025
Diane Rubin DATE
Chair, College of the Desert Foundation Board of Directors