

Amended and Restated

BYLAWS

of

THE FLORIDA STATE UNIVERSITY  
REAL ESTATE FOUNDATION, INC.



As Amended and Restated through and Adopted on May 8, 2017

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# BYLAWS

of

## THE FLORIDA STATE UNIVERSITY REAL ESTATE FOUNDATION, INCORPORATED

### ARTICLE I. PURPOSE, MISSION, AND OFFICES

SECTION 1. NAME AND PURPOSE. The name and purpose of the corporation are set forth in the Articles of Incorporation as may be amended from time to time. In accordance with Article III of the Articles of Incorporation, The Florida State University Real Estate Foundation, Incorporated (the "Foundation") is organized and operated with all powers of a Florida not for profit corporation under Chapter 617, Florida Statutes, and a University direct support organization established pursuant to Section 1004.28, Florida Statutes, and, among other things, is to provide leadership and assistance to Florida State University (the "University") in its facilities and real estate development activities upon request; provide broad real estate advice, consultation and support to the University and its direct support organizations when requested; and to purchase, receive, hold, invest, reinvest, manage, lease, mortgage, develop, administer, operate, and sell the real estate assets of the Foundation, including gifts of property, and to make expenditures, or contribute or distribute all or a portion of the net proceeds from such activity, to or for the use and benefit of the University as a Type I supporting organization to the University pursuant to Section 509(a)(1)-(3) of the United States Internal Revenue Code, as amended (or the corresponding provision of any future United States Internal Revenue law).

SECTION 2. MISSION. To the extent consistent with the Foundation's purposes outlined in Article III of the Articles of Incorporation, the specific mission of the Foundation is to provide expertise and strategic support for all of the University's real estate needs. The Foundation adds value to the University through real estate opportunities and accomplishes this by working with the University to:

- Solicit and accept gifts of real estate and manage these assets to maximize their financial benefit to the University
- Identify and acquire properties with strategic value to the University
- Create strategic plans and develop properties for the benefit of the University
- Provide real estate asset management services to the University and its direct support organizations as requested by the University administration, Board of Trustees, or individual direct support organizations
- Coordinate and achieve any real estate initiative requested or implemented by the University's administration or Board of Trustees

SECTION 3. OFFICES. The principal office of the Foundation will be located at Florida State University in Tallahassee, Leon County, Florida.

## ARTICLE II. BOARD OF DIRECTORS

SECTION 1. GOVERNANCE. In accordance with Article VII of the Articles of Incorporation of the Foundation, the affairs of the Foundation shall be managed by and under the direction of the Board of Directors (the “Board” or “Board of Directors”), and by various officers and committees thereof as powers may be delegated to such officers and committees by these Bylaws or by Resolution of the Directors. Members of the Board, except for the Directors Emeritus as hereinafter defined, shall be the sole voting members of the Foundation and shall be called “Directors.”

SECTION 2. COMPOSITION AND TERMS. The Board shall be comprised of a minimum of two (2) ex-officio directors, seven (7) appointed directors, and four (4) elected directors for a minimum total of thirteen (13) voting Directors, and a non-voting Director Emeritus as hereinafter defined. The voting Directors shall be determined as follows:

- A. Ex-Officio Directors. The “Ex-Officio Directors” shall be: (i) the Chair of the Florida State University Board of Trustees or designee; and (ii) the President of the Florida State University (“University President”) or designee. Ex-Officio Directors will serve as long as they hold the aforementioned office or position. A designee of either the Chair of the Board of Trustees or the University President shall serve at the pleasure of either the Chair of the Board of Trustees or the University President respectively. Each Ex-Officio Director shall have one (1) vote on all matters before the Board of Directors.
- B. Appointed Directors. Each of the following persons or bodies shall appoint one of the seven (7) “Appointed Directors”: (i) the University President; (ii) the Provost for the Florida State University; (iii) the Chief Financial Officer for the Florida State University; (iv) the Florida State University Research Foundation, Inc.; (v) the Seminole Boosters, Inc.; (vi) the Florida State University Foundation, Inc.; (vii) the Florida State University Alumni Association. Because the University President may designate a person to serve as Ex-Officio Director and appoint an Appointed Director, the University President shall by letter to the Foundation distinguish which delegate will serve as an Ex-Officio Director and which will serve as an Appointed Director. Appointed Directors should have experience in the real estate field. Each appointing person or body, other than the University President, shall provide a candidate’s resume or other similar documentation of qualifications to the University President, Chair of the Board, and Foundation President for vetting and confirmation that the suggested appointment has sufficient real estate experience, acumen and qualifications. Each Appointed Director shall serve at the pleasure of the appointing person or body. Each Appointed Director shall have one (1) vote on all matters before the Board of Directors.
- C. Elected Directors. The Board of Directors shall elect by majority vote four (4) “Elected Directors”. The term of office for any Elected Director shall be for a period of three (3) years commencing on the July 1<sup>st</sup> immediately following the election. Elected Directors may be re-elected for a second term of three (3) years, but may only serve two (2) consecutive terms. Provided, however, the foregoing notwithstanding, if a Director has been elected to serve as an Officer and his or her term as Director will expire before

the completion of the term as Officer, then his or her term as Director shall be automatically extended to accommodate the time required for the fulfillment of his or her term as Officer. An Elected Director who has served two (2) terms consecutively may be re-elected to the Board after two years following the end of his or her last term and will have the status of a new Director. The terms of the four (4) Elected Directors shall be staggered so that at least one (1) and no more than two (2) Elected Directors are up for election or re-election each year. Notwithstanding any other provisions of these Bylaws, and in order to facilitate the staggering of terms, the term of an Elected Director who is elected prior to April 2020 may be considered for a term extension of up to two (2) years. The decision to extend the term of Elected Director elected prior to April 2020, shall be made by a majority vote of the Board of Directors. Each Elected Director shall have one (1) vote on all matters before the Board of Directors.

**SECTION 3. DIRECTOR EMERITUS.** The immediate past Chair of the Board of Directors shall be a member of the Board and serve as a "Director Emeritus". If the immediate past Chair's term as a Director has not expired, he or she shall continue to serve out the unexpired portion of that term and shall serve an additional term of one (1) year as Director Emeritus. If the immediate past Chair's term as a Director expires contemporaneous with the expiration of his or her term as Chair, then he or she shall serve an additional term of two (2) years as Director Emeritus. A Director Emeritus shall be a non-voting member of the Board of Directors, but may participate in the discussion of any matter before the Board of Directors.

**SECTION 4. QUALIFICATIONS.** The Board of Directors shall have the full discretionary power to set qualifications for Directors in addition to those set out in the Articles of Incorporation.

**SECTION 5. SELECTION OF ELECTED DIRECTORS.** The Board of Directors shall elect new Directors to fill expiring and vacant seats held by Elected Directors. Candidates for Elected Directors will be reviewed and recommended to the Board of Directors by the Board Development Committee as described in Article VI, Section 6. The Board Development Committee will forward a list of approved candidates to the University President by March 1<sup>st</sup> of each year for his or her approval. An Elected Director seeking re-election for a second term shall submit their name to the Board Development Committee and Board as a candidate. Each candidate will be subject to confirmation by the University President prior to standing for election (or re-election as the case may be). The Board of Directors will elect Directors from the slate confirmed by the University President by a majority vote at the Annual Meeting.

**SECTION 6. POWERS.** The property, affairs, activities, and concerns of the Foundation shall be vested in the Board of Directors. All management functions shall be exercised by the Board of Directors, subject to delegation by the Board to the officers, a committee established pursuant to these Bylaws, and other appropriate staff.

**SECTION 7. DUTIES.** The Board of Directors shall discharge all the duties imposed upon it by the Articles of Incorporation and these Bylaws. The Board of Directors shall approve budgets on an annual basis. The Board of Directors shall present the annual budgets to the University President by May 1<sup>st</sup> of each year for transmission to the University Board of Trustees for review and approval. The Board of Directors shall assist the Foundation in raising private funds and

facilitating gifts of real estate, to continue their personal financial support for the University, to identify others to engage with the University, to assist in stewardship-related activities, and to advocate on behalf of the University. Further, the role of each Director is to provide real estate related advice to the University when requested, to govern the Foundation, and advocate on behalf of the University. Each Director should strive to attend each meeting of the Board, and each Director's attendance will be reviewed by the Board Development Committee for recommendation as to whether a Director should be re-elected, nominated for Chair or Vice-Chair, or removed.

SECTION 8. REMOVAL. An Ex-Officio Director may not be removed except as stated in Article II, Section 2.A. An Appointed Director, Elected Director or Director Emeritus may be removed from the Board of Directors upon the recommendation of a two-thirds vote of the Board of Directors with the concurrence of the University President and the Chair of the University Board of Trustees, when it is determined to be in the best interest of the Foundation. The University President may remove any Appointed Director, Elected Director or Director Emeritus in his or her sole discretion at any time. A Director's term shall automatically terminate upon death, incapacity, or resignation.

SECTION 9. RESIGNATION. A Director or Director Emeritus may resign at any time by submitting a written resignation to the Chair, Foundation President and University President.

SECTION 10. VACANCIES. Whenever any vacancy occurs on the Board of Directors during a term by removal, death, incapacity, resignation or otherwise, the unexpired portion of the term shall be filled as soon as practicable, without undue delay. Vacancies that are filled with less than two (2) years of the term remaining will not be counted as a term for purposes of eligibility to serve two terms consecutively. An anticipated vacancy may be filled in advance, but the new Director shall not take office until the vacancy occurs.

- A. Ex-Officio Director Vacancies. In the case of a vacancy in the positions held by the Chair of the Florida State University Board of Trustees or the University President, their successor shall assume that position as Director upon taking the underlying position. If prior to their vacancy, the Chair or University President named a designee to serve as Ex-Officio Director in their place, then said designee will continue to serve as an Ex-Officio Director until a new designee is named by the newly seated Chair or University President respectively.
- B. Appointed Director Vacancies. In the event of a vacancy on the part of any Appointed Director, a replacement shall be appointed by the respective appointing person or body immediately.
- C. Elected Director Vacancies. In the case of a vacancy created by any Elected Director, a replacement shall be elected by the Board by a majority vote of the Directors in the same manner as described in Article II, Section 5 without waiting until the Annual Meeting, and such replacement Director shall serve out the remaining term of the original Elected Director.



### **ARTICLE III. OFFICERS AND ELECTIONS**

SECTION 1. COMPOSITION. The officers of the Foundation shall be the Chair, Vice Chair, Foundation President, Vice President, Secretary, and Treasurer (the "Officers"). The Chair and Vice Chair shall be elected by, and shall serve at the pleasure of, the Board of Directors. The Chair and Vice Chair shall be nominated from members of the Board of Directors while the other officers will be employees of the University.

SECTION 2. ELECTION OF OFFICERS. At the Annual Meeting, the Board of Directors will elect by majority vote the Chair and Vice Chair to serve for the next fiscal year beginning July 1<sup>st</sup>. However, the Chair of the Foundation shall be elected by the Board of Directors subject to confirmation by the University President and shall report to the University President or a designee reporting directly to the University President. The offices of Foundation President, Vice President, Secretary, and Treasurer shall be filled as set forth in Article IV below.

SECTION 3. TERMS OF OFFICE. Each Chair and Vice Chair shall serve for one term of two (2) years beginning on the July 1<sup>st</sup> following the Annual Meeting at which they were elected. Any person serving as Chair or Vice Chair must not serve more than one term as Chair or Vice Chair and must wait a period of one (1) year after serving before again standing for election. The terms of the Foundation President, Vice President, Secretary, and Treasurer shall be set forth in Article IV below.

### **ARTICLE IV. POWERS AND DUTIES OF OFFICERS**

SECTION 1. CHAIR. The Chair of the Foundation (who shall be a Director) shall be the presiding officer of the Foundation and shall exercise oversight of the business of the Foundation. The Chair appoints members of committees, and sees that orders and resolutions of the Board of Directors are executed. The Chair is a member ex officio, with the right to vote, on all committees. The Chair of the Foundation shall discharge such other duties as may be assigned to him or her by the Board of Directors.

SECTION 2. VICE CHAIR. The Vice Chair (who shall be a Director) shall assist the Chair in carrying out the programs of the Foundation. In the event of the death, prolonged absence or disability of the Chair of the Foundation, the Board shall appoint the Vice Chair as Acting Chair, and, as such, the Acting Chair shall have all the authority and duties vested in the Chair until a replacement is selected in accordance with Section 10 of this Article.

SECTION 3. FOUNDATION PRESIDENT. The office of Foundation President will be filled by the incumbent of the Ex-Officio Director seat held by either the University President or his or her designee, and he or she will be appointed to serve as Foundation President of the Board of Directors for so long as serving in that position. The Foundation President shall supervise all of the business and affairs of the Foundation. The Foundation President, the Vice President, or any other Officer of the Foundation authorized by the Board of Directors, may sign all certificates, contracts, deeds, notes, and other documents or legal instruments which the Board of Directors has authorized to be executed.

SECTION 4. VICE PRESIDENT & EXECUTIVE DIRECTOR. The office of Vice President will be filled by the incumbent of the position of Executive Director of the Foundation and he or she will be deemed appointed to serve as Vice President for so long as serving in the position of Executive Director. The Executive Director is selected and appointed by the Board of Directors, with the prior approval of the University President, and the Executive Director reports to the University President or a designee reporting directly to the University President. As Vice President and Executive Director, he or she shall assist the Foundation President and shall be responsible for the day-to-day management of the business and affairs of the Foundation, as well as carrying out the plans, purposes, and objectives of the Board. The Vice President will exercise the authority to accept gifts, collect revenues, and make expenditures, and is responsible for maintenance and management of Foundation activities and personnel, subject to oversight by and accountability to the Board of Directors, the Foundation President, and the University President or designee, and will perform other duties assigned to him or her by the Board of Directors, these Bylaws, the Foundation President, or the University President or designee. However, any gift, expenditure, or other action that results or is likely to result in a financial or operational obligation of the Foundation or University exceeding thresholds to be established by the Board of Directors, requires the approval of the Board of Directors. If a gift imposes financial or operational obligations exceeding the threshold, ratification of the action by the Board of Trustees or its authorized designee is also required to be effective. The Vice President may sign all certificates, contracts, deeds, notes, and other documents or legal instruments which the Board of Directors has authorized to be executed; and he shall perform all such other duties as may be prescribed by the Board of Directors from time to time.

SECTION 5. SECRETARY. The office of Secretary will be filled by a senior Foundation or University accounting staff member as determined by the Foundation President, and he or she shall be deemed appointed to serve until removed, no longer employed by the Foundation or University, or a successor is appointed by the Foundation President. The Secretary, or designee, shall keep full and accurate minutes of all meetings of the Board of Directors and committees in a book provided for that purpose and shall transmit all notices required by the Bylaws of the Foundation. The Secretary shall have custody of the corporate seal of the Foundation. The Secretary may attest to documents signed by the Chair, Foundation President, or Vice President in the name of the Foundation and, when required, shall affix thereto the seal of the Foundation. The Secretary shall have charge of all official records of the Foundation which shall be at all reasonable times open to the inspection of any Director, and shall in general perform all duties incident to the management of the Office of Secretary for the Board of Directors. In the absence or unavailability of the Secretary to attest to the execution of the documents referenced above, the Treasurer of the Foundation is designated to attest to the authority of the Officer or Director and, when required, to affix thereto the seal of the Foundation.

SECTION 6. TREASURER. The office of Treasurer will be filled by the incumbent of the position of Chief Financial Officer for the Florida State University Foundation, Inc., and he or she will be appointed to serve as Treasurer for so long as serving in that position. The Treasurer shall serve as the Chief Financial Officer of the Foundation and render to the Board of Directors an account and statement of all financial transactions, if any, at the annual meeting of the Board and at other times as the Board may determine. The Treasurer will be responsible for budget preparation, financial statement preparation and presentation, including quarterly expenditure plans, and oversight of

internal controls, control of the Foundation's assets, accounting policies and procedures, and other duties deemed necessary by the Board. The Treasurer will prepare an annual budget, quarterly expenditure plans, and financial statements for the Foundation for approval by the Board of Directors. The Treasurer, in coordination with the Audit Committee, if active, shall cause an annual audit to be made as required by statute and regulation. The Treasurer will serve as the liaison with the Foundation's external auditors, and the Treasurer will attend all meetings of the Audit Committee. The Treasurer will perform other duties assigned by the Board of Directors or these Bylaws.

SECTION 7. OTHER OFFICERS. As further set forth in the Articles of Incorporation, the Board of Directors may create additional offices and elect such other officers as it may deem necessary or desirable, which officers shall hold their offices for such terms and shall exercise such powers and perform such duties as shall be determined from time to time by the Board of Directors.

SECTION 8. RESIGNATION. An Officer may resign at any time by submitting a written resignation to the Chair and the Foundation President. If the Chair or Vice Chair is resigning, he or she shall submit his or her resignation to the Foundation President and the University President. If the Foundation President is resigning, he or she shall submit his or her resignation to the Chair and the University President.

SECTION 9. REMOVAL. The Board of Directors, by affirmative vote of two-thirds (2/3) of the Directors present at a properly noticed meeting of the Board of Directors at which a quorum is present, may remove the Chair or Vice Chair whenever in the Board's judgment the interest of the Foundation would be best served, subject to the approval of the University President. If the University President does not approve the removal, then the officer will continue to serve in the current position. The University President may remove any Officer in his or her sole discretion at any time. An Officer's term shall automatically terminate upon death, incapacity, or resignation.

SECTION 10. VACANCIES. In the event of resignation, removal, death, incapacity, absence, inability, or refusal to act by either the Chair or Vice Chair, the Board of Directors may appoint any person to perform their respective duties, as provided in these bylaws, until the next meeting of the Board of Directors or such time as the Board of Directors may hold an election to replace the vacant office. However, in the case of a vacancy in the Office of Chair of the Foundation, that officer shall be selected by the Board of Directors based upon the recommendation and approval of the University President. In the event of resignation, removal, death, incapacity, absence, inability, or refusal to act by either the Foundation President, Vice President, or Treasurer, then said officer shall be replaced by the new incumbent of the respective underlying position stated in this Article, or, in the case of the Secretary, then that officer shall be replaced by a senior Foundation or University accounting staff member as determined by the Foundation President.

SECTION 11. COMPENSATION. The Officers shall receive no special salary or compensation for being officers of the Foundation other than their usual salaries as employees of The Florida State University, if so employed.

## **ARTICLE V. MEETINGS OF BOARD OF DIRECTORS**

SECTION 1. REGULAR & ANNUAL MEETINGS. Regular meetings of the Board of Directors shall be held at least three (3) times per year. One of these regular meetings shall be held in March or April of each year and this meeting shall be known as the "Annual Meeting." The Board of Directors will establish a schedule of dates, times, and places for the Annual and regular meetings by resolution. At the Annual Meeting, the Board of Directors shall elect Directors and Officers as provided in these Bylaws, appoint committee assignments, approve and adopt the Foundation's annual budget for the next fiscal year to be submitted to the University President by May 1<sup>st</sup>, and shall transact such other business as may be brought before the Board. In the event that Directors or Officers are not elected at the Annual Meeting, a special meeting of the Board may be called for that purpose.

SECTION 2. SPECIAL MEETINGS. Special meetings of the Board of Directors may be called by the Chair, Foundation President, the University President, or upon written request of a majority of the Board of Directors.

SECTION 3. EMERGENCY MEETINGS. Emergency meetings may be called by the Chair or the University President upon as much notice as is reasonably possible but not less than twenty-four (24) hour notice whenever, in the opinion of the Chair or University President, an issue requires immediate Board action. The Board may exercise all emergency powers permitted in accordance with Chapter 617, Florida Statutes. Whenever an emergency exists, a majority of the voting Board members present at an emergency meeting shall determine any emergency actions to be taken.

SECTION 4. DATE, TIME, AND PLACE. All Annual and regular meetings of the Foundation and its Directors shall be held at the time and place set by resolution of the Board of Directors and further notice need not be given to Directors so long as the time and place of the meeting does not change from the resolution. Special Meetings and Emergency Meetings may be held at any date, time, and place designated by the Chair or University President. To the extent the date, time, and place of a meeting has not been determined and set by resolution of the Board of Directors, the notice of the time and place of meetings of the Board of Directors shall be given in accordance with Article VII of these Bylaws.

SECTION 5. REMOTE PARTICIPATION. The Chair of the Board may permit any or all Directors to participate in an Annual, regular, special or emergency meeting of the Board of Directors by, or through the use of, telephone conference call, video conference, or any other means of electronic communication provided that all Directors and all others in attendance are able to hear and speak to one another contemporaneously. Remote participants who can hear, and be heard by, all other participants, and who have access to any materials distributed to participants shall be considered "present" for purposes described in these Bylaws. The notice of any meeting conducted by electronic communication must state where and how members of the public may gain access to the meeting.

SECTION 6. QUORUM AND VOTING. A majority of the Board of Directors shall constitute a quorum for the transaction of business at any meeting of the Board. If a quorum is not present, a

majority of those present may adjourn the meeting from time-to-time without further notice. The act of a majority of the Directors present 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 law or by these Bylaws. A majority vote consists of one vote more than one-half (1/2) of the number of votes represented by the Directors who are present at a meeting at which a quorum is present.

SECTION 7. PRESIDING OFFICER. The Chair, or in his or her absence, the Vice Chair, will preside at meetings of the Board of Directors. In the absence of both of these officers from any meeting, the meeting will be run by a Director or Officer designated by the Chair. If there is no designee, then the University President, or his or her designee on the Board of Directors, after consultation with the Foundation President, may appoint any Director to preside.

SECTION 8. MINUTES. Minutes of all meetings shall be kept by the Secretary, or designee, and submitted to the Board of Directors for review and approval at a future Board meeting. After the minutes have been approved by the Board of Directors, they are to be stored within the Foundation records in accordance with the schedule set by the Florida Secretary of State.

SECTION 9. PROXIES. Proxies, general or special, will not be accepted for any purpose at any meeting of the Board of Directors.

## ARTICLE VI. COMMITTEES

SECTION 1. STANDING COMMITTEES. The Board of Directors, by resolution adopted by a majority of Directors present at a meeting at which a quorum is present, may establish and appoint the following standing committees of the Board of Directors: a Board Development Committee; and, an Audit Committee. Each standing committee shall have three or more members who are appointed by, and serve at the pleasure of, the Chair of the Board, unless otherwise specified by these Bylaws. The Chair of the Board shall appoint all standing committee chairs. The governance, authority, and responsibilities of each of the standing committees shall be set forth in individual committee charters approved by the Board of Directors that prescribe the number of members of the committee, the qualifications for membership on the committee, the authority and responsibility of the committee, and the rules, policies and practices the committee will follow in discharging the duties delegated to it by the Board of Directors. Each standing committee shall prepare and submit to the Board of Directors, for its approval, a proposed committee charter that is consistent with these Bylaws and shall periodically review the committee charter and propose any recommended revisions to the Board of Directors. Any provision within a committee charter that conflicts with these Bylaws, the Articles of Incorporation, the Regulations promulgated by the University Board of Trustees or the Florida Statutes shall be resolved in favor of the Bylaws, Articles, Rules or Statutes. Standing committees are charged specifically with the immediate care and supervision of the subject matters assigned to them. The Chair of the Board, or in the Chair's absence the Vice Chair of the Board, shall be ex officio members of all standing committees and subcommittees.

SECTION 2. SPECIAL COMMITTEES. From time to time the Chair of the Board may appoint such special or advisory committees, including (but not limited to) a Strategic Planning Committee and Bylaws Committee, as the Chair of the Board determines to be beneficial for the purpose of

advising or assisting the Board. Each such committee shall serve at the pleasure of the Board of Directors or Chair of the Board who may dissolve special committees by majority vote. The Chair of the Board shall appoint all special committee members and chairs.

**SECTION 3. AUTHORITY AND COMPOSITION OF COMMITTEES.** From time to time, the Board of Directors may adopt additional resolutions, policies, or committee charters governing the authority and responsibilities of any committee. All committees have the authority delegated to them by the Board of Directors as recited in these Bylaws, the approved committee charters, or resolutions of the Board of Directors. Each committee is expected to include members who possess the requisite skill, knowledge and expertise for the committee to accomplish its purpose. A majority of the members of each standing committee shall consist of members of the Board of Directors, but other individuals who are not Directors or Officers may be added to a committee for their expertise, knowledge or skill. The Vice President may not serve as a member of any committee in order to avoid the possibility of a violation of Chapter 286, Florida Statutes. The Chair of the Board, or in the Chair's absence the Vice Chair of the Board, shall serve as an ex-officio member of all committees. The Ex-Officio Directors shall also serve as ex-officio members of an Executive Committee, if the committee is active. The Chair of the Board shall appoint all committee members and chairs in accordance with these Bylaws. The Chair may remove any committee member who is not an ex-officio member, whenever in the Chair's judgment the interests of the Foundation would be best served. The Board of Directors may dissolve any committee at any time by resolution adopted with a majority vote.

**SECTION 4. CONDUCT OF COMMITTEE MEETINGS.** Any committee may meet at such times as may be specified in the applicable committee charter or designated by the Chair of the Board of Directors or the chair of the committee, or upon the written request of the University President or any two (2) members of the committee. At the discretion of the committee chair, meetings of committees may be conducted by teleconference, videoconference or through other appropriate electronic communication provided that: (i) all members and all others in attendance are able to hear and speak to one another contemporaneously; (ii) the notice of any meeting conducted by electronic communication states where and how members of the public may gain access to the meeting; and (iii) such meetings comply with these Bylaws and Florida law. A committee member participating in a meeting by this means is deemed to be present in person at the meeting. The Secretary, or designee, shall notice meetings of standing, special, and ad hoc committees in the manner prescribed in Article VII of these Bylaws. A majority of the members of a committee then in office (excluding any vacancies on the committee) constitutes a quorum of the full committee. An action approved by a majority of the committee members present at a meeting of the committee at which a quorum is present constitutes an act of the committee. A majority vote consists of one vote more than one-half (1/2) of the votes cast at a meeting of the committee at which a quorum is present. A majority vote shall be necessary for the adoption of any resolution or recommendation before the committee. If a committee only has three members, then the presence of two of the three members will constitute a quorum, and any action where only two members are present requires an affirmative vote of both members present. No proxies or absentee ballots will be allowed or accepted at any time. All action taken at any committee meeting shall be captured in the minutes kept by the Secretary, or designee, and thereafter approved by the committee at a future committee meeting and submitted to the Board of Directors for approval at a future meeting of the Board. After the minutes have been approved by the Board of Directors,

they are to be stored within the Foundation records in accordance with the schedule set by the Florida Secretary of State.

SECTION 5. AUDIT COMMITTEE. The Audit Committee shall review the audit plan of the Foundation, appraise and approve the effectiveness of the plan, assist the Board of Directors in fulfilling its fiduciary responsibilities relating to accounting and reporting practices and maintain a direct line of communication between the Board and the Foundation's independent accountants. The committee shall consist of a minimum of three (3) members, a majority of whom shall be current members of the Board. All members shall be financially literate and at least one member shall have strong professional working experience in accounting, business, finance, audit, and internal controls. No member of the Audit Committee may be a member of Foundation management. In the event the Foundation is unable to identify a qualified Audit Committee member, the Board may request the University Board of Trustees Finance, Business and Audit Committee to appoint a qualified person to the Audit Committee. Otherwise, the Chair of the committee, and all committee members, shall be appointed by the Chair of the Board. The independent auditor will report to this committee, and the committee shall be responsible for engaging or disengaging an auditor, and approving the auditor's fees. To meet these responsibilities, the committee shall comply with the duties enumerated in the charter of the committee.

SECTION 6. BOARD DEVELOPMENT COMMITTEE. The Board Development Committee shall identify, recruit, and recommend prospective candidates to the Board for any empty Elected Director seats, Chair, Vice Chair, and successors to any vacancies. The Committee shall receive any recommendations for nominees by November 30<sup>th</sup> of each year. The Committee shall forward a list of candidates to the University President for approval by January 31<sup>st</sup> of each year. After receiving the University President's approval, the Committee shall provide the Board of Directors a final slate of approved candidates by March 1<sup>st</sup> of each year for its consideration prior to the elections scheduled for the Annual Meeting. In the event of a vacancy, the Committee shall forward recommendations to the University President as soon as practicable. In making its recommendations, the Committee shall consider a Director's attendance and past performance during service to the Foundation. The Committee shall be comprised of no less than three (3) and no more than seven (7) Board members. The Committee is responsible for Board development and shall be responsible for identifying future Board leadership, monitoring attendance and participation, orienting and mentoring new Elected Directors, and assuring diversity (race, gender, expertise, geography) of the Board's composition. The Committee shall establish a plan for orientation of new Directors and continuing education for existing Directors.

## **ARTICLE VII. NOTICE OF MEETINGS**

SECTION 1. NOTICE REQUIREMENTS. Notice of the date, time and place of regular and special meetings of the Board of Directors (and the applicable telephone number for a meeting by conference call) shall be given by the Secretary, or designee, at least seven (7) days before the meeting, to each Director by personal delivery, facsimile transmission, electronic mail, or United States mail. Notice of the time and place of any meetings of a committee of the Board of Directors (and the applicable telephone number for a meeting by conference call) shall be given by the Secretary, or designee, at least seven (7) days before the meeting, to each committee member by personal delivery, facsimile transmission, electronic mail, or United States mail. Public notice of

any meeting of the Board or any committee shall be made by posting notice in a section of the Foundation's website maintained for the purpose of providing public notices of meetings of the Board of Directors and committees. The Foundation shall provide reasonable notice of the date, time, and place of the next scheduled meetings of the Board of Directors and each committee, together with an agenda of the meeting if an agenda has been prepared, as required by Florida law. Except as otherwise expressly required by Florida law or these Bylaws, neither the business to be transacted at, nor the purpose of, any annual, regular, special or emergency meeting of the Board of Directors or any meeting of a committee need be specified in the notice of that meeting or in any waiver of notice.

**SECTION 2. EFFECTIVENESS OF NOTICE.** Written notice of any meeting of the Board of Directors or any committee of the Board, if such notice is in a comprehensible form, is effective upon the earliest of the following: (a) when received by the Director or committee member; (b) when mailed, if mailed postpaid and correctly addressed to the Director's or committee member's address shown in the Foundation's records; (c) when actually transmitted by facsimile telecommunication, if correctly directed to a number at which the Director or committee member has consented to receive notice; (d) when actually transmitted by electronic mail, if correctly directed to an electronic mail address at which the Director or committee member has consented to receive notice; (e) when posted on an Internet website that the Director or committee member has consented to consult, upon the later of such correct posting or the giving of a separate notice to the Director or committee member that the notice has been posted; or (f) when correctly transmitted to the Director or committee member, if by any other form of electronic transmission consented to by the Director or committee member to whom notice is given. Consent by a Director or committee member to receive notice by electronic transmission is revocable by the Director or committee member by written notice to the Foundation.

**SECTION 3. WAIVER OF NOTICE.** Notice of a meeting of the Board of Directors or any committee need not be given to any Director or committee member who signs a waiver of notice before, during, or after the meeting. Attendance of a Director or committee member at a meeting constitutes a waiver of notice of that meeting and waiver of all objections to the time and place of the meeting, and the manner in which it was called or convened, except when the Director or committee member attends the meeting for the express purpose of objecting to the transaction of business because the meeting is not lawfully called or convened. Business to be transacted at the meeting need not be specified in the notice or waiver, unless specifically required by law or by these Bylaws.

**SECTION 4. PUBLIC APPEARANCES.** Opportunity for public comment at Board of Director or committee meetings may be permitted by the Chair or chair of a committee respectively. To the extent required by law or permitted by the Chair or chair of a committee, individuals or representatives of groups who desire to appear before the Board of Directors or any committee regarding an item being considered must submit their request in writing to the address or email address noted in the posted notice for the meeting, or for telephonically held meetings, by submitting a public comment form obtained from the Secretary, specifying the agenda item about which they wish to speak at least three working days prior to the start of the meeting. The Chair or the committee chair, in consultation with the Foundation President, and complying with the law, will determine whether the comment on the item will be heard and when it will be heard, and may



require a representative for a group or faction if many members request to be heard. Public comment will be limited to three minutes per person, and the aggregate time for all public comments at a meeting may not exceed fifteen minutes. To the extent permitted by law, the Chair or chair of the committee may decline to hear any matter determined by the Chair or committee chair not to relate to a particular agenda item or that is outside the jurisdiction of the Board of Directors or committee.

## **ARTICLE VIII. TRANSACTION OF BUSINESS**

SECTION 1. FISCAL YEAR. The fiscal year of the Foundation shall commence on July 1 of each year and end on June 30 of the following year.

SECTION 2. CORPORATE SEAL. The corporate seal shall be in the form approved by the Board of Directors.

SECTION 3. CHECKS AND DRAFTS. Checks or drafts on the funds of the Foundation, if any, shall be signed (electronically) by the Chair, Foundation President, or Vice President or by any officer or other person with such limitations as may be from time to time designated by resolution of the Board. Authorizations for transfers (including electronic wire transfers), disbursements and withdrawals must be authorized and approved in writing by either the Chair, Foundation President, or Vice President. An electronic mail ("email") may be used in lieu of an actual written signature from the relevant Officer. All disbursements from Foundation funds shall be made in accordance with the approval matrix prior to issuance, and will not require further Board action up to the cap established by the Board.

SECTION 4. EXECUTION OF DOCUMENTS. The Chair, Foundation President, or Vice President are authorized to execute in the name of the Foundation, with the Secretary attesting if necessary, all certificates, contracts, deeds, notes, and other documents or legal instruments authorized or issued by the Board of Directors or these Bylaws and complying with all applicable Foundation and University policies, or necessary to effectuate the purposes of the Foundation, provided that any authority involving the Foundation's contracting, debts, financial obligations, or any regulated activities, shall be within thresholds established by the Board of Directors. The Board of Directors may designate other persons to execute certificates, contracts, deeds, notes, and other documents or legal instruments on behalf of the Foundation, but such designation must be in writing and duly approved by the Board of Directors.

SECTION 5. FISCAL AND ACCOUNTING PRACTICES.

(A) Gifts. Gifts and bequests made for a specific purpose must be rigorously administered by the Foundation to insure that such funds are used solely for the purposes prescribed by the donor, and exclusively for the exempt purposes of the Foundation set forth in the Articles of Incorporation and these Bylaws.

(B) Annual Budget and Financial Statements. By May 1<sup>st</sup> of each year, the Foundation shall submit to the University President, for his or her review, approval, and submission and recommendation to Florida State University Board of Trustees, an annual operating budget for the

next fiscal year that has been approved by the Foundation's Board of Directors, which approval may be by special meeting. Each such budget shall include any budgeted expenditures for: (i) construction of physical facilities, (ii) salary supplements, compensation, and benefits to be paid or provided to the University President, faculty, or staff of Florida State University not employed by the Foundation, to the extent that they are to be paid or provided with assets of the Foundation; and (iii) salary supplements, compensation, and benefits to be provided by the Foundation directly to employees of the Foundation. Copies of annual financial statements of the Foundation, including all statements required by Florida Statutes, shall be filed with the University President for his or her review and approval.

(C) Quarterly Expenditure Plans. The Foundation's anticipated expenditures (capital and operating) will be submitted quarterly to the University President no later than the first day of each quarter. The quarterly expenditure plan separately delineates planned actions which would cause a commitment of University resources or which represents a significant commitment of Foundation resources, including (i) major fund raising events and campaigns and their purpose; (ii) compensation and benefits to University employees and Foundation employees; (iii) capital projects, including land acquisition, construction, renovation or repair; and (iv) other major commitments of Foundation resources.

(D) IRS Forms. The Foundation shall annually submit to the University President and University Board of Trustees its federal Internal Revenue Service Application for Recognition of Exemption form (Form 1023) and its federal Internal Revenue Service Return of Organization Exempt from Income Tax form (Form 990), and copies of said forms shall be provided by the University to the Board of Governors.

**SECTION 6. CORPORATE RECORDS**. The Foundation shall maintain the following records in written form or in another form capable of conversion into written form within a reasonable time: (a) a list of the names of its current Directors and Officers and their business street addresses (or the home address for a Director or Officer if he or she has no business street address); (b) minutes of all meetings of the Board of Directors and each committee of the Board of Directors and records of all actions taken by the Board of Directors; (c) accurate accounting records; and (d) the Foundation's most recent annual report filed with Florida Secretary of State.

**SECTION 7. AUDIT**. The Chair of the Board in coordination with the Audit Committee shall arrange for the auditing of the books, records, and accounts of the Foundation by an independent certified public accountant at the close of every Fiscal Year in accordance with accounting principles generally accepted in the United States of America as contained in the applicable AICPA Professional Standards promulgated by the American Institute of Certified Public Accountants, Section 1004.28(5), Florida Statutes, the rules adopted by the Auditor General pursuant to Section 11.45(8), Florida Statutes, specifically including Chapter 10.700 "Audits of Certain Nonprofit Organizations", and with the University Board of Trustees' Regulation FSU 2.025 (the "Audit Standards"). The identity of donors desiring anonymity shall be protected. The independent certified public accountant shall be issued an engagement letter which provides that the accountant will render his or her opinion on the financial statement and result of the operation. The annual audit and management letter shall be forwarded by the University President to the University Board of Trustees for review and oversight no later than the end of the fourth month following the

close of the Foundation 's fiscal year. The Audit Committee shall meet annually with the independent auditor out of the presence of the Foundation's management about internal controls and the completeness and accuracy of the Foundation's financial statements. All audit reports required by the Audit Standards, including an expression of an opinion as to the fairness of the presentation of the Foundation's financial statements under the Audit Standards, shall be presented to the Audit Committee and made available to the Board. The annual audit report shall be submitted, within 9 months after the end of the fiscal year, to the Auditor General and the Board of Governors for review. The Board of Governors, the university board of trustees, the Auditor General, and the Office of Program Policy Analysis and Government Accountability shall have the authority to require and receive from the organization or from its independent auditor any records relative to the operation of the organization.

SECTION 8. EMPLOYEES. Employees of the Foundation shall not be considered to be employees of The Florida State University Board of Trustees or the State of Florida by virtue of their employment by the Foundation. The Foundation shall provide equal employment opportunity to all persons regardless of race, creed, color, sex, religion, national origin, age, disability, veterans' or marital status, sexual orientation, gender identity, gender expression, or any other legally protected group status.

SECTION 9. CONFIDENTIALITY OF DOCUMENTS. Pursuant to Section 1004.28(5), Florida Statutes, all records of the Foundation other than the auditor's report, management letter, and any supplemental data requested by the State Board of Education, the University Board of Trustees, the Auditor General, and Office of Program Policy Analysis and Government Accountability shall be confidential and exempt from the provisions of s.119.07(1), Florida Statutes.

SECTION 10. CONFLICT OF INTEREST POLICY. Directors stand in a fiduciary relationship to the University and the Foundation. Therefore, Directors shall act in good faith, with due regard to the interests of the University and the Foundation. Directors shall comport themselves in accord with the Conflict of Interest Policy adopted by the Board as may be amended from time to time. Each Director shall annually complete and sign a disclosure form as required by said policy. The Foundation shall maintain the highest ethical standards in all of its operations in order to protect and preserve the Foundation's good name, business interests, and relationships with donors and the community at large.

## **ARTICLE IX. RELATIONSHIP WITH THE UNIVERSITY**

SECTION 1. GENERAL. The Foundation shall comply with all regulations adopted by the Florida State University Board of Trustees with regard to the operation of direct-support organizations in accordance with Section 1004.28, Florida Statutes.

SECTION 2. UNIVERSITY RESOURCES AND NAME. The University President shall have the authority and responsibility to monitor and control the use of the University's resources and name, shall review and approve expenditure plans and shall monitor the organization for compliance with federal and state laws.

SECTION 3. OPERATING BUDGETS. The Foundation's annual budget shall be presented to the University President by May 1<sup>st</sup> of each year. The University President will then present and recommend the budget to the University Board of Trustees for approval. Thereafter, by the first day of each quarter, the Foundation will provide the University President with quarterly reports of expenditures based on a July 1 Fiscal Year for approval by the University President.

SECTION 4. RESTRICTED CONTRIBUTIONS. No contributions of funds or supplements to support intercollegiate athletics shall be received by the Foundation without approval of the University President. The Foundation shall not give, directly or indirectly, any gift to a political committee or committee of continuous existence as defined in Section 106.011, Florida Statutes, for any purpose other than those certified by a majority roll call vote of the Foundation's governing board at a regularly scheduled meeting as being directly related to the educational mission of the University.

## **ARTICLE X. LIABILITY, INDEMNIFICATION, AND INSURANCE**

SECTION 1. LIABILITY OF DIRECTORS AND OFFICERS. A Director or Officer of the Foundation shall not be personally liable for any debts, obligations, or liabilities of the Foundation to the extent provided under Section 617.0834, Florida Statutes.

SECTION 2. INDEMNIFICATION. Pursuant to Sections 607.0850 and 617.0831, Florida Statutes, as may be amended from time to time, any person who was or is a party, or is threatened to be made a party, to any threatened, pending, or completed action, suit, or proceeding whether civil, criminal, administrative, or investigative (other than an action by, or in the right of, the Foundation), by reason of the fact the individual is or was a Director, Officer, or employee of the Foundation shall be indemnified, to the extent permitted by existing or future law, against expenses (including attorneys' fees), liabilities, judgments, fines, and amounts paid in settlement actually and reasonably incurred by the individual in connection with such action, suit, or proceeding, including any appeal thereof, but only if the individual acted in good faith and in a manner the individual reasonably believed to be in, or not opposed to, the best interest of the Foundation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe the conduct was unlawful. In the event, however, of a settlement before entry of judgment, the indemnification will apply only upon approval of the Board as being in the best interests of the Foundation. The foregoing right of indemnification is in addition to and not exclusive of other rights to which the person (or person's heirs, executors, or administrators) may be entitled.

SECTION 3. EXCEPTIONS AND LIMITATIONS. The indemnification set forth above does not apply in the case of an action by, or in the right of, the Foundation, if prohibited by law, or if not authorized by the Board of Directors as provided in Section 4 below. Nothing in these Bylaws shall waive or derogate from application or protection of sovereign or other immunity under law or constitution. Any available insurance and immunity shall provide primary protection; however, the indemnification under these Bylaws shall be provided to the indemnified person when he or she is not promptly or adequately protected by insurance or immunity on the condition that the indemnified person first agree in writing to provide, to the extent possible, the Foundation the benefit of the indemnified person's right to insurance coverage or other protection, whether by assignment, cooperation, subrogation, or other means.

SECTION 4. AUTHORIZATION OF INDEMNIFICATION. Any indemnification hereunder shall be made by the Foundation only upon a determination that indemnification of the Director, Officer, or employee is proper in a specific case because the individual has met the standard of conduct set forth in Section 2 above. Such determination shall be made by the Board of Directors by a majority vote of a quorum consisting of Directors who were not parties to such action, suit or proceeding or, if such quorum is not obtainable, by a majority vote of a committee duly designated by the Board of Directors (in which Directors who are parties may participate) consisting solely of two or more Directors not at the time parties to the action, suit, or proceeding or by a committee comprised of individuals who were not parties to such action, suit, or proceeding where such committee is selected by a majority vote of the full Board of Directors (in which Directors who are parties may participate).

SECTION 5. INSURANCE. The Foundation shall obtain and maintain throughout its existence reasonable, commercially available director and officer liability insurance in the amount determined reasonable by the Board of Directors, which shall provide coverage to all Officers, Board members, and employees of the Foundation. The Foundation shall obtain and maintain throughout its existence reasonable, commercially available general liability insurance for the Foundation and its Officers, Board members, and employees in an amount determined reasonable by the Board of Directors.

SECTION 6. NO SELF-DEALING. Notwithstanding anything contained in this Article X to the contrary, the Foundation shall not indemnify any person otherwise entitled to such indemnification if such indemnification would constitute "self-dealing" as defined in Section 4941 of the Internal Revenue Code of 1986, as amended.

SECTION 7. BONDING. The Foundation shall obtain and maintain throughout its existence reasonable, commercially available bonding for all appropriate Officers, Board members, and employees of the Foundation to assure that each such person will faithfully discharge their duties. The Board of Directors shall decide by majority vote which Officers, Board members, and employees should be bonded and in what amounts.

## ARTICLE XI. AMENDMENTS

As provided in the Foundation's Articles of Incorporation, the Bylaws of this Foundation may be altered, amended, or repealed by a majority vote of the current Directors of the Foundation at any duly organized meeting at which a quorum is present, subject to final approval by the University President who shall submit the same to the University Board of Trustees for approval prior to becoming effective. Upon statutory enactments, amendments to existing laws or promulgation of rules affecting University direct support organizations by the University Board of Trustees or the University, the Board of Directors shall meet and alter, amend, or repeal any of the Bylaws to remain in conformity with such changes. A special meeting may be held for such purposes.

**CERTIFICATION OF ADOPTION**

I hereby certify that at a regular meeting of the Board of Directors of The Florida State University Real Estate Foundation, Inc., that the foregoing Bylaws were duly adopted pursuant to Section 617.0206, Florida Statutes, as approved by the required majority of the members of the Board of Directors of the Foundation on the 8th day of May, 2017.

  
\_\_\_\_\_  
Beth Azor, Chair

6-12-17  
Date