

**AMENDED AND RESTATED BYLAWS OF
UNIVERSITY OF SOUTH CAROLINA UPSTATE CAPITAL
DEVELOPMENT FOUNDATION, INC.**

a South Carolina Nonprofit Corporation

Revision Date October 1, 2019

ARTICLE ONE

Name, Location, and Offices

1.1 *Name.* The name of this corporation shall be "University of South Carolina Upstate Capital Development Foundation, Inc." (the "Corporation"). The provisions set forth herein constitute the bylaws of the Corporation (the "Bylaws").

1.2 *Registered Office and Agent.* The Corporation shall maintain its registered office at 800 University Way, Spartanburg, South Carolina. The registered agent of the Corporation shall be the person so designated in the Corporation's Articles of Incorporation, as the same may be amended from time to time, or in such other form as may be designated by the South Carolina Secretary of State for the purpose of identifying a registered agent for the Corporation.

1.3 *Other Offices.* The Corporation may have other offices at such place or places, within or without the State of South Carolina, as the Board of Directors (sometimes referred to as the "Board") may designate from time to time.

ARTICLE TWO

Purposes and Governing Instruments

2.1 *Nonprofit Corporation.* The Corporation is and shall be a nonprofit organization (ii) incorporated under the South Carolina Nonprofit Corporation Act of 1994 (the "Act") as a non-member public benefit corporation and (ii) established and operated in accordance with the provisions of Internal Revenue Code ("IRC") Section 501(c)(3), and 509(a)(1), (2), or (3) and the regulations promulgated thereunder.

2.2 *Supporting Organization.* The Corporation is a public charitable organization, the purpose of which is to serve as a supporting organization to the University of South Carolina Upstate Foundation (the "Foundation"); *provided, however,* no part of the net earnings thereof shall inure to the benefit of any private shareholder or individual; *provided further,* no substantial part of the activities of the Corporation shall consist of carrying on propaganda, or otherwise attempting to influence legislation, except to the extent permitted by law for an organization electing IRC Section 501(h); *provided further,* the Corporation shall not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office. Notwithstanding any other provisions of this Article, this Corporation will not carry on any other activities not permitted to be carried on by (a) a corporation described in IRC Sections 501(c)(3) and 509(a)(1), (2), or (3), as amended, or the corresponding provision of any future United States internal revenue law or (b) an organization, contributions to which are deductible under IRC Sections 170, 2055, 2106, and 2522, as amended, or any other corresponding provision of the IRC or other succeeding statute of like tenor and effect. The Corporation is further authorized to undertake any and all lawful activities necessary or incident to purposes established in these Bylaws, except as limited in the Corporation's Articles of Incorporation or otherwise prohibited in these Bylaws.

2.3 *Powers of Corporation.* The Corporation is formed as an independent, nonprofit, nonpartisan corporation. The purpose of the Corporation is to purchase, own, manage, lease, sell, convey and or transfer real estate and other capital developments to be used for the benefit of the University of South Carolina Upstate Foundation (the "Foundation") and to engage in any lawful act or activity for which the Corporation is organized pursuant to the Act. In furtherance of its mission and purpose, the Corporation shall have all of the general powers enumerated in Section 33-31-302 of the Act (or the corresponding provision of any subsequent law), as amended, except as may be modified by the Corporation's Articles of Incorporation,

these Bylaws, or any provision of the Internal Revenue Code governing the Corporation's qualification as a supporting organization of the Foundation.

2.4 *Dissolution.* The Corporation may be dissolved and its business and affairs terminated upon a vote of a majority of the directors then in office at the time the dissolution is approved at any regular, special or annual meeting of the Corporation. After dissolution is approved, the affairs of the Corporation shall be wound up as provided by law and Articles of Dissolution shall be filed with the Secretary of State. Upon dissolution of the Corporation and after all its debts and expenses have been paid, all its assets which may be legally so distributed shall be distributed to the Foundation.

2.5 *Governing Instruments.* The Corporation shall be governed by its Articles of Incorporation and these Bylaws, as the same may be amended from time to time pursuant to applicable law and the terms of the applicable governing documents.

ARTICLE THREE

Members

3.1 *Membership.* The Corporation shall have no members, as permitted by South Carolina Code Annotated Section 33-31-603.

ARTICLE FOUR

Finances

4.1 *Sources of Funding.* The Corporation may receive income, revenues and property from any source, including but not limited to, contributions, payments, grants, donations, bequests and devises from wills and foundations, receipts and fees for services, gifts of money and other property, and any other funds or assets; *provided, however,* all contributions, payments and receipts must be acceptable to the Board.

4.2 *Management of Funds.* The Board shall have sole authority and responsibility for the application and use of its assets, including payment of its expenses in accordance with such guidelines as may be established by the Board. All funds collected and other assets accepted and received by the Corporation, together with the income therefrom, shall be held, retained, managed and conserved in funds and administered, used and applied by the Corporation in the sole discretion of the Board in accordance with the purposes described in the Corporation's Articles of Incorporation and Article Two of these Bylaws. The Board may accept funds, revenues and properties which are qualified, limited or restricted in their use; *provided, however,* such qualifications, limitations and/or restrictions shall not conflict with the purposes set forth in the Corporation's Articles of Incorporation and these Bylaws. Unless otherwise prohibited, such restricted revenues and/or property may be commingled with other funds of the Corporation.

4.3 *Bank Accounts.* Funds received by the Corporation shall be held in one or more accounts in the name of the Corporation in such location(s) as may be designated by the Board. The Corporation shall hold, manage, invest and reinvest its funds in accordance with the investment policies of the Corporation and shall collect and receive the income therefrom. After deducting all necessary expenses incident to the operation and administration of the Corporation, such funds shall be utilized in accordance with the purposes set forth in the Corporation's Articles of Incorporation and these Bylaws. The Board may establish a committee for the purpose of supervising and managing investments. All such revenues received and held by the Corporation shall be distributed to such persons or entities and in such amounts as the Board shall deem appropriate, in keeping with the purposes of the Corporation.

4.4 *Contracts*: The Board may authorize any officer or officers, agent or agents of the Corporation; in addition to the officers and executive director so authorized by these Bylaws, to enter into any contract or execute and deliver any instrument in the name and on behalf of the Corporation. Such authority must be in writing and may be general or confined to specific instances.

4.5 *Compliance with IRC Requirements for Supporting Organizations*. Notwithstanding any other provision of these Bylaws, no expenditure shall be made in any manner or for any purpose whatsoever (i) which may jeopardize the status of the Corporation as a supporting organization under Sections 501(c)(3) or 509(a)(1), (2), or (3) of the Internal Revenue Code; or (ii) which may jeopardize the deductibility of contributions or payments by any person under the provisions of Sections 170, 2055, 2106 and 2522 of the Internal Revenue Code and the regulations thereunder.

ARTICLE FIVE

Board of Directors

5.1 *General Powers and Responsibilities*. The business and affairs of the Corporation shall be managed under the direction of its Board, which is vested with the power and authority to do and perform all acts and functions not inconsistent with the law, the Corporation's Articles of Incorporation and these Bylaws. The Board shall be responsible for the governance, maintenance, operation and conduct of the affairs of the Corporation; financial oversight of the Corporation, including the preparation of the annual budget, a long-term capital expenditure plan, and implementation of the budget and that plan; and the effective functioning of activities relating to the promotion of issues consistent with the Corporation's purposes. The Board may delegate the authority to perform certain functions to the management of the Corporation or to third parties with whom the Corporation contracts to perform such functions. However, the responsibility for the performance of any delegated functions shall at all times remain with the Board. In addition, the Board shall have at all times the authority to remove any officer, director, or member of any committee of the Board. In addition to the responsibility and authority of the Board otherwise set forth in the Articles of Incorporation of the Corporation, these Bylaws, and/or at law, the Board shall also have the following responsibilities and authority:

(a) Except as otherwise provided in the Articles of Incorporation of the Corporation or in these Bylaws, all the powers, duties and functions of the Corporation conferred by the Articles of Incorporation, these Bylaws, state statutes, common law, court decisions or otherwise, shall be exercised, performed or controlled by the Board.

(b) The Board shall have general charge of the affairs, property and assets of the Corporation. It shall be the duty of the Board to determine the policies or changes therein, actively to prosecute the purposes and objectives of the Corporation, and, to that end, to manage and control all of its property and assets. The Board may adopt, amend or rescind such rules and regulations for the conduct of its business and the business of the Corporation as shall be deemed advisable. Under no circumstances, however, shall any actions be taken which are inconsistent with the Articles of Incorporation and these Bylaws.

(c) The Board may, from time to time, appoint, as advisors, in addition to those persons serving on the Advisory Committee, persons whose advice, assistance and support may be deemed helpful in determining policies and formulating programs for carrying out the purposes and functions of the Corporation.

(d) The Board is authorized to employ such person or persons, including a director or officer, attorneys, trustees, agents, and assistants, as in its opinion are necessary or desirable for the

administration and management of the Corporation, and to pay reasonable compensation for the services and expenses performed or incurred by any such person or persons.

5.2 *Number and Qualification of Directors.* The Board shall be composed of nine (9) directors. Five (5) directors shall be appointed by the Foundation. The remainder shall be appointed in accordance with these Bylaws. The Board shall confer with the Foundation in connection with any anticipated vacancies to ensure that the Foundation can appoint suitable directors to maintain the required majority of Foundation-appointed directors. The number of directors may be increased or decreased by amendment to these Bylaws, provided, however, that the number of directors may not be reduced to fewer than three (3) and the majority of Foundation-appointed directors must be preserved.

5.3 *Term of Office and Removal.* Directors will serve a three (3) year term or until their successors are duly appointed and qualified in accordance with these Bylaws or until their earlier resignation, removal from office, death or incapacity. Directors may serve consecutive terms not to exceed a total of six (6) years, at which time a minimum one (1) year break in service must occur before a director may regain eligibility for re-election to the Board. A director may resign at any time by written instrument delivered to the Chair of the Board of the Corporation. A Board-elected director may be removed at any time and for any reason, or no reason at all, by the vote of two-thirds of the directors then in office. A Board action to remove a director is not valid unless each director is given at least seven days' written notice that the matter will be voted upon at a directors' meeting or unless notice is waived pursuant to Section 33-31-823 of the Act. A Foundation-appointed director may only be removed by the Foundation.

5.4 *Election of Directors.* Board-elected directors shall be elected at the annual meeting of the directors. If more than one person is nominated for such election, the nominee receiving the highest number of votes shall be elected. The Corporation shall make reasonable efforts to ensure that Foundation-appointed directors are appointed in time to ensure continuity of service on the Board.

5.5 *Vacancies and Termination.* A vacancy arising at any time and from any cause, including but not limited to the end of his or her term of office, death or resignation, shall be filled by and in the discretion of the Board at any annual, regular or special meeting; provided, however, a vacancy in a Foundation-appointed directorship must be filled by the Foundation. If more than one person is nominated for such election, the nominee receiving the highest number of votes shall be elected. An individual elected to fill a vacancy caused by the resignation or removal of a director shall serve the remainder of the unexpired term of the director being replaced. In any case, the Corporation shall make reasonable efforts to ensure all vacancies are filled no later than 90 days after their occurrence.

5.6 *Chair of the Board of Directors.* The Chair of the Board (the "Chair") shall be appointed or designated at the annual meeting of the Board by a majority vote of the directors. The Chair shall serve unless removed by a majority of the Board in office, with or without cause, or until he or she ceases to serve as a member of the Board, or retires as Chair.

5.7 *Staggered Terms of Office Upon Approval of Amended and Restated Bylaws.* Upon approval of these Amended and Restated Bylaws, the terms of directors shall be staggered such that three directors shall serve an initial term of one year, three directors shall serve an initial term of two years, and three directors shall serve a full term of three years. The directors elected to one or two-year terms shall be eligible for re-election to two additional three-year terms before becoming subject to the one-year break in service requirement in Section 5.3.

5.8 *Compensation.* The Directors of the Foundation Board shall serve without compensation unless otherwise voted upon by the Board.

5.9 *Fiscal Year.* The Foundation shall operate on the same fiscal year as the university.

ARTICLE SIX

Meetings of the Board of Directors

6.1 *Annual Meeting.* The annual meeting of the Board shall be held at such times and places as the Board may prescribe. The annual meeting may be held in conjunction with a regular meeting of the Board.

6.2 *Regular Meetings.* Regular meetings of the Board shall be held at least quarterly at the principal office of the Corporation or at such other place as the Board may designate.

6.3 *Special Meetings.* Special meetings of the Board may be called by or at the request of the Chair, or by a majority of the directors in office at that time.

6.4 *Notice of Meetings.* Notice of the time, place and purpose of any meeting of the Board shall be given by the Secretary in the manner prescribed in Article Seven.

6.5 *Waiver.* Attendance by a director at a meeting shall constitute waiver of notice of such meeting for such director.

6.6 *Quorum.* At meetings of the Board, a majority of the directors then in office shall be necessary to constitute a quorum for the transaction of business.

6.7 *Vote Required for Action.* Except as otherwise provided in the Act or these Bylaws, the act of a majority of directors at a meeting at which a quorum is present shall be the act of the Board.

6.8 *Action by Directors Without a Meeting.* Any action required or permitted to be taken at a meeting of the Board may be taken without a meeting if a consent in writing, setting forth the action so taken, is signed by all the members of the Board. Such consent shall have the same force and effect as a unanimous vote at a meeting. The signed consent or a signed copy shall be placed in the minute book.

6.9 *Telephone and Similar Meetings.* Directors may participate in and hold a meeting by telephone conference, video conference or similar communications equipment by means of which all persons participating in the meeting can simultaneously hear one another. Participation in such a meeting shall constitute presence in person at the meeting, except where a person participates in the meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened.

6.10 *Adjournments.* A meeting of the Board, whether or not a quorum is present, may be adjourned by a majority of the directors present to reconvene at a specific time and place. It shall not be necessary to give notice of the reconvened meeting or of the business to be transacted, other than by announcement at the meeting which was adjourned. At any such reconvened meeting at which a quorum is present, any business may be transacted which could have been transacted at the meeting which was adjourned.

ARTICLE SEVEN

Notice and Waiver

7.1 *Procedure.* Whenever these Bylaws require notice to be given to any director, the notice shall be given as prescribed in this Article Seven. Whenever notice is given to a director by mail, the notice shall be sent first-class mail by depositing the same in a post office or letter box in a postage prepaid sealed envelope addressed to the director at his address as it appears on the books of the Corporation; and such notice shall be deemed to have been given when received or five days after it is deposited in the United States mail, whichever occurs first. Notice by email shall be deemed to have been given when sent to the email address provided by the director for the purpose of receiving email communications from the Corporation. Notice may also be given in person or by telephone, and such notice shall be deemed effective when received.

7.2 *Waiver.* Whenever any notice is required to be given to any director by law, by the Articles of Incorporation or by these Bylaws, a waiver thereof in writing signed by the director entitled to such notice, whether before or after the meeting to which the waiver pertains, shall be deemed equivalent thereto.

ARTICLE EIGHT

Officers

8.1 *Number and Qualifications.* The officers of the Corporation shall consist of a Chair, a Vice Chair, a Secretary and a Treasurer. The Board shall from time to time create and establish the duties of such other officers and assistant officers as it deems necessary for the efficient management of the Corporation, but the Corporation shall not be required to have at any time any officers other than as stated herein. No two offices may be held by the same person.

8.2 *Election and Term of Office.* The officers of the Corporation shall be elected by the Board and shall serve for a term of one year, and until their successors have been elected and have qualified, or until their earlier death, resignation, removal, retirement, or disqualification.

8.3 *Other Agents.* The Board may appoint from time to time such agents as it may deem necessary or desirable, each of whom shall hold office at the pleasure of the Board, shall have such authority and perform such duties and shall receive such reasonable compensation, if any, as the Board may from time to time determine.

8.4 *Removal.* Any officer or agent elected or appointed by the Board may be removed by the Board whenever in its judgment the best interests of the Corporation will be served thereby by a vote of a majority of directors.

8.5 *Chair of the Board.* The Chair of the Board shall be elected as set forth in Section 5.6 of these Bylaws. The Chair of the Board shall be the principal officer of the Corporation and shall preside at all meetings of the Board. He or she shall be authorized to sign statements and reports required to be filed with state or federal officials or agencies; he or she shall be authorized to enter into any contract or agreement and to execute in the corporate name any instrument or other writing. He or she shall perform all duties incident to the office of Chair of the Board and such other duties as may be described in these Bylaws or otherwise prescribed by the Board from time to time.

8.6 *Vice Chair.* The Vice Chair shall, in the absence or disability of the Chair, perform the duties, and have the authority to exercise the powers of the Chair. He or she shall perform such other duties and have

such other authority and powers as the Board may from time to time prescribe.

8.7 *Secretary.* The Secretary shall attend all meetings of the Board and record all votes, actions and minutes of all proceedings in a book to be kept for that purpose and shall perform like duties for other committees when required. He or she shall give, or cause to be given, notice of all meetings of the Board and shall keep in safe custody the seal of the Corporation and, when authorized by the Board or the Chair of the Board, affix it to any instrument requiring it. He or she shall be under the supervision of the Chair of the Board and shall perform such other duties and have such other authority and powers as the Board may from time to time prescribe or as the Chair of the Board may from time to time delegate.

8.8 *Assistant Secretary.* The Board shall have the right, but not the obligation, to elect one or more assistant secretaries. Any assistant secretary shall, in the absence or disability of the secretary, perform the duties, and have the authority to exercise the powers, of the secretary. He or she shall perform such other duties and have such other powers as the Board may from time to time prescribe or as the Chair of the Board may from time to time delegate.

8.9 *Treasurer.* The Treasurer shall have the custody of the Corporation's funds and securities and shall keep full and accurate accounts of receipts and disbursements of the Corporation and shall deposit all monies and other valuables in the name and to the credit of the Corporation into depositories or other entities designated by the Board. He or she shall disburse funds of the Corporation as ordered by the Board, and prepare financial statements each month or at such other intervals as the Board shall direct. He or she shall perform such other duties and have such authority and powers as the Board may from time to time prescribe or as the Chair of the Board may from time to time delegate.

8.9 *Assistant Treasurer.* The Board shall have the right, but not the obligation, to elect one or more assistant treasurers. Any assistant treasurer shall, in the absence or disability of the Treasurer, perform the duties, and have the authority to exercise the powers, of the Treasurer. He or she shall perform such other duties and have such other powers as the Board may from time to time prescribe or as the Chair of the Board may from time to time delegate.

8.10 *Expense Reimbursement.* Officers shall be entitled to reimbursement for reasonable expenses incurred in the fulfillment of their duties as determined by the Board from time to time.

ARTICLE NINE

Staff

9.1 *Number and Qualifications.* The staff of the Corporation shall consist of an Executive Director and any other staff member whose duties the Board shall from time to time create and establish as it deems necessary for the efficient management of the Corporation, but the Corporation shall not be required to have at any time any staff other than an Executive Director.

9.2 *Appointment and Term of Office.* The staff members of the Corporation shall be appointed by the Board and shall serve at the pleasure of the Board subject to an annual review or evaluation.

9.3 *Removal.* Any staff member elected or appointed by the Board may be removed by the Board whenever in its judgment the best interests of the Corporation will be served thereby.

9.4 *Executive Director.* The Executive Director shall be the chief operating officer of the Corporation. He or she shall be authorized to sign checks, drafts, and other orders for the payment of money, notes or other evidences of indebtedness issued in the name of the Corporation as approved by the Board. He or she

shall be authorized to sign statements and reports required to be filed with state or federal officials or agencies; he or she shall be authorized to enter into any contract or agreement and to execute in the corporate name any instrument or other writing; and he or she shall see that all orders and resolutions of the Board are carried into effect. He or she shall perform such other duties and have such other authority and powers as the Board may from time to time prescribe. In case of a temporary absence of the Executive Director, the Executive Director may delegate in writing his or her authority pursuant to this Section 9.4 to a designee, whose authority to act as such shall be limited to accomplish the tasks that the Executive Director cannot complete due to his or her absence. The Executive Director shall report to the Chair all tasks performed by a designee as soon as practical after they are taken.

9.5 *Salaries and Reimbursement.* Staff members shall be reasonably compensated as determined by the Board.

ARTICLE TEN

Committees

10.1 *Committees.* By resolution adopted by a majority of the directors then in office, the Board may provide for such committees, consisting of directors of the Corporation, as it deems necessary or desirable, and discontinue any such committee at its pleasure. Each such committee shall have such powers and perform such specific duties or functions not inconsistent with the Articles of Incorporation or these Bylaws as may be prescribed by the Board. Appointments to, and the filling of vacancies on, such committees shall be made by the Chair of the Board, unless the Board otherwise provides.

10.2 *Term of Appointment.* Each member of any committee shall continue as such until the next annual meeting of the Board and until his or her successor is appointed, unless the committee shall be sooner terminated, such member shall be removed from such committee or such member shall cease to qualify as a member thereof.

10.3 *Committee Chair.* The Chair of the Board shall appoint a member of a committee to serve as chair of such committee.

10.4 *Quorum.* Unless otherwise provided in the resolution of the Board designating a committee, a majority of a committee shall constitute a quorum, and the act of a majority of members of such a committee shall be the act of that committee.

ARTICLE ELEVEN

Advisory Committee

11.1 *Advisory Committee.* The Corporation may have an Advisory Committee, which shall consist of such number as the Board may designate from time to time, to be composed of officers of the Corporation, or others designated by the Board.

11.2 *Purpose.* The purpose of the Advisory Committee shall be to review the activities of the Corporation, as well as possible projects and investments, and to make non-binding recommendations to the Board regarding the Corporation's activities, projects and investments. Members of the Advisory Committee, in their capacity as Advisory Committee members, shall have no voting right with respect to management of the Corporation.

11.3 *Procedures.* The Advisory Committee shall establish its own procedures and rules for operation.

ARTICLE TWELVE

Indemnification and Insurance

12.1 *Indemnification.* If any person who was or is a party to or is threatened to be made a party to any threatened, pending or completed action, suit or proceedings, whether civil, criminal, administrative or investigative, seeks indemnification from the Corporation against expenses, including attorneys' fees (and in the case of actions other than those by or in the right of the Corporation, judgments, fines and amounts paid in settlement), actually and reasonably incurred by him or her in connection with such action, suit or proceeding by reason of the fact that such person is or was a director, officer, employee, trustee or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, employee, trustee, or agent of another corporation, domestic or foreign, nonprofit or for profit, partnership, joint venture, trust, or other enterprise, then, unless such indemnification is ordered by a court, the Corporation shall determine, or cause to be determined, in the manner provided under South Carolina law, whether or not indemnification is proper, and the person claiming such indemnification shall be indemnified to the fullest extent now or hereafter permitted by South Carolina law.

12.2 *Indemnification Not Exclusive of Other Rights.* The indemnification provided in Section 12.1 shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under the Articles of Incorporation or Bylaws, any agreement, vote of disinterested directors, or otherwise, both as to action in his or her official capacity and as to action in another capacity while holding such office, and shall apply not only to active directors, officers, employees, trustees or agents of the Corporation, but also to persons who have ceased to be a director, officer, employee, trustee, or agent, and shall inure to the benefit of the heirs, executors, administrators and personal representatives of such person.

12.3 *Insurance.* To the extent permitted by South Carolina law, the Corporation may purchase and maintain insurance on behalf of any person who is or was a director, officer, employee, trustee, or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, employee, trustee, or agent of another corporation, domestic or foreign, nonprofit or for profit, partnership, joint venture, trust, or other enterprise.

12.4 *Applicability.* Every reference in this Article Twelve to a director or an officer of the Corporation shall include every director and officer thereof or former officer and director thereof.

ARTICLE THIRTEEN

Amendments and Repeal of Bylaws

13.1 *Amendment and Repeal.* These Bylaws may be amended or repealed and new Bylaws may be adopted by a majority vote of the directors then in office.

13.2 *Notice of Meetings at which Amendment or Repeal to be Considered.* Any notice of a meeting of the Board at which these Bylaws are to be amended or repealed or new Bylaws adopted must be given at least ten (10) days previously thereto and such notice shall include notice of such proposed action.

ARTICLE FOURTEEN

Miscellaneous

14.1 *Regulation.* The regulation of the business and conduct of the affairs of the Corporation shall conform to federal and state income tax laws and any other applicable federal and state law, and such regulation shall be determined by these Bylaws, as they may be amended from time to time. In the interpretation of these Bylaws, wherever reference is made to the United States Code of Laws, including the Internal Revenue Code, the South Carolina Code of Laws, or any other statute, or to any section thereof, such reference shall be construed to mean such code, statute or section thereof, and the regulations thereunder, as the case may be, as heretofore or hereafter amended or supplemented or as superseded by laws covering equivalent subject matter.

14.2 *Books and Records.* The Corporation shall keep correct and complete books and records of account and shall also keep minutes of the proceedings of its Board and committees having any of the authority of the Board.

14.3 *Corporate Seal.* The Corporation's seal (of which there may be one or more exemplars) shall be in such form as the Board may from time to time determine.

14.4 *Fiscal Year.* The Board is authorized to fix the fiscal year of the Corporation and to change the same from time to time at it deems appropriate.

14.5 *Internal Revenue Code.* All references in these Bylaws to sections of the Internal Revenue Code shall be considered references to the Internal Revenue Code of 1986, as from time to time amended, to the corresponding provisions of any applicable future United States Internal Revenue Law, and to all regulations issued under such sections and provisions.

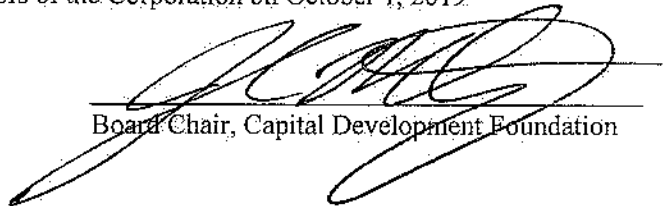
14.6 *Construction.* Whenever the context so requires, the masculine shall include the feminine and neuter, and the singular shall include the plural, and conversely. If any portion of these Bylaws shall be invalid or inoperative, then, so far as is reasonable and possible, the remainder of these Bylaws shall be considered valid and operative and effect shall be given to the intent manifested by the portion held invalid or inoperative to the extent possible.

14.7 *Conflict between Bylaws, Articles, and the Act.* The Articles and the Act (as either may be amended from time to time) are incorporated herein by reference. Any conflict between the terms of these Bylaws, the Articles, or the Act shall be resolved in the following order: 1) the Act; 2) the Articles; and 3) these Bylaws.

14.8 *Conflicts of Interest.* The Board shall adopt and enforce a Conflict of Interest Policy, which shall be distributed to each officer, director, employee or volunteer acting on behalf of the Corporation. Each such person shall annually sign a form acknowledging receipt of the statement and declaring any conflicts of interest affecting the Corporation. Any director who shall apply for any staff position with the Corporation or any future organization controlled by the Corporation shall resign from the Board prior to taking any affirmative act toward gaining such employment. Any director who shall have failed to resign prior to taking such affirmative act shall be deemed to have resigned upon the taking of the act.

The undersigned Chair of the Board of Directors of the University of South Carolina Upstate Capital Development Foundation, Inc. hereby certifies that the foregoing Amended and Restated Bylaws were duly adopted at a meeting of the Board of Directors of the Corporation on October 1, 2019.

10/31/19
Date


Board Chair, Capital Development Foundation