

AMENDED AND RESTATED
BYLAWS
OF
THE MONTEREY PENINSULA COLLEGE FOUNDATION,
a California nonprofit public benefit corporation

Adopted and Effective
August 14, 2019

**BYLAWS OF THE MONTEREY PENINSULA COLLEGE FOUNDATION,
a California nonprofit public benefit corporation**

**ARTICLE I
PURPOSES**

Section 1.1 General Purpose. The Monterey Peninsula College Foundation (the “Corporation”) is a nonprofit public benefit corporation and is not organized for the private gain of any person. This Corporation is organized under the California Nonprofit Public Benefit Corporation Law exclusively for charitable purposes within the meaning of Internal Revenue Code ' 501(c)(3) (or the corresponding section of any future federal internal revenue law).

Section 1.2 Specific Purpose. The specific purpose of this Corporation is to support education at, and the educational purposes of, Monterey Peninsula College, as an auxiliary organization of Monterey Peninsula College as the term “auxiliary organization” is defined and applied in Sections 72670 through 72682 of the Education Code of the State of California (hereafter, the “Education Code”) and the regulations adopted in connection therewith.

Section 1.3 Limitations. Notwithstanding any other provision of these bylaws, this Corporation shall not, except to an insubstantial degree, engage in any activities or exercise any powers that are not in furtherance of the purposes of this Corporation, and this Corporation shall not carry on any other activities not permitted to be carried on (a) by a corporation exempt from federal income tax under Internal Revenue Code Section 501(c)(3) (or the corresponding provision of any future federal internal revenue law), or (b) by a corporation, contributions to which are deductible under Internal Revenue Code Section 170(c)(2) (or the corresponding provision of any future federal internal revenue law).

Section 1.4 Dedication of Assets. This Corporation’s assets are irrevocably dedicated to public and charitable purposes. No part of the net earnings, properties, or assets of this Corporation, on dissolution or otherwise, shall inure to the benefit of any private person or individual, or to any Director or officer of this Corporation. On liquidation or dissolution, all properties and assets remaining after payment, or provision for payment, of all debts and liabilities of this Corporation, shall be distributed to one or more funds or organizations which are organized and operated exclusively for charitable or educational purposes and which have established their tax exempt status under Internal Revenue Code Section 501(c)(3) (or the corresponding provisions of any future federal internal revenue law), or, to a governmental unit provided that the properties and assets so distributed are restricted for use exclusively for public purposes ; provided, that if Monterey Peninsula College qualifies for such distribution under the preceding provisions of this sentence, the distribution shall be solely to Monterey Peninsula College.

Section 1.5 College Regulations. The purposes and operations of this Corporation shall be conducted in conformity with regulations established by the Board of Governors of the California Community Colleges and the district governing board of the Monterey Peninsula College, as required by the provisions of the Education Code.

ARTICLE II MEMBERSHIP

Section 2.1 Voting Members. This Corporation shall have no voting members within the meaning of the California Nonprofit Public Benefit Corporation Law as it is now in effect or as it may hereafter be amended. Any action which otherwise would require approval by a majority of all members or approval by the members requires approval only of the Board of Directors. All rights which otherwise would vest in the members including, without limitation, the right to elect Directors, vest in the Board of Directors.

Section 2.2 Membership Designations. This Corporation may, from time to time, in its discretion, create certain categories of membership designations to encourage fundraising, and participation in the Corporation's activities. Membership designations may be created by categories, and membership categories may be given varying benefits. No such membership shall, however, at any time, ever constitute or grant a right as a voting member within the meaning of the California Nonprofit Public Benefit Corporation Law, as now in effect or as it may hereafter be amended.

ARTICLE III OFFICES

The principal office of the Corporation shall be located within the City of Monterey, California, at such place as the Board of Directors shall from time to time determine. The Board of Directors is granted full power and authority to change the principal office from one location to another provided it shall at all times be within the boundaries of the Monterey Peninsula College District. The Corporation may establish or maintain additional offices as the Board of Directors may determine.

ARTICLE IV BOARD OF DIRECTORS

Section 4.1 Powers of the Board. The activities and affairs of this Corporation shall be conducted and all corporate powers shall be exercised by or under the direction of the Board of Directors. The Board of Directors may delegate the management of the activities of this Corporation to any person or persons, management company, or committee or committees however composed, provided that the activities and affairs of this Corporation shall be managed and all corporate powers shall be exercised under the ultimate direction of the Board.

Section 4.2 Number of Elected Directors. Those persons who are elected as Directors of this Corporation pursuant to the procedures of Section 4.6 are "Elected Directors." The number of Elected Directors shall be no less than seven (7) nor more than twenty-five (25) unless and until changed by an amendment to these bylaws. The exact number of Elected Directors shall be established by the Board of Directors from time to time, within the limits

specified above, by a resolution stating such exact number which is duly adopted by the Board of Directors.

Section 4.3 Ex Officio Directors. In addition to the Elected Directors, the persons designated in this Section 4.3 shall each serve as a Director of the Corporation by virtue of office (the “Ex Officio Directors”). The President of Monterey Peninsula College (or, if there is not a President of the College in office, the person designated by the governing board of the Monterey Peninsula College District to act as president of the college), and the Vice President Administrative Services of Monterey Peninsula College shall each be a Director of the Corporation with all voting and other rights of a Director. Each such Ex Officio Director shall hold office as a Director for the period in which such person holds the office by virtue of which such person is a Director of the Corporation.

Section 4.4 Representative Directors. The following Directors shall be nominated and elected in accordance with the procedures set forth below and in Section 4.6. Each Director selected in accordance with this Section 4.4 is herein identified as a “Representative Director” and cumulatively as the “Representative Directors.”

(a) The Board of Trustees of Monterey Peninsula College may nominate one person as a Representative Director, who shall be a member of the Monterey Peninsula College Board of Trustees.

(b) The governing board of The Monterey Peninsula College Gentrain Society may nominate one person as a Representative Director, who shall be a member of the Gentrain Society.

(c) The MPC Employee Association may nominate one person as a Representative Director, who shall be a member of that Association.

(d) The MPC Faculty Senate may nominate one person as a Representative Director, who shall be a member of the MPC Faculty.

Nominations for Representative Directors shall be voted upon by the Board of Directors. The terms of each Representative Director shall be the same as those of Elected Directors, as described in Section 4.6 that follows. At their discretion, the Representing bodies may opt to nominate a different Representative during a three-year term should they wish to rotate the opportunity among members. In such a case, the new nominee would replace the current Representative following Board approval. The Representative Directors shall each have the right to vote as a Director, and shall have all other rights of a Director as specified in these bylaws or by law.

Section 4.5 Restriction on Interested Persons. No more than forty-nine percent (49%) of the persons serving on the Board of Directors may be “interested persons.” An interested person is (a) any person compensated by this Corporation for services rendered to it within the previous 12 months, whether as a full-time or part-time employee, independent

contractor or otherwise, excluding any reasonable compensation paid to a Director as a director, and (b) any brother, sister, ancestor or descendant, spouse, brother-in-law, sister-in-law, son-in-law, daughter-in-law, mother-in-law or father-in-law of any such person. However, any violation of this paragraph shall not affect the validity or enforceability of any contract or transaction entered into by this Corporation.

Section 4.6 Nominations, Election and Term of Office.

(a) Nominations. The Nominating Advisory Group shall identify persons whom it considers appropriate candidates for election as Elected Directors, and shall prepare a report to the Board in which it recommends the number of persons to be elected as Elected Directors and it nominates qualified candidates for election. The persons nominated for election as Elected Directors by the Nominating Advisory Group, together with any other persons nominated for election by a Director present at the meeting at which the election is to be held, as well as nominated Representative Directors shall be voted upon. Each Director at the meeting is entitled to vote to accept or reject each candidate who is nominated. The candidates receiving the highest number of affirmative votes, up to the total number of vacancies to be filled in that election shall be elected. Votes against a candidate and votes withheld shall have no effect.

(b) Election. Elected Directors shall be elected at each annual meeting of the Board of Directors and may also be elected at any regular or special meeting of the Board of Directors. Each Director, including a Director elected to fill a vacancy, shall hold office until the expiration of the term for which he was elected and until his successor is elected and qualified.

(c) Term of Office. The term of each Elected Director who is elected for a full term of office shall begin on January 1 of the year following the date of his or her election, or at such other time as is expressly determined by the Board, and shall continue for a term of three (3) years, or until a successor is elected. A Director who is elected to fill a vacancy on the Board of Directors pursuant to the provisions of Section 4.7 shall hold office until the expiration of the term of office of the Director whose departure created the vacancy which is filled, unless the Board of Directors shall otherwise expressly determine.

(d) Limitation on Terms. After an Elected Director has served two full terms of three years each, plus any portion of an unexpired term to which that Director may have been elected, one year shall elapse before such person is eligible for re-election to the Board of Directors. An Elected Director who is elected to fill less than a full term under the staggered term procedures of Section 4.8, is likewise eligible to serve two full terms of three (3) years each plus that partial term.

(e) Past President Extended Term. Notwithstanding any other provision of this Section 4.6, a Director who is serving as the Past President shall continue in office as Director for the period that person holds the office of Past President.

Section 4.7 Removal of a Director. Any individual Elected Director may be removed from office for failure to participate in the activities of the Board of Directors by lack of

attendance at meetings or otherwise as determined by the Board of Directors, or for any other reason, in the discretion of the Board of Directors, by the affirmative vote of a majority of the Board of Directors.

Section 4.8 Resignation. Any Elected Director may resign effective upon giving written notice to the Corporation, unless the notice specifies a later time for the effectiveness of such resignation. If the resignation is effective at a future time, a successor may be elected to take office when the resignation becomes effective. No Elected Director may resign if this Corporation would then be left without a duly elected Director or Directors in charge of its affairs.

Section 4.9 Vacancies in the Board of Directors; Declaration of Vacancy. A vacancy in the Board of Directors shall exist on the occurrence of the death, resignation or removal of an Elected Director, or if the authorized number of Elected Directors is increased. Vacancies in the Board of Directors shall be filled in the same manner prescribed in these bylaws for the election of Elected Directors, provided that such vacancies shall be filled as they occur and not on an annual basis. No reduction of the authorized number of Elected Directors shall have the effect of removing any Director prior to the expiration of that Directors term of office.

Section 4.10 Preservation of Equivalent Staggered Terms. If the authorized number of Elected Directors is increased or decreased, or if the expiration of terms of Elected Directors is not substantially equally divided among the next succeeding three (3) years for any reason, the Board of Directors shall set terms of office for one, two or three years for the Elected Directors next to be elected in order to preserve, as precisely as possible, an even number of Elected Director terms expiring in each year.

Section 4.11 Place of Meetings. Meetings of the Board of Directors may be held at any place within the boundaries of the Monterey Peninsula College District, or at such other location as is approved by the Board of Directors. The location of meetings of the Board of Directors shall be designated in the notice of the meeting.

Section 4.12 Annual Meetings. The Board of Directors shall hold an annual meeting for the purpose of electing the Directors and officers of this Corporation, and to take all other action as may properly come before the Board of Directors. Annual meetings of the Board of Directors shall be held during the month of November of each year on such date and at such time and location as shall be designated by the Board of Directors.

Section 4.13 Regular Meetings. Regular meetings of the Board of Directors shall be held no less frequently than quarterly on such dates and at such times and locations as the Board of Directors shall determine.

Section 4.14 Special Meetings. Special meetings of the Board of Directors for any purpose or purposes may be called at any time by the President or any three (3) Directors. Notice of the time and place of special meetings shall be delivered personally or by telephone to each Director or sent by first-class mail, telegram, telephone, facsimile, electronic mail, or other

electronic means. If the notice is mailed, it shall be deposited in the United States mail at least four (4) days before the time of the holding of the meeting addressed to each Director at that Director=s address as it is shown on the records of this Corporation. If the notice is delivered personally, by telephone, by telegram, by facsimile, electronic mail, or other electronic means, it shall be delivered personally at least forty-eight (48) hours before the time of the holding of the meeting. An oral notice given personally or by telephone may be communicated either to the Director or to a person at the office of the Director who the person giving the notice has reason to believe will promptly communicate it to the Director. The notice need not specify the purpose of the meeting, unless otherwise required by these bylaws or by the Brown Act or other applicable law.

Section 4.15 Quorum and Action of the Board. A quorum of the Board of Directors for the transaction of business, except for purposes of adjournment as provided in Section 4.18 of these bylaws, is a majority of the authorized number of Elected Directors and the then current actual number of serving Ex Officio and Representative Directors. Unless a greater number is required by law, the articles of incorporation or these bylaws, every action taken or decision made by a majority of the Directors present at a duly held meeting at which a quorum is present shall be an act of the Board of Directors, subject to the more stringent provisions of the California Nonprofit Public Benefit Corporation Law, including, without limitation, those provisions relating to (a) approval of contracts or transactions in which a Director has a direct or indirect material financial interest, (b) approval of certain transactions between corporations having common directorships, (c) creation of and appointments to committees of the Board, and (d) indemnification of Directors. A meeting at which quorum is initially present may continue to transact business, despite the withdrawal of some Directors, if any action taken or decision made is approved by at least a majority of the required quorum for that meeting.

Section 4.16 Participation in Meetings by Conference Telephone. Members of the Board of Directors may participate in a meeting through the use of conference telephone, electronic video screen communication, or other communications equipment if all of the following apply: (a) each member participating in the meeting can communicate with all of the other members concurrently, (b) each member is provided the means of participating in all matters before the Board of Directors, including the capacity to propose, or to interpose an objection to, a specific action to be taken by this Corporation, (c) this Corporation adopts and implements some means of verifying both that (i) a person communicating by telephone, electronic video screen, or other communications equipment is a Director or other person entitled to participate in the Board meeting, and (ii) all actions of, or votes by, the Board of Directors are taken or cast only by the Director and not by another person not permitted to participate as a director, and (d) such meeting and participation are in compliance with the notice and other requirements of the Brown Act. Participation in a meeting pursuant to this Section 4.16 constitutes presence in person at such meeting.

Section 4.17 Waiver of Notice. To the extent permitted by the Brown Act, notice of a meeting need not be given to any Director who signs a waiver of notice or a written consent to holding the meeting or an approval of the minutes thereof, whether before or after the meeting, or who attends the meeting without protesting, prior thereto or at its commencement, the lack of

notice to such Director. All such waivers, consents, and approvals shall be filed with the corporate records or made a part of the minutes of the meetings.

Section 4.18 Adjournment. A majority of the Directors present, whether or not a quorum is present, may adjourn any meeting to another time and place. If the meeting is adjourned for more than twenty-four (24) hours, notice of any adjournment to another time or place shall be given, prior to the time of the adjourned meeting, to the Directors who were not present at the time of the adjournment.

Section 4.19 Action Without Meeting. Any action required or permitted to be taken by the Board of Directors may be taken without a meeting, if all members of the Board individually or collectively consent in writing to such action. Such unanimous written consent or consents shall be filed with the minutes of the proceedings of the Board and shall have the same force and effect as the unanimous vote of the Board of Directors.

Section 4.20 Representative Voting. The vote of a member of the Board of Directors may be cast only by the individual Director. No vote of a Director by proxy, power of attorney or other representative form is valid for any purpose.

Section 4.21 Advice and Counsel. As required by the Education Code, the Board of Directors shall have the advice and counsel of at least one attorney admitted to practice law in the State of California, and at least one licensed certified public accountant. Neither the attorney at law nor the certified public accountant need be members of the Board of Directors. Membership on the Board of Directors by an attorney or a certified public accountant shall not constitute satisfaction of this requirement unless the person provides to the Corporation written acknowledgement that such person is providing counsel as an attorney or a certified public accountant, as the case may be.

Section 4.22 Brown Act Compliance. As required by the Education Code, the Board of Directors shall conduct its business in public meetings in accordance with the provisions of Chapter 9 (commencing with Section 54950) of Part 1 of the Government Code of the State of California (commonly known as the Brown Act).

Section 4.23 Funds of the Corporation. The Board of Directors shall approve all expenditures and fund appropriations of the Corporation. Appropriations of funds for use outside of the normal business operations of the Corporation shall be approved in accordance with district policy and regulations by an officer who is designated by the governing board of the Monterey Peninsula College District for the purpose of granting such approval. A report on the finances of the Corporation, including a detailed income and expense report current for the fiscal year through the immediately preceding month end, shall be presented in writing to each regular meeting of the Board of Directors.

ARTICLE V
COMMITTEES, ADVISORY GROUPS, AND WORKING GROUPS

Section 5.1 Committees. A “Committee” is a group which is authorized by these Bylaws or by action of the Board to independently make and implement decisions in the name of and on behalf this Corporation. Each Committee shall conduct its business in public meetings in accordance with the provisions of the Brown Act.

Section 5.2 Executive Committee. The Executive Committee shall, during the intervals between meetings of the Board of Directors, have and exercise all of the powers of the Board of Directors in the management of the business and affairs of this Corporation, subject only to such restrictions or limitations as the Board of Directors may from time to time specify; provided, however, that the Executive Committee shall have no power or authority with respect to:

- (a) The approval of any action for which the California Nonprofit Public Benefit Corporation Law requires approval of the Board of Directors or of a majority of the Board of Directors;
- (b) The filling of vacancies on the Board of Directors or in any committee which has the authority of the Board of Directors;
- (c) The fixing of compensation of the Directors for serving on the Board of Directors or on any committee of the Board;
- (d) The amendment or repeal of bylaws or the adoption of new bylaws;
- (e) The amendment or repeal of any resolution of the Board which by its express terms is not so amendable or repealable;
- (f) The appointment of committees of the Board or the members thereof;
- (g) The expenditure of corporate funds to support a nominee for Director after there are more people nominated for Director than can be elected; or
- (h) The approval of any self-dealing transaction, as defined in section 5233(a) of the California Nonprofit Public Benefit Corporation Law or any successor provision thereto, except as special approval is provided pursuant to section 5233(d)(3).

Section 5.3 Composition of the Executive Committee. The Executive Committee shall only consist of persons who are duly elected and in office as Directors of this Corporation, and any person ceasing to meet or not meeting such qualification for Executive Committee membership shall, by such fact, cease to be a member of the Executive Committee. The

following persons shall serve as members of the Executive Committee by virtue of their office: the President, the Past President (if there is a person who holds the office of Past President pursuant to Section 6.10), each Vice President, the Secretary, the Chief Financial Officer, and the President of Monterey Peninsula College. The Board of Directors may, in its discretion, select up to two other members of the Executive Committee who shall be voting members of the Board of Directors, and shall be elected as members of the Executive Committee by vote of the Board of Directors for a term from the time of election until the next annual meeting of the Board of Directors. Persons elected as members of the Executive Committee may serve any number of successive terms as such, so long as such persons remain as voting members of the Board of Directors.

Section 5.4 Standing Committees. The Corporation shall have the standing committees which are identified below, each of which shall have the duties, functions and composition as are set forth herein.

(a) Investment Committee. The principal functions are to administer the investable assets of the Corporation in accordance with the Investment Policy adopted by the Board and pursuant to such other directions of the Board as are adopted from time to time.

(b) Audit Committee. The Audit Committee shall oversee (i) the integrity of the financial statements of the Corporation; (ii) the qualifications, independence and performance of the independent auditor (subject to such limitations as are directly or indirectly imposed by the fact that the auditor is selected by Monterey Peninsula College and not this Corporation); and (iii) the performance of the system of internal control of the Corporation with respect to financial reporting. The Audit Committee shall provide an open avenue of communication between the Board of Directors, the executive officer of the Corporation and the independent auditor. The Audit Committee shall act in a manner which complies with and is consistent with the audit criteria and audit committee requirements of the Education Code and the California Nonprofit Integrity Act of 2004, together with such other requirements as apply to the function of the Audit Committee by applicable law or generally accepted accounting standards. The Audit Committee shall be composed of no less than three persons. The Chair of the Audit Committee shall be a member of the Board of Directors. Neither the Chief Financial Officer, the President, nor any employee of the Corporation may serve as a member of the Audit Committee.

(c) Finance Committee. The principal functions are to monitor the financial conditions of the Corporation, review the annual budget, and make recommendations to the Board concerning financial policy. The Finance Committee Chair is the Chief Financial Officer.

(d) Alumni Committee. The principal functions are to promote the alumni activities of the College, organize alumni social functions and fundraise. The Alumni Committee shall conduct its activities in accordance with the charter for that committee as adopted by the Board, and pursuant to such other directions of the Board as are adopted from time to time.

(e) Athletics Booster Committee. The principal function is to fundraise for the athletics program of the College. The Athletics Booster Committee shall conduct its activities in accordance with the charter for that committee as adopted by the Board, and pursuant to such other directions of the Board as are adopted from time to time.

Section 5.5 Special Committees. In addition to the standing committees, the Board of Directors may establish any other committees, from time to time, with such powers as the Board may specify.

Section 5.6 Advisory Groups. An “Advisory Group” provides analysis of and recommendations to the Board of Directors on specific issues or areas such as board and officer nominations, development, faculty and staff advancement awards, finance, and other aspects of the programs and functions of the Corporation. Membership of an Advisory Group shall be comprised of less than a quorum of members of the Board. An Advisory Group does not have the authority to act in the name of the Corporation, and where the act of the Corporation is required the Advisory Group shall recommend an action to the Board. Meetings of an Advisory Group are not public, and are not subject to the Brown Act. Advisory Groups are established by action of the Board.

Section 5.7 Working Groups. A “Working Group” is established for the purpose of accomplishing tasks in support of the activities of the Corporation in areas such as President’s Circle fundraising, and other fund development activities. Membership of a Working Group shall be comprised of less than a quorum of members of the Board. A Working Group does not have authority to act in the name of the Corporation. Actions of a Working Group shall be in furtherance of its program responsibility; but, where an act of the Corporation is required, the Working Group shall recommend such action to the Board. Meetings of a Working Group are not public, and are not subject to the Brown Act. Working Groups are established by action of the Board.

Section 5.8 Committee, Advisory Group and Working Group Composition.

(a) Appointment. Except as otherwise specified by these Bylaws, or by action of the Board of Directors, appointment to Committees, to Advisory Groups and to Working Groups shall be made by the President for a one (1) year term beginning on January 1 of each year. Individuals who are not Directors may serve on Advisory Groups and Working Groups, and on Committees other than the Executive Committee.

(b) Committee Chairs. Committee , Advisory Group and Working Group Chairs shall be appointed by the President. Each Chair shall be a member of the Board of Directors at all times during which such person serves as a Chair.

Section 5.10 Removal. Any member of a Committee, Advisory Group or Working Group may be removed, at any time, with or without cause, by action of the Board of Directors. Any member of a Committee or a task force may resign by giving notice to the Corporation.

Section 5.11 Proceedings. Regular and special meetings, and actions, of the Executive Committee, shall be governed by the provisions of Article IV applicable to meetings and actions of the Board of Directors. All other Committees, Advisory Groups and Working Groups may make such rules as they deem expedient for the regulation and carrying on of meetings and proceedings, unless otherwise specified by the Board of Directors or these bylaws. A majority of the members of a Committee, Advisory Group or Working Group shall constitute a quorum and the act of a majority of the members of a Committee, Advisory Group or Working Group who are present at any meeting at which a quorum is present shall be the act of such Committee, Advisory Group or Working Group. Each Committee shall keep minutes of its acts and proceedings and shall report to the Board of Directors when and as required by the Board of Directors.

ARTICLE VI OFFICERS

Section 6.1 Officers. The elected officers of this Corporation shall be the President, a Vice President, a Secretary, and a Chief Financial Officer. This Corporation also may elect, at the discretion of the Board, additional Vice-Presidents, one or more Assistant Secretaries, one or more Assistant Chief Financial Officers, and such other officers as may be elected by the Board. Any number of offices may be held by the same person, except that neither the Secretary nor the Chief Financial Officer may serve concurrently as President.

Section 6.2 Qualification. The elected officers of this Corporation shall be solely persons who are Elected Directors of the Corporation.

Section 6.3 Election. The elected officers of this Corporation (except such officers as may be elected or appointed in accordance with the provisions of Section 6.5), shall be chosen annually by, and shall serve at the pleasure of the Board, and shall hold their respective offices for a term of one (1) year or until their resignation, removal, or other disqualification from service, and until their respective successors are elected and qualify. The term of office of each elected officer shall begin on January 1 of the year following election or at such other time as is expressly approved by the Board.

Section 6.4 Removal and Resignation. Elected officers serve at the pleasure of the Board of Directors. Any elected officer may be removed with or without cause by the Board of Directors at any time. An elected officer may resign at any time by giving written notice to the Corporation. Any such resignation shall take effect at the date of the receipt of such notice or at any later time specified therein and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 6.5 Vacancies. A vacancy in an elected office because of death, resignation, removal, disqualification, or any other cause shall be filled in the manner prescribed in these bylaws for regular election or appointment to such office, provided that such vacancies shall be filled as they occur and not on an annual basis.

Section 6.6 President. The President shall, if present, preside at all meetings of the Board of Directors, and shall exercise and perform such other powers and duties as may be from time to time designated by the Board.

Section 6.7 Vice Presidents. In the absence or disability of the President, the Vice Presidents, in order of rank as fixed by the Board of Directors or, if not ranked, the Vice President who is designated by the Board, shall perform all the duties of the President and, when so acting, shall have all the powers of, and be subject to all the restrictions upon, the President. Each Vice President shall have such other powers and perform such other duties as may from time to time be prescribed for them respectively by the Board of Directors.

Section 6.8 Secretary. The Secretary shall keep or cause to be kept, at the principal office of this Corporation or such other place as the Board of Directors may order, a book of minutes of all meetings of the Board and its committees. The minutes shall include the time and place of meetings, whether regular or special, and if special, how authorized, the notice thereof given, the names of those present at Board and committee meetings, and the proceedings thereof. The Secretary shall keep, or cause to be kept, at the principal office in the State of California the original or a copy of this Corporation's articles and bylaws, as amended to date. The Secretary shall give, or cause to be given, notice of all meetings of the Board and its committees required by law or by these bylaws to be given, shall keep the seal of this Corporation in safe custody, and shall have such other powers and perform such other duties as may be prescribed by the Board of Directors.

Section 6.9 Chief Financial Officer. The Chief Financial Officer shall keep and maintain, or cause to be kept and maintained, adequate and correct books and accounts of the properties and business transactions of this Corporation, and shall have such other powers and perform such other duties as may be prescribed by the Board.

Section 6.10 Past President. The Past President shall be the person whose term as President has most recently expired, except as otherwise provided herein. The Past President shall be a member of the Executive Committee and shall perform such other duties as are designated by the Board. The Past President shall serve for a term of one year following expiration of his or her term as President. If the same person is elected as President for two or more successive terms of office, there shall be no person who holds the office of Past President during the second or subsequent successive terms.

Section 6.11 Executive Director. The Executive Director of the Corporation shall be the person who is employed by the Corporation as its chief executive officer. The Executive Director shall be selected by the Board of Directors and shall serve at the pleasure of the Board of Directors, subject to any rights existing under an employment contract, the employment policies of this Corporation, and applicable law. The Executive Director shall not be a voting member of the Board of Directors. The Executive Director shall be the general manager of the Corporation and shall supervise, direct and control the activities and affairs of the Corporation subject to the supervision and actions of the Board of Directors.

ARTICLE VII
FIDUCIARY RESPONSIBILITIES OF DIRECTORS

Section 7.1 Prohibition against Director Transactions. Except as otherwise provided in Section 7.2, no member of the Board of Directors of this Corporation shall be financially interested in any contract or other transaction entered into by the Corporation. Any contract or transaction entered into in violation of this section is void as a matter of law.

Section 7.2 Exception from Financial Interest Requirement. No contract or other transaction entered into by this Corporation is void under the provisions of Section 7.1 or applicable law, nor shall any director be disqualified or deemed guilty of misconduct in office under such provisions, if each of the following conditions are met.

(a) The fact of such financial interest is disclosed or known to the Board of Directors and noted in the minutes of a meeting of the Board of Directors at which the contract or transaction is approved, and the Board of Directors, after such disclosure, authorizes, approves or ratifies the contract or transaction in good faith by a vote sufficient for the purpose without counting the vote or votes of such financially interested director or directors.

(b) The contract or transaction is just and reasonable as to this Corporation at the time it is authorized or approved.

(c) The contract or transaction is not between: (i) this Corporation and a Director of this Corporation; (ii) this Corporation and a partnership or other entity in which a Director of this Corporation is a partner or in which the Director is the owner or holder, directly or indirectly, of a proprietorship interest; or (iii) this Corporation and a corporation in which a Director of this Corporation is the owner or holder, directly or indirectly, of five (5) percent or more of the outstanding common stock.

(d) Each Director of this Corporation who is financially interested in the contract or transaction delivers to the Board of Directors, prior to a vote by the Board on the contract or transaction, a written declaration under penalty of perjury which states that such interested Director has not influenced or attempted to influence another Director with regard to the contract or transaction prior to disclosing to the Board of Directors the facts of the interest of the interested Director.

Section 7.3 Use of Information by a Director. Information which is received by a Director of this Corporation by reason of such person's membership on the Board of Directors, which is not a matter of public record, shall not be used by such Director, or disclosed to a third person, for use for personal pecuniary gain. This restriction shall apply at all times, irrespective of whether the Director continues in office as a Director at the time of disclosure or when such gain is realized.

Section 7.4 Application of Education Code. The provisions of this Article VII shall be applied and interpreted in accordance with the applicable provisions of the Education Code and the regulations adopted pursuant thereto.

Section 7.5 Other Applicable Law. To the extent that the provisions of any other applicable law, including without limitation the California Nonprofit Corporation Law and the Internal Revenue Code, impose a requirement or limitation with regard to transactions between this Corporation and a Director or other person associated with this Corporation which is more stringent or adds elements which are not addressed in this Article VII or the Education Code, the provisions of such other law shall apply with full force and effect, and nothing contained in this Article VII shall waive or limit such more stringent or additional restrictions.

ARTICLE VIII INDEMNIFICATION, INSURANCE AND DIRECTOR LIABILITY

Section 8.1 Definitions. For the purposes of this Article VIII, “agent” means any person who is or was a Director, officer, employee, or other agent of this Corporation, or is or was serving at the request of this Corporation as a director, officer, employee, or agent of another foreign or domestic corporation, partnership, joint venture, trust, or other enterprise, or was a director, officer, employee, or agent of a foreign or domestic corporation which was a predecessor corporation of this Corporation or of another enterprise at the request of such predecessor corporation; “proceeding” means any threatened, pending, or completed action or proceeding, whether civil, criminal, administrative, or investigative; and Expenses includes without limitation attorneys' fees and any expenses of establishing a right to indemnification under Sections 8.4 or 8.5(b) of these bylaws.

Section 8.2 Indemnification in Actions by Third Parties. This Corporation shall have power to indemnify any person who was or is a party or is threatened to be made a party to any proceeding (other than an action by or in the right of this Corporation to procure a judgment in its favor, an action brought under ' 5233 of the California Nonprofit Public Benefit Corporation Law, or an action brought by the Attorney General or a person granted relator status by the Attorney General for any breach of duty relating to assets held in charitable trust) by reason of the fact that such person is or was an agent of this Corporation, against expenses, judgments, fines, settlements and other amounts actually and reasonably incurred in connection with such proceeding if such person acted in good faith and in a manner such person reasonably believed to be in the best interests of this Corporation and, in the case of a criminal proceeding, had no reasonable cause to believe the conduct of such person was unlawful. The termination of any proceeding by judgment order settlement, conviction, or upon a plea of nolo contendere or its equivalent shall not, of itself, create a presumption that the person did not act in good faith and in a manner which the person reasonably believed to be in the best interests of this Corporation or that the person had reasonable cause to believe that the person's conduct was unlawful.

Section 8.3 Indemnification in Actions by or in the Right of this Corporation. This Corporation shall have power to indemnify any person who was or is a party or is threatened

to be made a party to any threatened, pending or completed action by or in the right of this Corporation, or brought under ' 5233 of the California Nonprofit Public Benefit Corporation Law, or brought by the Attorney General or a person granted realtor status by the Attorney General for breach of duty relating to assets held in charitable trust, to procure a judgment in its favor by reason of the fact that such person is or was an agent of this Corporation, against expenses actually and reasonably incurred by such person in connection with the defense or settlement of such action if such person acted in good faith, in a manner such person believed to be in the best interests of this Corporation, and with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances. No indemnification shall be made under this Section 8.3:

(a) In respect of any claim, issue or matter as to which such person shall have been adjudged to be liable to this Corporation in the performance of such person's duty to this Corporation, unless and only to the extent that the court in which such proceeding is or was pending shall determine upon application that, in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for the expenses which such court shall determine;

(b) Of amounts paid in settling or otherwise disposing of a threatened or pending action, with or without court approval; or

(c) Of expenses incurred in defending a threatened or pending action which is settled or otherwise disposed of without court approval unless it is settled with the approval of the Attorney General.

Section 8.4 Indemnification Against Expenses. To the extent that an agent of this Corporation has been successful on the merits in defense of any proceeding referred to in Sections 8.2 or 8.3 of these Bylaws or in defense of any claim, issue, or matter therein, the agent shall be indemnified against expenses actually and reasonably incurred by the agent in connection therewith.

Section 8.5 Required Determinations. Except as provided in Section 8.4 of these Bylaws, any indemnification under this Article VIII shall be made by this Corporation only if authorized in the specific case, upon a determination that indemnification of the agent is proper in the circumstances because the agent has met the applicable standard of conduct set forth in Sections 8.2 or 8.3 of these Bylaws, by:

(a) A majority vote of a quorum consisting of Directors who are not parties to such proceedings; or

(b) The court in which such proceeding is or was pending upon application made by this Corporation or the agent or the attorney or other person rendering services in connection with the defense, whether or not such application by the agent, attorney, or other person is opposed by this Corporation.

Section 8.6 Advance of Expenses. Expenses incurred in defending any proceeding may be advanced by this Corporation prior to the final disposition of such proceeding upon receipt of an undertaking by or on behalf of the agent to repay such amount unless it shall be determined ultimately that the agent is entitled to be indemnified as authorized in this Article VIII.

Section 8.7 Other Indemnification. No provision made by this Corporation to indemnify its or its subsidiary's Directors or officers for the defense of any proceeding, whether contained in the Articles of Incorporation, Bylaws, a resolution of Directors, an agreement or otherwise, shall be valid unless consistent with this Article VIII. Nothing contained in this Article VIII shall affect any right to indemnification to which persons other than such Directors and officers may be entitled by contract or otherwise.

Section 8.8 Forms of Indemnification Not Permitted. No indemnification or advance shall be made under this Article VIII, except as provided in Sections 8.4 or 8.5(b), in any circumstances where it appears:

(a) That it would be inconsistent with a provision of the articles of Incorporation, these bylaws, or an agreement in effect at the time of the accrual of the alleged cause of action asserted in the proceeding in which the expenses were incurred or other amounts were paid, which prohibits or otherwise limits indemnification; or

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

Section 8.9 Personal Liability of Volunteer Directors or Officers. To the fullest extent permitted by the California Nonprofit Public Benefit Corporation Law, as now in effect or as may hereafter be amended, there shall be no personal liability to a third party for monetary damages on the part of a volunteer Director or volunteer officer of the corporation, caused by a negligent act or omission in the performance of that person's duties as a Director or officer, provided that the person's act or omission was (a) within the scope of the Director's or officer's duties, performed in good faith and not reckless, wanton, intentional or grossly negligent, and (b) either the damages are covered by liability insurance or the Director or officer and the Board of Directors had made all reasonable efforts in good faith to obtain available liability insurance. "Volunteer" means the rendering of services without compensation. "Compensation" means remuneration whether by way of salary, fee, or other consideration for services rendered. However, the payment of per diem, mileage, or other reimbursement expenses to a Director or officer does not affect that person's status as a volunteer within the meaning of this Section. "Officer" means the President, any Vice President, Secretary or Assistant Secretary, or Chief Financial Officer or Assistant Chief Financial Officer of the Corporation, or other individuals serving in like capacity, who assist in establishing the policy of the Corporation. Nothing in this Section shall limit the liability of the Corporation for any damages caused by acts or omissions of the volunteer Director or volunteer officer.

Section 8.10 Insurance. This Corporation shall have power (but not the duty or obligation) to purchase and maintain insurance on behalf of any agent of this Corporation against any liability asserted against or incurred by the agent in such capacity or arising out of the agent's status as such whether or not this Corporation would have the power to indemnify the agent against such liability under the provisions of this Article VIII, provided, however, that this Corporation shall have no power to purchase and maintain such insurance to indemnify any agent of this Corporation for a violation of ' 5233 of the California Nonprofit Public Benefit Corporation Law (or any successor provision thereto).

Section 8.11 Chapter 42 Taxes. In no case shall this Corporation indemnify, reimburse, or insure any person for any taxes relating to excess benefit transactions and other individual liability matters which are imposed on individuals under chapter 42 of the Internal Revenue Code of 1986, as amended ("Code"). Further, if at any time this Corporation is deemed to be a private foundation within the meaning of ' 509 of the Code then, during such time, no payment shall be made under this Article if such payment should constitute an act of self-dealing or a taxable expenditure, as defined in ' 4941(d) or 4945(d), respectively, of the Code.

Section 8.12 Severability. If any part of this Article VIII is found in any action, suit or proceeding to be invalid or ineffective, the validity and the effectiveness of the remaining parts shall not be affected.

ARTICLE IX INSPECTION OF BOOKS AND RECORDS; ANNUAL REPORTS; AUDIT

Section 9.1 Director Rights of Inspection. Every Director shall have the right at any reasonable time to inspect and copy all books, records and documents of every kind and to inspect the physical properties of this Corporation and the records of each subsidiary. The inspection may be made in person or by the Director's agent or attorney. The right of inspection includes the right to copy and make extracts of documents.

Section 9.2 Annual Report. The Board of Directors shall cause an annual report to be delivered to each Director within one hundred twenty (120) days after the end of this Corporation's fiscal year. That report shall contain the following information, in appropriate detail:

- (a) The assets and liabilities, including the trust funds, of this Corporation as of the end of the fiscal year;
- (b) The principal changes in assets and liabilities, including trust funds;
- (c) This Corporation's revenue or receipts, both unrestricted and restricted to particular purposes;
- (d) This Corporation's expenses or disbursements for both general and restricted purposes;

(e) Any information required by Section 9.3 of these Bylaws; and

(f) An independent accountant's report or, if none, the certificate of an authorized officer of this Corporation that such statements were prepared without audit from this Corporation's books and records.

Section 9.3 Annual Statement of Certain Transactions and Indemnifications. As part of the annual report to all Directors, or as a separate document if no annual report is issued, this Corporation shall, within 120 days after the end of this Corporation's fiscal year, annually prepare and furnish to each Director a statement of any transaction or indemnification of the following kind:

(a) Any transaction (i) in which this Corporation or any subsidiary was a party, (ii) in which an "interested person" had a direct or indirect material financial interest, and (c) which involved more than Fifty Thousand Dollars (\$50,000) or was one of several transactions with the same interested person involving, in the aggregate, more than Fifty Thousand Dollars (\$50,000). For this purpose, an interested person is any Director or officer of this Corporation or any or subsidiary of it (but mere common Directorship shall not be considered such an interest). The statement shall include a brief description of the transaction, the names of interested persons involved, their relationship to this Corporation, the nature of their interest in the transaction and, if practicable, the amount of that interest, provided that if the transaction was with a partnership in which the interested person is a partner, only the interest of the partnership need be stated.

(b) Any indemnifications or advances aggregating more than Ten Thousand Dollars (\$10,000) paid during the fiscal year to any officer or Director of this Corporation under Sections 8.2 and 8.3 of these Bylaws unless the indemnification has already been approved by the Directors.

Section 9.4 Audit. An audit of the funds of this Corporation shall be conducted annually as required by the Education Code, and shall be published and reported in accordance with the provisions thereof.

ARTICLE X AMENDMENTS

These bylaws may be amended by vote of no less than a majority of the members of the Board of Directors who are currently elected and in office.

ARTICLE XI MISCELLANEOUS

Section 11.1 Corporate Seal. The corporate seal shall be circular in form, shall have the name of this Corporation inscribed thereon and shall contain the words "Corporate Seal" and

ACalifornia@ and the year this Corporation was formed in the center, or shall be in such form as may be approved from time to time by the Board of Directors.

Section 11.2 Checks and Bank Accounts. The Board of Directors shall determine who shall be authorized from time to time on this Corporation's behalf to sign checks, drafts, or other orders for payment of money, and to establish and maintain bank or other depository accounts in the name of or on behalf of this Corporation.

Section 11.3 Endorsement of Documents and Contracts. Subject to any provision of applicable law, any note, contract, conveyance, note, mortgage, evidence of indebtedness or other instrument in writing, and any assignment or endorsement thereof, which is executed or entered into between the Corporation and any other person, when signed by the President of this Corporation, is valid and binding on this Corporation in the absence of actual knowledge on the part of the other person that the signing officer or officers had no authority to execute the same. Any such instruments may be signed by any other person or persons in such manner as from time to time shall be determined by the Board of Directors; and, unless so authorized by the Board of Directors, no Director or officer of this Corporation (other than the President), shall have any power or authority to bind this Corporation by any contract or engagement or to pledge its credit or render it liable for any purpose or amount. Upon the authorization of, and subject to the supervision of, the President or the Board of Directors, any employee of this Corporation may bind this Corporation by contract or engagement, or pledge its credit or render it liable, for transactions which are within the normal scope of authority for the position held by such employee, or which are pursuant to authority granted to such employee by the President or by the Board of Directors.

Section 11.4 Representation of Shares of Other Corporations. Subject to the requirements of Section 703 of the California Corporations Code, the President, or any other officer or officers authorized by the Board of Directors, are each authorized to vote, represent and exercise on behalf of this Corporation all rights incident to any and all shares of any other corporation or corporations which are standing in the name of this Corporation. The authority herein granted may be exercised either by any such officer in person or by any other person authorized to do so by proxy or power of attorney duly executed by said officer.

Section 11.5 Limitations on Grants, Gifts and Contracts. This Corporation shall not accept any grant, contract, bequest, trust or gift, unless it is so conditioned that it may be used only for purposes consistent with policies of the governing board of the Monterey Peninsula Community College District. This limitation shall be interpreted and applied in accordance with the applicable provisions of the Education Code and the regulations adopted pursuant thereto.

CERTIFICATE OF SECRETARY

OF

THE MONTEREY PENINSULA COLLEGE FOUNDATION

The undersigned Secretary of The Monterey Peninsula College Foundation, a California nonprofit public benefit corporation, hereby certifies that these bylaws, consisting of _____ pages, are the bylaws of this Corporation as adopted by the Board of Directors of this Corporation effective on and as of August 14, 2019, and that these bylaws have not been amended or modified between the time of adoption and the date of this certificate.

Executed on this 14th day of Augusts, 2019, at Monterey, California.

Liza Horvath, Secretary