

# **Florida Gulf Coast University**

## **Financing Corporation**



**FOURTH AMENDMENT AND RESTATEMENT OF BYLAWS FOR  
FLORIDA GULF COAST UNIVERSITY FINANCING CORPORATION**

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# **FOURTH AMENDMENT AND RESTATEMENT OF BYLAWS FOR FLORIDA GULF COAST UNIVERSITY FINANCING CORPORATION**

## **ARTICLE 1 - NAME**

The name of the Corporation shall be Florida Gulf Coast University Financing Corporation, a Florida not for profit corporation (the "Corporation"). The Corporation shall maintain a registered office in the State of Florida and a registered agent at such office.

## **ARTICLE 2 - MEMBERS**

The Corporation shall have no Members.

## **ARTICLE 3 - BOARD OF DIRECTORS**

**SECTION 3.1 General Powers.** The business, property, affairs and funds of the Corporation shall be managed, supervised and controlled by its Board of Directors subject only to applicable law and the limitations contained in the Articles of Incorporation of the Corporation and these Bylaws and the powers and duties reserved to The Florida Gulf Coast University Board of Trustees (the "Board of Trustees") and the President of Florida Gulf Coast University (the "University") in regards to this Corporation. The Board of Directors shall have the authority to adopt policy for the Corporation, consistent with the Articles of Incorporation of the Corporation and these Bylaws.

**SECTION 3.2 Reserved Powers.** The President of the University shall have the following specific powers and duties with regard to this Corporation:

- (a) To monitor and control the use of the University's resources by this Corporation;
- (b) To control the use of the University name by this Corporation;
- (c) To monitor compliance of this Corporation with federal and state laws;
- (d) To recommend an annual budget to the Board of Directors of this Corporation;
- (e) To review and approve quarterly expenditure plans of this Corporation; and
- (f) To approve the contribution of funds or supplements to support intercollegiate athletics.

**SECTION 3.3 Number.** The Board of Directors of the Corporation shall consist of at least five voting directors.

### **SECTION 3.4 Appointment and Election of Directors and Terms of Office.**

**3.4.1** Effective as of the date of the confirmation by the University Board of Trustees of this Restatement, the current directors of the Corporation for the fiscal year

ending 2011 shall have the status of new members and shall be appointed or elected in the following manner.

- (a) At least one director shall be appointed by the Chair of the Board of Trustees;
- (b) One director shall be the President of the University;
- (c) Two directors shall be recommended by the President of the University to the Board of Trustees for appointment;
- (d) Up to three additional directors may be elected at a regular meeting of the Board of Directors by the then current members of the Board of Directors;

**3.4.2** Terms of office of the members of the Board of Directors shall be four years in length and shall be consistent with the fiscal year of the Corporation. A director shall not be eligible to serve more than two consecutive terms. A director who has served two terms consecutively may be re-appointed or re-elected to the Board of Directors after the expiration of one-year following the end of his or her last previous term and will have the status of a new member. Notwithstanding the foregoing, the President of the University shall serve until the earlier of his or her resignation, removal from office, or death. A vacancy on the Board of Directors with respect to elected members may be filled by a vote of the remaining directors at their sole and absolute discretion. The Chair of the Board of Trustees and the President of the University shall designate or recommend, as appropriate, replacements for the directors appointed by them. If a director is appointed to fill a vacancy before the end of the term of their predecessor, such director shall serve for the remainder of the term of the director being replaced. Vacancies filled with less than one year of the term remaining shall not be counted as a term for purposes of eligibility to serve two terms consecutively. All of the aforementioned appointments and elections of members of the Board of Directors shall act as recommendations to the Board of Trustees for approval.

**SECTION 3.5 Removal of Directors.** A director may resign at any time by submitting a written resignation to the Chairperson and the Executive Director. Any voting director, other than the director appointed by the Chair of the Board of Trustees or the President of the University, may be removed from the Board of Directors at any time with or without cause by a two-thirds vote of the Board of Directors. Such removal will act as a recommendation requiring further approval by the Board of Trustees.

**SECTION 3.6 Conflicts and Duality of Interest.** No contract or other transaction between the Corporation and one or more of its directors or any other corporation, firm, association or entity in which one or more of its directors are directors or officers or are financially interested is either void or voidable because of such relationship or interest, because such director or directors are present at the meeting of the Board of Directors or a committee thereof that authorized,

approved or ratified such contract or transaction, or because his or their votes are counted for such purpose, if the contract or transaction is approved in compliance with the provisions of Section 617.0832 of the Florida Not For Profit Corporation Act, or any successor provision.

**SECTION 3.7 Conflict of Interest Policy.** The Board of Directors shall adopt and keep in full force and effect a substantial conflict of interest policy for its directors and principal officers in accordance with rules and regulations of the Internal Revenue Service applicable to tax exempt organizations.

**SECTION 3.8 Directors' Meetings.** An annual meeting of the Board of Directors (the last meeting of the fiscal year), shall be held within the State of Florida. All meetings of the Board of Directors must be held, with written notice to the public, at such time and place as from time to time shall be determined by the Chairperson of the Board or by the Executive Director. Such notices shall be provided no less than seven (7) days in advance. Special meetings of the Board of Directors may be called by the Chairperson of the Board or the Executive Director or Secretary of the Corporation or any two directors. Meetings may be conducted by telephone conference or similar communications equipment provided all persons participating in such meetings are able to hear each other and a roll call vote is taken.

At all meetings of the Board of Directors, the presence of a majority of the total number of voting directors shall be necessary and sufficient to constitute a quorum for the transaction of business. Directors attending by telephone shall be considered as being present at the meeting. Unless otherwise required by the Articles of Incorporation, these Bylaws or Florida Statutes, the act of a majority of the directors present shall be the act of the Board of Directors. In the absence of a quorum, a majority of the voting directors present may adjourn the meeting from time to time until a quorum shall be present for the transaction of business.

**SECTION 3.9 Executive Director.** The Executive Director shall be the University Vice President for Administrative Services and Finance and shall be staff to the Board of Directors. He or she shall be responsible for the general, day-to-day management of the affairs of the Corporation, reporting directly to the President of the University. He or she shall exercise such authority to accept gifts, collect revenues and make expenditures as he or she deems necessary. The Executive Director is authorized to direct the sale of real estate of the Corporation and is also authorized to execute, in the name of Florida Gulf Coast University Financing Corporation, with the Secretary attesting, all certificates, contracts, leases, deeds, notes and other documents or legal instruments. He or she shall be responsible for the maintenance and management of the Corporation's activities and personnel. Any vacancy in the Executive Director position will be filled by the President of the University, in consultation with the Board of Directors.

## ARTICLE 4 - OFFICERS

**SECTION 4.1 Officers.** The officers of this Corporation shall be a Chairperson, a Secretary, a Treasurer and such other officers as may be determined by the Board of Directors. Only voting members of the Board of Directors of the Corporation may be elected as an officer of the Corporation pursuant to this Article 4. All officers shall have such authority and perform such duties as described below.

**4.1.1 Chairperson.** The Chairperson shall preside at all meetings of the Board of Directors and shall do and perform such other duties as may be assigned by the Board of Directors.

**4.1.2 Secretary.** The Secretary shall keep full and accurate minutes for all meetings of the Board of Directors and the Executive Committee. He or she may sign documents with the Executive Director in the name of the Corporation. The Secretary shall have charge of all official records of the Corporation that shall be at all reasonable times open to examination of any director, and shall in general perform all duties incident to management of the office of Secretary for the Board of Directors.

**4.1.3 Treasurer.** The Treasurer shall be a member of the Finance Committee, if any, of the Corporation. He or she shall present the financial statements of the Corporation to the Board of Directors at each regular meeting of the Board of Directors and at such other times as the Board of Directors may determine. He or she shall ascertain that a full and accurate account is made of all monies received and paid out on accounts administered by the Corporation, and shall, in general, perform all duties incident to management of the office of Treasurer for the Board of Directors.

**SECTION 4.2 Election of Officers and Term of Office.** At the meeting nearest the end of the fiscal year, the Board of Directors shall elect, as necessary, in the manner hereinafter prescribed, officers of the Corporation who shall serve terms of two years, each commencing immediately following their election or appointment. Such election or appointment shall act as a recommendation to the Board of Trustees for final approval.

**SECTION 4.3 Removal.** Any officer may be removed by two-thirds vote of the Board of Directors whenever, in its judgment, the best interests of the Corporation would be served. Such removal shall act as a recommendation to the Board of Trustees for approval.

**SECTION 4.4 Vacancies.** A vacancy in any office because of death, resignation, removal, disqualification or otherwise may be filled by a recommendation of the Board of

Directors to the Board of Trustees for approval.

## **ARTICLE 5 - COMMITTEES**

**SECTION 5.1 Creation of Committees.** The Board of Directors may, by resolution passed by a majority of the whole Board, designate an Executive Committee and one or more other committees, each to consist of one or more of the directors of the Corporation.

**SECTION 5.2 Executive Committee.** The Executive Committee, if there shall be one, shall consult with and advise the officers of the Corporation in the management of its business and may exercise, to the extent provided in the resolution of the Board of Directors creating such Executive Committee, such powers of the Board of Directors as can be lawfully delegated by the Board. The Chair of the Board of Trustees' appointee and the President of the University shall serve as members of the Executive Committee.

**SECTION 5.3 Other Committees.** Such other committees shall have such functions and may exercise the powers of the Board of Directors as can be lawfully delegated and to the extent provided in the resolution or resolutions creating such committee or committees.

**SECTION 5.4 Meetings of Committees.** Regular meetings of the Executive Committee and other committees shall be held with notice at such time and at such place as shall from time to time be determined by the Executive Committee or such other committees, and special meetings of the Executive Committee or such other committees may be called by any member thereof upon two days' written notice to the public.

**SECTION 5.5 Vacancies on Committees.** Vacancies on the Executive Committee or on such other committees shall be filled by the Board of Directors then in office at any regular or special meeting. However, if the vacancy on the Executive Committee is with respect to the director appointed by the Chair of the Board of Trustees, then the Chair of the Board of Trustees shall designate a replacement.

**SECTION 5.6 Minutes of Committees.** The Executive Committee, if there shall be one, and such other committees shall keep regular minutes of their proceedings and report the same to the Board of Directors when required.

## **ARTICLE 6 - INDEMNIFICATION**

**Indemnification.** The Corporation shall indemnify each director, officer, employee and agent of the Corporation, and may indemnify any other person, to the full extent permitted by the Florida Not For Profit Corporation Act and any applicable laws. The rights conferred by this Section 6.1 shall not be exclusive of any other right that any director, officer, employee, agent or other person may have or hereafter acquire under the Florida Not For Profit Corporation Act, any



other statute or agreement, pursuant to a vote of disinterested directors, or otherwise. No repeal or modification of this Section 6.1 shall limit the rights of any director, officer, employee or agent to indemnification with respect to any action or omission occurring prior to such repeal or modification.

## **ARTICLE 7 - AMENDMENT**

These Bylaws may be amended by the vote of a majority of the Board of Directors of this Corporation, but only if confirmed by the Board of Trustees of the University after submission to them by the President of the University.

## **ARTICLE 8 - QUARTERLY EXPENDITURE PLANS**

This Corporation shall prepare and submit to the President of the University, no later than the first day of each quarter of the Corporation's fiscal year, a quarterly expenditure plan that delineates planned actions that would cause a commitment of University resources or represent a significant commitment of the resources of this Corporation, including:

- (a) Major fund raising events and campaigns and their purpose;
- (b) Compensation and benefits to University employees and employees of the Corporation;
- (c) Capital projects, including land acquisition, construction, renovation or repair; and
- (d) Other major commitments of the resources of this Corporation.

## **ARTICLE 9 - FISCAL YEAR AND FINANCIAL AUDITS**

**SECTION 9.1 Fiscal Year.** The fiscal year of the Corporation begins on July 1 and ends on June 30 of the following year.

**SECTION 9.2 Financial Audits.** After the close of each fiscal year, the Corporation shall cause a financial audit of its accounts and records to be conducted by an independent certified public accountant pursuant to Section 1004.28, Florida Statutes, as may be amended or supplemented, and in accordance with the rules adopted by the Auditor General pursuant to Section 11.45, Florida Statutes, as may be amended or supplemented. The President of the University shall submit the annual audit report to the Board of Trustees and the Auditor General within nine months after the end of the fiscal year. In addition, the Corporation shall provide a copy of its federal Application for Recognition of Exception (form 1023) and each year shall provide a copy of its Form 990, Return of Organization Exempt from Federal Income Tax, to the President of the University and the State Board of Education and/or the Board of Governors, as required by applicable laws of the State of Florida.

**ARTICLE 10 - EMPLOYEES**

Any person employed by the Corporation shall not be considered an employee of the State of Florida or an employee of the University by virtue of his or her employment by the Corporation. The Corporation shall provide equal employment opportunities to all persons regardless of race, color, religion, gender, age or natural origin.

**ARTICLE 11 - PARLIAMENTARY RULES**

The most recent edition of "Roberts Rules of Order" shall be followed in conducting the meetings of the Board of Directors, unless otherwise provided in these bylaws.

**ARTICLE 12 - RESTATEMENT**

This Fourth Amendment and Restatement of Bylaws shall supersede the original and all amendments and restatements thereto.

**CERTIFICATION**

The undersigned, as Chair of the Corporation, hereby certifies that the foregoing Fourth Amendment and Restatement of the Florida Gulf Coast University Financing Corporation Bylaws were approved by no less than a majority vote of the members of the Board of Directors of the Corporation at their regular quarterly meeting held on June 6, 2018.

  
\_\_\_\_\_  
Signature  
*Joseph R. Catti*  
\_\_\_\_\_  
Print Name