

RESOLUTION NO. 120-2023

A RESOLUTION OF THE GOVERNING BODY OF THE CITY OF WESTWOOD, KANSAS, APPROVING AMENDED AND RESTATED BYLAWS OF WESTWOOD FOUNDATION.

WHEREAS, the Westwood Foundation (the "Foundation") is a Kansas not-for-profit corporation organized and existing as an instrumentality of the City of Westwood, Kansas (the "City") and is governed in the conduct of its affairs by its Board of Directors (the "Board"), its Articles of Incorporation and its Bylaws; and

WHEREAS, it has been determined by the Board that it is in the best interest of both the Foundation and the City to transition the Mayor of the City from a voting member of the Board to an ex-officio member of the Board and retain seven (7) voting members of the Board; and

WHEREAS, it has been determined by the Board that it is in the best interest of both the Foundation and the City to modify how alterations or amendments to the Bylaws are made; and

WHEREAS, it has been determined by the Board that it is in the best interest of both the Foundation and the City to restate and amend the Bylaws.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WESTWOOD, KANSAS:

Section 1. The Mayor of the City is hereby an ex-officio member of the Board and one additional voting Board position is created; and

Section 2. The Bylaws of the Foundation are hereby restated and amended as attached as Exhibit A.

Section 3. This resolution shall be effective upon its adoption by the Governing Body of the City of Westwood, Kansas.

ADOPTED this 13th day of July, 2023.

David E. Waters, Mayor

ATTEST:

Abby Schneweis, City Clerk

**AMENDED AND RESTATED BYLAWS
OF
WESTWOOD FOUNDATION**

Revised and Approved _____, 2023

These Restated and Amended Bylaws of the Westwood Foundation (the “Bylaws”) are entered into to amend, restate, and supersede in their entirety those Bylaws of the Foundation as previously enacted and amended.

**ARTICLE I
PREAMBLE – PURPOSE AND OBJECTIVES**

1.1 Foundation Name. As established in its Articles of Incorporation, the name of the Foundation is Westwood Foundation (the “Foundation”). The Foundation was formed under the general corporation code of the State of Kansas as a not for profit corporation.

1.2 Purposes. The Foundation, a 501(c)3 organization, was founded in 1974 to provide charitable, educational and benevolent support to the greater City of Westwood, Kansas (the “City”) community. The Foundation has one principal mission: providing financial assistance and support to projects and endeavors that benefit the City, the immediate surrounding area and, ultimately, the citizens of those communities. The short-term objectives of the Foundation are varied. These objectives range from land acquisition/development to providing revenue to the City to offset unexpected expenses and offering educational scholarships to members of our community. Broadly, any financial obligation the Foundation selects to support aims to fulfill its principal mission.

**ARTICLE II
OFFICES AND SEAL**

2.1 Registered Office and Registered Agent. The location of the registered office and the name of the registered agent of the Foundation in the State of Kansas shall be such as shall be determined from time to time by the board of directors and on file in the appropriate public offices of the State of Kansas pursuant to applicable provisions of law.

2.2 Corporate Offices. The Foundation may have such other corporate offices and places of business anywhere within or without the State of Kansas as the board of directors may from time to time designate or the business of the Foundation may require.

2.3 Corporate Seal. The corporate seal shall have inscribed thereon the name of the Foundation and the words “Corporate Seal, Kansas”. The corporate seal may be used by causing it or a facsimile thereof to be impressed or affixed or reproduced or otherwise.

**ARTICLE III
BOARD OF DIRECTORS**

3.1 Management by Board of Directors.

(a) The management of all the affairs, property, and business of the Foundation shall be vested in a board of directors (the “Board”), consisting of seven (7) persons (each a “Director” and collectively, the “Directors”). Notwithstanding any other provision of these Bylaws to the contrary, the authorized number of Directors of the Foundation Board may be increased or decreased by the affirmative

vote of a majority of the Directors at any meeting of the Board; provided, however, that any such increase or decrease must be approved by a resolution or other action adopted by the governing body of and for the City (the “Governing Body”), prior to becoming effective. In the event the City is dissolved, the authorized number of directors of the Foundation may be increased or decreased by the affirmative vote of a majority of the Directors at any meeting of the Board.

(b) The Board of Directors shall be, have and is vested with all and unlimited powers and authorities, except as it may be expressly limited by law, the Articles of Incorporation or these Bylaws, to supervise, control, direct and manage the property, affairs and activities of the Foundation, to determine the policies of the Foundation, to do or cause to be done any and all lawful things for and on behalf of the Foundation, to exercise or cause to be exercised any or all of its powers, privileges or rights, and to seek the effectuation of its objects and purposes; provided, however, that (i) the Board of Directors shall not authorize or permit the Foundation to engage in any activity not permitted to be transacted by the Articles of Incorporation or by a not for profit corporation organized under the laws of the State of Kansas, (ii) none of the powers of the Foundation shall be exercised to carry on activities, otherwise than as an insubstantial part of its activities, which are not in themselves in furtherance of the purposes of the Foundation, and (iii) all income and property of the Foundation shall be applied exclusively for its not for profit purposes.

(c) No part of the net earnings or other assets of the Foundation shall inure to the benefit of any Director, officer, contributor, person, or private individual, having, directly or indirectly, a personal or private interest in the activities of the Foundation.

3.2 Qualifications; Term of Office. The Board of Directors of the Foundation shall be constituted as follows: Seven (7) residents of the City, each of at least eighteen (18) years of age, appointed by the Mayor of the City of Westwood, Kansas (the “Mayor”), and confirmed by a resolution or other action adopted by the Governing Body of and for the City. Each Director appointed by the Mayor shall serve for a term of four (4) years, such terms to commence as of June 1 of the year of appointment, and to expire on May 31 of that year which is four (4) years thereafter, or until his or her successor is duly appointed and qualified. Provided, that the terms of such Directors shall be staggered such that, in accordance (in part) with City Resolution No. 91-2021:

(a) The three (3) Director positions currently set to expire as of May 2025 shall continue through and expire on May 31, 2025;

(b) A resident of the City shall be appointed contemporaneously with the effective date of these Bylaws by the Mayor, as provided above, for a term through May 31, 2025 (the Mayor being an *ex officio* non-voting Director as provided in these Bylaws);

(c) The three (3) Director positions that expired or are currently set to expire February 2023, May 2023, and February 2024 shall continue through and expire on May 31, 2027.

The duly elected, qualified and acting Mayor shall serve as an *ex officio*, non-voting member of the Foundation Board, until his or her successor is duly elected and qualified and has commenced his or her term of office.

3.3 Resignation and Removal. Appointees serve at the pleasure of the Governing Body. A Director may be removed prior to the expiration of his or her term by the recommendation of the City Administrator, with final approval by the Mayor. Directors may resign at any time. Absence of a Director from two (2) consecutive regular meetings without excuses deemed valid shall be construed as a resignation.

3.4 Vacancies. In case of a vacancy in the Board of Directors occurring by reason of resignation, death, removal, or disqualification from office (*e.g.*, no longer a resident of the City), the Mayor shall appoint a suitable person to fill such vacancy for the unexpired term of such Director's office, such appointment to be confirmed by a resolution or other action adopted by the Governing Body of and for the City.

3.5 Dissolution of City. In the event the City of Westwood, Kansas is dissolved, each remaining member of the Board of Directors shall continue in office for the remainder of his or her term. Any appointments or reappointments shall be handled by the Board of Directors calling, upon at least fifteen (15) days prior notice, a meeting of all residents of that geographical area which was the City of Westwood, Kansas, prior to its dissolution, to consider such appointment or reappointment. Such Director(s) shall be elected by a majority of those attending the residents meeting.

3.6 Compensation. Directors shall not be compensated for serving as directors of the Foundation; provided, that unless otherwise restricted by the Articles of Incorporation, the Board of Directors may provide for reimbursement of actual expenses incurred by Directors in fulfilling their duties to the Foundation; and further provided, that nothing herein contained shall be construed to preclude any Director from serving the Foundation in any other capacity and receiving his or her regular compensation therefor.

ARTICLE IV MEETINGS OF THE BOARD

4.1 Annual Meeting. The annual meeting of the Board of Directors shall be held on in June each year or at such other time as determined by the Board of Directors. If for any reason no meeting of the Board of Directors is held at such time, but the Board of Directors nevertheless designates a meeting of the Board of Directors held at another time as the annual meeting thereof (regardless of when such designation is made), then such meeting shall be considered to be a special meeting of the Board of Directors for purposes of determining by whom such meeting may be called and the time at which such meeting may be held. The purposes of the annual meeting shall be to elect officers and to transact such other business as may come before the meeting.

4.2 Regular Meetings. Regular meetings of the Board of Directors shall be held at such time and place as the Board of Directors may designate from time to time. The Secretary shall endeavor to provide a draft agenda, together with notice of location, log-in details (if applicable), and other pertinent information, at least one (1) week prior to such regular meetings. No other formal notice of regular meetings shall be required.

4.3 Special Meetings. Special meetings of the Board of Directors may be called by the Mayor, the President, or by any two (2) Directors. The Secretary shall endeavor to provide a draft agenda, together with notice of location, log-in details (if applicable), and other pertinent information, at least one (1) week prior to such special meetings.

4.4 Agenda. Except for agenda items required under these Bylaws, the meeting agenda for the annual meeting and for regular meetings shall be set by the President or the President's designee, or by the Mayor or the Mayor's designee. The President shall consider agenda requests from the City and the Directors so that mutual problems of interest may be discussed.

4.5 Notice of Meetings. Notice of any meeting of the Board of Directors may be communicated in person, by mail, by telephone, by email, or by other form of wire or wireless communication. Oral notice will be effective (*i.e.*, will be deemed to have been given) to the recipient,

when communicated. Written notice will be sent to each Director at such Director's email address or other address shown on the Foundation's records and will be effective (*i.e.*, will be deemed to have been given) upon the earliest to occur of: the receipt of such notice by the Director; or the fifth day after deposit of such notice in the United States mail, as evidenced by the postmark, if mailed correctly addressed and with first class postage affixed,

4.6 Waiver of Notice. Any notice required to be given to a director by any provision of these Bylaws the Articles of Incorporation, or any law may be waived in a written or authenticated instrument signed by such Director, whether before, at, or after the meeting for which such notice is required to be given, if the instrument is filed with the minutes of the meeting or in the Foundation's records. Attendance of a Director at any meeting will constitute a waiver of notice of such meeting, except where such Director upon arriving at the meeting or prior to the vote on a matter not noticed in conformity with these Bylaws or other law objects to the lack of notice and does not vote for or assent to the objected-to-action.

4.7 Place of Meetings; Participation by Telecommunications Equipment. All annual and other meetings of the Board of Directors shall be held at the time and at the place, inside or outside the State of Kansas, determined by the Board of Directors. Subject to availability and offer by the President, any or all Directors may participate in any meeting of the Board of Directors by means of conference telephone or similar communications equipment whereby all persons participating in the meeting can hear each other. A Director who participates in a meeting in this manner shall be deemed to be present in person at the meeting.

4.8 Voting Rights. Each director shall be entitled to cast one (1) vote with respect to any matter coming before the Board of Directors.

4.9 Quorum and Voting. A majority of the Directors shall, unless a greater number as to any particular matter is required by law, the Articles of Incorporation, or these Bylaws, constitute a quorum for the transaction of business at any meeting of the Board of Directors. The affirmative vote of a majority of the directors present at any meeting of the Board of Directors shall be the act of the Board of Directors if a quorum is present when the vote is taken, except as otherwise specifically provided by law, the Articles of Incorporation, or these Bylaws. Less than a quorum of the Directors may adjourn a meeting successfully until a quorum is present.

4.10 Board of Directors' Action by Consent in Lieu of Meeting. Any action that is required to be or may be taken at a meeting of the Board of Directors may be taken without a meeting if all the Directors vote take the action and, to evidence the action, sign a written consent (which may be signed in two or more counterparts) or respond via other written or electronic means (including but not limited to email or online survey/voting platform) that describes the action taken, provided that all Directors have been notified at least two (2) days in advance of the proposed action and have the opportunity to cast their votes. Each such consent will have the same force and effect as a vote of the Board of Directors at a meeting duly held and may be stated as such in any document executed on behalf of the Foundation. The Secretary will record and file such consents with the minutes of meetings of the Board of Directors.

ARTICLE V

COMMITTEES OF THE BOARD OF DIRECTORS

5.1 Committees. The Board of Directors may designate one or more standing or special committees and appoint members of the Board of Directors to serve on them. Each such committee shall have two (2) or more members, all of whom shall serve at the pleasure of the Board of Directors. Each committee shall have such power and authority as is specified by the Board of Directors upon the establishment of such committee, subject to the Articles of Incorporation and applicable law.

5.2 Committee Action. Each committee of the Board of Directors shall keep regular minutes of its meetings which shall be kept in the minute books or files of the Foundation. The provisions of Article IV relating to actions by written consent in lieu of meetings and participation in meetings by means of conference telephone or similar communications equipment shall apply to committees of the Board of Directors and members thereof. The Secretary of the Foundation may act as secretary for any committee if the committee so requests.

ARTICLE VI **OFFICERS**

6.1 Elected Officers.

(a) A President, a Vice-President, a Treasurer, and a Secretary shall be elected each year by the Board of Directors at the annual meeting of the Board of Directors. If the Board of Directors desires. The officers of the Foundation shall be selected from among the members of the Board of Directors. The same individual may not simultaneously hold more than one office in the Foundation.

(b) An elected officer shall be deemed qualified when such officer begins the duties of the office to which such officer has been elected and furnishes any bond required by the Board of Directors. The Board of Directors may require of such person, in addition to a bond, a written acceptance of office and a promise to discharge faithfully the duties of such office.

6.2 Term of Office. Each elected officer of the Foundation shall hold office for a term of one (1) year for which such officer was elected. and thereafter until his or her successor shall have been elected and qualified, unless such officer earlier resigns or is removed as provided in these Bylaws. Any officer may serve more than one (1) consecutive term in the same office.

6.3 Removal. Any officer or agent elected or appointed by the Board of Directors and any employee may be removed or discharged by the Board of Directors whenever in its judgment the best interests of the Foundation would be served thereby. Such removal shall be without prejudice to the contract rights, if any, of the person so removed.

6.4 Delegation of Authority to Hire, Discharge, and Designate Duties. The Board of Directors from time to time may delegate to the President, or other officer or executive employee of the Foundation, authority to hire and discharge and to fix and modify the duties of employees of the Foundation under the jurisdiction of such officer or executive employee. The Board of Directors may also delegate to such an officer or executive employee similar authority with respect to obtaining and retaining for the Foundation the services of attorneys, accountants, and other professionals and experts. In the absence of any designation, the President shall have such general authority with respect to all employees and independent contractors whose services, in the discretion of the President, are required by the Foundation.

6.5 The President.

(a) The President shall be the chief executive officer of the Foundation. The President shall have such general executive authority, powers, and duties of supervision and management as are usually vested in the office of the chief executive of a Kansas not for profit corporation and shall carry into effect all actions, directions, and resolutions of the Board of Directors. The President shall have such other or further duties and authority as may be prescribed elsewhere in these Bylaws or from time to time by the Board of Directors. The President shall preside at all meetings of the Board of Directors.

(b) The President may execute all promissory notes, mortgages, contracts, and other instruments, and may cause the seal of the Foundation to be affixed thereto, for and in the name of the Foundation. The President may execute powers of attorney from the Foundation to such person or persons as the President may deem fit, in order that the activities or interests of the Foundation may be furthered.

6.6 The Vice President. The Vice President shall, in the event of the absence, death, disability, or inability to act of the President, perform the duties and exercise the authority and powers of the President. The Vice President shall have such other authority and powers and perform such other duties as the Board of Directors may from time to time prescribe.

6.7 The Secretary.

(a) The Secretary shall have the general authority, powers, duties, and responsibilities of a secretary of a corporation. The Secretary shall attend all meetings of the Board of Directors, and he or she shall record or cause to be recorded and shall maintain the minutes of all meetings and written consents to action without a meeting of the Board of Directors in minute books or files of the Foundation to be kept for that purpose. The Secretary shall perform like duties for each committee of the Board of Directors when requested by the Board of Directors or such committee to do so. The Secretary shall have the authority and power to authenticate records of the Foundation.

(b) The Secretary shall bear the principal responsibility to give, or cause to be given, notice of all meetings of the Board of Directors for which notice is required, but this shall not affect the authority of others to give such notice as is authorized elsewhere in these Bylaws. The Secretary shall see that all books, records, lists, and information required by the Articles of Incorporation or law to be maintained at the principal office of the Foundation in Kansas or elsewhere are so maintained. The Secretary shall keep in safe custody the seal of the Foundation and, when duly authorized to do so (including authorization given by the President or other executive officer of the Foundation), shall affix the same to any instrument requiring it, and when so affixed, the Secretary shall attest the same by the Secretary's signature. The Secretary shall perform such other duties and have such other authority as may be prescribed elsewhere in these Bylaws or from time to time by the Board of Directors or the President, under whose direct supervision the Secretary shall be.

6.8 The Treasurer.

(a) The Treasurer shall have the general authority, powers, duties, and responsibilities of a treasurer of a corporation and shall, unless otherwise provided by the Board of Directors, be the chief financial and accounting officer of the Foundation. The Treasurer shall have the responsibility for the safekeeping of the funds and securities of the Foundation and shall keep or cause to be kept full and accurate accounts of receipts and disbursements in books belonging to the Foundation. The Treasurer shall keep, or cause to be kept, all other books of account and accounting records of the Foundation and shall deposit or cause to be deposited all monies and other intangible assets of the Foundation in the name and to the credit of the Foundation in such depositories as may be designated by the Board of Directors (except for assets, such as the Foundation's name, that are not susceptible to such deposit).

(b) The Treasurer shall disburse, or permit to be disbursed, the funds of the Foundation as may be ordered or authorized generally by the Board of Directors. The Treasurer shall render to the chief executive officer of the Foundation or the Board of Directors, whenever asked by either to do so, an account of the financial condition of the Foundation and an account of all transactions of the Treasurer and those under the Treasurer's supervision. The Treasurer shall perform such other duties and shall have such other responsibility and authority as may be prescribed elsewhere in these Bylaws or from time to time by the Board of Directors.

(c) If required by the Board of Directors, the Treasurer shall give the Foundation a bond, in a sum and, if required by the Board of Directors, with one or more sureties satisfactory to the Board of Directors, for the faithful performance of the duties of office and for the restoration to the Foundation, in the case of such Treasurer's death, resignation, retirement, or removal from office, of all books, papers, vouchers, money, and other property of whatever kind in the possession or under the control of such Treasurer that belong to the Foundation. The cost, if any, of said bond shall be paid by the Foundation.

6.9 Duties of Officers May be Delegated. If any officer of the Foundation shall be absent or unable to act, or if the Board of Directors so elects for any other reason that it may deem sufficient, the Board of Directors may delegate, for the time being, some or all of the functions, authority, powers, duties, and responsibilities of any officer to any other officer or to any other agent or employee of the Foundation or other responsible person.

ARTICLE VII FINANCIAL MATTERS

7.1 Moneys. The moneys of the Foundation shall be deposited in the name of the Foundation in such bank or banks or trust company or trust companies as the Board of Directors shall designate, and shall be drawn out only by check signed by persons designated in these Bylaws or by resolution adopted by the Board of Directors. All checks, bank drafts, and other orders for the payment of money shall be signed by such officer or officers or such other person or persons as the Board of Directors may from time to time designate. If no designation is made and unless and until the Board of Directors otherwise provides, each of the President and Treasurer shall individually have power to sign all such instruments which are executed or made in the ordinary course of the Foundation's business for the Foundation.

7.2 Fiscal Year. The Board of Directors shall have power to fix and from time to time change the fiscal year of the Foundation. In the absence of action by the Board of Directors, however, the fiscal year of the Foundation shall be the calendar year.

7.3 Dissolution of Foundation. To the extent permitted by applicable law, upon the dissolution or ceasing-to-exist of the Foundation, all moneys, properties, and other assets shall be conveyed to and belong to the City, and the Board shall take such action as is necessary to transfer such moneys, properties, and other assets to the City.

ARTICLE VIII MISCELLANEOUS

8.1 Indemnification. The Foundation shall indemnify and protect any director, officer, employee, or agent of the Foundation and the City, or any person who serves at the request of the Foundation as a director, officer, employee, member, manager, or agent of another corporation, partnership, limited liability company, joint venture, trust, employee benefit plan, or other enterprise, to the fullest extent permitted by the laws of the State of Kansas.

8.2 Amendments. These Bylaws may be altered, amended, or repealed by the affirmative vote of a majority of the Board of Directors at any meeting of the Board; provided, however, provided, however, that no such modification or amendment shall be effective unless and until approved by a resolution or other action adopted by the Governing Body of and for the City.

SECRETARY'S CERTIFICATE

I hereby certify that I am the Secretary of Westwood Foundation, a Kansas not for profit corporation, and the keeper of its corporate records; that the Bylaws to which this Certificate is attached were duly adopted by said corporation's Board of Directors as and for the Bylaws of the corporation as of June 30, 2023; and that, subject to approval by the Governing Body of the City of Westwood, Kansas, as set forth below, these Bylaws constitute the Bylaws of the Foundation and are in full force and effect.

By: _____

Printed Name: _____
Secretary

CITY CLERK'S CERTIFICATE

I hereby certify that I am the City Clerk of and for the City of Westwood, Kansas, a Kansas municipal corporation; that the Bylaws to which this Certificate is attached were duly approved as the Bylaws for the Westwood Foundation by the Governing Body of the City by resolution or other action taken as of _____, 2023.

By: _____

Printed Name: _____
City Clerk