

DRAFT

**BYLAWS
OF
DESERT HOT SPRINGS HEALTH AND WELLNESS
FOUNDATION**

A California Nonprofit Public Benefit Corporation

Adopted _____, 2014
Amended _____

Distributed by Steve Q.
at 02/05/14 DHS Health
and Wellness Foundation
Board Meeting.

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BYLAWS
OF
DESERT HOT SPRINGS HEALTH AND WELLNESS FOUNDATION
(A California Nonprofit Public Benefit Corporation)

ARTICLE I

Organization

Section 1. **Name.** The name of this Corporation is Desert Hot Springs Health and Wellness Foundation (the "Corporation").

Section 2. **Purpose.** The specific purpose of the Corporation is to operate a health and wellness center, in conjunction with other public agencies and nonprofit corporations, as appropriate, to promote the physical and psychological health and well-being of residents of the City of Desert Hot Springs and the surrounding area.

Section 3. **Objectives.** The Corporation has been formed to raise funds for and otherwise conduct or support programs and activities that benefit the Desert Hot Springs Health and Wellness Center. (the "Center").

Section 4. **Principal Office.** The principal office of the Corporation shall be fixed and located at the Center. The Foundation Board of Directors (the "Foundation Board") is hereby granted full power and authority to establish additional offices in the City of Desert Hot Springs and surrounding area.

Section 5. **Members.** The Corporation shall have no "members" as that term is defined in section 5056 of the California Nonprofit Corporations Law (the "Law"). However, the Foundation Board may, from time to time, designate supporters of the Corporation as "members" for purposes of recognizing their levels or types of support and interest in the programs and activities of the Foundation including the following classes of supporters: Individual Members; Household Members; Life Members; and Business Members

Section 6. **Ralph M. Brown, Public Records and Political Reform Acts.** The Corporation is committed to ensuring that the deliberations of Foundation Board are conducted openly, the actions of the Foundation Board are taken openly and all records of the Corporation are made available for public inspection in accordance with the Ralph M. Brown Act (the "Brown Act"), California Government Code sections 54950 through 54963, as amended from time to time, the California Public Records Act (the "Public Records Act"), California Government Code sections 6250 through 6276.48, as amended from time to time, and the Political Reform Act of 1974 (the "Political Reform Act"), California Government Code sections 81600 through 9105, as amended from time to time. Accordingly, in the event of a conflict between a provision of these Bylaws and a section of the Brown Act, the Public Records Act or the Political Reform Act, the Brown Act or, as applicable, the Public Records Act or the Political Reform Act, shall control.

ARTICLE II

Board of Directors

Section 1. Powers. Subject to the limitations of the Articles of Incorporation and other provisions of these Bylaws, and the laws of the State of California, all corporate powers shall be exercised by, or under the authority of, and the business and affairs of the Corporation, shall be controlled by the Foundation Board.

Section 2. Number, Classes, Selection and Terms of Office of Directors. The Foundation Board shall consist of ____ () directors with ____ appointed by the Desert Hot Springs City Council; ____ () appointed by the Desert Health Care District Board of Directors; ____ () appointed by the Palm Springs Unified School District Board of Directors; and The initial directors of the Foundation Board have been appointed by the Incorporators pursuant to section 5140 of the Law. The initial terms of the directors shall be two (2) or three (3) years, with the initial terms of each such director determined by the appointing bodies which shall be staggered terms. After the initial terms, each of the directors shall serve three (3) year terms.

All vacancies on the Foundation Board including, without limitation, vacancies caused by expiration of term, resignation or removal, including a demand resignation for failing to attend meetings, shall be filled by the legislative body which appointed the vacant director position.

Section 3. Vacancies.

(a) A vacancy or vacancies on the Foundation Board shall be deemed to exist (i) in case of the death, resignation, or removal of any director or (ii) if the authorized number of directors is increased. The Foundation Board may declare vacant the office of a director who has been declared of unsound mind by a final order of court, or convicted of a felony, or found by a final order of judgment of any court to have breached any duty arising under Article 3 (commencing with section 5230) of the Law. A director shall be deemed to have resigned if he or she accumulates unexcused absences amounting to at least one-half of the Foundation Board's regularly schedule meetings during any fiscal year.

(b) Subject to the provision of section 5226 of the Law, any director may resign effective upon giving written notice to the Chair, the Secretary, or designee of the Foundation Board, unless the notice specifies a later time for the effectiveness of such resignation. If a director resigns by giving notice specifying that such resignation shall be effective at a future time, a successor may be designated by the Foundation Board before such time to take office when the resignation becomes effective.

(c) No reduction in the number of directors shall have the effect of removing any director prior to the expiration of his or her term of office.

Section 4. Removal of Directors. Any member of the Foundation Board may be removed from office, with or without cause, by the Foundation Board.

ARTICLE III

Meetings of the Foundation Board of Directors

Section 1. Place of and Public Access to Meetings. All meetings of the Foundation Board shall be held at the principal business office of the Corporation or at such other place within the City of Desert Hot Springs or the surrounding area as may be designated from time to time by resolution of the Foundation Board, or in the notice of said meeting. All meetings of the Foundation Board shall be open and public and any member of the public shall be permitted to attend any meeting of the Foundation Board, except as otherwise provided in the Brown Act.

Section 2. Annual Meeting. The annual meeting of the Foundation Board shall be the regular meeting of the Foundation Board held in _____ of each year. The officers of the Foundation Board shall be elected at this meeting for terms commencing immediately.

Section 3. Regular Meetings. The Foundation Board shall meet on the date established by Foundation Board by resolution. Notice of regular meetings of the Foundation Board of Directors need not be given, unless otherwise required by the Brown Act. The Foundation Board shall hold at least _____ () regular meetings during each fiscal year.

Section 4. Special Meetings. Special meetings of the Foundation Board may be called at any time pursuant to the Brown Act.

Section 5. Agendas. All agendas shall be prepared and posted as required by the Brown Act.

Section 6. Action at a Meeting; Quorum and Required Vote. Presence of a majority of the directors of the Foundation Board at a meeting of the Foundation Board constitutes a quorum for the transaction of business. Members of the Board of Directors may participate in a meeting through use of a conference telephone, video conference or similar communications equipment pursuant to section 54953 of the Brown Act. Participation in a meeting as permitted in the preceding sentence constitutes presence in person at such meeting. Every act or decision done or made by a majority of the directors present at a meeting duly held at which a quorum is present shall be regarded as the act of the Foundation Board unless a greater number, is required by law, by the Articles of Incorporation, or by these Bylaws. All votes shall be made pursuant to the applicable provisions of the Brown Act.

Section 7. Adjourned Meetings. A quorum of the directors may adjourn any Foundation Board meeting to meet again at a stated day and hour; provided, however, that in the absence of a quorum, a majority of the directors present at any Foundation Board meeting, either regular or special, may adjourn from time to time until the time fixed for the next regular meeting of the Board. Notice of an adjourned meeting shall be provided pursuant to the Brown Act.

Section 8. Rights of Inspection. The Foundation Director, every Foundation Board director and every Foundation Board Member shall have the absolute right at any reasonable time to inspect and copy all books, records and documents of every kind, and to inspect the physical properties of the Corporation.

Section 9. Fees and Compensation. The directors of the Foundation Board shall receive no receive compensation for their services as directors; however, directors may be reimbursed for or advanced any expenses actually incurred or reasonably expected to be incurred in connection with the performance of their duties as directors

ARTICLE IV

Officers

Section 1. Officers. The officers of the Foundation Board shall be a Chair, a Vice Chair, a Secretary and a Chief Financial Officer. Two or more offices may be held by the same person. All officers of the Foundation Board, except the Chief Financial Officer, must also be directors of the Foundation Board. The removal or resignation of a director who is an officer of the Corporation shall be deemed a resignation by such person from all offices held.

Section 2. Nomination and Election. The officers of the Corporation, shall be elected annually by the Foundation Board, at its annual meeting, and each officer so elected shall hold office until he or she shall resign, shall be removed or otherwise disqualified to serve, or until a successor shall be elected and qualified. A person may serve as Chair, Vice Chair or Secretary for no more than two (2) consecutive years without at least a one (1) year break in service. At any regular or special meeting of the Foundation Board, the Foundation Board may fill a vacancy caused by the death, resignation, removal or disqualification of any officer.

Section 3. Removal and Resignation. Any officer may be removed, either with or without cause, by the Foundation board on a 2/3 vote or by the Foundation Board on a majority vote, at any regular or special meeting of the respective boards. Any officer may resign at any time by giving written notice to the Chair or Secretary of the Foundation Board or the Executive Director. Any such resignation shall take effect at the date of the receipt of such notice or at any later date specified therein; and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 4. Chair of the Board. The Chair of the Foundation Board shall preside at all meetings of the Foundation Board and exercise and perform such other powers and duties as may be from time to time assigned to the Chair by the Foundation Board or prescribed by the Bylaws. The duties of the Chair shall include the following:

(a) Scheduling meetings when necessary and conducting them in accordance with Rosenberg's Rules of Order and the requirements of the Brown Act;

(b) Setting meeting agendas in conjunction with the Foundation Director and ensuring adequate discussion of items;

(c) Keeping the Vice Chair and members of the Foundation Board and Foundation Board informed on issues affecting the Corporation; and

(d) On behalf of the Foundation Board and in conjunction with the Foundation Director, responding to issues from the community, private and public sectors, the

Foundation Board, and the media, or designating another member of the Foundation Board to represent the Corporation.

Section 5. Vice Chair. In the absence of the Chair, the Vice Chair will exercise the duties of the Chair and shall perform such other duties as may be from time to time required by the Chair or by the Foundation Board.

Section 6. Foundation Director. The Foundation Director, subject to the direction and control of the Foundation Board, shall have general supervision, direction and control of the business and affairs of the Corporation and shall have the general powers and duties of management usually vested in the office of the chief executive officer of a corporation. The Foundation Director shall have the necessary authority and responsibility to operate the Corporation and all of its activities and departments, subject only to such policies as may be issued by the Foundation Board or Foundation Board. The Foundation Director shall act as a duly authorized representative of the Foundation Board in all matters in which the Foundation Board has not formally designated some other person to act.

Section 7. Secretary. The Secretary shall record or cause to be recorded, and shall keep or cause to be kept, at the principal business office or such other place as the Foundation Board may order, a Minute Book of actions taken at all meetings of the Foundation Board, with the time and place of holding, whether regular or special, and if special, how authorized, the notice thereof given, and the names of those present at Foundation Board meetings. The Secretary shall give, or cause to be given, notice of all the meetings of the Foundation Board required by the Bylaws or by law to be given, and shall have such other powers to perform such other duties as may be prescribed by the Foundation Board or by the Bylaws.

Section 8. Chief Financial Officer. The Chief Financial Officer shall keep and maintain, or cause to be maintained, adequate and correct accounts of the properties and business transactions of the Corporation, including accounts of its assets, liabilities, receipts, disbursements, gains and losses. The Chief Financial Officer shall submit a statement of accounts at each regular meeting of the Foundation Board and shall make such reports as the Foundation Board may require, and shall make an annual report prior to the annual meeting of the Foundation Board. The Chief Financial Officer shall cause to be deposited or shall cause to be disbursed in accordance with procedures approved by the Foundation Board all monies and other valuables in the name and to the credit of the Corporation with such depositories as may be designated by the Foundation Board. The Chief Financial Officer shall disburse funds of the Corporation as may be ordered by the Foundation Board, shall render to the Chair of the Foundation Board, the Foundation Director and the Foundation Board, whenever they request, an account of all transactions as Chief Financial Officer and of the financial condition of the Corporation, and shall have such other powers and perform such other duties as may be prescribed by the Foundation Board or the Bylaws.

ARTICLE V

Committees

Section 1. Committees.

(a) The Foundation Board may, by resolution adopted by a majority of the Directors then in office, provided that a quorum is present, establish one or more committees consisting of at least a majority of directors of the Foundation Board plus any other person or persons. Members of all committees shall be appointed by the Foundation Board. Members of all committees shall serve at the pleasure of the Foundation Board.

(b) The Foundation Board shall have the power to prescribe the manner in which proceedings of any committee shall be conducted. In the absence of any such prescription, such committee shall have the power to prescribe the manner in which its proceedings shall be conducted. Unless these Bylaws, the Foundation Board or such committee shall otherwise provide, the regular and special meetings and other actions of any committee shall be governed by the provisions of Article V applicable to meetings and actions of the Foundation Board which shall be subject to the Brown Act. Each committee shall keep regular minutes of its proceedings and shall report the same to the Foundation Board from time to time, as the Foundation Board may require.

Section 2. Alternates. The Foundation Board may designate one or more directors as alternate members of any such committee, who may replace any absent member at any meeting of the committee.

Section 3. Standing Committees. The Foundation Board may create standing committees consisting of two or more directors of the Foundation Board that has continuing subject matter jurisdiction over a particular issue. Each such standing committee shall establish its rules for the conduct of its affairs, shall establish its duties and purposes, and shall perform such other duties as the Foundation Board may prescribe from time to time.

Section 4. Special Advisory Committees. From time to time, the Chair of the Foundation Board may appoint one or more special advisory committees consisting of less than a majority of the Foundation Board for purposes of considering specific matters of concerns of the Foundation Board for a temporary period of time.

Section 5. Term of Office. Each member of a committee shall serve until his or her successor is appointed, or until such committee is sooner terminated, or until he or she is removed, resigns, or otherwise ceases to qualify as a member of the committee.

Section 6. Quorum; Meetings. Each committee, standing committee and special advisory committee shall meet as often as necessary to perform its duties, at such times and places as directed by its chair, the Chair of the Foundation Board or the Foundation Board and, if applicable, in compliance with the Brown Act. A majority of the members of any of the above committees (excepting special advisory committees) shall constitute a quorum of such committee and the act of a majority of the members present at a meeting at which a quorum is present shall be the act of the committee. Each of the above committee (excepting special advisory committees) shall keep accurate minutes of its meetings, the chair designating a secretary of the committee (who may be a Foundation staff member) for this purpose, and shall make periodic reports and recommendations to the Foundation Board.

Section 7. Vacancies. Vacancies on any committee may be filled for the unexpired portion of the term in the same manner as provided in the case of original appointments.

Section 8. Conflict of Interest. The Foundation Board, through a committee designated for that purpose, shall require not less frequently than once a year a statement from each director setting forth all business and other affiliations which relate in any way to the business of the Corporation. Each director shall be responsible for disclosing to the Corporation any matter which would make such director an "interested director" within the meaning of section 5233 of the Law. In addition, each director shall disclose to the Corporation any relationship or other factor which would cause that director to be considered to be an "interested person" within the meaning of section 5227 of the Law.

Section 9. Limitation on Delegation. The Foundation Board may not delegate to its committees any legal authority that under the Law can only be exercised by the full Foundation Board.

ARTICLE VI

Indemnification and Insurance

Section 1. Right of Indemnity. To the fullest extent permitted by law, this Corporation shall indemnify its directors, officers, employees, and other persons described in section 5238(a) of the Law, including persons formerly occupying any such position, against all expenses, judgments, fines, settlements and other amounts actually and reasonably incurred by them in connection with any "proceeding," as that term is used in that section, and including an action by or in the right of the Corporation, by reason of the fact that the person is or was a person described in that section. "Expenses," as used in this Bylaw, shall have the same meaning as in section 5238(a) of the Law.

Section 2. Approval of Indemnity. On written request to the Foundation Board by any person seeking indemnification under section 5238 (b) or section 5238 (c) of the Law, the Foundation Board shall promptly determine under section 5238(e) of the Law whether the applicable standard of conduct set forth in section 5238(b) has been met and, if so, the Foundation Board shall authorize indemnification.

Section 3. Advancement of Expenses. To the fullest extent permitted by law and except as otherwise determined by the Board in a specific instance, expenses incurred by a person seeking indemnification under Sections 1 and 2 of this Bylaw in defending any proceeding covered by those sections shall be advanced by the Corporation before final disposition of the proceeding, on receipt by the Corporation of an undertaking by or on behalf of that person that the advance will be repaid unless it is ultimately determined that the person is entitled to be indemnified by the Corporation for those expenses, and on receipt by the Corporation of such security as the Foundation Board may deem appropriate.

Section 4. Insurance. The Foundation Board may adopt a resolution authorizing the purchase and maintenance of insurance on behalf of any agent of the 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 the Corporation would have the power to indemnify the agent against that liability under the provisions of this Article.

ARTICLE VII

General Provisions

Section 1. Checks, Drafts Etc. All checks, drafts or other orders for payment of money, notes or other evidences of indebtedness, issued in the name of or payable to the Corporation, and any and all securities owned or held by the Corporation requiring signature for transfer, shall be signed or endorsed by such person or persons and in such manner as, from time to time, shall be determined by the Foundation Board.

Section 2. Inspection of Corporate Records. The Corporation shall keep at its principal business office, the originals or copies of its Articles of Incorporation and Bylaws, as amended or otherwise altered to date, certified by its Secretary; written minutes of the meetings of its Foundation Board, and any committees of the Foundation Board; its books and records of account; and all other books, records and documents of the Corporation.

Section 3. Endorsement of Documents; Contracts. Any note, mortgage, evidence of indebtedness, contract, conveyance or other instrument in writing, and any assignment or endorsement thereof executed or entered into between the Corporation and any other person, when signed by the Chair, the Secretary, or the Chief Financial Officer, shall be valid and binding on the Corporation in the absence of actual knowledge on the part of the other person that the signing officer(s) had no authority to execute the same. Any such instrument may be signed by any other officers, agents or employees and in such manner as shall from time to time be determined by the Foundation Board and, unless so authorized by the Foundation Board of Directors no officer, agent or employee shall have any power or authority to bind the Corporation by any contract or engagement or to pledge its credit or to render it liable for any purpose or amount.

Section 4. Annual Report. The Corporation shall furnish annually to the Foundation Board, the Foundation Director and each director of the Foundation Board within 150 days after the close of its fiscal year, a written report containing the following information in reasonable detail:

(a) The assets and liabilities, including the trust funds, of the Corporation as of the end of the fiscal year.

(b) The principal changes in the assets and liabilities, including trust funds, during the fiscal year.

(c) The revenue or receipts of the Corporation, both unrestricted and restricted to particular purposes, for the fiscal year.

(d) The expenses or disbursements of the Corporation, for both general and restricted purposes, during the fiscal year.

(e) Any information required by section 6322 of the Law, as from time to time amended.

Section 5. Conflict of Interest. The Corporation, through the Foundation Board, shall promulgate, from time to time, a written conflict of interest policy, according to the current law then in effect, including section 87100 of the California Government Code, to be adhered to by its officers and directors, and which includes guidelines for the resolution of actual or potential conflicts of interest.

Section 6. Fiscal Year. The fiscal or business year of the Corporation shall be July 1 of the current year through June 30 of the subsequent year.

Section 7. Construction and Definitions. Unless the context otherwise requires, the general provisions, rules of construction and definitions contained in the general provisions of the Law shall govern the construction of these Bylaws.

ARTICLE VIII

Amendments and Dissolution

Section 1. Amendment. New bylaws may be adopted, or these Bylaws may be amended, modified or repealed by the Foundation Board provided, however, that any proposed amendment shall require the prior approval of the Foundation Board before it shall become effective.

Section 2. Record of Amendments. Any amendment or alteration in these Bylaws shall be forthwith filed with the original Bylaws of the Corporation.

Section 3. Dissolution. The Foundation Board may dissolve the Corporation at any time.

CERTIFICATE OF SECRETARY

I, the undersigned, do hereby certify:

1. That I am the duly elected and acting secretary of the Desert Hot Springs Health and Wellness Foundation, a California nonprofit public benefit corporation; and

2. That the foregoing Bylaws, consisting of _____ () pages, exclusive of cover sheet and table of contents, constitute the Bylaws of said corporation as duly adopted by the Foundation Board of Directors on _____, 2014.

IN WITNESS WHEREOF, I have executed this Certificate as of this _____ day of _____, 2014.

_____, Secretary