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  - Meeting ID: 847 7690 9681 Passcode: 811376
- Mobile and Dial in access Download Zoom App: +16699009128,,84776909681#
- CCBD Meeting packet can be found at <https://downtownsandiego.org/build-your-business/bid/>

**(3:30) CALL MEETING TO ORDER | Lindsay Kotas**

- Non-Agenda Public Comment
- Agenda Public Comment
- Board Members Roll Call

**(3:33) BUSINESS SPOTLIGHT**

- Bob Watkins | CEO, R.J. Watkins & Company <https://rjwatkins.com/r-j-watkins-team/>

**(3:40) SPEAKER**

- Chris Springer | President & Founder, The House of Music
- Catherine Rells | Executive Director & Co-Founder, The House of Music

**(3:53) CEO REPORT**

- Betsy Brennan | President & CEO, Downtown San Diego Partnership
  - Board resignation of Greg Block
  - **ACTION:** Lindsay Kotas as interim BID Board Chair

**(4:00) CHAIR REPORT | Lindsay Kotas**

- Board resignation of Sarah Kirchoff, Palomar Hotel
- Call for Nomination: Interim Vice Chair

**ACTION ITEMS**

- Approval of Meeting Minutes 7.27.2021
- Storefront Board Seat: Ciara Murillo | **Blue Bottle Coffee**

**(4:06) COMMITTEE REPORT | Jimmy Parker**

- Bylaw Review Committee Update
  - Committee Members: Jimmy Parker, Michael Caldwell, Markalan Hamilton

**(4:13) DIRECTOR'S REPORT | Alex Gutierrez**

**BID Policy**

- Update on Virtual Board member trainings dates to comply with City Councils action.

**Events**

- Update on City meetings regarding Civic Center Plaza Activation
- Holiday Toy Drive | Street Closure | Location: E Street and 9<sup>th</sup> avenue | Date: December 17
  - **What we need:** Title Sponsor, Vendors, and Entertainment

**(4:20) LIAISON REPORT**

- Kohta Zaiser | Office of Mayor Todd Gloria, City of San Diego
- Larry Turner | SDPD Community Relations Officer, Central Division
- Alonso Vivas | Clean and Safe Program
- Josh Coyne | Downtown San Diego Partnership

**(4:30) CONCLUSION | Lindsay Kotas**

- CCBD Board Meeting (**All meetings are called to order at 3:30 p.m.**)
  - ❖ November 16, 2021

**ADJOURN | Lindsay Kotas**

# City Center Business District Meeting Minutes

July 27, 2021  
Zoom Meeting

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## Call to Order

Lindsay Kota called the meeting to order at 3:34 pm.

## Non-Agenda Public Comment

There was no Non-Agenda Public Comment.

## Agenda Public Comment

There was no Agenda Public Comment.

**The following CCBD Board Members were present:** Lindsay Kotas, Jimmy Parker, Katy McDonald, Michael Caldwell, Betsy Brennan, Javier Monteno, Markalan Hamilton.

**The following staff members were present:** Alex Gutierrez, Josh Coyne, Terri Johnson, Rio Sison, Vanessa Kyriakides.

**Action Item:** Approval of Board Meeting Minutes from 5.25.21

- 1<sup>st</sup>: Jimmy Parker
- 2<sup>nd</sup> Javier Monteno
- All in favor

**Nominations Volunteer Committee:** Lindsay Kotas, Katy McDonald, and Javier Monteno

## Business Spotlight: Blue Bottle Coffee, Ciara Murillo, Café Leader

Ciara Murillo informed the Board that the Downtown location has been in business for over a year. Ciara Murillo wants to expand the business and become involved in the City Center community.

## Q&A:

- Q - Lindsay Kotas: What are your hours of operation?
- A - Ciara Murillo: Currently, the hours are 6:30 am - 4:00 pm, but we want to expand to 6:30 am-5:00 pm
- Q - Lindsay Kotas: Does Blue Bottle have Mobile Apps?
- A - Ciara Murillo: Blue Bottle Coffee App on IOS and Android.
  - Mobile orders can be made ahead of time.
  - Uber Eats/ Doordash (w/ limited item availability)
- Q - Lindsay Kotas: Does Blue Bottle do movable events?
- A - Ciara Murillo: Yes, we are open to doing pop-up events with organizations. Blue Bottle has done events in the past with local organizations.
- Q - Jimmy Parker: How can we contact Ciara to discuss pop-up events and partnering?
- A - Ciara Murillo: Contact me through email: [cmurillo@bluebottlecoffee.com](mailto:cmurillo@bluebottlecoffee.com)

**Presentations:**

**Alonso Vivas, Executive Director of Clean and Safe Program, recapped FY21 City Center Services and shared FY22 services.**

**Q&A:**

- Q - Jimmy Parker: Can you explain more about the escorting service for City Center employees.
- A - Alonso Vivas: Clean and Safe offer 24/7 service extended during pandemic and lockdown, now with overnight security. For assistance, text or call the office 30 minutes before you would like to be escorted.
- C - Jimmy Parker: I recommend this escorting for employees that need to get to their cars after work; I recommend the services to Ciara for her employees.
- R - Jimmy Parker: Alex, can we work on getting this information to businesses and the public?
- A - Alex Gutierrez: Yes, I will work with Vanessa to promote the program.
- Q - Ciara Murillo: Alonso, I am interested in the program; are there meetings that we can attend? Is it open to the public?
- A - Alonso Vivas: Yes, I will share the email with Alex regarding meeting information. The meeting is once a month, second Wednesday of every month.

**Chair Report:****Lindsay Kotas**

Informed the Board members that we still need one more person to volunteer to join the nominations committee. Javier Monteno volunteered to be part of the committee.

- Committee members are Lindsay Kotas, Katy McDonald, and Javier Monteno.

**Director's Report:**

Alex Gutierrez discussed the BID accountability plan. We developed the plan due to an action by City Council on May 18, 2021. The action is to for all San Diego BIDs to review the BID Bylaws to add anti-harassment, conflict of interest, and board inclusivity policies. In conjunction with Board member training on anti-harassment, conflict of interest, and board inclusivity.

- Q - Lindsay Kotas: Is there an action that the Board needs?
- A - Alex Gutierrez: No need to approve; no action is needed as this is a mandate by City Council for all BIDs, but it is open to conversation.
- Q - Jimmy Parker: Can we get a calendar to comply with meetings and dates?
- A - Alex Gutierrez: We are working on it and talking internally about the best steps to take. We are looking for the most practical training and looking to finalize it in the next three months.

Alex Gutierrez introduced Vanessa Kyriakides (Business Retention Intern). He informed them that Vanessa is working on providing businesses with information on small business loans and grant information; she will also be focused on social media outreach and assist with the monthly newsletter development. Alex also updated Curbside E Street, Civic Center Plaza Activation, and the potential Concert Series.

- Q - Javier Monteno: Where are the grants offers from? Are they private, local, or federal?
- A - Vanessa Kyriakides: Depends on what is readily available; it can be different from time to time.
- Q - Javier Monteno: Any openings for permits to get parklets on 7th Avenue?

- A - Alex Gutierrez: Information on permits is in City Center Newsletter, and we can help process it for you.
- Q - Javier Monteno: Will businesses be vending at Civic Plaza?
- A - Alex Gutierrez: There are Wednesdays through the City program. When this new programming is established, there will be music and vendors. If you are interested, we can discuss it.

**Adjourn**

- Lindsay Kota adjourned the meeting at 4:29 pm.



**BLUE BOTTLE**  
COFFEE

**Ciara Murillo:** Cafe Leader - Blue Bottle Coffee

Ciara is a sustainably driven coffee retail leader with over +10 years of people management experience. Promoting exceptional hospitality and business focus within NCO, training, and current markets within the specialty coffee industry. Coordinates community efforts for all of the Southern California market. Currently on a Sustainability Working Committee and mentorship for hourly employees for the entire organization. Sustainability spearheading work to influence brand and policy on a global scale. Effective in interpersonal savvy and servant leadership. Skilled in creating opportunities to move large-scale and challenging initiatives forward. Passionate about sustainability, community, and activism for indigenous communities. Volunteers with local partners and farming collectives to provide knowledge, skill, and food to lower-income urbanized neighborhoods.



## Bylaw Review Committee Work Plan

**Committee:** City Center Bylaw Review (Downtown BID)      Non-Standing   X   Permanent     

**Primary Committee Purpose:**

The Purpose of the Bylaw Review Committee is to conduct a review of the BID Bylaws as required by the City of San Diego City Council on May 18, 2021 and review the Board seat structure. The Committee will present any changes by amendment, addition, or deletion, deemed necessary and desirable. The Committee is to maintain the integrity of the governing Bylaws of the City Center BID while supporting business owners' rights, whether private or public.

**Committee Members:** Jimmy Parker, Michael Caldwell, Markalan Hamilton

**Characteristic:** Businesses that hold an address within the BID footprint.

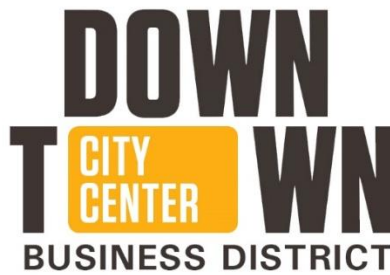
**Staff:** Alex Gutierrez (Director of Special Districts)

**Meeting schedule:** TBD

**Committee Responsibilities:**

- To ensure that the BID Bylaws:
  1. Anti-harassment language includes race, age, ethnicity, national origin, sexual orientation or identity, disability, education, or any other bias.
  2. Conflict of Interest (COI) language includes, but not limited to, financial interest, relationships with external entities, and process of exclusion when COI arises.
  3. Board inclusivity policy language includes, but not limited to, diversity, inclusion, and equity of the board.
  4. Review of the BID board seat structure to improve the business community's involvement with the BID board.

<b>Specific Products or Results Expected</b>		<b>Timing</b>
1.	Review of the current BID Bylaws, review City Councils Motion, and Board seating structure.	September 30, 2021
2.	Draft new language that meets all Committee responsibilities.	October 11, 2021
3.	Send a draft of BID Bylaws and recommended Board seating structure to the BID Board for feedback.	October 13, 2021
4.	Board members submit feedback via email to Bylaw Review Committee.	October 20, 2021
5.	Send draft BID Bylaws to BID legal department for review.	October 22, 2021
6.	BID Bylaw Review Committee reviews legal department edits.	November 3, 2021
7.	BID Board takes action during the BID Board meeting.	November 16, 2021
8.	Submit Bylaws to the City of San Diego Economic Development Department.	December 1, 2021



June 11, 2021

Christina Bibler  
Director, Economic Development Department  
City of San Diego  
1200 Third Ave. #1200  
San Diego, CA 92101

Dear Ms. Bibler,

As part of the annual Business Improvement District (BID) contract extension and budget approval, the San Diego City Council requested that each BID organization develop an accountability plan. The Downtown Business Improvement District (DBA City Center Business District) leadership has reviewed the motion moved forward by the San Diego City Council on May 18, 2021. The council motion included the following elements:

- Approving a six-month extension of the FY2019 BID Management Agreements with the nonprofit associations, with a six-month renewal subject to compliance with the accountability provisions as determined by Economic Development Department staff; and
- Approving additional accountability provisions requiring an annual review of the BID association bylaws, an anti-harassment and inclusivity workplace policy signed by all BID association board directors and employees, and annual anti-harassment and inclusivity workplace training for all association board directors and employees.

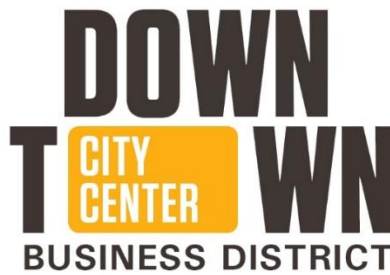
We are encouraged to see the City Council advancing these vital issues and have included an outline of how we will address these provisions, below.

Thank you for your ongoing support,

Sincerely,

A handwritten signature in black ink, appearing to read "Alex Gutierrez".

Alex Gutierrez  
Director of Special Districts



### **Accountability Plan**

The Downtown San Diego Partnership manages the Downtown Business Improvement District, and under its leadership, the following actions will be implemented:

#### **A review of the Downtown BID bylaws will be conducted by October 31st, 2021, and presented at the January Board of Directors meeting:**

- After the accountability provisions are met during the first six-months of fiscal year 2022, the Downtown BID will conduct an annual Bylaw review by May 31 of every year.
- The Downtown BID will activate a Bylaw review Committee.
- The Committee will give their recommendation to the BID management organization.
- Bylaws, and any revisions, will be posted on the BID's website and made available to the public upon request.
- All Board members will receive a copy of the Bylaws.

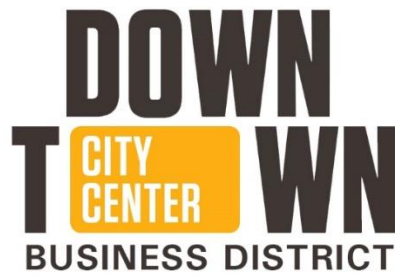
#### **Adaptation of anti-harassment, conflict of interest, and board inclusivity policies:**

- The Downtown San Diego Partnership is currently conducting a diversity study across all departments, including all vendors. Once the diversity study has concluded, Downtown San Diego Partnership can share its findings with planned next steps.
- After the accountability provisions are met during the first six months of the fiscal year 2022, the Downtown BID board members will complete all training by September 30 of every year.
- Anti-harassment training will include race, age, ethnicity, national origin, sexual orientation or identity, disability, education, or any other bias.
- Conflict of Interest (COI) training will include, but not limited to, financial interest, relationships with external entities, and process of exclusion when COI arises.
- Board inclusivity policy training will include, but not limited to, diversity, inclusion, and equity of the board.
- One of the following three preferred vendors, SRPro Consultants, Cavignac risk management, or resources through the BIDA, will conduct in person or online training.
- Each staff and board member will submit signed documentation demonstrating completion of training, and records will be on file for five years and available upon request.

Additionally, EDD staff requested **"an annual opportunity for Board Members, assessment payers, and the general public to provide input on the performance of the nonprofit management association and their chief executive."**

- These mechanisms to "provide input on the performance" of the organization and its staff are being reviewed by the Downtown San Diego Partnership legal counsel to ensure compliance with the law.





- The Downtown BID plans on requesting public feedback by directing the public to an online survey.
- The survey results will be reviewed by the organization's management team and board volunteers.
- During the BID annual meeting, the public will be invited provide input on the performance of the BID and managing organization.
- All Downtown BID Board of Directors meetings are open to the public. Members of the public are given time to provide non-agenda and agenda public comment.

**BYLAWS  
of  
DOWNTOWN SAN DIEGO BUSINESS IMPROVEMENT  
DISTRICT, INC.  
a California Nonprofit Mutual Benefit Corporation**

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**BYLAWS**  
**of**  
**DOWNTOWN SAN DIEGO BUSINESS IMPROVEMENT DISTRICT, INC.**  
**a California nonprofit mutual benefit corporation**

Pursuant to that certain Action by Unanimous Consent of Board of Directors of the Downtown San Diego Business Improvement District, Inc. dated \_\_\_\_\_, 2015 the Board of Directors of the Downtown San Diego Business Improvement District, Inc. has unanimously approved adoption of these bylaws of the Downtown San Diego Business Improvement District, Inc.

**ARTICLE 1**  
**OFFICES**

**1.1 Principal Office.** The principal office of the Downtown San Diego Business Improvement District, Inc. (the “Corporation”) shall be fixed and located at such place as the Board of Directors (the “Board”) shall determine. The Board is granted full power and authority to change said principal office from one location to another.

**1.2 Other Offices.** Branch or subordinate offices may be established at any time by the Board at any place or places.

**ARTICLE 2**  
**MEMBERSHIP**

**2.1 Members.** This Corporation shall have one class of members consisting of all current business license holders within the Downtown San Diego Business Improvement District as approved by ordinance by the San Diego City Council.

**2.2 Associates.** Nothing in this ARTICLE 2 shall be construed as limiting the right of the Corporation to refer to persons associated with it as “members” even though such persons are not members, and no such reference shall constitute anyone a member within the meaning of Section 5056 of the California Nonprofit Corporation Law (the “Law”). The Corporation may confer by amendment of its Articles of Incorporation (the “Articles”) or of these Bylaws some or all of the rights of a member, as set forth in the Law, upon any person or persons who do not have the right to vote for the election of Directors or on a disposition of substantially all of the assets of the Corporation or on a merger or on a dissolution or on changes to the Corporation’s Articles or Bylaws, but no such person shall be a member within the meaning of said Section 5056 of the Law.

**2.3 Place of Meetings.**

Meetings of members shall be held at any place within or outside of the State of California which has been designated from time to time by the Board. In the absence of

such designation, regular meetings shall be held at the principal office of the Corporation.

#### **2.4 Annual Meeting.**

The members shall hold an annual meeting for the purpose of selection of Directors, and the transaction of other business. Annual meetings of the members shall be held on such dates and at such times as may be fixed by the Board.

#### **2.5 Special Meetings.**

Special meetings of the members for any purpose or purposes may be called by five percent (5%) of the members of the Corporation or by a majority of the Board.

#### **2.6 Notice.**

**2.6.1** Annual and special meetings of members shall be held upon at least ten (10) days' notice by first-class mail or ten (10) days' notice given personally or by telephone (including a voice messaging system) or by electronic transmission by the Corporation as defined in Section 20 of the California Corporations Code. Any such notice shall be addressed or delivered to each member at such member's address as it is shown upon the records of the Corporation or as may have been given to the Corporation by the member for purposes of notice or, if such address is not shown on such records or is not readily ascertainable, at the place where the meetings of the members are regularly held.

**2.6.2.** Notice by mail shall be deemed to have been given at the time a written notice is deposited in the United States mail, postage prepaid. Any other written notice shall be deemed to have been given at the time it is personally delivered to the recipient or is delivered to a common carrier for transmission, or actually transmitted by the person giving the notice by electronic means, to the recipient. Oral notice shall be deemed to have been given at the time it is communicated, in person or by telephone or wireless, to the recipient or to a person at the office of the recipient who the person giving the notice has reason to believe will promptly communicate it to the receiver. The notice of a special meeting shall state the time of the meeting and the place, if the place is other than the principal office of the Corporation.

**2.7 Quorum.** A majority of the number of members then serving constitutes a quorum of the members for the transaction of business. Every act or decision done or made by a majority of the members present at a meeting duly held at which a quorum is present shall be regarded as the act of the members, unless a greater number be required by law or by the Articles, except as provided in the next sentence. A meeting at which a quorum is initially present may continue to transact business notwithstanding the withdrawal of members, if any action taken is approved by at least a majority of the required quorum for such meeting.

**2.8 Participation in Meetings by Conference Telephone and Electronic Means.** Members may participate in a meeting of the members, or a

committee meeting, through use of a conference telephone, electronic video screen communication or electronic transmission by and to the Corporation pursuant to Sections 20 and 21 of the California Corporations Code. Participation in a meeting through the use of conference telephone or electronic video screen communication constitutes presence in person at that meeting as long as all members participating in that meeting can hear one another. Participation in a meeting through use of electronic transmission by and to the Corporation, other than telephone conference and electronic video screen communication, constitutes presence in person at that meeting if both of the following apply:

**2.8.1** Each member participating in the meeting can communicate with all of the other members concurrently.

**2.8.2** Each member is provided the means of participating in all matters before the members, including, without limitation, the capacity to propose, or to interpose an objection to, a specific action to be taken by the Corporation.

**2.9 Waiver of Notice.** Notice of a meeting need not be given to any member 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 meeting.

**2.10 Action Without Meeting.** Any action required or permitted to be taken by the members may be taken without a meeting if all members shall individually or collectively consent in writing to such action in writing, or by telegraph, facsimile, electronic mail, or other electronic means of communication. Such consent or consents shall have the same effect as a unanimous vote of the members and shall be filed with the minutes of the proceedings of the members.

**2.11 Inspections of Election.** Every 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.

**2.12 Record Date of Membership.** The record date for the purpose of determining the members entitled to notice of any meeting of members is thirty (30) days before the date of the meeting of members. The record date for the purpose of determining the members entitled to vote at any meeting of members is thirty (30) days before the date of the meeting of members. The record date for the purpose of determining the members entitled to exercise any rights in respect to any other lawful action is thirty (30) days before that other action.

**2.13 Cumulative Voting.**

Cumulative voting is not authorized for the election of directors or for any other purpose.**2.14 Non-Liability.**

No Member shall be personally liable for the debts, liabilities, or obligations of the Corporation.

### **ARTICLE 3 DIRECTORS**

**3.1 General Corporate Powers.** Subject to the limitations of the Law, the Articles, and these Bylaws, the activities and affairs of the Corporation shall be conducted and all corporate powers shall be exercised by or under the direction of the Board. The Board may delegate the management of the activities of the Corporation to any person or persons, a management company or committees, however composed, provided that the activities and affairs of the Corporation shall be managed and all corporate powers shall be exercised under the ultimate direction of the Board.

**3.2 Specific Powers.** Without prejudice to the general powers set forth in the Law and in Section 3.1 above, but subject to the same limitations, it is hereby expressly declared that the Board shall have the following powers in addition to the other powers enumerated in these Bylaws:

**3.2.1** To select and remove all Officers, agents, and employees of the Corporation, prescribe powers and duties for them as may not be inconsistent with law, the Articles, or these Bylaws, fix their compensation and require from them such security, if any, for faithful service as the Board may deem appropriate.

**3.2.2** To conduct, manage, and control the affairs and activities of the Corporation, and to make such rules and regulations therefor not inconsistent with law, the Articles, or these Bylaws, as the Board may deem appropriate.

**3.2.3** To adopt, make, and use a corporate seal and to alter the form of such seal from time to time as the Board may deem appropriate.

**3.2.4** To borrow money and incur indebtedness for the purposes of the Corporation and to cause to be executed and delivered therefor, in the corporate name, promissory notes, bonds, debentures, deeds of trust, mortgages, pledges, hypothecations, or other evidences of debt and securities therefor.

**3.3 Number of Directors.** The authorized number of Directors shall be not less than three (3) nor more than twenty (20) until changed by amendment of the Articles or these Bylaws. The exact number of Directors shall be fixed, within the limits specified, by resolution duly adopted by the Board.

**3.4 Selection and Term of Office.** In an organizational meeting of the Board, following the adoption of these Bylaws, the members shall divide itself into two approximately equal groups. The terms of office for each group of Directors shall be staggered. The first group of Directors shall hold office until the next following annual



meeting of the members, and the second group shall hold office until the second following annual meeting of the members. Thereafter the Directors in each group shall hold office until the second ensuing annual meeting of the members following their election. The terms of all Directors shall extend until such Directors' respective successors are elected and qualified. If the authorized number of Directors is increased, additional Directors shall be assigned by the members to one of the foregoing two groups at the time of election.

**3.5 Interested Persons.** Not more than forty-nine percent (49%) of the persons serving on the Board at any time may be interested persons. For purposes of this Section 3.5, an interested person is:

**3.5.1** Any person being compensated by the Corporation for services rendered to it within the previous twelve (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; or

**3.5.2** Any brother, sister, ancestor, 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.

Any violation of the provisions of this Section 3.5 shall not affect the validity or enforceability of any transaction entered into by the Corporation.

**3.6 Transactions in Which Directors Have Personal Interest.**

**3.6.1** Any transaction of the Corporation in which any of its Directors have a material financial interest shall be entered into or consummated only if:

**3.6.1.1** The transaction is fair and reasonable as to the Corporation at the time the Corporation enters into the transaction;

**3.6.1.2** The Corporation enters into the transaction for its own benefit; and

**3.6.1.3** Prior to consummating the transaction or any part thereof the Board authorizes or approves the transaction in good faith by a vote of the majority of the Directors then in office without counting the vote of the interested Director or Directors (although such Director or Directors may be counted for purposes of determining the presence of a quorum at the meeting at which such action is taken), and with knowledge of the material facts concerning the transaction and such Director's interest in the transaction.

**3.6.2** If it is not reasonably practicable to obtain such approval by the Board prior to entering into the transaction, a committee or person authorized by the Board may approve the transaction in a manner consistent with the standards of Section 3.6.1; provided, however, that at its next meeting the Board:

**3.6.2.1** Determines that it was not reasonably practicable to obtain approval by the Board prior to entering into the transaction;

**3.6.2.2** Determines that the committee or person authorized by the Board approved the transaction in the required manner; and

**3.6.2.3** Ratifies the transaction by a vote of the majority of the Directors then in office without counting the vote of the interested Director or Directors (although such Director or Directors may be counted for purposes of determining the presence of a quorum at the meeting at which such action is taken).

**3.6.3** Sections 3.6.1 and 3.6.2 shall not apply to:

**3.6.3.1** An action of the Board fixing the compensation of a Director as a Director or Officer of the Corporation;

**3.6.3.2** A transaction which is part of a public or charitable program of the Corporation if it:

**3.6.3.2.1** Is approved or authorized by the Corporation in good faith and without unjustified favoritism; and

**3.6.3.2.2** Results in a benefit to one or more Directors or their families because they are in the class of persons intended to be benefitted by the public or charitable program; or

**3.6.3.3** A transaction of which the interested Director or Directors have no actual knowledge and which does not exceed the lesser of one percent (1%) of the gross receipts of the Corporation for the preceding fiscal year or One Hundred Thousand Dollars (\$100,000).

**3.6.4** Any contract or other transaction (other than transactions subject to Sections 3.6.1 or 3.6.3 above) between the Corporation and any corporation, firm, association, or other entity of which one or more of this Corporation's Directors are directors or trustees shall be entered into or consummated only if:

**3.6.4.1** The material facts relating to the transaction and to such Director's other directorship are fully disclosed or known to the Board or committee, and the Board or committee authorizes, approves, or ratifies the contract or transaction in good faith by a vote sufficient without counting the vote of the common Director or Directors; or

**3.6.4.2** The contract or transaction is just and reasonable as to the Corporation at the time it is authorized, approved, or ratified.

**3.6.5** Notwithstanding any provision of this Section 3.6, at any time during which Section 4958 of the Internal Revenue Code (the "Code") applies to the Corporation, the Corporation shall consider the possible effect of Section 4958 on any

transaction which could constitute an excess benefit transaction as defined in Section 4958(c) of the Code. At any time during which Section 4941 of the Code applies to the Corporation, the Corporation shall not enter into any transaction which would constitute direct or indirect self-dealing as defined in Section 4941(d) of the Code.

### **3.7 Resignation and Vacancies.**

**3.7.1** Subject to the provisions of Section 5226 of the Law, any Director may resign effective upon giving written notice to the Chairman of the Board, the President, the Secretary, or the Board, 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 selected before such time, to take office when the resignation becomes effective.

**3.7.2** A vacancy on the Board shall be deemed to exist in case of the death, resignation, or removal of any Director or an increase in the authorized number of Directors. Vacancies on the Board shall be filled by election by the members, pursuant to Section 3.4 above, provided that any such vacancy may be filled by a majority of the members, although less than a quorum. Each Director so selected shall hold office until the expiration of the term of the replaced Director and until a successor has been selected and qualified.

**3.8 Removal.** Any Director or Directors may be removed from office without cause if such removal is approved by a majority of the members. The members 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 been found by a final court or judgment of any court to have breached any duty arising under Sections 5230 through 5238 of the Law. No reduction of the authorized number of Directors shall have the effect of removing any Director prior to the expiration of the Director's term of office.

**3.9 Place of Meetings.** Meetings of the Board shall be held at any place within or outside the State of California which has been designated from time to time by the Board. In the absence of such designation, regular meetings shall be held at the principal office of the Corporation.

**3.10 Annual Meetings.** The Board shall hold an annual meeting for the purposes of organization, selection of Officers, and the transaction of other business. Annual meetings of the Board shall be held on such dates and at such times as may be fixed by the Board.

**3.11 Regular Meetings.** Regular meetings of the Board may be held without call or notice on such dates and at such times as may be fixed by the Board.

**3.12 Special Meetings.** Special meetings of the Board for any purpose or purposes may be called at any time by the Chairman of the Board, the President, any Vice President, the Secretary, or any two Directors.

### **3.13 Notice.**

**3.13.1** Annual and special meetings of the Board shall be held upon at least four (4) days' notice by first-class mail or forty-eight (48) hours' notice given personally or by telephone (including a voice messaging system) or by electronic transmission by the Corporation as defined in Section 20 of the California Corporations Code. Any such notice shall be addressed or delivered to each Director at such Director's address as it is shown upon the records of the Corporation or as may have been given to the Corporation by the Director for purposes of notice or, if such address is not shown on such records or is not readily ascertainable, at the place where the meetings of the Directors are regularly held.

**3.13.2** Notice by mail shall be deemed to have been given at the time a written notice is deposited in the United States mail, postage prepaid. Any other written notice shall be deemed to have been given at the time it is personally delivered to the recipient or is delivered to a common carrier for transmission, or actually transmitted by the person giving the notice by electronic means, to the recipient. Oral notice shall be deemed to have been given at the time it is communicated, in person or by telephone or wireless, to the recipient or to a person at the office of the recipient who the person giving the notice has reason to believe will promptly communicate it to the receiver. The notice of a special meeting shall state the time of the meeting and the place, if the place is other than the principal office of the Corporation.

**3.14 Quorum.** A majority of the number of Directors then serving constitutes a quorum of the Board for the transaction of business, except to adjourn as provided in Section 3.17. 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 Board, unless a greater number be required by law or by the Articles, except as provided in the next sentence. A meeting at which a quorum is initially present may continue to transact business notwithstanding the withdrawal of Directors, if any action taken is approved by at least a majority of the required quorum for such meeting.

**3.15 Participation in Meetings by Conference Telephone and Electronic Means.** Directors may participate in a meeting of the Board, or a committee meeting, through use of a conference telephone, electronic video screen communication or electronic transmission by and to the Corporation pursuant to Sections 20 and 21 of the California Corporations Code. Participation in a meeting through the use of conference telephone or electronic video screen communication constitutes presence in person at that meeting as long as all members participating in that meeting can hear one another. Participation in a meeting through use of electronic transmission by and to the Corporation, other than telephone conference and electronic video screen communication, constitutes presence in person at that meeting if both of the following apply:

**3.15.1** Each Director participating in the meeting can communicate with all of the other members concurrently.

**3.15.2** Each Director is provided the means of participating in all matters before the Board, including, without limitation, the capacity to propose, or to interpose an objection to, a specific action to be taken by the Corporation.

**3.16 Waiver of Notice.** 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 meeting.

**3.17 Adjournment.** A majority of the Directors present, whether or not a quorum is present, may adjourn any Directors' meeting to another time and place. Notice of the time and place of holding an adjourned meeting need not be given to absent Directors if the time and place be fixed at the meeting adjourned, except as provided in the next sentence. If the meeting is adjourned for more than twenty-four (24) hours, reasonable 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.

**3.18 Action Without Meeting.** Any action required or permitted to be taken by the Board may be taken without a meeting if all members of the Board shall individually or collectively consent in writing to such action in writing, or by telegraph, facsimile, electronic mail, or other electronic means of communication. Such consent or consents shall have the same effect as a unanimous vote of the Board and shall be filed with the minutes of the proceedings of the Board. For the purposes of this Section only, "all members of the Board" shall not include any "interested director" as defined in Section 5233 of the Law.

**3.19 Rights of Inspection.** Every Director 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.

**3.20 Executive Committee.**

**3.20.1** The Board may, by resolution adopted by a majority of the number of Directors then in office, establish an executive committee consisting of at least two Directors (with the specific number to be determined by the Board) which, except when the Board is in session, and except as its powers may be otherwise limited by the Board, shall have and may exercise the powers of the Board in the management of the business and affairs of the Corporation and may authorize the seal of the Corporation to be affixed to all papers which may require it. The Executive Committee shall also have the power of general supervision, management, and control of the business of the Corporation and over its several Officers.

**3.20.2** Appointments to the Executive Committee shall be by a majority vote of the Directors then in office. A majority of all the members of the Executive Committee may determine its rules of procedure unless the Board shall otherwise

provide. The Board shall have the power to change the members of the Executive Committee at any time, either with or without cause and to fill vacancies; provided that all appointments to the Executive Committee shall be by a majority vote of the Directors then in office. The compensation, if any, of each member of the Executive Committee shall be as prescribed from time to time by the Board. Any action which under the provisions of the Law may be taken at a meeting of the Executive Committee, may be taken without a meeting if authorized by a writing signed by all members of the Executive Committee who would be entitled to vote at a meeting for such purpose and filed with the Secretary of the Corporation.

**3.21 Audit Committee.** For any fiscal year in which the Foundation receives or accrues gross revenues of \$2 million or more, the Board of Directors shall establish an Audit Committee, which may include non-Board members, but may not include the Foundation's President or Chief Financial Officer, any member of the Foundation staff, or any person who has a material financial interest in any entity doing business with the Foundation. No individual who receives compensation from the Foundation in excess of the compensation then paid to any Director for services as a Director may be a member of the Audit Committee. If the Foundation has established a Finance Committee, the Chair of the Audit Committee may not be a member of the Finance Committee, and members of the Finance Committee must constitute less than one-half of the Audit Committee. The duties of the Audit Committee shall be: 1) to recommend to the Board of Directors the retention and termination of the independent auditor; 2) to negotiate the compensation of the auditor on behalf of the Board; 3) to confer with the auditor to ensure that the financial affairs of the Foundation are in order; 4) to review the audit documents and determine whether to accept the audit; and 5) to approve performance of any non-audit services to be provided by the auditing firm.

**3.22 Standing or Special Committees.**

**3.22.1** The term "standing committee" or "special committee" shall mean any committee appointed by the Board which is authorized by specific delegation, without further Board action, to make and implement decisions on behalf of the Board, or to implement, with some degree of discretion, decisions of the Board pursuant to guidelines established by the Board. Notice of, and procedures for, meetings of standing or special committees shall be as prescribed by the chairman of each such standing or special committee, and meetings of standing or special committees may be called by the Board or the chairman of the standing or special committee.

**3.22.2** In the event that the Board determines that the management of the Corporation would be benefitted by the establishment of one or more standing or special committees in addition to the Executive Committee, the Board may from time to time establish one or more such committees. The establishment of a standing or special committee shall be effected by a resolution of the Board approved by the vote of the majority of the Directors then in office which specifically sets forth the powers and duties delegated to such committee. Each such committee shall consist of two or more Directors and shall be presided over by a Director selected by the Board.

**3.23 Limitations upon Committees of the Board.** No committee of the Board shall have any of the authority of the Board with respect to:

**3.23.1** the filling of vacancies on the Board or on any committee which has the authority of the Board;

**3.23.2** the fixing of compensation of the Directors for serving on the Board or on any committee which has the authority of the Board;

**3.23.3** the amendment or repeal of Bylaws or the adoption of new Bylaws;

**3.23.4** the amendment or repeal of any resolution of the Board which by its express terms is not so amendable or repealable;

**3.23.5** the appointment of other committees of the Board or the members thereof if such committee will have the authority of the Board;

**3.23.6** the expenditure of corporate funds to support a nominee for Director after there are more people nominated for Director than can be elected; or

**3.23.7** the approval of any self-dealing transaction described in Section 5233 of the Law, except that when it is not reasonably practicable to obtain approval of the Board prior to entering into such a transaction, a committee authorized by the Board may approve the transaction in a manner consistent with the standards set forth in Section 5233(d) of the Law subject to ratification by a majority of the Directors then in office (without counting the vote of any interested Director) at the next meeting of the Board.

**3.24 Advisory Commissions.** The Chairman of the Board, the Board, the Executive Committee, or the President may from time to time appoint such advisory commissions as deemed appropriate, consisting of Directors or persons who are not Directors. Such advisory commissions shall not be deemed committees of the Board (even if they are referred to as “committees”) and shall not exercise any powers of the Board. Notice of, and procedures for, meetings of advisory commissions shall be as prescribed by the chairman of each such advisory commission, and meetings of advisory commissions may be called by the Chairman of the Board, the Board, the Executive Committee, the President, or the chairman of the advisory commission.

**3.25 Committee Meetings; Notice; Voting; Minutes.** Meetings of a committee may be called by the President, the chairman of the committee, or a majority of the committee’s voting members. Each committee shall meet as often as is necessary to perform its duties. Notice of a meeting of a committee may be given at any time and in any manner reasonably designed to inform the committee members of the time and place of the meeting. A majority of the voting members of a committee shall constitute a quorum for the transaction of business at any meeting of the committee. Each committee shall keep minutes of its proceedings and shall report periodically to the Board. A committee may take action by majority vote.

**3.26 Resignation and Removal of Committee Members.** Any member of a committee may resign at any time by giving written notice to the chairman of the committee or to the President. Such resignation, which may or may not be made contingent upon formal acceptance, shall take effect upon the date of receipt or at any later time specified in the notice.

**3.27 Vacancies on Committees.** A vacancy in any committee shall be filled for the unexpired portion of the term in the same manner as the committee member whose position is vacant was selected.

**3.28 Fees and Compensation.** Directors and members of committees or commissions may receive such compensation, if any, for their services, and such reimbursement for expenses, as may be fixed or determined by the Board. Notwithstanding the foregoing, this Corporation shall not make any loan of money or property to, or guarantee the obligation of, any Director or Officer, unless approved by the Attorney General; provided, however, that the Corporation may advance money to a Director or Officer of the Corporation for expenses reasonably anticipated to be incurred in the performance of the duties of such Officer or Director, provided that in the absence of any such advance, such Director or Officer would be entitled to be reimbursed for such expenses by the Corporation. Subject to the provisions of Section 3.5, nothing contained in this Section 3.28 shall be construed to preclude any Director from serving the Corporation in any other capacity as an Officer, agent, employee, or otherwise, and receiving reasonable compensation therefor.

## **ARTICLE 4 OFFICERS**

**4.1 Officers.** The Officers of the Corporation shall be a President, a Secretary, and a Chief Financial Officer. The Corporation may also have, at the discretion of the Board, a Vice President, a Chairman of the Board, one or more Assistant Secretaries, one or more Assistant Chief Financial Officers, and such other Officers as may be elected or appointed in accordance with the provisions of Section 4.3. 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 the President or Chairman of the Board.

**4.2 Election.** The Officers of the Corporation, except such Officers as may be elected or appointed in accordance with the provisions of Section 4.3 or Section 4.5, shall be chosen annually by, and shall serve at the pleasure of, the Board, and shall hold their respective offices until their resignation, removal, or other disqualification from service, or until their respective successors shall be elected.

**4.3 Subordinate Officers.** The Board may elect, and may empower the President to appoint, such other Officers as the business of the Corporation may require, each of whom shall hold office for such period and have such authority and perform



such duties as are provided in these Bylaws or as the Board may from time to time determine.

#### **4.4 Removal and Resignation.**

**4.4.1** Any Officer may be removed, either with or without cause, by the Board at any time or, except in the case of an Officer chosen by the Board, by any Officer upon whom such power of removal may be conferred by the Board. Any such removal shall be without prejudice to the rights, if any, of the Officer under any contract of employment of the Officer with the Corporation.

**4.4.2** Any Officer may resign at any time by giving written notice to the Corporation, but without prejudice to the rights, if any, of the Corporation under any contract to which the Officer is a party. 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.

**4.5 Vacancies.** A vacancy in any 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.

**4.6 Chairman of the Board.** The Chairman of the Board, if there be such an Officer, shall be elected from among the Directors then serving. The Chairman of the Board shall, if present, preside at all meetings of the Board and shall exercise and perform such other powers and duties as may be from time to time assigned by the Board. At such time as the Chairman of the Board shall cease to serve as a Director, he or she shall also automatically cease to serve as Chairman of the Board.

**4.7 President.** Subject to such powers, if any, as may be given by the Board to the Chairman of the Board, if there be such an Officer, the President is the general manager and chief executive officer of the Corporation and has, subject to the control of the Board, general supervision, direction, and control of the business and Officers of the Corporation. The President has the general powers and duties of management usually vested in the office of president and general manager of a corporation and such other powers and duties as may be prescribed by the Board. In the absence of the Chairman of the Board, or if there be none, the President shall perform all of the duties of the Chairman of the Board and, when so acting, shall have all the powers of, and be subject to all the restrictions upon, the Chairman.

**4.8 Vice Presidents.** In the absence or disability of the President, the Vice Presidents, if any be appointed, in order of their rank as fixed by the Board or, if not ranked, the Vice President 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. The Vice Presidents shall have such other powers and

perform such other duties as from time to time may be prescribed for them respectively by the Board.

**4.9 Secretary.** The Secretary shall keep or cause to be kept, at the principal office or such other place as the Board may order, a book of minutes of all meetings of the Board and committees of the Board, with the time and place of holding, 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 of the Corporation in the State of California the original or a copy of the 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 any committees thereof required by law or by these Bylaws to be given, shall keep the seal of the Corporation in safe custody, and shall have such other powers and perform such other duties as may be prescribed by the Board.

**4.10 Chief Financial Officer.** The Chief Financial Officer shall keep and maintain, or cause to be kept and maintained, adequate and correct accounts of the properties and business transactions of the Corporation. The books of account shall at all times be open to inspection by any Director. The Chief Financial Officer shall deposit all moneys and other valuables in the name and to the credit of the Corporation with such depositories as may be designated by the Board. The Chief Financial Officer shall disburse the funds of the Corporation as may be ordered by the Board, shall render to the President and the Directors, whenever they request it, 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 Board.

## **ARTICLE 5 OTHER PROVISIONS**

**5.1 Endorsement of Documents; Contracts.** Subject to the provisions of applicable law, 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 Chairman of the Board, the President, or any Vice President and the Secretary, any Assistant Secretary, the Chief Financial Officer, or any Assistant Chief Financial Officer of the Corporation shall be valid and binding on the Corporation in the absence of actual knowledge on the part of the other person that the signing Officers had no authority to execute the same. Any such instruments may be signed by any other person or persons and in such manner as from time to time shall be determined by the Board, and, unless so authorized by the Board, 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.

**5.2 Representation of Shares of Other Corporations.** The President, or any other Officer or Officers authorized by the Board or the President, are each authorized to vote, represent, and exercise on behalf of the Corporation all rights incident to any and all shares of any other corporation or corporations standing in the

name of the Corporation. The authority herein granted may be exercised either by such Officer in person or by any other person authorized to do so by proxy or power of attorney duly executed by said Officer.

**5.3 Construction and Definitions.** Unless the context otherwise requires, the general provisions, rules of construction, and definitions contained in the General Provisions of the California Nonprofit Corporation shall govern the construction of these Bylaws.

**5.4 Amendments.** These Bylaws may be amended or repealed, subject to the provisions of the Law, by the approval of the Board.

**5.5 Maintenance of Certain Records.** The accounting books, records, and minutes of proceedings of the Board and the Executive Committee of the Board shall be kept at such place or places designated by the Board, or, in the absence of such designation, at the principal office of the Corporation. The minutes shall be kept in written or typed form, and the accounting books and records shall be kept either in written or typed form, or in any other form capable of being converted into written, typed, or printed form.

**5.6 Annual Report.** The Board may cause an annual report to be furnished not later than one hundred twenty (120) days after the close of the Corporation's fiscal year. The annual report shall be accompanied by any report thereon of independent accountants or, if there is no such accountant's report, the certificate of an authorized Officer of the Corporation that such statements were prepared without audit from the books and records of the Corporation. The annual report shall contain in appropriate detail the following:

**5.6.1** The assets and liabilities, including the trust funds, of the Corporation as of the end of the fiscal year;

**5.6.2** The principal changes in assets and liabilities, including trust funds, during the fiscal year;

**5.6.3** The revenue or receipts of the Corporation, both unrestricted and restricted to particular purposes, for the fiscal year;

**5.6.4** The expenses or disbursements of the Corporation, for both general and restricted purposes, for the fiscal year; and

**5.6.5** Any information required by Section 5.7 of these Bylaws.

**5.7 Annual Statement of Certain Transactions and Indemnifications**

**5.7.1** The Corporation shall furnish annually a statement of any covered transaction or indemnification described below, if such covered transaction or

indemnification took place. Such annual statement shall be affixed to and sent with the annual report described in Section 5.6 of these Bylaws. A covered transaction under this Section 5.7 is a transaction in which the Corporation was a party, and in which either of the following interested persons had a direct or indirect material financial interest (excluding a mere common directorship):

**5.7.1.1** Any Director or Officer of the Corporation, or its parent or subsidiary; or

**5.7.1.2** Any holder of more than ten percent (10%) of the voting power of the Corporation, its parent or its subsidiary.

**5.7.2** The statement required by this Section 5.7 shall describe briefly:

**5.7.2.1** Any covered transaction (including compensation of Officers and Directors) during the previous fiscal year involving more than Fifty Thousand Dollars (\$50,000), or which was one of a number of covered transactions in which the same interested persons had a direct or indirect material financial interest and which transactions in the aggregate involve more than Fifty Thousand Dollars (\$50,000);

**5.7.2.2** The names of the interested persons involved in such transactions, stating such person's relationship to the Corporation, the nature of such person's interest in the transaction, and, where practicable, the amount of such interest; provided that in the case of a transaction with a partnership of which such person is a partner, only the interest of the partnership need be stated; and

**5.7.2.3** The amount and circumstances of any indemnifications or advances aggregating more than Ten Thousand Dollars (\$10,000) paid during the fiscal year to any Officer or Director of the Corporation pursuant to ARTICLE 6 of these Bylaws.

**5.8 Financial Audits.** For any fiscal year in which the Corporation receives or accrues gross revenues of \$2 million or more, the Corporation shall prepare a financial statement which shall be audited by an independent certified public accountant in accordance with generally accepted accounting principles.

## **ARTICLE 6 INDEMNIFICATION**

**6.1 Definitions.** For the purposes of this ARTICLE 6, the following definitions shall apply:

**6.1.1** References to "agent" mean any person who is or was a Director, Officer, employee, or other agent of the Corporation, or is or was serving at the request of the 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 the Corporation or of another enterprise at the request of such predecessor corporation;

**6.1.2** References to “proceeding” mean any threatened, pending, or completed action or proceeding, whether civil, criminal, administrative, or investigative; and

**6.1.3** References to “expenses” include without limitation attorneys’ fees and any expenses of establishing a right to indemnification under Sections 6.5 or 6.6.2.

**6.2 Indemnification in Actions by Third Parties.** The Corporation shall, to the maximum extent permitted by law, 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 the Corporation to procure a judgment in its favor, an action brought under Section 5233 of the Law, or an action brought by reason of the fact that such person is or was an agent of the 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 the 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 the Corporation or that the person had reasonable cause to believe that the person’s conduct was unlawful.

**6.3 Indemnification in Actions by or in the Right of the Corporation**

The Corporation shall, to the maximum extent permitted by law, 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 the Corporation, to procure a judgment in its favor, or brought under Section 5233 of the Law, or brought by the Attorney General or a person granted relator status by the Attorney General for breach of duty relating to assets held in charitable trust, by reason of the fact that such person is or was an agent of the 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 the 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 6.3:

**6.3.1** In respect of any claim, issue, or matter as to which such person shall have been adjudged to be liable to the Corporation in the performance of such person’s duty to the 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;

**6.3.2** Of amounts paid in settling or otherwise disposing of a threatened or pending action, with or without court approval; or

**6.3.3** 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.

**6.4 Limitation on Indemnification.** Notwithstanding the foregoing Sections 6.2 and 6.3, at any time during which Section 4941 of the Code applies to the Corporation, no indemnification shall be made nor indemnification reimbursement insurance purchased where it would constitute an act of self-dealing under Section 4941 of the Code.

**6.5 Indemnification Against Expenses.** To the extent that an agent of the Corporation has been successful on the merits in defense of any proceeding referred to in Sections 6.2 and 6.3, 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.

**6.6 Required Determinations.** Except as provided in Section 6.5, any indemnification under this ARTICLE 6 shall be made by the 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 6.2 and 6.3, by:

**6.6.1** A majority vote of a quorum consisting of Directors who are not parties to such proceeding; or

**6.6.2** The court in which such proceeding is or was pending upon application made by the 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 the Corporation.

**6.7 Advance of Expenses.** Expenses incurred in defending any proceeding may be advanced by the 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 6.

**6.8 Other Indemnification.** No provision made by the Corporation to indemnify its or its subsidiary's Directors or Officers for the defense of any proceeding, whether contained in the Articles, Bylaws, a resolution of Directors, an agreement, or otherwise, shall be valid unless consistent with this ARTICLE 6. Nothing contained in

this ARTICLE 6 shall affect any right to indemnification to which persons other than such Directors and Officers may be entitled by contract or otherwise.

**6.9 Forms of Indemnification Not Permitted.** No indemnification or advance shall be made under this ARTICLE 6, except as provided in Sections 6.5 or 6.6.2, in any circumstances where it appears:

**6.9.1** That it would be inconsistent with a provision of the Articles, 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

**6.9.2** That it would be inconsistent with any condition expressly imposed by a court in approving a settlement.

**6.10 Insurance.** The Corporation shall have power to purchase and maintain 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 such liability under the provisions of this ARTICLE 6; provided, however, that the Corporation shall have no power to purchase and maintain such insurance to indemnify any agent of the Corporation for a violation of Section 5233 of the California Nonprofit Public Benefit Corporation Law.

**6.11 Non-Applicability to Fiduciaries of Employee Benefit Plans.** This ARTICLE 6 does not apply to any proceeding against any trustee, investment manager, or other fiduciary of an employee benefit plan in such person's capacity as such, even though such person may also be an agent of the Corporation as defined in Section 6.1. The Corporation shall have power to indemnify such trustee, investment manager, or other fiduciary to the extent permitted by subdivision (f) of Section 5140 of the California Nonprofit Corporation Law.

**CERTIFICATE OF SECRETARY**

I, the undersigned, do hereby certify:

(1) That I am the duly elected and acting Secretary of the Downtown San Diego Business Improvement District, Inc., a California mutual benefit corporation; and

(2) That the foregoing bylaws, comprising of twenty-one (21 pages), constitute the bylaws of said corporation as duly adopted by the written consent of the Board of Directors of said corporation as of \_\_\_\_\_, 2015.

IN WITNESS WHEREOF, I have hereunto subscribed my name this \_\_\_\_\_, 2015.

\_\_\_\_\_  
Secretary



## City Center Board Seats (Downtown BID)

			Board Term End Date	Board Position
<b>Entertainment - Three Seats</b>				
San Diego Theaters	Brendan Farley	Director of Operations	Dec-21	
Horton Plaza Park (Stockdale)	Jimmy Parker	Director	Dec-22	
San Diego Symphony	Katy McDonald	Chief of Staff	Dec-21	
<b>Hospitality - Two Seats</b>				
Palomar Hotel	Sarah Kirchoff	Senior Sales Manager	Dec-22	
U.S. Grant	Lindsay Kotas	Director of Marketing and Sales	Dec-21	Treasurer
<b>Corporate/ Small Businesses - Four Seats</b>				
			Dec-21	
Downtown San Diego Partnership	Betsy Brennan	President and CEO	Dec-21	
ThreeSixty Public Strategies	Greg Block	Partner	Dec-22	Chair
			Dec-22	
<b>Storefronts - Four Seats</b>				
7 Café	Javier Monteno	Owner	Dec-22	
Fitness- Yoga One	Michael Caldwell	Owner	Dec-21	
			Dec-22	
FeeLIT Record Store	Markalan Hamilton	Owner	Dec-21	
<b>Tech Startups - One Seat</b>				
			Dec-22	
<b>Residential Business - One Seat</b>				
			Dec-21	