

**BYLAWS**  
of the DOWNTOWN ASSOCIATION OF FRESNO  
a California nonprofit corporation

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**Article I**  
**PURPOSE**

Section 1.1. Name.

The name of the Corporation is the Downtown Association of Fresno.

Section 1.2. Principal office.

The principal office of the Corporation shall be located within the PBID assessment area boundaries provided in Appendix I in the City of Fresno, County of Fresno, California. The principal office and additional offices may be located in such places as may be determined from time to time by the Board of Directors.

Section 1.3. Purpose

The purpose of this corporation shall be to improve and promote the economic well-being of Downtown Fresno through the operation of a management district and related activities.

Section 1.4. Limitations.

Notwithstanding any other provision of these Bylaws, the Corporation shall not, except to insubstantial degree, carry on or engage in any activities or exercise any powers that are not in furtherance of the purposes of the Corporation, and the Corporation shall not carry on any other activities not permitted to be carried on by a corporation with a tax-exempt status under Section 501(c)(6) of the Internal Revenue Code of 1986 (or corresponding provisions of any future United States Internal Revenue Law).

## **Article II**

### **MEMBERSHIP**

#### Section 2.1. Classes of membership.

The Corporation shall have members. Membership of the Corporation shall consist of the following categories:

- a. Voting Members
  - (i) Voting members are limited to PBID Assessment Members.
  - (ii) A PBID Assessment Member shall be a Stakeholder, as defined in this Article, paying an assessment as described in Appendix I.
- b. Nonvoting Members
  - (i) A Downtown Stakeholder Member shall be a Stakeholder, as defined in this Article, not paying an assessment as described in Appendix I and voluntarily paying dues to the Corporation.
  - (ii) A General Member shall be a member, voluntarily paying dues to the Corporation, who is not a Stakeholder.

#### Section 2.2. Definitions.

- a. A Stakeholder shall be any person, firm, corporation, or professional, engaged in a retail trade, providing a service or having a business, or owning commercial or income generating property, or any other assessed entity within the downtown area bounded by Divisadero Street and Freeways 99 and 41.

#### Section 2.3. PBID Assessment Membership.

- a. Assessment area boundaries, the boundaries of various assessment zones within the assessment area, and the corresponding rates of assessment are provided in Appendix I. Such boundaries and rates shall apply to PBID Assessment Members as defined in this Article. The Corporation serves as the Property Owners Association under PBID Law (California Streets and Highways Code Section 36600 et seq.).
- b. During PBID assessment renewal election years pursuant to PBID Law (California Streets and Highways Code Section 36600 et seq.), the Board of Directors may adopt a resolution proposing to alter, amend, or repeal Appendix I, which may include amendments to the assessment area boundaries and rates. Such amendments shall be approved as required under PBID Law and the California Constitution by the City of Fresno and affected property owners through a property owner ballot process. The Board of Directors shall approve such proposed amendments no later than March 1 of the election year.
- c. The Board of Directors shall have the authority to adjust the rates of assessment of PBID Assessment Members within the limits provided in Appendix I in any year. In the event of such

an adjustment, the Corporation shall notify all PBID Assessment Members by mail of the adjustment at least 180 days prior to effectiveness. Such notice shall be considered delivered to a member when deposited in the United States Postal Service in Fresno, California, first class postage paid, addressed to the last address of that member as such address appears upon the records of the Corporation.

#### Section 2.4. Voluntary membership.

- a. Annual dues for voluntary, dues-paying members, as defined in this Article, shall be as set by the Board of Directors.
- b. Annual dues for each voluntary, dues-paying member shall be due on the anniversary date of the member's membership.
- c. Changes in dues shall become effective for the voluntary, dues-paying members upon their respective membership renewal dates. Notice of changes in dues shall be made to members in writing and shall be considered as delivered to a member when deposited in the United States Postal Service at Fresno, California, postage paid, addressed to the last address of that member as such address appears upon the records of the Corporation.

#### Section 2.5. Rights of membership.

- a. Members in good standing, excluding inactive members, shall have the right to vote, as set forth in these Bylaws, on the election of directors, on the disposition of all or substantially all of the assets of the Corporation, on any merger and its principal terms and any amendment of those terms, on amendments to these Bylaws as provided in Article XII, and on any election to dissolve the Corporation.
- b. Each member in good standing, excluding inactive members, shall be entitled to one vote at the annual meeting of the Corporation, and in other meetings as provided by these Bylaws or the Board of Directors.
- c. Members, excluding inactive members, shall have rights afforded members under the California Nonprofit Mutual Benefit Corporation Law.
- d. No membership or right arising from membership shall be transferred.

#### Section 2.6. Termination.

- a. Any voluntary, dues-paying member may at any time resign, provided that such resignation shall not release, relieve or excuse such member from the member's dues obligation in the then current fiscal year of the Corporation. Any resignation by a member shall be in writing and shall be delivered to the Corporation.
- b. The membership of any voluntary, dues-paying member may be terminated by the Board of Directors. Any such termination of a membership shall be at the discretion of the Board of Directors and shall be based on a failure to pay dues when owed or on the judgment of the Board of Directors that the continued membership of the member is detrimental to accomplishment of

the objectives of the Corporation. Upon termination of a voluntary, dues-paying membership, either by resignation or action of the Board of Directors, the affected member shall have no right, title, or interest of any kind in or to any of the properties or assets of the Corporation.

c. Upon the completion of a sale or transfer of real property within the assessment area, any and all rights to membership in the Corporation afforded to the prior owner by virtue of ownership of said property shall immediately cease.

d. Any member whose assessment or voluntary dues are one hundred twenty (120) days or more delinquent shall be an inactive member. An inactive member shall have no rights as a member until all delinquent dues have been paid.

**Article III**  
**BOARD OF DIRECTORS**

Section 3.1. Duties.

- a. Subject to the limitations of these Bylaws, the Articles of Incorporation, and the laws of California, the affairs of the Corporation shall be managed, and all corporate powers shall be exercised by, or under the direction of, the Board of Directors (herein also “the Board”).
- b. Regular attendance at Board meetings is expected of all directors.

Section 3.2. Composition and qualifications.

- a. The Board shall consist of a minimum of seventeen (17) directors and no more than twenty (20) directors.
- b. Each director shall be an active member of the Corporation in good standing.
- c. The Board shall consist of the following:
  - (i) Fifteen (15) directors who are PBID Assessment Members of the Corporation, as defined in Article II. Three (3) of these directors shall be designated by their respective government agencies to serve as follows: the Mayor or City Manager of the City of Fresno, representing the City of Fresno; the Chair of the Fresno County Board of Supervisors or the Fresno County Administrative Officer, representing the County of Fresno; and the Chair or Executive Director of the Redevelopment Agency of the City of Fresno, representing the Redevelopment Agency of the City of Fresno.
  - (ii) Two (2) directors who are either PBID Assessment Members or Stakeholder Members of the Corporation, as defined in Article II.
  - (iii) Of the 15 PBID Assessment Members on the Board, three (3) directors shall represent Zone 1, three (3) directors shall represent Zone 2, and four (4) directors shall represent Zone 3, based on the zones as defined in Appendix I.
  - (iv) All directors in excess of the seventeen (17) defined above can only be community members who have demonstrated an active interest in the revitalization of downtown without owning real property within the PBID district. These board members will be elected by the Board of directors.
  - (v) The Nominating Committee, as described in this Article, shall encourage candidates representing diverse property sizes, genders and ethnic backgrounds, and business interests to seek election to the Board.

Section 3.3. Election of directors.

- a. Every member determined, not later than thirty (30) days before ballots are mailed, to be a PBID Assessment Member in good standing, shall be eligible to vote in elections to the Board

of Directors. No person or entity other than a PBID Assessment Member in good standing shall be eligible to vote in a Board election.

b. Board elections shall be determined by majority vote of eligible voters who return valid ballots. In the event of a tie, the Board of Directors shall determine the winner by majority vote of those present.

c. The Board of Directors shall adopt and, as necessary, amend, procedures for elections to the Board of Directors no later than September 30 of the election year.

d. No later than September 30 in any year of elections to the Board of Directors, the Chairperson shall appoint a Nominating Committee consisting of no fewer than three (3) directors. No director eligible for reelection in that year may serve on the Nominating Committee. The Nominating Committee shall have the following duties:

(i) Meet and establish a Calendar, including key dates, letters of notification, and the format of the ballot.

(ii) Send a public notice and post on the Corporation website that those qualified to vote should receive a ballot and, if it is not received, to communicate with the office of the Corporation.

(iii). Solicit recommended nominees from self-nominations, Board members eligible for re-election, members of the Corporation, and other reliable sources. The Nominating Committee shall verify the eligibility of each recommended nominee as well as the nominee's interest in and commitment to serving as a director if elected.

(iv) Report to Chairperson the names of recommended nominees deemed eligible to serve as directors and submitted for the ballot as candidates.

(v) Mail ballots to voting members of the Corporation.

(vi) Tally the returned ballots and report the results to the Board Chairperson.

e. The Board Chairperson shall notify the Board of Directors of the election results at the earliest meeting of the Board after the election is concluded. The Chairperson shall also, in a timely manner, notify the candidates of the results, or designate another director to notify the candidates of the results.

f. The Secretary of the Corporation shall keep the tallied ballots at the Corporation's principal office for thirty (30) days after the Board is notified of the election results. Upon conclusion of this period, the Secretary shall destroy the ballots.

#### Section 3.4. Vacancies.

a. A vacancy or vacancies in the Board shall be deemed to exist on the occurrence of any of the following:

(i) The death, resignation, or removal of any director pursuant to this Article.

(ii) An increase in the authorized number of directors.

(iii) The failure of the members, at any meeting of members at which any director or directors are to be elected, to elect the number of directors required to fill all positions on the Board.

b. Any vacancy occurring in the Board may be filled by appointment of the Chairperson with the consent of the Board, or by a sole remaining director. A director appointed to fill a vacancy shall hold office during the unexpired term of his or her predecessor in office and until his or her successor is elected. A director so appointed shall qualify under the same membership class as his or her predecessor in office or, in the case of Board expansion, the membership class assigned to the Board seat being filled.

### Section 3.5. Terms.

Except as otherwise specified in Appendix I, directors shall be elected as follows:

a. Directors shall be elected to terms of three (3) years each, except during the initial election. The terms of directors shall be staggered so that approximately equal numbers of directors are elected each year.

b. Each director shall be elected to no more than two (2) consecutive terms. Appointed Board service for a partial term shall count as a full term toward this limit if the length of the appointed term exceeds two (2) years.

c. No reduction of the authorized number of directors shall have the effect of removing any director before the director's term of office expires.

### Section 3.6. Compensation and interest in assets.

a. Directors shall not receive compensation for their services as members of the Board. Nothing herein shall be construed to preclude any director from serving the Corporation in any other capacity as an officer, agent, employee, or otherwise, and receiving compensation therefor or from receiving reimbursement for reasonable expenses, as may be fixed or determined by resolution of the Board.

b. No director shall possess any property right in or to the property of the Corporation. In the event of the Corporation's dissolution and winding up, the directors shall dispose of property in accordance with the provisions of Article IX.

### Section 3.7. Manner of action.

a. Action by the Board shall be by a majority of the directors present at a meeting duly held at which a quorum has been established, pursuant to Article VI, unless a greater number is required by law or other provision of these Bylaws.

b. Any action required or permitted to be taken by the Board of Directors under any provision of law may be taken without a meeting, if two-thirds of all members of the Board shall individually or collectively consent in writing to such action. For the purposes of this Section only, "all members of the board" shall not include any "interested director" as defined in the



California Nonprofit Corporation Law. Such written consent or consents shall be filed with the minutes of the proceedings of the board. Such action by written consent shall have the same force and effect as the unanimous vote of the directors. Any certificate or other document filed under any provision of law which relates to action so taken shall state that the action was taken by unanimous written consent of the board of directors without a meeting and that the bylaws of the Corporation authorize the directors to so act, and such statement shall be *prima facie* evidence of such authority. Written consent via electronic communication shall have the same force and effect as consent provided through other written means.

### Section 3.8. Termination.

Any of the following shall result in the removal of a director:

- a. The death of a director.
- b. Resignation by written notice to the Chairperson, the Secretary, or the Board, effective upon receipt unless the notice specifies a later time for the resignation to become effective.
- c. Resolution of the Board of a vacancy of the office of a director who has been declared of unsound mind by an order of court, or convicted of a felony, or found by final order of judgment of any court to have breached a duty under the California Nonprofit Corporation Law.
- d. Failure by a director to attend three consecutive regular meetings of the Board.

**Article IV**  
**OFFICERS**

Section 4.1. Duties.

The principal officers of the Corporation, and their duties, shall be as follows and as may be additionally prescribed by the Board:

- a. The Chairperson of the Board shall preside over meetings and generally supervise the activities and affairs of the Corporation. The Chairperson may enter into discussions and vote at meetings.
- b. The Vice Chair shall serve as the Chair-elect and shall assume the office of Chair for the succeeding year. The Vice Chair shall perform the duties and exercise the powers of the Chair during the absence or disability of the Chair or in the event of the Chair's resignation. The Vice Chair shall perform such other duties as the Chair may assign.
- c. The Secretary shall keep, or cause to be kept at the principal office, those records identified in Article X.
- d. The Treasurer shall:
  - (i) Review, or cause to be maintained, adequate and correct books and accounts for the properties and transactions of the Corporation. The books of account shall be open to inspection by any director or person appointed by the Board of Directors at all reasonable times.
  - (ii) Review and approve all disbursements of funds of the Corporation as may be ordered by the Board, shall review all deposits of money and other valuables in the name and to the credit of the Corporation as may be designated by the Board, and shall have other powers and perform such other duties as may be prescribed by the Board or these Bylaws.
  - (iii) Report on the financial condition of the Corporation at meetings of the Board of Directors and at other times when called upon by the Chairperson.
- e. One person may hold two or more offices, except those of Chairperson and Treasurer, but no officer shall execute, acknowledge, or verify any instrument in more than one capacity, if such instrument is required to be executed, acknowledged, or verified by two or more officers.

Section 4.2. Executive Committee.

- a. There shall be an Executive Committee with a minimum of six (6) voting members. The Executive Committee shall conduct the detailed affairs of the Association and shall exercise the powers of the Board of Directors when the Board is not in session. The Executive Committee prior to consideration by the Board of Directors shall review policy matters, recommendations from other committees, and procedures, operations, and fiscal affairs including regular and periodic review of the finances of the Corporation.
- b. The Executive Committee shall consist of the officers of the Corporation, and two other directors appointed by the Chair following consultation with the other officers. The President and

CEO and the Immediate Past Chair shall serve as nonvoting members of the Executive Committee.

c. At least one (1) PBID Assessment Member from each assessment zone shall serve on the Executive Committee. For this purpose an Executive Committee member who owns property in multiple assessment zones shall represent only the zone underwhich he or she was elected to the Board. .

d. The Executive Committee shall meet at the call of the Chairperson, who shall serve as chair of the Executive Committee.

#### Section 4.3. Qualification, election and terms.

a. The Board of Directors, at a regular or special meeting held not more than thirty (30) days before the annual meeting, shall elect the officers identified in this section. These officers shall take office at the first meeting of the Board of Directors following their election.

b. The term for each officer shall be one year. Officers may be re-elected as long as they remain in good standing as Corporation members and directors.

c. Any vacancy occurring in an office shall be filled by appointment of a majority of the remaining directors. An officer appointed to fill a vacancy shall hold office during the unexpired term of his or her predecessor in office and until his or her successor is elected.

d. Each Officer shall be a PBID Assessment Member and a director of the Corporation.

#### Section 4.4. Termination.

Any of the following shall result in the removal of an officer:

a. Death, resignation, or removal from the Board of Directors as described in Article III.

b. Resignation by written notice to the Chairperson, the Secretary, or the Board, effective upon receipt unless the notice specifies a later time for the resignation to become effective.

c. Removal, with or without cause, by the Board of Directors.

**Article V**  
**MANAGEMENT**

Section 5.1. Staff.

- a. Upon recommendation from the Executive Committee, the Board of Directors may appoint or terminate a President and Chief Executive Officer (CEO).
- b. The responsibility of the President and CEO shall include:
  - (i) The conducting of official Corporation business.
  - (ii) Preservation of documents.
  - (iii) Official communications.
  - (iv) Maintenance of financial records and accounts.
  - (v) Preparation and presentation to the Board of financial statements.
  - (vi) Accurate record of Board of Directors meetings and Committee meetings.
  - (vii) Hiring, supervision, and review of all Corporation personnel.
  - (viii) Development and implementation of programs and projects.
  - (ix) Such other complementary duties as may be required by the Board of Directors in furtherance of the Corporation's mission.
- c. The Executive Committee shall be responsible for evaluating the performance of the President and CEO on an annual basis.

Section 5.2. Procurement of goods and services.

- a. Upon recommendation from the Executive Committee, the Board of Directors may contract with an organization to conduct and perform the administrative and management responsibilities of the Corporation.
- b. Unless prohibited by the funding source, the Corporation shall make every effort to purchase products and services from businesses based in Fresno and, where possible, in Downtown Fresno. It shall not be deemed a conflict of interest for the Corporation if a contracting business is a member of the Corporation or the Corporation's Board of Directors. Directors shall consult Article XI for guidance on avoiding personal conflicts of interest.
- c. Unless prohibited by the funding source, whenever bids are received for goods or services, a 5% preference shall be applied to bids received from vendors located within the assessment area.
- d. Subject to budget allowance or other resolution of the Board, the President and CEO shall have discretion to purchase and contract for goods and services valued at less than \$5,000.
- e. Subject to budget allowance or other resolution of the Board, for goods and services valued at \$5,000 or more, but less than \$25,000, the President and CEO shall have discretion to

purchase or contract for such goods or services after soliciting three (3) bids. The President and CEO may solicit bids for goods or services valued at less than \$5,000 at his or her discretion.

f. For goods and services valued at \$25,000 or more, the Board shall issue a Request for Proposals (RFP) and solicit at least three (3) responses. Subject to budget allowance or other resolution of the Board, the President and CEO may issue an RFP for goods or services valued at less than \$25,000 at his or her discretion.

**Article VI**  
**MEETINGS**

Section 6.1. Regular Board of Directors meetings.

a. The Board of Directors shall meet at least six times per year, at the call of the Chairperson of the Board and at a location designated by the Chairperson within the assessment area identified in Appendix I.

Section 6.2. Special meetings.

a. A special meeting of the Board of Directors, for any purpose or purposes, may be called by the President and CEO, the Chairperson of the Board, or by any five directors.

b. A special meeting of the members of the Corporation may be called by the Board of Directors when deemed necessary.

Section 6.3. Annual meetings.

A meeting of the members shall be held annually at a time, date, and location approved by the Board of Directors. An annual report, as defined in Article X, shall be presented at the annual meeting.

Section 6.4. Notice of meetings.

a. Notice of all Board meetings and annual membership meetings shall be given to members and the public in accordance with the Ralph M. Brown Act (California Government Code Sections 54950 et seq.).

b. In addition to other applicable noticing requirements, written notice of the annual meeting of members shall be mailed to each member at least 30 days prior to the meeting.

d. All notices to Directors shall be given or sent to each Director's mailing address, email address, or telephone number as shown on the records of the Corporation.

e. Notice by mail shall be considered as delivered to a member when deposited in the United States Postal Service at Fresno, California, first-class postage paid, addressed to the last address of that member as such address appears upon the records of the Corporation.

f. An affidavit of the mailing of any notice of any meeting of members, or of the giving of such notice by other means, may be executed by the Secretary, or any transfer agent of the Corporation, and if so executed, shall be filed and maintained in the Corporation's minute book.

Section 6.5. Quorum.

a. A majority of the voting Directors shall constitute a quorum.

b. The directors may continue to transact business during a meeting at which a quorum is initially present, notwithstanding the withdrawal of directors, if any action is approved by at least a majority of the required quorum for that meeting.

Section 6.6. Public participation.

a. An agenda item for public comments shall appear on the agenda at each meeting. During such an item, the Chair shall recognize members of the public and members of the Corporation wishing to speak on items not on the agenda. The Chair shall allocate a time limit for each speaker during public comments.

b. During discussion of regular agenda items, the Chair may allow members of the public and members of the Corporation to speak on each item at his or her discretion, and may limit the amount of time each speaker is allowed.

c. All speakers, including members of the public and members of the Corporation, shall obey the Board's parliamentary procedures. Disruptive behavior shall not be tolerated.

Section 6.7. Remote participation.

Directors may participate in meetings of the Board by means of a conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other. Participation by such means shall constitute presence in person at such meeting.

**Article VII**  
**COMMITTEES**

Section 7.1. Executive Committee.

There shall be an Executive Committee with the composition and responsibilities described in Article IV.

Section 7.2. Other committees

The Chairperson, with the advice and consent of the Board of Directors, shall be empowered to appoint such committees and task forces as are deemed necessary to achieve the objectives of the Corporation.



## **Article VIII**

### **BUDGET**

#### Section 8.1. Fiscal year.

The fiscal year of the Corporation shall be from January 1 through December 31.

#### Section 8.2. Budget adoption.

At least thirty days before the end of the fiscal year, the Corporation management and the Executive Committee shall prepare a budget of anticipated revenues and expenditures for the ensuing fiscal year as directed by the Board of Directors. The budget shall be submitted to the Board of Directors for review and adoption before the end of the fiscal year.

## **Article IX**

### **LEGAL AND FINANCIAL POLICIES**

#### Section 9.1. Profits.

The Corporation is not organized, nor shall it be operated, for pecuniary gain or profit, and it does not contemplate the distribution of gains, profits, or dividends of its members and is organized solely for nonprofit purposes. No part of the profits or net income of the Corporation shall ever inure to the benefit of any director, officer, or member thereof or to any individual, except that the Corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions consistent with these Bylaws.

#### Section 9.2. Debt.

Except as prohibited by the City of Fresno, the Board of Directors shall have full power and authority to borrow money whenever in the discretion of the Board the exercise of such power is required in the general interest of the Corporation, and in such cases the Board of Directors may authorize the proper officers of the Corporation to make, execute and deliver in the name and on behalf of the Corporation such notes, bonds, and other evidence of indebtedness as the Board shall deem proper, and the Board shall have full power to mortgage the property of the Corporation or any part thereof as security for such indebtedness, and no action on the part of members of the Corporation shall be requisite to the validity of any such note, bond, evidence of indebtedness or mortgage.

#### Section 9.3. Execution of instruments, deposits, and funds.

- a. The Board of Directors, except as otherwise provided in these Bylaws, may by resolution authorize any officer or agent of the Corporation to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Corporation, and such authority may be general or confined to specific instances. Unless so authorized under these Bylaws or by resolution of 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 monetarily for any purpose or in any amount.
- b. Except as otherwise specifically determined by resolution of the Board of Directors, or as otherwise required by law, checks, drafts, promissory notes, orders for the payment of money, and other evidence of indebtedness of the Corporation shall be signed by the Treasurer and countersigned by the President and CEO of the Corporation.
- c. All funds of the Corporation shall be deposited from time to time to the credit of the Corporation in such banks, trust companies, or other depositories as the Board of Directors may select.

#### Section 9.4. Non-liability of directors.

The directors shall not be personally liable for the debts, liabilities, or other obligations of the Corporation.

#### Section 9.5. Indemnification of agents.

a. To the extent that a person who is, or was, a director, officer, employee, or other agent of the Corporation has been successful on the merits in defense of any civil, criminal, administrative, or investigative proceeding brought to procure a judgment against such person by reason of the fact that he or she is, or was, an agent of the Corporation, or has been successful in defense of any claim, issue, or matter, therein, such person shall be indemnified against expenses actually and reasonably incurred by the person in connection with such proceeding.

b. If such person either settles any such claim or sustains a judgment against him or her, then indemnification against expenses, judgments, fines, settlements, and other amounts reasonably incurred in connection with such proceedings shall be provided by the Corporation but only to the extent allowed by, and in accordance with the requirements of the California Nonprofit Corporation Law.

#### Section 9.6. Insurance for agents.

The Board of Directors may adopt a resolution authorizing the purchase and maintenance of insurance on behalf of any agent of the Corporation (including a director, officer, employee, or other agent of the Corporation) against any liability other than for violating provisions of law relating to self-dealing 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 the California Nonprofit Corporation Law.

#### Section 9.7. Dissolution.

a. In the event of the winding up and dissolution of the Corporation, after paying or adequately providing for the payment of the debts, obligations, and liabilities of the Corporation, the remaining assets of the Corporation shall be distributed to a nonprofit fund, foundation, or corporation which is organized and operated exclusively for mutual benefit purposes and which has established its tax-exempt status under Section 501(c)(6) of the Internal Revenue Code of 1986 (or the corresponding provision of any future United States Internal Revenue Law), whichever form of distribution is approved by the directors and members of the Corporation.

b. No member, director, officer, employee, or other person connected with the Corporation, or any private individual, shall be entitled to share in the distribution of, and shall not receive, any of the corporate assets on dissolution of the Corporation.

c. All members of the Corporation shall be deemed to have expressly consented and agreed that on dissolution or winding up of the affairs of the Corporation, whether voluntarily or involuntarily, the assets of the Corporation, after all debts have been satisfied, shall be distributed as required by these Bylaws and not otherwise.

**Article X**  
**RECORDS AND REPORTS**

Section 10.1. Maintenance of corporate records.

The Corporation shall keep at its principal office:

- a. Minutes of all meetings of directors, committees of the Board, and of all meetings of members, indicating the time and place of holding such meetings, whether regular or special, how called, the notice given, and the names of those present and the proceedings thereof;
- b. Adequate and correct books and records of account, including accounts of its properties and business transactions and accounts of its assets, liabilities, receipts, disbursements, gains, and losses;
- c. A record of its members, indicating their names and addresses, the class of membership held by each member, whether active or inactive, and the termination date of membership;
- d. A copy of the Corporation's Articles of Incorporation and Bylaws as amended to date, which shall be open to inspection by the members, if any, of the Corporation at all reasonable times during office hours.
- e. Tallied ballots for elections to the Board of Directors, as prescribed in Article III.

Section 10.2. Corporate seal.

The Board of Directors may adopt, use, and at will alter, a corporate seal. Such seal shall be kept at the principal office of the Corporation. Failure to affix the seal to corporate instruments, however, shall not affect the validity of any such instrument.

Section 10.3. Inspection of records.

All records of the corporation shall be made available in accordance with the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code)).

Section 10.4. Annual report.

- a. The board shall cause an annual report to be furnished not later than one hundred and twenty (120) days after the close of the Corporation's fiscal year to all directors of the Corporation and to any member who requests it in writing, which report shall contain the following information in appropriate detail:
  - (i) The assets and liabilities, including the trust funds, of the Corporation as of the end of the fiscal year;
  - (ii) The principal changes in assets and liabilities, including trust funds, during the fiscal year;

(iii) The revenue or receipts of the Corporation, both unrestricted and restricted to particular purposes, including but not limited to those restricted by Appendix I, for the fiscal year;

(iv) The expenses or disbursements of the Corporation, for both general and restricted purposes, including but not limited to those restricted by Appendix I, during the fiscal year.

b. The annual report shall be accompanied by any report thereon of independent accountants, or, if there is no such 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.

**Article XI**  
**CONFLICTS OF INTEREST**

Section 11.1. Purpose of conflict of interest policy.

The purpose of this conflict of interest policy is to protect the Corporation's interest when it is contemplating entering into a transaction or arrangement that might benefit the private interest of an officer or director of the Corporation or any "disqualified person" as defined in Section 4958(f)(1) of the Internal Revenue Code and as amplified by Section 53.4958-3 of the IRS Regulations and which might result in a possible "excess benefit transaction" as defined in Section 4958(c)(1)(A) of the Internal Revenue Code and as amplified by Section 53.4958 of the IRS Regulations. This policy is intended to supplement but not replace any applicable state and federal laws governing conflict of interest.

Section 11.2. Definitions.

a. **Interested Person.** Any director, principal officer, member of a committee with Board delegated powers, or any other person who is a "disqualified person" as defined in Section 4958(f)(1) of the Internal Revenue Code and as amplified by Section 53.4958-3 of the IRS Regulations, who has a direct or indirect financial interest, as defined below, is an interested person.

b. **Financial Interest.** A person has a financial interest if the person has, directly or indirectly, through business, investment, or family:

(i) an ownership or investment interest in any entity with which the Corporation has a transaction or arrangement,

(ii) a compensation arrangement with the Corporation or with any entity or individual with which the Corporation has a transaction or arrangement, or

(iii) a potential ownership or investment interest in, or compensation arrangement with, any entity or individual with which the Corporation is negotiating a transaction or arrangement.

Compensation includes direct and indirect remuneration as well as gifts or favors that are not insubstantial.

A financial interest is not necessarily a conflict of interest. Under Section 11.3, a person who has a financial interest may have a conflict of interest only if the Board or committee decides that a conflict of interest exists.

Section 11.3. Conflict of interest avoidance procedures.

a. **Duty to Disclose.** In connection with any actual or possible conflict of interest, an interested person must disclose the existence of the financial interest and be given the opportunity to disclose all material facts to the directors and members of committees with Board delegated powers considering the proposed transaction or arrangement.

b. **Determining Whether a Conflict of Interest Exists.** After disclosure of the financial interest and all material facts, and after any discussion with the interested person, he/she shall leave the Board or committee meeting while the determination of a conflict of interest is discussed and voted upon. The remaining Board or committee members shall decide if a conflict of interest exists.

c. **Procedures for Addressing the Conflict of Interest.** An interested person may make a presentation at the Board or committee meeting, but after the presentation, he/she shall leave the meeting during the discussion of, and the vote on, the transaction or arrangement involving the possible conflict of interest.

The chairperson of the Board or committee shall, if appropriate, appoint a disinterested person or committee to investigate alternatives to the proposed transaction or arrangement.

After exercising due diligence, the Board or committee shall determine whether the Corporation can obtain with reasonable efforts a more advantageous transaction or arrangement from a person or entity that would not give rise to a conflict of interest.

If a more advantageous transaction or arrangement is not reasonably possible under circumstances not producing a conflict of interest, the Board or committee shall determine by a majority vote of the disinterested directors whether the transaction or arrangement is in the Corporation's best interest, for its own benefit, and whether it is fair and reasonable. In conformity with the above determination, it shall make its decision as to whether to enter into the transaction or arrangement.

d. **Violations of the Conflicts of Interest Policy.** If the Board or committee has reasonable cause to believe a member has failed to disclose actual or possible conflicts of interest, it shall inform the member of the basis for such belief and afford the member an opportunity to explain the alleged failure to disclose.

If, after hearing the member's response and after making further investigation as warranted by the circumstances, the Board or committee determines the member has failed to disclose an actual or possible conflict of interest, it shall take appropriate disciplinary and corrective action.

#### Section 11.4. Records of Board and Board committee proceedings.

The minutes of meetings of the Board and all committees with Board delegated powers shall contain:

a. The names of the persons who disclosed or otherwise were found to have a financial interest in connection with an actual or possible conflict of interest, the nature of the financial interest, any action taken to determine whether a conflict of interest was present, and the Board's or committee's decision as to whether a conflict of interest in fact existed.

b. The names of the persons who were present for discussions and votes relating to the transaction or arrangement, the content of the discussion, including any alternatives to the proposed transaction or arrangement, and a record of any votes taken in connection with the proceedings.

## **Article XII**

### **AMENDMENT AND INTERPRETATION OF BYLAWS**

#### Section 12.1. Procedures for amendment.

New bylaws may be adopted, or these Bylaws may be amended or repealed, by the Board. A copy of the proposed amendment or new bylaws shall be included in the notice of meeting given to each director.

#### Section 12.2. Appendices.

Appendix I, incorporated by reference into these Bylaws, is the Management District Plan for the Downtown Fresno Property and Business Improvement District (PBID). The Board may approve proposed alterations or amendments to, or replacement of, Appendix I during PBID assessment renewal election years as provided in Article II. However, Appendix I shall only be altered, amended, or repealed with approval of property owners and the City of Fresno as required by PBID Law (California Streets and Highways Code Section 36600 et seq.) and the California Constitution.

#### Section 12.3. Construction.

Unless the context requires otherwise, the general provisions, rules of construction and definitions in the California Nonprofit Corporation Law shall govern the construction of these Bylaws. Without limiting the generality of the preceding sentence, the masculine gender includes the feminine and neuter, the singular includes the plural, the plural includes the singular, and the term "person" includes both a legal entity and a natural person.

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Adopted by the Corporation's Board of Directors on the 19<sup>th</sup> day of January, 2011. Amended by the Board of Directors on the 20<sup>th</sup> day of June, 2013.

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John Ostlund, Secretary