

**BYLAWS**  
**OF**  
**THE CAPITOL HILL**  
**BUSINESS IMPROVEMENT DISTRICT**  
**INCORPORATED**

**As amended on**  
**March 14, 2008 and February 27, 2013**

## CONTENTS OF BYLAWS

		Page
ARTICLE I	INTRODUCTION	
1.01	Applicable Law	5
1.02	Conflicts	5
ARTICLE II	OFFICES	
2.01	Principal and Other Office	5
2.02	Registered Office	
ARTICLE III	MEMBERS	
3.01	Prior to BID Formation	5
3.02	Composition: Classes	6
3.03	Annual Meetings	6
3.04	Special Meetings	6
3.05	Place of Meetings	6
3.06	Notice of Meetings	6
3.07	Adjournment of Meetings	7
3.08	Presiding Officer	7
3.09	Minutes	7
3.10	Inspectors of Election	7
3.11	Voting	7
3.12	Proxies	9
3.13	Member Action	9
3.14	Majority of the Members	10
3.15	Quorum	10
ARTICLE IV	BOARD OF DIRECTORS	
4.01	Number and Composition	10
4.02	Election	11
4.03	Term of Office	11
4.04	Qualifications	11
4.05	Powers and Duties	12
4.06	Managing Agent	13
4.07	Removal of Board Members	14
4.08	Resignations of Board Members	15
4.09	Vacancies	15
4.10	Organization Meeting	15
4.11	Regular Meeting	15
4.12	Special Meetings	15

4.13	Telephone Meetings	16
4.14	Waiver of Notice	16
4.15	Quorum For Board Voting	16
4.16	Compensation	16
4.17	Conduct of Meetings	16
4.18	Action Without Meeting	16
4.19	Conflicting Interest Transactions	17
4.20	Standing Committees	17
4.21	Other Committees	18
4.22	Advisory Committees	18
4.23	Action Without Meeting	19
4.24	Chairman and Vice-Chairman	19
ARTICLE V OFFICERS		
5.01	Designation	20
5.02	Qualifications	20
5.03	Election	20
5.04	Removal of Officers	20
5.05	Agreements, Contracts, etc.	20
5.06	Compensation of Officers	20
ARTICLE VI LIABILITY AND INDEMNIFICATION		
6.01	Liability of the District of Columbia	21
6.02	Liability of the Corporation	21
6.03	Insurance	21
6.04	Indemnification	
ARTICLE VII FINANCIAL MATTERS		
7.01	Fiscal Year	24
7.02	Adoption of Budget	24
7.03	Reserves	25
7.05	Collection of Special Charges	25
7.06	Accounts	25
7.07	Books and Accounts	25
7.08	Inspection of Books	26
7.09	Audit	26
ARTICLE VIII BID ACTIVITIES		
8.01	General	26
8.02	Scope of Activities	27
8.03	Cooperation	27
8.04	Signage and Facade Programs	27

8.05	Graffiti Removal	27
8.06	Rules and Regulations	28
ARTICLE IX	INSURANCE	
9.01	General Authority; Requirements	28
9.02	Liability Insurance	29
9.03	Other Insurance	29
9.04	Board of Directors as Agent	29
ARTICLE X	COMPLIANCE AND DEFAULT	
10.01	Governance	30
10.02	BID Taxes	30
10.03	Remedies; Other Matters	30
10.04	No Waiver of Rights	31
ARTICLE XI	CERTIFICATES NOTICE SEAL	
11.01	Membership Certificates	31
11.02	Members of Record	31
11.03	Seal	32
ARTICLE XII	AMENDMENTS	
12.01	General	32
ARTICLE XIII	MISCELLANEOUS	
13.01	Invalidity	32
13.02	Captions	32
13.03	Governing Law	32

**BYLAWS  
OF  
THE CAPITOL HILL  
BUSINESS IMPROVEMENT DISTRICT, INCORPORATED**

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**A CORPORATION ORGANIZED UNDER THE  
DISTRICT OF COLUMBIA NONPROFIT CORPORATION ACT  
AND  
THE BUSINESS IMPROVEMENT DISTRICTS ACT OF 1996, AS AMENDED**

**ARTICLE I  
INTRODUCTION**

1.01. Applicable Law. The Corporation has been incorporated pursuant to the District of Columbia Nonprofit Corporation Act (D.C. Code, 2001, ed, Title 29, Chapter 4:, as amended) (the "Corporation Act") to organize, govern, administer and operate a Business Improvement District ("BID") in all, or any substantial part of the Capitol Hill area of Washington, D.C. pursuant to D.C. Law 11-134 (the Business Improvement Districts Act of 1996, as amended (the "BID Act").

1.02. Conflicts. To the extent of any inconsistency between the provisions of these Bylaws, the Corporation Act, and/or the BID Act, the BID Act shall control over the Corporation Act and these Bylaws, and the Corporation Act shall control over these Bylaws.

**ARTICLE II  
OFFICES**

2.01. Principal and Other Office. The Corporation shall maintain its principal office in the District of Columbia and may have other offices, either within or without the District of Columbia, as the Board of Directors may designate from time-to-time.

2.02. Registered Office. The Corporation shall maintain a registered office in the District of Columbia, as required by the Corporation Act.

**ARTICLE III  
MEMBERS**

3.01. Members. The Corporation is a membership corporation. The Members shall consist of all "owners" and "commercial tenants" (as such terms are defined in Section 3 of the BID Act) within the geographic area of the BID, and any other owners of

exempt real property, or the District of Columbia or Federal government who become Members pursuant to Section 22 of the BID Act.

3.02. Composition: Classes. The Corporation shall have two classes of voting membership.

(a) Class A Members. Class A Members shall be all commercial tenants within the geographic area of the BID, excluding, however, ground lessees who own improvements on any commercial non-exempt property in the BID area.

(b) Class B Members. Class B Members shall be all Members other than Class A Members.

Membership in the Corporation shall be automatic, vesting with ownership of any non-exempt property in the BID area, the leasing of any commercial non-exempt real property in the BID area, or the election to pay BID taxes under Section 22 of the Act. Such membership shall continue until, and thereupon automatically terminate, at such time as such Member's ownership or tenancy, as the case may be, within the geographic area of the BID is terminated, or any Member electing to be a Member under Section 22 of the BID Act shall be delinquent by more than 60 days in payment of its voluntary contribution (or, in the case of the General Services Administration, contract compensation) or, in any instance, the termination or dissolution of the Corporation or the BID.

3.03. Annual Meetings. Annual meetings of the Members shall be held on a weekday which is not a legal holiday in February of each year. Subject to the provisions of Section 4.01 of these Bylaws, at all annual meetings of the Members, members of the Board of Directors shall be elected and such other business as properly may come before the meeting may be transacted.

3.04. Special Meetings. It shall be the duty of the President to call a special meeting of the Members if so directed by resolution of the Board of Directors or, after the first meeting of the Members, upon the petition of Members holding not less than twenty-five percent (25%) of the votes in the Corporation, as the same may exist from time-to-time. Such resolution, petition or request shall: (i) specify the time and place of such meeting; (ii) specify either the date of such meeting or that the Secretary shall designate such date; (iii) specify the purpose or purposes of such meeting; and (iv) be delivered to the Secretary. No business shall be transacted at a special meeting except as stated in the notice of such meeting given in accordance with the provisions of Section 3.06.

3.05. Place of Meetings. Meetings of the Members shall be held in Washington, D.C. at such place as from time-to-time may be designated by the Board of Directors.

3.06. Notice of Meeting.

(a) Service of Notice. At least twenty-one (21) but not more than thirty (30) days in advance of each annual meeting of the Members, and at least

seven (7) but not more than thirty (30) days in advance of each special meeting of the Members, the Secretary shall cause to be sent to each Member of record notice of the time, place and purpose or purposes of such meeting. Such notice shall be sent by United States mail, first class postage prepaid, to each Member of record, at the property address of such Member or at such other address as such Member may have designated in writing to the Secretary. The mailing of a notice of a meeting in the manner provided in this Section shall be deemed service of notice. In lieu of mailing notice of a meeting in the manner provided in this Section, the Secretary may cause such notice to be personally delivered, provided, that the Secretary shall certify in writing that such notice was actually delivered to the Member.

(b) Record date. No more than 70 days prior to providing notice to Members of any meeting of the membership, the Secretary shall prepare a current alphabetical list of all Members who are entitled to notice of the meeting, showing the address of and number of votes of each Member entitled to cast a vote. The corporation shall make the list available for inspection in accordance with the Corporation Act. Only Members listed as entitled to notice shall be entitled to vote at that meeting.

3.07. Adjournment of Meetings. If any meetings of the Members cannot be held because a quorum is not present, Members holding a majority of the votes present at such meeting, either in person or by proxy, may adjourn the meeting, without further notice, to a time not less than forty-eight (48) hours from the time the original meeting was called.

3.08. Presiding Officer. The President or his or her designee shall preside at all meetings of the Members. In the absence of the President or such designee from any meeting of the Members, any person designated by the Board of Directors shall preside over such meeting.

3.09. Minutes. The minutes of all meetings of the Members shall be in writing and shall be held in a Minute Book maintained by the Secretary. The then current Roberts Rules of Order or any other rules of procedure acceptable to a majority of the votes present at any meeting shall govern the conduct of all meetings of the Members when not in conflict with these Bylaws, the Articles of Incorporation, the Corporation Act or the BID Act. All votes shall be tallied by a person or persons appointed by the presiding officer of the meeting.

3.10. Inspectors of Election. One or more Inspector(s) of Election may be appointed by the Board of Directors prior to the time of any meeting of the Corporation at which Directors shall be elected, in accordance with Section 29-405.28 of the Corporation Act.

3.11. Voting. Members shall be entitled to vote on those matters set forth in the Bylaws or on which the BID Act or the Corporation Act requires the approval of the Members. Except as otherwise provided in these Bylaws, the allocation of votes among Members of the Corporation shall be as follows:

(a) Each Class A Member present, in person or by proxy, at such meeting shall have one vote;

(b) Each Class B Member present, in person or by proxy, at such meeting shall have, with respect to each non-exempt real property owned by such owner, the number of votes equal to the greater of 1 or the quotient obtained by dividing 1000 by the amount of BID taxes (as defined in the Act) and rounded to the nearest \$250.00 payable for the first operating year of the BID for such non-exempt real property (annualizing for the purposes of this provision any BID taxes payable under Section 16(e)(2) of the BID Act.)

(c) If, pursuant to Section 22 of the Act, any owner of exempt real property, the District of Columbia government, or the Federal government shall become a Member as of the time of such meeting, then each such Member present, in person or by proxy, at such meeting shall have with respect to such exempt real property owned by such Member the number of votes equal to the greater of 1 or the quotient obtained by dividing the amount of voluntary contribution by 1000 (or, in the case of the General Services Administration, the amount of contract compensation, in either instance, rounded to the nearest \$250.00) agreed to be paid by such Member for the first operating year of the BID (annualizing for the purposes of this provision any BID taxes payable under Section 16(e)(2) of the Act.)

To illustrate the foregoing, if a Class B Member's annual BID tax (or voluntary contribution or contract consideration, as the case may be) is \$1,350 for a BID Property, then such Member's vote with respect to such BID property would be determined, first by rounding such BID tax to the nearest \$250.00 and, second, by dividing the result by 1000, as follows:

Step 1 \$1,350 rounded to the nearest \$250.00 = \$1,250.00

Step 2 \$1,250.00/1000 = 1.2500 vote

As an additional example, if a Class B Member's annual BID tax (or voluntary contribution or contract consideration, as the case may be) is \$850.00 for a BID Property, then such Member's vote with respect to such BID Property would be determined, first, by rounding \$850.00 down to \$750.00 and, second, by dividing the result by 1000 to reach 0.75, except, that, in such instance, such Member's vote can be no less than 1, and accordingly would equal 1.

Notwithstanding the foregoing provisions of this paragraph (c), in no event shall the total number of votes assigned to any one Member, or to any number of Members under common ownership or control, exceed one-third (33.333 %) of the total number of votes which may be cast. For purposes of the foregoing, "ownership or control" shall mean the possession of the power to directly or indirectly cause the direction of the management and the policies of the Member(s) in question.



(d) Since a Member may be other than a natural person, or a combination of persons and/or entities, the person who shall be entitled to cast the votes of such Member shall be the natural person named in a certificate executed by all of the persons and/or entities comprising such Member and filed with the Secretary at or prior to any meeting or, in the absence of such named person from the meeting (or the failure to name such a person), the person who shall be entitled to cast the votes of such Member shall be the person who is present at such meeting, if only one such person is present. If more than one such persons are present and no certificate has been filed with the Secretary (or, if the person named in the certificate is not present), the votes appertaining to such Member shall be cast in accordance with the agreement of a majority of the persons so present, and the consent of such persons shall be conclusively presumed if any one of them purports to cast the votes appertaining to such Member without protest being made to the presiding officer of the meeting. If protest is made, such Member shall be counted solely for the purpose of determining whether a quorum is present.

(e) No Member may vote at any meeting of the Members if at the time of such meeting such Member shall be delinquent by more than sixty (60) days in the payment of any financial obligation to the Corporation.

3.12. Proxies. The votes appertaining to any Member may be cast pursuant to a proxy duly executed by or on behalf of the Member, or, in cases where the Member is more than one person or entity, by or on behalf of all such persons and/or entities. Each proxy shall be duly executed by or on behalf of such Member or, in case where a Member is more than one person or entity, by or on behalf of all such persons and/or entities, and shall be filed with the Secretary at or before the appointed time of the meeting. No proxy shall be revocable except by actual notice of revocation given by the Member to the presiding officer of the meeting. A proxy may be instructed (directing the proxy not to vote) or uninstructed (permitting the proxy to vote in his or her discretion). A proxy shall be void if it is not dated, if it purports to be revocable without notice, if the signatures of those executing the same have not been witnessed by a person who shall sign his or her full name and address, if it is not signed by the person having authority to execute deeds on behalf of any Member who is not a natural person or it is not signed by the Member or such member's duly authorized attorney-in-fact for any Member who is a natural person, or, subject to the last sentence of this Section, if it purports to apply to less than all of the votes applicable to such member with respect to any BID property. Subject to the last sentence of this Section, each proxy shall terminate automatically upon adjournment of such initial meeting. Notwithstanding the foregoing provisions of this Section, proxies by a Class B Member to such Member's commercial tenants or any such commercial tenant may be for less than all of the votes attributable to such BID property (but in no event less than a fractional vote of .25 or in multiples other than .25) and may be continuing in nature subject to the limitations of the Bylaws of the Corporation, as ratified, but in no event shall be deemed to constitute a proxy for the purpose of casting such Member's vote (or any portion thereof) to amend Section 3.11 or 4.01 of the Bylaws (as same may be amended or ratified hereunder).

3.14. Member Action. Except as otherwise required by the Nonprofit Corporation Act, the BID Act, the Articles of Incorporation, or these Bylaws, decisions of the Members shall be made by a majority of the votes of Members present, in person or by proxy, at a meeting of the

Members at which a quorum is present. In furtherance of the foregoing, pursuant to Section 29-405.24(b) of the Corporation Act, the Members present, in person or by proxy, at a duly convened meeting of the Corporation may continue to conduct business until adjournment, notwithstanding the withdrawal of Members sufficient to reduce Member presence below quorum.

3.15. Majority of the Members. Except as otherwise provided by law, as used in these Bylaws, the term "majority of the votes of Members" or words of like import shall mean the vote of Members: (i) holding more than fifty percent (50%) of the votes of the Corporation present, in person or by proxy, at a meeting of the Members at which a quorum is present; and (ii) comprising at least ten percent (10%) in number of all Members.

3.16. Quorum. Except as otherwise provided in these Bylaws or as required by law, the presence, in person or by proxy, of twenty-five percent (25%) in number of the Members at the commencement of any meeting shall constitute a quorum at and throughout all meetings of the Members.

#### ARTICLE IV BOARD OF DIRECTORS

##### 4.01. Number and Composition.

(a) The affairs of the Corporation shall be governed by a Board of Directors. Until the members of the Board of Directors shall have been elected under Section 4.01(c) of these Bylaws and shall have qualified, the Board of Directors shall be composed of not less than ten (10) nor more than twenty-five (25) members, as from time-to-time may be determined by the Board of Directors, provided that a majority of each Board of Directors shall be owners or owners' representatives.

(b) The Board of Directors shall be composed of twenty-one (21) members allocated as follows: (i) one (1) Appointed Director, (ii) seven (7) Class A Directors; and (iii) fourteen (14) Class B Directors. In accordance with this provision, the Board of Directors to be elected at the first annual meeting of Members shall be composed of twenty-one (21) members as follows: one (1) Appointed Director; seven (7) Class A Directors; and twelve (14) Class B Directors.

##### 4.02. Election.

(a) Election Committee. At least sixty (60) days prior to each annual meeting of the Members, the Board of Directors shall appoint an Elections Committee composed of no less than three (3) Directors. The Elections Committee shall develop election procedures and administer such procedures as shall be approved from time-to-time by the Board of Directors. With respect to all such annual meetings other than the first annual meeting, one committee member shall be a Class A Director and one committee member shall be a Class B

Director, and no member of the Board of Directors whose term is then expiring shall be eligible to serve on the Elections Committee.

b) Nominations. Each person eligible for election as a member of the Board of Directors may be nominated only by the incumbent Board of Directors or by a petition signed by at least ten (10) Members and submitted to the chair of the Elections Committee at least thirty (30) days prior to the date of the meeting at which such election shall be held, provided, that with respect to a Member petition, only Class A Members may nominate Class A Directors, and only Class B Members may nominate Class B Directors, and a petition shall require the signature of no less than ten (10) Members to nominate a member of the Board of Directors. Each nominee either shall be present at the meeting for which such election shall be held to consent to the nomination, or shall consent to such nomination by a written instrument delivered to the Secretary at or prior to the time of such meeting.

(c) Election. Class A Directors shall be elected by plurality vote of the Class A Members, and Class B Directors shall be elected by plurality vote of Class B Members. Each Member shall be entitled to cast its votes for as many persons as there are Directors to be elected. Votes shall not be cumulated. In accordance with Section 29-405.09 of the Corporation Act, in the discretion of the Board of Directors, the election of members of the Board of Directors after the first annual meeting of Members may be conducted by mail if the Corporation delivers a ballot to every Member entitled to vote on the matter.

(d) Appointed Directors. The Appointed Director shall serve for so long as he or she is the president or other designated chief executive officer of CHAMPS, and shall automatically be deemed to have resigned upon leaving such office for any reason, whereupon his or her respective successor in office automatically shall become a member of the Board of Directors.

4.03. Term of Office. At the first annual meeting of the Members, the three (3) persons elected as Class A Directors and the five (5) persons elected as Class B Directors with the highest number of votes shall be elected for a term of three (3) years each, the two (2) persons elected as Class A Directors and the five (5) persons elected as Class B Directors with the second highest number of votes shall be elected for a term of two (2) years each, and the remaining members of the Board of Directors shall be elected for a term of one (1) year each. All persons elected as members of the Board of Directors at any subsequent annual meeting shall be elected for a term of two (2) years. All members of the Board of Directors shall hold office until their respective successors shall have been elected and shall have qualified.

4.04. Qualifications. All members of the Board of Directors (other than the Appointed Directors) shall be Members, or partners, officers, directors, trustees, agents or employees of Members who are not natural persons. No Member may be elected to or may serve on the Board of Directors if at the time of such election or during such incumbency such Member shall be

delinquent by more than sixty (60) days in the payment of any financial obligation to the Corporation.

4.05. Powers and Duties. The Board of Directors shall have all of the powers and duties necessary for the administration of the affairs of the Corporation and may do all acts and things as are by the Corporation Act, the BID Act, the Articles of Incorporation or these Bylaws directed to be done by the Corporation. In addition to the duties imposed on the Board of Directors by these Bylaws, the Board of Directors shall have the power to, and shall be responsible for, the following:

(a) Preparing and processing a BID application in furtherance of registration of the BID, in accordance with the BID Act.

(b) Adopting an annual budget, and updates and supplements thereto, as provided in Article VII of these Bylaws, in which there shall be established the required contribution of each Member to pay BID charges.

(c) Providing for the conduct of any "BID activity" (as such term is defined in the BID Act) that the Board of Directors elects to undertake. The Board of Directors expressly is authorized to enter into cooperative, cost sharing agreements with the boards of other BIDs or business or civic associations if in the judgment of the Board of Directors such arrangements will reduce BID costs without adversely affecting the scope, level and quality of services necessary for the Corporation and/or BID.

(d) Designating, hiring and dismissing the personnel necessary for BID activities, and, where appropriate, providing for the compensation of such personnel and for the purchase of equipment, supplies and materials to be used by such personnel in the performance of their duties, which equipment, supplies and materials shall be the property of the Corporation.

(e) Providing to the Chief Financial Officer of the District of Columbia ("CFO") the BID tax roll and supporting information as provided for in Section 16 of the BID Act, and cooperating and coordinating with the CFO the collection and disbursement of BID taxes, depositing the same in a bank depository(ies) which it shall approve in accordance with these Bylaws, and using the proceeds to administer the Corporation and BID in accordance with the provisions of these Bylaws and the BID Act.

(f) Opening checking, savings, money market or other depository accounts on behalf of the Corporation and designating the signatories required therefore, provided, that all such accounts must be maintained in Federally insured financial institutions doing business in the District of Columbia.

(g) Contracting for the conduct of BID activities in accordance with the provisions of these Bylaws and the BID Act.

(h) Enforcing by legal means the provisions of these Bylaws and the Articles of Incorporation, and bringing or defending against any proceedings which may be instituted on behalf of or against the Corporation.

(i) Obtaining and carrying insurance as provided in these Bylaws, paying the premium cost thereof, and adjusting and settling claims thereunder.

(j) Keeping books and accounts in accordance with the provisions of these Bylaws and the BID Act.

(k) Filing an annual report of the Corporation pursuant to Section 14 of the BID Act.

(l) Adopting amendments to these Bylaws and/or the BID plan, subject to and as provided in Article XII of these Bylaws.

(m) Borrowing money on behalf of the Corporation when required in connection with BID activities, provided, however, that at no time shall there be borrowed or owed in excess of ten percent (10%) of the total assessment for BID charges for any fiscal year without the prior consent of at least sixty-seven percent (67%) of the votes of the Members obtained at a meeting duly called and held for such purpose.

The Board of Directors may delegate to the Executive Committee of the Board, as specified in Section 4.21 of these Bylaws any or all of the powers granted to the Board of Directors by these Bylaws, provided, that in no event may the Board of Directors delegate its fiduciary duties or its powers under paragraphs (a), (b), (c), (l) and (m) of Section 4.05.

#### 4.06. Managing Agent.

(a) Managing Agent. The Board of Directors may contract with a professional Managing Agent at a compensation established by the Board of Directors to perform such duties and services as the Board of Directors shall authorize. The Board of Directors may delegate to the Managing Agent any or all of the powers granted to the Board of Directors by these Bylaws, provided, that in no event may the Board of Directors delegate its fiduciary duties or its powers under paragraphs (a), (b), (c), (l) and (m) of Section 4.06. A Managing Agent may not be a Member or an affiliate of a Member, but may be a property manager or asset manager of one or more properties located in the BID area. The Board of Directors may delegate to one of its members the authority to act as liaison on its behalf on all matters relating to the duties of the Managing Agent which might arise between meetings of the Board of Directors. The Board of Directors may not employ a Managing Agent for a term in excess of two (2) years, and the employment contract may be renewed on a continuing one (1) year basis. Any contract with a Managing Agent must provide that it may be terminated for cause on no more than thirty (30) days' written notice and without cause on no more than ninety (90) days' written notice, in all cases without the imposition of any

termination fee. The Board of Directors shall require appropriate standards of performance of any Managing Agent, including without limitation, the following:

(i) Bank accounts of the Corporation shall not be commingled with any other accounts.

(ii) No remuneration or other benefit shall be accepted by the Managing Agent from vendors, independent contractors or others providing goods or services to the Corporation, and any discount or other benefit received shall be received in trust for and on behalf of the Corporation;

(iii) Any financial or other interest which the Managing Agent may have in any person or firm providing goods or services to the Corporation promptly shall be disclosed to the Board of Directors;

(iv) The Managing Agent shall prepare a monthly financial report for the Corporation containing the following: (A) a balance sheet reflecting the financial condition of the Corporation on an unaudited basis; (B) an income and expense statement reflecting the income and expense activity for the preceding month; (C) an account activity statement reflecting all receipt and disbursement activity for the preceding month on a cash basis; (D) a delinquency report indicating all Members who are delinquent in paying assessments and describing any actions taken to collect such assessments; (E) an account status report reflecting the status of all accounts on an actual versus projected basis; and (F) a budget report reflecting actual versus budgeted amounts on a year to date basis.

(v) The Managing Agent shall maintain fidelity bond coverage to protect against willful or dishonest acts of its employees who either handle or are responsible for handling funds of the Corporation, which coverage shall: (A) name the Corporation as an additional obligee and (B) otherwise provide the same coverage as is required of the Corporation under Article IX of these Bylaws.

(b) Self-Management. Nothing in this Section 4.07 shall require the retention of a third party Managing Agent and the Board may employ on behalf of the Corporation such individuals, including an Executive Director, as it deems necessary or desirable to assist in the self management of the Corporation and the BID.

4.07. Removal of Members of the Board of Directors. Any member of the Board of Directors, other than the Appointed Directors, may be removed, with or without cause, by a majority of the votes of the Members at any regular meeting or any special meeting duly called and held for such purpose, and a successor may then and there be elected to fill the vacancy thus created for the remainder of the term of the Board Member so removed, subject to the requirements of Section 4.01(a). An Appointed Director may be removed only for cause. Any

Director whose removal has been proposed by the Members shall be given at least seven (7) days' notice of the calling of the meeting and the purpose thereof, and shall be given an opportunity to be heard at the meeting. The notice of the meeting at which the removal of a director is to be considered must state that one of the purposes of the meeting is to vote on the removal of the director.

4.08. Resignations of Members of the Board of Directors. A Member of the Board of Directors may resign at any time upon written notice to the Secretary. Such resignation shall take effect on the date the notice was delivered to the Secretary. Unless otherwise specified in the notice of resignation, no acceptance of such resignation shall be necessary to make it effective.

4.09. Vacancies. Vacancies in the Board of Directors caused by any reason other than the removal of a Director by a vote of the Members (which shall be filled as provided in Section 4.08) shall be filled by the sole remaining Director or by a vote of a majority of the remaining Directors (whether or not such remaining Directors constitute a quorum) at a special meeting of the Board of Directors held for such purpose promptly after the occurrence of any such vacancy, and each person so elected shall be a member of the Board of Directors until a successor shall be elected at the next annual meeting of the Members for the remainder of the term created by such vacancy. At the next annual meeting, the Members shall elect an individual to fill the unexpired term of the Director whose resignation or removal created the vacancy on the Board.

4.10. Organization Meeting. A special organization meeting of each Board of Directors shall be held within twenty (20) days after each annual meeting of the Members. No notice shall be necessary to the members of the Board of Directors in order legally to constitute such special meeting, provided a quorum shall be present at such meeting.

4.11. Regular Meeting. Regular meetings of the Board of Directors shall be held at least once every three (3) months, at such time and place as shall be determined from time-to-time by a majority of the Directors. Notice of regular meetings of the Board of Directors shall be given to each Director by mail, e-mail, facsimile, telex or telegraph, telephone or personally at least seven (7) business days prior to the date specified for such meeting. All meetings, regular and special, of the Board of Directors shall be open to the public. A schedule of regular meetings of the Board for each fiscal year shall be sent to all Members, which schedule shall state the date, time and place of each such meeting. A schedule published in any newsletter or similar communication delivered to all Members by any method specified above shall satisfy the requirements of the preceding sentence, provided that Members are informed in advance of any change in the date, time and/or place of any meeting.

4.12. Special Meetings. Special meetings of the Board of Directors may be called by the President on three (3) business days' notice to each Director and Member, given by mail, e-mail, facsimile, telex, telegraph, telephone or personally, which notice shall state the time, place and purpose of the meeting. Special meetings of the Board of Directors shall be called by the President or Secretary in like manner and on like notice on the written request of at least two (2) Directors.

4.13. Telephone Meetings. Members of the Board of Directors may participate in any meeting of the Board of Directors by means of a conference telephone or similar communication equipment if all persons participating in such meeting can hear each other at the same time. Such participation shall constitute presence in person at any such meeting.

4.14. Waiver of Notice. Any Director at any time in writing may waive notice of any meeting of the Board of Directors, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Director at any meeting of the Board of Directors shall constitute a waiver of notice by such Director of the time and place of such meeting, unless such attendance is for the sole purpose of objecting to such meeting. If all Directors are present at any meeting of the Board of Directors, no notice shall be required and any business may be transacted at such meeting.

4.15. Quorum: Voting of the Board of Directors. At all meetings of the Board of Directors, the presence in person at the commencement of a meeting of a majority of the Directors shall constitute a quorum for the transaction of business throughout the meeting, and the votes of a majority of the Directors present at a meeting at which a quorum is present shall constitute the decision of the Board of Directors. If at the commencement of any meeting of the Board of Directors there is less than a quorum present, a majority of those present or a sole present Director may adjourn the meeting from time-to-time. At any such reconvened meeting at which a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice.

4.16. Compensation. No Director shall receive any compensation for acting as a Director, but shall be reimbursed for actual and reasonable out-of-pocket expenses incurred in the performance of such person's duties in connection with the Corporation and the BID.

4.17. Conduct of Meetings. All resolutions adopted by the Board of Directors and all transactions and proceedings occurring at all meetings of the Board of Directors shall be reflected in written minutes and held in a Minute Book maintained by the Secretary. The then current Robert's Rules of Order or any other rules of procedure at any time or from time-to-time acceptable to a majority of the Board of Directors shall govern the conduct of the meetings of the Board of Directors when not in conflict with these Bylaws, the Corporation Act or the BID Act. The Minute Book maintained by the Secretary in accordance with this Section shall be made available for examination under and subject to the limitations set forth in Section 7.08.

4.18. Action Without Meeting.

(a) Action taken by Written Consent. Any action by the Board of Directors required or permitted to be taken at a meeting may be taken without a meeting if the text of the resolution or matter agreed upon is sent to all the Directors in office and if a written consent to such action is signed by all members of the Board, setting forth the action taken, bearing the date of signature and describing the action taken, and such written consent is delivered to the Corporation. Such consent in writing shall have the same force and effect as a vote of the Board of Directors at a meeting and may be described as such in any document executed by the Corporation. Any such unanimous



written consent shall be filed with the minutes of the proceedings of the Board of Directors.

(b) Telephonic conference. Any or all Directors may participate in a meeting of the Board of Directors, or a committee of the Board of Directors, by means of conference telephone or by any means of communication by which all persons participating in the meeting are able to hear one another, and such participation shall constitute presence in person at the meeting.

4.19. Conflicting Interest Transactions. Each Member of the Board of Directors shall exercise his or her powers and duties in good faith and in the best interests of the Corporation and in accordance with the standards of conduct set forth in Section 29-406.30 of the Corporation Act. No contract or other transaction between the Corporation and any of its officers or Directors, or between the Corporation and any corporation, firm or association in which any of the officers or Directors of the Corporation are directors or officers or are pecuniarily or otherwise interested, is or shall be either void or voidable because of such relationship or interest or because any such Officer or Director is present at the meeting of the Board of Directors or any committee thereof which authorizes, approves or ratifies such contract or transaction, or because his or her or their vote(s) is or are counted for such purpose, if any of the conditions specified in any of the following paragraphs exists:

(a) The material facts of such relationship or interest to the contract or transaction are disclosed or known to the Board of Directors or committee and the Board or Committee in good faith authorizes, approves or ratifies such contract or transaction in good faith and by a vote of a majority of the disinterested directors; or

(b) The material facts of such relationship or interest to the contract or transaction are disclosed or known to Members holding at least a majority of all of the votes in the Corporation and such Members authorize, approve or ratify such contract or transaction in good faith and by a vote sufficient for the purpose; or

(c) Such contract or transaction was fair and commercially reasonable to the Corporation in view of all the facts known to any officer or member of the Board of Directors at the time it was authorized, ratified, approved or executed.

Any common or interested officer or director may be counted in determining the presence of a quorum at any meeting of the Board of Directors or committee thereof which authorizes, ratifies or approves any contract or transaction.

4.20. Standing Committees.

(a) Executive Committee. By majority vote, the Board of Directors shall establish and maintain an Executive Committee consisting of at least five (5) Directors, one of whom shall be the Chairman of the Board, who shall also preside over the Executive Committee. The other members of the Executive Committee shall be the Vice-Chairman of the Board, and the Secretary, the Treasurer and the immediate former Chairman of the Board, if such person is still a Director. The Chairman of the Board may designate one

or more additional Directors as members of the Executive Committee, subject to the approval of the Board of Directors by a vote of a majority of the Directors then in office. Except as otherwise required by law or these Bylaws, the Executive Committee shall have such authority as the Board of Directors shall grant to it for the management of the Corporation, including the power to authorize the seal of the Corporation to be affixed to all papers that may require it, except the power to (1) elect or remove Directors or committee members; (2) approve the dissolution, merger, or reorganization of the Corporation, or distribution of its assets; (3) the amendment of the Articles of Incorporation or these Bylaws; or (4) such other matters as the Board may hereinafter determine by a majority vote of the Directors. The Executive Committee shall keep regular minutes of its proceedings and shall report the same to the Board of Directors when required. Vacancies of Chairman of the Board designees in the Executive Committee shall be filled by the Chairman of the Board, subject to the approval of the Board of Directors by a vote of a majority of the Directors then in office.

- (b) The Audit Committee shall consist of five (5) Directors and shall include at least one (1) Director who, by virtue of training and or occupation, is knowledgeable about finance and audits. Appointments to the Audit Committee shall be made by the Chairman with the approval of the Board to staggered three-year terms. The Audit Committee will make recommendations to the Board regarding the firm to be selected as the Corporation's independent auditor. The Audit Committee will receive and review the annual audit performed by the independent auditors and any accompanying letters, reports, opinions, or other documents. The Audit Committee will oversee the integrity of the Corporation's accounting systems and audit engagement.
- (c) The Compensation Committee shall consist of the Chairman, the Vice-Chairman, and one (1) voting member of the Board of Directors appointed by the Chairman with the approval of the Board for a one-year term.

4.21. Other Committees. The Board of Directors may create other committees to exercise the powers of the Board, provided that such committees consist solely of Directors, which committees shall have such authority as the Board of Directors may direct, except the power to (1) elect or remove Directors or committee members; (2) approve the dissolution, merger, or reorganization of the Corporation or distribution of its assets; (3) Amend of the Articles of Incorporation or these Bylaws; or (4) such other matters as the Board may hereinafter determine by a majority vote of the Directors. Each member of a committee shall serve until the next annual meeting of the Board of Directors and until such member's successor is appointed, unless: (A) the committee shall be sooner terminated; (B) such member be removed from such committee, with or without cause, by a vote of the Board of Directors; or (C) such member shall cease to be a Director or otherwise resign from such committee.

4.22. Advisory Committees. The Board of Directors may appoint individuals who may or may not be Directors of the Corporation to serve as an advisory committee to the Board. The advisory committees shall have such functions and responsibilities specified by the Board of Directors; provided, however, that the Board of Directors may not delegate any of its power,

authority, or functions to the advisory committee. Each advisory committee may adopt rules of procedure for its business that are consistent with the Bylaws and with the rules adopted by the Board of Directors. A majority of the members of an advisory committee shall constitute a quorum for the transaction of business. Each member of an advisory committee shall serve until the next annual meeting of the Board of Directors and until such member's successor is appointed, unless: (1) the advisory committee shall be sooner terminated; (2) such member be removed, with or without cause, by a vote of the Board of Directors; or (3) such member shall otherwise resign from such advisory committee.

4.23. Action without a Meeting. Any action required or permitted to be taken at a committee meeting may be taken without a meeting, if a unanimous written consent which sets forth the action is signed by each committee member and filed with the minutes of the committee. The members of a Board or advisory committee may conduct any meeting thereof by telephone conference or similar communications equipment in accordance with the provisions of Article IV (C)(8).

4.24. Chairman and Vice-Chairman of the Board. The Board of Directors, at its first regular meeting, and annually thereafter, shall elect, by majority vote, a Chairman and Vice-Chairman.

(a) The Chairman of the Board of Directors. The Chairman of the Board of Directors may be chosen by the Board at any meeting of the Board from among the Members, and his/her tenure shall commence immediately and continue until the next succeeding annual meeting of the Board, or until his/her successor is chosen, whichever occurs first. The Chairman of the Board shall preside at all meetings of the Board, and in the Chairman's absence the Vice-Chairman shall preside. In the absence of the Vice-Chairman, the Chairman may appoint or designate a member of the Board to preside. The Chairman, or the presiding member in the absence of the Chairman, shall conduct all business according to parliamentary rules in Robert's Rules of Order Newly Revised (or the latest revision or amendment thereto), unless modified by these Bylaws, minute order, resolution or by standing or special rules of the Board. The Chairman shall have the right to vote upon all questions, motions or recommendations submitted to the Board. In addition, the Chairman of the Board shall have such powers and perform such duties as the Board may prescribe. Except as otherwise provided by law, corporate charter, these Bylaws, or the Board, the Chairman shall have plenary authority to perform all duties assigned to him/her from time-to-time by the Board.

(b) The Vice-Chairman of the Board of Directors. The Board of Directors may from time-to-time elect from among the members of the Board one Vice-Chairman of the Board. The Vice-Chairman of the Board of Directors may be chosen by the Board at any meeting of the Board from among the Members, and his/her tenure shall commence immediately and continue until the next succeeding annual meeting of the Board, or until

his/her successor is chosen, whichever occurs first. The Vice-Chairman shall perform all duties in the Chairman's absence, incapacity or retirement from the Board until the Chairman resumes office or a successor has been duly elected.

## ARTICLE V OFFICERS

5.01. Designation. The principal officers of the Corporation shall be a President, one or more Vice Presidents, a Secretary and a Treasurer. The Board of Directors may appoint an Assistant Treasurer, an Assistant Secretary and/or such other officers as in its judgment may be necessary or desirable. All officers shall have the duties normally incident to their respective offices in a District of Columbia non-profit corporation and such other additional duties as from time-to-time shall be assigned by the Board of Directors. The Board also may employ an Executive Director.

5.02. Qualifications. All officers shall be Directors, except the Position of President may be held by the Executive Director. Any officer may hold more than one (1) position, except that the offices of President, Vice President and Treasurer shall be held by three (3) different persons. The position of Executive Director may be held by the President. An individual who holds the position of President and Executive Director simultaneously is permitted to receive compensation from the BID for duly authorized duties and responsibilities assumed and performed by that individual as Executive Director.

5.03. Election. The officers of the Corporation shall be elected annually by the Board of Directors at the organization meeting following each annual meeting of the Members, and shall hold office at the pleasure of the Board of Directors.

5.04. Removal of Officers. Any officer may be removed, either with or without cause, upon the affirmative vote of a majority of the members of the Board of Directors. Any officer may resign at any time. Any vacancy in an office shall be filled by the Board of Directors at a regular meeting or at a special meeting called for such purpose.

5.05. Agreements. Contracts. Deeds. Checks. Etc. All agreements, contracts, deeds, leases, checks and other instruments of the Corporation for expenditures or obligations in excess of \$500.00, and all checks drawn upon reserve accounts, if any, shall be executed by any two (2) officers or by such other person or persons as may be designated by the Board of Directors.

5.06. Compensation of Officers. No officer shall receive any compensation for acting as an officer, but shall be reimbursed for reasonable and actual out-of-pocket expenses incurred in the performance of such person's duties in connection with the Corporation and the BID.

## ARTICLE VI LIABILITY AND INDEMNIFICATION

6.01. Liability of the District of Columbia. The District of Columbia shall not be liable or responsible in any manner for any debts incurred, or for any actions or inactions, by the Board of Directors or by any agent, employee or Member of the Corporation.

6.02. Liability of the Corporation. Neither a Director, Officer or Member nor any affiliate of a Director, Officer or Member, nor any shareholder, officer, director, employee, partner, agent, or advisor of a Director, officer or Member, nor an affiliate of any Director, officer or Member of the Corporation shall be personally liable to the Corporation or to any owner or Member for loss or damage caused by any act or omission in such capacity, except for losses or damages caused by such party's fraudulent, willful or wanton conduct or misconduct, breach of the Bylaws or the Articles of Incorporation or gross negligence. The Corporation shall indemnify (only to the extent of Corporation assets without recourse to any Director, officer or Member) any person who was or is a party or threatened to be made a party to any threatened, pending, or completed action, suit or proceeding (other than an action by or on behalf of the Corporation), which action, suit or proceeding arises out of or relates to any claim, issue or matter involving or affecting the Corporation, by reason of the fact that such party is or was a Director officer or Member, an affiliate of a Director, officer or Member, or an officer shareholder, director, employee, partner, agent or advisor of a Director, officer or Member or an affiliate of any Director, officer or Member, or is or was serving at the request of the Corporation as an officer, shareholder, director, employee, agent, or advisor of another partnership, corporation, joint venture, trust or other enterprise, against all expenses, including attorneys' fees, judgments, fines, and amounts paid in settlement, actually and reasonably incurred by such party in connection with such action, suit or proceeding, so long as such party acted in good faith in a manner reasonably believed to be in or not opposed to the best interests of the Corporation; provided, that no indemnification shall be made in respect of any claim, issue or matter as to which a party has been adjudged to be liable for fraudulent, willful, or wanton conduct or misconduct, breach of these Bylaws or the Articles of Incorporation, or gross negligence, or with respect to any criminal action or proceeding.

6.03. Insurance. The Corporation may maintain insurance on behalf of any person who is or was a Director or officer or the shareholder, employee, partner, agent, or advisor of a Director or officer for a liability asserted against it and incurred by such party in any such capacity or arising out of such party's status as such, whether or not the Corporation would have the power to indemnify such party against such liability under Section 6.02.

6.04. Indemnification.

Section A: Indemnification. The Corporation shall indemnify any individual who served as an Officer or Director of the Corporation to the extent the Officer or Director was successful, on the merits or otherwise, in the defense of any proceeding to which the Officer or Director was a party because the Officer or Director is or was an Officer or Director of the Corporation against reasonable expenses (including reasonable attorney's fees) incurred by the Officer or Director in connection with the proceeding.

(a) Except as otherwise provided in these Bylaws, the Corporation shall, without requiring any further authorization by the Board of Directors, also indemnify an Officer

or Director who is a party to a proceeding because he or she is or was an Officer or Director against liability incurred in the proceeding if the individual:

(1) Acted in good faith;

(2) Reasonably believed:

(i) In the case of conduct in an official capacity, that the conduct was in the best interests of the Corporation; and

(ii) In all other cases, that the individual's conduct was at least not opposed to the best interests of the Corporation;

(iii) In the case of any criminal proceeding, had no reasonable cause to believe his or her conduct was unlawful; and

(iii) In the case of an employee benefit plan, reasonably believed such actions to be in the interests of the participants in and the beneficiaries of the plan.

(b) The Corporation shall have the right to select attorneys and to approve any legal expenses incurred in connection with any suit, action, or proceeding to which this indemnification applies. Unless the Corporation waives such right, the Corporation shall not be required to indemnify any Director or Officer for expenses of counsel not selected by the Corporation.

(c) The termination of a proceeding by judgment, order, settlement, or conviction or upon a plea of "no contest" or its equivalent is not, in itself, determinative that the Officer or Director did not meet the standard of conduct contained in Section B.

(d) Unless ordered by a court of competent jurisdiction, the Corporation may not indemnify an Officer or Director:

(1) In connection with a proceeding by or in the right of the Corporation, except that the Corporation may indemnify the Officer or Director for reasonable expenses (including reasonable attorneys fees) incurred in connection with the proceeding if it is determined that the Officer or Director met the relevant standard of conduct under Section B; or

(2) In connection with any proceeding with respect to conduct for which the Officer or Director was adjudged liable on the basis that the Officer or Director received a financial benefit to which the Officer or Director was not entitled, whether or not it involved any action in the individual's official capacity.

Section B. Advance for Expenses. The Corporation shall, before final disposition of a proceeding and without requiring any further authorization by the Board of Directors, advance funds to pay for or reimburse the reasonable expenses (including reasonable attorneys fees) incurred by an individual who is a party to a proceeding because he or she was an Officer or Director if the individual delivers to the Corporation (1) a written statement signed by the

individual setting forth his or her good faith belief that he or she has met the relevant standard of conduct described in these Bylaws and the Nonprofit Act; and (2) an undertaking in the form of an unlimited general obligation to repay any funds advanced if the individual is not entitled to indemnification under these Bylaws or mandatory indemnification under the Corporation Act.

### Section C. Determination of Indemnification.

(1) The Corporation may not indemnify an Officer or Director under Section A unless the Board of Directors determines, in accordance with Section B, that indemnification of the Officer or Director is permissible because he or she has met the relevant standard of conduct in these Bylaws and the Nonprofit Act, and is not in breach of the BID instruments.

(2) The determination shall be made:

- (a) If there are two or more disinterested Directors, by a majority vote of all the disinterested Directors, a majority of whom will constitute a quorum for that purpose, or by a majority of the members of a committee of two or more disinterested Directors appointed by such a vote; or
- (b) By special legal counsel:
  - (i) Selected in the manner prescribed in paragraph (1); or
  - (ii) If there are fewer than two disinterested Directors, selected by the Board of Directors, in which selection Directors who do not qualify as disinterested Directors may participate.

(3) With respect to any matter disposed of by a settlement or compromise payment by such person, pursuant to a consent decree or otherwise, no indemnification either for said payment or for any other expenses shall be provided unless such settlement or compromise payment is approved by

- (a) a majority vote of the disinterested Directors, a majority of whom will constitute a quorum for that purpose,
- (b) by a majority of the members of a committee of two or more disinterested Directors appointed by such a vote;
- (c) if there are fewer than two disinterested Directors, by the Board, in which case Directors who do not qualify as disinterested Directors may participate; provided that special legal counsel selected in the manner prescribed in Subsection (2)(b), above, determines that indemnification is permissible because the officer or Director has met the relevant standard of conduct in the Bylaws and the Nonprofit Act; or
- (d) by a court of competent jurisdiction.
- (e) For purposes of this Article, a “disinterested Director” shall mean a Director who, at the time of a vote referred to in this Article VI, is not:
  - (i) A party to the proceeding; or
  - (ii) An individual having a familial, financial, professional, or employment relationship with the Director whose indemnification or advance for expenses is the subject of the decision being made, which relationship would, in the circumstances,

reasonably be expected to exert an influence on the Director's judgment when voting on the decision being made.

(4) For purposes of this Article, a "Director" or "Officer" shall mean an individual who is or was a Director or Officer of the Corporation or who, while a Director or Officer of the Corporation, is or was serving at the Corporation's request as a Director, Officer, partner, trustee, employee, or agent of another corporation, partnership, joint venture, trust, employee benefit plan, or other entity. Unless the context requires otherwise, an Officer or Director shall also include the estate or personal representative of a Director or Officer.

Section D. The indemnification provided by these Bylaws shall not be deemed exclusive of any other rights which are provided under any agreement, vote of the Board of Directors or otherwise.

Section E. Every provision of this Article VI is intended to be severable, and if any term or provision is invalid for any reason whatsoever, such invalidity shall not affect the validity of the remainder of this Article VI.

## ARTICLE VII FINANCIAL MATTERS

7.01. Fiscal Year. The fiscal year of the Corporation shall consist of the twelve (12) month period commencing on October 1 of each year and terminating on September 30 of such year unless otherwise determined by the Board of Directors. The Corporation's first fiscal year shall commence upon the filing of its Articles of Incorporation and end on September 30 of the year in which filed.

7.02. Adoption of Budget. By September 15 of each year, the Board of Directors shall adopt and deliver to all Members by first class mail or personal delivery, an operating budget setting forth the Board of Directors' then current projections of revenues and expenses for the ensuing fiscal year, together with such reserves for contingencies or BID activities as the Board, from time-to-time, deems appropriate. The Board shall update any budget if, when and as the Board receives information requiring a material change to such budget (as the same may have been previously updated) and any such update shall constitute a supplement to such budget and shall be mailed or delivered to the Members as provided above. For purposes of the foregoing, as provided in Section 1 3(e) of the BID Act, a material change is a change where a major programmatic activity not anticipated in a previously approved plan is undertaken or which involves a reallocation of more than ten percent (10%) of the anticipated revenues in a fiscal year. Operating budgets and supplements shall not require the prior approval of Members and each operating budget and supplements shall be effective upon delivery to the Members or such later date as may be set forth in such budget or supplement. For the purposes of this Section, budgets and budget supplements shall be deemed delivered to Members three (3) days after being deposited in the United States Mail, with first class postage prepaid, or if personally delivered, when delivered or when delivery is refused or cannot be effected because of the



absence of a recipient at a Member's property address during normal working hours or business days.

7.03. Reserves. The Board of Directors may build up and maintain reasonable reserves for working capital, general operations, contingencies or other matters. Reserves shall be kept in a separate bank account(s), segregated from general operating funds, and, if the Board of Directors shall deem it advisable, funds accumulated for each type of reserve shall be kept in a separate bank account, identified by reference to the specific category of reserve. Extraordinary expenditures not originally included in any annual budget, or in any update or supplement which may become necessary during the year, shall be charged first against such reserves. Except where an emergency requires an expenditure to prevent or minimize loss, reserves accumulated for one purpose may not be expended for any other purpose unless approved by a majority of the Board of Directors.

7.04. Special Charges. If any special capital improvement or service of a nature above the level of improvements or services provided generally by the BID shall be required by any owner(s) and approved by a majority vote of disinterested members of the Board of Directors, such special capital improvement or service shall be specially charged to such owners(s) in proportion to each owner's obligation to pay BID taxes or otherwise in accordance with such reasonable terms as the Board of Directors, from time-to-time, may determine in order to reflect the benefit received by such owner(s) from such special capital improvement or service, and such special charge may be payable in a lump sum or in installments as the Board of Directors may determine. The Board of Directors shall serve notice of any such special charge on all affected owners(s) by a statement in writing setting forth the amount of such special charge and specifying the payment terms thereof. Such special charge shall constitute the personal obligation of the owner(s) involved, shall be payable directly to the BID, may be deposited directly into any bank account established by the BID for such purpose, and shall not constitute a BID tax. In addition, in accordance with section 17(e) of the BID Act, a BID shall have a lien on any BID Property on which a capital improvement is made, and such lien shall be enforced and shall have the same priority as a mechanic's lien.

7.05. Collection of Special Charges. The Board of Directors, or the Managing Agent at the request of the Board of Directors, shall take prompt action to collect special charges payable under Section 7.04 hereof which remain delinquent for more than 30 days from the due date for payment thereof.

7.06. Accounts. Except as otherwise provided in this Article, all sums collected by the Board of Directors with respect to BID taxes and special charges may be commingled into a single fund.

7.07. Books and Accounts. Books and accounts of the Corporation shall be kept under the direction of the Treasurer in accordance with Federal tax practices consistently applied. Such books and accounts shall detail, in chronological order, the receipts and expenditures of administration and operation of the Corporation and the BID.

7.08. Inspection of Books.

(a) Members and contract purchasers of non-exempt real property and prospective commercial tenants, and/or their duly authorized agents or attorneys, shall be entitled to inspect and copy any of the documents identified in Section 29-413.01(a) of the Corporation Act at convenient hours on working days that shall be set and announced for general knowledge and after reasonable prior written request at least five business days before the date on which the member wishes to inspect and copy.

(b) Members and contract purchasers of non-exempt real property and prospective commercial tenants, and/or their duly authorized agents or attorneys, shall be entitled to inspect and copy any of the documents identified in Section 29-413.02(b) of the Corporation Act on working days that shall be set and announced for general knowledge and after reasonable prior written request at least five (5) business days before the date on which the member wishes to inspect and copy, provided that the Member's demand is made in good faith and for a proper purpose; the Member describes with reasonable particularity the purpose and the records the Member desires to inspect; and the records are directly connected with this purpose.

(c) Anything above or elsewhere in these Bylaws to the contrary notwithstanding, the books and records of the Corporation may be withheld from examination or copying by Members or others to the extent they concern: (i) personnel matters; (ii) communications with legal counsel or attorney work product; (iii) transactions currently in negotiation or agreements containing confidentiality requirements; (iv) pending litigation; (v) pending matters involving formal proceedings for enforcement of the Articles of Incorporation, these Bylaws, or any rules and regulations promulgated pursuant to these Bylaws; or (vi) disclosure of information in violation of law.

(d) Upon request, any Member, the Mayor, the CFO of the District of Columbia, and the District of Columbia City Council (the "Council"), and/or their duly authorized agents or shall be provided with a copy of all the foregoing records and any other records pertaining to the Corporation.

(e) The Corporation may impose and collect a charge, reflecting its actual costs of materials and labor, prior to providing copies of any books or records to Members.

7.09. Audit. All books and records of the Corporation shall be audited at least once a year by an outside auditor employed by the Board of Directors who shall not be a Member or an affiliate of a Member.

## ARTICLE VIII BID ACTIVITIES

8.01. General. The BID Act defines a "BID activity" as "a special service or activity conducted in a Business improvement District designed to improve the economic development climate in the area pursuant to [the Act], and which is designed and conducted so as to avoid any material adverse impact on adjoining residential neighborhoods and is otherwise in accordance

with all applicable laws, regulations, and requirements of the District of Columbia and the United States, which services and activities may augment, but which may not replace governmental services customarily provided in the regular course of the District's operations." BID activities, as provided by the BID Act may include the following activities:

- (a) Seasonal promotions such as festivals and special displays;
- (b) Enhanced maintenance and improvements to public space;
- (c) Marketing and procurement activities in support of tourism, job creation, business attraction, development & efficiency, and retention;
- (d) Retail, restaurant and arts promotions;
- (e) Services to improve public safety and transportation (e.g. providing shuttle buses, community service representatives and private security services);
- (f) Development of special signage and storefront and commercial building façade improvement programs; and
- (g) Other services and activities consistent with the BID Act and the BID's business plan (as amended from time-to-time in accordance with the BID Act).

8.02. Scope of Activities. The type, number, and scope of BID activities to be undertaken by the Corporation from time-to-time shall be determined by a majority of the whole Board of Directors at any regular or special meeting. Once undertaken, a BID activity shall not be discontinued prior to completion without the affirmative vote of two-thirds (2/3) of the entire Board of Directors.

8.03. Cooperation. Each Member shall cooperate with the Corporation and its Directors, officers, employees, agents and independent contractors in the performance of any BID activity undertaken by the Corporation pursuant to this Article and the BID Act.

8.04. Signage and Façade Programs. If at any time the Corporation undertakes as a BID activity, the development of special signage and/or storefront and/or commercial building façade improvement programs, each Member hereby agrees to cooperate with and allow the installation of any signage or façade improvement adopted pursuant to such BID activity, provided that no Member shall be required to expend any of its funds (other than for payment of BID charges pursuant to these Bylaws) with respect to any such signage or façade improvement, nor shall any such signage or façade improvement alter or obstruct the identifying logo or name of any Member on its property or leased premises.

8.05. Graffiti Removal. If at any time the Corporation undertakes as a BID activity the removal of graffiti, each Member hereby agrees to allow the Corporation or its duly authorized employees, agents and/or independent contractors, to enter upon such Member's property or leased premises for such purpose, at all reasonable times and upon reasonable notice, and

membership in the Corporation automatically shall constitute a waiver by a Member of any claims for damages resulting from such graffiti removal, except for damages resulting from the gross negligence or willful misconduct of the party or parties conducting such removal.

8.06. Rules and Regulations. Rules and Regulations concerning BID activities undertaken by the Corporation may be promulgated, amended and/or repealed by the Board of Directors, provided that such Rules and Regulations are not contrary to or inconsistent with the BID Act or these Bylaws. Copies of all Rules and Regulations shall be furnished by the Board of Directors to each Member prior to the time when the same shall become effective.

## ARTICLE IX INSURANCE

### 9.01. General Authority; Requirements.

(a) All policies of insurance relating to the Corporation shall be obtained by the Board of Directors or the Managing Agent on behalf of the Corporation. Neither the Board of Directors nor the Managing Agent shall be liable for any failure to obtain any coverage required to be obtained by this Article if such coverage shall have been unavailable upon reasonable inquiry and investigation or available only at unreasonable cost;

(b) Each policy of insurance purchased pursuant to this Article shall provide to the fullest extent applicable as follows:

(1) The named insured under such policies shall be the Corporation, its Directors, officers and Members, the Managing Agent, if any, and their authorized representatives, as their interests may appear;

(2) In no event shall any such insurance be brought into contribution with insurance purchased by individual Members or their Mortgagees;

(3) The insurer waives: (i) any right to claim by way of subrogation, and (ii) any defense based upon co-insurance or upon any invalidity arising from the acts of the insured;

(4) Such policy shall not be canceled, invalidated or suspended due to the act or omission of any Member and/or his, her or its invitees, agents and employees or of any member or officer, employee or agent of the Board of Directors or the Managing Agent;

(5) Such policy may not be canceled or substantially modified (including cancellation for nonpayment of premium) without at least fifteen (15) days' prior notice to the Board of Directors and the Managing Agent, and to all parties whom certificates, subpolicies or endorsements have been issued; and

(6) Any "no other insurance" claim contained in the master policies shall expressly exclude individual Member policies from its operation.

(c) All policies of insurance shall be written by companies with a financial rating of Class A or better under Best's Rating Guide (or any comparable rating under a revised rating guide.)

9.02. Liability Insurance. The Board of Directors or the Managing Agent shall obtain and maintain comprehensive general public liability and property damage insurance in such limits as the Board of Directors from time-to-time may determine in accordance with this Section, insuring each member of the Board of Directors, the officers, the Managing Agent, and the Corporation against any liability to the public or to the Members (and their invitees, agents and employees) arising out of, or incident to the Corporation's activities, including any legal liability that results from lawsuits related to employment contracts to which the Corporation is a party. Such insurance shall be issued on a comprehensive liability basis and shall contain: (a) libel, slander, false arrest and other personal injury offenses coverage; (b) medical payments coverage; (c) a cross liability endorsement under which the rights of a named insured under the policy shall not be prejudiced with respect to such insured's action against another named insured; (d) hired and non-owned vehicle coverage; (e) host liquor liability coverage with respect to events sponsored by the Corporation; (f) property of others coverage; (g) broad form property damage coverage; and (h) a severability of interest endorsement which shall preclude the insurer from denying liability to a named insured because of the negligent acts of any other named insured. The Board of Directors shall review such limits once each year, but in no event shall such insurance be written in an amount less than Two Million Dollars (\$2,000,000.00) covering all claims for bodily injury or property damage arising out of one (1) occurrence. Reasonable amounts of umbrella liability insurance in excess of primary limits in the discretion of the Board of Directors also may be obtained.

9.03. Other Insurance. The Board of Directors also shall obtain and maintain:

(a) Directors' and officers' liability coverage and fidelity bond coverage to protect against wrongful and dishonest acts on the part of the officers, Directors, employees and other agents of the Corporation, including the Managing Agent, who either handle or are responsible for handling the funds held or administered by the Corporation. Fidelity bonds shall (i) name the Corporation as an obligee; (ii) be written in such amounts as from time-to-time shall be determined by the Board of Directors; (iii) contain waivers of any defense based upon the exclusion for persons who serve without compensation from any definition of "employee" or similar expression; and (iv) include provision for ten (10) days' written notice to the Corporation before the bond can be canceled or substantially modified,

(b) Worker's compensation insurance necessary to meet the requirements of law.

(c) Such other insurance as the Board of Directors may determine, or as may be requested from time-to-time by a majority of the votes of the Members.

9.04. Board of Directors as Agent. The Board of Directors hereby irrevocably is appointed as the agent of the Corporation and its Members, Directors and officers to adjust and

settle all claims arising under insurance policies maintained by the Board of Directors and to execute and deliver releases upon the payment of claims.

## ARTICLE X COMPLIANCE AND DEFAULT

10.01. Governance. The Corporation, and its Board of Directors, officers and Members shall be governed by and shall comply with the provisions of the BID Act, the Corporation Act, the Articles of Incorporation, these Bylaws and the rules and regulations adopted pursuant to these Bylaws, as any of the same may be amended from time-to-time. A default by any party subject to the foregoing shall entitle the Corporation or, to the extent provided in Sections 10.03, an aggrieved Member, to the relief provided in this Article.

10.02. BID Taxes. The following Sections of the BID Act in effect as of the date of adoption of these Bylaws are summarized as a matter of disclosure to all Members. Reference is made to the cited Sections themselves for the complete text provision.

(a) Section 16(e) of the BID Act provides that BID taxes shall be payable in advance, in six (6) month increments, and are due and payable, semiannually, on or before March 31 and September 15 of each year, except that a short BID tax period from the date of registration of a BID to the next regularly scheduled BID to the next regularly scheduled BID tax installment may be billed and collected.

(b) Section 16(f) of the BID Act imposes a ten percent (10%) penalty and interest rate of 1 1/2% (one and a half percent) per month on the amount of any unpaid BID tax.

(c) Section 16(g) of the BID Act provides for the tax sale of any BID property for which any BID tax remains unpaid in excess of sixty (60) days.

(d) Section 18 of the BID Act authorizes the Corporation, through legal counsel, to file suit in the Superior Court of the District of Columbia against any owner with delinquent BID taxes in excess of 120 days. Such suit may seek penalties and interest owed to the District of Columbia under Section 16(f) of the BID Act and the BID's reasonable attorneys fees in addition to delinquent BID taxes. A BID obtaining judgment in any such action shall have the authority to execute on such judgment in the name of the District of Columbia using any method of execution authorized by law, including, without limitation, the authority to record such judgment with the Recorder of Deeds, file a creditor's bill to seek real estate, seek any writ of attachment, *feri facias*, *distringas*, or replevin, and seek condemnation under writs. No action under Section 18 of the BID Act shall be construed as a bar to action under Section 16(g) thereof.

10.03. Remedies: Other Matters.

(a) In the event disputes arise with respect to the assessment of any special charge under Section 7.04 of these Bylaws or any activity conducted by the BID, such disputes shall be resolved through mediation, or, if mediation is unsuccessful, arbitration in accordance

with the rules then obtaining of the American Arbitration Association or such other reputable organization as is generally recognized as providing arbitration services by the moving party in each instance. Any party to such arbitration shall have the right to initiate judicial proceedings to enforce any award or decision made pursuant to arbitration, but no person shall be authorized to institute judicial proceedings with respect to the matters referred to in this paragraph, except to enforce an arbitration award. Members, residents of a residential neighborhood adjoining a BID (as defined in Section 3 of the BID Act) and citizen's associations covering an area in which a BID is located shall be entitled to seek relief under this Section.

(b) Disputes relating to the Corporation or BID with respect to matters not specifically addressed in this Article X may be resolved, in the discretion of the aggrieved party, through mediation, arbitration or judicial or equitable proceedings, including, without limitation, actions for specific performance and/or injunctive relief, but nothing herein shall be deemed to give any person or entity, other than the Corporation, its Directors, officers or Members, any standing to bring or institute any such action or proceeding.

10.04. No Waiver of Rights. The failure of any party to enforce any right, provision, covenant or condition which may be granted by the BID Act or these Bylaws shall not constitute a waiver of the right of such party to enforce such right, provision, covenant or condition in the future. Except as specifically precluded by the BID Act, all rights, remedies and privileges granted or allowed pursuant to any term, provision, covenant or condition of the BID Act or these Bylaws shall be deemed to be cumulative, and the exercise of any one or more thereof shall not be deemed to constitute an election of remedies, nor shall it preclude the party exercising the same from exercising such rights as may be granted to such party by the BID Act or these Bylaws.

## ARTICLE XI CERTIFICATES NOTICE SEAL

11.01. Membership Certificates. No membership certificates of the Corporation shall be issued by the Board of Directors at any time.

11.02. Members of Record.

(a) As a part of the BID registration process, the BID applicant shall identify all owners and, to the extent reasonably ascertainable, all commercial tenants within the BID area. Such lists shall comprise the initial Membership list of the Corporation.

(b) From and after the formation of the BID, it shall be the obligation of each owner, each commercial tenant and any party electing to pay BID charges under Section 21 of the BID Act, to notify the Secretary of the Corporation in writing whenever such party acquires, leases, disposes of or ceases to lease any non-exempt property within the BID area, or with respect to a party electing under Section 21 of the BID Act, elects, or withdraws an election to elect to pay BID charges. In the absence of such written notice,

a Member or non-Member shall conclusively be deemed to have the status last known to the Corporation.

11.03. Seal. The Corporation shall adopt a seal which shall have inscribed thereon the name of the Corporation, the year of incorporation, the words "Corporate Seal," and "a Non Profit District of Columbia Corporation."

ARTICLE XII  
AMENDMENTS

12.01. General. These Bylaws, the registered BID plan, and BID taxes authorized under the BID Act from time-to-time may be amended only with the affirmative vote of two-thirds (2/3) of the members of the Board of Directors present at a duly convened meeting of the Board of Directors at which a quorum shall have been obtained, and the ratification by a majority of the votes of Members present, in person or by proxy, at a duly convened annual or special meeting of the Members at which a quorum shall have been obtained; provided, that any amendment of the registered BID plan shall be subject to the filing and certification provisions of Section 9 of the BID Act, and provided, further, that BID taxes may only be amended once annually. All amendments to these Bylaws, the registered BID plan or the BID taxes shall comply with the BID Act and any regulations adopted pursuant thereto.

ARTICLE XIII  
MISCELLANEOUS

13.01. Invalidity. The invalidity of any portion of these Bylaws shall not impair or affect in any manner the validity, enforceability or effect of the balance of these Bylaws, all of which shall be severable.

13.02. Captions. The captions herein are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of these Bylaws or the intent of any provision hereof.

13.03. Governing Law. These Bylaws shall be governed by the laws of the District of Columbia and the United States of America applicable thereto.

Adopted by the initial Board of Directors at a meeting held on March 28, 2000, by a vote of 13 to zero, and thereafter amended by Vote of the Board of Directors on \_\_\_\_\_.

\_\_\_\_\_  
Secretary

Approved by a vote of the Members at its first meeting held on March 28, 2000, by a vote of 13 to zero, and thereafter amended by Vote of the Members on \_\_\_\_\_.

\_\_\_\_\_  
Secretary



