



DOWNTOWN ACTION ORGANIZATION (DAO)

Executive Committee Meeting

September 8, 2021

Noon

Zoom Meeting ID: 806 654 7370

Passcode: Downtown

Phone: 669-900-9128, Meeting ID: 806 654 7370, Passcode: 93058399

A G E N D A

- 1.0 CALL TO ORDER** Natalie Balfour
- 2.0 PUBLIC COMMENTS ON NON-AGENDA ITEMS (limited to two minutes each)**
Comments from the public will be allowed on all agenda items at the time each item is called.
- 3.0 CONFLICTS OF INTEREST OR ABSTENTIONS** Natalie Balfour
- 4.0 CONSENT ITEMS** Natalie Balfour
4.1 August 11, 2021 Meeting Minutes
- 5.0 FINANCIAL REPORT** Joe Dietzen
Review of DAO financial statements ending August 31 and financial projections
- 6.0 CONFLICT OF INTEREST DISCUSSION** All
Tom Robertson will join the meeting to discuss conflicts of interest. Previous communication between Tom Robertson and Hugh Futrell on the subject have been included in this agenda packet for background and reference.
- 7.0 EXECUTIVE DIRECTOR REPORT** Cadance Hinkle Allinson
Update provided on StreetPlus, Downtown Subcommittee updates, Courthouse Square events and other activities.
- 8.0 BYLAW UPDATE APPROVAL** Hugh Futrell
Review and approval of Bylaw updates for further discussion and adoption by DAO Board. Revised Bylaws have been included in this agenda packet.
- 9.0 SEPTEMBER BOARD MEETING AGENDA** All
- 10.0 ADJOURNMENT** Natalie Balfour

DOWNTOWN ACTION ORGANIZATION (DAO)
Executive Committee Meeting
August 11, 2021, noon
Zoom Meeting ID: 806 654 7370, Password: Downtown
Phone: 669-900-9128

Executive Committee Present: Natalie Balfour, Joe Dietzen, Hugh Futrell, Doug Van Dyke

Staff Present: Cadance Hinkle Allinson

MINUTES

1.0 CALL TO ORDER

Vice Chair Hugh Futrell called the meeting to order at 12:19pm.

2.0 PUBLIC COMMENTS ON NON-AGENDA ITEMS (limited to two minutes each)

There were no public comments at this time.

3.0 CONFLICTS OF INTEREST OR ABSTENTIONS

There were no conflicts of interest or abstentions.

4.0 CONSENT ITEMS

4.1 Motion to approve consent item, July 14, 2021 Executive Committee Meeting Minutes, as presented was unanimously passed.

5.0 FINANCIAL REPORT

Joe reviewed the financials ending July 31. He shared that we're running above budget and all assessments have been received as well as Events and Programming fees for Open & Out. StreetPlus staffing shortages are contributing to being under budget.

Joe is now signing all checks from the DAO to the Chamber.

6.0 EXECUTIVE DIRECTOR REPORT

Cadance shared that the StreetPlus team has had several recent staffing challenges. She requested they try to fill the open security position with either a security or maintenance position, whichever they can hire a qualified candidate for most quickly.

The Downtown Subcommittee is still looking into the feasibility of an expanded CCTV system. They also discussed the challenges with the large groups of kids riding bikes in the area and DET has spoken about how they might be able to address the issue.

Open & Out has been going well and is preparing for a large end of summer event on September 18 that will have music, entertainers, kids activities, etc. The Community Engagement Committee is going to discuss what type of event layout might make sense since some have requested to see the 600 Block closed as well.

Halloween planning is underway with an event planned for October 29. Bayside will be involved and providing carnival equipment and games.

The Ice Rink is moving forward as part of the Chamber's Winter Lights event and will run from November 19 through January 9. The DAO will not be directly funding the rink, but will be paying to have the banners they purchased last year hung as well as providing wreaths to the businesses.

7.0 COMMITTEE UPDATES

7.1 Ad Hoc on County Center and EIFD

Hugh shared there were no updates. Cadance will follow up with Raissa to try and get an update as well as reach out to Councilmember Tibbets and ask for the DAO to do a brief presentation on the EIFD at the next subcommittee meeting.

7.2 Community Engagement

Cadance shared no further updates.

7.3 Ad Hoc Business Development

Doug shared that the committee members have been working independently and will review everything next month.

7.4 Design & Improvement

The Design & Improvement committee will meet on Friday to review the proposed lighting installation.

8.0 PARKING COMMITTEE RECOMMENDATIONS

Recommendations from the Parking Committee were reviewed. The Parking Committee had the goal to see the Parking District simplify and create uniformity of all parking options Downtown as well as promote and incentivize use of City garages through the following:

1. Partnering with DAO on annual marketing campaign to promote validation program and Downtown parking in general
2. Changing garage operating hours to 9-6 to be in line with street parking and surface lots
3. Keeping free weekends in the garages to promote people using the garages on Saturdays when street parking is paid
4. Offering first hour free to incentivize use of garages

The committee discussed general support for items 2, 3 and 4, which are in line with the current incentives in place. Cadance shared that if items 2, 3 and 4 are approved, there will likely be no new businesses that choose to adopt the validation program. The committee agreed it was appropriate to wait on item 1 until there was greater support from businesses.

Hugh suggested that a fifth item be added that recommends a reduction over 36 months for tenants and owners who are entering into contracts to acquire long term garage parking permits. Parking has become a major impediment attracting Downtown office tenants, so addressing this issue should assist with new leases.

The committee unanimously decided to recommend items 2, 3, and 4, add item 5, discuss why item 1 was not recommended at this time and request that the board authorize Cadance and members of the Executive Committee to work with Kim to move these items forward prior to bringing to Council.

9.0 DOWNTOWN OFFICE SPACE VACANCY & LEASING

Hugh shared that if the board adopts the recommendation, the parking issue included might already be addressed through the previous item. Hugh will speak to City staff to see what options might exist for expediting TI permit turnaround times.

10.0 AUGUST BOARD MEETING AGENDA

The August board meeting agenda will mirror the August Executive Committee meeting's agenda.

11.0 ADJOURNMENT

Chair Natalie Balfour adjourned the meeting at 1:01pm.

ITEM 6.0 – COMMUNICATION RELEVANT TO CONFLICT OF INTEREST DISCUSSION

From: Hugh Futrell [<mailto:hf@hughfutrellcorp.com>]
Sent: Wednesday, August 25, 2021 11:06 AM
To: 'Thomas Robertson'
Cc: 'Cadance H. Allinson'; 'Peter Rumble'; 'nbalfour@airportbusinesscenter.com'
Subject: RE: Conflict of Interest Policy

Tom: Contact with Marco should go via Cadance – but has already been obtained. Let me summarize how I see it again, and then you should take it up with EC and the full board if you disagree. We are governed by the 1994 Act which expressly contemplates that members are acting in pursuit of their economic interests. (The environmental group you mention is a different beast.) Day in and day out the board and Cadance take actions that affect individual members of the Board. The corporations code calls out how to handle self-dealing. Our bylaws can incorporate this language and further define direct conflict, information providing, disclosure and recusal requirements. Of course Stevan would and should recuse himself from anything other than providing, at request of the Chair, information, and the protocol to establish that for future analogous cases is what would go into the bylaws. But provision of information is appropriate and necessary for the BID to discharge its mission. We have already as a board taken the position of supporting the Sears acquisition. He has not participated in those decisions and will not in the future. (And by the way, there is no need and certainly no legal requirement for him to log out of a meeting.) *This entirely deals with even the slightest risk of adverse public perceptions.* The item will, I understand, come up in the EC and board meetings next month, and I am sure Natalie will give you the opportunity to advocate for an approach different from what I have described. Hugh

From: Thomas Robertson [<mailto:trobertsonsf@gmail.com>]
Sent: Wednesday, August 25, 2021 8:49 AM
To: Hugh Futrell
Cc: Cadance H. Allinson; Peter Rumble
Subject: Re: Conflict of Interest Policy

Hugh:

My concern is risk reduction. If it is as straight forward as you believe then any lawyer with whom we speak will simply tell us it's not an issue. It might also be possible to seek advice pro bono. Talking to Marco is also a good idea, although not dispositive. He may even know an attorney who could help us, but we need an independent, qualified view.

Would you be concerned if I were to call Marco? We also could talk to him together. Would it be a problem if I were to raise this at the executive committee meeting? If this were to become a public issue, other board members would be blindsided. That could be very disruptive.

A hypothetical: what if an environmental group were advocating that a local governmental agency purchase land owned by a

board member? It would concern me a whole lot if that board member/owner were to participate in discussions concerning the organization's position and advocacy on the issue. That's our situation. How can we just ignore it? It's not a complex issue. It's a conflict of interest that should be handled in the normal way, by recusal.

The DAO otherwise could fall into the position of the appearance of coordinating with the Simon's Group. What if we end up opposing a term in the Simon's/County deal Simon's very much wants? We don't want to get to that point. We want a completely defensible position, one that is not subject to attack.

A very easy, no cost way to handle this situation is simply to ask Stevan to recuse himself. The conflict is obvious and the potential to undermine the DAO's credibility on this important issue great. It makes no sense to me that we would take this unnecessary risk. This "Caesar's wife" approach would require no extensive legal analysis or even consulting an attorney. Otherwise the optics, at the very least, are lousy and leave us open to criticism especially if we just dismiss the whole matter.

Regards,

Tom

On Aug 25, 2021, at 7:14 AM, Hugh Futrell <[hf@hughfutrellcorp.com](mailto:hughfutrellcorp.com)> wrote:

As I mentioned, Tom, I just don't agree, I don't think the DAO needs to incur the cost, I think this is very simple, everywhere there are BIDs operating as I have described. To apply, for example, the kinds of extremely detailed conflict policies laid out by the California Nonprofit Benefit Corporation is impossible for BIDs. And what problem are we solving? If we are solving the risk of self-dealing, the corporations code gives us the language. If we are solving the related issue of direct financial conflicts then there is obvious and simple language. If we want transparency and as needed disclosure, then simple language suffices there too. To invite outside counsel into navigating how the 1994 Act and the corporations code and IRS rules all intersect is to commit us to an expensive and unnecessary morass...certainly Marco has advised us that none of the BIDs he manages have turned to outside counsel on any of these matters. But of course the board may agree with you, and transparent discussion is important.

From: Thomas Robertson [<mailto:trobertsonsf@gmail.com>]

Sent: Tuesday, August 24, 2021 12:24 PM

To: Hugh Futrell

Cc: Cadance H. Allinson; Peter Rumble

Subject: Re: Conflict of Interest Policy

Hugh:

It won't take long. We just need to confirm what approach is legally defensible. It's too important to wing it or to operate on preconceived notions or a quick look by either one of us.

Conflicts of interest policies usually are not set out fully in a nonprofit's bylaws but are in a separate policy document. There are versions floating around the internet for both for profit and nonprofit corporations. We need one that we won't trip over later. The best way to insure that is to get one from a lawyer practicing in the area that covers the things he or she thinks important based on years of experience. While we are at it we can ask about Stevan Stankoich and how to handle his participation on the County move issue as it comes up during meetings. It may be that we need do nothing, but I think it's going to take more than that.

Regards,

Tom

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trobertsonsf@gmail.com

On Aug 24, 2021, at 11:28 AM, Hugh Futrell <hf@hughfutrellcorp.com> wrote:

Tom: I thought our discussion resolved this...develop bylaw language, review, reserve disagreement possibilities, re-evaluate the need for outside opinion if you or someone wish to. I don't want to circle back around on this. The Integrity Act does not speak to self-dealing or conflicts of interest. CC 5233 I believe does, and our bylaws should follow those extremely simple restrictions. I disagree with you that this is too complicated. There are thousands of BIDs in this state that have navigated this issue without undue time and energy. My recommendation is to proceed with the bylaw change that defines and restricts self-dealing (using 5233 verbatim), provides for disclosure, and then move on. I simply don't agree with you. You obviously have the opportunity to ask the board or EC to take a different course. Hugh

From: Thomas Robertson [<mailto:trobertsonsf@gmail.com>]

Sent: Tuesday, August 24, 2021 10:58 AM

To: Hugh Futrell

Cc: Peter Rumble; Cadance H. Allinson

Subject: DAO: Conflict of Interest Policy

Hugh:

To follow up on our conversation yesterday about DAO Board Members, conflicts of interest, and how we handle situations involving a board member's personal financial interest, you are correct that board members of community benefit districts are not public officials, but we are still subject to the California Nonprofit Integrity Act and both federal and state tax codes. There also are provisions of the

Corporations Code that come into play. Neither of us are specialists in this area, and it's simply too complicated for you or me to try to come up with the best conflict of interest policy. It's also not a good idea for board members, even board members who are lawyers, to offer legal advice to a board in an area that is likely to boil down to a judgment call.

If we consult a lawyer who knows this area, we ought to be able to resolve this easily by the next board meeting. Thoughts?

Regards,

Tom

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**Bylaws of the
Downtown Action Organization Incorporated
A California Nonprofit Corporation**

1. NAME

Section 1.1 Name

The name of this corporation is the Downtown Action Organization Incorporated (the “Corporation”).

2. OFFICES

Section 2.1 Principal Office

The principal office for the transaction of the business of the Corporation will be the Santa Rosa Metro Chamber of Commerce, 50 Old Courthouse Square, Suite 110 Santa Rosa, California. The Board of Directors of the Corporation may establish another place or places within the City of Santa Rosa, California, by resolution of the Board.

Section 2.2 Other Offices

The Board may at any time establish branch or subordinate offices at any place or places where the Corporation is qualified to transact business.

3. PURPOSES

Section 3.1 General Purpose

The Corporation is a nonprofit public benefit corporation and is not organized for the private gain of any person. It is organized under the Nonprofit Corporation Law of California (“California Nonprofit Corporation Law”) for public and charitable purposes.

Section 3.2 Specific Purpose

The specific purpose of the Corporation is to administer the Downtown Business Improvement District (“District”) in accordance with state law including the Property and Business Improvement Law of 1994 (“1994 Act”) and the Management Plan (“the Management Plan”) of the District approved by the City and the property owners within the District who are subject to property tax assessments that will be used to pay for the activities set forth in the Management Plan. The Corporation exists as an Owner’s Association under the 1994 Act for the express purpose of assisting the economic development of the District, which development is expected and intended to result in economic benefits to the property owners within the District, including such property owners who are Directors and Officers of the board. The receipt of such benefits is not a prohibited activity under 4.2 of these By-Laws.

4. LIMITATIONS

Section 4.1 Political Activities

The Corporation has been formed under the 1994 Act and California Nonprofit Corporation Law for the charitable purposes, and it shall be nonprofit and

nonpartisan. No substantial part of the activities of the Corporation shall consist of carrying on propaganda, or otherwise attempting to influence legislation, and the Corporation shall not participate in or intervene in any political campaign (including the publishing or distribution of statements) on behalf of, or in opposition to, any candidate for public office. The Corporation may however advocate for, disseminate information regarding, enter into discussions with public officials concerning, the objectives, policies, programs, initiatives and expenditures of the District consistent with the goals of the Management Plan.

Section 4.2 Prohibited Activities

The Corporation shall not, except in any insubstantial degree, engage in any activities or exercise any powers that are not in furtherance of its stated purposes. Except as permitted under applicable state law, the Corporation may not carry on any activity for the profit of its Officers, Directors or other persons. The Corporation may not distribute any gains, profits or dividends earned by the Corporation to its Officers, Directors or other persons as such. Furthermore, nothing in these bylaws shall be construed as allowing the Corporation to engage in any activity not permitted to be carried on (i) by a corporation exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the “Code”) or (ii) by a corporation, contributions to which are deductible under section 170(c)(2) of the Code. Notwithstanding 3.2 above, no Director or Officer shall violate the conflict-of-interest provisions set forth in these By-Laws at [REDACTED]

The Corporation and its Board of Directors shall conduct no meeting or activity, nor take any action, in violation of the Ralph M. Brown Act California Government Code Section 54950-54963, as amended, (the “Brown Act”) regardless of any provision to the contrary of these Bylaws. The Corporation shall also comply with the Public Records Act.

5. DEDICATION OF ASSETS

Section 5.1 Property Dedicated to Nonprofit Purposes

The property of the Corporation is irrevocably dedicated to the public and economic improvement of downtown Santa Rosa, California. Subject to 3.2 of these By-Laws, no part of the net income or assets of the Corporation shall ever inure to the benefit of any of its Directors or Officers, or to the benefit of any private person, except that the Corporation is authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth in these bylaws.

Section 5.2 Distribution of Assets Upon Dissolution

Upon the dissolution or winding up of the Corporation, its assets remaining after payment, or provision for payment, of all debts and liabilities of the Corporation shall be distributed to a nonprofit fund, foundation, or corporation which is organized and operated exclusively for the public and economic improvement of

downtown Santa Rosa, California as described in Exhibit A hereto and which has established its tax exempt status under Section 501(c)(3) of the Code.

6. MEMBERSHIP

Section 6.1 No Members

This Corporation shall have no members, as that term is defined in section 5056 of the California Nonprofit Corporation Law. Unless otherwise provided herein or in the California Nonprofit Public Benefit Corporation Law, any action which would otherwise require approval by a majority of all members shall require only approval of the Board of Directors. All rights which would otherwise vest in the members shall vest in the board of directors. Nothing in these Bylaws shall be construed as limiting the right of the Corporation to refer to persons associated with it, who participate in any activities of the Corporation, as "members" even though such persons are not members, as defined in section 5056 of the California Corporations Code. Such persons shall be deemed to be associated persons with respect to the corporation as that term is defined in section 5332 of the California Nonprofit Public Benefit Corporation Law, and no such reference shall constitute anyone a member of this Corporation.

7. DIRECTORS

Section 7.1 Number and Qualifications

The authorized number of Directors shall be 15 persons. The Board, by majority vote of Directors present and voting, may increase or reduce the number of Directors.

At least two thirds (2/3s) of the Directors, or their designees, shall be owners of real property within the boundaries of the District ("Property Owner Directors"). "Owner" for this purpose extends to partners, managers or employees of the entity that owns the real property. Other Directors may be owners of businesses or residents within the boundaries of the District (whether they are also owners of real property within the District), or persons who in the sole discretion of the Board have demonstrated particular interest in the objectives of the District and can contribute to the effective management of the District ("Other Directors"). Apart from the number of Directors, the composition of the Board may be changed only by Amendment to these By-Laws.

Section 7.2 Nomination and Election of Directors

After consultation with the Board, the Board Chairperson shall appoint a Nominating Committee of no fewer than three Directors, of whom at least one shall be an Officer, no later than thirty calendar days before the end of the fiscal year, which shall nominate candidates for expiring Directorships for consideration by the Board. The President shall also appoint the chair of the Nominating Committee who shall be a member of the committee. The Nominating Committee

shall promptly after its formation issue a communication to Directors, owners of real property, and businesses within the District, soliciting nomination suggestions. Nominations from the committee shall be presented to the Board at the first Board meeting of the fiscal year as part of an agenda item under which the Board shall appoint replacements for the expiring Directorships. The procedures for Board appointment of new Directors filling expiring Directorships, including nominations from the floor, are described in Exhibit B, “Procedure to Elect New Board Directors”, a part of these By-Laws. Directors shall be elected by a simple majority vote of Directors. Procedures for an appointment by the Board to fill a vacancy which occurs during the fiscal year are not governed by Exhibit B and are described at 8.5 below.

Section 7.3 Corporate Powers Exercised by Board

Subject to the provisions of the Articles of Incorporation of the Corporation (the “Articles of Incorporation”), California Nonprofit Corporation Law and any other applicable laws, the business and affairs of the Corporation shall be managed, and all corporate powers shall be exercised, by or under the direction of the board of Directors (the “Board”). The Board may delegate the management of the activities of the Corporation to any person or persons, management company or committee however composed, provided that the activities and affairs of the Corporation shall be managed, and all corporate powers shall be exercised under the ultimate direction of the Board.

Section 7.4 Terms, Election of Successors

Newly appointed Directors filling an expiring Directorship shall serve a one-year term. Directors not newly appointed shall serve three year terms. Notwithstanding the foregoing, the Board shall have the discretion to make new appointments of new or re-elected Directors for durations that vary from the above in order to ensure that at the beginning of any fiscal year a majority of Director seats do not become vacant and subject to appointment. Each Director, including a Director elected to fill a vacancy, shall hold office until the expiration of the term for which he or she was elected and until the election and qualification of a successor, or until that Director’s earlier resignation or removal in accordance with these Bylaws and California Nonprofit Corporation Law. Newly appointed Directors filling a Directorship that became vacant during the fiscal year shall serve out the remainder of the term of the vacant position and thereafter shall be eligible for three-year appointments.

8. BOARD VACANCIES

Section 8.1 Events Causing Vacancy

A vacancy or vacancies on the Board shall be deemed to exist on the occurrence of the following: (i) the death, resignation, or removal of any Director; (ii) whenever the number of authorized Directors is increased; or (iii) the failure of the Board, at any meeting at which any Director or Directors are to be elected, to elect the authorized number of Directors.

Section 8.2 Removal

The Board may by resolution declare vacant 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 or judgment of any court to have breached a duty under California Nonprofit Corporation Law. The Board may by resolution and two-thirds vote of the Directors present and voting declare vacant the office of a director (1) who fails to attend four (4) Board meetings during any twelve month period, or (2) has disrupted, and reasonably appears to intend to continue to disrupt, the lawful and orderly meetings of the Board.

Section 8.3 No Removal on Reduction of Number of Directors

No reduction of the authorized number of Directors shall have the effect of removing any Director before that Director's term of office expires unless the reduction also provides for the removal of that specified Director in accordance with these Bylaws and California Nonprofit Corporation Law.

Section 8.4 Resignations

Except as provided in this Section, any Director may resign by giving written notice to the Chairperson, the President, the Secretary, or the Board of Directors. Such a written resignation will be effective on the later of (i) the date it is delivered or (ii) the time specified in the written notice that the resignation is to become effective. No Director may resign if the Corporation would then be left without a duly elected Director or Directors in charge of its affairs, except upon notice to the California Attorney General (the "Attorney General").

Section 8.5 Election to Fill Vacancies

If there is a vacancy on the Board during the fiscal year, including a vacancy created by the removal of a Director, as soon as practicable after the vacancy occurs the Board shall fill such vacancy by electing an additional director according to the requirements and qualifications set forth above. Nominations for this purpose shall be made from the floor by any Director. If the number of Directors then in office is less than a quorum, additional directors may be elected to fill such vacancies by (i) the unanimous written consent of the Directors then in office, (ii) the affirmative vote of a majority of the Directors in office at a meeting held according to notice or waivers complying with section 5211 of the California Nonprofit Corporation Law, or (iii) a sole remaining Director.

Section 8.6 Regular Meetings

The Board shall meet monthly at such time and place (or remotely, in accordance with provisions of the Brown Act) as determined by the Board Chairperson, after consultation with the Board at a board meeting, and posted on the public notice for the meeting. By resolution and two-thirds vote of Directors present and voting the Board may reduce or subsequently restore the number of monthly board meetings. The conduct of Board meetings, including Special Meetings referenced at 8.7 below, and the format, dissemination, posting and content of

agendas for regular and special meetings shall comply with the requirements of the Brown Act.

Section 8.7 Special Meetings

Special meetings of the Board for any purpose may be called at any time by the Chairperson, or a simple majority of Directors, using a one vote per Director (non-weighted) basis.

9. NOTICE OF MEETINGS TO DIRECTORS

Section 9.1 Manner of Giving

Notice of the time and place of all regular and special meetings shall be given to each Director by one of the following methods:

- a) Personal delivery of oral or written notice;
- b) First-class mail, postage paid;
- c) Telephone, including a voice messaging system or other system or technology designed to record and communicate messages; or
- d) Electronic mail (“e-mail”) or other means of electronic transmission.

All such notices shall be given or sent to the Director’s address, phone number, facsimile number or e-mail address as shown on the records of the Corporation. Any oral notice given personally or by telephone may be communicated directly to the Director or to a person who would reasonably be expected to promptly communicate such notice to the Director. Notice of regular meetings may be given in the form of a calendar or schedule that sets forth the date, time and place of more than one regular meeting.

Section 9.2 Time Requirements

Notices sent by first-class mail shall be deposited into a United States mail box at least four days before the time set for the meeting. Notices given by personal delivery, telephone, voice messaging system or other system or technology designed to record and communicate messages, facsimile, e-mail or other electronic transmission shall be delivered at least 48 hours before the time set for the meeting.

Section 9.3 Notice Contents

The notice shall state the time and place for the meeting, even if the meeting is scheduled to be held at the principal office of the Corporation. The notice shall include an agenda of all items to be considered.

10. QUORUM AND ACTION OF THE BOARD

Section 10.1 Quorum

A majority of Directors then in office shall constitute a quorum for the transaction of business, except to adjourn.

Section 10.2 Minimum Vote Requirements for Valid Board Action

Every act taken or decision made by a vote of the majority of the Directors present and voting at a meeting duly held at which a quorum is present is the act of the Board, unless a greater number is expressly required by California Nonprofit Corporation Law, the Articles of Incorporation or these Bylaws.

Section 10.3 When a Greater Vote Is Required for Valid Board Action

The following actions shall require a vote by a two-thirds majority of all Directors then in office in order to be effective:

- a) Removal of a Director.
- b) Dissolution of the Corporation.
- c) Changes to the frequency of meetings under 8.6 above.

Section 10.4 Validity of Board Action.

The transactions of any meeting of the Board, however called and noticed or wherever held, shall be as valid as though taken at a meeting duly held after regular call and notice, if (i) a quorum is present, (ii) the requirements of the Brown Act are met.

Section 10.5 Adjournment

A majority of the Directors present, whether or not constituting a quorum, may adjourn any meeting to another time and place subject to the notice requirements of the Brown Act.

Section 10.6 Conduct of Meetings

Meetings of the Board shall be presided over by the Chairperson, or, if there is no Chairperson or the Chairperson is absent, the Vice Chairperson or, in the absence of each of these persons, by a chairperson of the meeting, chosen by a majority of the Directors present at the meeting. The Secretary shall act as secretary of all meetings of the Board, provided that, if the Secretary is absent, the presiding officer shall appoint another person to act as secretary of the meeting. Meetings shall be governed by rules of procedure as may be determined by the Board from time to time, insofar as such rules are not inconsistent with or in conflict with these Bylaws, with the Articles, or with any provisions of law applicable to the Corporation including the Brown Act.

Section 10.7 Fees and Compensation of Directors

The Corporation shall not pay any compensation to Directors for services rendered to the Corporation as Directors, except that Directors may be reimbursed for expenses incurred in the performance of their duties to the Corporation, in reasonable amounts as approved by the Board.

Also, Directors may not be compensated for rendering services to the Corporation in a capacity other than as Directors, unless such compensation is reasonable and further provided that not more than 49% of the persons serving as Directors may be “interested persons” which, for purposes of this section only, means:

- a) any person currently being compensated by the Corporation for services rendered to it within the previous 12 months, whether as a full or part-time Officer or other employee, independent contractor, or otherwise, excluding any reasonable compensation paid to a Director as Director; or
- b) any brother, sister, ancestor, descendant, spouse, brother-in-law, sister-in-law, son-in-law, daughter-in-law, mother-in-law, or father-in-law of any such person.

Section 10.8 Non-Liability of Directors

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

11. COMMITTEES

Section 11.1 Committees of Directors

The Officers of the Corporation shall constitute an Executive Committee as further described at 12.1 below. Board may, by resolution adopted by a majority of the Directors present and voting, create one or more Board Committees (“Committees”), each consisting of two or more Directors, but not more than a majority of Directors in office. Such Committees may be ad hoc, limited in purpose and duration, or permanent until dissolved by subsequent action of the Board. The Chair of the Board of Directors will appoint the Chair and Director members of each Committee. Members of each Committee may be Directors or other persons. The Chair of the Committee will appoint the non-Directors to the committee. Committees will make recommendations to the Board of Directors for consideration and vote but will have no independent authority including no authority to enter into contracts, agree to expenditures or expend funds.

Section 11.2 Meetings and Action of Board Committees

Meetings of Committees shall be governed by, and held and taken in accordance with the same provisions concerning meetings of Directors, with such changes in the context as are necessary to substitute the Committee and its members for the Board and its members, except that the time for regular meetings of Committees may be determined by resolution of the Board, and special meetings of Committees may also be called by resolution of the Board. Minutes shall be kept of each meeting of any Committee and shall be filed with the corporate records. The Committee shall report to the Board from time to time as the Board may require. The Board may adopt rules for the governance of any Committee not inconsistent with the provisions by these Bylaws. In the absence of rules adopted by the Board, the Committee may adopt such rules. Permanent committees,

including the Executive Committee, are subject to the Brown Act and Public Records Act.

Section 11.3 Quorum Rules for Board Committees

A majority of the Committee members shall constitute a quorum for the transaction of Committee business, except to adjourn. A majority of the Committee members present, whether or not constituting a quorum, may adjourn any meeting to another time and place subject to the notice provisions of the Brown Act. Every act taken or decision made by a majority of the Committee members present at a meeting duly held at which a quorum is present shall be regarded as an act of the Committee, subject to the provisions of the California Nonprofit Corporation Law relating to actions that require a majority vote of the entire Board. A meeting at which a quorum is initially present may continue to transact business, notwithstanding the withdrawal of Committee members, if any action taken is approved by at least a majority of the required quorum for that meeting.

Section 11.4 Revocation of Delegated Authority

The Board may, at any time, revoke or modify any or all of the authority that the Board has delegated to a Committee, increase or decrease (but not below two) the number of members of a Committee, and fill vacancies in a Committee from the members of the Board.

Section 11.5 Nonprofit Integrity Act/Audit Committee

In any fiscal year in which the Corporation receives or accrues gross revenues of two million dollars or more (excluding grants from, and contracts for services with, governmental entities for which the governmental entity requires an accounting of the funds received), the Board shall (i) prepare annual financial statements using generally accepted accounting principles that are audited by an independent certified public accountant (“CPA”) in conformity with generally accepted auditing standards; (ii) make the audit available to the Attorney General and to the public on the same basis that the Internal Revenue Service Form 990 is required to be made available; and (iii) appoint an Audit Committee. The Audit Committee shall not include paid or unpaid staff or employees of the Corporation, including, if staff members or employees, the President or chief executive officer or the Treasurer or chief financial officer (if any). If there is a finance committee, members of the finance committee shall constitute less than 50% of the membership of the Audit Committee and the chairperson of the Audit Committee shall not be a member of the finance committee. Subject to the supervision of the Board, the Audit Committee shall:

- a) make recommendations to the Board on the hiring and firing of the CPA;
- b) confer with the CPA to satisfy Audit Committee members that the financial affairs of the Corporation are in order;

- c) approve non-audit services by the CPA and ensure such services conform to standards in the Yellow Book issued by the United States Comptroller General; and
- d) if requested by the Board, negotiate the CPA's compensation on behalf of the Board.

Section 11.6 Advisory Committees

The Board may create one or more advisory committees to serve at the pleasure of the Board. The chair of an advisory committee will be appointed by the Board Chairperson who shall be responsible for appointments to the advisory committee. Appointments to such advisory committees need not, but may, be Directors. Advisory Committees will provide recommendations and input to the Board, but not have the authority to act on behalf of the Board.

12. OFFICERS

Section 12.1 Officers

The officers of the Corporation ("Officers") shall be a Chairperson, Vice Chairperson, a Secretary, and a Treasurer. All officers must be Directors. The Chairperson and Vice Chairperson shall be property owners within the District. The Board shall have the power to designate additional Officers. Any number of offices may be held by the same person, except that the Secretary and the Treasurer may not serve concurrently as the Chairperson. Officers shall serve as an Executive Committee chaired by the Board Chairperson, and shall make such recommendations to the Board for Board action as it deems appropriate but shall have no independent authority except as may be granted to it by Board resolution.

Section 12.2 Election of Officers

The Officers shall be elected by a majority vote of Directors present and voting at the first meeting of the Board during the fiscal year of the Corporation, for a term of one year, and each shall serve at the discretion of the Board until his or her successor shall be elected, or his or her earlier resignation or removal.

Section 12.3 Removal of Officers

Any Officer may be removed and replaced, with or without cause, by a majority of the Directors present and voting, at any regular or special meeting of the Board.

Section 12.4 Resignation of Officers

Any Officer may resign at any time by giving written notice to the Corporation. Any resignation shall take effect at the date of the receipt of that notice or at any later time specified in that notice; and, unless otherwise specified in that notice, the acceptance of the resignation shall not be necessary to make it effective. Any resignation is without prejudice to the rights, if any of the Corporation under any contract to which the Officer is a party.

Section 12.5 Vacancies in Offices

A vacancy in any office because of death, resignation, removal, disqualification, or any other cause shall be filled in the manner prescribed in these Bylaws for regular appointments to that office, provided that such vacancies shall be filled as they occur and not on an annual basis. In the event of a vacancy in any office other than the Chairperson such vacancy shall be filled temporarily by appointment by the Chairperson, or if none, by the Vice Chairperson, and the appointee shall remain in office for 60 days, or until the next regular meeting of the Board, whichever comes first. Thereafter, the position can be filled only by action of the Board.

Section 12.6 Responsibilities of Officers

Chairperson of the Board. The chairperson of the Board (the “Chairperson”), if any, shall be a Director and shall preside at meetings of the Board and exercise and perform such other powers and duties as may from time to time be assigned to him by the Board or prescribed by these Bylaws. The Chairperson shall be a property owner in the District.

Vice Chairperson of the Board. The Vice Chairman shall fulfill the duties of the Chairperson in his or her absence. The Vice Chairperson shall be a property owner, in the District.

Secretary. The secretary of the Corporation (the “Secretary”) shall attend to the following:

- a) **Bylaws.** The Secretary shall certify and keep or cause to be kept at the principal office of the Corporation the original or a copy of these Bylaws as amended to date.
- b) **Minute Book.** The Secretary shall keep or cause to be kept a minute book.
- c) **Notices.** The Secretary shall give, or cause to be given, notice of all meetings of the Board in accordance with these Bylaws.
- d) **Corporate Records.** Upon request, the Secretary shall exhibit or cause to be exhibited at all reasonable times to any Director, or to his or her agent or attorney, these Bylaws and the minute book.
- e) **Corporate Seal and Other Duties.** The Secretary shall keep or cause to be kept the seal of the Corporation, if any, in safe custody, and shall have such other powers and perform such other duties incident to the office of Secretary as may be prescribed by the Board or these Bylaws.

Treasurer. The treasurer of the Corporation (the “Treasurer”) shall attend to the following:

- a) **Books of Account.** The Treasurer shall keep and maintain, or cause to be kept and maintained, adequate and correct books and records of accounts of the properties and transactions of the Corporation, including accounts of its assets, liabilities, receipts, disbursements, gains, losses, capital, retained earnings, and other matters customarily included in financial

statements. The books of account shall be open to inspection by any Director at all reasonable times.

- b) Financial Reports. The Treasurer shall prepare, or cause to be prepared, and certify, or cause to be certified, the financial statements to be included in any required reports.
- c) Deposit and Disbursement of Money and Valuables. The Treasurer shall deposit, or cause to be deposited, all money and other valuables in the name and to the credit of the Corporation with such depositories as may be designated by the Board; shall disburse, or cause to be disbursed, the funds of the Corporation as may be ordered by the Board; shall render, or cause to be rendered to the President and Directors, whenever they request it, an account of all of his or her transactions as Treasurer and of the financial condition of the Corporation; and shall have other powers and perform such other duties incident to the office of Treasurer as may be prescribed by the Board or these Bylaws.
- d) Bond. If required by the Board, the Treasurer shall give the Corporation a bond in the amount and with the surety or sureties specified by the Board for faithful performance of the duties of his office and for restoration to the Corporation of all its books, papers, vouchers, money, and other property of every kind in his possession or under his control on his death, resignation, retirement, or removal from office.

Section 12.7 Chief Executive

Subject to such supervisory powers as may be given by the Board to the Chairperson or President, the Board may hire a chief executive who shall be the general manager of the Corporation, and subject to the control of the Board, shall supervise, direct and control the Corporation's day-to-day activities, business and affairs. The chief executive (who may be referred to as the "chief executive officer" or "executive director" shall be empowered to hire, supervise and fire all of the employees of the Corporation, under such terms and having such job responsibilities as the chief executive shall determine in his or her sole discretion, subject to the rights, if any, of the employee under any contract of employment. The chief executive may delegate his or her responsibilities and powers subject to the control of the Board. He or she shall have such other powers and duties as may be prescribed by the Board or these Bylaws. Additionally, the Board may, by resolution, appoint the chief executive as an Officer.

Alternatively, the management of the Corporation may be conducted by an organization selected by the Board, subject to a management agreement reviewed and approved by the Board, in which case the Corporation may maintain, engage, supervise or terminate no employee, but rather shall appropriately supervise and hold accountable the management company for the performance of contracted duties.

13. TRANSACTIONS BETWEEN CORPORATION AND DIRECTORS OR OFFICERS; DIRECTOR CONFLICTS OF INTEREST

Section 13.1 Transactions with Directors and Officers

13.1.1 Interested Party Transactions

Except as described elsewhere, the Corporation shall not be a party to any transaction:

- a) in which one or more of its Directors or Officers has a material financial interest, or
- b) with any corporation, firm, association, or other entity in which one or more Directors or Officers has a material financial interest.

13.1.2 Requirements to Authorize Interested Party Transactions

The Corporation shall not be a party to any transaction unless:

- a) the Corporation enters into the transaction for its own benefit;
- b) the transaction is fair and reasonable to the Corporation at the time the transaction is entered into;
- c) prior to consummating the transaction or any part thereof, the Board authorizes or approves the transaction in good faith, and with knowledge of the material facts concerning the transaction and the interested Director's or Officer's financial interest in the transaction;
- d) prior to authorizing or approving the transaction, the Board considers and in good faith determines after reasonable investigation that the Corporation could not obtain a more advantageous arrangement with reasonable effort under the circumstances; and
- e) the minutes of the Board meeting at which such action was taken reflect that the Board considered and made the findings described in paragraphs (a) through (d) of this Section.

13.1.3 Material Financial Interest

A Director or Officer shall not be deemed to have a "material financial interest" in a transaction:

- a) if the contract or transaction is part of a public or charitable program of the Corporation and it (1) is approved or authorized by the Corporation in good faith and without unjustified favoritism, and (2) results in a benefit to one or more Directors or their families only because they are in the class of persons intended to be benefited by the program; or
- b) where the interested Director has no actual knowledge of the transaction and it does not exceed the lesser of one percent of the gross receipts of the corporation for the preceding year or \$100,000.

Section 13.2 Loans to Directors and Officers

The Corporation shall not make any loan of money or property to or guarantee the obligation of any Director or Officer.

Section 13.3 Interlocking Directorates

No contract or other transaction between the Corporation and any corporation, firm or association of which one or more Directors are directors is either void or voidable because such Director(s) are present at the Board or Committee meeting that authorizes, approves or ratifies the contract or transaction, if (i) the material facts as to the transaction and as to such Director's other directorship are fully disclosed or known to the Board or Committee, and the Board or Committee authorizes, approves or ratifies the contract or transaction in good faith by a vote sufficient without counting the vote of the common Director(s) (subject to the quorum provisions of these bylaws); or if (ii) the contract or transaction is just and reasonable as to the Corporation at the time it is authorized, approved or ratified.

Section 13.4 Duty of Loyalty

Nothing shall be construed to derogate in any way from the absolute duty of loyalty that every Director and Officer owes to the Corporation.

Section 13.5 Director Conflicts of Interest

13.5.1 As referenced in 3.1, above, the Corporation is, under applicable state law, an Owner's Association whose activities, in managing the business improvement district, are for the economic benefit of the District generally and the property owners therein specifically. Participation in the work of the Corporation for this purpose is not prohibited by 4.2 above.

13.5.2 To avoid breaching his or her fiduciary duties under these By-Laws, including but not limited to the absolute duty of loyalty under 13.4 above, a Director shall, in addition to adhering to the requirements otherwise set forth in this Section, disclose and avoid any conflict of interest between his or her interests (including the interests of his or her employer, affiliates, family members) and the interests of the Corporation including the goals of the Management Plan of the District.

13.5.3 "Conflict of Interest" for this purpose is to participate in any Board or committee action that is specific and exclusive to the Directors' real property or business and not to other real properties or businesses within the District, and that directly and materially benefits, or may directly and materially benefit, the Director (including the interests of his or her employer, affiliates, family members) to the potential detriment of other real properties or businesses within the District.

13.5.4 "Participate" under 13.5.3 above is to cast a vote, in committee or at a Board meeting on any applicable motion, resolution or proposal, or to advocate for or against any motion for action, study, deferral, or tabling after such motion has been duly made. However, providing information to the Board or a committee at the request of the Board Chairperson or committee chair is not a participation in an action under these By-Laws and does not constitute a conflict-of-interest.

14. INDEMNIFICATION AND INSURANCE

Section 14.1 Indemnification

The Corporation shall indemnify its Officers, Directors or former Directors against expenses actually and necessarily incurred by them in connection with the defense of an action, suit, or proceeding, in which they or any of them are made parties, or a party, by reason of having been Directors of the Corporation, except in relation to matters as to which such director shall be settled by agreement predicated on the existence of such liability for gross negligence or misconduct.

Section 14.2 Insurance

The Corporation shall maintain a policy of officers and directors and general liability insurance from an A rated or better insurance carrier.

15. CORPORATE RECORDS, REPORTS AND SEAL; BUDGET AND FINANCIAL REPORTING

Section 15.1 Minute Book

The Corporation shall keep a minute book in written form which shall contain a record of all actions by the Board or any committee including (i) the time, date and place of each meeting; (ii) whether a meeting is regular or special and, if special, how called; (iii) the manner of giving notice of each meeting and a copy thereof; (iv) the names of those present at each meeting of the Board or any Committee thereof; (v) the minutes of all meetings; (vi) any written waivers of notice, consents to the holding of a meeting or approvals of the minutes thereof; (vii) all written consents for action without a meeting; (viii) all protests concerning lack of notice; and (ix) formal dissents from Board actions.

Section 15.2 Books and Records of Account

The Corporation shall keep adequate and correct books and records of account. "Correct books and records" includes, but is not necessarily limited to: accounts of properties and transactions, its assets, liabilities, receipts, disbursements, gains, and losses. Financial records will be maintained in accordance with Generally Accepted Accounting Principles (GAAP), or other professional standard that may be required for the Corporation's activities.

Section 15.3 Articles of Incorporation and Bylaws

The Corporation shall keep at its principal office, the original or a copy of the Articles of Incorporation and Bylaws as amended to date.

Section 15.4 Maintenance and Inspection of Federal Tax Exemption Application and Annual Information Returns

The Corporation shall at all times keep at its principal office a copy of its federal tax exemption application and, for three years from their date of filing, its annual information returns. These documents shall be open to public inspection and copying to the extent required by the Code.

Section 15.5 Annual Report; Statement of Certain Transactions

The Board shall cause an annual report to be sent to each Director and made available electronically to the public within 120 days after the close of the Corporation's fiscal year, containing the following information:

- a) The assets and liabilities of the Corporation as of the end of the fiscal year.
The Corporation shall operate on a calendar year as its fiscal year.
- b) The principal changes in assets and liabilities, including trust funds, during the fiscal year;
- c) The revenue or receipts of the Corporation, both unrestricted and restricted to particular purposes, for this fiscal year;
- d) The expenses or disbursements of the Corporation for both general and restricted purposes during the fiscal year;
- e) A statement of any transaction (i) to which the Corporation, its parent, or its subsidiary was a party, (ii) which involved more than \$50,000 or which was one of a number of such transactions with the same person involving, in the aggregate, more than \$50,000, and (iii) in which either of the following interested persons had a direct or indirect material financial interest (a mere common directorship is not a financial interest):
 - a. Any Director or Officer of the Corporation, its parent, or its subsidiary;
 - b. Any holder of more than 10% of the voting power of the Corporation, its parent, or its subsidiary.
- f) The statement shall include: (i) a brief description of the transaction; (ii) the names of interested persons involved; (iii) their relationship to the Corporation; (iv) the nature of their interest in the transaction, and; (v) when practicable, the amount of that interest, provided that, in the case of a partnership in which such person is a partner, only the interest of the partnership need be stated.
- g) A brief description of the amounts and circumstances of any loans, guaranties, indemnifications, or advances aggregating more than \$10,000 paid during the fiscal year to any Officer or Director.

Section 15.6 Directors' Rights of Inspection

Every Director shall have the absolute right at any reasonable time to inspect the books, records, documents of every kind, and physical properties of the Corporation and each of its subsidiaries. The inspection may be made in person or by the Director's agent or attorney. The right of inspection includes the right to copy and make extracts of documents. The Corporation may require reasonable reimbursement for the actual costs of reproducing requested materials and shall not be liable for the costs incurred by the Director for said inspecting agent or attorney.

Section 15.7 Corporate Seal

The corporate seal, if any, shall be in such form as may be approved from time to time by the Board. Failure to affix the seal to corporate instruments, however, shall not affect the validity of any such instrument.

Section 15.8 Budget and Financial Reporting

The Board shall adopt, by majority vote of Directors present and voting, not later than at the first meeting of each fiscal year, a Budget for the designated fiscal year in such form and in such amounts as the Board may determine at its sole discretion.

During the fiscal year, the Board shall review, at each board meeting, the financial status of the Corporation and District, including revenues received, expenditures made, assets and liabilities, cash flows, and an actual-to-budget report showing the status of the Budget against actual revenues received and expenditures made.

The Board may amend the Budget during the fiscal year in the same manner as the Budget was adopted.

16. EXECUTION OF INSTRUMENTS, DEPOSITS AND FUNDS

Section 16.1 Execution of Instruments

The Board, 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, 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.

Section 16.2 Checks and Notes

Except as otherwise specifically determined by resolution of the Board, 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 Chairperson if the amount is over \$5,000.00. Notwithstanding the foregoing, should the Board contract with an organization such as the local Chamber of Commerce to administer services provided by the District, such organization is authorized to execute checks from the account of the Corporation under this section for the purpose of making payments to vendors or service providers for which the Board has entered into a contract, provided (1) that such payment does not exceed the board-adopted budget, and (2) such payment is promptly reported by the organization to the Treasurer or Chair and entered properly into the books of account of the Corporation.

Section 16.3 Deposits

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 may select, and entered properly into the books of account of the Corporation.

Section 16.4 Gifts

The Board may accept, either by resolution of adoption of a budget that includes the following, on behalf of the Corporation any contribution, gift, bequest, or devise for the charitable or public purposes of the Corporation.

17. CONSTRUCTION AND DEFINITIONS

Unless the context requires otherwise, including applicability of state law establishing Owner's Association for the purpose of administering business improvement districts, the general provisions, rules of construction, and definitions of California Nonprofit Corporation Law shall govern the construction of these Bylaws. Without limiting the generality of the above, the masculine gender includes the feminine and neuter, the singular number includes the plural, the plural number includes the singular, and the term "person" includes both the Corporation and a natural person. All references to statutes, regulations and laws shall include any future statutes, regulations and laws that replace those referenced.

18. AMENDMENTS

The Board may adopt, amend or repeal bylaws by majority vote of Directors then in office. Such power is subject to the following limitations:

Where any provision of these Bylaws requires the vote of a larger proportion of the Directors than otherwise is required by these By-Laws or law, such provision may not be altered, amended or repealed except by the vote of such greater number.

No amendment may extend the term of a Director beyond that for which such Director was elected.

If bylaws are to be adopted, amended or repealed at a meeting of the Board, such action is authorized only at a duly called and held meeting for which written notice of such meeting, setting forth the proposed bylaw revisions with explanations therefor, is given in accordance with these Bylaws.

Certificate of Secretary

I certify that I am the duly elected Secretary of the Downtown Action Organization Incorporated, a California nonprofit public benefit corporation; that these Amended Bylaws, consisting of 19 pages, are the Bylaws of this Corporation as adopted and amended by a resolution of the Board of Directors on [redacted]; and that these Bylaws have not been amended or modified since that date.

Executed on _____ at _____, California.

[redacted]

Secretary

EXHIBIT A: Community Benefit District Map

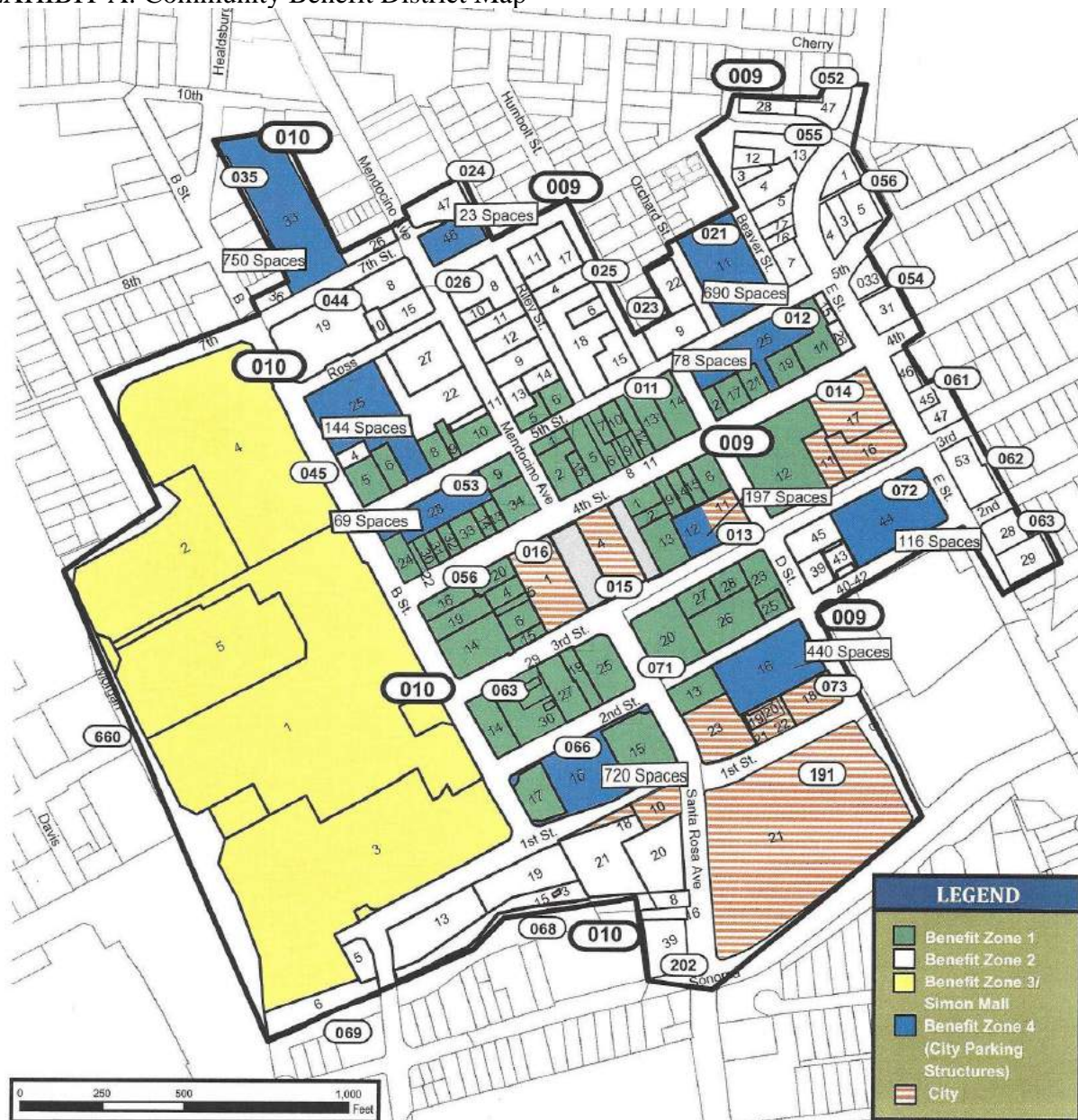


EXHIBIT B: Procedure to Elect DAO Board Members

1. The Nominating Committee will present its recommendation.
2. Prior to Board discussion, the Chair will ask for any public comment on this item. Following public comment, discussion will be limited to board members and DAO staff.
3. The Chair will open the floor for board comment. Motions will not at this time be entertained. Board members will seek recognition through the Chair.
4.
 - a. The Chair will close discussion and open the floor for motions. Members will seek recognition from the Chair. A motion must be clearly stated and receive a second prior to discussion of the motion.
 - b. Possible motions include:
 - i. approval of the Nominating Committee without change;
 - ii. modification of the recommendation by deleting one or more individuals and substituting one or more others;
 - iii. proposing an entirely different slate of new members; or
 - iv. taking up individual appointments one at a time until all vacancies are filled.
5. Should any motion result, if approved, in a violation of the by-laws because less than a two-thirds proportion of board membership by property owners will result, the Chair will afford the maker and second an opportunity to withdraw and restate the motion.
6. The Board will discuss the motion. Members will seek recognition from the Chair.
7. When discussion on the motion has ended, the Chair will ask for the ayes and nays by voice vote. Individual votes on the motion will be recorded in the minutes. The Chair will announce the results of the vote. Should the motion pass, persons approved shall be board members.
8. Should the motion fail, or should further appointments be necessary, steps 4 through 7 will be repeated until all appointments are made.