

DOWNTOWN ALBANY RESTORATION PROGRAM, INC.
d/b/a ALBANY BUSINESS IMPROVEMENT DISTRICT, INC.
BY-LAWS

ARTICLE I – PURPOSES

Section 1: Mission and Purpose.

The Downtown Albany Business Improvement District, Inc. (BID) is dedicated to maintaining the character and viability of downtown Albany and to improving the quality of life and overall image for all those who live, work and visit the Capital City by creating an inviting, dynamic, and sustainable community that celebrates the City's history while building towards its future.

Section 2: Limitations.

The BID is organized exclusively for one or more of the purposes as specified in Section 501(c) (3) of the Internal Revenue Code. The BID is not formed for pecuniary profit or for financial gain. No part of the net earnings of the BID shall inure to the benefit of, or be distributable to its members, trustees, officers, or other private persons, except that the BID shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes. Notwithstanding any other provision of these articles, the BID shall not carry on any other activities not permitted to be carried on (a) by a corporation exempt from federal income tax under section 501(c) (3) of the Internal Revenue Code, or the corresponding section of any future federal tax code, or (b) by a corporation, contributions to which are deductible under section 170(c)(2) of the Internal Revenue Code, or the corresponding section of any future federal tax code.

Upon the dissolution of this BID, assets shall be distributed for one or more exempt purposes within the meaning of section 501(c) (3) of the Internal Revenue Code (or corresponding section) of any future federal tax code, or shall be distributed to the Federal government, or to a state or local government, for a public purpose. Any such assets not so disposed of shall be disposed of by the Court of Competent Jurisdiction of the county in which the principal office of the BID is then located, exclusively for such purposes or to such organization or organizations, as said Court shall determine, which are organized and operated exclusively for such purposes.

Section 3. Membership

Albany Business Improvement District, Inc. (the "Corporation") shall have four (4) classes of membership:

- a. Class A. Owners of record of real property in the District as are registered with the City of Albany to receive real property tax bills for such real property located within the District, shall be Class A members of the Corporation, provided such persons have applied for membership in accordance with Section 1e hereof or have become owners of record on the rolls of the City of Albany by the September publication of such records by the City of Albany. Owners of properties wholly exempt from real property
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taxes are not eligible for membership, nor representation on the Board of Directors as Class A Property Owners, unless said ownership provides a payment in lieu of the property tax.

- b. Class B. (i) Commercial Tenants who are occupants pursuant to leases of office or retail space in a building that receives real property tax bills for such real property within the District shall be a Class B member of the Corporation provided such persons have applied for membership in accordance with Section 1e hereof.; or (ii) Residential Tenants who are an owner-occupied or occupant of a residential property (three or more units contained within the property) that receives real property tax bills for such real property within the District pursuant to a lease of a residential space.
- c. Class C. Persons serving by virtue of their appointment as Municipal Representatives, as described in Article III, Section 2.
- d. Class D. Persons serving by virtue of their appointment as Albany County Representative as described in Article III, Section 2.
- e. Application for membership. All persons who fall within one of the classes described above shall be eligible for membership in the Corporation upon submission to the secretary of a completed membership application, copy of lease agreement or utility bill, picture id, and sworn statement evidencing such qualification.
- f. Termination of Membership. Membership in the Corporation is not transferable. Class A & B Membership in the Corporation, as defined in 1a and 1b above shall be terminated when the entity is no longer the owner of record or tenant. Class C & D Membership in the Corporation, as defined in 1c and 1d above shall be terminated with the elected official is no longer in office. Appointed Class C and Class D members will be appointed in writing by to the Corporation.

ARTICLE II – MEMBERSHIP

Section 1: Meetings of the Members.

There shall be an annual meeting of the membership of the Corporation during the second calendar quarter of the year for the purpose of receiving annual reports of the President and Executive Director and the transaction of other business.

Section 2: Items of Business at Annual Meeting

Items of business covered at the annual meeting of the Corporation shall be as follows:

- a. Report of Governance Committee as to Election of Directors.
 - b. Report of the President, including Election of Officers.
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c. Report of the Executive Director

Section 3: Special Meetings.

The President, Board of Directors or Executive Committee at their discretion may call special meetings of the members. Special meetings shall be called by the President at the written request of members entitled to cast five percent (5%) of the total number of membership votes of either Class A or Class B members. No business, other than that specified in the notice of meeting, shall be transacted at any special meeting of the members of the Corporation.

Section 3: Notice of Meetings.

Notice of the meetings of the membership shall be e-mailed to the last recorded e-mail address of each member of record at least ten (10) days and not more than fifty (50) before the time appointed for the meeting. All notices of meetings, including special meetings shall set forth the place, date, time, and, except for the annual meeting, the purpose of the meeting.

Section 4: Quorum.

A quorum of meetings of the membership shall consist of ten percent (10%) of the total membership or 100 members, whichever is greater.

Section 5: Proxies and Absentee Votes.

Every member of the Corporation entitled to vote at any meeting may vote by proxy. Proxies shall be in writing and revocable at the pleasure of the member executing the same. Except as otherwise provided by law, all elections and all questions coming before any meeting of the members shall be decided by a majority vote of the votes cast at the meeting.

Absentee votes for Board elections must be submitted to the Governance Committee no later than five (5) days before a Board election.

Section 6. Presumption of Assent.

A Member of the BID who is present at a meeting of the Members when corporate action is taken is deemed to have assented to the action taken unless:

- a. Such member objects, at the beginning of the meeting or promptly upon arrival, to holding the meeting or transacting specified affairs at the meeting; or
- b. Such member votes against or abstains from the action taken.

ARTICLE III - DIRECTORS

Section 1: Function.

All corporate powers, business, and affairs will be exercised, managed and directed under the authority of the board of directors (whether defined as directors, managers or trustees in the Articles of Incorporation).

Section 2: Number and Classes of Directors.

The Corporation shall have up to twenty (20) directors as follows:

- a. Eleven (11) shall be elected owners of real property located within the District or their designees who are Class A members.
- b. Four (4) shall be elected tenants of commercial space located in the District or their designees who are Class B members.
- c. One (1) shall be an elected tenant of a dwelling unit located in the District who is a Class B member.
- d. One (1) shall be chosen by the Treasurer of the City of Albany, or successor Chief Financial Officer of the City, who is a Class C member.
- e. One (1) shall be chosen by the Common Council of the City of Albany, who is a Class C member.
- f. One (1) shall be chosen by the Mayor of the City of Albany, who is a Class C member.
- g. One (1) shall be chosen by the County Executive of the County of Albany, who is a Class D member.

Section 3: Presumption of Assent.

A director of the BID who is present at a meeting of the board of directors or a committee of the board of directors when corporate action is taken is deemed to have assented to the action taken unless:

- a. Such Board member objects, at the beginning of the meeting or promptly upon arrival, to holding the meeting or transacting specified affairs at the meeting; or
- b. Such director votes against or abstains from the action taken.

Section 4: Term.

The term of all elected members of the Board of Directors shall be three (3) years, limited to two consecutive terms. Upon completing the unfulfilled portion of a term, those filling vacancies may be considered for two (2) additional full consecutive terms. A previous two-term Director may be nominated again one (1) year after the expiration of their second term.

Section 5: Vacancies.

Any vacancy occurring on the board of directors may be filled by the affirmative vote of 2/3 of the entire board. A director elected or appointed to fill a vacancy shall be elected or appointed for the unexpired term of his predecessor in office. Any directorship to be filled by reason of an increase in the number of directors may be filled by the board of directors, but only for a term of office continuing until the next election of directors. A vacancy that will occur at a specific later

date, by reason of a resignation effective at a later date, may be filled before the vacancy occurs; however, the director may not take office until the vacancy occurs.

Section 6: Elections.

Section 6.1 Procedure.

At the annual meeting, an election shall be held to re-elect and replace all Class A Directors and Class B Directors whose terms have expired. The Governance Committee, appointed by the President, shall nominate a slate of candidates. Any other member who may wish to be a candidate listed on the ballot that was not nominated by the Governance Committee must file a petition containing the signatures, names and addresses of at least twenty (20) BID members of record, as defined in Section 3.

The nominations of the Governance Committee must be announced to the membership no later than forty-five (45) days prior to the annual meeting. All the petitions must be fully submitted to the Committee no later than thirty (30) days prior to the annual meeting on forms to be provided by the Committee. The Governance Committee shall validate membership, as well as decide all questions and objections to the petition. The list of eligible candidates and the Notice of Annual Meeting and Election shall be e-mailed to each Class A and Class B member no later than twenty (20) days before the annual meeting.

The Governance Committee shall conduct all Board of Directions elections at the annual meeting and shall be the final arbiter as to the validity of any vote cast, and the results of the election. Members shall vote only for candidates representing their Membership Class. In the event of a tie, the Governance Committee shall announce this at the annual meeting and the tie will be broken by the run-off election to be conducted as soon as the Governance Committee determines it is prepared to conduct such an election, which shall be limited to those candidates that were tied.

Section 6.2 Voting

The Ballot shall set forth the Nominating Committee's recommended slate as well as the names of any other members who comply with the foregoing requirements. The Ballot shall be placed on the Corporation's website for online voting (or optional download) and also emailed to the last recorded electronic address of each member of record not later than thirty (30) days prior to the date set for the annual meeting. Nominating Committee shall decide all questions and objections to such petitions. Ballots shall be returned prior to or at the annual meeting.

Only members or their designees shall be eligible to vote and shall vote only for those directors representing their own membership classes. Voting by proxy for the election of directors is not permitted. Ballots shall be counted by the Nominating Committee. The Nominating Committee shall decide all questions relating to any ballot received, shall be the final arbiter as to validity of any ballot cast and shall report the results of the election of directors at the annual meeting.

Section 7: Removal and Resignation of Directors.

Section 7.1: Removal.

Any member of the board of directors may be removed from office by a 2/3 vote of the entire board of directors when, in its judgment, the best interest of the BID may be served (i.e. consecutive unexcused absences from meetings). The notice of a meeting of the board to recall a

board member or members of the board of directors shall state the specific director(s) sought to be removed. Any such proposed removal of a director at a meeting shall be made by separate vote for each board member sought to be removed. Any director removed from office shall turn over to the board of directors within 48 hours any and all records of the BID in his/her possession.

Section 7.2: Resignation.

A director may resign at any time by delivering written notice thereof to the President of the board of directors. Such a resignation is effective when the notice is delivered unless a later effective date is specified in such notice. If a resignation is made effective at a later date, the board of directors may fill the pending vacancy before the effective date if the board of directors provides that the successor does not take office until the effective date.

Vacancies in Board seats elected by Class A and B members shall be filled by the President of the Board with the advice and consent of the Board with a majority plus one (1) vote as soon as practicable. Those filling vacancies shall have terms as prescribed in Section 3a above.

Section 7.3: Termination of Director.

A Director in the Corporation shall be terminated (a) if the Director is an individual of a Partnership, upon the death or resignation of the individual member or partner of the Partnership or, (b) if such Director is a corporation, upon the dissolution or liquidation of such corporation. Additionally, (i) Class A Director shall terminate when the Class A Director is no longer the owner of record or the person registered with the City of Albany to receive real property tax bills for real property located in the District or the member becomes delinquent in paying his or her tax obligation for property within the District; and (ii) Class B Director shall terminate when the Class B Director is no longer a commercial tenant in the District; (iii) Class C and D Directors shall terminate when the Class C or D Director is no longer holding office.

Section 8: Meetings

The Board of Directors shall hold the following meetings:

- a. Regular meetings of the Board will be held at least six (6) times per year at a time and place determined by the Board.
- b. Special meetings of the Board shall be held upon the request of the President, Executive Committee or any five (5) Directors and at such meetings any business of the Corporation specified on the notice may be transacted. Notice of each special meeting of the Board of Directors shall be given personally by email or by telephone to each Director at least two (2) business days before the day of the meeting or by mail at least five (5) days before the day of the meeting and shall state the business to be transacted and the time and place where the meeting is to be held.
 - a.) All meetings will observe the following rules:
 1. Fifty-one (51%) percent of the occupied Board of Directors positions will constitute a quorum.
 2. Proxies shall not be permitted at any meeting of the Board of Directors.

3. Absences by a Director from any three (3) consecutive, or four (4) non-consecutive regular meetings of the Board within twelve (12) months of the annual organization meeting of the Board of Directors of the Corporation shall constitute good cause for the removal of such Director from the Board pursuant to Section 7 or this article.

Section 9: Notice. Time and Call of Meetings.

Regular meetings of the board of directors will be held with notice on such dates as are designated by the board of directors. Written notice of the time and place of special meetings of the board of directors will be given to each director either by personal delivery, e-mail or first-class mail.

Notice of a meeting of the board of directors need not be given to any director who signs a waiver of notice either before or after the meeting. Neither the business to be transacted nor the purpose of regular or special meetings of the board of directors need be specified in the notice or waiver of notice of such meeting.

A majority of the directors present, whether or not a quorum exists, may adjourn any meeting of the board of directors to another time and place. Notice of any such adjourned meeting will be given to the directors who were not present at the time of the adjournment.

Section 10: Actions by the Board.

Section 10.1: Actions by the Board at a Meeting.

The act of a majority of the directors present at a meeting at which a quorum is present will be the act of the board of directors, unless the action requires a majority vote of the entire board.

Actions requiring a 2/3 majority of the entire board include:

- a.) The amendment of the corporate By-laws;
- b.) The election of Officers and/or directors;
- c.) The removal of Officers and/or directors;
- d.) Purchase, sale, mortgage and lease of real property.
 - (1) The BID shall not purchase real property unless such purchase is authorized by the vote of a majority of directors of the board or of a majority of a committee authorized by the board, provided that if such property would, upon purchase thereof, constitute all, or substantially all, of the assets of the corporation, then the vote of two-thirds of the entire board shall be required, or, if there are twenty-one or more directors, the vote of a majority of the entire board shall be sufficient.

The BID shall not sell, mortgage, lease, exchange or otherwise dispose of its real property unless authorized by the vote of a majority of directors of the board or of a majority of a committee authorized by the board; provided that if such property constitutes all, or substantially all, of the assets of the corporation, then the vote of two-thirds of the entire board shall be required, or, if there are twenty-one or more directors, the vote of a majority of the entire board shall be sufficient.

Any one or more members of the board or of any committee thereof who is not physically present at a meeting of the board or a committee may participate by means of a conference telephone or similar communications equipment or by electronic video screen communication.

Participation by such means shall constitute an "in-person" presence at a meeting as long as all persons participating in the meeting can hear each other at the same time and each director

can participate in all matters before the board, including, without limitation, the ability to propose, object to, and vote upon a specific action to be taken by the board or committee.

Section 10.2: Actions by the Board without a Meeting.

Any action required or permitted to be taken by the board or any committee thereof may be taken without a meeting if all members of the board or the committee unanimously consent to the adoption of a resolution authorizing the action. Such consent may be written or electronic. If written, the consent must be executed by the director by signing such consent or causing his or her signature to be affixed to such consent by any reasonable means including, but not limited to, facsimile signature. If electronic, the transmission of the consent must be sent by electronic mail and set forth, or be submitted with, information from which it can reasonably be determined that the transmission was authorized by the director. The resolution and the written consents thereto by the members of the board or committee shall be filed with the minutes of the proceedings of the board or committee. Such consent will have the same effect as a unanimous vote. If a vote taken without a meeting is not unanimous, the vote is not valid.

Section 10.3: Participation in a meeting by Telephone or Video-Conference.

One or more persons may participate in a meeting of the Board by means of telephone, videoconference or similar communications equipment by means of which all persons participating in the meeting can hear each other. Participation in a meeting pursuant to this section shall constitute presence at such meeting.

Section 11: Interested Directors and Related Party Transactions.

The BID may not enter into any related party transaction unless the transaction is determined to be fair and reasonable and in the BID's best interest at the time of such determination. The BID shall adopt and maintain a Conflict of Interest Policy for the approval or disapproval of Related Party Transactions and said policy shall be deemed to be incorporated herein.

ARTICLE IV - OFFICERS

Section 1: Officers.

The Board of Directors shall elect at its annual organization meeting required under Article Three, Section 5 a President, a Vice President, a Secretary and a Treasurer who shall be current Board members.

No officer shall hold multiple offices.

Section 1.1 Duties and Powers of Officers.

Duties of the President, Vice President, Secretary, and Treasurer shall be:

- a. The President shall preside over all meetings, appoint all committees and shall be an ex-officio member of all committees.
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- b. The Vice President shall, in the absence of the President, perform the functions and have the duties of the President. The Vice President shall have and perform such other duties as may be prescribed by the Board.
- c. The Secretary shall keep the minutes of all meetings of the Board and shall affix the seal of the Corporation to documents when authorized to do so.
- d. The Treasurer shall oversee accounting functions as is necessary to confirm that the proper financial records of the Corporation are kept; and shall prepare and file fiscal reports to keep the Board of Directors advised of the financial condition of the Corporation. The Treasurer shall:
 - 1. Verify that the Corporation shall not expend or commit any funds unless the Executive Director (as described below) shall first certify that there is an unencumbered balance of funds available for the purpose.
 - a. No expenditure shall be made other than in accordance with and pursuant to a budget for which a total Operating Budget amount has been approved and adopted by the Board of Directors.
 - 2. Verify, prior to payment of bills, claim or demand in excess of \$2,500.00 against the Corporation, which the Executive Director has certified that the materials, supplies or equipment have been received according to purchase order or that the work, labor or services have been rendered according to the order or contract.
 - a. Checks in excess of \$2,500.00 shall require the signature of both the Executive Director and an Officer, or any two Officers.
 - b. All checks shall be hand signed.

Section 2: Removal and Resignation of Officers.

An officer elected may be removed by a 2/3 vote of the board of directors, when in its judgment, the best interest of the BID may be served.

Any officer may resign at any time by delivering written notice to the President. Said resignation is effective upon delivery unless the notice specifies a later effective date. If a resignation is made effective at a later date and the BID accepts the future effective date, the BID board of directors may fill the pending vacancy before the effective date if the board of directors provides that the successor does not take office until the effective date of the pending vacancy.

Section 3: Term of Office.

Except for vacancies that may be filled at any regular or special meeting, the term of office shall be limited to two full consecutive terms of three years with the exception of the President who may not serve more than one two-year term, with one optional one-year term. Upon completing the unfulfilled portion of a term, those filling vacancies may be considered for two additional full consecutive terms of three years. All Officers shall hold office until the next annual organizational meeting of the Board or until successors have been elected by action of the Board.

The Board may also appoint such other Officers as the Board may from time to time determine are necessary.

Section 4: Election of Directors.

The Executive Committee, consisting of the President, Vice President, Secretary, Treasurer, shall be elected by 2/3 of the entire Board of Directors annually.

ARTICLE V – EXECUTIVE DIRECTOR

Section 1.1. Appointment of Executive Director.

The Board of Directors shall appoint and employ, by a majority plus one (1) vote, an Executive Director for an indefinite term. The Executive Director shall be appointed solely on the basis of executive and administrative qualifications and shall be responsible for the administration of the day-to-day operations, business and affairs of the Corporation.

- a. The Executive Director shall be selected by the Board.
- b. The Executive Director shall be evaluated on an annual basis by the Executive Committee to determine compensation.

Section 1.2. Powers and Duties.

The Executive Director shall be the Chief Executive Officer of the Corporation and shall be responsible for the implementation of all policies developed by the Board of Directors and the negotiation and execution of all contracts authorized by the Board. The Executive Director shall:

- a. See that all provisions of these bylaws, acts of the Board of Directors and all State laws relating to corporate action are faithfully observed.
 - b. Represent the Corporation and assert its proper interest in relation to the City of Albany and other outside agencies.
 - c. Serve in an ex-officio capacity on the Board and all committees of the Board and participate in discussions but may not vote.
 - d. Shall sign checks and vouchers of the Corporation, subject to the limitations of these bylaws, and assist the Treasurer in the preparation and filing of fiscal reports to keep the Board advised of the financial condition of the Corporation.
 - e. Provide for the exercise of budgetary control for revenues and expenditures as approved by the Board of Directors; develop policies to safeguard the Corporation's financial interest to the fullest extent.
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- f. Prepare the current expense and revenue estimates for the annual budget.
- g. Annually prepare a capital improvement plan for submission to the Board of Directors that shall include compilation of the capital expenditure estimates for the annual budget.
- h. Make reports to the Board of Directors as requested.
- i. Hire, supervise and evaluate the work of all other employees of the Corporation.

ARTICLE VI – COMMITTEES

Section 1: Standing Committees.

The Standing Committees of the BID are: Executive Committee, Finance Committee, Audit Committee, and the Governance Committee.

Each committee must consist of no fewer than three (3) directors;

- a.) Members of standing committees shall be appointed by the Board President for a one (1) year term or, in the case of appointments due to vacancy(ies), from the time of appointment until the end of the fiscal year.
- b.) The Chair of the Finance Committee shall be the Treasurer;
- c.) The Chairs of all other standing committees shall be annually appointed by the Board President from the members of the committee for a term beginning at the time of the appointment until the end of the fiscal year.
- d.) The Executive Director is an ‘ex officio’ member of all standing committees herein provided or created by future action of the Board President and/or the board of directors.

Section 2: Other Committees.

The Board President and/or the board of directors have the authority to establish such other committees as may be necessary from time to time. Each committee shall consist of at least 3 directors.

- a.) Members of ad hoc Committees shall be appointed by the Board President, for a term beginning at the time of the appointment and ending at the close of the fiscal year, or sooner if the special committee work is completed.
 - b.) The chairs of ad hoc committees shall be appointed from the committee membership for a term beginning at the time of the appointment and ending at the close of the fiscal year.
 - c.) The Executive Director is an ‘ex officio’ member of all other committees herein provided or created by future action of the Board President and/or the board of directors.
 - d.) Other ad hoc Committees may include, but shall not be limited to:
 - i. Marketing and Member Services
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- ii. Business Development and Retention
- iii. Public Services/Beautification
- iv. Special Events

Section 3: Executive Committee.

The board of directors shall designate an Executive Committee and may delegate to such committee the powers and authority of the board in the management of the business and affairs of the BID, to the extent permitted, and, except as may otherwise be provided, by provisions of law.

The Executive Committee shall have, and may exercise, all the powers of the Board between meetings of the Board, except that it shall not have authority to:

- a.) Fill vacancies in the Board or in any Committee.
- b.) Amend or repeal these By-Laws or adopt new By-Laws.
- c.) Amend or appeal any resolution of the Board unless, by its terms, such resolution is so amendable or repealable.
- d.) Purchase or sell property.

The Executive Committee shall consist of the four (4) officers.

Section 4: Finance Committee.

The Finance Committee shall provide financial oversight for the BID, including budgeting and financial planning, financial reporting, and the creation and monitoring of internal controls and accountability policies. In addition, the committee shall also:

- a.) Review budgets initially prepared by the Treasurer and Finance Committee, to help develop appropriate procedures for budget preparations (such as meaningful involvement by staff), and on a consistency between the budget and the BID's plans;
- b.) Report to the board any financial irregularities, concerns, opportunities;
- c.) Recommend financial guidelines to the board (such as to establish a reserve fund or to obtain a line of credit for a specified amount);
- d.) Work with staff to design financial reports and ensure that reports are accurate and timely;
- e.) Oversee short and long-term investments, unless there is a separate investments committee; and
- f.) Advise the executive director and other appropriate staff on financial priorities and information systems, depending on committee member expertise.

Section 5: Audit Committee.

The Audit Committee shall oversee the accounting and financial reporting processes of the BID and the audit of the BID's financial statements. It will also oversee the preparation of IRS Form 990 and seek board approval for its filing annually.

The Audit Committee shall also oversee the adoption, implementation of, and compliance with any conflict of interest policy and whistleblower policy adopted by the BID. Only independent directors may participate in any deliberations by this committee or voting relating to matters set forth herein.

Section 6: Governance Committee.

The Governance Committee is responsible for ongoing review and recommendations to enhance the quality and future viability of the board of directors. The work of the committee revolves around the following five major areas:

1. Board Role and Responsibilities
 - a.) Leads the board in regularly reviewing and updating the board's statement of its roles and areas of responsibility, and what is expected of individual board members;
 - b.) Assists the board in periodically updating and clarifying the primary areas of focus for the board, shapes the board's agenda for the next year or two -- based on the strategic plan.
 2. Board Composition
 - a.) Leads in assessing current and anticipated needs related to board composition, determining the knowledge, attributes, skills, abilities, influence, and access to resources the board will need to consider in order to accomplish future work of the board;
 - b.) Develops a profile of the board as it should evolve over time;
 - c.) Identifies potential board member candidates and explores their interest and availability for board service;
 - d.) Where appropriate, nominates individuals to be elected as members of the board;
 - e.) In cooperation with the board chair, contacts each board member to assess his or her continuing interest in board membership and term of service and works with each board member to identify the appropriate role he or she might assume on behalf of the BID.
 3. Board Knowledge
 - a.) Designs and oversees a process of board orientation, including gathering information prior to election as board member and information needed during the early stage of board service;
 - b.) Designs and implements an ongoing program of board information and education.
 4. Board Effectiveness
 - a.) Initiates periodic assessment of the board's performance. Proposes, as appropriate, changes in board structure and operations;
 - b.) Provides ongoing counsel to the board chair and other board leaders on steps they might take to enhance board effectiveness;
 - c.) Regularly reviews the board's practices regarding member participation, conflict of interest, etc., and suggests improvements as needed;
 - d.) Periodically reviews and updates the board's policy guidelines and practices.
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5. Board Leadership
 - a.) Takes the lead in succession planning, taking steps to recruit and prepare future board members;
 - b.) Nominates board members for election as board officers.

6. Board Nominations
 - a.) Recommend a slate of directors and officers for the membership to vote on;
 - b.) Conduct the elections of Directors from Class A and B membership and Officers in accordance with Article Three, Section 4 of these bylaws.

Section 7: Meetings and Action of Committees.

Meetings and action of committees shall be governed by, noticed, held, and taken in accordance with the provisions of these bylaws concerning meetings of the board of directors, with such changes in the context of such bylaw provisions as are necessary to substitute the committee and its members for the board of directors and its members, except that the time for regular and special meetings of committees may be fixed by resolution of the board of directors or by the committee. The board of directors may also adopt rules and regulations pertaining to the conduct of meetings of committees to the extent that such rules and regulations are not inconsistent with the provisions of these bylaws.

Section 8: Action by a Committee without a Meeting.

Whenever under the Not-For-Profit Corporation Law a committee is required or permitted to take any action by vote, such action may be taken without a meeting if all committee members unanimously consent in writing to the adoption of a resolution authorizing such action. The resolution and the written consent thereto by the members of the committee may be done by electronic means and shall be filed with the minutes of its proceedings.

Section 9: Quorum and Manner of Acting.

Unless otherwise provided by resolution of the board or these By-Laws, a committee must have no fewer than three members who are board members present. A majority of all members of a committee shall constitute a quorum for the transaction of business, and the vote of a majority of all of the committee members of such committee in attendance shall be the act of the committee.

ARTICLE VII – CONTRACTS, GIFTS AND GRANTS

Section 1. Consultants.

The Board may retain, on behalf of the Corporation such consultants and/or independent contractors as it may find desirable and appropriate. The compensation to be paid and responsibilities provided to such consultants and/or independent contractors shall be determined by the Board.

Section 2. Contracts.

The contracts of the corporation shall be subject to all applicable provisions of law relating to the bidding and awarding of contracts by the City of Albany.

Section 3. Gifts; Grants.

The Board may accept gifts on behalf of the District to be disposed of as the Board chooses. The Board may accept grants from private parties, institutions and public entities, and enter into contracts for the same.

Section 4. Investments.

The Board shall have the power to make investments of the funds of the Corporation and to change the same and sell any part of the securities owned by the Corporation and any rights or privileges that may accrue thereon.

**ARTICLE VIII – EXECUTION OF INSTRUMENTS,
DEPOSITS AND FUNDS**

Section 1: Execution of Instruments.

The board of directors, except as otherwise provided in these bylaws, may by resolution authorize any officer or agent of the BID to enter into any contract or execute and deliver any instrument in the name of and on behalf of the BID, 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 BID by any contract or engagement or to pledge its credit or to render it liable monetarily for any purpose or in any amount.

Section 2: Checks and Notes.

Checks, drafts, promissory notes, orders for the payment of money, and other evidence of indebtedness of the BID equal to or greater than \$2,500.00 shall be signed by the Executive Director and a member of the Executive Committee. Checks, drafts, promissory notes, orders for the payment of money, and other evidence of indebtedness of the BID, less than \$2,500.00 shall be signed by the Executive Director.

Section 3: Deposits

All funds of the BID shall be deposited from time to time to the credit of the BID in such banks, trust companies, or other depositories as the board of directors may select.

ARTICLE IX - BOOKS AND RECORDS

Section 1: Corporate Records.

The BID shall keep as records Minutes of all meetings of board of directors, and committees. Furthermore, the BID will maintain the following records in written form or in another form capable of conversion into written form within a reasonable time: (i) Accurate accounting records; (ii) A copy the BID's articles of incorporation and all amendments thereto currently in effect; (iii) A copy of the BID's Bylaws or restated Bylaws and all amendments thereto currently in effect; (iv) Minutes of all meetings and records of all action taken by members without a meeting for the past three years; (v) A list of the names and business street, or home if there is no business street address, of current directors and officers.

Section 2: Audited Financials.

Once completed, the Board shall post the audited financials, verified by the President and Treasurer or by a majority of the Directors and certified by an independent public accountant or a firm of such accountants selected by the Board on the Corporation's website, showing in appropriate detail:

- (a) Statement of financial position of the Corporation as of the end of the fiscal year proceeding the date of posting;
- (b) Statement of activities of the Corporation during such fiscal year;
- (c) Statement of functional expenses of the Corporation during such fiscal year;
- (d) Statement of cash flows of the Corporation during such fiscal year; and
- (e) The amounts and descriptions of transactions entered into by the Corporation with any Director or business interest of a Director and the statements filed with Board minutes at the time of approval of such transactions.

Such report shall be filed with the records of the Corporation.

ARTICLE X - EMERGENCY POWERS AND EMERGENCY BYLAWS

The board of directors of the BID may adopt Bylaws to be effective only in an emergency. An emergency exists if a quorum of the Association's directors cannot readily be assembled because of some catastrophic event. The emergency Bylaws may make all provisions necessary for managing the BID during an emergency, including procedures for calling a meeting of the board of directors, quorum requirements for the meeting, and designation of additional or substitute director(s). The board of directors, either before or during any such emergency may provide, and from time to time modify lines of succession if during such emergency any or all officers or agents of the BID are for any reason rendered incapable of discharging their duties. All provisions of the regular Bylaws consistent with the emergency Bylaws remain effective during the emergency. The emergency Bylaws are not effective after the emergency ends. Actions taken by the BID in good faith in accordance with the emergency bylaw have the effect of binding the BID and may not be used to impose liability on a corporate director, officer, employee, or agent. In anticipation of or during any emergency, the board of directors may modify lines of succession to accommodate the incapacity of any director, officer, employee of agent; relocate the principal office or designate alternative principal offices of regional offices or authorize the officers to do so. Unless emergency Bylaws otherwise provide, it is hereby provided that:

- a.) Notice of a meeting of the board of directors need be given only to those directors who it is practicable to reach and may be given in any practicable manner;
 - b.) One or more officers of the BID present at a meeting of the board of directors may be deemed to be directors of the meeting in order of rank and within the same rank in order of seniority as necessary to achieve a quorum; and
 - c.) The director or directors in attendance at a meeting or any greater number affixed by the emergency Bylaws constitute a quorum.
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Corporate action taken in good faith during an emergency described herein to further the ordinary affairs of the BID bind the BID and may not be used to impose liability on a corporate director, office employee or agent. An officer, director or employee acting in accordance with any emergency Bylaws is only liable for willful misconduct.

ARTICLE XI - DISTRIBUTION AND COMPENSATION

Section 1: Dividends.

No dividend may be paid, nor any part of the income or profit of the BID, may be distributed to its members, directors, or officers.

Section 2: Compensation.

The BID may pay compensation in a reasonable amount to its staff, directors or officers for services rendered, and upon dissolution or final liquidation, may make distributions as permitted under New York Law. Any such payment, benefit, or distribution does not constitute a dividend or distribution of income or profit.

ARTICLE XII- TRANSACTION OF BUSINESS

Section 1.

The BID shall make no purchase of real property, nor sell, mortgage, lease away or otherwise dispose of its real property, unless authorized by a vote of two-thirds of the board of directors. Unless otherwise restricted by these Bylaws, no vote or consent of the members shall be required to make effective such action by the Board.

Section 2.

Whenever the lawful activities of the BID involve, among other things, the charging of fees or prices for its services or products, it shall have the right to receive such income and, in so doing, may make incidental revenue. All such incidental revenues shall be applied to the maintenance and operation of the lawful activities of the BID, and in no case shall be divided or distributed in any manner whatsoever among the directors or officers of the BID.

ARTICLE XIII - MISCELLANEOUS PROVISIONS

Section 1.

The fiscal year of the BID shall be January 1- December 31.

ARTICLE XIV– INDEMNIFICATION

Section 1.

The BID shall indemnify each person who is or was a Trustee, Director, Officer, or Employee of the BID, or of any other corporation which he/she served as such at the request of the BID, against any and all liability and reasonable expenses that may be incurred by him/her in connection with or resulting from any claim, action, suit or proceeding (whether brought by or in

the right of the BID or such other corporation or otherwise), civil or criminal, or in connection with an appeal relating thereto, in which he/she may become involved, as a party or otherwise, by reason of his/her being or having been a trustee, director, officer, or employee of the BID or of such other corporation, or by reason of any past or future action taken or not taken while in his/her capacity as such trustee, director, officer or employee, whether or not he/she continues to be such at the time such liability or expense is incurred, provided such person acted in good faith in what he/she reasonably believed to be the best interests of the BID or such other corporation, as the case may be and, in addition, in any criminal action or proceeding, where he/she had no reasonable cause to believe that his/her conduct was unlawful. As used in this Article, the terms “liability” and “expense” shall include, but shall not be limited to, counsel fees and disbursements and amounts of judgments, fines, or penalties against, and amounts paid in settlement by, a trustee, director, officer or employee, other than amounts paid to the BID itself or to such other corporation served at the BID’s request.

The BID shall not indemnify any person if a judgment, or other final adjudication, adverse to any Indemnified Person, including any Director, Officer or Key Employee as that term is defined by the Not-for-Profit Corporation Law of New York State, establishes, or the board of directors in good faith, or a Committee of the Board thereof, determines, that such person’s acts were committed in bad faith or were the result of willful or intentional conduct, active and deliberate dishonesty and were material to the cause of action so adjudicated or that he/she personally garnered any financial profit or other advantage to which he/she was not legally entitled.

Section 2.

The termination of any claim, action, suit or proceeding, civil or criminal, by judgment, settlement (whether with or without court approval) or conviction, or upon a plea of guilty or of nolo contendere, or its equivalent, shall not create a presumption that a trustee, director, officer or employee did not meet the standards of conduct set forth in the first sentence of this Article, except where there shall have been a judgment rendered specifically finding that the action or conduct of such trustee, director, officer or employee constituted gross negligence or misconduct.

Section 3.

Any such trustee, director, officer or employee referred to in this Article who has been wholly successful, on the merits or otherwise, with respect to any claim, action, suit or proceeding of the character described herein shall be entitled to indemnification as of right. Except as provided in the preceding sentence, any indemnification hereunder shall be made at the discretion of the BID, but only if (1) the board of directors, acting by a quorum consisting of directors who are not parties to (or who have been wholly successful with respect to) such claim, action, suit or proceeding, shall find that the trustee, director, officer or employee has met the standards of conduct set forth in the first sentence of this Article, or (2) independent legal counsel (who may be the regular counsel of the BID) shall deliver to it their written advice, that, in their opinion, such trustee, director, officer or employee has met such standards. Expenses incurred with respect to any such claim, action, suit or proceeding may be advanced by the BID prior to the final disposition thereof upon receipt of an undertaking by or on behalf of the recipient to repay such amount unless it shall ultimately be determined that he/she is entitled to indemnification under this Article. The rights of indemnification provided in this Article shall be in addition to any rights to which any person concerned may otherwise be entitled by contract as a matter of law, and shall inure to the benefit of the heirs, executors and administrators of any such person.

ARTICLE XV- PROHIBITION AGAINST SHARING IN CORPORATE EARNINGS

Section 1.

The BID is formed exclusively for purposes for which a corporation may be formed under Section 501(c) of the Internal Revenue Code (or the corresponding section of any future federal tax code) and not for pecuniary or financial gain.

Section 2.

No part of the assets, income or profit of the BID shall be distributable to, or inure to the benefit of, its members, directors or officers, except to the extent, if any, under the Non-Profit Corporation Law and Section 50 of the Internal Revenue Code.

Section 3.

The BID shall not operate any listing service for its members or take steps which will serve to facilitate the transaction of specific business by its members or promote the private interest of any member, or engage in any activities which would constitute a regular business of a kind ordinarily carried on for profit.

Section 4.

Upon the dissolution of the BID, no member, director or officer shall be entitled to any distribution of its remaining assets, rather its assets shall be distributed to such organizations as are exempt under the provisions of Section 501(c) of the Internal Revenue Code (or corresponding section of any future federal tax code), as may have an exempt purpose similar to the purposes for which this corporation is organized.

Section 5.

No part of the activities of the BID shall be carrying on propaganda, or otherwise attempting to influence legislation, or participating in, or intervening in, (including the publication or distribution of statements) any political campaign on behalf of any candidate for public office.

ARTICLE XVI - CERTIFICATES

The Board may cause to be issued certificates, cards or other instruments permitted by law evidencing membership in the Corporation. Such membership certificate, card or other instrument shall be non-transferable, and a statement to that effect shall be noted on the certificate, card or other instrument. Membership certificates, cards or other instruments, if issued, shall bear the signatures or facsimile signatures of an officer or officers designated by the Board. In lieu of issuing cards or certificates, the Board may maintain a register of all property owners and tenants, as can reasonably be determined, to suffice.

ARTICLE XVI - AMENDMENTS

Section 1.

Bylaws may be adopted, amended or repealed by a 2/3 vote of the entire board of directors.

Adopted this _____ day of _____, 201 _____

ATTEST:

/s/

, Secretary

I certify the foregoing to be the true and correct Bylaws of the Albany Business Improvement District BID, Inc.
