



Downtown Community Planning Council San Diego

*Planning a Vibrant Downtown for All*

**Public Spaces Committee Meeting**  
**December 10, 2024, 1:15 PM**  
**San Diego County Bicycle Coalition**  
**300 15th Street, San Diego, CA 92101**  
[Twitter](#) | [Instagram](#)

You can email public comments to [comments@downtownplanningsd.org](mailto:comments@downtownplanningsd.org); please write "PUBLIC COMMENT" in the subject line.

- I. **Call to Order & Roll Call**
- II. **Non-Agenda Public Comment**
- III. **Review of Proposed Bylaws for Downtown Parking District** *Action Item*
- IV. **Adjournment**

# Review of Proposed Bylaws for Downtown Parking District

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## **Background**

Per City of San Diego Council Policy 100-18, Community Parking Districts (CPDs) are required to be managed by a “Community Parking District Advisory Board”, which can be an existing board of a nonprofit managing a City assessment district, a City-owned nonprofit, a community development corporation, or other nonprofit corporation approved by the City Council. The Downtown CPD has not been in compliance with this requirement since CivicSD, a City-owned nonprofit, was disbanded in 2019.

A member of the current advisory group for the Downtown CPD (an informal group known as the Downtown Parking Management Group (DPMG)) has put forth a set of proposed bylaws for a new nonprofit corporation, which could potentially manage the CPD with City Council approval.

The DCPC currently has a seat on the informal DPMG and should have a strong role in developing new bylaws for a proposed nonprofit managing entity. Having appropriate community representation and governance practices will be crucial in making sure that any new nonprofit managing the district will be successful. The bylaws should also be consistent with the DCPC’s recent letter outlining reforms for the Downtown CPD.

## **Proposed Action**

The Public Spaces Committee should analyze these bylaws and provide recommendations to the full Downtown Community Planning Council. This review may contain actions for the full Council to take.

*The proposed bylaws can be found on the following pages.*

**BYLAWS OF THE  
DOWNTOWN SAN DIEGO PARKING & MOBILITY DISTRICT, INCORPORATED**  
*Approved TBD*

**ARTICLE 1  
MISSION STATEMENT**

The Downtown San Diego Parking & Mobility District's mission is to improve the availability and supply of parking and manage in Downtown San Diego for residents, businesses and visitors, by re-investing its portion of parking meter funds with fiscal responsibility. The District will also consider traffic circulation, transit effectiveness, cycling infrastructure, and pedestrian mobility in its neighborhoods and develop creative collaborations to support a vibrant local economy.

**ARTICLE 2  
RECITALS AND DEFINITIONS**

**Section 1. Name of Corporation**

The name of this Corporation shall be the Downtown San Diego Parking & Mobility District, Incorporated, doing business as (dba) the Downtown Parking & Mobility District, henceforth referred to as the "Corporation."

**Section 2. Corporation Is Not for Profit**

This Corporation has been formed pursuant to the California Nonprofit Public Benefit Corporation Law as a public benefit corporation. The purpose of this Corporation is to engage in any lawful act or activity for which a corporation may be organized under such law.

**Section 3. Specific Purpose**

The purposes for which this Corporation is formed are to research, plan, design, disseminate, develop, construct, manage and maintain public programs, buildings, works, monuments, and improvements to enhance parking and mobility programs and projects in the Downtown San Diego.

- a) The Corporation shall coordinate, manage, and resolve parking and traffic issues within the Downtown Community Parking District, thus enhancing the quality of life in the neighborhoods that make up the district, as defined by the City of San Diego under Council Policy 100-18. Those neighborhoods include, in alphabetical order: City Center, Columbia, Cortez, East Village, Gaslamp, Little Italy, and Marina.
- b) The Corporation will work collaboratively with the business and residential communities within the district, and with governmental and/or quasi-governmental entities and agencies. In no event shall the Corporation engage in activities which are not permitted to be executed by a corporation exempt under Section 501c3 of the Internal Revenue Code.
- c) All activities shall be nonpartisan and nonsectarian, and activities shall be nondiscriminatory against any person by reason of race, color, national origin, religion, age, sex, sexual orientation, marital status, genetic characteristics, or physical or mental disability.

### **ARTICLE 3 PRINCIPAL OFFICE**

#### **Section 1. Principal Office**

The principal office for the Corporation shall be in the City of San Diego, County of San Diego, State of California as may from time-to-time be designated by the Board of Directors.

### **ARTICLE 4 MEMBERSHIP**

#### **Section 1. Members**

The 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.

### **ARTICLE 5 BOARD OF DIRECTORS**

#### **Section 1. Powers**

Subject to the provisions and limitations of the California Nonprofit Public Benefit Corporation Law, the business and affairs of the Corporation shall be vested in and exercised by the Corporation's Board of Directors. The Board may delegate the management of the activities of the Corporation to any person or persons, committee, or entity provided that notwithstanding any such delegation and activities and affairs of the Corporation shall continue to be managed and all corporate powers shall continue to be exercised under the ultimate direction of the Board. Delegated management of activities, approved by the Board, shall be limited. Any actions addressing budget review, alterations, and approvals must solely be done by the Board.

#### **Section 2. Number of Directors**

The Corporation shall have a minimum of seven (7) Directors and a max of thirteen (12) Directors and collectively they shall be known as the Board of Directors. The exact number of Directors shall be fixed from time-to-time by resolution of the Board of Directors. The number may be changed by amendment of this Bylaw, or by repeal of this Bylaw and adoption of a new Bylaw, as provided in these Bylaws.

### **Section 3. Alternates**

Directors can nominate a non-Director to serve as their alternate at Board and committee meetings when he/she/they is/are unable to attend. Alternates absences, in place of primary Board Member, count for or against the primary's Board and committee attendance obligation. Alternates cannot attend more than 6 times per fiscal year to meet primary's attendance requirements.

### **Section 3. Apportionment of Directors**

- a) Interim Board shall consist of minimum of seven (7) Directors shall be elected from the neighborhoods composing the district, including Downtown resident groups and the San Diego Padres until this Corporation is established.

### **Section 4. Term**

Directors will serve office for a two (2) year term. There are no restriction on the number of terms a Director can serve.

After the first election cycle, the Secretary shall pull the Board roster and alternately assign one (1) and two (2) year terms. After the exercise, the Secretary will call out the terms and which Directors are assigned to each term. This staggering of terms will ensure that the entire Board is not replaced all at once.

### **Section 5. Attendance**

Any Board member with three (3) unexcused absences from regularly scheduled Board meetings within a one (1) year period shall be automatically removed from the Board without any formal action required to be taken by the Board. Any Board member who misses five (5) regular Board meeting within a one (1) year period, based on a mix of excused or unexcused, shall be automatically removed from the Board without any formal action required to be taken by the Board, unless reviewed and waived by the Executive Committee.

### **Section 6. Vacancies**

A vacancy on the Board of Directors shall occur upon any of the following:

- a) The death of a Director;
- b) The resignation of a Director;
- c) Automatically when a Director no longer meets the requirements of Article 6, Section 1; or
- d) When a Director is removed as prescribed in Section 14 of this Article. The election of a Director to fill the vacancy shall comply with Article 6 - Election of Directors. Should a Director be duly removed under Section 14 of this Article the Board holds authority to reject the re-election of said Director. Those elected to fill vacancies shall complete the term of the Director who created the vacancy.

### **Section 7. Removal of Directors**

The Board of Directors shall have the power and authority to remove Directors by two-thirds (2/3) vote, for cause if he/she/they:

- a) is adjudicated to be within the purview of Section 7221 (relating to mental competency, conviction of a felony, or conduct affecting a charitable trust), or
- b) is adjudicated to have breached a duty under any law or ordinance such as, but not limited to, Sections 5230-5239 of the California Corporations Code dealing

with standards of conduct for a director. Additionally, a Director shall be automatically removed from office upon determination by a majority of the Board of Directors that said Director no longer meets the requirements as defined in Article 6, Section 1. If a Director is removed, notice shall be sent to said Director by first class certified mail.

**Section 8. Trainings**

Directors and Alternates will attend any City required training.

**Section 9. Compensation of Directors**

No compensation or salary shall be paid to any Director of the Corporation. However, Directors may be reimbursed for any expenses relating to the performance of their duties on behalf of the Corporation with the approval of the Board of Directors in open session.

**Section 10. Executive Director**

The Executive Director of the Corporation, if one is retained, shall be an employee of the Corporation.

**ARTICLE 6  
ELECTION OF DIRECTORS**

**Section 1. Eligibility**

Those who may serve as Directors shall be:

- a) A representative, excluding paid staff or consultant, of the management corporations for the neighborhoods: City Center, Columbia, Cortez, East Village, Gaslamp, Little Italy, and Marina.
- b) A representative of a City recognized Community Residents Group.
- c) A representative of the San Diego Padres.

Any such representative duly elected to the Corporation's Board of Directors shall immediately forfeit his/her/their directorship upon revocation of authorization by the management corporation, Community Resident Group, or the San Diego Padres.

At the request of the Executive Committee, the full Board may consider modifications to eligibility criteria.

**Section 2. Nomination and Elections**

The Interim Board shall be appointed by the Steering Committee and remain as the Interim Board until this Corporation is established.

Following the establishment, not less than sixty (60) days before the date set forth for the annual meeting of the Directors, the President, shall request that the Board appoint at least three (3) members as the Nominations AdHoc Committee, which shall include the President and at least two of the Directors exclusive of the Officers of the Corporation.

The Nominations AdHoc Committee will request nominees from the eligible Director categories sited in Article 5, Section 3. The Nominees which have been deemed to be

qualified, consistent with Article 6, Section 1, shall be added to a slate that is presented to the Board for consideration of appoint to the Board at its annual meeting. The Board can vote to accept all or some of the nominees.

In the case of a vacancy, the Director category, sited in Article 5, Section 3, shall appoint a representative from their neighborhood or group to complete the term, or if no nomination is forth coming, the Downtown San Diego Parking & Mobility District Board may appoint a replacement.

**Section 3. Cost of Elections**

No matter which election method is used, the cost of the election shall be borne by the Corporation.

**ARTICLE 7  
OFFICERS**

**Section 1. Officers**

The officers of this Corporation shall be the President, Vice-President, Secretary, and Treasurer. All officers must be Directors of the Corporation.

**Section 2. Nominations and Elections**

Officers shall be nominated at the Annual Meeting by the Board of Directors and elected at the following Board meeting.

**Section 3. Term**

Officers will serve for a two (2) year term. There are no restriction on the number of terms a Director can serve as an Officer.

After the first election cycle, the Secretary shall pull the Officer roster and alternately assign one (1) and two (2) year terms. After the exercise, the Secretary will call out the terms and which Officers are assigned to each term. This staggering of terms will ensure that the entire roster of Officers is not replaced all at once.

**Section 3. Vacancies**

A vacancy in any office may be filled by a majority vote of the Board of Directors. Each officer so elected shall hold office until the next annual election of officers.

**Section 4 President**

Subject to the control of the Board of Directors, the President shall have general supervision, direction, and control of the business and affairs of the Corporation. The President shall preside at all meetings of the Directors, set agendas, and shall have the powers and duties as may be prescribed from time-to-time by the Board of Directors. The President shall function as the official representative of the Corporation and is authorized to communicate positions taken by the Corporation. No one else may represent the views of the Corporation without express authorization by the Board.

**Section 5. Vice President**

In the absence or disability of the President, the Vice-President shall perform all duties of the President and, in so acting, shall have all the powers of the President. The Vice-

President shall have such other powers and perform such other duties as may be prescribed from time-to-time by the Board of Directors.

### **Section 6. Secretary**

The Secretary shall keep or cause to keep a full and complete record of the proceedings of the Board of Directors; shall keep the seal of the Corporation, shall affix the same to such papers and instruments as may be required in the regular course of business; shall make service of such notices as may be necessary or proper; and shall supervise the keeping of the minute books in the principal office of the Corporation, which shall include these Bylaws. Meeting minutes and agendas, and financial information provided by the Treasurer shall be reproduced by the Secretary or such staff as directed by the Secretary and distributed to the Board of Directors at least 72-hours prior to each meeting. Agendas will be reproduced and distributed. The Secretary shall cause to retain, for whichever period is greater, all Corporation records for a period of seven (7) years, or for a period as determined by statute or contract.

### **Section 7. Treasurer**

The Treasurer shall be responsible for general supervision of the financial affairs of the Corporation, shall make financial reports to the Board of Directors at the Board's monthly meetings, and shall create, or shall have created, an annual budget for presentation, revision, and adoption by the Board of Directors. The Treasurer shall comply with the requirements outlined in the Bylaws, Article 10. The Treasurer shall be an "ex officio" member of the Audit Committee and shall also perform such other duties as may be prescribed from time-to-time by the Board of Directors.

### **Section 8. Compensation of Officers**

No compensation or salary shall be paid to any officer of the Corporation. However, officers may be reimbursed for any expenses relating to the performance of their duties on behalf of the Corporation with the approval of the Board of Directors in open session.

## **ARTICLE 8 COMMITTEES**

### **Section 1. Executive Committee**

The elected Officers of the Corporation are members of the Executive Committee. The Executive Committee is responsible for the organizational governance of the Corporation. The Executive Committee shall serve as the Audit & Finance Committee. The financial review, findings and recommendations will be presented to the full Board for final approval.

### **Section 2. XX Committee**

The Board of Directors by resolution adopted by a majority of the Directors, designate the authority to XX Committees, consisting of two (2) or more Directors, but not enough to create a quorum of the Board, to review, research, make recommendations, and approve special projects, requests, and plans that support parking and mobility in Downtown San Diego. The XX Committee will also review



annual budgets and plans and make a recommendation to the Board for final review and approval.

### **Section 3. Special Committees**

The Board of Directors may, by resolution adopted by a majority of the Directors, designate one or more special committees, each consisting of two or more Directors, but not enough to create a quorum of the Board, to serve at the pleasure of the Board of Directors. The Special Committee shall bring any recommendations to the full Board for consideration and final approval.

## **ARTICLE 9 MEETINGS**

### **Section 1. Regular Directors' Meetings**

Regular meetings of the Board of Directors shall be held on a preset date and time quarterly. Regular meetings shall be held in a publicly accessible venue within the boundaries of the Downtown Community Parking District.

### **Section 2. Annual Meeting**

The Annual Meeting of the Board is for the purpose of electing Directors and nominating Officers of the Corporation. This process shall be held each year before the end of the fiscal year, except in the first year of the amendment of these bylaws in 2025. The Annual Meeting shall be deemed a Regular Meeting for purposes of scheduling, notice and posting of agendas.

### **Section 3. Public Notice of Meetings**

In accordance with the Ralph M. Brown Act, notice shall be given, and an agenda posted at the location of the meeting that is freely accessible to the public at least 72-hours before a regular meeting of the Board or a meeting of the committee(s) and the packet with supplemental documents posted on a predesignated website that is also accessible to the public.

The agenda shall include:

- a) The date, time, and place for the regular meeting;
- b) A clear, brief, and accurate description of each agenda item;
- c) The intended action at the meeting, i.e., "Information Item," "Action Item," etc.;
- and
- d) How a request for accessible accommodations for disabled persons may be made.

### **Section 4. Public Meetings**

All meetings shall be public as required under the Ralph M. Brown Act except those meetings devoted to confidential matters, such as litigation or personnel, which may be conducted in closed session in accordance with the Ralph M. Brown Act.

### **Section 5. Quorum**

Half plus one (1) of the active Directors present shall constitute a quorum for the transaction of business. No business shall be conducted without a quorum.

### **Section 6. Loss of Quorum**

The Directors present at a duly called or duly held meeting at which a quorum was initially present may continue to transact business until adjournment, even when the withdrawal of Directors leaves less than a quorum.

### **Section 7. Special Directors' Meeting**

Special meetings of the Board of Directors may be called at any time by:

- a) The President; or
- b) A majority of the active Directors.

Notice for said meeting shall comply with the Ralph M. Brown Act.

### **Section 8. Recordings of Directors Meeting**

The Corporation is not required to record regular or special meetings of the Directors, either orally or visually, but if recordings are made, they are subject to public request to inspect without charge. A cost recovery fee may be charged for copies of recordings.

### **Section 9. Voting**

Every act or decision done or made by a majority of the Directors or committee members present at a meeting duly held at which a quorum was established shall be regarded as an official vote whether in support or opposition of the motion.

### **Sections 10. Absentee & Proxy Voting**

There shall be no absentee and/or voting by proxy by Directors or committee members. However, a Director or committee member's pre-approved alternate may vote representing the primary Director or committee member.

## **ARTICLE 10 ACCOUNTING & BUDGETING**

### **Section 1. Revenue from the City of San Diego**

Should the Corporation contract with the City of San Diego to oversee the Downtown Community Parking District, as defined in City Council Policy 100-18, the Corporation shall act in an **advisory capacity to the City**, with the City retaining full control over parking meter revenue, as outlined in the contract.

### **Section 2. Grants**

As a nonprofit 501c3 corporation, the Corporation is allowed to apply for grants that support the mission and projects of the Corporation.

### **Section 3. Revenue Allocation**

For accounting purposes, revenue allocated by the City to the Corporation in accordance with City Council Policy 100-18 shall be apportioned, under subcontract agreements, to the district's neighborhoods (City Center, Columbia, Cortez, East Village, Gaslamp, Little Italy, and Marina) **based on the actual parking meter revenue generated in each neighborhood**. Such apportionment shall be based on information provided by the City of San Diego. Said revenue shall be separately accounted for by the Corporation as that neighborhood's share of the overall Corporation funding from

parking meter revenues. The revenue itself shall stay with and under the control of the City of San Diego.

#### **Section 4. Dedicated Accounts**

Dedicated bookkeeping accounts shall be created and maintained by the Corporation to track each neighborhood's apportioned share of the district funding and expenses. The Treasurer, as part of the monthly financial report, shall give an accounting for each neighborhood.

#### **Section 5. Use of Revenue**

It shall be the policy of the Board that money apportioned to one neighborhood shall not be budgeted or otherwise obligated to the benefit of another neighborhood without first being authorized by a majority of the Directors. Upon approval by a majority of the full Board, the reallocation shall be forwarded to the City of San Diego for action as part of its annual budget approval process.

#### **Section 6. Disputed Revenue**

If there is a dispute deemed reasonable by the City of San Diego between neighborhoods over which neighborhood is to receive credit for revenue from specific parking meters, said revenue shall be separately accounted for and may only be budgeted or otherwise allocated with the approval of a majority of the Board of Directors. The allocation shall then be forwarded to the City of San Diego for action as part of its annual budget approval process. The Treasurer, as part of the monthly financial report, shall give an accounting of all disputed revenues.

#### **Section 7. Additional Revenues**

Should revenues be generated other than through the City of San Diego's sharing of parking meter revenue or associated program income, such revenues shall be controlled and monitored as outlined in Sections 3 through 5 above, except that the Board of Directors shall have complete control of these revenues without reference to the City of San Diego.

#### **Section 8. Annual Budget Package**

All projects for each fiscal year will be placed in a single budget package and shall be voted on in its entirety by the Board of Directors. Projects using parking meter revenue through the City of San Diego shall be forwarded to the City for review during its annual budget approval process, as required by contract. After adoption, it shall require a majority vote of seated Directors to amend the budget.

#### **Section 9. Fees**

Should the City of San Diego impose any fees on the Corporation, such fees will be apportioned to the communities in the same proportions as determined in Section 3 of this Article.

#### **Section 10. Project Costs**

Project costs shall be borne by the neighborhood in which the project activity occurs. It shall be the policy of the Board that all funded activities relating to neighborhood specific projects including contracts, agreements, and purchases must first have been discussed and endorsed by a majority of the Board.

In the event of joint projects involving more than one neighborhood, said costs will be borne on a proportional basis.

#### **Section 10. Corporation Costs**

All costs of the Corporation, including but not limited to office space, utilities, insurance, and equipment shall be borne proportionately among the neighborhoods based on the apportionment of revenue they receive through the City's sharing of parking meter revenue as determined in Section 1 of this Article.

#### **Section 11. Staffing**

- a) Executive Director. Should an Executive Director be hired, the expenses for this position shall be apportioned to the communities in the same proportions as determined in Section 1 of this Article and included as part of the separate dedicated bookkeeping account for each neighborhood.
- b) Other Staff. Should additional staff be hired, the cost shall be borne by the neighborhood in which the staff member's time is used. Staff shall be required to keep a detailed log of the time they spend on various projects to ensure proper billing to the correct neighborhood. Improper and/or incomplete record keeping shall be grounds for immediate termination. With the approval of the Board of Directors, staff time used for the mutual benefit of all communities may be proportionately allocated to all communities in the same proportions as determined in Section 1 of this Article.
- c) Consultants/Vendors/Other Professionals. Should consultants, vendors, and/or other professionals be retained, the cost shall be borne by the neighborhood in which consultant/vendor/other professionals' time is used. Each consultant/vendor/other professional shall be required to keep a detailed log of the time spent on various projects to ensure proper allocation of costs to the correct neighborhood. Improper and/or incomplete recording keeping shall be grounds for immediate termination of contract. Each and every contract for services shall incorporate language giving the Corporation, at its sole discretion, authority to immediately and without penalty terminate said contract for failure to comply with the Corporation's accounting requirements.

#### **Section 12. Payments**

Under no circumstances shall charges of any type be paid without first determining the correct allocation of costs to the appropriate neighborhood.

#### **Section 13. Fiscal Year**

For accounting purposes, the fiscal year for the Corporation is set as July 1st to June 30th.

#### **Section 14. Financial Audits & Reviews**

There shall be an annual audit or review completed by a licensed Certified Public Accountant (CPA) no later than 90-days after the end of the Corporation's fiscal year, and as required by statute and contract. The Board will select annually if the Corporation shall do an audit or review.

## **ARTICLE 11 CORPORATE RECORDS AND SEAL**

### **Section 1. Maintenance of Corporate Records**

The Corporation shall maintain the following corporate records which shall be maintained at the office of the Corporation. Except for records specifically exempted by law, such records shall be available for public review, and posted on the corporation's website, consistent with the provisions the Ralph M. Brown Act:

- a) Minutes of all meetings of Directors, standing committees of the Board and all meetings of members, indicating the time and place of holding such meetings, whether regular or special, the notice given, and the names of those present and the proceedings thereof.
- b) Adequate and correct books and records of account, including accounts of its properties and business transactions and accounts of its assets, liabilities, receipts, disbursements, gains and losses.
- c) A record of its stakeholders, if any, indicating their names and addresses.
- d) A copy of the Corporation's Articles of Incorporation and Bylaws as amended to date.
- e) All tax filings with the Internal Revenue Services and all appropriate and applicable offices with the state of California.

### **Section 2. Corporate Seal**

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

### **Section 3. Directors' Inspection Rights**

Every Director shall have the absolute right at any reasonable time to inspect and copy all books, records, and documents of every kind and to inspect the physical properties of the Corporation.

### **Section 4. Public's Inspection Rights**

The City and members of the public, under the supervision of the Secretary or Executive Director of the Corporation, shall have the absolute right at any reasonable time to inspect and copy all books, records and documents of every kind not otherwise exempted by law from public inspection.

## **ARTICLE 12 INSURANCE**

The Board of Directors shall adopt a resolution authorizing the purchase and maintenance of insurance on behalf of any agent of the Corporation (including a Director, officer, employee or other agent of the Corporation) against any liability other than for violating provisions of law relating to self-dealing (Section 5233 of the California Nonprofit Corporation Law) asserted against or incurred by the agent in such capacity or arising out of the agent's status as such, whether or not the Corporation would have the power to indemnify the agent against such liability under the provisions of Section 5238 of the California Nonprofit Corporation Law.

## **ARTICLE 13 PROHIBITED TRANSACTIONS**

### **Section 1. Loans**

Except as permitted by Section 5236 of the Code, the Corporation shall not make any loan of money or property to, or guarantee the obligation of, any Director or officer; provided, however, that the Corporation may advance money to a Director or officer of the Corporation or any subsidiary for expenses reasonably anticipated to be incurred in performance of the duties of such officer or Director so long as such individual would be entitled to be reimbursed for such expenses absent that advance.

### **Section 2. Self-Dealing Transactions**

Except as provided in Section 3, below, the Board shall not approve or permit the Corporation to engage in any self-dealing transaction. A self-dealing transaction is a transaction to which the Corporation is a party and in which one or more of its Directors has a material financial interest, unless the transaction is described in Section 5233(b) of the California Corporations Code. Any Director who provides a service or product to the Board must recuse themselves from discussion as well as moving, seconding or voting on that particular issue in which they may have a financial interest.

### **Section 3. Approval**

This Corporation may engage in a self-dealing transaction if the transaction is approved by a court or by the Attorney General. This Corporation also may engage in a self-dealing transaction if the Board determines, before the transaction, that:

- a) The Corporation is entering into the transaction for its own benefit;
- b) The transaction is fair and reasonable to the Corporation at the time; and
- c) After reasonable investigation, the Board determines that it could not have obtained a more advantageous arrangement with reasonable effort under the circumstances. Such determinations must be made by the Board in good faith, with knowledge of the material facts concerning the transaction and the interest of the Director or Directors in the transaction, and by a vote of a majority of the Directors then in office, without counting the vote of the interested Director or Directors.

## **ARTICLE 14 CONFLICT-OF-INTEREST AND COMPENSATION APPROVAL POLICIES**

### **Section 1. Temporary Suspension of Conflict-of-Interest Policies**

The conflict-of-interest policies explained in this Article are temporarily suspended as the Interim Board, that may eventually be Interested Directors, focus on establishing the new Corporation. Once the Corporation is established, a new permanent Board will be appointed allowing for Interested Directors as described in Article 15, Section 4

### **Section 1. Purpose of Conflict-of-Interest Policy**

The purpose of this conflict of interest policy is to protect this tax-exempt Corporation's interest when it is contemplating entering into a transaction or arrangement that might benefit the private interest of an officer or Director of the

Corporation or any "disqualified person" as defined in Section 4958(f)(1) of the Internal Revenue Code and as amplified by Section 53.4958-3 of the IRS Regulations and which might result in a possible "excess benefit transaction" as defined in Section 4958(c)(1)(A) of the Internal Revenue Code and as amplified by Section 53.4958 of the IRS Regulations. This policy is intended to supplement but not replace any applicable state and federal laws governing conflict of interest applicable to nonprofit and charitable organizations.

## **Section 2. Definitions**

- a) Interested Person. Any Director, principal officer, member of a committee with governing Board delegated powers, or any other person who is a "disqualified person" as defined in Section 4958(f)(1) of the Internal Revenue Code and as amplified by Section 53.4958-3 of the IRS Regulations, who has a direct or indirect financial interest, as defined below, is an interested person.
- b) Financial Interest. A Director has a financial interest if the person has, directly or indirectly, through business, investment, or family:
  - i. an ownership or investment interest in any entity with which the Corporation has a transaction or arrangement, or
  - ii. a compensation arrangement with the Corporation or with any entity or individual with which the Corporation has a transaction or arrangement, or
  - iii. a potential ownership or investment interest in, or compensation arrangement with, any entity or individual with which the Corporation is negotiating a transaction or arrangement.

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

A financial interest is not necessarily a conflict of interest. Under Section 3, subsection b, a person who has a financial interest may have a conflict of interest only if the appropriate governing Board or committee decides that a conflict of interest exists.

## **Section 3. Conflict of interest Avoidance Procedures**

- a) Duty to Disclose. In connection with any actual or possible conflict of interest, an interested person must disclose the existence of the financial interest and be given the opportunity to disclose all material facts to the Directors and members of committees with governing Board delegated powers considering the proposed transaction or arrangement.
- b) Determining Whether a Conflict of Interest Exists. After disclosure of the financial interest and all material facts, and after any discussion with the interested person, he/she shall leave the governing Board or committee meeting while the determination of a conflict of interest is discussed and voted upon. The remaining Board or committee members shall decide if a conflict of interest exists.
- c) Procedures for Addressing the Conflict of Interest.
  - i. An interested person may make a presentation at the governing Board or committee meeting, but after the presentation, he/she shall leave the meeting during the discussion of, and the vote on, the transaction or arrangement involving the possible conflict of interest.

- ii. The chairperson of the governing Board or committee shall, if appropriate, appoint a disinterested person or committee to investigate alternatives to the proposed transaction or arrangement.
  - iii. After exercising due diligence, the governing Board or committee shall determine whether the Corporation can obtain with reasonable efforts a more advantageous transaction or arrangement from a person or entity that would not give rise to a conflict of interest.
  - iv. If a more advantageous transaction or arrangement is not reasonably possible under circumstances not producing a conflict of interest, the governing Board or committee shall determine by a majority vote of the disinterested Directors whether the transaction or arrangement is in the Corporation's best interest, for its own benefit, and whether it is fair and reasonable. In conformity with the above determination, it shall make its decision as to whether to enter into the transaction or arrangement.
- d) Violations of the Conflicts of Interest Policy. If the governing Board or committee has reasonable cause to believe a Director or committee member has failed to disclose actual or possible conflicts of interest, it shall inform the individual of the basis for such belief and afford the member an opportunity to explain the alleged failure to disclose.

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

## **ARTICLE 15 MISCELLANEOUS**

### **Section 1. Rules and Regulations**

The Board of Directors shall have the power to make reasonable rules and regulations consistent with these Bylaws.

### **Section 2. Amendment**

These Bylaws may be amended or repealed, and new Bylaws adopted in accordance with the California Nonprofit Public Benefit Corporation Law by a majority vote of the total number of active Directors. Notice of proposed amendments shall be posted on the Corporation's website if one exists.

### **Section 3. No Personal Interest**

No Director shall have any personal, proprietary, or beneficial interest in the property of the Corporation, either during its corporate existence or after the termination thereof by dissolution or otherwise.

### **Section 4. Conflict of Interest (Restriction re: Interested Directors)**

Notwithstanding any other provision of these Bylaws, not more than thirty percent (30%) of the persons serving on the Board may be interested persons. For purposes of this Section, "interested persons" means either:



- a) Any person currently being compensated by the Corporation for services rendered it within the previous twelve (12) months, whether as a full or part-time officer or other employee, independent contractor; 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 interested person.

In any and all cases, a Board member who also happens to be an "interested person" shall not move, second or vote on any contract in which they have a financial interest.

Owning a real property or a business within the boundaries of the District does not render a Director an interested person.

**Section 5. Dedication of Assets**

The properties and assets of this nonprofit corporation are irrevocably dedicated to charitable purposes. No part of the net earnings, properties, or assets of the Corporation, on dissolution or otherwise, shall inure to the benefit of any private person or individual, or any director or officer of this Corporation. On liquidation or dissolution, all remaining property and assets of the Corporation shall be distributed and paid over to an organization dedicated to the charitable purposes which has established its tax-exempt status under Section 501 of the Internal Revenue Code.

**Section 6. Proceedings**

All meetings shall be conducted in accordance with the most recently revised edition of Robert's Rules of Order. If the Bylaws are in disagreement with Robert's Rules of Order, the Bylaws shall prevail.

**Section 7. Gifts**

The Board of Directors and staff may accept on behalf of the Corporation any contribution, gift, bequest, or devise for the charitable or public purposes of this Corporation.

**CERTIFICATE OF SECRETARY**

I, \_\_\_\_\_, certify that I am the presently-elected and acting Secretary of the Downtown San Diego Parking & Mobility District, Incorporated, a California Nonprofit Corporation, and the above Bylaws, including Exhibits, consisting of sixteen (16) pages in total, are the Bylaws of this Corporation as adopted at a meeting of the Board of Directors on DATE.

**Secretary of the Corporation**

\_\_\_\_\_  
Signature

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Date

Executed at: San Diego, California