

BYLAWS
OF
LARK STREET AREA DISTRICT MANAGEMENT ASSOCIATION, INC.
(with amendments as of March 4, 2010)

ARTICLE I

NAME, STATEMENT OF PURPOSES, PRINCIPLE OFFICE; NOTICE

Section 1. NAME. The name of the corporation shall be “Lark Street Area District Management Association, Inc.” (the “Corporation”).

§ 2. PURPOSE. The purposes of this Not-for-Profit organization are:

A. To execute the responsibilities of a district management association as set forth in article 19A of the New York General Municipal Law, as amended from time to time.

B. To operate a comprehensive Business Improvement District program (the “Mission”) to include but not be limited to, the administration, marketing, business recruitment, business retention, special events, project development, public relations and public improvement activities of the Lark Street Area Business Improvement District (the “District” or the “BID”) as established by the Common Council of the City of Albany pursuant to Article 19A of the New York General Municipal Law of the State of New York and the Lark Street Area District Plan, as it may be amended from time to time (the “Plan”).

C. To enter into a contract or contracts with the City of Albany, and with any other entity, to conduct any District activities for the purpose of carrying out the foregoing purposes or the advancement of the Corporation’s Mission.

D. To accept, hold and administer any funds paid by the City of Albany to defray the expenses of performing the operation and maintenance functions for such District as provided for in any contracts executed with the City of Albany as set forth above.

E. To do any other act or thing incidental to or connected with the foregoing purposes or in advancement of the Corporation’s Mission, but not for the pecuniary profit or financial gain of its members, directors or officers.

F. As a means of accomplishing the foregoing purposes, the Corporation shall have all the powers set forth in Section 202 of the Not-for-Profit Corporation Law of the State of New York and any powers which are now, or hereafter may be conferred by law on a Corporation organized for the purposes herein set forth, or which are reasonably necessary or incidental to those powers, or conducive to the attainment of the purposes of the Corporation.

Section 3. OFFICES. The Corporation shall maintain a principal office in the City of Albany, County of Albany, State of New York. Such principal office shall be located within the boundaries of the Business Improvement District, if reasonably possible and consistent with the operating budget of the Corporation.

Section 4. NOTICE AND SERVICE. (i) Upon request, any member may receive notices and other documents from the Corporation by electronic means, and such notice by electronic means shall satisfy the notice requirements set forth herein. (ii) An election by any member to receive notice and documents electronically shall also constitute such member's election to cease receiving hard-copy notice and documents, provided however that any such member may request to receive both electronic and hard-copy notice. (iii) Electronic notice may include facsimile and electronic mail, but may not be accomplished through ephemeral communications such as SMS ("text messages") or instant messaging.

ARTICLE II

MEMBERSHIP

Section 1. CLASSES AND QUALIFICATIONS. Lark Street Area District Management Association, Inc. shall have five (5) voting classes of membership:

A. Class A. Owners of record of real property in the District consisting of commercial space, or such other persons as are registered with the City of Albany to receive real property tax bills for such real property located in the District, shall be Class A members of the Corporation, provided such persons have applied for membership in accordance with Section 1(G) hereof. Commercial space shall include all assessment parcels qualifying for Class B or Class C. Each Class A member shall be allocated one vote.

B. Class B. Owners of record of real property in the District consisting solely of one or more dwelling units, or such persons as are registered with the City of Albany to receive property tax assessment statements for such real property located in the District, shall be Class B members of the Corporation, provided such persons have applied for membership in accordance with Section 1(G) hereof. Each Class B member shall be allocated one vote.

C. Class C. Tenants who are not currently holding a Class A or B Membership, who are occupants pursuant to leases of commercial space within the District, shall be Class C members of the Corporation, provided such persons have applied for membership in accordance with Section 1(G) hereof. Each Class C member shall be allocated one vote.

D. Class D. Tenants not eligible for Class A, B or C membership, who are occupants pursuant to leases of residential spaces within the District shall be Class D members of the

Corporation, provided such persons have applied for membership in accordance with Section 1(G) hereof. Each Class D member shall be allocated one vote.

E. Class E. The persons serving by virtue of their appointment as Municipal representatives, as described in Article III, Section 2, shall be Class E members of the Corporation. Each such representative shall be allocated one vote.

F. Application for Membership. All persons who fall into membership Class A, B and E are automatically members by virtue of their ownership of real property in the District, or appointment by a public body in accordance with Section 89-c of the General Municipal Law. All persons who fall within Class C and D shall be eligible for membership in the Corporation upon submission to the Secretary of evidence of such qualification satisfactory to the Board.

G. Termination of Membership. Membership in the Corporation is not transferable. Upon the death or resignation of an individual member or partner of a partnership, or upon dissolution or liquidation of a corporate member, the successor owner or tenant eligible for membership shall re-apply for membership in the manner required by Section 1(F) hereof. Additionally, (a) Class A and B membership shall terminate when the Class A or B member 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, (b) Class C and D membership shall terminate when the Class C or D member is no longer a tenant in the District, and (c) Class E membership shall terminate then the Class E member is replaced by the appointing authority.

Section 2. MEETING OF THE MEMBERSHIP. There shall be an annual meeting of the membership of the Corporation no sooner than ninety (90) days and no later than five (5) months after the close of the immediately preceding fiscal year for the purpose of receiving annual reports of officers, directors and committees, distribution of the financial reports of previous, and the just ended year; election of directors and the transaction of other business.

Section 3. SPECIAL MEETINGS. Special meetings of the membership may be called by the Chairperson or Board of Directors at their discretion, and shall be called by the Chairperson at the written request of members entitled to cast ten percent (10%) of the total number of allocated votes of collectively, Class A, B, C and D members. No business, other than that specified in the notice of meeting, shall be transacted at any special meeting of the membership of the Corporation.

Section 4. NOTICE OF MEETINGS. (i) Notice of the annual meeting of the membership shall be mailed to the last recorded address of each member at least (10) days and not more than (40) days before the time appointed for the meeting. (ii) Notice of all other meetings of the Corporation shall be mailed to the last recorded address of each member at least (2) days and not more than (40) days before the time appointed for the meeting. (iii) All notices of meetings shall set forth the place, date, time and, except for the annual meeting, the purpose of the meeting. (iv) Notice of meetings shall also be posted prominently upon the homepage of the Corporation's website simultaneously with the mailing of such notice, and shall remain on the Corporation's homepage until the meeting has been adjourned. (v) All hard-copy notices and

other documents mailed to the membership shall also be sent to such members' electronic mail addresses of record.

Section 5. QUORUM. A quorum of meetings of the membership shall consist of twenty percent (20%) of the members holding Class A or B votes, and three percent (3%) of those holding Class C or D votes; but a lesser number may adjourn a meeting to a future date. The Secretary shall thereafter mail notice of adjournment at least five (5) days before the rescheduled meeting to each member who was absent from the meeting adjourned.

Section 6. PROXIES. Every member of the Corporation entitled to vote at any meeting may vote by proxy, provided however that proxies shall not be accepted for the election of Members of the Board. Proxies shall be in writing and signed by a member or by the member's attorney-in-fact, and revocable at the pleasure of the member executing the same, except as otherwise provided in the proxy. No one member shall carry more than five (5) proxies. Except as otherwise provided by law, all elections and all questions coming before the members shall be decided by a majority vote of the votes cast at the meeting.

Section 7. ORDER OF BUSINESS. The order of business at the meetings of the Corporation shall be as follows:

1. Presentation of the roll.
2. Proof of service of notice of meeting.
3. Reading of the minutes.
4. Receiving communications.
5. Elections of directors at annual meeting or special meeting called for that purpose.
6. Reports of officers.
7. Reports of committees.
8. Unfinished business.
9. New business.

The order of business may be altered or suspended any meeting by a majority of the members present. The Chairperson of the Board shall be the Chairperson of all meetings, including the annual meeting.

Section 8. ELECTIONS. An annual election of Board Members shall be held at the annual meeting for all directors representing Class A, B, C, and D members .

The Elections Committee shall prepare a list of nominations (the "Officers' Slate") for the elections to be held at the annual meeting to fill any vacancies for Class A, B, C or D directors. The Officers' Slate and the Notice of Annual Meeting and Board Member Elections shall be mailed to the address of record and electronic mail address of record for each Owner and Tenant no later than ten (10) days before the annual meeting. Such Notices and Officers' Slate shall also be posted on the Corporation's website not later than five (5) days before the annual meeting. Nominations for the Board shall also be accepted from members up until five (5) days prior to the annual meeting. The Elections Committee shall verify that all candidates nominated

are members in the voting class for the directorship position for which they have been nominated; shall conduct the annual election and shall be the final arbiter as to validity of any vote cast, and the results of the election. Only those Owners and Tenants listed in the yearly membership roll shall be eligible to vote; and such eligible voters shall be able to vote only for those directors representing their own membership class.

Section 9. MEMBERSHIP ROLL. A yearly update of all property owners and tenants shall be conducted by the Board prior to August 1 of each year so as to reasonably reflect all owners and tenants as of July 15 of each year.

ARTICLE III

BOARD OF DIRECTORS

Section 1. MANAGEMENT. The management of the Corporation's property, affairs, corporate powers, business, and the concerns of the Corporation, shall be vested in, managed and controlled by the Board of Directors, which shall control all matters of policy and expenditure of funds. The ownership of all property, property rights and funds shall be vested in the Corporation.

Section 2. NUMBER. The number of directors of the Corporation shall be fifteen (15) as follows:

- A. One (1) shall be designated by the Common Council of the City of Albany who is a class E member.
- B. One (1) shall be designated by the Mayor of the City of Albany who is a class E member.
- C. One (1) shall be designated by the Comptroller of the City of Albany who is a class E member.
- D. One (1) shall be an elected residential tenant in the District who is a Class D member.
- E. Three (3) shall be elected commercial tenants of the District who are class C members.
- F. Six (6) shall be elected owners of real property consisting of commercial space located within the District who are class A members.
- G. Two (2) shall be elected owners of real property consisting of dwelling units located within the District who are class B members, at least one of which is an owner/occupant of such dwelling unit.

Section 3. TERM. All Directors shall serve terms as follows:

A. Elected Directors shall initially serve from one (1) to three (3) years as determined by the members of the Board. At the expiration of said initial terms, the terms of all elected members of the Board of Directors shall be three (3) years, except for class D members, who shall be elected to two (2) year terms. A person having served two (2) consecutive terms shall again be eligible for election as Director upon approval of the remaining Directors through a two-thirds majority vote of the full Board. The Directors whose term are to expire shall be entitled to vote on all matters until their elected successor is qualified. A Director's office shall become vacant if the Director ceases to be a member of the Corporation.

B. Class E Directors shall serve at the pleasure of the appointing authority.

Section 4. ELECTIONS. Directors shall be elected at the annual meeting of the Corporation.

Section 5. MEETINGS. The Board of Directors shall hold the following meetings, pursuant to the proper notice:

A. An annual re-organizational meeting at a stated time and place within seven (7) days following the annual meeting of the membership of the Corporation.

B. Regular meetings of the Board, which will be held monthly at a time and place determined by the Board by resolution at the re-organizational meeting.

C. Special meetings of the Board, which shall be held upon the request of the Chairperson, or by request of any three (3) Directors, and only pursuant to the appropriate notice. Any business of the Corporation specified in the notice may be transacted at such meetings. Notice of each special meeting of the Board of Directors shall be given personally, or by telephone, or by electronic mail to each Director at least two (2) days before the day of the meeting, or by mail at least five (5) days before the day of the meeting. Such notice shall state the business to be transacted and the time and place where the meeting is to be held, and shall be posted upon the Corporation's website simultaneously with service of notice upon Directors by personal, telephonic, or electronic mail service, or service by U.S. mail.

D. All meetings will observe the following requirements:

1. A majority of the fifteen (15) voting members of the Board will constitute a quorum.

2. An affirmative vote of at least two-thirds of the fifteen (15) voting members of the Board shall be necessary with respect to the approval of the budget for expenditure of funds and for any modification thereof.

3. Proxies shall not be legal or permitted at any meeting or election of the Board of Directors.

4. Members may attend no more than three meetings in a fiscal year telephonically and may vote upon all matters before the Board, except elections. Members shall not vote telephonically in elections unless a majority of Members specifically pre-approves a telephonic vote to be cast by a specific Member in a specific election.

Section 6. CONSENT OF DIRECTORS WITHOUT MEETING. Any action required or permitted to be taken by the Board of Directors, or a committee thereof, may be taken without a meeting if all members of the Board or committee, respectively, consent in writing to the adoption of a resolution authorizing the action. The resolution and the written consents thereof by the members of the Board, or committee, shall be filed with the minutes of the proceedings of the Board or committee.

Section 7. VACANCIES, RESIGNATIONS AND REMOVALS. (a). Any Director can resign at any time. Any such resignation shall be effective upon delivery thereof in writing to the Corporation without necessity of acceptance by the Board.

(b). Any elected Director may be removed at any time for cause by the Board by a two-thirds (2/3) vote of the fifteen voting members of the Board, provided however that the Board may delegate to the Chairperson, for no longer than one fiscal year (or the remainder of such fiscal year), the power to remove Board for excessive absence as set forth herein. Cause for removal shall include, but not be limited to, failure to attend in person or telephonically (as permitted by § 5(4) of Article III), four or more meetings in a fiscal year (“excessive absence”).

(c). Vacancies in Board seats elected by the Class A, B, C, and D members shall be filled by election from a slate created by the chairperson of the Board, with the advise and consent of the Board. Directors elected to fill vacancies shall be confirmed by a vote of the majority of the Board, as soon as practicable. Those vacancies occurring from the Class E member class shall be appointed by the proper authority without unreasonable delay. A Director elected or appointed to fill a vacancy shall serve until the next annual meeting at which time an election will be held to fill the remainder of the vacated term as outlined in Section 3 above.

Section 8. ORDER OF BUSINESS. The order of business at all meetings of the Board of Directors shall be as follows:

1. Calling of the roll.
2. Recognition of guests and communications.
3. Approval of the minutes.
4. Election of Directors and Officers (if required).
5. Reports of the Officers.
6. Reports of the Committees.
7. Unfinished business and any necessary resolutions.
8. New business and resolutions.
9. Miscellaneous.

ARTICLE IV

OFFICERS AND OTHER PERSONNEL

Section 1. OFFICERS. The Board of Directors shall elect at its annual reorganization meeting required under Article III, Section 5, a Chairperson, a Vice Chairperson, a Secretary and a Treasurer. The Board may also appoint such other officers as the Board may from time to time determine.

Section 2. DUTIES AND POWERS OF OFFICERS. Duties of the Chairperson, Vice Chairperson, Secretary and Treasurer shall be:

A. The Chairperson shall preside over all meetings, appoint all committees and shall be an ex-officio member of all committees.

B. The Vice Chairperson shall, in the absence of the Chairperson, perform the functions and have the duties of the Chairperson. The Vice Chairperson 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 have custody of the seal of the Corporation and shall affix the seal 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 prepare and file fiscal reports to keep the Board of Directors advised of the financial condition of the Corporation . The Treasurer's duties shall include:

1. Verifying 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. Verifying that 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 and the Albany Common Council.

2. Verifying, prior to payment of bills, claim or demand in excess of \$500.00 against the Corporation, that the Executive Director has certified that the materials, supplies or equipment have been received according to purchase order or that the work, labor and services have been rendered according to the order or contract.

3. Paying the bills of, or claims or demands against the Corporation, provided however:

a. Checks in excess of \$500.00 shall require the endorsement of both the Executive Director and the Treasurer.

b. In the absence of the one of the above, the Chairperson of the Board may co-endorse these checks.

c. All checks shall be hand endorsed.

Section 3. COMPENSATION OF DIRECTORS AND OFFICERS. The Board of Directors and officers shall serve without compensation.

Section 4. ELECTION OF OFFICERS. The officers of the Corporation shall be elected by the Board of Directors at the re-organizational meeting of the Board except for vacancies, which may be filled at any regular or special meeting. All officers shall hold office until the next re-organizational meeting of the Board and until their successors have been elected and shall qualify unless removed from office prior thereto by action of the Board. Vacancies resulting from such action by the Board, or from the death or resignation of officers, shall be promptly filled by the Board.

ARTICLE V

DISTRICT MANAGER

Section 1. APPOINTMENT OF DISTRICT MANAGER. The Board of Directors shall appoint and employ, by a majority of the Board, a Manager (“Executive Director”) for an indefinite term, and shall fix the compensation annually. The Executive Director shall act as the Chief Executive Officer of the Corporation and shall be responsible for the administration of the day-to-day operations, business and affairs of the Corporation.

A. The qualifications of the Executive Director shall be determined by the Board.

B. The Executive Director shall be evaluated no less frequently than on an annual basis by the Board of Directors.

C. The Executive Director shall serve at the pleasure of the Board of Directors and may be dismissed by a majority plus one (1) vote of the Board (i.e., nine out of fifteen votes).

D. In the event that the position of the Executive Director shall be vacant, the administrative and personnel responsibilities of the Chief Executive Officer (as described below) shall be temporarily delegated to the Board Chairperson and all financial responsibilities shall be temporarily delegated to the Board Treasurer. The Chairperson and Treasurer shall serve in these temporary capacities without compensation. Such vacancy in the position of Executive Director shall be promptly filled by the Board.

Section 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 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 subject to enforcement by Corporation action, are faithfully enforced and executed.

B. Represent the Corporation and assert its proper interest in relation to the City of Albany and other outside agencies, with respect to the negotiation of and execution of contracts and franchises; provided however that the Executive Director may not enter into any contracts in excess of the Executive Director's check writing limitation of \$500.00, without the approval of the Finance Committee.

C. Serve in an ex-officio capacity on the Board and all committees of the Board, and may participate in discussions, but may not participate in the vote thereof.

D. Be authorized to sign checks and vouchers of the Corporation, subject to the limitations of these Bylaws, and shall 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; and develop policies to safeguard the Corporation's financial interest to the fullest extent.

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, which shall include compilation of the capital expenditure estimates for the annual budget.

H. Make reports to the Board of Directors as requested by it, and at least once a year, make an annual report to the Board of Directors and the Albany Common Council on the administration of the Corporation.

I. Hire, supervise and evaluate the work of all other employees, contractors and consultants of the Corporation, and supervise and evaluate the work of all other persons or entities providing services or goods to the Corporation.

ARTICLE VI

COMMITTEES

Section 1. ORGANIZATION OF COMMITTEES OF THE CORPORATION. The Chairperson may appoint from among the Board standing committees, each to consist of at least

two (2) Directors. The Chairperson of each committee shall be a Board member. Non-Board members may serve on any Standing or Special Committee except the Elections & Nominations Committee. Each committee will act in an advisory capacity only, with all committee actions and decisions subject to approval of the Board of Directors. Each committee shall keep minutes of proceedings and report to the Board.

Section 2. STANDING COMMITTEES. The standing committees of the Board shall be as follows:

- A. Executive Committee
- B. Quality of Life Committee
- C. Business Recruitment & Retention Committee
- D. Development Committee
- E. Finance Committee

A. Executive Committee. The Executive Committee shall be responsible for financial, personnel and operational issues. It shall assist the Treasurer in the development of the annual budget; review financial reports prepared by the Treasurer and make recommendations to the Board on the financial affairs of the Association. The committee shall be responsible for insuring that the operations of the Association are consistent with the Bylaws, and shall make recommendations for changes as appropriate. The committee will also be responsible for the development and implementation of personnel policies and practices, and making recommendations to the Board on personnel matters. The committee shall be comprised of the officers of the Board of Directors and may include one additional Board member as determined by the chair.

B. Quality of Life Committee. The Physical Improvement & Security Committee shall devise and oversee a program of planning for services, public area improvements and amenities, and enhanced maintenance services within the District. It shall work with the Development Committee to seek sources for funding, including grants, for the implementation of any of the above-mentioned services and/or improvements. It shall also oversee the implementation of a safety and security program within the District.

C. Business Recruitment & Retention Committee. The Business Recruitment & Promotion Committee shall oversee the implementation of a marketing program designed to initiate new retail, office and residential investment in the District and to assure the continued occupancy of existing businesses. It shall also oversee the implementation of actions to enhance the image of the District and to foster communications between the District and City Government, Chamber of Commerce and the appropriate agencies. Furthermore, it will coordinate a promotional campaign and special events designed to attract visitors to the District. Developing a program to address parking issues within the District will fall under its purview as well.

D. Development Committee. The Development Committee will seek sources of funding, including grants, for specific projects and for the District as a whole. Should the request emanate from one of the other committees, it will work in conjunction with that committee to

secure funding. It shall explore various ways in which to expand the District, including merger, physical expansion, and membership, to increase the funding base of the District. It shall also be responsible for the ad hoc Nominating Committee.

E. Finance Committee. The Finance Committee shall consist of the Treasurer, at least one other Board member, and the Executive Director and chairperson as ex-officio members. The Finance Committee is responsible for the District's financial issues. It shall assist the Executive Director in the development of the annual budget, and in establishing budgets for each District event and special event; review financial reports prepared by the Treasurer and make recommendations to the Executive Committee and to the Board on the financial affairs of the Association. All contracts and other financial arrangements of the District are subject to review by the Finance committee, provided however that review of contracts shall be limited to questions of budgetary constraints. The Finance Committee may approve up to 10% additional spending over the duly approved budget for each District event and special event, provided however any additional spending beyond 10% over an event or special event's duly approved budget must be approved by the Board. In the event that the Finance Committee is unable to meet or fulfill its duties, the Board Chair and the Treasurer shall perform the duties of the Finance Committee.

Section 3. SPECIAL COMMITTEES. Special Committees on any subject in which there are not standing committees may also be appointed, which may also include non-Board members.

Section 4. ELECTIONS & NOMINATIONS COMMITTEE. The Elections & Nominations Committee shall consist of one (1) Director holding a Class E membership and three (3) other Directors appointed by the Board. The Committee shall nominate officers for the Corporation and shall conduct the elections of Directors from Class A, B, C and D membership in accordance with Article II, Section 8 herein.

ARTICLE VII

INDEMNIFICATION

To the fullest extent permitted by law, either directly or by the purchase of insurance or in part directly and in part by the purchase of insurance, the Corporation shall indemnify each natural person, or if deceased, their personal representative, made or threatened to be made a party to any action or proceeding, civil or criminal, including an appeal therein against the reasonable expenses, attorney's fees, judgments, fines and amounts paid in settlement, if such person is made or threatened to be made a party by reason of the fact that they or their testator or intestate is or was: (1) an officer, director or employee of the Corporation, or (2) an officer, director or employee of or served in any other capacity in any other enterprise, at the request of the Corporation, provided that in case of a person serving as an employee or in any other capacity in any other corporation, partnership, joint venture, trust or other enterprise, that such

person was at the time so designated to serve by the Corporation, or (3) the occupant of a position or member of a committee or board or a person having responsibilities under federal or state law, including but limited to responsibilities under the Employee Retirement Income Security Act of 1974, who was appointed to or served in or assumed the responsibility of such position or to such committee or board or at the request, or direction of the Board of the Corporation or by an officer of the Corporation provided only that such person acted in good faith for a purpose which they reasonably believed would be in the best interest of the Corporation or in the case of service for any other Corporation or any partnership, joint venture, trust, employment benefit plan or other enterprise, not opposed to the best interest of the Corporation, and, in criminal proceedings, had no reasonable cause to believe that their conduct was unlawful. The Corporation's obligations under this Article shall be reduced by the amount of any insurance which is available to any such person whether such insurance is purchased by the Corporation or otherwise. The right of indemnity created herein shall be personal to the officer, director, or employee of the person and their respective legal representative and in no case shall any insurance carrier be entitled to be subrogated to any rights created herein.

ARTICLE VIII

REPORTS, ACCOUNTABILITY, CONFLICTS

A. Reports

Section 1. FINANCIAL REPORT OF THE CORPORATION. At the annual meeting of the membership, the Board shall present a report, verified by the Chairperson and the Treasurer, or by a majority of Directors, or certified by an independent public or certified public accountant selected by the Board, showing in appropriate detail the assets and liabilities, including principal changes in the assets and liabilities, the revenue or receipts and the expenses or disbursements of the Corporation. The report shall also indicate the number of members of the Corporation as of the last census, together with a statement of increase or decrease in such number during such fiscal year and a statement of the addresses of property owned or occupied by the members and the total assessed value of all real estate which is included in the District.

Such report shall be filed with the records of the Corporation and a copy thereof entered in the minutes of the proceedings of the annual meeting of the membership and shall be submitted to the Common Council.

Section 2. REPORT TO ALBANY COMMON COUNCIL. A proposed annual budget shall be submitted by the Board of Directors to the City of Albany no later than November 1, annually, which shall include:

- A. recommendations for the ensuing fiscal year;
- B. estimates of special District operation and maintenance costs;

C. available federal and state funds and grants;

D. funds anticipated from assessments and any other sources.

Section 3. Report of the District Manager. Upon the request of the Board, the District Manager shall report upon the activities and administration of the Corporation, as required by Article V, section 2(H) above.

B. Accountability

Section 1. The Board of the Lark Street Business Improvement District (BID) hereby enacts the following measures to ensure fiscal accountability in all of its business dealings and interactions.

1. There shall be no cash withdrawals from any of the BID's accounts without prior written approval of two executive committee members. In limited circumstances, emergency withdrawals without consulting the Board may be made, but only if no two members of the Board are available to give approval. Such emergency withdrawals are subject to review by the Board and, if subsequently disapproved by the Board, are ground for disciplinary action.
2. Personal use of BID funds is prohibited and subject to disciplinary action by the Board.
3. The Executive Director and the Treasurer will review each account transaction at the end of every month prior to the Board's monthly meeting. The Treasurer shall report any inconsistencies, fiscal mismanagement or breaches of policy to the Executive Committee, and then to the Board for review.
4. The Executive Director shall have use of the BID account's debit/credit card for BID related purchases not to exceed an amount equal to the Executive Director's \$500.00 (five hundred dollar) check writing limitations.
5. Budgets for each BID event shall be established and duly approved by the Board before expenditure of any funds on any such event.

C. Conflicts of Interest

The purpose of this conflict of interest policy is to protect the BID'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 Organization or might result in a possible excess benefit transaction. 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.

Definitions

1. Interested Person Any director, principal officer, or member of a committee with governing board delegated powers, who has a direct or indirect financial interest, as defined below, is an interested person.

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

a. An ownership or investment interest in any entity with which the BID has a transaction or

arrangement,

- b.** A compensation arrangement with the BID or with any entity or individual with which the Organization has a transaction or arrangement, or
- c.** A potential ownership or investment interest in, or compensation arrangement with, any entity or individual with which the BID is negotiating a transaction or arrangement.

Procedures

1. 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.

2. 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.

3. Procedures for Addressing the Conflict of Interest

- a.** 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.
- b.** 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.
- c.** After exercising due diligence, the governing board or committee shall determine whether the BID 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.
- d.** 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 Organization'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.

4. Violations of the Conflicts of Interest Policy

- a.** If the governing board or committee has reasonable cause to believe a member has failed to disclose actual or possible conflicts of interest, it shall inform the member of the basis for such belief and afford the member an opportunity to explain the alleged failure to disclose.
- b.** 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 include, but not limited to, termination of such member's seat on the board.

Records of Proceedings

The minutes of the governing board and all committees with board delegated powers shall contain:

- a.** The names of the persons who disclosed or otherwise were found to have a financial interest in connection with an actual or possible conflict of interest, the nature of the financial interest, any action taken to determine whether a conflict of interest was present, and the governing board's or committee's decision as to whether a conflict of interest in fact existed.
- b.** The names of the persons who were present for discussions and votes relating to the transaction or arrangement, the content of the discussion, including any alternatives to the proposed transaction or arrangement, and a record of any votes taken in connection with the proceedings.

Compensation

- a.** A voting member of the governing board who receives compensation, directly or indirectly, from the BID for services is precluded from voting on matters pertaining to that member's compensation.
- b.** A voting member of any committee whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from the BID for services is precluded from voting on matters pertaining to that member's compensation.
- c.** No voting member of the governing board or any committee whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from the BID, either individually or collectively, is prohibited from providing information to any committee regarding compensation.

Annual Statements

Each director, principal officer and member of a committee with governing board delegated powers shall annually sign a statement which affirms such person:

- a.** Has received a copy of the conflicts of interest policy,
- b.** Has read and understands the policy,
- c.** Has agreed to comply with the policy, and
- d.** Understands the BID is charitable and in order to maintain its federal tax exemption it must engage primarily in activities which accomplish one or more of its tax-exempt purposes.

Periodic Reviews

To ensure the BID operates in a manner consistent with charitable purposes and does not engage in activities that could jeopardize its tax-exempt status, periodic reviews shall be conducted. The periodic reviews shall, at a minimum, include the following subjects:

- a.** Whether compensation arrangements and benefits are reasonable, based on competent survey information, and the result of arm's length bargaining.
- b.** Whether partnerships, joint ventures, and arrangements with management organizations conform to the BID's written policies, are properly recorded, reflect reasonable investment or payments for goods and services, further charitable purposes and do not result in inurement, impermissible private benefit or in an excess benefit transaction.

ARTICLE IX

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 at the discretion of the Board.

Section 2. CONTRACTS. To the extent required by law, the contracts of the Corporation shall be subject to all applicable provisions of law related to bidding and the letting 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 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 or any rights or privileges that may accrue thereon, provided that authorized investments shall be limited to those investments authorized for money in the general fund of the City.

ARTICLE X

MISCELLANEOUS

Section 1. FISCAL YEAR. The fiscal year of the Corporation shall be the calendar year.

Section 2. SEAL. The seal of the Corporation shall be circular in form and shall contain the name of the Corporation, the year of incorporation and the words "New York."

Section 3. PROCEDURE. Procedure of meetings of the Corporation shall be governed by the most recent edition of Robert Rules of Order to the extent not provided for herein.

Section 4. 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 of facsimile signatures of an officer or

officers designated by the Board and may bear the seal of the Corporation or a facsimile thereof. In lieu of issuing cards or certificates, the Board may allow a list of all property owners and tenants, as can reasonably be determined, to suffice.

ARTICLE XI

AMENDMENTS

These Bylaws may be amended by the vote of a two-thirds of all Directors at a regular or special meeting of Directors provided ten (10) days written notice of such meeting shall have been given each Director specifying the amendments to be considered.

ARTICLE XII

DISSOLUTION

The dissolution or other termination of the Corporation shall be in accordance with Section 980-n of the General Municipal Law, or any equivalent section which may then be in effect, and, upon dissolution, the assets of the Corporation shall be disposed of in accordance with the same section.