

## THIRD AMENDED BYLAWS

OF

### IDAHO FALLS DOWNTOWN DEVELOPMENT CORPORATION

An Idaho Nonprofit Corporation

#### ARTICLE I. OFFICES

Section 1. Principal Office. The principal office of Idaho Falls Downtown Development Corporation, an Idaho nonprofit corporation (the "Corporation"), shall be located at Idaho Falls, Idaho.

#### ARTICLE II. MEMBERS

Section 1. Classes of Membership. There shall be three (3) classes of members as follows:

Class A. Class A members shall include any person or entity that is an assessed "property owner" within any Business Improvement District (B.I.D.) purposed to or hereafter established by the City of Idaho Falls, Idaho, for the downtown area or any B.I.D. which includes all or any part of the downtown area. Every person or entity that is an assessed property owner within such B.I.D., by virtue of being such a property owner and for so long as such ownership is maintained, shall be a Class A member of the Corporation; provided the property is not exempt from assessment by the B.I.D. Where title to a property is held by more than one person, membership relating to the property shall be shared by all such persons in the same proportions and in the same type tenancy as title to the subject property. Class A memberships shall not be assignable, except to the successor-in-interest of the property owner, and all Class A memberships in the Corporation shall be appurtenant to the property owned by such property owner. The Class A memberships in the Corporation shall not be transferred, pledged or alienated in any way except upon the transfer of title to the property and then only to the transferee.

For all purposes under these Bylaws, "property" is defined as real property. A "property" is any real property parcel separately assessed as such by the Bonneville County Assessor.

Class B. Class B memberships shall be available to all other persons or entities who share the purpose of the Corporation, actively participate in the programs and goals of the Corporation and who shall pay such dues as may be established by the Corporation's Board of Directors. Class B members shall be subject to approval by the Board of Directors and shall include retail business owners, professional's, commercial tenants, merchants, tradesman,

shopkeepers and financial institutions within the downtown commercial area or environs of the City of Idaho Falls, Idaho. PROVIDED HOWEVER, that membership is not available to residential tenants. A single business or commercial enterprise may hold no more than a single membership in the Corporation.

Class C. Class C membership shall be honorary members who are invited to be members of the Corporation at the discretion of the Board of Directors. Class C members are not subject to payment of dues.

## Section 2. Voting Rights.

Class A Members. Class A members shall be entitled to one (1) vote for each property owned and assessed within any downtown B.I.D. Provided that no Class A member shall be entitled to more than three (3) votes regardless of the number of assessed properties owned. Voting rights for any Class A member are automatically suspended during any period that such member is delinquent in payment of assessments imposed by a downtown B.I.D.

Class B Members. Class B members shall be nonvoting.

Class C Members. Class C members shall be nonvoting.

Section 3. Membership Limitation. No person or entity may hold more than one (1) membership at the same time regardless of the class.

## ARTICLE III. MEETINGS

Section 1. Annual Meetings. An annual meeting of the members shall be held in each year beginning in the year 1995, with the exact date, time and place of meeting to be established by the Board of Directors, for the purpose of electing directors, and for the transaction of such other business as may come before the meeting.

Section 2. Special Meetings. Special meetings of the members may be called by the Board of Directors or on the request of not fewer than ten percent (10%) of the members of the Corporation.

Section 3. Place of Meetings. The Board of Directors may designate any place, within the State of Idaho, as the place of meeting for any annual meeting or for any special meeting. If no designation is made, or if a special meeting is otherwise called, the place of meeting shall be the principal office of the Corporation in the State of Idaho.

Section 4. Notice of Meeting. It shall not be necessary for notice of annual or regular meetings to be given to each member entitled to vote at such meeting. The Secretary,

Treasurer, the President or members of the Board of Directors shall endeavor to give notice to as many members as reasonably practicable by any one or a combination of the following: (1) word-of-mouth; (2) posting notice at the principal office and/or in one or more public places in the City of Idaho Falls; (3) publication in a newspaper of general circulation in the City of Idaho Falls; or (4) regular mail. If any notice is mailed to members, such notice shall be deemed to be delivered when deposited in the United States mail addressed to the member at the member's address as it appears on records of the Corporation or at such other last known address of which the Corporation may have notice, with postage thereon prepaid.

Section 5. Waiver of Notice. Whenever any notice is required to be given to any member under the provisions of the Idaho Nonprofit Corporation Act as set forth in Title 30, Chapter 3, Idaho Code (the "Act") or under the provisions of the Articles of Incorporation of the Corporation (the "Articles") or these Bylaws, a waiver thereof in writing signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice.

Section 6. Officers of the Members' Meeting. The presiding officer at members' meetings shall be the President of the Corporation or, in the absence of the President, the Vice President or, in the absence of both the President and Vice President, a chairman elected by the members present at the meeting. The Secretary of the Corporation or, in the absence of the Secretary, any person appointed by the presiding officer of the meeting, shall act as secretary of a members' meeting.

Section 7. Quorum and Voting Requirements. One-tenth (1/10) of the members entitled to vote, represented in person or by proxy, shall constitute a quorum at a meeting of members. The members present at a duly organized and convened meeting where a quorum has been present can continue to do business as a quorum until adjournment, notwithstanding the withdrawal of enough members to leave less than a quorum. If a quorum is present, the affirmative vote of the majority of the members represented at the meeting and entitled to vote on the subject matter shall be the act of the members, unless the vote of a greater number is required by the Act, the Articles or the Bylaws.

Section 8. Proxies. A member may vote either in person or by proxy executed in writing by the member. No proxy shall be valid after eleven (11) months from the date of its execution. Every proxy shall be revocable at the pleasure of the member who executed it.

Section 9. Action by Members without a Meeting. Any action required or permitted to be taken at a meeting of the members of the Corporation may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the members entitled to vote with respect to the subject matter thereof. Such consent shall have the same effect as a unanimous vote of members and may be stated as such in any articles or documents filed with the Idaho Secretary of State under the Act.

## ARTICLE IV. DIRECTORS

Section 1. General Powers and Standard of Care. All corporate powers shall be exercised by or under authority of, and the business and affairs of the Corporation shall be managed under the direction of the Board of Directors except as may be otherwise provided in the Act or the Articles.

A Director shall perform such Director's duties as a Director, including such Director's duties as a member of any committee of the Board upon which such Director may serve in good faith, in a manner such Director reasonably believes to be in the best interest of the Corporation, and with such care as an ordinarily prudent person in a like position would use under similar circumstances. In performing such Director's duties, a Director shall be entitled to rely on information, opinions, reports or statements, including financial statements and other financial data, in each case prepared or presented by:

- (a) One (1) or more officers or employees of the Corporation whom the Director reasonably believes to be reliable and competent in the matters presented;
- (b) Counsel, public accountants or other persons as to matters which the Director reasonably believes to be within such person's professional or expert competence; or,
- (c) A committee of the Board upon which such Director does not serve, duly designated in accordance with a provision of these Bylaws, as to matters within its designated authority, which committee the Director reasonably believes to merit confidence, but such Director shall not be considered to be acting in good faith if such Director has knowledge concerning the matter in question that would cause such reliance to be unwarranted. A person who so performs such duties shall have no liability by reason of being or having been a Director of the Corporation.

Section 2. Number, Tenure and Qualifications. The number of directors shall be not less than three (3) nor more than fifteen (15). At least two-thirds of the members of the Board of Directors shall be Class A members of the Corporation and the remainder shall be members in good standing of any class of membership.

Directors shall be elected for staggered three-year terms. Each director shall hold office until the end of the term or until a successor shall be elected and qualified. Directors shall be elected when necessary at the annual meeting of the membership by a majority vote of the voting members present. Nominations and qualifications submitted in writing to the corporate secretary not less than five (5) days in advance of such annual meeting shall be prepared and made available to the members at such meeting. Nominations shall also be permitted from the floor at the meeting. Directors must be members of the Corporation. The initial Board of

Directors shall determine by lot the initial term of each director so that one-third (1/3) of the Board shall have one-year terms, one-third (1/3) shall have two-year terms and one-third (1/3) shall have three year terms.

A director may serve not more than two (2) consecutive three (3) year terms. Provided that the term of any Director who also serves as an Officer shall continue for so long as such person continues to serve as an officer.

Any person is re-qualified to serve as a voting member of the Board of Directors after a one (1) year absence as a voting member of the Board.

Section 3. Ex-Officio Members. The Board of Directors may appoint an unlimited number of ex-officio members to the Board who shall serve as non-voting members of the Board. Past-Presidents of the Board shall become ex-officio members of the Board by virtue of their past service to the corporation.

Section 4. Vacancies. Any vacancy occurring on the Board of Directors and any directorship to be filled by reason of any increase in the number of directors shall be filled by the Board of Directors. Directors elected to fill a vacancy shall be elected for the unexpired term of their predecessor in office.

Section 5. Removal of Directors. Any director may be removed from office for cause by a two-thirds (2/3) majority vote of the total directors. The Board of Directors may, in its sole discretion and by majority vote, remove any member of the Board who has failed to attend three (3) consecutive meetings of the Board.

Section 6. Regular Meetings. A regular annual meeting of the Board of Directors shall be held without other notice than this Bylaw, within a month of the annual meeting of members. The Board of Directors may provide by resolution the time and place for the holding of additional regular meetings of the Board.

Section 7. Special Meetings. Special meetings of the Board of Directors may be called by or at the request of the President or any eight (8) directors. The person or persons authorized to call special meetings of the Board may designate any place as the place for holding any special meeting of the Board called by them.

Section 8. Notices. Notice of any special meeting of the Board of Directors shall be given at least two (2) days previous thereto by written notice delivered personally or sent by mail, telefax, E-mail or other means to each director at his address as shown by the records of the Corporation. The attendance of a director at any meeting shall indicate that such director

received notice of such meeting. The purpose of any special meeting of the Board shall be specified in the notice or waiver of notice of such meeting.

Section 9. Quorum. A majority of the Board of Directors shall constitute a quorum for the transaction of business at any meeting of the Board, but if fewer than a majority of the directors are present at said meeting, a majority of the directors present may adjourn the meeting without further notice. Once a quorum is established, it shall remain for the duration of the meeting.

Section 10. Manner of Acting. The act of the majority of the directors present at a meeting at which a quorum is present shall be the act of the Board of Directors, unless otherwise provided by law or by these Bylaws.

Section 11. Informal Action. Any action required to be taken at a meeting of the Board of Directors may be taken without a meeting if a consent in writing setting forth the action as taken shall be signed by a majority of the directors.

Section 12. Open Meetings. It is the intent of the Corporation to conduct its business in open sessions whenever possible. However, in those circumstances where the Board is discussing or acting upon strategy with respect to litigation, implementation of security systems, purchase of property, interviews with prospective employees and discussion of personnel matters, the meeting may be closed.

On any other matter which the Board feels must be dealt with in a confidential manner, the Board may close its meeting to the members of the Corporation and the general public. An affirmative two-thirds (2/3) vote of the Board members present is necessary to close the meeting.

Section 13. Compensation. The directors shall serve without compensation, but reasonable expenses incurred may be reimbursed when expended for and in the interest of the Corporation and approved by the Board of Directors in advance.

Section 14. Director Conflicts of Interest. No contract or other transaction between the Corporation and one or more of its Directors or any other corporation, firm, association or entity in which one or more of its directors are Directors or officers or are financially interested, shall be either void or voidable because of such relationship or interest or because such Director or Directors are present at the meeting of the Board of Directors or a committee thereof which authorizes, approves or ratifies such contract or transaction or because such Director's or Directors' votes are counted for such purposes, if:

(a) The fact of such relationship or interest is disclosed or known to the Board of Directors or committee which authorizes, approves or ratifies the contract or transaction by a

vote or consent sufficient for the purpose without counting the vote or consent of such interested Directors;

(b) The fact of such relationship or interest is disclosed or known to the members entitled to vote and they authorize, approve or ratify such contract or transaction by vote or written consent, in which vote or consent such interested Directors may participate to the extent that they are also members; or,

(c) The contract or transaction is fair and reasonable to the Corporation and the fact of such relationship or interest is fully and fairly disclosed or known to the Corporation.

Common or interested Directors may be counted in determining the presence of a quorum at a meeting of the Board of Directors or a committee thereof which authorized, approves or ratifies such contract or transaction.

Section 15. Loans to Directors. The Corporation shall not lend money to or use its credit to assist its Directors or officers.

Section 16. Liability of Directors for Wrongful Distribution of Assets. In addition to any other liabilities imposed by law upon the Directors of the Corporation, the Directors who vote for or assent to any distribution of assets other than in payment of its debts, when the Corporation is insolvent or when such distribution would render the Corporation insolvent or during the liquidation of the Corporation without the payment and discharge of or making adequate provisions for all known debts, obligations and liabilities of the Corporation, shall be jointly and severally liable to the Corporation for the value of such assets which are thus distributed, to the extent that such debts, obligations and liabilities of the Corporation are not thereafter paid and discharged.

A Director shall not be liable under this section if, in the exercise of ordinary care, such Director relied and acted in good faith upon written financial statements of the Corporation represented to such Director to be correct by the President or by the officer of the Corporation having charge of its books of account, or certified by an independent licensed or certified public accountant or firm of such accountants fairly to reflect the financial condition of the Corporation, nor shall such Director be so liable if, in the exercise of ordinary care and good faith, in determining the amount available for such distribution, such Director considered the assets to be of their book value.

A Director shall not be liable under this section, if, in the exercise of ordinary care, such Director acted in good faith and in reliance upon the written opinion of an attorney for the Corporation.

A Director against whom a claim shall be asserted under this section and who shall be held liable thereon shall be entitled to contribution from persons who accepted or received such distribution knowing such distribution to have been made in violation of this section in proportion to the amounts received by them respectively.

## ARTICLE V. OFFICERS

Section 1. Number and Title. The officers of the Corporation shall be a president, one or more vice presidents (the number thereof to be determined by the Board of Directors), a secretary, a treasurer and such other officers as may be elected in accordance with the provisions of this Article. The Board of Directors may elect one or more assistant secretaries or one or more assistant treasurers as it may be felt desirable. Any two or more offices may be held by the same person, except the office of president and the office of secretary.

Section 2. Officers Are Members of the Board. Officers shall likewise serve as voting members of the Board of Directors by virtue of their office and for such periods as such person shall serve as an officer.

Section 3. Election and Term of Office. The officers of the Corporation shall be elected annually by the Board of Directors at the annual meeting of the Board of Directors. If the election of officers shall not be held at such meeting, such election shall be held as soon as possible. Each officer shall hold office until their successor shall be duly elected and qualified.

Section 4. Vacancies. Vacancies may be filled or a new office created and filled at any meeting of the Board.

Section 5. Removal. Any officer elected or appointed by the Board of Directors may be removed by an affirmative vote of two-thirds (2/3) of the total Board whenever, in its judgment, the best interest of the Corporation would be served thereby.

Section 6. President. The president shall preside at all meetings of the Board of Directors and the general membership. S/he may sign with the secretary, or any other proper officer of the Corporation authorized by the Board of Directors, any deed, mortgage, bond, contract, or other instrument which the Board of Directors has authorized to be executed, except in cases where the signing and execution thereof shall be expressly delegated to some other officer or agent of the Corporation. In general s/he shall perform all duties incident to the office of president and such other duties which shall be prescribed by the Board of Directors from time to time.

Section 7. Vice President. In the absence of the president or in the event of the president's inability or refusal to act, the vice president (or in the event there shall be more than one vice president, the vice presidents in order of their election) shall perform the duties of the



president and when so acting shall have all the powers of and be subject to all the restrictions upon the president. Any vice president shall perform other duties as from time to time may be assigned by the president or by the Board of Directors.

Section 8. Secretary. The secretary shall keep the permanent minutes of the meetings of the Board of Directors in one or more books provided for that purpose, see that all notices are duly given in accordance with the provisions of these Bylaws or as required by law, be custodian of the corporate records and corporate seal, keep a register of the name and post office address of each corporate member and in general perform all duties incident to the office of secretary and such other duties as from time to time may be assigned by the president or the Board of Directors.

Section 9. Treasurer. The treasurer shall have charge and custody of and be responsible for all funds and securities of the Corporation; the treasurer shall assure that the bookkeeper receives and gives receipts for money due and payable to the Corporation from any source whatsoever and deposits all monies in the name of the Corporation in such bank or other financial institution as shall be selected by the Board of Directors and in general perform all the duties incident to the office of treasurer and such other duties as from time to time may be assigned by the Board of Directors. The treasurer and executive director shall, with the appropriate standing committee, prepare an annual operating budget showing income and expenses to be presented to the Board for approval at the annual regular meeting of the Board of Directors.

Section 10. Compensation. The officers shall serve without compensation, but reasonable expenses incurred may be reimbursed when expended for and in the interest of the Corporation and approved by the Board of Directors in advance.

## ARTICLE VI. COMMITTEES

Section 1. Executive Committee. The executive committee shall consist of the officers of the Corporation and any other person or persons designated by the Board of Directors. The powers of this committee shall be determined by the Board.

Section 2. Other Standing Committees. The Board of Directors may establish such additional committees as are necessary and appropriate to carry out the business of the Corporation. Committees designated by the Board of Directors may be composed entirely of officers, entirely of members of the Board of Directors or may include members and non-members of the Corporation. Each committee shall have the duties and responsibilities delegated to it by the Board of Directors.

Section 3. Appointment. The chairperson of each standing committee shall be appointed by the president of the Board of Directors in consultation with the executive director and with the advice and consent of the Board of Directors.

Committee members shall be appointed by the chairperson of each committee in consultation with the president of the Board of Directors and the executive director. Committee members may or may not be members of the Board of Directors. At least one member on each standing committee shall be selected from among the Board membership.

Section 4. Duties. The duties, responsibilities, authority and composition of all standing committees and ad hoc committees shall be stated in writing and adopted by resolution of the Board of Directors.

Section 5. Term of Office. All committee members shall serve until the first annual meeting following their appointment or until their successors have been appointed.

Section 6. Reports. Each committee chairperson and the executive director shall submit activity reports to the Board of Directors.

#### ARTICLE VII. STAFF

Section 1. Employees. The Board of Directors shall employ the executive director as needed and shall authorize the employment of other employees as are needed to carry out the purposes of the Corporation. The executive director shall select the other employees who shall be hired by the executive director after ratification of his/her selection(s) by the Board of Directors. The salary or wages and other terms of employment shall be set by the Board of Directors who may enter into contracts of employment with such employees on behalf of the Corporation.

Section 2. Executive Director. The executive director shall serve at the pleasure of the Board of Directors for such compensation as the Board may determine. S/he shall have general direction over the operations of the Corporation and shall be its official representative. S/he shall comply with Board policies and shall submit to the Board of Directors such reports, analyses, statistics, plans and other information as may be required from time to time and shall assist in the preparation of the Corporation's annual budget. S/he shall be an ex-officio member of the Board and all committees of the organization. The executive director shall not be a member of the Board of Directors or an officer of the Corporation.

The executive director gives staff support to the Board of Directors and to the executive committee. S/he is the only staff person who has line responsibility to the Board. That authority shall be exercised by and through the president of the Board.

Section 3. Other Staff. All other staff are retained by the executive director and are accountable to him/her.

#### ARTICLE VIII. MISCELLANEOUS

Section 1. Indemnification. The Corporation shall indemnify any director, officer or former director or officer of the Corporation against expenses actually and reasonably incurred by him/her in connection with the defense of any action, suit or proceeding, civil or criminal, in which sh/e is made party by reason of being or having been a director or officer, except in relation to matters as to which s/he is adjudged in such action, suit or proceeding to be liable for negligence or misconduct in the performance of duty to the Corporation.

Section 2. Depositories. All funds of the Corporation not otherwise employed shall be deposited from time to time to the credit of the Corporation in such banks, savings and loan associations, trust companies or other depositories as the Board of Directors may elect.

Section 3. Contracts. The Board of Directors may authorize any officer(s) or agent(s) of the Corporation, in addition to the officers authorized by these Bylaws, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Corporation and such authority may be general or confined to specific instances.

Section 4. Checks, Drafts, Etc. All checks, drafts or orders for the payment of money, notes or other evidence of indebtedness issued in the name of the Corporation shall be signed by such persons and in such manner as shall from time to time be determined by resolution of the Board of Directors. In the absence of such determination by the Board of Directors, such instrument shall be signed by the treasurer or an assistant treasurer.

Section 5. Fiscal Year. The fiscal year of the Corporation shall end on September 30<sup>th</sup> of each year.

Section 6. Investment. Any funds of the Corporation which are not needed currently for the activities of the Corporation may, at the discretion of the Board of Directors, be invested in such investments as are permitted by law.

Section 7. Books and Records. The Corporation shall keep correct and complete books and records of accounts and shall also keep minutes of the proceedings of its members, Board of Directors and committees having any of the authority of the Board of Directors and shall keep a record giving the name and address of the members entitled to vote. All books and records of the Corporation may be inspected by any member or his agent or attorney or the general public for any proper purpose at any reasonable time.

Section 8. Dissolution.

(a) A resolution to dissolve the Corporation shall be submitted to a vote of the members.

(b) In the event of dissolution of the Corporation, the Board of Directors shall, after payment of all liabilities of the Corporation, dispose of the assets of the Corporation exclusively for the purposes of the Corporation in such manner or to such organizations organized and operating exclusively for purposes as shall at the time qualify under Section 501(c)(6) of the Internal Revenue Code of 1954 as an exempt organization.

Section 9. Nondiscrimination. This Corporation is an equal opportunity employer and shall make available its services without regard to race, creed, age, sex, color, ancestry or national origin.

Section 10. Political Activity. The Corporation shall not, in any way, use corporate funds in the furtherance of, nor engage in, any political activity for or against any candidate for public office. However, this Bylaw shall not be construed to limit the right of any official or member of this Corporation to appear before any governmental entity or legislative committee, to testify as to matters involving the Corporation.

Section 11. Gifts. The Board of Directors may accept, on behalf of the Corporation, any contribution, gift, bequest or devise for the general purposes or for any special purposes of the Corporation.

Section 12. Dues. There may be membership dues as established by the Board of Directors from time to time. The amount of any dues shall be determined by the Board of Directors; provided, however that the Board shall not impose additional dues on the Class A membership. Class B members may petition the Board of Directors for waiver of or exemption from dues based on in kind contributions to the Corporation and other considerations.

Section 13. Parliamentary Procedure. All meetings of the Board of Directors and membership shall be governed by Roberts' Rules of Order (Current Edition), unless contrary procedure is established by the Articles of Incorporation or these Bylaws or by resolution of the Board of Directors.

Section 14. Seal. The seal of the Corporation shall consist of two concentric circles, between which shall appear the words "IDAHO FALLS DOWNTOWN DEVELOPMENT CORPORATION." and "Idaho" and in the center shall appear the words "Corporate Seal". An impression of said seal appears on the margin hereof.

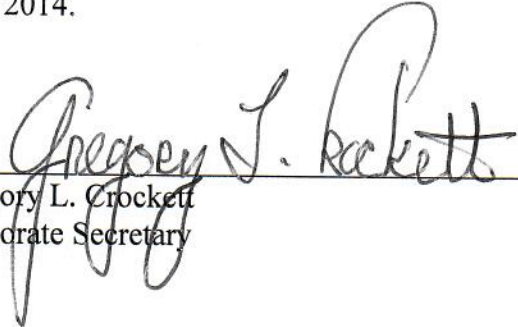
ARTICLE IX. AMENDMENTS

These Bylaws may be altered, amended or repealed and a new set of Bylaws adopted by a two-thirds (2/3) majority vote of the entire Board of Directors. At least ten (10) days prior written notice setting forth a proposed action and time and place of meeting shall be given to all Directors.

SECRETARY'S CERTIFICATION

This is to certify that the foregoing Third Amended Bylaws of Idaho Falls Downtown Development Corporation, have been duly adopted by the Board of Directors at a meeting held on November 4, 2014.

DATED this 4<sup>th</sup> day of November, 2014.

  
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Gregory L. Crockett  
Corporate Secretary

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