

# DOWNTOWN CHICO PROPERTY BASED IMPROVEMENT DISTRICT (PBID)

## CONFLICT OF INTEREST POLICY

### Article 1 - INTRODUCTION:

The Downtown Chico PBID (PBID) is committed to observing the highest standards of ethical conduct in its operations and expects its directors, officers, and employees to do the same. The Board of Directors (the "Board," "Directors," or singularly, "Director") of the PBID has adopted this Nonprofit Conflict of Interest Policy (the "Policy") to ensure that the PBID remains committed to its charitable purpose.

### Article 2 - PURPOSE:

The purpose of this Policy is to protect the PBID's interest when it is considering a transaction that might privately benefit a director, officer, or other senior decision-maker, as well as to avoid any excess benefit transactions.

### Article 3 - DUTY OF LOYALTY:

Directors, officers, governing committee members, and certain senior management, including those acting as principals for the PBID (referred to as "Interested Parties" or singularly, "Interested Party"), owe the PBID a duty of loyalty. Such duty of loyalty requires Interested Parties to avoid using their position with the PBID for personal advantage or gain. Interested Parties must also avoid any action, including voting, if applicable, where the Interested Party's personal interest, including financial interest, could conflict with the interests of the PBID.

### Article 4 - DEFINITIONS:

#### a. Conflict of Interest:

A conflict of interest occurs when an Interested Party has an interest in any matter involving the PBID that directly or indirectly conflicts with the interests of the PBID. Specifically, conflicts of interest can occur when Interested Parties have competing financial interests or personal relationships in opposition to the PBID (referred to as "Direct Conflicts of Interest"), or are related to someone with a competing financial interest or opposing personal relationship (referred to as "Indirect Conflicts of Interest"). The Interested Party may be related by blood, marriage, or business affiliation. Conflicts of interest may also arise where an Interested Party has decision-making authority in an entity that may be involved in a business relationship or financial transaction with the PBID.

The following examples of potential conflicts of interest are to be considered illustrative, but non-exhaustive:

- e. When an Interested Party stands to personally benefit financially through a transaction the PBID may be involved with;
- f. When an Interested Party has an ownership interest, including through investment, in another entity with which the PBID intends to transact or do business;

- g. When an Interested Party enters or maintains an agreement to be compensated by the PBID (for the purposes of this clause, Directors who are also employees of the PBID may have a conflict in certain situations, such as voting on compensation);
- h. When an Interested Party joins or creates a competing PBID;
- i. When an Interested Party or an entity in which an Interested Party has an ownership interest competes with the PBID in a purchase, sale, contract bid, or other interest or service;
- j. When an Interested Party utilizes confidential information belonging to the PBID for any reason that is not related to the Interested Party's work for the PBID, such as personal profit or for the benefit of another entity;
- k. When an Interested Party uses the PBID's resources for any competing interest; or
- l. When an Interested Party participates in decision-making or negotiations for the PBID in a matter in which the Interested Party, a person related to the Interested Party, or an entity in which the Interested Party has an ownership interest is also involved.

b. Potential Conflict of Interest:

A potential conflict of interest occurs when an Interested Party recognizes that a conflict of interest may take place if ameliorating action is not taken. Potential conflicts of interest do not always lead to actual conflicts of interest. Interested Parties that have a potential conflict of interest will need to follow the procedures outlined in the Conflict Disclosure section below. The PBID seeks to avoid the appearance of impropriety, as even potential conflicts of interest can be damaging to the PBID's reputation. Therefore, all potential conflicts of interest must be treated with due care and disclosed according to the procedures outlined here.

## **Article 5 - CONFLICT DISCLOSURE:**

a. Disclosure.

Any individual who suspects a conflict of interest or potential conflict of interest might arise with respect to any activity is obligated to disclose such conflict or potential conflict to the Board as soon as practicable so that the situation may be evaluated. Interested Parties are not to unilaterally assess conflicts. Interested Parties must disclose at least all of the following details to the Board, but in any case, enough information for the Board to obtain a clear picture of the potential conflict:

- a. All material facts;
  - b. Any potential or existing financial interest;
  - c. Any potential or existing competing interests; even if not financial;
  - d. Any self-dealing or potential self-dealing.
- b. Disclosure of conflicts of others. If any individual becomes aware of a potential conflict of interest involving another party, that individual must report such potential conflict to the Board immediately.
- c. Party for disclosure. Disclosure can be made to the Chairperson of the Board or the entirety of the Board.

- d. Recusal. Interested Parties must also notify the Board when they intend not to attend a meeting of the Board or a committee based upon their belief that the Board or Committee will vote or act regarding a matter in which the Interested Party may have a conflict.

#### **Article 6 - CONFLICT PROCEDURES:**

- a. Interested Parties shall disclosure potential conflicts of interest to the Board as soon as is practicable after becoming aware of the potential conflict, as described above. Interested Parties are also required to complete an annual disclosure form to describe any ongoing interest that may create a conflict.
- b. Evaluation. After the Board receives any potential conflict or conflict disclosure from an Interested Party, the Board may request follow-up discussions or additional information. At this point, the Board will decide whether an actual conflict exists and whether it involves financial interest, material competition, self-dealing, or any other type of conflict. The Interested Party shall be screened from any discussions or voting regarding the conflict. The Board may fully determine the issue on a vote or may refer it to a specialized committee for additional investigation. Evaluation of conflicts is made on a case-by-case basis.
- c. Factors for consideration. The Board may consider any factor it wishes in determining whether a conflict exists. Some of the factors for consideration may include:
  - Whether the Interested Party's financial interest is minimal, in relation to the transaction
  - How involved the Interested Party is with the other entity involved in any transaction with the PBID
  - The degree to which the Interested Party could personally benefit from the transaction or relationship at issue
- d. Determination of self-dealing. If the Board or committee determines that an actual conflict exists, the Board or committee must also determine whether a self-dealing transaction is at issue. If so, the entirety of the Board must vote on whether to approve the transaction, and the transaction must be approved by a greater vote than other Board actions. In other words, if the Board generally approves actions via a simple majority, a greater vote than this is needed to approve a self-dealing transaction. Approval of compensation for a director acting as director or officer shall not be considered a self-dealing transaction.
- e. Determination of transactional conflict. If the Board or committee determines that an actual conflict exists involving a financial transaction or arrangement, but it is not self-dealing, the Board will consider alternative scenarios that would not present a conflict. If the Board determines an appropriate alternative exists, the Board shall pursue that avenue. If an appropriate alternative does not exist, the Board shall determine whether the original proposed course of action is in the PBID's best interest and take a vote on such issue, in which a majority is required.
- f. Determination of other conflict. In any other scenario in which the Board or committee determines a conflict exists, the Board or committee shall recommend a reasonable and appropriate course of action to protect the PBID. The governing body shall discuss the issue and determine how best to proceed forward.

### **Article 7 - POLICY VIOLATIONS:**

If an Interested Party fails to disclose any potential or actual conflict, the Board shall first request an explanation from the Interested Party. The Board may then determine appropriate action, including disciplinary action if required.

### **Article 8 - RECORDS:**

The Board or relevant committee shall retain all records of discussions and votes regarding any presented conflict or potential conflict. The records must specifically include:

- a. The name of the Interested Party or Parties;
- b. How the conflict was brought to the attention of the Board (whether disclosed or found out);
- c. The nature of the possible conflict, including financial interest involved;
- e. The Board or committee's actions regarding fact-finding and investigation on the conflict or potential conflict;
- f. The Board or committee's discussions, decision, and vote;
- g. The names of all parties present for any discussion or votes.

### **Article 9 - ABSTENTION FROM VOTES ON COMPENSATION:**

Service on PBID's Board of Directors is without remuneration, except for administrative support, travel, and accommodation costs in relation to Board Members' duties.

### **Article 10 - ANNUAL STATEMENTS:**

All individuals required to abide by this Policy must sign a statement each year attesting that they have received a copy of the Policy, they read and understand the Policy, they agree to comply with the Policy, and they understand the PBID's maintenance of its charitable activities and federal tax exemption depends on its undertaking primarily of activities that support its charitable purpose.

Any individual that believes they have ongoing relationships or interests that may present a conflict must also make an annual disclosure, as described above, and is responsible for updating such disclosure upon the occurrence of any material change.

### **Article 11 - REVIEWS:**

The PBID will periodically review certain subjects to maintain alignment with its charitable purposes. The review shall include at least:

- a. Compensation and benefit arrangements, to ensure they are reasonable and formalized through arm's length bargaining;
- b. Transactional arrangements, including partnerships or joint ventures, to ensure they are in line with the PBID's policies and do not confer a private benefit on any party or result in an excess benefit transaction; and
- c. Compensation reviews of the President and Chief Financial Officer of the PBID.

The PBID may use outside advisors to conduct the above reviews, but responsibility for the reviews ultimately is with the Board.

This Policy is intended to supplement but not replace any state and federal laws governing conflicts of interest applicable to nonprofit and charitable PBIDs.

**Certification:** Tom DiGiovanni, as President of Downtown Chico PBID and Chris Daniels, as Secretary, do certify this is a true and correct copy of the PBID's Conflict of Interest Policy and that this Policy was adopted by the Board on January 26th, 2023.

President Signature: \_\_\_\_\_

Secretary Signature: \_\_\_\_\_

# ANNUAL CONFLICT OF INTEREST FORM

The undersigned, as \_\_\_\_\_ (director, officer position, manager, principal, committee member, or key employee) of Downtown Chico PBID acknowledges:

1. He or she has received a copy of the PBID's Conflict of Interest Policy;
2. He or she has read and understands the Policy;
3. He or she has agreed to comply with the Policy;
4. He or she understands the PBID's maintenance of its charitable activities and federal tax exemption depends on its undertaking primarily of activities that support its charitable purpose; and
5. The following on-going relationships and interests may present a conflict of interest (please describe - if not applicable write "N/A" or leave blank):

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Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_