

Bylaws
Mercado District Maintenance Association

Order: CQFGT386S
Address: 870 W Calle de los Higos
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**BYLAWS
FOR
MERCADO DISTRICT MAINTENANCE ASSOCIATION**

Pursuant to the provisions of Arizona Revised Statutes, A.R.S. § 10-3101, et seq. and A.R.S. § 33-1801, et seq., the above Arizona nonprofit corporation hereby adopts the following Bylaws:

**ARTICLE I
NAME AND LOCATION**

The name of the corporation is Mercado District Maintenance Association, hereinafter referred to as the "Association". The principal office of the Association shall be located at 264 E. Congress Tucson, Arizona 85701. Meetings of Members and directors may be held at such places within the State of Arizona, County of Pima, as may be designated by the Board of Directors.

**ARTICLE II
DEFINITIONS**

Any capitalized terms not defined herein shall have the meanings assigned to them by the Declaration.

Section 2.1 "Association" shall mean and refer to Mercado District Maintenance Association, an Arizona nonprofit corporation, its successors and assigns.

Section 2.2 "Covered Property" shall mean and refer to that certain real property described in the Declaration, and other property annexed under the purview thereof from within the Annexable Property as defined in the Declaration.

Section 2.3 "Declaration" shall mean and refer to the Declaration of Establishment of Maintenance Association and Covenants, Conditions, Restrictions, and Easements for Mercado District of Menlo Park applicable to the Covered Property and recorded in the Office of the Pima County Recorder, State of Arizona, as it may be amended from time to time.

Section 2.4 "Member" shall mean and refer to those persons entitled to membership in the Association as provided in the Declaration.

ARTICLE III

MEETING OF MEMBERS

Section 3.1 Annual Meetings. An annual meeting of Members shall be held at least once every twelve (12) months at such time and place as is determined by the Board.

Section 3.2 Special Meetings. Special meetings of the Members may be called at any time by the President or by the Board of Directors, by Declarant, or upon written request of the Members who are entitled to vote one-tenth (1/10) of all of the votes entitled to be cast by the Membership.

Section 3.3 Notice of Meetings. Written notice of each meeting of the Members shall be given by, or at the direction of, the secretary or person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, at least fifteen (15) days, and no more than thirty (30) days, before such meeting to each Member entitled to vote thereat, addressed to the Member's address last appearing on the books of the Association, or supplied by such Member to the Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting and, in the case of a special meeting, the purpose of the meeting, including such purposes as are required to be set forth and disclosed pursuant to A.R.S. § 33-1804. Notice may also be given by any method permitted by law.

Section 3.4 Quorum. During the period of the Class B Membership a quorum shall require the presence of the Class B Member, in person or by proxy. After expiration of the Class B Membership, the presence of Class A Members entitled to cast ten percent (10%) of the votes of such Class A membership shall constitute a quorum, except as otherwise provided in the Articles of Incorporation, the Declaration, these Bylaws or as otherwise mandated by law. If, however, such quorum shall not be present or represented at any meeting, the Members entitled to vote thereat shall have the power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum as aforesaid shall be present or be represented; provided, however, that if the adjournment is for more than thirty (30) days, notice shall be given to each member entitled to vote at the meeting.

Section 3.5 Proxies. Voting by proxy shall be prohibited to the fullest extent such prohibition is permitted by law; provided, however, that during the Declarant Control Period, Declarant may in writing permit voting by proxy should Declarant, in its discretion, wish to permit such voting.

Should voting by proxy be permitted by Declarant, as stated, every proxy shall be in writing specifying the Lot or Parcel for which it is given, signed by the Member or his duly authorized attorney-in-fact, dated, and filed with the Association's Secretary prior to the meeting for which it is to be effective. Unless otherwise specifically provided in the proxy, a proxy shall be presumed to cover all votes which the Member giving such proxy is entitled to cast; and in the event of any conflict between

two or more proxies purporting to cover the same voting rights, the later dated proxy shall prevail, or if dated as of the same date, both shall be deemed invalid.

Every proxy shall be revocable and shall automatically cease upon: (a) conveyance of any Lot or Parcel for which it was given, (b) receipt by the Secretary of written notice of revocation of the proxy or of the death or judicially declared incompetence of a Member who is a natural person, from the date of the proxy, unless a shorter period is specified in the proxy or is mandated by law.

Section 3.6 Member Action Without a Meeting. Except as provided by law, any action required or permitted to be taken and that requires Member approval may be taken without a meeting, by written consent, as evidenced by one or more written consents describing the action taken, signed by Members representing a majority of the voting power of the Membership, as defined by law (or such greater percentage as may be required hereunder or in the Articles or Declaration for the action taken hereunder), and filed with the minutes or corporate records. Action taken by written consent is effective when the last Member (of the number required for the action) signs the consent, unless the consent specifies a different effective date. A signed consent has the effect of a meeting vote and may be described as such in any document.

Except as provided by law, any vote of the Members may also be taken without a meeting, provided such vote is in compliance with state law.

This Article shall be construed consistently with state law, as same may from time to time change.

ARTICLE IV

BOARD OF DIRECTORS; SELECTION; TERM OF OFFICE

Section 4.1 Number. The affairs of the Association shall be conducted by the Board and such officers as the Board may elect or appoint in accordance with the Articles and these Bylaws. During the Declarant Control Period, the Board shall consist of at least three (3) directors who shall be Members or individuals designated by a corporate, partnership or other non-individual Member, and all of the directors shall, at the discretion of the Declarant, be appointed by the Declarant. Commencing with the first annual meeting of the Members following the termination of the Declarant Control Period, and except as provided below, the Board shall consist of, and the Voting Members or, if Voting Groups have been established pursuant to the Declaration, the Members within each Voting Group, shall elect directors totaling not more than nine (9) directors, but never an even number, all of whom must be Members, or an individual designated by a corporate, partnership or other non-individual Member. After termination of the Declarant Control Period, but prior to the expiration of the Class B Membership, the Class B Member shall have the right to appoint at least one (1) director to the Board.

Section 4.2 Term of Office. The directors designated in the Articles shall hold office until they shall resign or until such earlier time as they may be replaced or

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removed by the Class B Member, and the Class B Member reserves the right to appoint successors in the event of resignation or inability to serve, or in the event of removal by the Class B Member. The terms following the expiration of the Declarant Control Period may be determined by the Board at its discretion. The Board may appoint various committees at its discretion. The Board may also appoint or engage a manager to be responsible for the day-to-day operation of the Association and the Common Areas. The Board shall determine the compensation to be paid to the manager.

Section 4.3 Qualification and Removal. Any director (but not directors appointed by Declarant) may be removed from the Board, with or without cause, by a vote of Members in conformance with law. In the event of death or resignation of a director, a successor shall be selected by the remaining members of the Board and shall serve for the unexpired term of a predecessor. Directors appointed by Declarant under any right of appointment may only be removed by Declarant.

Section 4.4 Compensation. No director shall receive compensation for any service he may render to the Association that is within his duties as a director. However, any director may be reimbursed for his actual expenses incurred in the performance of his duties.

ARTICLE V

NOMINATION AND ELECTION OF DIRECTORS

Section 5.1 Nomination. Nomination for election to the Board of Directors shall be made by a Nominating Committee. Nominations may also be made by Declarant from the floor at the annual meeting. The Nominating Committee shall consist of a Chairman, who shall be a member of the Board of Directors, and two (2) or more Members of the Association. The Nominating Committee shall be appointed by the Board of Directors prior to each annual meeting of the Members, to serve from the close of such annual meeting until the close of the next annual meeting and such appointment shall be announced at each annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. Such nominations may be made from among individual Members or individuals designated by corporate, partnership, and other non-individual Members.

Notwithstanding the foregoing, nomination need not be made by Declarant for persons it intends to appoint as Directors, and until expiration of the Class B Membership, the Class B Member shall appoint all members of the Nominating Committee, who may be agents, employees or representatives of Declarant.

Section 5.2 Election. Election to the Board of Directors, except for appointments or vote by acclamation, shall be by written ballot. In any such election, every Owner or Voting Member entitled to vote shall be entitled to cast the number of votes attributable to such Owner or Voting Member multiplied by the number of directors to be elected.

Section 5.3 Savings Clause. Nothing in this Article shall be interpreted to require a meeting of Members when state law may permit ballots or action by mail or other approved form or method of delivery, or Member action without a meeting.

ARTICLE VI

MEETINGS OF DIRECTORS

Section 6.1 Regular Meetings. Regular meetings of the Board of Directors shall be held at least once per calendar year, at such place and hour as may be fixed from time to time by resolution of the Board, and may be held telephonically or by other means of communication whereby all participants may hear each other. All meetings of the Board shall be open to all Members (and Members who are not directors shall be permitted to participate subject to reasonable restrictions of the Board); provided, however, that any meeting or portion thereof may be closed for the reasons authorized by law, including by virtue of A.R.S. § 33-1804(A) as may be amended or replaced by any successor statute.

Section 6.2 Special Meetings. Special meetings of the Board of Directors shall be held when called by the President of the Association, or by any two (2) directors, after not less than three (3) days written notice to each director. Except where the law may otherwise permit in the case of emergency or other circumstances, a special meeting must also comply with A.R.S. § 33-1804.

Section 6.3 Quorum. A majority of the number of directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

Section 6.4 Action Taken Without a Meeting. The directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all the directors. Any action so approved shall have the same effect as though taken at a meeting of the directors.

Section 6.5 Notice after Declarant Control. After termination of the Declarant Control Period, notice of meetings of the directors shall comply with such additional requirements as may exist at law, including pursuant to A.R.S. § 33-1804.

ARTICLE VII

POWERS AND DUTIES OF THE BOARD OF DIRECTORS

Section 7.1 Powers. In addition to all other powers, the Board of Directors shall have power to:

A. adopt and publish rules and regulations governing the use of the Common Area and facilities, and the personal conduct of the Members and their guests thereon, and to establish penalties for the infraction thereof;

B. suspend the voting rights and the right of a Member to use the recreational facilities during any period in which such Member shall be in default in the payment of any assessment levied by the Association, subject to provisions of law concerning notice and hearing. Such rights may also be suspended after notice and hearing (as provided in Section 10.1), for a period not to exceed sixty (60) days for infraction of published rules and regulations, unless such infraction is continuing in which case such suspension may continue until the infraction is cured;

C. exercise for the Association all powers, duties and authority vested in or delegated to the Association and not reserved to the Membership by other provisions of these Bylaws, the Articles of Incorporation, or the Declaration;

D. declare the office of a member of the Board of Directors to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board of Directors;

E. employ a manager, an independent contractor, or such other employees as they deem necessary, and to prescribe their duties; and

F. grant easements over, across or under the Common Areas for public utilities, ingress, egress and such other purposes as may be deemed advisable by the Board.

Section 7.2 Duties. It shall be the duty of the Board of Directors to:

A. as more fully provided in the Declaration:

1. fix the amount of the annual and other assessments against each Lot or Parcel;

2. send written notice of each assessment to every Owner subject thereto; and

3. foreclose the lien against any property for which assessments are not paid within thirty (30) days after the due date or to bring an action at law against the Owner personally obligated to pay the same, provided same is cost effective in the sole discretion of the Board of Directors;

B. issue, or to cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment;

C. procure and maintain liability and hazard insurance on property owned by the Association in the amounts required by the Declaration or otherwise determined by the Board of Directors in their sole discretion;

D. cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate;

E. cause the Common Area, and any other areas for which the Association is responsible, to be maintained; and

F. send the information required by ARTICLE XIV below to a prospective purchaser of a Lot or Parcel upon receipt of the required notice of pending sale.

ARTICLE VIII **OFFICERS AND THEIR DUTIES**

Section 8.1 Enumeration of Officers. The officers of this Association shall be a president and vice-president, who shall at all times be members of the Board of Directors, a secretary, and a treasurer, and such other officers as the Board may from time to time by resolution create.

Section 8.2 Election of Officers. All officers of the Association shall be appointed and removed by the Board.

Section 8.3 Term. Unless otherwise determined by the Class B Member, the officers of this Association shall be elected annually by the Board and each shall hold office for one (1) year unless he shall sooner resign, or shall be removed, or otherwise disqualified to serve.

Section 8.4 Special Appointments. The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

Section 8.5 Resignation and Removal. Any officer may be removed from office with or without cause by the Board, subject to the approval of Declarant during the Class B Membership. Any officer may resign at any time by giving written notice to the Board, the president or the secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 8.6 Vacancies. A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer replaced.

Section 8.7 Multiple Offices. The offices of secretary and treasurer may be held by the same person. No person shall simultaneously hold more than one (1) of any of the other offices except in the case of special offices created pursuant to Section 8.4 of this Article.

ARTICLE X HEARINGS

Section 10.1 General Sanction Hearing. In the event the Board shall exercise its right: 1) to suspend voting rights, 2) to suspend the rights of an Owner or his or her family to use the Common Area, 3) to impose any monetary penalty, or 4) to disqualify an Owner from eligibility to be elected or appointed to the Board or to any committee of the Association, the Board shall first give the sanctioned party written notice of the basis for such sanctions, and the sanctioned party shall be granted an opportunity to be heard by the Board after such notice as is required by law has been given. The form of such notice and the specific procedures for the hearing may be determined by the rules and regulations adopted by Board resolutions.

Section 10.2 Mercado District Design Review Committee — Non-Conforming Improvement Hearings. In the event the Mercado District Design Review Committee desires, pursuant to the Declaration, to make or direct a third party to make architectural improvements, alterations, or repairs upon an Owner's Lot or Parcel, the Committee shall first give written notice to said Owner specifying the nature of the nonconformity of the architectural improvements, as defined in the Declaration, and providing the Owner with a hearing date before the Committee which shall be more than five (5) but less than fifty (50) days of the date of mailing or delivery of the written notice to said Owner. The form of said written notice and the procedural guidelines for the hearing shall be determined by the rules and regulations adopted by Board resolution.

ARTICLE XI BOOKS AND RECORDS

The books, records and papers of the Association, including financial and other records, shall at all times, during reasonable business hours, be subject to inspection by any Member, subject to the provisions of law which may permit certain records to be withheld from disclosure. The Declaration, the Articles of Incorporation and the Bylaws of the Association shall be available for inspection by any Member at the principal office of the Association, where copies may be purchased at reasonable cost.

ARTICLE XII ASSESSMENTS

As more fully provided in the Declaration, each Member is obligated to pay to the Association annual, special and other assessments which are secured by a continuing lien upon the property against which the assessment is made. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, (1) a late charge of the greater of fifteen dollars (\$15.00) or ten percent (10%) of the delinquent amount shall be added thereto, and (2) the assessment shall, unless otherwise provided in the Declaration, bear interest from the date of delinquency at a rate equal to the greater of twelve percent (12%) per annum or the then prevailing interest rate on loans insured by FHA or VA (but not to exceed the

maximum rate permitted by Arizona law), and the Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property, and interest, costs and reasonable attorney's fees of any such action shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of the Owner's Lot or Parcel.

Lots and Parcels owned by Declarant are exempt from assessment as provided in the Declaration, and Lots and Parcels owned by Developer Owners are entitled to certain reduced assessments as provided in the Declaration.

ARTICLE XIII **DISPUTE RESOLUTION**

As more specifically set forth in the dispute resolution sections of the Declaration, the Association is limited in the manner in which it may bring civil actions. The dispute resolution procedures prescribed in the Declaration are in addition to and shall not be construed to conflict with any requirements under the laws of the State of Arizona.

ARTICLE XIV **SALE OF LOT OR PARCEL BY OWNER/MEMBER**

Each Member selling a Lot or Parcel is required immediately upon execution of a contract therefor to notify the Association, in writing, of the name and address of the purchaser thereof, as well as the scheduled closing date for the sale. The Association shall, upon receipt of such information, and in addition to any other requirement at law, comply with the provisions of A.R.S. § 33-1806 dealing with the provision of materials and notices to each new owner or purchaser. The provisions of this Article shall not apply to a sale pursuant to a public report or which is otherwise exempt pursuant to A.R.S. § 33-1806(D).

ARTICLE XV **CORPORATE SEAL**

The Association shall have a seal in a form approved by the Board.

ARTICLE XVI **AMENDMENTS**

Section 16.1 By Class B Member. Prior to termination of the Declarant Control Period, the Class B Member may unilaterally amend these Bylaws for any purpose whatsoever, without any other consent or approval. Even after expiration of the Declarant Control Period, the Class B Member may unilaterally amend these Articles if such amendment is necessary in order to achieve compliance with the regulations of

FHA, VA or the Federal National Mortgage Association, or to correct any error or ambiguity or to conform to the Declaration.

Section 16.2 By the Board. These Bylaws may be amended by the Board of Directors of the Association. No amendment may conflict with any right reserved unto the Declarant, the Class B Member, or the Developer Owners, and any amendment so long as Declarant holds a Class A or Class B Membership shall require the written consent of Declarant or shall be void.

Section 16.3 By Members Generally. Except as provided above, these Bylaws may be amended only by the affirmative vote or written consent, or any combination thereof, of Members representing 51% of the total Class A votes in the Association, and the consent of the Declarant so long as it holds a Class A or Class B Membership. In addition, the approval requirements set forth in the Declaration shall be met, if applicable. Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

ARTICLE XVII

CONFLICTS

In the case of any conflict between the Articles of Incorporation and these Bylaws, the Articles shall control; and in the case of any conflict between the Declaration and these Bylaws or the Articles, the Declaration shall control.

ARTICLE XVIII

FISCAL YEAR

The fiscal year of the Association shall begin on the first day of January and end on the 31st day of December of every year, except that the first fiscal year shall begin on the date of incorporation.

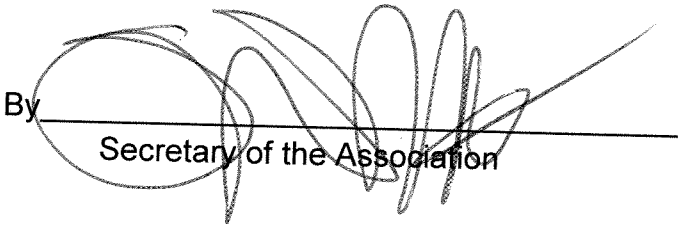
ARTICLE XIX

NOTICE

All notices, demands, statements or other communications required to be given or served under these Bylaws shall be in writing and shall be deemed to have been duly given and served if delivered personally or sent by U.S. Mail, postage prepaid or, in the case of a notice pursuant to Section 7.1(B) of these Bylaws, registered or certified U.S. Mail, return receipt requested, postage prepaid: (i) if to an Owner, at the address that the Owner shall designate in writing and file with the Secretary or, if no such address is designated, at the Owner's property address within the Property or (ii) if to the Association, the Board or any manager employed by the Association with respect to management of the Common Areas, at the principal office of the manager or such other address as shall be designated by notice in writing to the Owners, with copies mailed or

delivered personally to Declarant and to the Association at its then principal office. A notice given by mail, whether regular, certified, or registered, shall be deemed to have been received by the person to whom the notice is addressed on the earlier of the date the notice is actually received or three (3) days after the notice is mailed. If a Lot or Parcel is owned by more than one (1) person, notice to one (1) of the Owners of the Lot or Parcel shall constitute notice to all the Owners of the Lot or Parcel. Nothing in this Section shall preclude the Association from giving notice by any alternative method lawfully authorized.

IN WITNESS WHEREOF, I have executed these Bylaws this 20th day of MARCH, 2006.

By  Secretary of the Association

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