

City of Alexandria, Virginia

MEMORANDUM

DATE: OCTOBER 21, 2010
TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL
FROM: JAMES K. HARTMANN, CITY MANAGER
SUBJECT: CONSIDERATION OF ARTICLES OF INCORPORATION AND BY-LAWS FOR THE TORPEDO FACTORY ART CENTER BOARD (TFACB)

ISSUE: Consideration of articles of incorporation and by-laws to legally establish the Torpedo Factory Art Center Board.

RECOMMENDATION: That City Council:

- (1) amend the June 22, resolution of City Council establishing the Torpedo Factory Art Center Board (TFACB) to reflect changes to the Board's proposed composition and purpose (Attachment 1);
- (2) adopt the articles of incorporation (Attachment 2) and by-laws (Attachment 3) required to establish the Torpedo Factory Art Center Board (TFACB);
- (3) request the City Clerk to solicit nominations for Council appointments to the TFACB; and
- (4) direct that the City Attorney, upon Council action to appoint representatives to the TFACB members, file with the State Corporation Commission all documents necessary to establish the Board as a legal, non-profit entity.

DISCUSSION: On June 22, 2010, City Council approved a resolution to establish the Torpedo Factory Art Center Board. The resolution defined the composition and responsibilities of the TFACB and directed the City Attorney to draft, for Council review, articles of incorporation and by-laws necessary for establishment of the Board as a legal entity.

At its September 25, 2010 public hearing meeting, Council was requested to reconsider the composition of the TFACB as it had been expressed in the June 22, resolution. Council was also asked to consider holding a public hearing on the matter of Torpedo Factory Art Center governance.

At its October 12 legislative meeting, City Council received from staff the proposed articles of incorporation and bylaws required for the establishment of the Torpedo Factory Art Center Board (TFACB). In response to the September 25, request of citizens that Council reconsider the Board's composition and hold a public hearing, City Council received the articles and bylaws as information and scheduled a public hearing which was held on Saturday, October 16.

On October 16, City Council conducted a hearing to receive public comment on the governance structure of the Torpedo Factory Art Center. At the conclusion of the hearing, Council indicated its desire to modify the governance structure articulated in the June 22, resolution so as to create a greater balance of representation on the TFACB and to incorporate a mission statement for the Board.

The attached articles of incorporation and bylaws revise the bylaws and articles of incorporation forwarded to Council on October 12, and change the composition of the TFACB as described above. Changes to the Board's composition are noted below:

- A reduction of Community-At Large representation from five members to four members;
- An increase of Torpedo Factory Artists Association representation from three members to five members;
- Designation of Commission for the Arts representation as a Council appointed member and deletion of the Commission's "ex-officio" status.

As a result of these changes, the complete composition of the 13-member TFACB is now proposed as:

- Five Representatives of the Torpedo Factory Artists Association
- One Representative of the Art League
- One Representative of the Alexandria Commission for the Arts
- Four Representatives of the Community At-Large
- One Representative of the Alexandria Convention and Visitors Association ex-officio
- One Representative of the City Manager ex-officio

All members of the TFACB, including those appointed ex-officio to the Board are equally empowered and have the right to vote on all matters of Board concern.

To clarify the mission of the Torpedo Factory Art Center relative to the duties and powers of the Board, the articles of incorporation and bylaws presented to Council on October 12, have been revised to incorporate the following language:

“The Torpedo Factory Art Center’s mission is to enhance public art appreciation and education by providing the opportunity to visit working art studios and artist cooperatives, and to take classes.”

In addition to revisions to the articles of incorporation and bylaws, an amendment to the City Council’s June 22, resolution establishing the Torpedo Factory Art Center Board is attached for Council’s consideration (Attachment 1). The amended resolution incorporates the changes in composition of the TFACB and the statement of mission noted above. Staff recommends that Council amend the June 22, resolution for consistency of the documents related to TFACB establishment.

FISCAL IMPACT:

There is no known fiscal impact which results from establishment of the Torpedo Factory Art Center Board.

ATTACHMENTS:

Attachment 1- Amendment to the June 22 Council Resolution Establishing the Torpedo Factory Art Center Board (TFACB)

Attachment 2- Torpedo Factory Art Center Board Articles of Incorporation

Attachment 3- Torpedo Factory Art Center Board By-Laws

STAFF:

Tom Gates, Assistant City Manager

James Banks, City Attorney

Joanna Frizzell, Assistant City Attorney

A RESOLUTION TO AMEND RESOLUTION #2408; ESTABLISHMENT OF THE TORPEDO FACTORY ART CENTER BOARD (TFACB)

WHEREAS, the City Council adopted Resolution No. 2408 on June 22, 2010 establishing the Torpedo Factory Art Center Board and directed the City Attorney to draft the articles of incorporation and by-laws necessary for establishment of the Board as a legal entity for the Council's review; and

WHEREAS, after review of the draft documents and a public hearing on the matter, Council has determined that certain modifications should be made to the proposed governance structure and a mission statement for the Torpedo Factory Art Center Board should be defined and therefore, are adopting this Resolution to amend and replace Resolution No. 2408; and

WHEREAS, the Torpedo Factory Art Center's mission is to enhance public art appreciation and education by providing the opportunity to visit working art studios and artist cooperatives and to take classes; and

WHEREAS, the Alexandria City Council desires the Torpedo Factory Art Center to continue its integral role in the economic, cultural and educational framework of the City; and

WHEREAS, the Torpedo Factory Art Center is an internationally recognized art center important to the cultural, educational and economic vitality of the City of Alexandria; and

WHEREAS, for more than 35 years, the Torpedo Factory Art Center has been an important part of the arts community and attracted thousands of visitors to the City; and

WHEREAS, the Torpedo Factory Art Center has brought notice and acclaim to the City, first as an inventive re-use of a building and later as a proud reflection of a community's commitment to its quality of life; and

WHEREAS, the considerable reputation of the Torpedo Factory results from the commitment, dedication and hard work of the many artists who have contributed their time, talent and artistic energy to the development of the facility as a premier art center; and

WHEREAS, the Torpedo Factory Art Center seeks to provide residents and visitors with opportunity to engage renown artists, learn of the process for creating fine art, and experience the intersection of art and community; and

WHEREAS, the Torpedo Factory Art Center is strategically located on the Alexandria waterfront where it serves as both a gateway for visitors and a threshold for residents; and

WHEREAS, the Torpedo Factory Art Center performs a critical role in supporting the City of Alexandria's economic well being, drawing visitors and residents to our streets and our retail and commercial establishments; and

WHEREAS, managing the operations of the Torpedo Factory Art Center and insuring its ongoing success requires a broad range of expertise and community based citizen support;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF ALEXANDRIA THE FOLLOWING:

1. A Torpedo Factory Art Center Board (TFACB), consisting of thirteen members, shall be created and charged with responsibility for the management and operational oversight of the Torpedo Factory Art Center and subject to the proceeding provisions:
 - a. The Board shall be legally incorporated as a non-profit entity and in such a manner as necessary to permit the raising and generation of funds for support of Torpedo Factory Art Center and affiliated operations. The City Attorney shall draft Articles of Incorporation to establish the TFACB as described;
 - b. The Board shall consist of eleven members appointed by City Council serving three year staggered terms and two ex-officio members serving indefinite terms and be composed in the following manner:
 - i. Four members appointed at large and representing a diversity of expertise which may specifically include marketing, retail/commercial facility management, public relations, arts management, or other knowledge, skill or ability as City Council may from time to time deem appropriate;
 - ii. Five members representing the Torpedo Factory Artists Association (TFAA), such members to be endorsed by the TFAA governing body prior to consideration of appointment by City Council;
 - iii. One member representing the Art League;

- iv. One member representing the Alexandria Commission for the Arts;
 - v. One ex-officio member representing the Alexandria Convention and Visitors Association;
 - vi. One ex-officio member representing the City Manager's Office.
 - c. The Alexandria Archaeology Commission (AAC) may designate a Commission member to serve as an "Invited Participant" to the proceedings of the TFACB; however, the AAC designee shall be non-voting.
 - d. Ex-officio members of the TFACB shall be full participating members and shall have the power to vote on all matters of Board consideration.
2. The TFACB shall have responsibility for the effective and efficient operation of the Torpedo Factory Art Center and their authority shall include:
- a. Determining the facility's hours of operation including having the ability to alter hours of opening and closing when determined to be in the best interest of the facility operation except that the TFACB shall not have authority to determine the hours of operation for any given artist studio, gallery or other leaseholder of the Torpedo Factory Art Center, such determinations to be made by the TFAA or negotiated between the TFACB and the TFAA as part of a leaseholder agreement.
 - b. Recruiting, selecting, supervising and managing a Chief Executive Officer who shall execute Board policies and directives related to the administration and management of the TFAC. The process for recruitment and selection of the CEO should include the advice of the TFAA however the TFACB shall have sole authority for any selection.
 - c. Delegating operational authority to the CEO as is determined to be in the best interest of facility operations;
 - d. Marketing and promotion of the TFAC as a premier art center destination and coordinating the marketing and promotion of the TFAC with other marketing efforts of the City and specifically those of the Alexandria Convention and Visitors Association (ACVA), such responsibility not to extend to the promotion and marketing of any individual artists work or the TFAA as a membership organization;

- e. Determining the most effective utilization of TFAC space, negotiating and executing agreements for use of TFAC common space including all space employed for special events, private engagements, public purposes or other uses not related to artist studios, negotiating a lease agreement with the TFAA for use of artist studios and gallery space, and determining the annual lease rate and any ancillary expenses (ie., utilities) as warranted. Lease agreements negotiated by and between the TFACB and the TFAA shall be subject to approval by the City of Alexandria. Space determinations affecting the Alexandria Archaeology Museum shall be subject to approval by the City of Alexandria.
 - f. Producing on an annual basis and upon the recommendation of the CEO, a budget for operation of the TFAC. The budget shall include a detailed report of revenue and spending necessary for the proper operation of the TFAC.
 - g. Providing for the regular maintenance and security of the TFAC, ensuring the availability of all utilities and services necessary for utilization of the facility and generally insuring the facility is a safe, clean, attractive, and enticing environment for tenants, visitors, and renters.
 - h. Establishing those rules necessary for the effective and efficient operation of the TFAC provided those rules are not in conflict with any requirement, rule or directive of the City of Alexandria or inconsistent with any conditions expressed in an executed lease agreement. The rule making authority of the TFACB may include defining standards for the contribution of facility-housed artists to the TFAC mission as a premier art center, visitor destination, educational institution and economic generator of the City.
 - i. Establishing measures of performance which shall include identifying, collecting and regularly reporting on metrics describing the economic, cultural and educational quality of the TFAC and regularly reporting on the goals and accomplishments of the TFAC.
3. The Torpedo Factory Artists Association, in order to fulfill their responsibilities to the cultural and educational mission of the Torpedo Factory Art Center, shall, irrespective of the TFACB responsibilities, have the authority to:

- a. Govern and administer the TFAA according to the by-laws of the member organization, elect individuals to head the organization, convene committees and groups of members as it determines appropriate and in the best interest of the organization and to generally work to promote the artistic endeavors of its membership.
- b. Define standards of artistic quality and employ the means deemed appropriate, including jurying or other discriminating processes of selection, for determining the suitability of artwork to be displayed and marketed in association with the Torpedo Factory Art Center.
- c. Make, alter and amend those rules deemed necessary for the efficient and effective operation of the TFAA organization and in the best interest of the TFAA membership.
- d. Determine the basis upon which an artist may be admitted to the membership organization and become eligible for Torpedo Factory Art Center studio space, except that determinations of eligibility for admission shall not be a guarantee of space. The utilization of Torpedo Factory Art Center space and the assignment of that space shall remain the purview of the TFACB who shall consult with the TFAA and consider artist and media space need requirements when making space allocations.
- e. Advise the TFACB on matters of importance to the proper functioning of the Torpedo Factory Art Center including: 1) recommending participants and/or the staffing of TFACB created committees, 2) providing recommendations on employment of Torpedo Factory Art Center staffing, 3) assisting in the definition of standards for artist contribution to the Torpedo Factory Art Center mission, and 4) serving as advisor on any other issue or matter of importance as requested by the TFACB.
- f. Organize, produce, and determine the standard of quality for any exhibits, displays, openings, presentations or other similar demonstrations of artistic work within the Torpedo Factory Art Center facility including its galleries, except that demonstrations of artistic work or performance requiring use of the Torpedo Factory Art Center common space is subject to scheduling by the TFACB.
- g. Define and ensure the educational mission of the Torpedo Factory Art Center including the performing of educational outreach efforts;
- h. Market and promote individual artists and artistic works and work cooperatively with the TFACB to market and promote the Torpedo Factory Art Center.

Adopted:

William D. Euille, Mayor

ATTEST:

Jackie M. Henderson, CMC City Clerk

TORPEDO FACTORY ART CENTER BOARD, INCORPORATED

ARTICLES OF INCORPORATION

We hereby associate to form a nonprofit, nonstock corporation pursuant to the provisions of Chapter 10 of Title 13.1 of the Code of Virginia, 1950, as amended. To that end, we set forth the following:

ARTICLE I – NAME AND PLACE OF BUSINESS

The name of the corporation shall be “Torpedo Factory Art Center Board, Incorporated.” Its principal place of business shall be 105 North Union Street in the City of Alexandria, Virginia, 22314.

ARTICLE II – PURPOSES AND POWERS

A. PURPOSES

This corporation is organized exclusively for educational and charitable purposes, within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1954.

The Torpedo Factory Art Center’s mission is to enhance public art appreciation and education by providing the opportunity to visit working art studios and artist cooperatives, and to take classes. Alexandria’s City Council charges the TFACB with the following goals which shall be its corporate purposes:

1. To carry out the Alexandria City Council’s desire for the Torpedo Factory Art Center (TFAC) to continue its integral role in the economic, cultural and educational framework of the City; and
2. To support the TFAC as an internationally recognized art center important to the cultural, educational and economic vitality of the City of Alexandria; and
3. To support the TFAC as an important part of the arts community that attracts thousands of visitors to the City; and
4. To continue the notice and acclaim the TFAC has brought to the City, first as an inventive re-use of a building and later as a proud reflection of a community’s commitment to its quality of life; and

5. To support the commitment, dedication and hard work of the many artists who have contributed their time, talent and artistic energy to the development of the facility as a premier art center; and
6. To support the TFAC's goal to provide residents and visitors with opportunity to engage renown artists, learn of the process for creating fine art, and experience the intersection of art and community; and
7. To support the TFAC as both a gateway for visitors and a threshold for residents; and
8. To continue the TFAC's critical role in supporting the City of Alexandria's economic well being, drawing visitors and residents to our streets and our retail and commercial establishments; and
9. To manage the operations of the TFAC to insure its ongoing success; and
10. To provide the TFAC with a broad range of expertise and community based citizen support.

B. POWERS

This corporation shall have all the powers, not contrary to the laws of the Commonwealth of Virginia, incident to or useful or necessary to carry out the purpose for which it was formed. It is expressly provided that this corporation shall have the following powers:

- a. Raising revenue to support the betterment of the TFAC including facility operations.
- b. Determining the facility's hours of operation including having the ability to alter hours of opening and closing when determined to be in the best interest of the facility operation except that the Torpedo Factory Art Center Board ("TFACB") shall not have authority to determine the hours of operation for any given artist studio, gallery or other leaseholder of the TFAC, such determinations to be made by the Torpedo Factory Artist Association (TFAA) or negotiated between the TFACB and the TFAA as part of a leaseholder agreement.
- c. Recruiting, selecting, supervising and managing a Chief Executive Officer who shall execute TFACB policies and directives related to the administration and management of the TFAC. The TFACB shall delegate operational authority to the CEO as is determined to be in the best interest of facility operations. The process for recruitment and selection of the

CEO should include the advice of the TFAA however the TFACB shall have sole authority for any selection.

- d. Marketing and promotion of the TFAC as a premier art center destination and coordinating the marketing and promotion of the TFAC with other marketing efforts of the City and specifically those of the Alexandria Convention and Visitors Association (ACVA), such responsibility not to extend to the promotion and marketing of any individual artists work or the TFAA as a membership organization.
- e. Determining the most effective utilization of TFAC space, negotiating and executing agreements for use of TFAC common space including all space employed for special events, private engagements, public purposes or other uses not related to artist studios, negotiating a lease agreement with the TFAA for use of artist studios and gallery space, and determining the annual lease rate and any ancillary expenses (ie., utilities) as warranted. Lease agreements negotiated by and between the TFACB and the TFAA shall be subject to final approval by the City of Alexandria City Manager. Space determinations affecting the Alexandria Archaeology Museum shall be subject to approval by the City of Alexandria City Manager.
- f. Producing on an annual basis and upon the recommendation of the CEO, a budget for operation of the TFAC. The budget shall include a detailed report of revenue and spending necessary for the proper operation of the TFAC.
- g. Providing for the regular maintenance and security of the TFAC, ensuring the availability of all utilities and services necessary for utilization of the facility and generally insuring the facility is a safe, clean, attractive, and enticing environment for tenants, visitors, and renters.
- h. Establishing those rules necessary for the effective and efficient operation of the TFAC provided those rules are not in conflict with any requirement, rule or directive of the City of Alexandria or inconsistent with any conditions expressed in an executed lease agreement. The rule making authority of the TFACB may include defining standards for the contribution of facility-housed artists to the TFAC mission as a premier art center, visitor destination, educational institution and economic generator of the City.
- i. Establishing measures of performance which shall include identifying, collecting and regularly reporting on metrics describing the economic, cultural and educational quality of the TFAC.

C. LIMITATIONS

The corporation is to be nonprofit and nonstock. Notwithstanding any other provision of these articles to the contrary, this corporation shall not engage in any other activities not permitted to be carried on by (i) a corporation exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code of 1954, or such successor provision of federal law; or (ii) an organization, contributions to which are deductible under Section 170(c)(2) of the Internal Revenue Code of 1954, or such successor provision of federal law. No part of the net earnings of this corporation shall inure to the benefit of, or be distributable to, its directors, officers or any private individual, except that this corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth in these articles. No substantial part of the activities of this corporation shall consist of the carrying on of propaganda, lobbying or otherwise attempting to influence legislation; nor shall this corporation participate or intervene in (including the publishing or distribution of statements) any political campaign on behalf of, or in opposition to, any political candidate for public office.

ARTICLE III – MEMBERS

This corporation shall have no members.

ARTICLE IV – EXISTENCE

The corporation shall have perpetual existence.

ARTICLE V – DIRECTORS

1. The affairs of this corporation shall be conducted by a board of directors, consisting of thirteen (13) individuals including eleven (11) directors appointed by the Alexandria City Council and two (2) *ex officio* directors. The composition of the board of directors shall be as described in Alexandria City Council Resolution #2408 as amended and the by-laws of this corporation, unless amended by a subsequent Resolution of the Alexandria City Council. The number of directors may be fixed or changed from time to time, by resolution of the City Council for the City of Alexandria.
2. Each director shall have one vote. *Ex officio* directors shall have the same rights, privileges and authority as all other directors of the corporation, including the right to vote.
3. The board of directors is expressly empowered to elect the officers of this corporation, in accordance with these articles of incorporation and the by-laws

and to adopt, amend or revoke by-laws of this corporation, except with regard to the number of and composition of the board of directors which may be amended only by a resolution of the Alexandria City Council.

4. The names and addresses of the individuals who have been appointed by the Alexandria City Council to serve as the initial directors are as follows. Subsequent appointments to the board of directors will be made by the Alexandria City Council in compliance with the by-laws adopted by the Alexandria City Council and the initial board of directors

NAME

ADDRESS

[City Council will appoint directors prior to this document being filed with the State Corporation Commission]

ARTICLE VI – BY-LAWS

The by-laws of this corporation may be adopted, amended or repealed and a new set of by-laws adopted, if approved by a majority vote of the directors then in office, except with regard to the number of or composition of the directors which shall be amended only by a Resolution of the Alexandria City Council. A ten (10) day notice of the proposed amendment shall be given to the directors and to the Alexandria City Council, and said notice shall include a copy of the proposed amendment or new by-laws.

ARTICLE VII – AMENDMENTS TO ARTICLES OF INCORPORATION

The articles of incorporation may be amended by a majority vote of the directors then in office, except with regard to the number of or composition of the directors which shall be amended only by a Resolution of the Alexandria City Council. A ten (10) day notice of the proposed amendment shall be given to the directors and to the Alexandria City Council, and said notice shall include a copy of the proposed amendment.

ARTICLE VIII – DEFENSE AND INDEMNIFICATION OF OFFICERS AND DIRECTORS

Every person who is, shall be or shall have been a director or officer of this corporation and his or her personal representatives shall be indemnified by the corporation against all costs and expenses reasonably incurred or imposed upon him or her in connection with or resulting from any action, suit or proceeding to which the director or officer may be made

a party by reason of his or her being or having been a director or officer of this corporation or of any subsidiary or affiliate thereof, except in relation to such matters as to which the director or officer shall finally be adjudicated in such action, suit or proceeding to have acted in bad faith or to have been liable by reason of willful misconduct in the performance of his or her duty as director or officer, or as may otherwise be provided in Section 13.1-876 of the Code of Virginia, 1950, as amended. "Costs and expenses" shall include, but shall not be limited to, attorney's fees, damages and reasonable amounts paid in settlement.

ARTICLE IX – INCORPORATORS

The names and addresses of the incorporators and subscribers of this corporation are:

<u>NAME</u>	<u>ADDRESS</u>
[The Incorporators will be the initial board of directors appointed by City Council]	

ARTICLE X – REGISTERED OFFICE AND REGISTERED AGENT

The post office address of the initial registered office of this corporation is 301 King Street, Suite 1300, Alexandria, Virginia 22314. The registered office is physically located in the City of Alexandria, Virginia. The initial registered agent is James L. Banks, Jr., who is a resident of the Commonwealth of Virginia and a member of the Virginia State Bar. The registered agent's business office is identical to the registered office of the corporation.

ARTICLE XI – DISTRIBUTION OF ASSETS UPON DISSOLUTION

Upon the dissolution of this corporation, the board of directors, after paying or making provision for the payment of all liabilities of the corporation, shall dispose of all assets of the corporation in a manner consistent with the purposes of this corporation, including conveying such assets to one or more tax exempt organizations as described under Section 501(c)(3) of the Internal Revenue Code of 1954, or successor provisions of federal law, as the board of directors shall determine. In the event of the dissolution of the corporation, whether voluntary or involuntary or by operation of law, none of the assets of the corporation shall be distributed to any director or officer of the corporation.

DATED THIS _____ DAY OF OCTOBER, 2010.

Incorporator

Incorporator

Incorporator

Incorporator

Incorporator

Incorporator

Incorporator

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Incorporator

Incorporator

TORPEDO FACTORY ART CENTER BOARD, INCORPORATED

BY-LAWS

Approved by Board of Directors: _____

ARTICLE I – GENERAL

- A. This shall constitute the by-laws of Torpedo Factory Art Center Board, Incorporated, a nonstock and nonprofit corporation organized pursuant to the laws of the Commonwealth of Virginia, and hereinafter referred to as "TFACB"
- B. Whenever a provision of the articles of incorporation or of these by-laws is inconsistent with the Code of Virginia, the Code of Virginia shall be controlling. Whenever a provision of these by-laws is inconsistent with the articles of incorporation, the articles of incorporation shall be controlling, except as may otherwise be provided by law.
- C. TFACB, is organized exclusively for educational and charitable purposes, within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1954, as amended.
- D. The Torpedo Factory Art Center's mission is to enhance public art appreciation and education by providing the opportunity to visit working art studios and artist cooperatives, and to take classes. Alexandria's City Council charges the TFACB with the following goals which shall be its corporate purposes:
 - a) To carry out the Alexandria City Council's desire for the Torpedo Factory Art Center (TFAC) to continue its integral role in the economic, cultural and educational framework of the City; and
 - b) To support the TFAC as an internationally recognized art center important to the cultural, educational and economic vitality of the City of Alexandria; and
 - c) To support the TFAC as an important part of the arts community that attracts thousands of visitors to the City; and
 - d) To continue the notice and acclaim the TFAC has brought to the City, first as an inventive re-use of a building and later as a proud reflection of a community's commitment to its quality of life; and
 - e) To support the commitment, dedication and hard work of the many artists who have contributed their time, talent and artistic energy to the development of the facility as a premier art center; and

- f) To support the TFAC's goal to provide residents and visitors with opportunity to engage renown artists, learn of the process for creating fine art, and experience the intersection of art and community; and
- g) To support the TFAC as both a gateway for visitors and a threshold for residents; and
- h) To continue the TFAC's critical role in supporting the City of Alexandria's economic well being, drawing visitors and residents to our streets and our retail and commercial establishments; and
- i) To manage the operations of the TFAC to insure its ongoing success; and
- j) To provide the City with a broad range of expertise and community based citizen support for the TFAC.

ARTICLE II – MEMBERS

TFACB shall have no shareholders or members.

ARTICLE III – BOARD OF DIRECTORS

- A. **General Powers.** The affairs and business of TFACB shall be managed by its board of directors.
- B. **Number, Tenure and Qualifications.**
 - 1. The board of directors of TFACB (“Board”) shall consist of thirteen (13) individuals. The number of directors may be fixed or changed from time to time, by resolution of the City Council for the City of Alexandria.
 - 2. The Board shall consist of eleven (11) members appointed by the Alexandria City Council serving three year staggered terms and two (2) ex-officio members serving indefinite terms and be composed in the following manner:
 - a. Four (4) directors appointed at large and representing a diversity of expertise which may specifically include marketing, retail/commercial facility management, public relations, arts management, or other knowledge, skill or ability as City Council may from time to time deem appropriate;
 - b. Five (5) directors representing the Torpedo Factory Artists Association (TFAA), such members to be endorsed by the TFAA governing body prior

to consideration of appointment by City Council;

- c. One (1) director representing the Art League;
 - d. One (1) director representing the Alexandria Commission for the Arts;
 - e. One (1) ex-officio director representing the Alexandria Convention and Visitors Association;
 - f. One (1) ex-officio director representing the City Manager.
3. *Ex Officio* Directors: *Ex officio* directors shall be designated as described above and shall serve indefinite terms. *Ex officio* directors shall have the right to attend and participate in all board of director meetings and shall each have a vote. There shall be no more than two (2) *ex officio* directors at any one time.
4. *Invited Participant*: The Alexandria Archaeology Commission (AAC) may designate a Commission member to serve as an “Invited Participant” to the proceedings of the TFACB. The invited participant shall have the right to attend and participate in all board of director meetings, but shall not have a vote.
5. At the first annual appointment of directors, the directors, other than the *ex officio* directors or invited participant, shall be divided into three categories. To the extent practicable, each category shall have the same number of directors. The director(s) in the first category shall serve a term of one (1) year and shall include two (2) TFAA representative and one (1) community designee. The director(s) in the second category shall serve a term of two (2) years and shall include two (2) TFAA representatives and two (2) community designees. The director(s) in the third category shall serve a term of three (3) years and shall include one (1) TFAA representative, one (1) Art League representative, one (1) Commission for the Arts representative, and one (1) community designee. At the expiration of the first term of each category, all subsequent directors shall serve three-year terms.
6. The terms shall be from the January following the appointment through December of the year the term ends.

C. Appointments.

1. After the first annual appointment of directors, the appointment of directors shall be considered annually thereafter by the City Council for the positions in the category of directors whose term is then expiring. Each director shall hold office until his or her successor is appointed, or until his or her prior death, resignation, removal or disqualification.

2. No director shall serve for more than ten (10) consecutive years.

D. Manner of Acting.

1. Voting. In all matters in which directors are entitled to vote, each director, including *ex officio* directors, shall have one vote.
2. Quorum. Except as otherwise provided by law, by the articles of incorporation or by these by-laws, the quorum for all meetings of the board shall be a majority of the voting directors then in office. A quorum shall be required for the transaction of business. Except as otherwise provided by law, by the articles of incorporation or by these by-laws, the action of a majority of voting directors present and voting at any meeting at which a quorum is present shall be the action of the board of directors. Where a quorum cannot be obtained, the meeting may be adjourned by a majority vote of the voting directors present.
3. Abstention from Voting. A director's abstention from voting on any proposed action shall not be counted as a vote in support of the proposed action or as a vote against the proposed action. Such abstaining director will be counted as present for quorum purposes.
4. Corporate Action. Except as may otherwise be provided by law, by the articles of incorporation or by these by-laws, any action of the board of directors shall be an action of Torpedo Factory Art Center Board, Incorporated.

E. Vacancies.

1. Any vacancy on the Board occurring by reason of an increase in the number of directors, or by reason of the death, resignation, disqualification, inability to act, or removal of a director, or otherwise, shall be filled by an appointment by the Alexandria City Council.
2. Any director elected to fill a vacancy on the board of directors occurring by reason of an increase in the number of directors shall be assigned to a category, and shall serve for the duration of the term of that category.
3. Any director appointed to fill a vacancy by reason of a director's death, resignation, inability to act, disqualification, removal or of any other circumstance that prevented the director from continuing to serve as a member of the board, shall be a member of his or her predecessor's category and shall serve for the unexpired term of his or her predecessor in office.

F. Meetings.

1. The annual meeting of the Board shall be held during January of each year at such place and time as designated by the directors, or in such other month as determined by the directors and with appropriate notice.
2. Regular meetings of the Board as fixed by resolution of the Board, shall be held at a place and time set out in the resolution, or as may be specified in the notice of the meeting. A required minimum of four meetings shall be held each year, scheduled quarterly.
3. Special meetings of the Board may be called at any time by the President, and shall also be called by the President at the request of any two directors.

G. Notice.

1. Regular and Annual Meetings. Written notice to directors of the regular or annual meeting shall be required, no less than five (5) nor more than thirty (30) days before the date for any regular or any annual meeting of the board. Attendance at a meeting by a director shall constitute a waiver of all required notice of the date, time and place of the meeting, except at any meeting where the following actions are being taken:
 - a. any meetings of the board of directors at which there is to be an election of an officer;
 - b. any meeting of the board of directors at which there is to be a vote on an amendment to these by-laws or to the articles of incorporation.
2. Special Meetings. A minimum of three (3) days' written notice to directors shall be required for special meetings of the board of directors. Notice of a special meeting shall state the purpose or purposes for which the meeting is called.
3. Written Notice. Written notices of meetings of the Board shall include the date, time and the place of the meeting. Notwithstanding any other provision of these by-laws to the contrary, written notice of meetings of the board of directors may consist of a form of electronic transmission consented to in writing by the director to whom such notice is given. Any such consent may be revoked by the director by written notice to the corporation. Any such consent shall be deemed revoked if (a) the corporation is unable to deliver by electronic transmission two consecutive notices given by the corporation in accordance with such consent, and (b) such inability becomes known to the person responsible for the giving of notice; provided, however, that the inadvertent failure to treat such inability as a

revocation shall not invalidate any meeting or other action. Notice given by electronic transmission shall be deemed given (a) if by facsimile telecommunication, when directed to a number at which the director has consented to receive notice; (b) if by electronic mail, when directed to an electronic mail address at which the director has consented to receive notice; and (c) if by any other form of electronic transmission, when consented to by the director.

4. Adjournments. If an annual or special meeting is adjourned to a different date, time or place, notice need not be given of the new date, time or place if the new date, time or place is announced at the meeting prior to adjournment.
5. Meetings Required by Law. Notwithstanding any other provision of these by-laws to the contrary, Torpedo Factory Art Center Board, Incorporated shall hold and provide notice of meetings as may be required or specified by law.

H. Resignation and Removal of Directors.

1. Any director may resign at any time by giving written notice to the board of directors. Except as may otherwise be provided by law by the articles of incorporation or by these by-laws, acceptance of the resignation shall not be necessary to make it effective. Such resignation shall be effective upon delivery of the aforesaid notice to any officer of the corporation.
2. Any director may be removed from office by a majority vote of the Alexandria City Council if there has been neglect of duty or violation of the Articles of Incorporation or By Laws or any other provision of law. Additionally, any director may be removed from office by a majority vote of the Alexandria City Council if the director has missed more than 75% of the meetings of the Board in a year without reasonable or valid cause for missing such meetings.

ARTICLE IV – OFFICERS

- A. The officers of Torpedo Factory Art Center Board, Incorporated, shall be a President, Vice President, Secretary and Treasurer, and other officers as may be deemed necessary by the board. Each officer shall be elected by the board of directors at an annual meeting. Each officer shall hold office for a one year term until the next annual meeting following the officer's election, and thereafter until the officer's successor is duly elected.

1. President. The President shall be the chief executive and operating officer of Torpedo Factory Art Center Board, Incorporated, and shall preside at all meetings

of the board of directors at which he or she is present. The President shall have general supervision of the assets and affairs of Torpedo Factory Art Center Board, Incorporated. The President may execute all contracts, agreements, and other instruments on behalf of Torpedo Factory Art Center Board, Incorporated, subject to the express approval of the board of directors by a majority vote. The President shall perform such other duties as these by-laws may provide or as the board of directors may direct.

2. Vice President. The Vice President shall assist the President in the performance of the President's duties, as directed by the President. The Vice President shall also perform all duties incumbent upon the President during the absence or inability of the President to perform his or her duties. The Vice President shall perform such other duties as the President or board of directors may prescribe.
3. Secretary. The Secretary shall be responsible for maintaining and preserving the corporate seal, all corporate records and documents of Torpedo Factory Art Center Board, Incorporated. The Secretary shall issue, or cause to be issued, the notices of meeting for all meetings of the board of directors, and shall keep a record of all such notices issued. The Secretary shall prepare and maintain a record of the proceedings of all meetings of the board of directors and all committees of the board. Such records shall be open at all times for review and inspection by the board of directors. The Secretary shall maintain a record of all individuals who serve as an officer, a director or an *ex officio* director of the corporation. The Secretary shall keep a record of the election of all officers and all members of the board of directors. The Secretary shall have such other powers and duties as the President or board of directors may prescribe.
4. Treasurer.
 - (a) The Treasurer shall be responsible for all funds and securities of Torpedo Factory Art Center Board, Incorporated, from any source whatsoever, and the records relating thereto, and shall receive, deposit, or disburse the same in the name of Torpedo Factory Art Center Board, Incorporated, under the direction of the board and the supervision of the President; provided, however, that the board may designate a custodian or depository for any such funds or securities.
 - (b) The Treasurer shall present a financial statement at the annual meeting of the board of directors, and at other times as requested by the board of directors, and shall make a full report at the annual meeting.
 - (c) The Treasurer shall be responsible for such books of account and records as conform to the requirements of the by-laws.

- (d) The Treasurer shall be responsible for supervising the preparation of all tax returns, and all other tax-related documents, required by law to be filed by or on behalf of Torpedo Factory Art Center Board, Incorporated. The Treasurer shall have the authority to retain, subject to the approval of the Board, an independent firm to assist the Treasurer with all tax-related matters.
 - (e) The Treasurer shall have the authority to sign all checks, drafts and other orders for the payment of money by or on behalf of Torpedo Factory Art Center Board, Incorporated, in the amount of Five Hundred Dollars (\$500.00) or less. All checks, drafts and other orders for the payment of money by or on behalf of Torpedo Factory Art Center Board, Incorporated, that exceed (\$500.00) shall be jointly signed by the Treasurer and the President. The Board may authorize, by an affirmative vote of at least two-thirds (2/3) of the directors then in office, other officers to co-sign with the Treasurer checks in amounts that exceed Five Hundred Dollars (\$500.00).
 - (f) The Treasurer shall develop and promulgate rules, subject to approval of Torpedo Factory Art Center Board, which shall ensure competitive bidding and cost effective pricing for goods and services acquired. Non-competitive, sole source acquisitions of goods and services shall require a written justification for the procurement and approval of the TFACB.
 - (g) The Treasurer shall have such other powers and duties as the President or board of directors may prescribe.
- B. Any officer may be removed from office, with or without cause, at any meeting duly called in accordance with the provisions of these by-laws.
- C. Any officer may resign at any time by giving written notice to the Board. Such resignation shall be effective only with the consent of the Board, which consent shall not be unreasonably withheld.
- D. A vacancy in any office occurring by reason of the death, resignation, disqualification, inability to act or removal of an officer, or otherwise, shall be filled by the Board at any meeting duly called in accordance with the provisions of these by-laws.

ARTICLE V – STAFF AND COMMITTEES

- A. The President shall be responsible for recruiting and selecting a Chief Executive Officer (“CEO”) and the appointment shall be approved by a majority vote of the Board. The selection process shall include advice from the TFAA.
- B. The CEO shall execute the TFACB policies and directives related to the administration and management of the TFAC and shall be responsible for oversight and supervision of all staff employed by the TFACB. The Board may delegate to the CEO those powers deemed necessary and prudent for the effective operation of the Torpedo Factory Art Center.
- C. On an annual basis, the CEO shall prepare a report describing goals for the Torpedo Factory Art Center, successes and challenges in accomplishing prior stated objectives, and the fiscal and operational status of key functional areas of the TFAC. A copy of the report, upon acceptance by the TFACB shall be forwarded to the Alexandria City Council and made publicly available.
- D. Any delegation of authority to the CEO shall be in writing and approved by a majority vote of the Board.
- E. Committees may be established, and individuals appointed thereto, by the board of directors in order to accomplish the purposes set forth in the articles of incorporation.
- F. The President, subject to the approval of the Board, shall have the power at any time to make committee appointments, fill any vacancy in any committee, change the membership of any committee, act on behalf of any committee, and discharge any committee.
- G. Any delegation of authority by the Board to any committee shall be in writing.

ARTICLE VI – INDEMNIFICATION

Every person who is, shall be or shall have been a director or officer of Torpedo Factory Art Center Board, Incorporated, and his or her personal representatives, shall be indemnified by the corporation against all costs and expenses reasonably incurred or imposed upon him or her in connection with or resulting from any action, suit or proceeding to which he or she may be made a party by reason of his or her being or having been a director or officer of this corporation or of any such subsidiary or affiliate thereof, except in relation to such matters as to which he or she shall finally be adjudicated in such action, suit or proceeding to have acted in bad faith or to have been liable by reason of willful misconduct in the performance of his or her duty as director or officer, or as may otherwise be provided in Section 13.1-876 of the Code of Virginia, 1950, as

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amended. "Costs and expenses" shall include, but not be limited to, attorney's fees, damages and reasonable amounts paid in settlement.

ARTICLE VII – SEAL

This corporation shall adopt and maintain a corporate seal in the form required by law.

ARTICLE VIII – FISCAL YEAR

Unless otherwise determined by the Board, the fiscal year of Torpedo Factory Art Center Board, Incorporated, shall begin on July 1 of each year and shall terminate on the June 30 next following.

ARTICLE IX – TITLE TO PROPERTY

The title to all property of the corporation shall be held in the name of the corporation, or in the name of any entity affiliated with the corporation, or as otherwise may be provided pursuant to the authority of the charter and by-laws of the corporation. Any purchase, grant, gift, bequest or donation of any kind whatsoever to the corporation or its board of directors shall be deemed to vest title in the corporation.

ARTICLE X – DISSOLUTION

Upon the dissolution of Torpedo Factory Art Center Board, Incorporated, the Board, after paying or making provision for the payment of all liabilities of the corporation, shall dispose of all assets of the corporation in a manner consistent with the purposes of Torpedo Factory Art Center Board, Incorporated, including conveying such assets to one or more tax exempt organizations as described under Section 501(c)(3) of the Internal Revenue Code of 1954, or successor provisions of federal law, as the board of directors shall determine. In the event of the dissolution of the corporation, whether voluntary or involuntary or by operation of law, none of the assets of the corporation shall be distributed to any member or officer of the Board.

ARTICLE XI – AMENDMENTS TO BY-LAWS

These by-laws may be adopted, amended or repealed and a new set of by-laws adopted, if approved by majority vote of the directors then in office, provided that a minimum of ten (10) days written notice of the proposed change is given to the directors, and that said notice includes a copy of every proposed amendment or new by-law, except with regard to the number of or

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composition of the directors which shall be amended only by a Resolution of the Alexandria City Council.

ARTICLE XII – INUREMENT OF INCOME

No part of the net income of Torpedo Factory Art Center Board, Incorporated, shall inure to the benefit of, or be distributed to, its officers, directors or other persons; provided, that Torpedo Factory Art Center Board, Incorporated, shall be authorized with the power to pay reasonable compensation for services rendered by its officers.

RESOLUTION 2420

A RESOLUTION TO AMEND RESOLUTION #2408; ESTABLISHMENT OF THE TORPEDO FACTORY ART CENTER BOARD (TFACB)

WHEREAS, the City Council adopted Resolution No. 2408 on June 22, 2010 establishing the Torpedo Factory Art Center Board and directed the City Attorney to draft the articles of incorporation and by-laws necessary for establishment of the Board as a legal entity for the Council's review; and

WHEREAS, after review of the draft documents and a public hearing on the matter, Council has determined that certain modifications should be made to the proposed governance structure and a mission statement for the Torpedo Factory Art Center Board should be defined and therefore, are adopting this Resolution to amend and replace Resolution No. 2408; and

WHEREAS, the Torpedo Factory Art Center's mission is to enhance public art appreciation and education by providing the opportunity to visit working art studios and artist cooperatives and to take classes; and

WHEREAS, the Alexandria City Council desires the Torpedo Factory Art Center to continue its integral role in the economic, cultural and educational framework of the City; and

WHEREAS, the Torpedo Factory Art Center is an internationally recognized art center important to the cultural, educational and economic vitality of the City of Alexandria; and

WHEREAS, for more than 35 years, the Torpedo Factory Art Center has been an important part of the arts community and attracted thousands of visitors to the City; and

WHEREAS, the Torpedo Factory Art Center has brought notice and acclaim to the City, first as an inventive re-use of a building and later as a proud reflection of a community's commitment to its quality of life; and

WHEREAS, the considerable reputation of the Torpedo Factory results from the commitment, dedication and hard work of the many artists who have contributed their time, talent and artistic energy to the development of the facility as a premier art center; and

WHEREAS, the Torpedo Factory Art Center seeks to provide residents and visitors with opportunity to engage renown artists, learn of the process for creating fine art, and experience the intersection of art and community; and

WHEREAS, the Torpedo Factory Art Center is strategically located on the Alexandria waterfront where it serves as both a gateway for visitors and a threshold for residents; and

WHEREAS, the Torpedo Factory Art Center performs a critical role in supporting the City of Alexandria's economic well being, drawing visitors and residents to our streets and our retail and commercial establishments; and

WHEREAS, managing the operations of the Torpedo Factory Art Center and insuring its ongoing success requires a broad range of expertise and community based citizen support;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF ALEXANDRIA THE FOLLOWING:

1. A Torpedo Factory Art Center Board (TFACB), consisting of thirteen members, shall be created and charged with responsibility for the management and operational oversight of the Torpedo Factory Art Center and subject to the proceeding provisions:

