

Governance Review – Controlled Corporations - Articles of Amendment – Special Resolution

ISSUE

Implementation of City Council’s resolutions arising from the Governance Review of the Controlled Corporations requires that amendments to their respective Articles of Incorporation be made. This report submits special resolutions to amend the Articles of Incorporation for each of The Art Gallery of Saskatchewan Inc. (“Remai Modern”), Saskatchewan Place Association Inc. (“SaskTel Centre”) and The Centennial Auditorium & Convention Centre Corporation (“TCUP”).

RECOMMENDATION

That City Council as the sole Member of The Art Gallery of Saskatchewan Inc., Saskatchewan Place Association Inc. and The Centennial Auditorium & Convention Centre:

1. Pass a special resolution to amend the Articles of Incorporation for The Art Gallery of Saskatchewan Inc. to: (a) change the maximum number of directors that may be appointed to the Board of Directors to 15; and (b) provide that directors and officers may not receive reasonable remuneration for services provided to the corporation or indemnification for expenses incurred on behalf of the corporation, except as provided for in the bylaws or any unanimous member agreement.
2. Pass a special resolution to amend the Articles of Incorporation for Saskatchewan Place Association Inc. to: (a) change the maximum number of directors that may be appointed to the Board of Directors to 15; (b) provide that directors and officers may not receive reasonable remuneration for services provided to the corporation or indemnification for expenses incurred on behalf of the corporation, except as provided for in the bylaws or any unanimous member agreement; and (c) provide that vacancies among directors shall only be filled by members at a meeting of members.
3. Pass a special resolution to amend the Articles of Incorporation for The Centennial Auditorium & Convention Centre Corporation to: (a) change the maximum number of directors that may be appointed to the Board of Directors to 15; (b) provide that directors and officers may not receive reasonable remuneration for services provided to the corporation or indemnification for expenses incurred on behalf of the corporation, except as provided for in the bylaws or any unanimous member agreement; and (c) update the proxyholder provision to ensure gender neutrality.

4. Authorize the City Clerk as its representative to execute the special resolutions to amend the Articles of Incorporation for each of The Art Gallery of Saskatchewan Inc., Saskatchewan Place Association Inc. and The Centennial Auditorium & Convention Centre Corporation, as drafted by the City Solicitor.

BACKGROUND

The Governance Review of the Controlled Corporations has been an ongoing project since the spring of 2018. The following is a list of the relevant reports and links:

- [February 13, 2017](#)
 - Governance and Priorities Committee (“GPC”) approved of the project parameters for the Governance Review
- [June 18, 2018](#)
 - GPC recommended continuation of existing governance structure for the Controlled Corporations
- [June 25, 2018](#)
 - City Council approved continuation of existing governance structure for the Controlled Corporations and referred proposed corporate bylaw and Articles of Amendment by Remail Modern to Governance Subcommittee
- [November 12, 2019](#)
 - GPC considered the governance details report and created a Special Subcommittee to consider some proposed recommendations for change
- [November 18, 2019](#)
 - City Council approved governance details
- [February 22, 2021](#)
 - City Council approved further governance details on recommendation of the Special Subcommittee

A more fulsome explanation and history of the progress of the project and related resolutions can be found at Appendix 1.

Implementation of City Council’s resolutions requires amendments to the Articles of Incorporation of each of the Controlled Corporations.

The proposed edits to the Articles of Incorporation have been the subject of engagement with each of the Controlled Corporations. The Governance Subcommittee has received confirmation from the respective Controlled Corporations that the proposed amendments are satisfactory.

DISCUSSION/ANALYSIS

The Governance Subcommittee continues work to implement the resolutions of City Council arising from the Governance Review of Controlled Corporations – Governance Details report. In addition to implementation of the resolutions, the Governance Subcommittee undertook a review of *The Non-profit Corporations Act, 1995* (NPCA) and a comparison of the Controlled Corporations' current Articles of Incorporation and corporate bylaws to ensure consistency with each other and compliance with the legislation. These reviews resulted in the identification of amendments to the respective Articles of Incorporation for each of the Controlled Corporations. It is also recommended to update the proxyholder provision in the TCUP Articles of Incorporation to reflect gender neutrality.

Minimum/Maximum Number of Directors

City Council directed that the range for Board size be set at between 6 and 15 directors for each of the Controlled Corporations. The Articles of Incorporation currently set out the minimum and maximum number of directors which may be appointed as follows:

- Remail Modern – Minimum of six and a maximum of 14;
- SaskTel Centre – Minimum of six and a maximum of 18; and
- TCUP – Minimum of six and a maximum of 18.

Articles of Amendment are required to implement this change.

Remuneration of Directors and Officers

Section 112 of the NPCA provides:

- 112(1) Unless the articles of a corporation otherwise provide, a director or officer may receive reasonable remuneration for his or her services to the corporation and indemnification for his or her expenses incurred on behalf of the corporation as a director or officer, and a director or member may receive reasonable remuneration and expenses for his or her services to the corporation in any other capacity.
- (2) Subject to the articles, the bylaws or any unanimous member agreement, the directors of a corporation may fix the remuneration of the directors, officers and employees of the corporation.

Currently, the corporate bylaws for each of the Controlled Corporations state that remuneration shall not be paid to directors for their services, but that reasonable and actual expenses will be reimbursed. However, the Articles of Incorporation are silent. Arguably, given the language of subsection 112(2) of the NPCA, a statement in the Articles is not necessary. However, Articles of Amendment are required to change the minimum and maximum number of directors and therefore, since they are being prepared in any event, it is recommended that the Articles also be amended to include a

statement regarding the remuneration of directors and officers as provided for in subsection 112(1) of the NPCA.

Filling Director Vacancies

The corporate bylaws of each of the Controlled Corporations state that vacancies among the directors shall be filled only by the members at a meeting of members. Both the Remai Modern and TCUP's Articles of Incorporation currently provide this same direction. However, SaskTel Centre's Articles of Incorporation are silent on the filling of director vacancies. It is recommended that such a statement be included in the Articles of Incorporation for SaskTel Centre as provided for in subsection 98(4) of the NPCA, which provides:

- 98(4) The articles may provide that a vacancy among the directors shall only be filled by a vote of the members, or by a vote of the members of any class of members having an exclusive right to elect one or more directors if the vacancy occurs among the directors elected by that class.

Pursuant to section 161 of the NPCA, articles may be amended by special resolution of the member to increase or decrease the number of directors or the minimum or maximum number of directors and to add, change or remove any other provision that is permitted by the NPCA to be set out in the articles.

Attached at Appendix 2, for City Council's consideration, is a special resolution of the sole Member, the City of Saskatoon for the Remai Modern, to amend the Articles of Incorporation as outlined in this report.

Attached at Appendix 3, for City Council's consideration, is a special resolution of the sole Member, the City of Saskatoon for SaskTel Centre, to amend the Articles of Incorporation as outlined in this report.

Attached at Appendix 4, for City Council's consideration, is a special resolution of the sole Member, the City of Saskatoon for TCUP, to amend the Articles of Incorporation as outlined in this report.

The recommendation is that the City Clerk be authorized to execute all of the special resolutions on behalf of the City.

NEXT STEPS

Once the special resolutions are executed, Articles of Amendment will be provided to the Director of Corporations in accordance with the NPCA to have a Certificate of Amendment issued. On receipt of the Articles of Amendment, the Director shall issue a Certificate of Amendment.

A copy of this report, the fully executed special resolutions and the Articles of Amendment will be provided to each of the Remai Modern, SaskTel Centre and TCUP.

The Articles of Amendment will be signed by a director of each respective Board prior to submission to the Director of Corporations. The Boards will be notified upon issuance of the Certificate of Amendment by the Director of Corporations.

APPENDICES

1. Controlled Corporation Governance Review Project Background and History of Resolutions
2. Draft special resolution of the Member, the City of Saskatoon to amend the Articles of Incorporation of The Art Gallery of Saskatchewan Inc. as provided in this report.
3. Draft special resolution of the Member, the City of Saskatoon to amend the Articles of Incorporation of Saskatchewan Place Association Inc. as provided in this report.
4. Draft special resolution of the Member, the City of Saskatoon to amend the Articles of Incorporation of the Centennial Auditorium and Convention Centre Corporation as provided in this report.

Report Approval

Written by: Christine G. Bogad, Director of Legal Services
Reviewed by: Mike Jordan, Chief Public Policy & Government Relations Officer
Adam Tittlemore, City Clerk
Jeff Jorgenson, City Manager
Approved by: Cindy Yelland, City Solicitor

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