



**BY LAWS OF
WASHINGTON PAVILION MANAGEMENT, INC.**

**ARTICLE 1
NAME AND PRINCIPAL OFFICE**

- 1.1 Name of Corporation.** The name of this nonprofit corporation shall be WASHINGTON PAVILION MANAGEMENT, INC.
- 1.2 Principal Office.** The principal office of the corporation in the State of South Dakota shall be located at Washington Pavilion of Arts and Science, 301 South Main, Sioux Falls, SD 57104.

**ARTICLE 2
PURPOSES**

The general purposes of the corporation shall be as stated in Article 3 of the Articles of Incorporation.

**ARTICLE 3
BOARD OF DIRECTORS – BOARD OF TRUSTEES**

- 3.1 General Powers.** The business and affairs of the corporation shall be managed and controlled by its Board of Directors, which shall be known as its Board of Trustees. The trustees may exercise all such powers of the corporation and do all such lawful acts and things not prohibited by law, by the corporation's Articles of Incorporation, or by these Bylaws which may be necessary or proper for the transaction of the business of the Corporation.
- 3.2 Number and Qualifications.** The number of trustees of the corporation shall in no event be less than three (3) nor more than twenty-one (21). Three (3) trustees shall be appointed by the Mayor of the City of Sioux Falls, South Dakota, as Mayoral Appointees in accordance with City of Sioux Falls community appointments. The Chairs of each of the corporation's Visual Arts Center Advisory Board, Performances & Events Advisory Board, and Kirby Science Discovery Center Advisory Board shall serve as ex officio members of the Board of Trustees if they do not already serve on the Board of Trustees. All other Trustees shall be selected and appointed by the Board of Trustees. The successors of those trustees subject to special appointment shall be filled by the same appointing authorities. Successors to all other trustees shall be selected and appointed by the Board of Trustees. The trustees, may by resolution, appoint ex officio trustees from time to time.
- 3.3 Term.** Each trustee constituting the first Board of Trustees shall hold office for the period specified in the Articles of Incorporation and until his or her successor shall have been elected and qualified. Successor trustees shall be elected to hold office for a term of three (3) years and until his or her successor shall have been elected and qualified. No trustee shall serve more than two (2) consecutive terms, excluding partial terms. A trustee who has served two (2) consecutive terms shall be ineligible for election to the Board of Trustees for a period of one (1) year. After such one (1) year period, such individual trustee shall again be eligible for nomination and election as a trustee.

- 3.4 Resignation.** Any trustee may resign at any time by giving written notice of such resignation to the Board of Trustees.
- 3.5 Regular Meetings.** Regular meetings of the Board of Trustees shall be held from time to time at such time and place within or without the State of South Dakota as may be fixed by resolution by a majority of the Board of Trustees.
- 3.6 Special Meetings.** Special meetings of the Board of Trustees may be called by the President/Chair, Vice-President/Vice-Chair, Secretary/Treasurer, or upon written request by any three (3) trustees and shall be held at such time and place as may be designated in the notice of the meeting.
- 3.7 Notice of Meetings.** Notice of each regular and special meeting of the Board of Trustees shall be given to each trustee. Notice of each regular meeting shall be given by the secretary/treasurer in writing or electronically at least five (5) days prior thereto. Notice of each special meeting shall be given at least thirty-six (36) hours prior thereto by the President/Chair, Vice-President/Vice-Chair, or Secretary/Treasurer by mail, facsimile, telephone, electronically, or in person.
- 3.8 Waiver of Notice.** Notice of any meeting of the Board of Trustees may be waived either before, at, or after such meeting in writing, signed by each trustee. The attendance of a trustee at any meeting shall constitute a waiver of notice of such meeting, except where a trustee attends a meeting for the purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened.
- 3.9 Quorum.** At all meetings of the Board of Trustees, a majority of the trustees shall be necessary and sufficient to constitute a quorum for the transaction of business and the act of the majority of such trustees present at any meeting at which there is a quorum shall be the act of the Board of Trustees, except as may be otherwise specifically provided by statute or by these Bylaws, but if less than the required number of trustees is present at a meeting a majority of the trustees present may adjourn the meeting from time to time without further notice.
- 3.10 Action Without a Meeting.** Any action required or permitted by the Articles of Incorporation, or Bylaws or any provision of law to be taken by the Board of Trustees at a meeting may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the Trustees.
- 3.11 Conduct of Meetings.** At all meetings of the Board of Trustees, the chair, or in that person's absence, a vice-chair shall preside. The Board of Trustees shall elect the chair, the vice-chair, and the secretary/treasurer of the board at a regular or special meeting.
- 3.12 Compensation.** Trustees shall not receive any stated salaries for their services, but by resolution of the Board of Trustees, expenses of attendance, if any, may be allowed for attendance at regular or special meetings of the Board, provided that nothing herein contained shall be construed to preclude any trustee from serving the corporation in any other capacity and receiving compensation therefor.
- 3.13 Vacancies.** Any vacancy occurring in the Board of Trustees by reason of death, disability, resignation, or removal shall be filled in the manner specified in Section 3.2 of these Bylaws. Any trusteeship to be filled by reason of an increase in the number of trustees shall be filled by the Board of Trustees for a term of office continuing only until the next election of trustees.

3.14 Removal. Trustees may be removed from office in accordance with Article 6 of the Articles of Incorporation. The President/Chair, Vice-President/Vice-Chair, and the Secretary/Treasurer may be removed by the majority vote of the trustees at a properly called meeting of the trustees.

3.15 Executive Committee and Other Committees. The Board of Trustees, by resolution adopted by the affirmative vote of a majority of the number of Trustees fixed by Section 3.2 hereof, may designate an Executive Committee and one or more other committees. The Executive Committee shall be comprised of the Board of Trustees, President/Chair, Vice-President/Vice-Chair, and Secretary /Treasurer. Other committees shall by resolution be established as deemed necessary by the Board of Trustees.

The Executive Committee shall have and may exercise, when the Board of Trustees is not in session, the powers of the Board of Trustees in the management of the business and affairs of the corporation, except that the Executive Committee may not: (a) elect officers, (b) amend the Articles of Incorporation, (c) amend these Bylaws, (d) adopt a plan of merger or consolidation, (e) or fill of vacancies in the Board of Trustees or committees created pursuant to this section.

Other committees, if any, shall have and may exercise such powers as may be provided in the Resolution of the Board of Trustees designating such committee, as such resolution may from time to time be amended and supplemented. The Board of Trustees may elect one or more of its members as alternate members of any such committee who may take the place of any absent member or members at any meeting of such committee, upon request by the chairman of such meeting.

ARTICLE 4

PROGRAM AREA ADVISORY BOARDS & COMMITTEES

4.1 Authority of Boards & Committees. As described by SDCL § 47-23-22, the Advisory Boards and Committees described in this Article do not have or exercise the authority of the Board of Trustees in the management of the Corporation.

4.2 Existing Primary Program Areas. As of the date of the amendment of these Bylaws, there exist three primary program areas: the Visual Arts Center, the Performing Arts Center, and the Kirby Science Discovery Center. Each program area and its Advisory Board shall adhere to the Advisory Board rules as set forth by the Board of Trustees from time to time.

4.3 Shared Services Committees. As of the date of the amendment of these Bylaws, three committees have been created to facilitate communication between the Advisory Boards: the Community Learning Center Committee, the Development Committee, and the Finance Committee. Each Committee shall adhere to the Advisory Board Rules as set forth by the Board of Trustees.

Other operating divisions and committees not having and exercising the authority of the Board of Trustees in the management of the corporation may be designated by a resolution adopted by a majority of the trustees present at a meeting at which a quorum is present.

4.4 Records and Reports of Advisory Boards/ Committees. Each operating division and committee shall keep a record of its acts and proceedings which shall be open for inspection at any time by any trustee. Such record shall be submitted to the Board annually and at such time as may be requested by the Board of Trustees.

ARTICLE 5 OFFICERS

5.1 Number. The officers of the corporation shall consist of a President/Chair, Vice-President/Vice-Chair, Secretary, and Treasurer, each of whom shall be elected by the Board of Trustees. Such other officers and assistant officers as may be deemed necessary may be elected or appointed by the Board of Trustees. The Secretary and Treasurer offices may be held by the same person.

The President/Chair shall preside at the meetings and perform such other duties and exercise such other powers as may be assigned to the chair by the Board of Trustees of the Corporation.

The Vice-President/Vice Chair shall perform all duties incumbent upon the chair during the absence or disability of the chair and shall perform such other duties from time to time as may be assigned to the vice chair by the chair or the Board of Trustees of the Corporation.

The Secretary/Treasurer shall serve as the chair on the Finance Committee of the Washington Pavilion and shall perform such other duties as from time to time may be assigned to the treasurer by the Board of Trustees.

5.2 Election and Term of Office. The officers of the corporation are to be elected annually by the Board of Trustees from among their number. Such election shall occur at a regular or special meeting of the Board of Trustees. No officer shall serve more than two (2) consecutive terms in the same office, excluding partial terms. An officer who has served two (2) consecutive terms shall be ineligible for election to that office for a period of one (1) year. If an officer's term as a member of the Board of Trustees expires, the officer may be allowed to complete his/her term as an officer in that calendar year with approval from a majority of the board members. The foregoing restriction on the number of consecutive terms shall not disqualify an individual as a nominee for any other office. Each officer shall hold office until a successor shall have been duly elected and shall have qualified or until death or until such officer shall resign or shall have been removed in the manner hereinafter stated.

5.3 Vacancies. In case any office of the corporation becomes vacant by death, resignation, retirement, disqualification, removal from office, or any other cause, the majority of the trustees then in office, although less than a quorum, may elect an officer to fill such vacancy.

5.4 Powers and Duties: The several officers shall have such powers and shall perform such duties as may from time to time be specified in resolutions or other directives of the Board of Trustees.

5.5 Removal. Any officer may be removed from office by the Board of Trustees whenever in its judgement the best interests of the corporation would be served thereby; but such removal shall be without prejudice to the contract rights, if any, of the person so removed. Election or appointment of an officer or agent shall not of itself create contract rights.

5.6 Fidelity Bond. The Board of Trustees may require any officer to give a bond for the faithful discharge of his or her duties in such sum and with such surety or sureties as the Board shall determine.

ARTICLE 6 INDEMNIFICATION

- 6.1 Third Party Suits.** The corporation may indemnify any person who was or is a party or is threatened to be made a party to a threatened, pending, or completed action, suit or proceeding, whether civil, criminal, administrative, or investigative, other than an action by or in the right of the corporation, by reason of the fact that he or she is or was a trustee, officer, director, employee, or agent of the corporation, or is or was serving at the request of the corporation as a trustee, officer, director, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise, against expenses, including attorneys' fees, judgements, fines and amounts paid in settlement actually and reasonable incurred by him or her in connection with such action, suit, or proceeding if he or she acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interest of the corporation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his or her conduct was unlawful. The termination of any action, suit, or proceeding by judgment, order, settlement, conviction, or upon a pleas of nolo contendere, or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner in which he or she reasonable believed to be in or not opposed to the best interests of the corporation and, with respect to any criminal action or proceeding, had reasonable cause to believe that his or her conduct was unlawful.
- 6.2 Actions By or in the Right of the Corporation.** The corporation may indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the corporation to procure a judgement in its favor by reason of the fact that he or she is or was a trustee, officer, director, employee, or agent of another corporation, or is or was serving at the request of the corporation as a trustee, officer, director, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise against expenses, including attorneys' fees, actually and reasonably incurred by him or her in connection with the defense or settlement of such action or suit, if he or she acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interests of the corporation, provided that no indemnification shall be made in respect of any claim, issue, or matter as to which such person shall have been adjudged to be liable for negligence or misconduct in the performance of his or her duty to the corporation unless, and only to the extent that, the court in performance of his or her duty to the corporation unless, and only to the extent that, the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability, that in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnification for such expenses which the court deems proper.
- 6.3 Expenses and Attorney's Fees.** To the extent that a trustee, officer, director, employee, or agent of the corporation has been successful on the merits or otherwise in defense of any action, suit, or proceeding referred to in Sections 6.1 or 6.2 above, or in defense of any claim, issue, or matter therein, he or she shall be indemnified against expenses, including attorneys' fees, actually and reasonable incurred by him or her in connection therewith.
- 6.4 Authorization of Indemnification.** Any indemnification under Sections 6.1 or 6.2 above, unless ordered by a court, shall be made by the corporation only as authorized in the specific case upon a determination that indemnification of the trustee, officer, director, employee, or agent is proper in circumstances because he or she has met the applicable standard of conduct set forth in such sections. Such determination shall be made by the Board of Trustees by a majority vote of a quorum consisting of trustees who are not parties to such action, suit, or proceeding, or if such a quorum is not attainable, or even if attainable, a quorum of disinterested trustees so directs, by independent legal counsel and a written opinion.

- 6.5 Advance Payment.** Any expense incurred by an officer or trustee in defending a civil or criminal action, suit, or proceeding may be paid by the corporation in advance of a final disposition of such action, suit or proceeding as authorized by the Board of Trustees in the specific case upon receipt of an undertaking by or on behalf of such trustee or officer to repay such amount unless it shall ultimately be determined that he or she is entitled to be indemnified by the corporation as authorized by the laws of the State of South Dakota. Such expenses incurred by other employees and agents may be paid upon such terms and conditions, if any, as the Board of Trustees deems appropriate.
- 6.6 Non-exclusiveness.** The indemnification provided by this Article shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any bylaw, agreement, vote of disinterested trustees, or otherwise, both as to action in the indemnity's official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be a trustee, officer, director, employee, or agent and shall inure to the benefit of the heirs, executors, and administrators of such a person.
- 6.7 Purchase of Insurance.** The corporation may purchase and maintain insurance on behalf of any person who is or was a trustee, officer, director, employee, or agent of the corporation, or is or was serving at the request of the corporation as a trustee, officer director, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise against any liability asserted against him or her and incurred by him or her In any such capacity, or arising out of his or her status as such, whether or not the corporation would have the power to indemnify him or her against such liability under the provisions of this Article or of South Dakota's Nonprofit Corporation Act.

ARTICLE 7

LIMITATION ON ACTIVITIES

No substantial part of the activities of the corporation shall be the carrying on of propaganda or otherwise attempting to influence legislation, and the corporation shall not participate in or intervene in (including the publishing or distribution of statements) any political campaign on behalf of any candidate for public office. Notwithstanding any other provision of these Bylaws, the corporation shall not carry on any other activities not permitted to be carried on by (1) a corporation exempt from federal income tax under Section 501 © of the Internal Revenue Code, or (2) a corporation, contributions to which are deductible under Section 170 © (2) of the Internal Revenue Code and the regulations thereunder as the same now exist or as they may be hereafter amended from time to time.

ARTICLE 8

CONTRACTS, LOANS, CHECKS, AND DEPOSITS

- 8.1 Contracts.** The Board of Trustees may authorize by resolution any officer or officers, agent, or agents, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the corporation, and such authority may be general or confined to specific instances.
- 8.2 Checks, drafts, etc.** All checks, drafts or other orders for the payment of money, notes, or other evidences of indebtedness issued in the name of the corporation shall be signed by such officer or officers, employee or employees, agent or agents of the corporation and in such manner as shall from time to time be determined by resolution of the Board of Trustees.

8.3 Deposits. All funds of the corporation not otherwise employed shall be deposited from time to time to the credit of the corporation in such banks, trust companies or other depositories as the Board of Trustees may select.

8.4 Loans. No loans shall be contracted on behalf of the corporation and no evidence of indebtedness shall be issued in its name unless authorized by a resolution of the Board of Trustees. Such authority may be general or confined to specific instances.

ARTICLE 9 BOOKS AND RECORDS

The corporation shall keep correct and complete books and records of account and shall also keep minutes of the proceedings of the Board of Trustees and any committees having any of the authority of the Board of Trustees. All books and records of the corporation shall be kept at the registered or principal office of the corporation and may be inspected by any trustee or officer or the agent or attorney of the same for any proper purpose at any reasonable time.

ARTICLE 10 FISCAL YEAR

The fiscal year of the corporation shall begin on the first day of July and end on the thirtieth day of June in each year.

ARTICLE 11 AMENDMENTS TO BYLAWS

These Bylaws may be altered, amended, or repealed and new By-Laws may be adopted by a majority of the trustees present at any regular meeting or special meeting of the Board of Trustees, provided that notice of the proposed action shall have been given to the trustees in a notice of such meeting.

CERTIFICATE OF BY-LAWS

The undersigned, being the secretary/treasurer of WASHINGTON PAVILION MANAGEMENT, INC., a South Dakota nonprofit corporation, does hereby certify that the foregoing By-Laws of said corporation were adopted at a meeting of the Board of Trustees held on November 19, 2019, as is set forth in the Minutes of said meeting.

Dated at Sioux Falls, South Dakota, as of 11/19/2019.

IN WITNESS WHEREOF, I have hereunto affixed my signature as Secretary/Treasurer of the corporation on the above date.

Secretary/Treasurer



