



ARTICLES OF AMENDMENT TO THE ARTICLES OF INCORPORATION (NONPROFIT)

State Form 4161 (R8 / 6-95) / Corporate Form No. 364-2 (May 1988)

Approved by State Board of Accounts 1995

RECEIVED
CORPORATIONS DIV.

SUE ANNE GILROY
SECRETARY OF STATE
CORPORATIONS DIVISION
302 W. Washington St., Rm. E018
Indianapolis, IN 46204
Telephone: (317) 232-6576

Indiana Code 23-17-17-1 et seq.

FILING FEE: \$30.00

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Present original and two (2) copies to address in upper right corner of this form.
Please TYPE or PRINT.
Upon completion of filing the Secretary of State will issue a receipt.

SEP 23 11 15

SUE ANNE GILROY

APPROVED
AND
FILED
IND. SECRETARY OF STATE

ARTICLES OF AMENDMENT TO THE ARTICLES OF INCORPORATION

The undersigned officer of the Nonprofit Corporation named in Article I below (*hereinafter referred to as the "Corporation"*) desiring to give notice of corporate action effectuating Amendment(s) to the Articles of Incorporation, certifies the following facts:

This Corporation exists pursuant to: (check appropriate box)

- ☐ The Indiana Not-For-Profit Corporation Act of 1971 (IC 23-7-1.1) as amended.
- ☐ Indiana General Not-For-Profit Corporation Act (*approved March 7, 1935*)
- ☒ Indiana Nonprofit Corporation Act of 1991 (IC 23-17-1) as amended

ARTICLE I - Amendment(s)

SECTION 1: The name of the Corporation is:

The Athenaeum Foundation, Inc.

SECTION 2: The date of incorporation of the Corporation is:

July 11, 1991

SECTION 3: The name of the Corporation following this amendment to the Articles of Incorporation is:

The Athenaeum Foundation, Inc.

SECTION 4

The exact text of Article(s) I-XI of the Articles of Incorporation is now as follows.

See attached Exhibit 1

SECTION 5

The date of adoption of the amendment to the Article(s) I-XI was September 21, 1998

AMENDED AND RESTATED ARTICLES OF INCORPORATION

OF

THE ATHENAEUM FOUNDATION, INC.

RECEIVED
CORPORATIONS DIV.
38 SEP 20 11 15

The undersigned officer of The Athenaeum Foundation, Inc. (the "Corporation"), pursuant to the provisions of the Indiana Nonprofit Corporation Act of 1991, as amended (the "Act"), hereby executes the following Amended and Restated Articles of Incorporation (the "Articles of Incorporation"), which supersede and take the place of the previously existing articles of the Corporation and all previous amendments thereto:

ARTICLE I

Name

The name of the Corporation is The Athenaeum Foundation, Inc.

ARTICLE II

Purposes

This Corporation is a public benefit corporation that shall be organized and operated exclusively to benefit, to perform the functions of, and to carry out the charitable, scientific, educational, and other purposes of the organizations listed in Article VIII below (the "Supported Organizations"), to the extent that such purposes are described both in Sections 170(c)(2)(B) and 501(c)(3) of the Internal Revenue Code of 1986 or corresponding provisions of any subsequent federal tax laws (the "Code").

Subject to and in furtherance of such purposes, the Corporation may (among other things):

- (a) acquire and retain title to a certain building located in the city of Indianapolis, Marion County, Indiana, commonly known as "Das Deutsche Haus-

Athenaeum" (the "Athenaeum") and legally described in Exhibit "A" attached hereto and incorporated herein by reference, which has been registered as a certified historic structure by the United States Department of the Interior;

- (b) raise funds (whether by charitable donations, membership dues, or otherwise) for the rehabilitation of the Athenaeum;
- (c) supervise and direct the rehabilitation of the Athenaeum in such a manner as to preserve its architectural and aesthetic integrity as an historic structure;
- (d) educate the public about the role of the Athenaeum in the history of Indianapolis and about its cultural, aesthetic and historical significance;
- (e) foster the use of the Athenaeum as a center for amateur athletics, education, and the performing arts, with particular emphasis on the culture and history of Indiana's immigrants from German-speaking countries but without prejudice to any person or organization based upon race, creed, sex, age or national origin;
- (f) encourage the use of the Athenaeum's facilities and participation in its various cultural programs by the general public;
- (g) collect rents and royalties from the various tenants and users of the Athenaeum's facilities;
- (h) apply rents, royalties, membership dues and contributions to the payment of the Athenaeum's operating expenses and the maintenance and improvement of the Athenaeum; and

(i) directly support the athletic and cultural activities of the Supported Organizations within the Athenaeum, provided that such organizations are themselves exempt from taxation pursuant to Code Section 501(c)(3).

ARTICLE III

Powers

Subject to and in furtherance of the purposes for which it is organized, the Corporation shall possess all of the rights, privileges, and powers conferred by the Act or by other law and, in addition, the following rights, privileges, and powers:

Section 1. To indemnify any person against liability and expenses, and to advance the expenses incurred by such person, in connection with the defense of any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, investigative, or otherwise, and whether formal or informal, to the fullest extent permitted by applicable law, or, if not permitted, then to any extent not prohibited by such law.

Section 2. To cease its activities and to dissolve and surrender its corporate franchise.

ARTICLE IV

Period of Existence

The period during which the Corporation shall continue is perpetual.

ARTICLE V

Registered Agent and Registered Office

Section 1. The name and address of the registered agent in charge of the Corporation's registered office at the time of adoption of these Articles of Incorporation is K. Philip Watts, 401 E. Michigan Street, Indianapolis, Indiana 46204.

Section 2. The street address of the registered office of the Corporation at the time of adoption of these Articles of Incorporation is 401 E. Michigan Street, Indianapolis, Indiana 46204.

ARTICLE VI

Members

Section 5.01. Eligibility. The Corporation's membership shall be open to the public, regardless of race, creed, sex, age or national origin. Members may be individuals, corporations or unincorporated associations.

Section 5.02. Classes. The Corporation shall have classes of membership as defined in the Corporation's Bylaws.

ARTICLE VII

Directors

The exact number of directors of the Corporation shall be specified in or fixed in accordance with the Amended and Restated Bylaws (the "Bylaws") at a number no smaller than three. The Secretary shall record the names and addresses of the members of the Board of Directors of the Corporation at the time of adoption of these Articles of Incorporation, and the

Supported Organizations that have appointed such directors (or designations as "Elected Directors" under the Bylaws).

ARTICLE VIII

Election or Appointment of Directors

The directors of the Corporation, other than the members of the Board of Directors at the time of adoption of these Articles of Incorporation (who shall serve for terms as specified or fixed in accordance with the Bylaws), shall be elected or appointed in the manner and for terms as specified or fixed in accordance with the Bylaws; provided, however, that at all times a majority of the directors shall be persons appointed by the following Supported Organizations:

- American Cabaret Theatre, Inc.
- Young Mens Christian Association of Greater Indianapolis
- Indiana German Heritage Society, Inc.
- Athenaeum Pops Orchestra
- Indiana Humanities Council, Inc.
- Indianapolis Museum of Art, Inc.
- Indiana Historical Society
- Maennerchor Society of Indianapolis, Inc.

A Supported Organization automatically will be removed from the list of Supported Organizations (and will no longer have any appointment rights) if such Supported Organization ceases to be a public charity described or treated as described in Sections 501(c)(3) and 509(a)(1) or 509(a)(2) of the Code.

ARTICLE IX

No Private Inurement

None of the Corporation's net earnings shall inure to the benefit of any private individual.

ARTICLE X

Regulation of Corporate Affairs

The affairs of the Corporation shall be subject to the following provisions:

Section 1. Notwithstanding any other provision of these Articles of Incorporation, if for any taxable year the Corporation is deemed a "private foundation" described in Section 509(a) of the Code, the Corporation shall make distributions at such time and in such manner as not to subject the Corporation to the tax imposed by Section 4942 of the Code.

Section 2. Notwithstanding any other provision of these Articles of Incorporation, at any time the Corporation is deemed a "private foundation" described in Section 509(a) of the Code, the Corporation shall not:

- 2.1. Engage in any act of self-dealing as defined in Section 4941(d) of the Code;
- 2.2. Retain any excess business holdings as defined in Section 4943(c) of the Code;
- 2.3. Make any investment in such manner as to subject the Corporation to tax under Section 4944 of the Code; or
- 2.4. Make any taxable expenditure as defined in Section 4945(d) of the Code.

Section 3. Neither the Board of Directors nor the Corporation shall have power or authority to do any act that will prevent the Corporation from being an organization described in Section 501(c)(3) of the Code.

Section 4. Except as otherwise permitted by Section 501(h) of the Code, no substantial part of the activities of the Corporation shall consist of carrying on propaganda, or otherwise attempting, to influence legislation.

Section 5. The Corporation shall not participate in or intervene in (including the publishing or distributing of any statements) any political campaign on behalf of or in opposition to any candidate for public office.

Section 6. Subject to the provisions of these Articles of Incorporation and applicable law, the Board of Directors shall have complete and plenary power to manage, control, and conduct all the affairs of the Corporation.

Section 7. The power to make, alter, amend, and repeal the Bylaws shall be vested in the Board of Directors.

Section 8. No director of the Corporation shall be liable for any of its obligations.

Section 9. Meetings of the Board of Directors may be held at any location, either inside the State of Indiana or elsewhere.

Section 10. All parties dealing with the Corporation shall have the right to rely upon any action taken by the Corporation pursuant to authorization by the Board of Directors by resolution duly adopted in accordance with the Corporation's Articles of Incorporation, Bylaws, and applicable law.

Section 11. The Board of Directors may from time to time, in the Bylaws or by resolution, designate such committees as the Board of Directors may deem desirable for the furtherance of the purposes of the Corporation.

ARTICLE XI

Dissolution of Corporation

If the Corporation is dissolved, all of its property remaining after payment and discharge of its obligations shall be transferred and conveyed, subject to any contractual or legal requirement, to one or more other organizations that have been selected by the Board of Directors, that are organized and operated for purposes substantially the same as those of the Corporation, and that are described or treated as described in Sections 170(c)(2)(B), 501(c)(3), 2055(a)(2), and 2522(a)(2) of the Code.

The undersigned officer of the Corporation hereby presents these Articles of Incorporation to the Secretary of State of Indiana for filing, and states that the manner of their adoption and the vote by which they were adopted constitute full legal compliance with the provisions of the Act, the previously existing articles of the Corporation, and the Bylaws of the Corporation.

IN WITNESS WHEREOF, the undersigned officer hereby verifies and affirms, subject to penalties of perjury, that the representations contained herein are true, this 24 day of September, 1998.

K. Philip Watts
Signature

K. PHILIP WATTS
Printed Name

PRESIDENT
Title

This instrument was prepared by Joseph E. Miller, Jr., Attorney at Law, Baker & Daniels, 300 N. Meridian Street, Suite 2700, Indianapolis, Indiana 46204.

EXHIBIT "A"
Legal Description of Athenaeum Building

A building commonly known as Das Deutsche Haus-Athenaeum located at 401 E. Michigan Street in the City of Indianapolis, Marion County, Indiana, legally described as follows:

Lots 10, 11, and 12 in the John D. Thorpe's Subdivision of Square Twenty (20) in the City of Indianapolis, as per plat thereof, recorded in Land Record "J", page 48, in the Office of the Recorder of Marion County, Indiana.