

TO:	CHAIR AND MEMBERS COMMUNITY AND PROTECTIVE SERVICES MEETING ON APRIL 1, 2019
FROM:	ANNA LISA BARBON MANAGING DIRECTOR, CORPORATE SERVICES AND CITY TREASURER, CHIEF FINANCIAL OFFICER
SUBJECT:	MUSEUM LONDON OPERATING ENDOWMENT FUND TRUST AGREEMENT

RECOMMENDATION

That, on the recommendation of the Managing Director, Corporate Services and City Treasurer, Chief Financial Officer, the following actions be taken with respect to the Museum London Operating Endowment Fund Trust Agreement:

The by-law attached hereto as Appendix "A", **BE INTRODUCED** at the Municipal Council meeting to be held on April 9, 2019 to:

- (i) Approve the Museum London Operating Endowment Fund Trust Agreement between the Corporation of the City of London and Museum London Foundation and Museum London, authorizing the trusteeship; and,
- (ii) Authorize the Mayor and Clerk to sign the Agreement, attached as Schedule "A" to the by-law.

PREVIOUS REPORTS PERTINENT TO THIS MATTER
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- December 5, 2017 Community & Protective Services Committee; Museum London Operating Fund Transfer Request
- May 24, 2017 Community & Protective Services Committee; Museum London Endowment Funds Transfer Request

BACKGROUND

Municipal Council, at its meeting held on December 12, 2017 resolved that:

- a) *the transfer of the Operating Endowment fund from Museum London to the Museum London Foundation BE APPROVED, subject to the funds being held in trust by the Museum London Foundation for Museum London and The Corporation of the City of London; and,*
- b) *the Civic Administration BE DIRECTED to develop a trust agreement with Museum London and Museum London Foundation to support the above-noted transfer. (2017-F11A) (3/1/CPSC)*

In 2016, Museum London requested to transfer the John H. and Elizabeth Moore Acquisition Fund as well as the Museum London Operating Endowment fund to the Museum London Foundation. It was determined that the City of London (the City) could not direct Museum London on any actions regarding the John H. and Elizabeth Moore Acquisition Fund because, as trustee, Museum London is responsible for the administration of the endowment fund and must comply with all applicable law.

Operating Endowment Fund

Museum London’s Operating Endowment Fund is a fund internally restricted by Museum London’s Board of Directors. The Operating Endowment Fund is classified as a reserve fund set aside for specific purposes on the Museum’s audited financial statements. As of December 31, 2017 the Operating Endowment Fund had a balance of \$2,564,624.

The City does have an interest in Museum London’s assets as a local board and therefore, the City has an interest in the Operating Endowment Fund. Civic Administration was concerned that transferring ownership of these funds would effectively be granting away City assets and would remove them from Museum London’s and the City’s financial statements. Once asset ownership is transferred to a separate entity, neither Museum London or the City has any control over it.

Since the initial request to transfer the Operating Endowment Fund from Museum London to the Museum London Foundation (the Foundation), both the City and Museum London continued discussions, which included with the external auditors, to look at potential options to achieve the Foundation’s objectives as well as to mitigate the risks to both the City and Museum London.

It was agreed that to maintain control and ownership of the Operating Endowment Fund with Museum London, transfer of the Museum London Operating Endowment Fund to the Museum London Foundation should be held in trust. A trust agreement between the parties should be developed that outlines the terms under which the transfer has been completed.

In 2018, Administration met with outside legal counsel to discuss the development of a trust agreement. The attached (Schedule “A”) Museum London Operating Endowment Fund Trust Agreement (Trust Agreement) was reviewed by Museum London and by the City of London’s Legal Department.

The purpose of the Trust Agreement is to set clear rules for the administration and operation of the Trust Agreement by the Foundation in its capacity as Trustee of the Trust Property.

CONCLUSION

This report requests Municipal Council’s approval of the Museum London Operating Endowment Fund Trust Agreement between the Corporation of the City of London and the Museum London Foundation.

PREPARED BY:	REVIEWED BY:
LAURIE GREEN, CPA, CMA FINANCIAL BUSINESS ADMINISTRATOR	JOHN MILLSON CPA, CGA SENIOR FINANCIAL BUSINESS ADMINISTRATOR
RECOMMENDED BY:	
ANNA LISA BARBON CPA, CGA MANAGING DIRECTOR, CORPORATE SERVICES AND CITY TREASURER, CHIEF FINANCIAL OFFICER	

cc. Barry Card, City Solicitor

APPENDIX A

Bill No.

By-law No.

A By-law to approve the Declaration and Agreement of Trust between the Museum London Foundation, Museum London and The Corporation of the City of London.

WHEREAS subsection 5(3) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, provides that a municipal power shall be exercised by by-law;

AND WHEREAS section 8 of the *Municipal Act, 2001* provides that powers of a municipality shall be interpreted broadly so as to confer broad authority on a municipality to govern its affairs as it considers appropriate and to enhance the municipality's ability to respond to issues;

AND WHEREAS section 9 of the *Municipal Act, 2001* provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

AND WHEREAS subsection 10(1) of the *Municipal Act, 2001* provides that a municipality may provide any service or thing that the municipality considers necessary or desirable for the public;

AND WHEREAS subsection 10(2) of the *Municipal Act, 2001* provides that a municipality may pass by-laws respecting, among other things: (i) governance structure of the municipality and its local boards; ii) financial management of the municipality and its local boards; and iii) economic, social and environmental well-being of the municipality;

AND WHEREAS it is deemed expedient for The Corporation of the City of London to enter into the Declaration and Agreement of Trust with Museum London Foundation and Museum London (the "Agreement");

AND WHEREAS it is appropriate to authorize the Mayor and City Clerk to execute the Agreement on behalf of the City;

NOW THEREFORE the Municipal Council of The Corporation of the City of London enacts as follows:

1. The Declaration and Agreement of Trust, between The Corporation of the City of London, Museum London Foundation and Museum London, substantially in the form attached as Schedule "A" to this By-law, is hereby authorized and approved.
2. The Mayor and City Clerk are authorized to execute the Agreement authorized and approved under section 1 of this by-law.
3. This by-law shall come into force and effect on the day it is passed.

PASSED in Open Council , 2019

Ed Holder
Mayor

Cathy Saunders
City Clerk

First Reading –
Second Reading –
Third Reading –