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Your Ref:	Our Ref:
Room 201, Bram Fischer Building	Date: 28 November 2018

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Speaker  
Council item

## RE-INSTATEMENT OF THE CENTLEC BOARD OF DIRECTORS

### 1. Purpose

The report is submitted to Council to approve the re-instatement of the members of the Centlec Board of Directors and to rescind the Council resolution 70.9 of the Council meeting of Thursday, the 2<sup>nd</sup> August 2018.

### 2. Discussions

At Council meeting of the 2<sup>nd</sup> August 2018, under item 70.9, Council resolved amongst other as follows,

- (a) *That the current Centlec Board be disbanded.*
- (b) *That the Deputy Chairperson of the Board, Ms. Duduzile Myeni as a non-executive be appointed for a period of six (6) months as the Acting Chairperson of the Centlec Board to allow the Council to advertise for new board members to be appointed for a period of three (3) years.*
- (c) *That the Executive Mayor identify a person who will represent her at the Centlec Board meetings.*

As a result of the above resolution, the Centlec Board of Directors has been operating with one member who is also the Acting or interim Chairperson. The objective was that Centlec under the guidance of Mangaung Metro Municipality as the sole shareholder as parent municipality would initiate processes of election of the new board and also convene an Annual General Meeting to deal with various matters including the election and/or inauguration of the board. It is important to reiterate the following issues amongst others, i.e. that the Centlec Board of Directors is the

governance body established in terms of the Articles of Association, Clauses 66, 67 and 68 which states that:

- a) Until otherwise determined from time to time by the company at a general shareholders meeting.
- b) The Directors and alternate Directors shall be appointed by Council and shall have the requisite range of expertise to effectively manage and guide the activities of the company.
- c) All Directors appointed as Directors will, subject to the provisions of the status, be chosen, *inter alia* from the commercial sector, consumer sector and other background, which Council deems necessary. The Chief Executive Officer, Chief Financial Officer and Chief Operations Officer shall ex officio be executive members of the Board of Directors.
- d) When the Directors are appointed half of the Board members will be appointed for a (3) year term and half for a four (4) year term at the absolute discretion of Council.

Until the Council resolution mentioned above, the Centlec Board was constituted by the following members, non-executive, Mr Nthimotse Mokhesi as the Chairperson, Me. Duduzile Myeni as the Deputy Chairperson, and the following other members, Mr. Kenosi Moroka, Mr. Mohlouoa Seoe, Mr Chose Choeu, Mr Makalo Mohale and the executive, Mr Andries Mgoqi and Mr. Leon Kritzinger with the exclusion of Mr. Tshinyadzo Ramulondi who is no longer the Chief Financial Officer of Centlec.

Recently Council again during the Special Council meeting held on the 23<sup>rd</sup> November 2018 considered a report in relation to MMM and Centlec. In that meeting Council resolved to initiate a process of the review of the Sale of Business Agreement between MMM and Centlec taking note that the issues or plan to sell Centlec to REDS will no longer materialize. Again, Council instructed the accounting officers of both MMM and Centlec to finalise the due diligence report on the most appropriate mechanism for the provision of interest in the equity, management and control of assets and transfer of shareholders loan to equity and report on the recommendations to Council by the 28<sup>th</sup> February 2019. The implementation of this process will require that both the City Manager and Centlec CEO account and report on their work and progress towards the completion of this process. In the case of the City Manager, he will be reporting to the Executive Mayor and there is a need to close the vacuum in the case of Centlec CEO, hence the need to re-instate the Board.

Further to the above, a careful consideration of the applicable legislation does make provision for the removal of board of directors by the shareholder. However, there are a few qualifications before such an action is taken. Amongst others, the law requires that before such a resolution is considered, the affected director or directors must be given notice of the meeting and the resolution. Secondly, the director or directors must be afforded a reasonable opportunity to make representations in person or through a representative, to the meeting, before the

resolution is put to a vote. This process is provided for in Section 71 of the Companies Act, 71 of 2008. However, when Council took a resolution to remove and/or to disband the Board of Centlec, that step was omitted, alternatively, the process did not take place, hence this report which seeks to rescind that decision for legal compliance.

### 3. Recommendations

It is therefore recommended that:

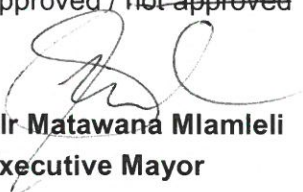
- 3.1 Council rescind the Council resolution 70.9 taken during the Council meeting of the 2<sup>nd</sup> August 2018.
- 3.2 Council approves the re-instatement of the Centlec Board for the remainder of their term of office.
- 3.3 Council approves that the following members of the Centlec Board of Directors are re-instated with immediate effect following Council resolution and retain their positions as follows, namely non-executive, Mr Nthimotse Mokhesi as the Chairperson, Me. Duduzile Myeni as the Deputy Chairperson, and the following other members, Mr. Kenosi Moroka, Mr Chose Choeu, Mr Makalo Mohale and the executive, Mr Andries Mgoqi and Mr. Leon Kritzinger with the exclusion of Mr. Tshinyadzo Ramulondi who is no longer the Chief Financial Officer of Centlec.

Submitted

  
**Adv Tankiso Mea**  
**City Manager**

**Date:** 28/11/2018

Approved / not approved

  
**Cllr Matawana Mlamleli**  
**Executive Mayor**

**Date:** 28/11/2018