

5. Approval of the Certificate of Amendment to the Restated Articles of Incorporation of the Company to Increase the Number of Authorized Shares of Class B Common Stock from 20,000,000 to 35,000,000

Introduction

The Certificate of Amendment to the Restated Articles of Incorporation of the Company with respect to the number of authorized shares of Class B Common Stock (the "Class B Amendment") is attached hereto as [Appendix D](#). The purpose of the Class B Amendment is to modify Article Four of the Restated Articles of Incorporation of the Company to increase the number of authorized shares of Class B Common Stock, par value \$.01 per share, from 20,000,000 shares to 35,000,000. The Class B Amendment would change the first sentence of Article Four specifically as follows:

"The total number of shares of all classes of stock which the corporation shall be authorized to issue is 96,000,000 shares, divided into the following: (i) 1,000,000 shares of preferred stock, of the par value \$.01 per share ("Preferred Stock"), (ii) 60,000,000 shares of Class A Common Stock, of the par value \$.01 per share ("Class A Common Stock") and (iii) 35,000,000 shares of Class B Common Stock, of the par value \$.01 per share ("Class B Common Stock")."²

The authorized capital stock of the Company presently consists of 81,000,000 shares of capital stock, each with a par value of \$.01 per share, consisting of: (i) 1,000,000 shares of preferred stock; (ii) 60,000,000 shares of Class A Common Stock; and (iii) 20,000,000 shares of Class B Common Stock. As of March 15, 2023, 42,286,850 shares of Class A Common Stock and 13,061,893 shares of Class B Common Stock were outstanding, 1,881,887 shares of Class A Common Stock and 1,129,230 shares of Class B Common Stock were held by the Company as treasury shares and 1,757,563 shares of Class A Common Stock and 589,300 shares of Class B Common Stock were reserved for issuance under the Company's 2007 LTIP Plan, 2006 Non-Employee Director Stock Plan and 2004 ESPP.

The terms of the additional authorized shares of Class B Common Stock will be identical to those of the currently outstanding shares of Class B Common Stock. The relative rights and limitations of the shares of issued Class B Common Stock would remain unchanged under this proposal. This Class B Amendment will not alter the number of shares of Class B Common Stock issued on the date of shareholder approval.

Key Considerations for Shareholders

The Board of Directors believes that it is in the Company's best interests to increase the number of authorized shares of Class B Common Stock to give the Company greater flexibility in the future should certain opportunities arise such as the following:

- Future stock splits;
- Attracting and retaining employees by the issuance of Class B equity awards under the Company's various equity compensation plans;
- Acquiring other companies or businesses using shares of Class B Common Stock as consideration;
- Raising capital through the sale of Class B Common Stock; or
- Other transactions and corporate purposes that the Board of Directors determines are in the Company's best interest.

The additional authorized shares would enable the Company to act quickly in response to opportunities that may arise for these types of transactions. For example, on September 15, 2020, the Company's Board of Directors declared a 3-for-2 stock split of its Class A Common Stock and Class B Common Stock, which was effected in the form of a stock dividend. On October 12, 2020, the Company distributed one additional share of stock for every two shares of Class A Common Stock or Class B Common Stock, as applicable. Given the amount of shares of Class B Common Stock that are currently outstanding, held by the Company as treasury shares, or reserved for issuance under the Company's various equity incentive plans, the Company does not have the shares available to complete a 3-for-2 stock split with respect to the Class B Common Stock and could also lack the availability of shares for the other possibilities described above. This could materially impede the ability of the Board of Directors and management to take action to achieve a valid business purpose that would create value for the Company and its shareholders.

[2] If the Class A Amendment (as defined in Proposal 4 above) is also approved by the requisite votes of the Company's shareholders, the Company plans to file a single amendment that will change the first sentence of Article Four specifically as follows:

"The total number of shares of all classes of stock which the corporation shall be authorized to issue is 141,000,000 shares, divided into the following: (i) 1,000,000 shares of preferred stock, of the par value \$.01 per share ("Preferred Stock"), (ii) 105,000,000 shares of Class A Common Stock, of the par value \$.01 per share ("Class A Common Stock") and (iii) 35,000,000 shares of Class B Common Stock, of the par value \$.01 per share ("Class B Common Stock")."

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The Company is not proposing to increase its authorized shares of Class B Common Stock in order to block or otherwise impede a change in control of the Company and the Company is not aware of any current efforts to acquire control of the Company. However, under certain circumstances, the additional shares of Class B Common Stock could be issued by the Company to defend against, or otherwise respond to, a hostile takeover bid. For instance, the Company could issue shares of Class B Common Stock to dilute the stock ownership of a person or entity seeking to obtain control of the Company. The Company could also respond to an unsolicited takeover bid by issuing, in a private placement or otherwise, a significant portion of its Class B Common Stock with purchasers who might align with the Board of Directors in response to a specific change in control transaction affecting the Company. Moreover, the issuance of shares of Class B Common Stock to persons friendly to the Board of Directors could make it more difficult to remove incumbent officers and directors from office even if such change could be considered favorable to shareholders generally. Despite these potential anti-takeover ramifications, the Board of Directors believes that the financial flexibility offered by the Class B Amendment outweighs any such disadvantages. To the extent that the Class B Amendment may have anti-takeover effects, the Class B Amendment may encourage persons seeking to acquire the Company to negotiate directly with the Board of Directors enabling the Board of Directors to consider the proposed transaction in a manner that best serves the shareholders' interests.

The issuance of the additional shares of Class B Common Stock (including shares authorized by the Class B Amendment) could also have the effect in certain circumstances of, among other things, diluting earnings per share, book value per share or voting power of the currently outstanding shares of Class B Common Stock.

As of the date of this proxy statement, the Company has no current plans, arrangements or understandings regarding the additional shares that would be authorized pursuant to this proposal. However, the Company reviews and evaluates transactions and other corporate actions on an on-going basis to determine if such actions would be in the best interests of the Company and its shareholders.

The Holders of Class B Common Stock will Vote Both Separately by Class and in the Aggregate with the Holders of Class A Common Stock on this Proposal

Under Texas law and the Company's Restated Articles of Incorporation, the affirmative vote of the holders of Class B Common Stock having a majority of the votes entitled to vote on such matter, voting as a separate class, is required to approve the Certificate of Amendment to the Restated Articles of Incorporation of the Company to increase the number of authorized shares of Class B Common Stock from 20,000,000 to 35,000,000. Abstentions and broker non-votes will have the same effect as a vote against the proposal with respect to this separate class vote. In addition, the affirmative vote of the holders of the shares of Class A Common Stock and Class B Common Stock, taken together, having a majority of the votes entitled to vote on such matter, is also required to approve the Certificate of Amendment to the Restated Articles of Incorporation of the Company to increase the number of authorized shares of Class B Common Stock from 20,000,000 to 35,000,000. With respect to the aggregate vote of the shares of Class A Common Stock and Class B Common Stock, abstentions and broker non-votes will have the same effect as votes against this proposal.

THE BOARD OF DIRECTORS UNANIMOUSLY RECOMMENDS A VOTE "FOR" THE APPROVAL OF THE CERTIFICATE OF AMENDMENT TO THE RESTATED ARTICLES OF INCORPORATION OF RUSH ENTERPRISES, INC. TO INCREASE THE NUMBER OF AUTHORIZED SHARES OF CLASS B COMMON STOCK FROM 20,000,000 TO 35,000,000