

201 Main Street Financing Corp.

Meeting Agenda

October 24, 2023 8:00 am Room 208 City Hall

Call to Order Rich Lannan, President

Quorum Confirmed Judy Carlson, Secretary

Approve Minutes of December 6, 2022 Meeting

Nashua Center for the Arts Completion Update

Motion to Approve Changes to Bylaws

Adjourn

201 Main Street Financing Corp.

October 24, 2023 Meeting Minutes

The meeting was called to order by President Richard Lannan at 8:00 am. Present by roll call: Rich Lannan, Deborah Novotny, Judith Carlson, Lindsay Rinaldi, and Jay Minkarah. A quorum was confirmed by Judith Carlson, Secretary. Also present was Attorney Joe Foster.

Lindsay Rinaldi moved to approve the minutes of the December 6, 2022 meeting; Deborah Novotny seconded the motion. The motion passed with Lindsay, Deborah, Richard, and Judith Carlson voting in favor and Jay Minkarah abstaining because he was not present at the meeting.

Rich Lannan presented an update on the Nashua Center for the Arts and noted that there are only a few items remaining on the punch list that do not affect either the budget or operations. He also said that Spectacle has reported that of the 70 events as of October 1 (the six-month anniversary of the opening) with 17 total sell-outs and many of the events close to sell-out. They also reported that attendance from outside of Nashua is already at 40 percent, which is extremely positive since it normally takes 18 months for the word of mouth/advertising to draw attendance from more than the local area.

A motion was made by Lindsay, seconded by Deborah, to ratify the changes to the 201 Main Street Finance Corporation Bylaws already approved by the Board of Aldermen to conform to the right to know language. The motion passed unanimously by roll call.

On the advice of Attorney Foster, Deborah moved to direct the board secretary to make the minutes of the meeting available within five working days, seconded by Lindsay; it passed unanimously by roll call.

Jay moved to adjourn, seconded by Deborah; the motion passed unanimously by roll call and the meeting was adjourned at 8:20 am.

Respectfully submitted,
Judith Carlson, Secretary

Attachments:
October 24, 2023 Agenda
Corrected Bylaws

**AMENDED BYLAWS OF
201 MAIN STREET FINANCING CORP.**

RECITALS

These Bylaws of 201 Main Street Financing Corp. (the "Corporation") originally adopted on December 8, 2020 were and remain intended to effectuate the following recitals:

A. R 19-136 passed by the City of Nashua (the "City") Board of Aldermen on June 11, 2019 authorized the formation of two voluntary corporations pursuant to New Hampshire RSA 162-G:15 in connection with the development of the City's Performing Arts Center and the Corporation is one of those two voluntary corporations;

B. New Hampshire RSA 162-G:2 provides that the acquisition of title to business or industrial facilities through a voluntary, nonprofit corporation and the lease of such facilities is a public purpose and shall be regarded as performing an essential governmental function,

C. R. 20-094 passed by the City Board of Aldermen on November 24, 2020 authorized the City to enter into certain loan transactions with the Corporation and to become the co-guarantor of certain obligations of the Corporation.

ARTICLE I.

Name

Section 1. Name. The name of the corporation, a New Hampshire non-profit corporation, shall be 201 Main Street Financing Corp.

ARTICLE II.

General Provisions

Section 1. References. References in these Bylaws to the Articles of Agreement shall mean this Corporation's Articles of Agreement as amended from time to time as on file with the Secretary of State of New Hampshire. References to the New Hampshire Voluntary Corporations and Associations Act (the "Act") and to particular sections of said Act are to said Act and said sections as amended from time to time. The headings of Articles and Sections in these Bylaws are for convenience only, and shall not be taken into account in construing these Bylaws.

Section 2. Office and Location. The principal office of the Corporation for the transaction of its business is located at 229 Main Street, Nashua, New Hampshire 03060. The Corporation may also have offices at such other places, within or without the State of New Hampshire, where it is qualified to do business, as its business may require and as the Board of Directors may from time to time designate.

Section 3. Purposes. The Corporation is organized for any and all lawful activities as the Board of Directors deems advisable or necessary. The mission of the Corporation is to foster and encourage the development of business facilities within the City of Nashua, State of New Hampshire, specifically the Performing Arts Center on Main Street in the City of Nashua, State of New Hampshire in accordance with the above Recitals.

Section 4. Distribution upon Dissolution. No part of the net earnings of this corporation shall inure to the benefit of any private shareholder or any individual. The property of this corporation is irrevocably dedicated to the purposes set forth in Section 3 of this Article II and

upon liquidation, dissolution or abandonment of the Corporation, after providing for the liabilities and obligations thereof, the remaining assets, if any, will not inure to the benefit of any private person but will be distributed in the manner provided in the Corporation's Articles of Agreement.

ARTICLE III.

Membership.

Section 1. Members. The Corporation shall have no Members.

ARTICLE IV.

Board of Directors

Section 1. Powers. In the management and control of the business, property and affairs of the Corporation, the Board of Directors is hereby vested with the power to authorize any and all corporate action.

Section 2. Number and Election. The initial Board of Directors shall have five (5) members. The initial Board of Directors shall be appointed by the incorporator. The initial Directors shall hold office for a term as follows: (a) Judith Carlson shall hold office for a term of two (2) years, (b) Lindsay Rinaldi Stern and Abdullah John Minkarah shall hold office for a term of three (3) years and (c) Richard G. Lannan and Deborah Novotny shall hold office for a term of four (4) years, provided however that each of the foregoing shall continue in office until his or her successor is elected and qualified or until his or her earlier death, resignation or removal. Thereafter, each Director shall hold office for a term of four (4) years and until his or her successor is elected and qualified or until his or her earlier death, resignation or removal, The President of the Corporation will, unless the Board of Directors determines otherwise, when present, preside at all meetings of the Board of Directors. The Vice President, in case of the absence or disability of the President, shall have the authority and perform the duties of the Chair.

Section 3. Vacancies, Resignation and Removal. Any vacancy in the Board of Directors, however occurring, including a vacancy resulting from the expiration of a Director's term or from an enlargement in the number of Directors, may be filled an individual recommended by the Board of Directors and approved by the City of Nashua and confirmation by the Board of Aldermen of the City of Nashua (the "City"), provided, however, that at all times at least sixty percent (60%) of the Directors shall be individuals (each, an "Independent Director") who are not (i) directors, officers or employees of either 201 Main Street Real Estate Corp., a New Hampshire nonprofit corporation ("201 Real Estate Corp.") or NPAC Corp., a New Hampshire corporation ("NPAC Corp.") or (ii) the parent, spouse, sibling or child of any director, officer or employee of either 201 Real Estate Corp. or NPAC Corp. A Director elected to fill a vacancy shall be elected for the unexpired term of his or her predecessor in office, and a Director chosen to fill a position resulting from an increase in the number of Directors, shall hold office for a four (4) year term and until his or her successor is duly elected and qualified, or until his or her earlier death, resignation or removal. Any Director may resign his office by delivering a written notice to the Corporation's Board of Directors, the President, or the Corporation. Any Director may be removed for cause by a vote of the majority of the remaining Directors so long as at least one of the directors in the majority is an Independent Director. For purposes of this section "cause" means gross neglect of the Director's duties, serious incidents of dishonesty or of inappropriate conduct in the

performance of the Director's duties, intentional wrongdoing in the performance of the Director's duties or the conviction for a crime involving dishonesty, all as may be determined by the Board of Directors.

Section 4. Limit on Terms Served. Directors may serve successive terms without limits.

Section 5. Annual and Regular Meetings. The Board of Directors shall hold its annual meeting for the election of officers in December of each year. The date, time and place of the annual meeting may be determined by the Board of Directors. Notice of the Annual Meeting shall be posted at least fourteen (14) days prior to such Annual Meeting on the City's website calendar. Regular meetings of the Board of Directors may be held at such time and place as shall from time to time be fixed by the Board of Directors. Notice of a Regular Meeting shall be posted at least fourteen (14) days prior to such Regular Meeting on the City's website calendar.

Section 6. Special Meetings. Special meetings of the Board of Directors may be held at any time or place, whenever called by the President or on the written request of two (2) or more members of the Board of Directors with at least seven (7) days' notice thereof being given by the person(s) calling the meeting to each Director Notice to any Director actually received by him at least twenty-four (24) hours before the meeting shall be deemed sufficient, notwithstanding the method or means of communication selected or the time when sent. Neither the business to be transacted at nor the purpose of the meeting need be specified in the notice unless the Act or RSA Ch. 91-A shall otherwise require. Such special meetings shall be held at such time and place as the notice thereof shall specify. Notice of a Special Meeting shall be posted at least two (2) days prior to such Special Meeting on the City's website calendar.

Section 7. Quorum; Telephonic Attendance; Voting. Fifty percent (50%) of the Board of Directors then in office shall constitute a quorum for the transaction of business, but a lesser number may adjourn any meeting from time to time, and the same may be held as adjourned with at least five (5) days prior notice provided that the new date for the adjourned meeting is announced at the meeting prior to such adjournment or if the new date is re-noticed at least five (5) days prior to the rescheduled date and is posted on the City's website calendar at least two (2) days prior to rescheduled date. A Director participating in a meeting by telephone or video conference call in which the Director can hear and speak to all other Directors simultaneously shall be deemed present at the meeting. No limit is imposed on the number of Directors who can participate in a meeting this way. When a quorum is present at any meeting a majority of the Directors present shall decide any question brought before such meeting unless a greater number is otherwise required by law. Notwithstanding the foregoing, any transaction between the Corporation and either 201 Real Estate Corp. or NPAC Corp. must be approved by a majority of the Independent Directors.

ARTICLE V.

Officers

Section 1. Officers; Number, Term. The principal officers of the Corporation shall be a President, a Vice President, a Treasurer and a Secretary. The Board of Directors, in its discretion, may appoint such other officers, agents or employees as it may deem advisable, and prescribe the

powers, duties and tenure thereof. Officers shall hold office until his or her successor is chosen and qualified or his or her earlier death, resignation or removal from office. An officer may, but need not also be a Director, and may simultaneously hold more than one office in the Corporation.

Section 2. Authority and Duties. Each officer shall have such authority and perform such duties as are set forth in the Act or in these Bylaws, and as shall be determined from time to time by the Board of Directors. Each officer shall also have such authority and perform such duties as are usually incumbent upon his office except as the same may be limited from time to time by the Board of Directors.

Section 3. President. The President shall be the duly authorized representative of the Board of Directors in all matters in which the Board of Directors or these Bylaws have not formally designated some other person for that purpose. The President shall preside at all meetings of the Board of Directors and shall be, ex officio, a voting member of all committees. The President may determine the order of business at meetings of the Board of Directors. The President shall perform any other duties normally within the expressed or implied terms of the office that may be necessary for the best interest of the Corporation.

Section 4. Vice President. The Vice President shall, in case of the absence or disability of the President, have the authority and perform the duties of the President and shall perform such other duties and have such other powers as are commonly incident to his or her office and as the Board of Directors from time to time may designate.

Section 5. Treasurer. The Treasurer shall direct the keeping of the accounts of the Corporation and direct and attend to the depositing of the funds and securities of the Corporation in such depositories or with such custodians as the Board of Directors shall designate and shall perform such other duties and have such other powers as are commonly incident to his or her office and as the Board of Directors from time to time may designate. Unless the Board of Directors by vote directs otherwise, he or she may endorse for deposit or collection all notes, checks and other instruments payable to the Corporation or its order, and may accept drafts on behalf of the Corporation. In addition, he or she may sign all checks and drafts of the Corporation, unless some other person is thereunto specifically authorized by vote of the Board of Directors.

Section 6. Secretary. In addition to any other duties assigned to the Secretary under these bylaws, the Secretary shall keep accurate records of the meetings of the Board of Directors, including records of all votes and minutes, in a book kept for that purpose. He or she shall have custody of the permanent records of the Corporation. In addition, he or she shall perform such other duties and have such other powers as are commonly incident to his or her office and as the Board of Directors from time to time may designate. The Secretary shall post draft minutes of the Corporation's meetings within fourteen (14) days after such meeting is held and copies of the minutes as adopted by the Board at its next meeting within fourteen (14) days of their adoption.

Section 7. Vacancies: Removals. Any vacancy in any office may be filled by the Board of Directors. The Board of Directors, by a resolution adopted by the Board of Directors at an annual, regular or special meeting where a quorum is present may remove from office any officer, agent or employee elected or appointed by them.

ARTICLE VI.

Financial Management: Bank Accounts: Checks: Notes

Section 1. Voluntary Contributions. The Corporation may accept gifts, grants, legacies and contributions from any source including persons, corporations, trusts, charities, and governments and governmental agencies.

Section 2. Deposits. All funds of the Corporation shall be deposited to the credit of the Corporation in such banks or trust companies or other depositories as the Board of Directors may designate.

Section 3. Checks. All checks and drafts on the Corporation accounts shall be signed by the Treasurer or by the President, or by such other officer or employee as the Board of Directors may from time to time designate, subject to such requirements as to counter signature or other conditions as the Board of Directors may from time to time determine.

Section 4. Contracts and Notes. All contracts and deeds and all promissory notes and other obligations of the Corporation other than checks and drafts shall be signed by both the President and the Treasurer unless the Board of Directors shall specifically authorize signature by one of them or some other officer or agent.

ARTICLE VII.

Amendments

Except as otherwise required by law, these Bylaws may be amended or repealed at any meeting of the Board of Directors at an annual, regular or special meeting where a quorum is present, provided, however, that (i) as at least one of the directors in the majority is an Independent Director; and (ii) any amendment or repeal of the Bylaws shall require the consent of the City. Any amendments to the provisions related to the Independent Directors shall require the affirmative approval of a majority of the Independent Directors currently serving on the Board of Directors.

ARTICLE VIII.

Indemnification

Section 1. Right to Indemnification. The Corporation shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceedings, whether civil, criminal, administrative or investigative, by reason of the fact that he is or was a Director, officer, employee or agent of the Corporation, or is or was serving at the request of the Corporation as a Director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses, including attorneys' fees, judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit or proceeding; provided that no indemnification shall be provided for any person with respect to any matter as to which he shall have been finally adjudicated in any action, suit or proceeding not to have acted in good faith in the reasonable belief that his action was in the best interest of the Corporation or, with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful. The termination of any action, suit or proceeding by judgment, order or conviction adverse to such person, or by settlement or plea of nolo contendere or its equivalent, shall not of itself create a presumption that such person did not act in good faith in the reasonable belief that his action was in the best interests of the Corporation, and, with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.

Section 2. Indemnity Against Expenses. Notwithstanding any provision of Section 1 of this Article VIII to the contrary, to the extent that a Director, officer, employee or agent of the Corporation has been successful on the merits or otherwise in defense of any suit or proceeding referred to in Section 1 of this Article VIII, or in defense of any claim, issue or matter therein, he shall be indemnified against expenses, including attorneys' fees, actually and reasonably incurred by him in connection therewith.

Section 3. Expenses Incurred in Civil or Criminal Action. Expenses incurred in defending a civil or criminal action, suit or proceeding may be paid by the Corporation in advance of the final disposition of such action, suit or proceeding as authorized by the Board of Directors in the manner provided below upon receipt of an undertaking by or on behalf of the Director, officer, employee or agent to repay such amount, unless it shall ultimately be determined that he is entitled to be indemnified by the Corporation as authorized in this section. Any payment of expenses as provided in this section shall be made by the Corporation only as authorized in the specific case upon a determination that the payment of such expenses is proper in the circumstances because he has met the applicable standard of conduct set forth in Section 1section I of this Article VIII. Such determination shall be made by the Board of Directors by a majority vote of a quorum consisting of Directors who were not parties to such action, suit or proceeding, or if such a quorum is not obtainable, or even if obtainable, if a quorum of disinterested Directors so directs, by independent legal counsel in a written opinion. Such a determination, once made by the Board of Directors may not be revoked by the Board of Directors, and upon the making of such determination by the Board of Directors, the Director, officer, employee or agent may enforce the payment of expenses against the Corporation by a separate action notwithstanding any attempted or actual subsequent action by the Board of Directors.

ARTICLE IX.

Pecuniary Benefit Transactions Provisions

Section 1. Policy Governing Conflict of Interest and Pecuniary Benefits Transactions. The Corporation shall adopt, implement, enforce and regularly review Policies and Procedures governing conflicts of interest and pecuniary benefits transactions. The Policy and Procedures shall, at a minimum, meet the requirements of New Hampshire law as then in effect, and comply with Guidelines established by the Office of the New Hampshire Attorney General, Charitable Trust Unit. Each Director, Officer, or Committee member shall have an affirmative duty to disclose to the Corporation each transaction with the Corporation that would be a "Pecuniary Benefit Transaction" (as defined by RSA 7:19-a) as to that Officer, Director, or Committee member, and shall be prohibited from participating in the discussion or voting on the transaction. The Corporation shall enter into Pecuniary Benefit Transactions only in accordance with the applicable provisions of RSA 7:19-a, as they may exist from time to time.

Section 2. Policy on Pecuniary Benefits Transactions. Transactions that provide a direct or indirect pecuniary benefit to any Officer, Director, or Trustee and the Corporation or any member of his or her immediate family; his or her employer; or, any person or organization of which he or she is a Proprietor, Partner, Officer, Director, or Trustee, are prohibited unless they (1) satisfy RSA 7:19-a; (2) are in the Corporation's best interest; and (3) all of the following conditions are met:

(a) The transaction is made in the ordinary course of the Corporation's business or operations and the transaction is fair to the corporation. Any transaction with any one Officer, Director, or Trustee that exceeds \$500.00 must be approved by the greater of a quorum of the

Board of Directors, or 2/3 of the members of the Board of Directors who have not had a pecuniary benefit transaction with the Corporation during the fiscal year.

(b) The Corporation shall list in its records each transaction with any one Officer, Director, or Trustee that exceeds \$500.00 in any one fiscal year and report them to the New Hampshire Director of Charitable Trusts annually as part of its annual report required under RSA 7:28, including the names of those benefiting from each transaction and the amount of the benefit. This list shall be available for inspection by Officers, Directors, Trustees and all contributors.

(c) The Corporation shall publish a notice of any transactions with any one Officer, Director, or Trustee which alone or in the aggregate exceeds \$5,000.00 in any one fiscal year, in the newspaper of general circulation in Nashua, New Hampshire and give a copy of the notice to the New Hampshire Director of Charitable Trusts before the transaction takes place. The name of the Officer, Director, or Trustee, the amount of the transaction and any other information required by RSA 7:19-a II (d) must be stated in the notice;

(d) The Corporation shall receive the prior approval and requisite finding of the Probate Court as to any transactions involving the sale, lease for a term of greater than five (5) years, purchase or conveyance of any interest in real estate to or from any Officer, Director, or Trustee.

(e) The transaction does not involve a loan of money or property to an Officer, Director, or Trustee.

ARTICLE X

Compliance with RSA 91-A

Section 1. The Officers and Directors of the Corporation will conduct the affairs of the Corporation in compliance with the requirements of RSA ch. 91-A.