

**BYLAWS OF
201 MAIN STREET REAL ESTATE CORP.**

RECITALS

These Bylaws of 201 Main Street Real Estate Corp. (the “Corporation”) are adopted on December 8, 2020 and are 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-G15 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 convey the real estate located at 201 Main Street to the Corporation, to lease that real estate from the Corporation and to enter into certain transactions 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 Real Estate 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) Lisa Bissonette shall hold office for a term of two (2) years, (b) Marylou Blaisdell and Tracy Hall 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 by an individual recommended by the Board of Directors and approved by 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 201 Main Street Financing Corp., a New Hampshire nonprofit corporation ("201 Financing Corp."), or (ii) the parent, spouse, sibling or child of any director, officer or employee of 201 Financing 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. **No notice of any such annual meeting shall be necessary.** 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. **Unless action is to be taken with respect to the Articles of Agreement or Bylaws, no notice of such regular meeting shall be necessary.**

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, **reasonable notice thereof being given by the person(s) calling the meeting to each Director, or at any time without formal notice, provided all the Directors are present or those not present have waived notice thereof.** 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 shall otherwise require. **Such special meetings shall be held at such time and place as the notice thereof shall specify.**

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 without further notice. 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 201 Financing Corp. must be approved by a majority of the Independent Directors.

Section 8. Unanimous Action; Consent Delivered by Electronic Means. Any action required to be taken at a meeting of the Directors, or any action which may be taken at a meeting of the Directors, may be taken without a meeting if all of the Directors sign written consents setting forth the action taken or to be taken, at any time before or after the intended effective date of such action. Such consents shall be filed with the minutes of Directors' meetings and shall have the same effect as a unanimous vote. Any Director may consent to an action by sending an email or equivalent electronic message to the other Directors affirming his assent to the resolutions or votes in question, and such electronic message shall be deemed adequate for purposes of the Corporation acting by unanimous consent. A paper copy of such electronic message shall be placed into the corporate records by the Secretary of the Corporation.

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 **Foundation**.

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 **Foundation**. In addition, he or she may sign all checks and drafts on behalf 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.

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. Any provision of Section 1 of this Article VIII to the contrary notwithstanding, 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 1 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 operation 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.