

**DRAFT**  
CITY OF NEWBURGH  
INDUSTRIAL DEVELOPMENT AGENCY (IDA)  
MINUTES OF **SPECIAL** BOARD MEETING  
June 25, 2019

Present

Board Members: Austin DuBois, Chairman  
Sarah Beckham Hooff, Adam Pollick, Marlon Ramos, and Nancy Thomas  
Staff: Cherisse Vickers, Executive Director

1. **Roll Call**: Vice Chairman Austin DuBois called the meeting to order; a quorum is present.

2. **Proof of Notice of Meeting**: Accepted.

3. **Executive Session**

The board, with a motion made by Nancy Thomas and seconded by Marlon Ramos, entered into Executive Session to discuss possible litigation.

A motion to leave Executive Session was made by Nancy Thomas and seconded by Sarah Beckham Hooff, and unanimously passed.

4. **Resolution No. 2019-06-25-01**

The board passed Resolution No. 2019-06-25-01 with five signatures of board members present at the meeting.

5. **Adjournment**:

A motion to adjourn the meeting was made by Adam Pollick, seconded by Sarah Beckham Hooff, and unanimously passed.

The meeting was adjourned at 7:20 p.m.

CORPORATE RESOLUTION  
City of Newburgh Industrial Development Agency  
with offices at 83 Broadway, Newburgh, New York, 12550

**Resolution No. 2019-06-25-01**

The undersigned, being present at a duly constituted meeting of the officers of the City of Newburgh Industrial Development Agency (hereinafter the "IDA"), pursuant to the by-laws of this Corporation and all applicable statutes, adopt the following Resolution:

**WHEREAS**, Wells Fargo, N.A. serves as the Trustee (the "Trustee") under a Trust Indenture, dated September 1, 1996 between the Industrial Development Agency and the Trustee and;

**WHEREAS**, the Trust Indenture related to the issuance of \$5.7 million in taxable Industrial Development Agency Revenue Bonds (the "Bonds"). The bonds were issued to finance the acquisition of the Facility (the "Facility") located on Broadway in the City of Newburgh and commonly known as the "Armory" by Gemma Development Company, LLC (the "Company") and;

**WHEREAS**, the IDA entered into a lease agreement (the "Lease") with the Company, simultaneously with the issuance of the Bonds, providing for the sub-lease of the Armory to Orange County (the "County") and;

**WHEREAS**, the Bonds were secured by a mortgage on the Facility to be serviced by the County's rent payments to the Trustee and;

**WHEREAS**, the Company paid the Bonds, which matured on March 20, 2018, in full and the Trustee's account contains a surplus balance of approximately \$350,000 and;

**WHEREAS**, the Trustee has brought an action in the State of Minnesota seeking authorization of the court to pay the surplus balance currently held in the Trustee's account to the Company as an overpayment of rent and;

**WHEREAS**, the IDA has a claim, pursuant to Sections 5, 6, 8, 10 and 11 of the Lease, against the Trustees' surplus balance for various sums of money, including but not limited to transaction fees, attorney fees and monthly rent payments in the approximate amount of \$182,000 incorrectly paid by Orange County, as sub-lessee of the Armory, to the Company rather than the Trustee as required under the Lease and;

**WHEREAS**, in 2006, the Company violated the terms of the Trust Indenture by encumbering the Facility with a second mortgage made by M&T Bank in the approximate amount of \$1.5 million and;

**WHEREAS**, the Company defaulted on the M&T second mortgage in 2008 causing M&T Bank to bring foreclosure proceedings and;

**WHEREAS**, upon learning of the Company's default, the County began to withhold its monthly sub-lessee rental payments otherwise due to the Company. As of April 2019, the County estimates that it is holding over \$1 million in such rental payments in escrow and;

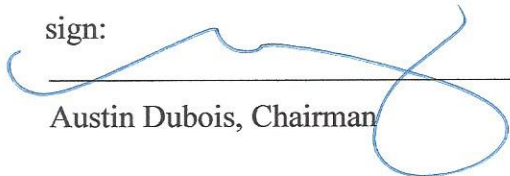
**WHEREAS**, the IDA may be entitled to retain title to the Facility due to the Company's breach of the Trust Indenture agreement and further, may be entitled to some or all of the funds currently held by the County.

**NOW WHEREFORE,**

1. the IDA Board hereby resolves that Minnesota counsel shall be retained, at negotiated and reasonable rates, to assert the IDA's claims for some or all of the surplus balance in the Trustee's account,
2. the IDA Board hereby authorizes the Oxman Law Group to initiate a proceeding in Orange County Supreme Court calling for a declaratory judgment that: a.) the IDA is the title holder of the Facility, b.) that the second mortgage between the Company and M&T Bank violated the terms of the Trust Indenture, c.) the IDA is entitled to the rental payments withheld by the County and
3. the IDA Board authorizes the Oxman Law Group to enter into negotiations with Orange County to join in the declaratory judgment action,
4. a copy of this Resolution may be shown to third parties, who may rely upon the authority vested herein.

The IDA by:

sign:

  
Austin Dubois, Chairman

sign:

\_\_\_\_\_  
Christine Amato

sign:

  
Sarah Beckham-Hoff

sign:

\_\_\_\_\_  
Michael Kelly

sign: Adam Pollick  
Adam Pollick

sign: Marlon Ramos  
Marlon Ramos

sign: Nancy Thomas  
Nancy Thomas

Dated: June 25, 2019

I, Cherisse Vickers, of the City of Newburgh Industrial Development Agency hereby certify that the above Resolution was duly adopted by the officers of the City of Newburgh Industrial Development Agency in accordance with the terms and provisions of the by-laws of the City of Newburgh Industrial Development Agency.

ATTEST: Cherisse Vickers