



THE CITY OF NASHUA

*Division of Public Works
Administration*

"The Gate City"

Board of Public Works Special Meeting of October 12, 2016

Agenda

A meeting of the Board of Public Works is scheduled for Wednesday, October 12, 2016 at 3:00 p.m. in the Auditorium at City Hall, 229 Main Street, Nashua, NH 03060.

- I. Roll Call**
- II. Motion:** To approve the Agenda as presented.
- III. Public Comment**
- IV. Administration Department**
 - A. Motion:** To approve the Bancroft Street Maintenance Agreement.
- V. Paving Workshop**
- VI. Commissioner's Comments**

City of Nashua, Public Works Division

To: Board of Public Works Meeting Date: October 12, 2016

From: Lisa Fauteux, Director
Administration Department

Re: Bancroft Street Maintenance Agreement

A. Motion: To approve the Bancroft Street Maintenance Agreement

Attachment: Maintenance Agreement

Discussion:

Return to:

BANCROFT STREET MAINTENANCE AGREEMENT

The **City of Nashua**, a municipal corporation with an address of 229 Main Street, Nashua, New Hampshire, 03060 ("City"), and **Residences at Riverfront Landing Limited Partnership**, a New Hampshire limited partnership, with an address of 100 Galen Street, Watertown, Massachusetts 02472 ("RRLLP") as a condition of Site Plan approval for PLR2016-00192 and other good and valuable consideration the sufficiency of which is hereby acknowledged, hereby agree as follows:

RRLLP, its successors and assigns including its successors in interest to Lot 50 ("Developer"), shall at Developer's sole cost be responsible for all maintenance and repair of **Bancroft Street**, a public way, and **Lot 51** (together, the "**Bancroft Street Maintenance Area**") as shown on a plan entitled "Consolidation/Subdivision Plan (Map 40, Lots 34 & 48) 62 & 70 Bridge Street, Nashua, NH," Prepared For: Renaissance at Nashua, LLC, Record Owner: City of Nashua, prepared by Hayner/Swanson, Inc., and recorded at the Hillsborough County Registry of Deeds as Plan No. _____ (the "Subdivision Plan"). Reference is also made to the plan entitled "Tax Map 40, Lots 34, 50 & 51, Site Plan – Phase 1, Residences at Riverfront Landing, 62 & 70 Bridge Street, Nashua, New Hampshire," Owned by City of Nashua, Applicant: Renaissance Downtowns at Nashua, LLC, dated October 8, 2015, prepared by MSC, a division of TF Moran, Inc., and filed with the City of Nashua as NR ____ (the "Site Plan") (collectively, the "Plans").

The following provides an itemization of specific maintenance practices that will be employed on the Bancroft Street Maintenance Area by Developer once all improvements have been completed.

Preventative Maintenance

Maintenance practices shall include, but are not limited to:

1. Snow removal from roadway and parking areas.

2. Cleaning of roadway and parking areas periodically to minimize dust and sand in the air.
3. Cleaning of catch basins once per year or more frequently as necessary.
4. Implementation of other maintenance or repair activities as deemed necessary by Developer.
5. Maintain landscaped areas in a neat and clean fashion.
6. Complying with all manufacturer requirements for all improvements made by Developer to the Bancroft Street Access Maintenance Area, including, but not limited to specifications for proper maintenance for all porous pavement.
7. Implementation of maintenance or repair activities as reasonably requested by the City.

General

The party responsible for maintenance of the roadway shall be the then-owner(s) of Lot 50 (aka, the Developer). Developer shall at all times during the term hereof, and at its own cost and expense, keep and maintain in good repair and safe condition the Bancroft Street Maintenance Area and all improvements thereon and shall not commit nor suffer to be committed any waste or damage thereto.

It is anticipated by the parties that Bancroft Street, as it will be improved pursuant to the Plans, will be accepted in its new alignment as shown on the Plans by the City once constructed. The provisions herein are intended to burden the Bancroft Street Maintenance Area regardless of such acceptance.

Developer shall be responsible for compliance with this Bancroft Street Maintenance Agreement.

When a breach of this Maintenance Agreement comes to the attention of the City, it shall notify the Developer (the then owner of Lot 50) in writing of such breach, delivered in hand or by certified mail, return receipt requested. Developer shall have thirty (30) days after receipt of such notice to undertake those actions including restoration, which are reasonably calculated to swiftly cure the conditions constituting said breach and to notify the City thereof. If the Developer fails to take such curative action, the City may undertake any actions that are reasonably necessary to cure such breach; and the cost thereof, including the City's expenses, court costs and legal fees shall be paid by the Developer at the time such cost is incurred by City.

By accepting this Bancroft Street Maintenance Agreement, RRLLP, for itself and its successors and assigns including its successors in interest to Lot 50, acknowledges the Combined Sewer Overflow system located under portions of Bancroft Street and the Bancroft Street Maintenance Area. Notwithstanding, the City shall retain all rights and obligations in and to the Combined Sewer Overflow system, together with responsibility for repairs caused to the

improvements made by RRLLP due to the City's need to access and maintain the Combined Sewer Overflow system.

The City and Developer may each enforce its rights hereunder by any proceedings available at law or equity, including by seeking the remedies of specific performance and mandatory injunction.

The rights and burdens established hereby shall run with the land, whether or not expressly referenced in any subsequent deed of Map 40, Lot 50 (or any portion thereof). This agreement, and the rights and burdens established hereby, may terminate on or after April 1, 2037 if Developer provides two (2) years written notice to the City of Nashua, Attn: Director of Public Works, 9 Riverside Street, Nashua, NH 03062, and, after the opportunity to inspect as described below, the City accepts in writing the condition of the Bancroft Street Maintenance Area which acceptance shall not be unreasonably withheld. Upon receipt of a timely notice to terminate from Developer, the City agrees to complete an inspection ("the Inspection Report") of the Bancroft Street Maintenance Area no later than 1 year after receipt of a termination notice that identifies any improvements in the Bancroft Street Maintenance Area that do not comply with this Agreement. The City and Developer agree to work cooperatively to resolve any issues identified in the Inspection Report by the date set forth in the termination notice.

Signature page follows

Executed this _____ day of _____, 2016.

CITY OF NASHUA

Witness

James W. Donchess, Mayor
Duly Authorized

STATE OF NEW HAMPSHIRE
COUNTY OF HILLSBOROUGH

On this the _____ day of _____, 2016, before me, the undersigned officer, personally appeared the above named James W. Donchess, Mayor of The City of Nashua, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and acknowledged that he/she executed the same for the purpose herein contained.

Before me:

Justice of the Peace / Notary Public
My Commission Expires: _____

**RESIDENCES AT RIVERFRONT
LANDING LIMITED PARTNERSHIP**

Witness

By:
Its: _____
Duly Authorized

STATE OF _____
COUNTY OF _____

On this the _____ day of _____, 2016, before me, the undersigned officer, personally appeared the above named _____, as _____ of Residences At Riverfront Landing Limited Partnership, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and acknowledged that he/she executed the same on behalf of Residences At Riverfront Landing Limited Partnership for the purpose herein contained.

Before me:

Notary Public
My Commission Expires: _____