

R-12-053



RESOLUTION

**AUTHORIZING THE ACCEPTANCE OF A TRAIL EASEMENT DEED FROM
NASHUA RIVER HOLDING COMPANY, LLC ALONG THE NASHUA RIVER WEST
OF NASHUA DRIVE**

CITY OF NASHUA

In the Year Two Thousand and Twelve

RESOLVED by the Board of Aldermen of the City of Nashua to authorize acceptance of a trail easement deed, in substantially the same form as the attached trail easement deed and as shown on the attached plan, along the Nashua River west of Nashua Drive from the Nashua River Holding Company, LLC, for the purpose of constructing, maintaining and using a Class A trail.

LEGISLATIVE YEAR 2012

RESOLUTION: R-12-053

PURPOSE: Authorizing the acceptance of a trail easement deed from the Nashua River Holding Company, LLC along the Nashua River west of Nashua Drive

SPONSOR(S): Mayor Donnalee Lozeau
Alderman Diane Sheehan

**COMMITTEE
ASSIGNMENT:**

FISCAL NOTE: The fiscal impact of this resolution will be the cost of constructing and maintaining the Class A trail, and the cost of recording the trail easement deed (\$22.00).

ANALYSIS

This resolution will authorize acceptance of a trail easement deed along the Nashua River west of Nashua Drive for the purpose of constructing, maintaining and using a Class A trail. The acquisition of this trail easement will allow uninterrupted passage on the Riverwalk from Main Street to Nashua Drive.

Approved as to form: Office of Corporation Counsel

By: 

Date: June 20, 2012

TRAIL EASEMENT DEED

Nashua River Holding Company, LLC with an address of c/o Margaritas Management Group, 200 Griffin Road, Suite 1, Portsmouth, New Hampshire, 03801 (the Grantor), for consideration paid, grants to the City of Nashua, a municipal corporation with a principal place of business at 229 Main Street, Nashua, County of Hillsborough, State of New Hampshire, (the Grantee) an easement more particularly described herein:

Exhibit "A" Easement Parcel Description

The perpetual right and easement to use, construct, maintain, repair and replace a Class "A" Trail (as defined and governed by RSA 231-A:1 et seq) subject to public trail use restrictions (as defined and governed by RSA 231-A:4 and related statutory provisions), including the right in common with others, to pass and re-pass, by foot and non-motorized bicycles only, over certain land situated within Map 43 Lot 99 and west of Nashua Drive and east of the boundary with Map 43 Lot 103 in Nashua, Hillsborough County, New Hampshire, and more specifically defined in Exhibit "A" Easement Parcel Area ("Easement Area"), all subject to the terms and conditions of this Trail Easement Deed without limitation, and subject to any other easements of record affecting the Easement Area.

The easement above is granted for the purpose of a river walkway for pedestrians and non-motorized bicycles. It shall be the Grantee's obligation to post and maintain signs and pavement markings providing notice and caution to all users of the easement of the combined activity trail in the Easement Area.

The easement above permits the Grantee to trim or remove trees, vegetation or other physical obstacles within the Easement Area that interfere with the Class "A" trail.

Both the Grantor and Grantee acknowledge that there may be other easements for storm water drainage, sewer, water, natural gas, telephone, cable and electrical utilities above and underground within the Easement Area, and the Grantee is responsible for notifying the owners of such easements prior to commencing construction of the trail within the Easement Area.

The Grantor, its heirs, successors and assigns shall not erect, construct or place any buildings, structures or obstacles of any type within the Easement Area that unreasonably interfere with the use and enjoyment of the Easement Area for trail purposes. Notwithstanding anything to the contrary in this Trail Easement Deed, Grantor reserves the right to post signs prohibiting any parking on its property for the use of the trail or any Easement Area purposes.

The easements, rights and privileges granted by this instrument are perpetual and shall run with the land and are for the benefit of the Grantee.

The easement is granted with the express condition that upon any exercise of the herein described rights as to the use, construction, maintenance or repairs of the Grantee, the Grantee shall expeditiously restore, repair and/or replace any damage to the Grantor's property to substantially the same condition that existed prior to such damage. The Grantee agrees, by its acceptance of this conveyance, that the maintenance and repair of the trail shall be conducted in such a manner so as not to unreasonably disrupt the Grantor's and Grantor's successors and assigns use of the burdened premises other than the trail use within the Easement Area.

The Grantee shall indemnify, defend, and hold harmless the Grantor and such Grantor's officers, directors, managers, members, partners, shareholders, employees, agents, successors and assigns from and against any and all liabilities, damages, penalties or judgments, any and all actions, suits, proceedings, claims, demands, assessments, costs and expenses, including, without limitation, reasonable legal fees and expenses incurred in enforcing this indemnity, arising from injury to person or property sustained by anyone in the Easement Area and, to the fullest extent allowed under New Hampshire law, releases Grantor from all claims, responsibilities and liabilities related to the use of the Easement Area. The Grantee shall, at its own cost and expense, defend any and all suits or actions, just or unjust, which may be brought against the Grantor or in which the Grantor may be impleaded with others upon any such above-mentioned matter, claim or claims, except those arising from the affirmative acts, omissions, bad faith or negligence of Grantor.

[Signature Page Follows.]

IN WITNESS WHEREOF, the Grantor has caused this instrument to be duly executed this _____ day of _____, 2012.

Nashua River Holding Company, LLC

Witness

(name of signatory for LLC above)

**STATE OF NEW HAMPSHIRE
COUNTY OF HILLSBOROUGH**

This instrument was acknowledged before me this _____ day of _____, 2012 by _____ of **Nashua River Holding Company, LLC, c/o Margaritas Management Group, 200 Griffin Road, Suite #1, Portsmouth, New Hampshire 03801**, known to me or satisfactorily proven to be, the person whose name is subscribed to the foregoing instrument, and being duly authorized so to do, made oath that he executed the same as his free act and deed for the purposes therein contained on behalf of **Nashua River Holding Company, LLC**.

Notary Public
My Commission Expires

Exhibit "A"
Easement Parcel Description

Easement Area

A certain parcel of land located within Map 43 Lot 99 west of Nashua Drive in the City of Nashua, in the County of Hillsborough and the State of New Hampshire bounded and described as follows:

Beginning at a point on the southerly sideline of the Boston and Maine Corporation, on the westerly sideline of Nashua Drive, thence;
Southeasterly by a curve to the left having a radius of 98.94 feet more or less, a distance of 20.07 feet more or less to a point, thence;
S 79° 56' 04" W a distance of 17.61 feet more or less to a point on the face of the retaining wall, thence;
N 10° 58' 48" W a distance of 15.34 feet more or less along said retaining wall to a point, thence;
Northwesterly along said retaining wall a distance of 216 feet more or less to a point, thence;
N 18° 02' 38" E, a distance of 8.85 feet more or less to land of the City of Nashua, thence;
S 75° 31' 56" E along land of said city of Nashua a distance of 133 feet more or less to a point on land of said Boston & Maine Railroad, thence;
S 67° 17' 53" E along said land of said Railroad a distance of 28.95 feet more or less to a point at other land of the city of Nashua, thence;
S 67° 17' 53" E a distance of 73.66 feet more or less to a point on said Nashua Drive and the Point of Beginning.

Meaning and intending to describe a Pedestrian Easement containing 3892 SF more or less, as shown on Plan of Land in Nashua, New Hampshire, Prepared for The City of Nashua, dated April 16, 2012, to be recorded at the Hillsborough County Registry of Deeds.

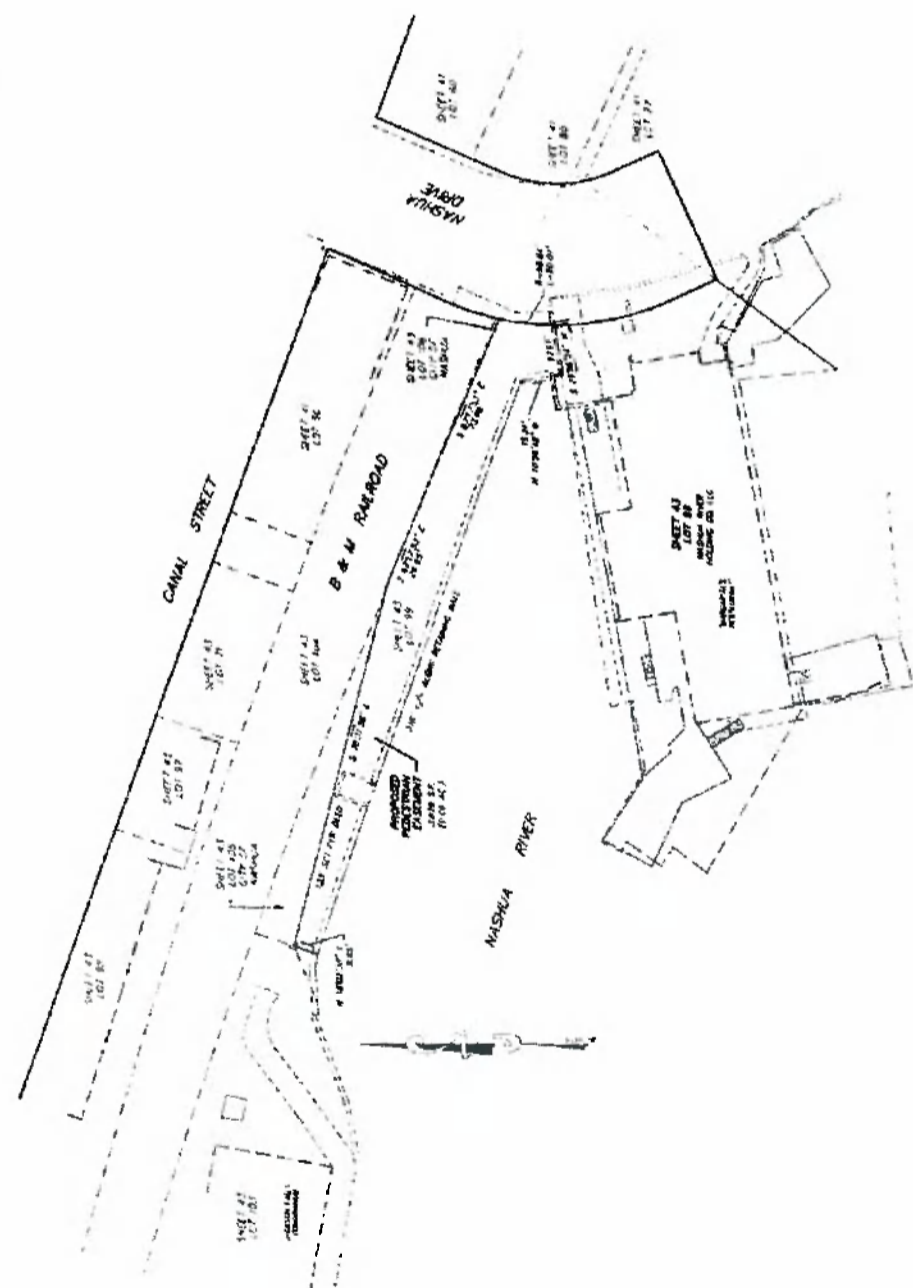


REFERENCE PLANS

1. CITY OF NASHUA, NEW HAMPSHIRE, PLANS AND SPECIFICATIONS FOR THE CONSTRUCTION OF THE NASHUA RIVER BRIDGE, 1911.
2. CITY OF NASHUA, NEW HAMPSHIRE, PLANS AND SPECIFICATIONS FOR THE CONSTRUCTION OF THE NASHUA RIVER BRIDGE, 1911.
3. CITY OF NASHUA, NEW HAMPSHIRE, PLANS AND SPECIFICATIONS FOR THE CONSTRUCTION OF THE NASHUA RIVER BRIDGE, 1911.

NOTES

1. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.
2. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.
3. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.



ESSENTIAL PLAN
PIEDESTRIAN EASEMENT
PREPARED FOR
CITY OF NASHUA
39 MAIN STREET
NASHUA, NH 03061-1819
SCALE: 1" = 20'

PREPARED FOR
CITY OF NASHUA
39 MAIN STREET
NASHUA, NH 03061-1819
SCALE: 1" = 20'



2/27/11
DATE

NO.	REVISION	DATE
1	ISSUED FOR PERMIT	2/27/11