RESOLUTION

AMENDING THE AUTHORIZATION FOR THE SALE OF LAND ON BRIDGE STREET AND SANDERS STREET

CITY OF NASHUA

In the Year Two Thousand and Nineteen

WHEREAS, R-09-168, amended, authorized the Business and Industrial Development Authority to enter into agreements for the transfer and redevelopment of three parcels of land, said parcels being described as L[and] Bridge Street – Lot 40-34, 40 Bridge Street – Lot 39-32, and 10 Sanders Street – Lot 40-37, totaling approximately 12 acres (the “Property”) under certain conditions;

WHEREAS, pursuant to that authorization, the City did enter into such a “Bridge Street Waterfront Development Preferred Developer Agreement for Sale of Land for Private Development” on May 21, 2009, with Renaissance at Nashua, LLC, and three subsequent amendments; and

WHEREAS, the Business and Industrial Development Authority supports the parties entering into the attached fourth amendment to the Preferred Developer Agreement which a) requires payment of $775,000 to the City in lieu of a rectangular athletic field, b) memorializes timelines and allows for termination if timeline is not met, and c) provides for $7,500 for each residential unit over 147 unit which is approved on the site by the Planning Board.

NOW, THEREFORE, BE IT RESOLVED by the Board of Aldermen of the City of Nashua that the Business and Industrial Development Authority and Mayor are hereby authorized to enter into the attached fourth amendment to the Bridge Street Waterfront Development Preferred Developer Agreement for Sale of Land for Private Development with Renaissance at Nashua, LLC.
RESOLUTION: R-19-148

PURPOSE: Amending the authorization for the sale of land on Bridge Street and Sanders Street

ENDORSERS: Mayor Jim Donchess

COMMITTEE ASSIGNMENT:

FISCAL NOTE: Based on the Residences at Riverfront Phase I this project will create approximately $310,000 annually in property tax revenue once it is fully built out at 147 units. If additional units are built additional revenue will be generated. In addition to the property tax revenue an additional one time payment will be made in the amount of $775,000 in lieu of a rectangular athletic field.

ANALYSIS

This resolution authorizes the Business and Industrial Development Authority and Mayor to enter into a fourth amendment, as attached, to the Bridge Street Waterfront Development Preferred Developer Agreement for Sale of Land for Private Development with Renaissance at Nashua, LLC.

Charter §77 provides that the Planning Board “shall review and make recommendations to the mayor and board of aldermen on all locations for proposed municipal building and facilities, including educational, [and] on the purchase and sale of any land by the city.”

Approved as to form: Office of Corporation Counsel

By: [Signature]

Date: June 5, 2019
FOURTH AMENDMENT TO PREFERRED DEVELOPER AGREEMENT FOR SALE OF LAND FOR PRIVATE DEVELOPMENT

This Fourth Amendment to Preferred Developer Agreement for the Sale of Land for Private Development ("Fourth Amendment") is made and entered into this ___ day of __________, 2019, by and between the CITY OF NASHUA ("City"), a New Hampshire municipal corporation, acting by and through its BUSINESS AND INDUSTRIAL DEVELOPMENT AUTHORITY ("BIDA"), located at 229 Main Street, Nashua, New Hampshire, 03060, and RENAISSANCE AT NASHUA LLC ("Developer"), a New York limited liability company authorized to do business in New Hampshire, with offices at 9 Gerhard Road, Plainview, New York, 11803 (collectively, the "Parties").

RECITALS

WHEREAS, the Parties entered into a Preferred Developer Agreement for the Sale of Land for Private Development dated May 21, 2009, as amended October 18, 2009, October 22, 2010, and as further amended July 31, 2014 (the "PDA"); and

WHEREAS, the City conveyed "Phase I" of the Project (Land on Bridge Street Lot 40-34, consolidated and subdivided as Lot 40-50, see Plan # 39077 at Hillsborough County Registry of Deeds) to Developer's related entity in November, 2016; Phase I of the development has been fully built and is complete; and

WHEREAS, since early 2017, BIDA and Developer have been negotiating the development of "Phase II" of the Project, namely 40 Bridge Street (Lot 39-32) and 10 Sanders Street (Lot 40-37); and

WHEREAS, both the PDA and the Nashua Board of Aldermen's authorizing Resolution (Amended R-09-168) require that a sufficient area for a rectangular athletic field with necessary ancillary facilities be set aside on Phase II, or at an alternate location in the City; following
discussions with the Department of Public Works and negotiations with BIDA, the Developer proposed a payment-in-lieu of the rectangular athletic field, and BIDA agreed pursuant to the terms below.

WHEREAS, the Parties have agreed to modify certain terms in the PDA regarding (a) the rectangular athletic field, (b) the schedule and deadlines, and (c) the Purchase Price, for the development of Phase II; and

WHEREAS, the Parties hereto desire to amend the PDA, particularly as it relates to Phase II.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing, and the terms below, the Parties hereby agree to amend the PDA as follows:

1. Rectangular Athletic Field. §5.02(v) of the PDA, which required the rectangular athletic field, is deleted in lieu of the payment to be made by Developer to the City in accordance with §3 below.

2. Schedule and Deadlines. For purposes of this Fourth Amendment, the “Effective Date” shall be the date this Fourth Amendment is fully approved and executed, including Board of Aldermen approval of any amendment to R-09-168 and the PDA, if required.

   2.1. The Parties acknowledge that the Developer presented a Concept Plan for Phase II in June, 2018, which presented, among other features, 147 residential apartments.

   2.2. The Developer shall provide BIDA with an updated Concept Plan within sixty (60) days of the Effective Date of this Fourth Amendment. Upon approval of BIDA, the updated Concept Plan will be the Phase II Final Concept Plan.

   2.3. The Developer shall submit a complete subdivision and/or site plan(s) application(s) for the Phase II Final Concept Plan to the Nashua Planning Board within one hundred twenty (120) days of BIDA’s approval of the Final Concept Plan.
2.4. The Developer, or its assignee, shall close with the City for acquisition of the two Phase II lots within ninety (90) days of Nashua Planning Board final site plan(s) approval. Final approval shall include the expiration of any appeal period or appeal.

2.5. As of the Effective Date of this Fourth Amendment, the Parties do not contemplate that the Developer will require relief from the Nashua Board of Adjustment. Should the Developer be required to obtain relief from the Board of Adjustment, the deadlines described in §§2.2, 2.3, and 2.4 above shall be stayed and extended through final approvals from the Board of Adjustment, including any appeal or appeal period.

2.6. Should Developer propose any material changes to the Phase II Final Concept Plan as a result of Planning Staff comments, Planning Board conditions or denial, or Board or Adjustment relief, BIDA shall have the right to review and approve any such material changes as described in §2.04 (c) of the PDA. The deadlines described in §§2.2, 2.3, and 2.4 shall be extended during any BIDA re-approval of the Phase II Final Concept Plan required by this section.

2.7. BIDA may terminate the PDA and the terms of this Fourth Amendment in accordance with Article 8 of the PDA should Developer fail to meet the deadlines set forth in §§2.2, 2.3, and 2.4 above, as may be extended as described in §2.5 and 2.6.

3. **Purchase Price.** Article 3 of the PDA is amended to add a new Subsection 3.03 as follows:

3.03 **Purchase Price for Phase II Lots.** Notwithstanding the foregoing provisions of this Article 3, the Purchase Price for the two Phase II lots shall be established as follows:

(a) Subsections 3.02 of the PDA shall apply to this Subsection 3.03.

(b) In consideration of both: (i) the deed from the City to Developer or its assignee for the two Phase II lots; and (ii) the payment-in-lieu of the rectangular field
requirement described in §1 above, Developer shall pay the City the Purchase Price of $775,000.00.

(c) Should Developer’s Phase II Final Concept Plan, as approved by the Nashua Planning Board, depict more than 147 residential apartments, the Developer shall pay to the City an additional $7,500.00 per each additional unit.

All other terms and conditions of the PDA, not otherwise amended by this Fourth Amendment, shall remain in full force and effect.

This Fourth Amendment is contingent upon the approval of the Nashua Board of Aldermen.

IN WITNESS WHEREOF, the parties have hereunto set their hands on the date first above mentioned.

SIGNATURE PAGE FOLLOWS
ATTEST:

CITY OF NASHUA BUSINESS & INDUSTRIAL DEVELOPMENT AUTHORITY

______________________________

John E. Tulley, Chairman

ATTEST:

RENAISSANCE AT NASHUA LLC
BY: RENAISSANCE DOWNTOWNS URBAN HOLDINGS LLC, its Manager

______________________________

Ryan Porter, Authorized Person

City of Nashua Resolution R-______, authorizing this Fourth Amendment was passed by the Board of Aldermen on _________________.

ATTEST:

CITY OF NASHUA

______________________________

James W. Donchess, Mayor