



## RESOLUTION

### AUTHORIZING ISSUING OF BUILDING PERMITS ON OLD HARRIS ROAD, A CLASS VI HIGHWAY

### *CITY OF NASHUA*

*In the Year Two Thousand and Twenty-One*

**WHEREAS**, Pennichuck Water Works Inc. as the Owner and GSSG New Hampshire, LLC as the applicant, applied for site plan approval for a solar array project along with site improvements;

**WHEREAS**, on November 5, 2020, the Planning Board approved the site plan subject to certain conditions;

**WHEREAS**, Old Harris Road is adjacent to the proposed site and provides access thereto;

**WHEREAS**, one of the conditions was that “the applicant shall supply a legal opinion regarding the status of all paper streets and Old Harris Road and subject to a favorable review by the Division of Public Works and Corporation Counsel;”

**WHEREAS**, Attorney Nicolas Frasca, on behalf of the applicant submitted a letter to the City opining that “Old Harris Road satisfies the definition under the statute as a Class VI road for which the City would have no duty to maintain;”

**WHEREAS**, The Office of Corporation Counsel and the Division of Public Works concur with the opinion that Old Harris Road is a Class VI highway;

**WHEREAS**, the solar array requires a building permit;

**WHEREAS**, RSA 674:41, I, (c)(1) requires the Board of Aldermen, after review and comment by the Planning Board, vote whether to authorize the issuance of building permits on Class VI highways;

**WHEREAS**, RSA 674:41, I, (c)(2) states that the City does not assume responsibility for maintenance of said Class VI highway or liability for any damages resulting from the use thereof; and

**RESOLUTION**

**R-21-1.09**

***WHEREAS***, under RSA 674:41, I, (c)(3), if such building permits are so authorized, evidence of the notice of limits of the City's responsibility and liability shall be recorded in the Hillsborough County Registry of Deeds.

***NOW, THEREFORE, BE IT RESOLVED*** by the Board of Aldermen of the City of Nashua that building permits may be issued on Old Harris Road, subject to the requirement that a release of municipal liability and responsibility, substantially in the form attached, be signed by any owner requesting a building permit on Old Harris Road, such release(s) to be recorded by the owner prior to the issuance of any building permit.

***FURTHER RESOLVED*** by the Board of Aldermen of the City of Nashua that the Mayor, with the assistance of the Office of Corporation Counsel, is authorized to sign such releases.

After recording return to:  
City of Nashua  
229 Main Street  
Nashua, NH 03060

**AGREEMENT AND RELEASE  
REGARDING BUILDING PERMIT FOR CLASS VI HIGHWAY**

NOW COME(S) \_\_\_\_\_, (hereinafter individually or collectively (as the case may be) referred to as "OWNER"), of mailing address: \_\_\_\_\_, and the City of Nashua (hereinafter "CITY"), a municipal corporation existing under the laws of the State of New Hampshire, of mailing address: 229 Main Street, Nashua, New Hampshire 03061-2019, and agree as follows:

WHEREAS, OWNER has acquired title to certain real property as stated in OWNER's deed recorded at Book \_\_\_\_\_, Page \_\_\_\_\_ at the Hillsborough County Registry of Deeds (hereinafter "PROPERTY"); and known as Nashua Tax Map \_\_\_\_\_, Lot \_\_\_\_\_;

WHEREAS, the PROPERTY is located on \_\_\_\_\_ (name of Class VI Highway), City of Nashua, County of Hillsborough, State of New Hampshire (hereinafter "ROAD");

WHEREAS, the relevant portion of the ROAD upon which the OWNER's real property fronts is a Class VI Highway as classified by New Hampshire Revised Statutes Annotated 229:5;

WHEREAS, the CITY, by passing R-21-109, on \_\_\_\_\_ 2021, has agreed to issue a building permit for the construction of a structure or building on the PROPERTY upon the filing of the within notice pursuant to New Hampshire Revised Statutes Annotated 674:41;

NOW THEREFORE, the CITY and OWNER, OWNER's heirs, legal representatives, tenants, occupants, successors and assigns, covenants and agrees as follows:

1. The CITY shall allow OWNER to construct a structure pursuant to a building permit issued by the CITY on the PROPERTY;
2. The CITY neither assumes responsibility for any maintenance, including but not limited to snow plowing, nor liability for any damages resulting from the use of the ROAD;
3. OWNER shall be responsible for maintaining access to the PROPERTY and does hereby forever release and discharge the CITY, its officers, agents and employees from the obligation of maintaining the ROAD and from any claim of any nature, whether in tort or otherwise, which

OWNER might have against the CITY for any loss or damage, including those incurred through failure to provide municipal services, including police, fire and ambulance services, arising out of the condition of the ROAD as a Class VI Highway;

4. OWNER assumes responsibility for maintenance and repair of the ROAD, and agrees that at OWNER's expense or at the expense of the OWNER and other owners of property similarly located on the ROAD, to clear and maintain the ROAD to a width of not less than twenty (20) feet, and to repair and maintain the traveled portion of the ROAD in a good and passable condition.

**OWNER:**

\_\_\_\_\_  
Owner

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Co-Owner (if applicable)

\_\_\_\_\_  
Witness

STATE OF NEW HAMPSHIRE  
COUNTY OF HILLSBOROUGH

This, \_\_\_\_ day of \_\_\_\_\_, 2021 appeared \_\_\_\_\_, in his or her capacity as \_\_\_\_\_, and acknowledged the foregoing instrument on behalf of \_\_\_\_\_.

\_\_\_\_\_  
Notary Public/Justice of the Peace  
My Commission Expires:

STATE OF NEW HAMPSHIRE  
COUNTY OF HILLSBOROUGH

This, \_\_\_\_ day of \_\_\_\_\_, 2021 appeared \_\_\_\_\_, in his or her capacity as \_\_\_\_\_, and acknowledged the foregoing instrument on behalf of \_\_\_\_\_.

\_\_\_\_\_  
Notary Public/Justice of the Peace  
My Commission Expires:

**CITY OF NASHUA, NH**

\_\_\_\_\_

\_\_\_\_\_

Mayor, Duly Authorized Representative

Witness

STATE OF NEW HAMPSHIRE  
COUNTY OF HILLSBOROUGH

This, \_\_\_\_ day of \_\_\_\_\_, 2021 appeared \_\_\_\_\_, in his or her capacity as \_\_\_\_\_, and acknowledged the foregoing instrument on behalf of \_\_\_\_\_.

\_\_\_\_\_  
Notary Public/Justice of the Peace  
My Commission Expires:

**LEGISLATIVE YEAR 2021**

**RESOLUTION:**

R-21-109

**PURPOSE:**

Authorizing Issuing of Building Permits on Old Harris Road, a Class VI Highway

**SPONSOR(S):**

Mayor Jim Donchess  
Alderman Richard Dowd  
Alderman Patricia Klee  
Alderman-at-Large Michael B. O'Brien, Sr.  
Alderman Jan Schmidt  
Alderman Linda Harriott-Gathright  
Alderman Skip Cleaver  
Alderman-at-Large Lori Wilshire

**COMMITTEE  
ASSIGNMENT:**

Pennichuck Special Water  
Nashua Planning Board

**FISCAL NOTE:**

None

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**ANALYSIS**

RSA 674:41, I, (c)(1) requires review and comment by the Planning Board of this resolution.

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**Approved as to form:**

**Office of Corporation Counsel**

**By:** \_\_\_\_\_ /s/ Celia K. Leonard, Esq. \_\_\_\_\_

**Date:** \_\_\_\_\_ Jan. 12, 2021 \_\_\_\_\_

**RESOLUTION R-21-109**

**Authorizing issuing of building permits on Old Harris Road, a Class VI Highway**

**IN THE BOARD OF ALDERMEN**

1<sup>ST</sup> READING January 12, 2021

Referred to:  
**Pennichuck Special Water Committee**  
**Nashua Planning Board**

2<sup>nd</sup> Reading February 9, 2021

3<sup>rd</sup> Reading \_\_\_\_\_

4<sup>th</sup> Reading \_\_\_\_\_

Other Action \_\_\_\_\_

Passed February 9, 2021

Indefinitely Postponed \_\_\_\_\_

Defeated \_\_\_\_\_

Attest: \_\_\_\_\_  
*Kari Wilshire* City Clerk  
President

Approved \_\_\_\_\_  
Mayor's Signature

\_\_\_\_\_  
Date

**Endorsed by**

\_\_\_\_\_  
MAYOR  
\_\_\_\_\_  
DOWD  
\_\_\_\_\_  
KLEE  
\_\_\_\_\_  
O' BRIEN  
\_\_\_\_\_  
SCHMIDT  
\_\_\_\_\_  
HARRIOTT-GATHRIGHT  
\_\_\_\_\_  
CLEAVER  
*Kari Wilshire*  
WILSHIRE

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Vetoed: \_\_\_\_\_

Veto Sustained: \_\_\_\_\_

Veto Overridden: \_\_\_\_\_

Attest: \_\_\_\_\_  
City Clerk

\_\_\_\_\_  
President