



RESOLUTION

AUTHORIZING THE CITY OF NASHUA TO ENTER INTO A MEMORANDUM OF UNDERSTANDING REGARDING THE BRONSTEIN REDEVELOPMENT

CITY OF NASHUA

In the Year Two Thousand and Twenty-One

RESOLVED by the Board of Aldermen of the City of Nashua that the City is authorized to enter into a Memorandum of Understanding regarding the Bronstein Redevelopment in substantially the same form as the attached.

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 prepare and execute the Memorandum of Understanding and all necessary documents and take all necessary actions contemplated by the Memorandum of Understanding or required to effectuate the same.

MEMORANDUM OF UNDERSTANDING

THIS DEVELOPMENT AGREEMENT (“Agreement”) is made as of this _____ day of _____, 2021, by and between **Nashua Housing and Redevelopment Authority**, a New Hampshire municipal housing authority under RSA Chapter 203 with its principal address of 40 East Pearl Street, New Hampshire 03060, (“NHRA”), **Bronstein 4% Limited Partnership** a New Hampshire limited partnership with a mailing addresses c/o Nashua Housing and Redevelopment Authority, 40 East Pearl St, Nashua, NH 03060 (“Bronstein 4%”) and **Bronstein 9% Limited Partnership**, a New Hampshire limited partnership with a mailing addresses c/o Nashua Housing and Redevelopment Authority, 40 East Pearl St, Nashua, NH 03060 (“Bronstein 9%”) and individually or jointly Bronstein 4%, the “Developer”), and the **City of Nashua**, a New Hampshire municipal corporation with a principal address of 229 Main Street, Nashua, New Hampshire 03060 (“City”) (each a “party”, together the “parties”).

Recitals

WHEREAS, NHRA owns a certain parcel of land, with improvements thereon, situated at 41 Central Street, Nashua, NH, identified on the records of City of Nashua Assessors as Lot 80, Sheet 89, (“Property”);

WHEREAS, NHRA currently owns, manages, and maintains a 48-unit multifamily affordable housing project on the Property known as the Bronstein Apartments (“Bronstein Property”);

WHEREAS, NHRA and Developer desire to renovate and redevelop the Bronstein Property to construct 216 new apartments, comprising of 10 market-rate units and 206 affordable units, approximately 2500 square feet of community space and approximately 3000 square feet for a Head Start childcare center through a ground lease between NHRA, as landlord and Bronstein 4% and Bronstein 9%, as tenants (“Bronstein Redevelopment”);

WHEREAS, at all times, NHRA will own the underlying “Property” on which the Bronstein Redevelopment will occur;

WHEREAS, NHRA will be entitled to exercise its right of first refusal to acquire the Bronstein Redevelopment at the end of the 15-year Compliance Period, at which point it would own both the property and improvements at the Bronstein Redevelopment;

WHEREAS, City is desirous of supporting the Bronstein Redevelopment in order to increase the supply of affordable housing in the City;

WHEREAS, the Nashua City Planning Board has reviewed and approved, with modifications, a site plan for the Bronstein Redevelopment entitled “Master Site Plan (Map 80, Lot 89) Bronstein Redevelopment 41 Central Street, Nashua, NH” prepared for Boston Capital Corporation, record owner Nashua Housing and Redevelopment Authority dated June 16, 2020 as prepared by Hayner/Swanson, Inc. (“Site Plan”);

WHEREAS, the Site Plan for Bronstein Redevelopment showed the following items which items required coordination with the City of Nashua:

- Proposed parking stalls protruding into the public right of way known Myrtle Street
- At the east end of Myrtle Street, granite curbing protruding into the public right of way; See Exhibit attached.

WHEREAS, because of the interface between the Bronstein Redevelopment on the Property and the public right of way known as Myrtle Street, there is a potential for snowplowing overlap and other maintenance issues;

WHEREAS the Bronstein Redevelopment is to be used for essential public and governmental purposes and that this Agreement facilitates the City's and the NHRA's development of additional low-income housing units.

NOW, THEREFORE, for the purpose of aiding and co-operating in the planning, undertaking, construction, and operation of the Bronstein Redevelopment, and for and in consideration of the mutual covenants set forth herein and other good and valuable consideration paid, the parties agree as follows:

1. Recitals Incorporated. The foregoing recitals are hereby incorporated into this Agreement.

2. Construction as per Site Plan. NHRA and the Developer will construct the Bronstein Redevelopment in accordance with the Site Plan, as approved. The City hereby consents to the construction of improvements as shown and detailed in the Bronstein Redevelopment Site Plan.

3. License to install roadway improvements. The City hereby grants to NHRA and Developer temporary non-exclusive rights, privileges, and licenses to install curbing and other improvements as shown on the Bronstein Redevelopment Site Plan. Nothing in this paragraph shall relieve NHRA or Developer from securing required permit(s) from the City's Department of Public Works for any such work. To the extent permitted by law, NHRA and each Developer agrees to protect, indemnify, defend, and save the City harmless from and against any and all claims, demands, losses, liabilities, costs, including reasonable attorney's fees, and causes of action of every kind and character in any way resulting from its acts or omissions or those of their agents, employees, representatives, or contractors. If any property damage, personal injury or loss results from the joint willful misconduct of the City, in any part, the duty of indemnification shall be in proportion to the allocable share of misconduct.

4. Parking Ordinances. For purposes of aiding and cooperating in the planning, undertaking, and operation of the Bronstein Redevelopment, amendments to certain ordinances, regulating parking on Myrtle Street will be introduced to the Board of Aldermen for consideration.

5. Permission to Use Parking. If approved, the new ordinances will allow for 42 head-in parking spaces and further allows for 5 parking spaces on the hammerhead turnaround at the easterly end of Myrtle Street all as shown on the Bronstein Redevelopment Site Plan. During the work week - Monday through Friday 9am – 5pm, except holidays-, the spaces are and will be available to the public, including residents of Bronstein Redevelopment, on a first come, first served basis. For all times outside of the workweek, as defined, the parking spaces shall be restricted for use by resident permit holders only, as set out in section 8 below. Except as set out in section 8 below, there will be no parking meters on Myrtle Street and there will be no fees or charges for parking on Myrtle St.

6. No Further Restrictions on Use of Parking Spaces. Except as may be required by this Memorandum of Understanding, the City further agrees and will not impose restrictions on the use of the 42 head-in parking spaces on the southerly side of Myrtle Street and will not impose restrictions on the 5 parking spaces at the hammerhead of the east end of Myrtle Street.

7. Overnight/Holiday Parking. The ordinances allow for overnight and holiday/weekend parking on Myrtle Street and restrict the overnight and holiday/weekend parking to residences of Myrtle Street. The City and NHRA agree that the residents of the Bronstein Redevelopment are residents of Myrtle Street. Further, the City and NHRA and Developer shall follow the City's standard procedure which allows for residence and for the management company of Bronstein Redevelopment to obtain permits for overnight/resident parking in the 42 spaces on the southerly side of Myrtle Street and the 5 spaces on the easterly end of Myrtle Street. Yearly permits are presently \$10 per year. Upon receipt of a certificate of occupancy for the completed Bronstein Redevelopment, NHRA shall pay to the City the sum of Four Hundred Seventy Dollars (\$470) for overnight/resident parking permits. The sum shall be paid annually and shall continue during the term of the arrangement or until such time as the fee for overnight parking permits is changed by the Board of Aldermen.

8. Maintenance Agreement. The Developer and NHRA will enter into Maintenance Agreement with the City, subject to the approval of the Board of Public Works for the City of Nashua, which Agreement will clarify responsibilities for maintenance and repair of the 42 head-in spaces, the 5 parking lot spaces, and the other improvements shown on the Bronstein Redevelopment Site Plan. Under the Maintenance Agreement, the Developer and NHRA will be the party responsible for plowing, ice removal, ADA compliance issues, and ongoing pavement care, etc.

9. Continuation of Agreement. This Agreement shall continue in full force and effect with respect to Bronstein 4% so long as the portion of the Property leased to Bronstein 4% is used for 166 apartments made available to families of low income as provided in NH RSA 203:8, II and, with respect to Bronstein 9%, for so long as the portion of the Property leased to Bronstein 9% is used for 50 apartments, 40 of which shall be made available to families of low income as provided in NH RSA 203:8, II, except however, if a portion of Myrtle Street is successfully discontinued and this Agreement is no longer necessary to assure the continued availability of the 42 head-in spaces and the 5 parking lot spaces, the City may terminate this Agreement upon thirty (30) days written notice to NHRA and Developer.

10. Representations. The Developer and NHRA make the following representations and warranties to the City:

- (i) The Developer and NHRA each have the legal right, power and authority to enter into this Agreement and to perform all of its obligations hereunder.
- (ii) The execution and delivery of this Agreement and the performance by the Developer and NHRA of its obligations hereunder will not conflict with, or result in a breach of, any of the terms, covenants and provisions of any agreement or instrument to which the Developer and NHRA is a party or by which the Developer and NHRA is bound.
- (iii) No consent, approval, waiver, authorization or novation is required to be obtained by the Developer and NHRA from, and no notice or filing is required to be given by the Developer and NHRA to, any governmental entity or other person or entity in connection with the consummation of the transactions contemplated hereby or the execution, delivery and performance by the Developer and NHRA of this Agreement and each of the documents to be executed by the Developer and NHRA pursuant to this Agreement.

11. Amendment. The terms of this Agreement may be altered, amended, or changed only by the mutual, written consent of the parties.

12. Entire Agreement. This Agreement contains the entire agreement between the City, NHRA and Developer with respect to the subject matter herein and supersedes any earlier agreements.

13. Law. This Agreement shall be interpreted in accordance with the laws of the State of New Hampshire. The parties hereto agree that any action brought by either party to enforce the terms of this Agreement shall be filed in the Superior Court of Hillsborough County, New Hampshire.

14. Notice. Any notice by one party to the other shall be in writing, and shall be either hand-delivered, sent via certified mail, return receipt requested, or by email (with confirmation of receipt) at the addresses first set forth above unless otherwise provided in writing to the other party. All notices to the City shall be directed to the Director of Economic Development, City of Nashua, 229 Main Street, Nashua, New Hampshire 03061-2019 and copies sent by email to the following email address: legal@nashuanh.gov.

15. Counterparts. This Agreement may be executed in counterparts, which collectively shall constitute one agreement. Executed copies of this Agreement shall have the same force and effect as originals.

16. Disclaimer of Joint Venture, Partnership and Agency. This Agreement shall not be interpreted or construed to create an association, joint venture, or partnership between Developer, NHRA and City, or to impose any partnership obligation or liability upon the parties. Neither

Developer, NHRA nor City shall have any right, power, or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent of representative of, or to otherwise bind, the other.

17. Severability. If any term or provision of this Agreement shall be judicially determined to be void or of no effect, that determination shall not affect the validity of the remaining terms and provisions of this Agreement. The parties agree that if any provision of this Agreement is judicially determined to be invalid because it is inconsistent with a provision of state or federal law, this Agreement shall be amended to the extent necessary to make it consistent with state or federal law and the balance of the Agreement shall remain in full force and effect.

18. Authority. Each party represents that it has undertaken all actions necessary for approval of this Agreement, and that the person signing this Agreement has the authority to bind City, NHRA and Developer.

19. Successors and Assigns. Developer and NHRA may assign its rights, duties and obligations hereunder prior to the end of the term of this Agreement, to an entity under common control with Developer and NHRA, respectively. No other assignment shall be permitted without the City's consent, which consent may be withheld in the City's sole discretion. This Agreement and the rights, duties and obligations of the parties hereunder shall apply to and bind the successors and assigns of the respective parties.

Signature pages follow

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed under seal as of the day and year first above written.

NHRA:

**NASHUA HOUSING AND
REDEVELOPMENT AUTHORITY**

By: _____

Name:

Title:

BRONSTEIN 4% & BRONSTEIN 9%:

BRONSTEIN 4% LIMITED PARTNERSHIP

By: 55 Central Street 4%, LLC
Its General Partner

By: Nashua Housing and Redevelopment Authority
Its Co-Manager

By: _____

Name:

Title:

BRONSTEIN 9% LIMITED PARTNERSHIP

By: 55 Central Street 9%, LLC
Its General Partner

By: Nashua Housing and Redevelopment Authority
Its Co-Manager

By: _____

Name:

Title:

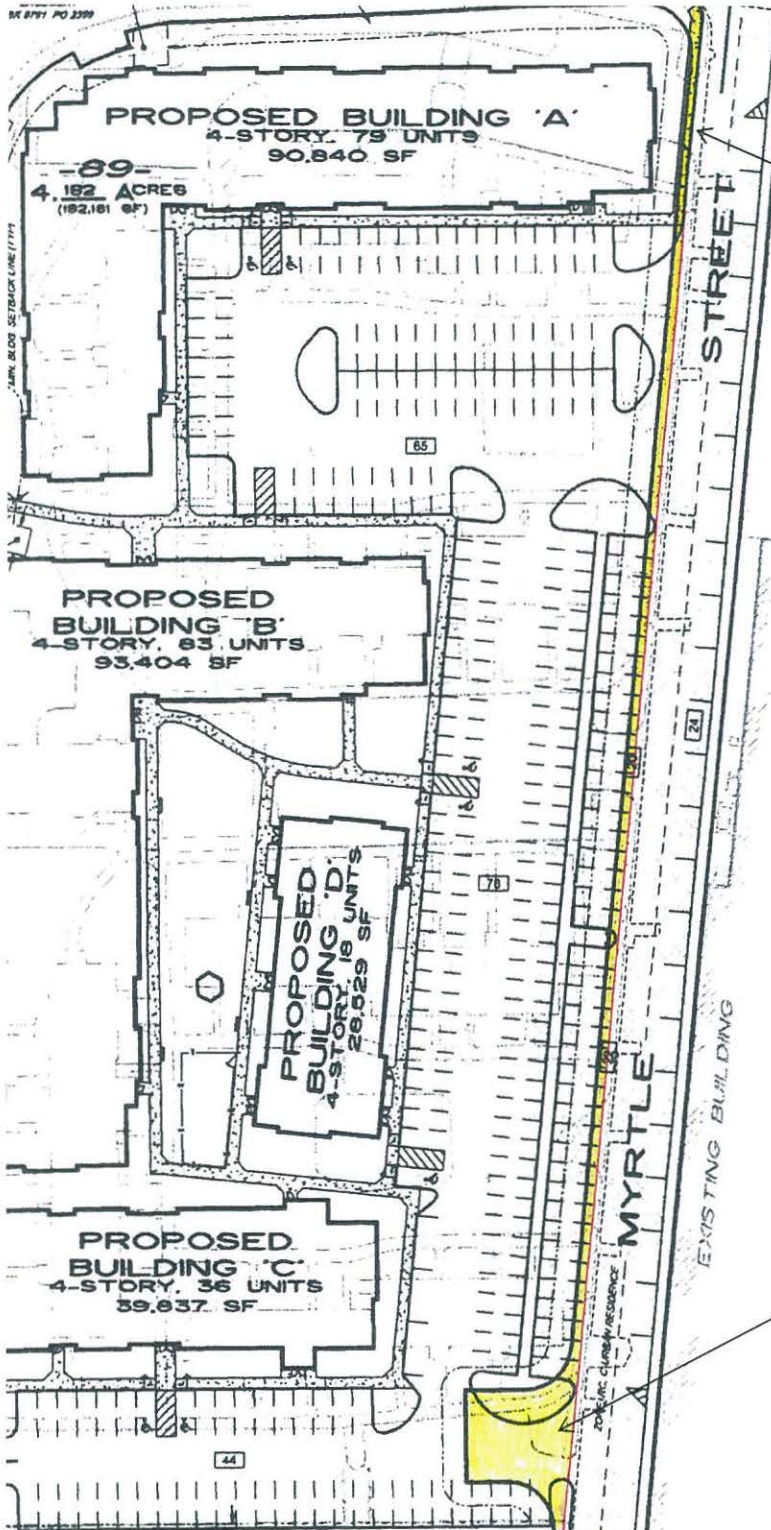
CITY:

CITY OF NASHUA

By: _____

Name: James W. Donchess

Title: Mayor



Yellow highlighted area is encroachment area.

MAP 80 LOT 1
 ONE CHESTNUT REALTY LLC
 66 MANZO STREET
 NEW DEVELOPMENT
 MEDFORD, MA 02052
 BK 9182 PG 1720
 ZONE: D-1MU & D-1AU
 USE: RELEDCCHA

Yellow highlighted area is encroachment area.

LEGEND

- EXISTING GROUND CONTOUR
- EXISTING SPOT ELEVATION
- PROPOSED GRADE
- +100.5 PROPOSED SPOT GRADE
- STORM DRAIN & CATCH BASIN
- STORM DRAIN & MANHOLE
- S(c) SANITARY SEWER & MANHOLE
- WTD WATER MAIN & HYDRANT
- WTD WATER MAIN & GATE VALVE
- G(v) GAS LINE & GATE VALVE
- UTY UTILITY POLE WITH GUY SUPPORT
- STREET LIGHT
- OVERHEAD ELECTRIC & TELEPHONE
- UTM UNDERGROUND ELECTICEL & MANHOLES
- SIGN
- STONE SOUND
- CHARLINK FENCE
- VGC VERTICAL GRANITE CURBING
- SGC SLOPE GRANITE CURBING
- RC BITUMINOUS CURBING
- VCC VERTICAL CONCRETE CURBING
- WC WOOD CURBING
- MC PVC CURBING
- FVCC
- STORMWATER RUNOFF DIRECTION
- HANDICAP PARKING SPACE
- PARKING SPACE COUNT
- PAVEMENT SAWCUT
- REINFORCED CONCRETE SIDEWALK
- PROPOSED FULL-DEPTH PAVEMENT SECTIC
- PROPOSED MILL/FILL PAVEMENT SECTION
- RIPRAP / STONE
- LIMIT OF WORK
- RETAINING WALL
- CONIFEROUS TREE
- DECIDUOUS TREE
- SHRUBS
- SIGNALIZED INTERSECTION
- TEST BORING LOCATION AND IDENTIFIER

Ryan M Lombardi
 FOR NASHUA HOUSING AND REDEVELOPMENT AUTHORITY
 02/24/2020
 DATE

THE UNDERSIGNED DOES HEREBY AGREE TO PERFORM ALL OF THE SITE IMPROVEMENTS AS SHOWN ON THIS PLAN AND AS CONDITIONED OR STIPULATED BY THE NASHUA CITY PLANNING BOARD. ALL REQUIRED SITE IMPROVEMENTS MUST BE COMPLETED OR GUARANTEED PRIOR TO THE ISSUANCE OF A CERTIFICATE OF OCCUPANCY.

[Signature]
 FOR BOSKON CAPITAL CORPORATION
 6/24/2020
 DATE

APPROVED
NASHUA CITY PLANNING BOARD

CHAIRMAN _____ DATE _____

ONE LINE (TYP)

MAP 80 LOT 90
 PLUS CO. INC.
 19 CHESTNUT STREET
 NASHUA, NH 03060
 BK 8228 PG 006
 ZONE: D-1MU
 USE: RELEDCCHA

ZONE: D-1MU
 DOWNTOWN-LEASED USE
 OPEN-PLY DISTRICT
 ZONE: D-1MU
 GENERAL
 ADDITIONAL LEASED USE
 OPEN-PLY DISTRICT

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LEGISLATIVE YEAR 2021

RESOLUTION:

R-21-157

PURPOSE:

Authorizing the City of Nashua to enter into a Memorandum of Understanding regarding the Bronstein Redevelopment

ENDORSERS:

Mayor Jim Donchess

**COMMITTEE
ASSIGNMENT:**

FISCAL NOTE:

Parking Fees as stated in agreement.

ANALYSIS

This resolution authorizes the City of Nashua to enter into a Memorandum of Understanding regarding the Bronstein Redevelopment.

Approved as to form:

Office of Corporation Counsel

By: /s/ Celia K. Leonard

Date: August 3, 2021

RESOLUTION R-21-157

**Authorizing the City of Nashua
to enter into a Memorandum of
Understanding regarding the
Bronstein Redevelopment**

IN THE BOARD OF ALDERMEN

1ST READING August 10, 2021

Referred to:
Committee on Infrastructure

2nd Reading August 24, 2021

3rd Reading _____

4th Reading _____

Other Action _____

Passed August 24, 2021

Indefinitely Postponed _____

Defeated _____

Attest: _____
City Clerk

Kari Wilshire
President

Approved _____
Mayor's Signature

Date

Endorsed by

MAYOR

O'BRIEN

DOWD

LOPEZ

KELLY

SCHMIDT
HARRIOTT-
GATHRIGHI

CLEAVER

WILSHIRE

Vetoed: _____

Veto Sustained: _____

Veto Overridden: _____

Attest: _____
City Clerk

President