



## RESOLUTION

**AUTHORIZING THE CITY OF NASHUA TO ENTER INTO A TEMPORARY  
SKATEPARK EASEMENT AGREEMENT FOR THE DAVID W. DEANE  
SKATEBOARD PARK**

### *CITY OF NASHUA*

*In the Year Two Thousand and Sixteen*

**RESOLVED** by the Board of Aldermen of the City of Nashua that the City is authorized to enter into a Temporary Skatepark Easement Agreement substantially similar to the attached with Residences at Riverfront Landing Limited Partnership for a portion of the property known as Map 40, Lot 50, Nashua, New Hampshire. The agreement gives the City the right to continue to operate the skateboard park at its current location off of Bridge Street after the transfer of title for said Lot 50 (anticipated to be October 28, 2016) until the earlier of July 1, 2017 or until a new skateboard park is opened in the city.

**LEGISLATIVE YEAR 2016**

**RESOLUTION:** R-16-069

**PURPOSE:** Authorizing the City of Nashua to enter into a Temporary Skatepark Easement Agreement for the David W. Deane Skateboard Park

**ENDORSERS:** Mayor Jim Donchess  
Alderman-at-Large David W. Deane

**COMMITTEE  
ASSIGNMENT:**

**FISCAL NOTE:** Continued costs of operation and maintenance of the skatepark

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**ANALYSIS**

This resolution authorizes the City of Nashua to enter into a Temporary Skatepark Easement Agreement substantially similar to the attached for the current location of the David W. Deane Skateboard Park off of Bridge Street. This resolution should be referred to the Board of Public Works for approval.

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**Approved as to form:** Office of Corporation Counsel

By:  \_\_\_\_\_

Date: 9/21/2014

Return to:  
Prunier & Prolman, P.A.  
Account No. 026

## TEMPORARY SKATEPARK EASEMENT AGREEMENT

This Temporary Skatepark Easement Agreement (this "Agreement") is made this \_\_\_\_ day of \_\_\_\_\_, 2016, by and between **Residences at Riverfront Landing Limited Partnership**, a New Hampshire limited partnership with an address of 100 Galen Street, Watertown, Massachusetts 02473 (the "Grantor"), and the **City of Nashua**, a municipal corporation with an address of 229 Main Street, Nashua, New Hampshire 03060 (the "Grantee"),

### RECITALS:

WHEREAS, Grantor owns the real property located at Bridge Street, Nashua, County of Hillsborough and State of New Hampshire, and shown as **Lot 50** (the "Property") 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"); and

WHEREAS, Grantor intends to imminently commence building the Residences at Riverfront Landing project in accordance with the Plans; and

WHEREAS, Grantee desires to enter upon a portion of the Property to continue to use, maintain, and operate the existing David W. Deane Skateboard Park ("Skatepark") for a limited period of time; and

WHEREAS, that portion of the Property Grantee wishes to enter is outlined and highlighted on the Site Plan as further described in **Exhibit A** and as further described in Section 1 below (the "Easement Area"); and

WHEREAS, Grantee has requested, and Grantor has agreed to grant this Temporary Skatepark Easement on the terms and conditions below.

**NOW, THEREFORE**, in consideration of the mutual covenants contained in this Agreement, the parties agree as follows:

## AGREEMENT:

1. Grant of Easement. Grantor hereby grants to Grantee temporary rights, privileges and easements for Grantee's use, maintenance, and operation of the David W. Deane Skateboard Park. In addition to the real property described in Exhibit A, the Easement Area shall include the parking area and walkway to the immediate west of the Skatepark.

2. Use. Grantee shall have full and free use of the Easement Area for the public purposes stated herein and shall have all rights and privileges reasonably necessary to the enjoyment and exercise of such rights, including the right of reasonable access to and from the Easement Area. Grantee will not erect any structure, fence, sign, or other permanent or temporary obstruction upon the Easement Area without the written permission of Grantor, which permission shall not be unreasonably withheld. Grantee shall maintain the Skatepark, all existing fencing and the Easement Area in good, clean condition and repair throughout the Term of this Agreement.

3. Term. This Agreement and any right of Grantee, the Grantee's agents, employees, representatives, contractors, and the public to use or access the Easement Area shall terminate at the earlier of the opening of a new skatepark within the City of Nashua or July 1, 2017. Immediately following the expiration of the Term of this Agreement, Grantor intends to remove all fencing, raze the Skatepark, and build out the Property in accordance with the Plans.

4. No Interference with Grantee's Use of the Skatepark. At no time during the term of this Agreement shall Grantor materially hinder or obstruct Grantee's access or use of the Skatepark. Further, at no time during the term of this Agreement will Grantee's sign ("David W. Deane Skatepark") be altered or moved from its current location within the Easement Area by Grantor; nor will its visibility be materially impaired by Grantor.

5. No Interference with Grantor's Business Operations. Grantee's operation and maintenance of the Skatepark shall not interfere with Grantor's business operations on the Property during the term of this Agreement.

6. Indemnification. Notwithstanding the liability protection provided by N.H. R.S.A. 507-B:11, the Grantee agrees to protect, indemnify, defend, and save Grantor harmless from and against all claims, demands, losses, liabilities, and causes of action of every kind and character in any way resulting from the acts or omissions of the Grantee, the Grantee's agent, employees, representatives, contractors, or public use of the Easement Area. If such property damage, personal injury or loss results from the joint negligence or willful misconduct of Grantor and Grantee, Grantee's duty of indemnification and defense shall be in proportion to its allocable share of such joint negligence or willful misconduct.

7. No Warranty of Title. This Temporary Skatepark Easement Agreement is made by Grantor and accepted by the Grantee without warranty of title by Grantor, either express or implied.

8. No Trespass or Inverse Condemnation. The Temporary Skatepark Easement granted hereunder shall not be deemed a trespass or inverse condemnation of the Property and will not impair Grantor's right to make claim against the Grantee for damages sustained or arising out of the use of the Temporary Skatepark Easement, if any, in accordance with the terms contained herein.

9. Assignment. This Agreement will not be assignable by the Grantee in whole or in part.

10. Notice To Parties. Should notice be given, notice may be given by personal delivery, nationally recognized overnight express mail or deposited in the mail, registered or certified, postage and charges prepaid, and address to the party for whom intended at the address specified below, or at such other address as such party may have substituted therefore by notice in the manner set forth above.

If to Grantor:

Residences at Riverfront Landing Limited Partnership  
Attention: Bob Simonds  
100 Galen Street  
Watertown, MA 02472  
Email: [rcs@smcmgtco.com](mailto:rcs@smcmgtco.com)

With a copy to:

Martin J. Baroff, Esq.  
Baroff & Craven, PA  
740 Chestnut Street  
Manchester, NH 03104  
Email: [mbaroff@bclawnh.com](mailto:mbaroff@bclawnh.com)

If to Grantee:

City of Nashua  
DPW Administration  
Attention: Lisa Fauteux  
9 Riverside Street  
Nashua, NH 03060  
Email: [FauteuxL@nashuanh.gov](mailto:FauteuxL@nashuanh.gov)

With copies to:

Office of the Mayor  
Mayor Jim Donchess  
229 Main Street  
Nashua, NH 03060  
Email: [donchessj@nashuanh.gov](mailto:donchessj@nashuanh.gov)

Office of Corporate Counsel  
Celia K. Leonard, Esq.  
229 Main Street  
Nashua, NH 03060  
Email: [leonardc@nashuanh.gov](mailto:leonardc@nashuanh.gov)

11. Authority. Each party represents and warrants to the other that it is duly authorized to execute this Agreement. This Agreement was authorized by R-16-\_\_\_ as passed by the City of Nashua Board of Aldermen on \_\_\_\_\_, 2016.

12. Binding Agreement. This Agreement will be binding upon and inure to the benefit of all parties' successors and assigns in title.

13. Counterparts. This Agreement may be executed in as many counterparts as may be required by the parties. It shall not be necessary that the signatures on behalf of the parties hereto appear on each counterpart hereof, and it shall be sufficient that the signatures on behalf of the parties hereto appear on one or more such counterparts. All counterparts shall collectively constitute a single agreement.

No Real Estate Transfer Tax is due pursuant to NH RSA 78-B:2, I.

[Remainder of Page Intentionally Left Blank.  
Signatures Appear on the Following Page.]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

GRANTOR:  
Residences at Riverfront Landing  
Limited Partnership

\_\_\_\_\_  
By:  
Its:  
Duly Authorized

GRANTEE  
City of Nashua

\_\_\_\_\_  
James W. Donchess, Mayor  
Duly Authorized

STATE OF NEW HAMPSHIRE  
COUNTY OF HILLSBOROUGH

On this \_\_\_\_ day of \_\_\_\_\_, 2016, personally appeared, before me, \_\_\_\_\_, personally known to me (or satisfactorily proven) to be the individual whose name is subscribed to the within instrument and acknowledged that she executed the same for the purposes therein contained.

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

STATE OF NEW HAMPSHIRE  
COUNTY OF HILLSBOROUGH

On this \_\_\_\_ day of \_\_\_\_\_, 2016, personally appeared, before me, James W. Donchess, Mayor of the City of Nashua, personally known to me (or satisfactorily proven) to be the individual whose name is subscribed to the within instrument and acknowledged that she executed the same for the purposes therein contained.

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