



Sponsor: Administration

**TOWN OF FRANKLIN**

**RESOLUTION 16-56**

**ACCEPTANCE OF PRIVATE ROAD COVENANT WITH  
DEVELOPER OF ROLLING BROOK ESTATES  
OFF LINCOLN STREET**

**WHEREAS**, the Franklin Planning Board on July 16, 2016 voted to approve with conditions a definite subdivision plan for an eight-lot residential development to be known as Rolling Brook Estates, which vote was filed with the Town Clerk on July 12, 2016; and

**WHEREAS**, said vote included conditions that an extension not the main roadway providing access to Lots 5 and 6 shown on the definitive subdivision plan and related drainage and utilities be and remain private and that the private property owner(s) have the exclusive obligation to maintain and repair the same, as well as to remove snow therefrom; and

**WHEREAS**, Nitor Development, Inc., a Massachusetts corporation, with a usual place of business at 19 Lenox Drive, Franklin, is the owner of the subject property and has executed a covenant incorporating the foregoing conditions, a true copy of which is attached as "Exhibit 1",

**NOW, THEREFORE, BE IT ORDERED** that the Town of Franklin, acting by and through its Town Council, hereby authorizes the Town Administrator to execute the covenant, a copy of which is attached hereto as Exhibit 1, on behalf of the Town of Franklin.

This Resolution shall become effective according to the rules and regulations of the Town of Franklin Home Rule Charter.

**DATED:** \_\_\_\_\_, 2016

**VOTED:**  
**UNANIMOUS** \_\_\_\_\_

**A True Record Attest:**

**YES** \_\_\_\_\_ **NO** \_\_\_\_\_

**ABSTAIN** \_\_\_\_\_

**Teresa M. Burr**  
**Town Clerk**

**ABSENT** \_\_\_\_\_

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**Judith Pond Pfeffer, Clerk**  
**Franklin Town Council**

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**COVENANT WITH THE TOWN OF FRANKLIN  
(ROLLING BROOK ESTATES – PRIVATE WAY)**

Nitor Development, Inc., a Massachusetts corporation with a usual place of business at 19 Lenox Drive Franklin, MA, Norfolk County, Massachusetts 02038, owner of land shown as Lot 5 and Lot 6 situated on Lincoln Street in said Franklin, Norfolk County, Massachusetts shown on plan entitled “Definitive Subdivision for Rolling Brook Estates, Lincoln Street, Franklin, Massachusetts”, (hereinafter the “Plan”) dated May 2, 2016 and last revised July 1, 2016, prepared by Strong Point Engineering Solutions, LLC, PO Box 311, North Easton, Massachusetts, and recorded on August 30, 2016 with in the Norfolk County Registry of Deeds Plan Book 651, Page 93.

Lots 5 and Lot 6 are shown on said plan as Rolling Brook Estates and contains a proposed unnamed private way. The plan was approved with conditions by the Planning Board of the Town of Franklin by Certificate of Vote dated July 11, 2016, filed with the Town Clerk of the Town of Franklin on July 13, 2016, a certified copy of which having been recorded on August 30, 2016 at Norfolk County Registry of Deeds in Book 34415, Page 390.

In accordance with said Plan and Certificate of Vote, Nitor Development, Inc., for valuable consideration paid, the receipt and sufficiency of which are hereby acknowledged, for itself, successors, transferees and assigns, covenants and agrees with the Town of Franklin, by and through its Town Administrator, whose signature is affixed hereto, together with a resolution of the Town Council of said Town of Franklin, as follows:

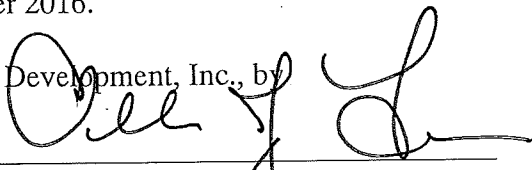
- 1.) Said unnamed private way shall be constructed as a private road in accordance with the above-described Plan and any and all waivers granted by the Franklin Planning Board;
- 2.) The property owners served by said unnamed private way shall have the exclusive and continuing obligation for maintenance, repair and snow removal of said way and the maintenance and repair of the drainage structure, if any;
- 3.) The unnamed private way shall remain a private road and is not intended to be now or at any time in the future a public way and the drainage structures, if any, shall remain private structures for the benefit of the property owner;

- 4.) No petition shall ever be made to the Town of Franklin seeking to change the status of the unnamed private way and or the drainage structures, if any, from that of private way/private drainage structures or to transfer the obligation for maintenance, repair and/or snow removal from the private property owners to the Town of Franklin;
- 5.) The unnamed private way and drainage structure, if any, shall be constructed in accordance with the standard set forth in Section 300, Subdivision of Land Rules and Regulations of the Town of Franklin, except those waived by the Planning Board. Maintenance and repair of the private way, water supply systems, sewer pipes, electric distribution system and storm water system shall be the responsibility of the owners and shall never be the responsibility of the Town of Franklin and the Town of Franklin shall never be required to perform any service, repair or maintenance with respect to said way, areas or any of the aforementioned systems within the subject property. The Town of Franklin will never be required to provide snow plowing with respect to the subject property; and,
- 6.) The Town of Franklin, its agents and servants shall have the right but not the obligation at all times to enter the unnamed private way and the drainage structures, if any, for the purpose of inspecting, maintaining and/or making emergency repairs including, but not limited to, drainage. In such event, the private property owners abutting said private way shall be liable, jointly and severally, for the payment of all expenses incurred by the Town of Franklin in connection therewith, and unpaid expenses shall constitute a lien on their property.

This Covenant shall be binding upon the record owners of Lot 5 and Lot 6 and their heirs, successors, transferees and assigns and shall run with the land.

Executed as a sealed instrument this 13 day of September 2016.

Nitor Development, Inc., by

  
Allen J. Lappas, President and Treasurer

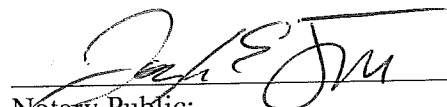
### COMMONWEALTH OF MASSACHUSETTS


Norfolk, ss.

September 13, 2016

On this 13 day of September 2016, before me, the undersigned notary public, personally appeared ALLEN J. LAPPAS, as President and Treasurer of Nitor Development, Inc., proved to me through satisfactory evidence of identification, which was ☒ photographic identification with signature issued by a federal or state governmental agency, ☐ oath or affirmation of a credible

witness, or ☐ personal knowledge of the undersigned, to be the person whose name is signed on the preceding or attached document, and he acknowledged to me that he signed it voluntarily for its stated purpose.

  
Notary Public:

My commission expires **JOSEPH E. MULLIGAN, III**  
**Notary Public**  
 **Commonwealth of Massachusetts**  
**My Commission Expires**  
**September 22, 2017**

Town of Franklin,

By:

\_\_\_\_\_  
Jeffrey D. Nutting, Town Administrator  
Hereunto duly authorized

## COMMONWEALTH OF MASSACHUSETTS

Norfolk, ss.

September \_\_\_\_, 2016

On this \_\_\_\_ day of September 2016, before me, the undersigned notary public, personally appeared JEFFREY D. NUTTING, as Town Administrator, proved to me through satisfactory evidence of identification, which was ☐ photographic identification with signature issued by a federal or state governmental agency, ☐ oath or affirmation of a credible witness, or ☐ personal knowledge of the undersigned, to be the person whose name is signed on the preceding or attached document, and he acknowledged to me that he signed it voluntarily for its stated purpose.

\_\_\_\_\_  
Notary Public  
My commission expires: