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**CITY OF CONCORD**  
*New Hampshire's Main Street™*  
***Community Development Department***

**REPORT TO MAYOR AND THE CITY COUNCIL**

**FROM:** Martha Drukker, Associate City Engineer - Capital  
**DATE:** May 30, 2023  
**SUBJECT:** Amendment to Easement for Morrill Mill Pond, LLC Site Plan Submission – Whitney Road

**Recommendation**

Accept this report recommending that the City Manager be authorized to execute a First Amendment to Easement agreement in conjunction with a proposed site plan submitted on behalf of Morrill Mill Pond, LLC (“Morrill”).

**Background**

The City owns a water line and sanitary sewer easement, and Unitil Energy Systems, Inc. (“Unitil”), and Consolidated Communications of Northern New England Company, LLC (“Consolidated”), own a pole line easement (collectively the “Easement Area”) across a portion of the property known as Map 06P, Lot 12, currently owned by Morrill Mill Pond, LLC. The easement deed to the City was recorded at the Merrimack County Registry of Deeds (“MCRD”) on June 5, 1987, at Book 1650, Page 252. The easement deed to Concord Electric Company and New England Telephone and Telegraph Company, predecessors to Unitil and Consolidated, respectively, was recorded at the MCRD on September 21, 1987, at Book 1676, Page 732.

Morrill has submitted a site development plan to the City Planning Board to construct two buildings on its property: a restaurant and a retail development, both with associated site improvements. Some of the associated private site improvements will encroach upon the Easement Area which is

held by the City, and will be located directly on top of the City's water line. In addition, other site improvements, such as landscaping will be located directly on top of the City's sanitary sewer line. The same private site improvements will also be located directly under Unutil's and Consolidated's pole line and overhead wires. The City, and Unutil and Consolidated, wish to enter into the First Amendment to Easement agreement to memorialize and further define the rights of each other as the easement holders, and the rights of Morrill, as the property owner, to construct and maintain at its own expense and risk, the proposed private improvements within the Easement Area.

### **Discussion**

The site improvements contemplated by Morrill that will encroach into the Easement Area and over the City's water line, and under Unutil's and Consolidated's pole line and overhead wires, include, but are not necessarily limited to, the drive through and bypass lane for the proposed retail building, pavement, curbing, landscaping, a sanitary sewer service, a water service, and storm water facilities. The First Amendment to Easement agreement will allow the construction of private improvements subject to specific terms and conditions to help ensure that the improvements do not interfere with the City's easement rights. Staff is working with Morrill, Unutil, and Consolidated to finalize the Amendment to Easement, and recommends that the City Manager be authorized to execute it, prior to being recorded at the MCRD.