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City Manager

# CITY OF CONCORD

*New Hampshire's Main Street™*

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## REPORT TO MAYOR AND THE CITY COUNCIL

**FROM:** Matthew R. Walsh, Director of Redevelopment, Downtown Services,  
& Special Projects

**DATE:** December 1, 2020

**SUBJECT:** Authorization to Negotiate Purchase and Sales Agreement for NH  
Department of Transportation Property located at 11 Stickney  
Avenue

### **Recommendation:**

Take action on the attached consent resolution authorizing the City Manager to negotiate a Purchase and Sale Agreement with the State of New Hampshire concerning acquisition of real estate located at 11 Stickney Avenue.

### **Background:**

The New Hampshire Department of Transportation owns real estate located at 11 Stickney Avenue. The property consists of 5 buildings totaling 93,200+/- square feet set on approximately 6.5+/- acres of land. The largest building is the former Highway Garage; a large "H" shaped building in the center of the property.

The property was occupied by the NHDOT from approximately 1930 through 2006. The property has been largely vacant for the past 15 years.

The property is located within the City's "Opportunity Corridor"; a former industrial and rail corridor targeted for redevelopment which generally stretches between Horseshoe Pond and the South End Marsh, and is sandwiched between Interstate 93 and Downtown.

On June 30, 2020, the NHDOT informed the City that it was listing the property for sale. In accordance with RSA 4:39-c:1, the City has a right of first refusal to acquire the property.

On October 21, 2020, the NHDOT notified the City that its bid process had concluded, and that one offer to purchase the property in the amount of \$1 million was received. The sole bidder indicated that it would redevelop the property for "residential" purposes, but provided no specific details to the NHDOT or the City.

In its October 21, 2020 notice, the State also inquired as to whether the City would have interest in matching the bidder's offer. In addition to the \$1 million price, other conditions of the sale would be as follows:

1. The “H” shaped Highway Garage located in the center of the property has been determined historically significant by the State of New Hampshire. Therefore, in accordance with RSA 227-C:9, protective historic covenants shall be placed on the Highway Garage building at time of sale to the Buyer.

Specifically, the historic covenants shall prohibit demolition of the structure, as well as limit potential exterior renovations of the building for a period of 50 years. The covenant, which shall be held by the NH Department of Natural and Cultural Resources’ Division of Historic Resources (NHDHR), shall be binding upon the Buyer and all future heirs, successors and assigns. The covenant also expressly grants NHDHR control and decision making authority over any proposed modifications to the exterior of the Highway Garage building. The proposed covenant also obligates the Buyer to conform to the Secretary of the Interior Standards for Rehabilitation of Historic Buildings when undertaking renovations or development at the property.

These covenants are significant, and shall have a direct impact upon the redevelopment potential for the site.

Other accessory buildings at the property will not be subject to the historic covenant. However, the Buyer shall be required to enter into a Memorandum of Understanding (“MOU”) with the NHDHR regarding the “loss of stewardship protections” as part of any redevelopment plan. The proposed terms and conditions of the MOU are currently unknown.

2. The NHDOT shall retain ownership of a 1+/- acre portion of the property currently used as a Park N Ride. The Buyer, at its sole expense, shall be responsible for engaging a licensed land surveyor to subdivide the property for the purposes of creating a new, separate parcel for the Park N Ride.

After the subdivision is completed, it is anticipated that the Buyer’s property will have approximately 5.6 acres for redevelopment.

The costs to survey and subdivide the property are currently unknown.

3. Groundwater at the property is contaminated with volatile organic compounds (VOCs) associated with past discharges from petroleum storage tanks, as well as other substances. Therefore, the property is subject to a NH Department of Environmental Services Groundwater Management Permit (GMP).

As part of the sale, the GMP shall be transferred from the State to the Buyer, and the Buyer shall become solely responsible for groundwater monitoring and permit compliance at its sole expense.

Annual groundwater monitoring and related compliance costs for the property are currently unknown.

4. A February 28, 2019 Hazardous Building Materials Survey determined that structures at the property are contaminated with Hazardous Building Materials including, but not

limited to, asbestos. PCB and mercury containing light ballasts and electrical components were also identified at the property.

The estimated cost to abate asbestos is \$320,000+/- (2019, not adjusted for inflation). The estimated cost to address PCM and mercury contaminated items is approximately \$49,000+/- (2109, not adjusted for inflation, and excluding oversight).

The Buyer shall become responsible for these items at its sole expense.

The Hazardous Building Materials Survey appears to have been predicated on the demolition of all structures at the property. Consequently, lead paint was intentionally excluded from the survey, as lead abatement is typically not required for full building demolition. Therefore, the quantity of lead paint at the property, and potential remediation costs, are currently unknown. However, given the age of the buildings at the Property, it is extremely likely that significant quantities of lead paint are present at the site.

Given that historic covenants shall require that the former Highway Garage be preserved and redeveloped through adaptive reuse, the cost of lead paint abatement could be potentially significant. Therefore, additional analysis will be required to determine the actual extent of lead paint at the property.

5. The Buyer shall be responsible for a \$1,100 administrative fee, which must be paid to the State of New Hampshire at Closing.

### **Discussion:**

1. Community and Economic Development Goals: For the past four decades, the City has actively encouraged the State to divest of the property for the purposes of redevelopment in order to further the City's community and economic development goals.

Given its relatively large size (5.6 acres), strategic location, direct access to I-93, potential access to abutting rail lines, and proximity to the Downtown Central Business District and Corporate Park at Horseshoe Pond, the City has long believed that this site, in combination with other nearby properties within the Stickney Avenue Corridor, may possess significant economic development potential for the community.

Towards this end, redevelopment of the property and surrounding area, have been discussed in numerous City plans and studies including, but not limited to:

- 1997 Downtown Master Plan Master Plan
- 2000 "Highest and Best Use" Capital Regional Development Council Analysis
- 2001 Concord 20/20 Vision Plan
- 2005 Economic Development and Tax Base Expansion Plan
- 2006 Opportunity Corridor Master Plan
- 2008 City 2030 Master Plan

Although specific redevelopment concepts have evolved over the decades to keep pace with changing market conditions, these documents have all recommended that the City

foster, support, and encourage redevelopment of this strategically important property.

2. Purchase and Sales Agreement: The City, via its right of first refusal set forth in RSA 4:39-c:1, has the opportunity to acquire 11 Stickney Avenue on the terms discussed herein.

Should the City Council wish to acquire the property for the purposes of controlling redevelopment efforts, or for any other municipal purpose, it may direct City Administration to do so via the adoption of the attached consent resolution.

The attached consent resolution will serve to instruct City Administration to negotiate a formal Purchase and Sale Agreement with the NHDOT. The City Administration would likely propose an Agreement to the NHDOT that is materially similar to that used to acquire the former NH Employment Security Property at 32-34 South Main Street from the State in 2014.

Upon the conclusion of negotiations, the City Council would hold a public hearing on the proposed Agreement, together with appropriation resolutions to carry out the purchase, related due diligence, and associated obligations (such as subdividing the property to create a separate parcel for the existing Park N Ride facility).

In the event the City Council approved the Purchase and Sale Agreement, it is anticipated that the NHDOT would seek to have the Agreement ratified by the Governor and Executive Council.

Upon execution of the Agreement, the City would begin its due diligence period.

Upon completion of due diligence, with results acceptable to the City, the City would acquire the property.

The exact schedule for negotiating the Purchase and Sales Agreement, conducting public hearings on said Agreement and related appropriations, completing due diligence, and proceeding to closing is difficult to forecast. However, staff anticipates that it could take upwards of 9 to 12 months to complete the transaction.

3. Acquisition Budget and Funding Options:

- a. Budget: In addition to funds for the \$1 million purchase price, appropriations will be required for the following items:
  - i. Due diligence, including, but not limited to, title review and insurance, a Phase I Environmental Site Assessment (ESA), as well as supplemental Hazardous Building Materials investigations (lead paint), and other similar items.

Although environmental conditions at the property have been studied over the past 30 years, it is important that the City complete its own Phase I ESA. Not only will an updated Phase I ESA fully document conditions at the property (thus protecting the City's interests), the City is obligated

complete its own environmental due diligence prior to purchase in order to qualify for potential future USEPA or NHDES Brownfields Grants to finance possible cleanup activities at the property (such as, but not limited to, lead paint and asbestos).

- ii. An ALTA boundary survey of the property, as well as subdivision plan to create the separate parcel for the Park N Ride.
  - iii. Site security and weatherization of the building. Those efforts typically include boarding up all doors and windows, removal of plumbing fixtures, decommissioning of the HVAC systems, installation of fencing (as needed), and selective removal of vegetation.
  - iv. Carrying costs for the property, including, but not limited to utilities (electricity, water / sewer availability fees, etc.), lawn care and landscaping maintenance, snow removal, and other similar expenses.
  - v. Marketing efforts, including preliminary development concepts to determine the full potential of the site and articulate the City's vision to potential developers.
  - vi. The State of New Hampshire's \$1,100 administration fee.
- b. Funding Options: There are several potential ways the City could finance acquisition of the property.

Options include a General Fund supported General Obligation Bond, use of the City's Economic Development Reserve Fund, or appropriations supported by the North-End Opportunity Corridor Tax Increment Finance District ("NEOCTIF").

Given that the Property directly abuts the NEOCTIF District, coupled with the City's desire to minimize direct impacts to the taxpayers associated with this potential purchase, City Administration will likely recommend amendment of the NEOCTIF to support acquisition and holding costs for the property.

In addition to full principal and interest debt, City Administration will also explore potential use of low cost interest only Bond Anticipation Notes (BANs) to finance this potential purchase.

Should the City Administration recommend use of the NEOCTIF District, it shall prepare the required amendments to the NEOCTIF's Development Program and Financing Plan in accordance with RSA 162-K (the TIF statute), as well as financial pro forma to account for these expenses.

4. Redevelopment Process: Should the City ultimately acquire this property, City Administration would engage a commercial real estate broker to market the property. Subject to appropriations, preliminary conceptual development concepts would also be prepared to better articulate the City's vision for the property to potential developers in support of marketing efforts.

Based upon the City's experiences with other similar efforts, redevelopment of 11 Stickney Avenue will likely be a multi-year endeavor that shall require a long-term commitment of City resources to accomplish.

Staff offers the following historical comparisons of other City led redevelopment efforts for the City Council's consideration:

- a. Former Sears Block at 11 South Main Street (Hotel Concord). Negotiations with property owners began in late 1990s. Acquired by the City in 2002, sold to developer in 2005. Redevelopment completed in 2007.

The City's total investment was \$16.4+/- million, which included a 516 public parking garage, two public plazas, and extensive infrastructure improvements.

The project resulted in the 102,000SF, \$15 million Hotel Concord building, and directly begot other signature development projects including, but not limited to, the Smile Building (49 South Main Street; \$11,200,000 assessed value), Love Your Neighbor Building (45 South Main Street: \$10, 200,000 assessed value), redevelopment of the Endicott Hotel (1-3 South Main Street), the Bank of New Hampshire Stage, among others.

- b. Former Allied Leather Tannery (5-35 Canal Street; 4 Crescent Street): The City issued a Hazardous Building Order ("condemnation order") in 2002. Eight properties were ultimately acquired during 2003-2012, totaling 6+/- acres combined. Initial redevelopment (4 Crescent Street medical offices) was completed in 2011. Additional redevelopment was completed in 2020 (Penacook Landing Apartments Phase I 34 Unit). Phase II of Penacook Landing (20 Units) is likely to be completed in 2022 pending receipt of affordable housing tax credits to finance the project from the NH Housing Finance Authority. The City has plans to develop a new riverfront park on the remaining portion of the property in the next couple of years.

The City's net investment to date is approximately \$4,882,165, of which 30% (\$1.46+/- million) was directly provided by the City. The balance of the project funds were derived from a variety of State and Federal Grants.

After completion of Penacook Landing Phase II, it is projected that the City's efforts will have resulted in the creation of \$6.5 million of new assessed value.

- c. Former NH Employment Security Property (32-34 South Main Street): State declared the property surplus in 2012. The City acquired the property in 2014. Marketing efforts commenced in 2015. Efforts to secure a developer are ongoing.

While these projects have all been worthwhile and have furthered the City's community and economic development goals, these projects required significant commitments from the City and encountered numerous challenges throughout the redevelopment process.

Therefore, it is important for the community to be mindful of these experiences as it sets its expectations for potential redevelopment of 11 Stickney Avenue.