

CITY OF CONCORD

In the year of our Lord two thousand and seventeen

RESOLUTION ACCEPTING AND APPROPRIATING THE SUM OF EIGHT HUNDRED FIFTY-TWO THOUSAND FIVE HUNDRED NINETY-ONE DOLLARS AND NINETY-SEVEN CENTS (\$852,591.97) IN PREVIOUSLY COLLECTED STREET DAMAGE FEES AS A TRANSFER TO THE HIGHWAY RESERVE FUND RETROACTIVE TO JUNE 30, 2017.

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The City of Concord resolves as follows:

WHEREAS, on September 14, 2009, City Council amended the Code of Ordinances, Title I, General Code, Chapter 5, Public Works, Article 5-1, Highways and Sidewalks (Ordinance No. 2766), which included revised permit requirements, fees and penalties, and introduced the protection of new paved streets in the form of a 5-year no-cut moratorium and the assessment of street damage fees; and

WHEREAS, in 2010, Liberty Utilities filed suit against the City claiming that the amended Ordinance was not valid under New Hampshire law; and

WHEREAS, on June 16, 2017, the New Hampshire Supreme Court issued an order finding the City's excavation fee ordinance to be valid under New Hampshire law; and

WHEREAS, the City wishes to recognize funds previously collected for this purpose; and

WHEREAS, this appropriation is for a purpose not included in the Fiscal Year 2017 adopted budget, therefore, Section 37 of the City Charter requires a two-thirds vote of the City Council.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Concord that:

- 1) The sum of.....\$852,591.97
be and is hereby appropriated as follows:

General Fund

Transfer to Highway Reserve Fund.....\$852,591.97

- 2) Funding to meet said appropriation shall be provided from the following source(s):

General Fund

Excavation Fees.....\$852,591.97

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- 3) Sums as appropriated shall be expended under the direction of the City Manager.
- 4) This resolution shall take effect upon its passage.