

CITY OF CONCORD

In the year of our Lord two thousand and twenty-two

RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A MEMORANDUM OF AGREEMENT (“MOA”) WITH THE NEW HAMPSHIRE DEPARTMENT OF TRANSPORTATION CONCERNING ACQUISITION OF DISCONTINUED PORTIONS OF THE NORTHERN MAIN RAILROAD LOCATED BETWEEN HORSESHOE POND LANE AND THE CONTOOCOOK RIVER FOR THE PURPOSES OF DEVELOPING THE MERRIMACK RIVER GREENWAY TRAIL (CIP #543).

The City of Concord resolves as follows:

- WHEREAS, the Northern Main Line Railroad is owned by a subsidiary of Pan Am Systems Inc. (“Pan Am”); and,
- WHEREAS, on March 22, 2017, the segments of the Northern Main Line located north of Horseshoe Pond Lane in Concord were formally discontinued by the U.S. Surface Transportation Board at the request of Pan Am Systems; and,
- WHEREAS, on July 7, 2021, the City entered into a Purchase and Sale Agreement with Pan Am Systems to acquire that portion of the Northern Main Line located between Horseshoe Pond Lane and the Contoocook River; and,
- WHEREAS, on October 18, 2021, the State of New Hampshire, in accordance with RSA 228:60-b, invoked its Right of First Refusal (ROFR) to acquire this section of the Northern Main Line; and,
- WHEREAS, upon the State’s enactment of its Right of First Refusal, the City’s Purchase and Sales Agreement automatically terminated; and,
- WHEREAS, in accordance with RSA 228:60-b, II, the City and the State desire to enter into a Memorandum of Agreement (“MOA”) to establish a partnership concerning acquisition, operation, and management of the aforementioned segment of the Northern Main Line corridor; and,
- WHEREAS, the City desires to acquire the aforementioned rail corridor for the purposes of extending the Merrimack River Greenway Trail (CIP #543);

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

1. The City Manager is authorized to enter into a Memorandum of Agreement with the State of New Hampshire concerning acquisition, operation and management of that portion of the Northern Main Line located between Horseshoe Pond Lane and the Contoocook River.
2. The Memorandum of Agreement shall be generally consistent with the document attached hereto; however, the City Manager is authorized to negotiate modifications thereto as might be required to facilitate the proposed partnership with the State of New Hampshire, as well as proposed real estate transactions as contemplated within the Memorandum of Agreement.
3. In accordance with said Memorandum of Agreement, the City Manager is authorized to jointly negotiate a Purchase and Sale Agreement with the State of New Hampshire and Pan Am Systems, Inc. for said railroad property. Once negotiated and executed by the State of New Hampshire and Pan Am Systems, the City Manager is authorized to accept assignment of said Purchase and Sale Agreement from the State. Upon assignment, the City Manager is authorized to negotiate and execute amendments to the Purchase and Sale Agreement as might be required to facilitate and complete said transaction.
4. Upon acceptance of assignment of said Purchase and Sale Agreement, the City Manager is authorized to resume and complete due diligence associated with the proposed purchase.
5. The City Manager is authorized to use funding previously appropriated by Resolution #9380 to finance acquisition of the property and related activities.
6. This resolution shall take effect upon its passage.