

CITY OF CONCORD

In the year of our Lord two thousand and seventeen

RESOLUTION APPROPRIATING THE SUM OF ONE HUNDRED TWENTY THOUSAND DOLLARS (\$120,000) AS A TRANSFER TO HIGHWAY RESERVE FOR THE ROAD IMPROVEMENT PROGRAM, USING ANTICIPATED REVENUES FROM STREET CUTTING EXCAVATION FEES AS THE FUNDING SOURCE.

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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 anticipates collecting approximately \$120,000 in Fiscal Year 2018 from excavation fee street cutting revenue; and

WHEREAS, the City wishes to use these fees for the continuous road improvement program; and

WHEREAS, this appropriation is for a purpose not included in the Fiscal Year 2018 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.....\$120,000
be and is hereby appropriated as follows:

General Fund

Transfer to Highway Reserve Fund.....\$120,000

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2) Revenue to meet said appropriation shall be provided from the following source:

<u>General Fund</u>	
Excavation Fees.....	\$120,000

3) Sums as appropriated shall be expended under the direction of the City Manager.

4) This resolution shall take effect upon its passage.