

7:30 PM

Aldermanic Chamber

- 1. PRESIDENT LORI WILSHIRE CALLS ASSEMBLY TO ORDER
- 2. PRAYER OFFERED BY CITY CLERK DAN HEALEY
- 3. PLEDGE TO THE FLAG LED BY ALDERMAN ALEX COMEAU
- 4. ROLL CALL
- 5. REMARKS BY THE MAYOR
- 6. RESPONSE TO REMARKS OF THE MAYOR
- 7. RECOGNITIONS
- 8. READING OF MINUTES OF PREVIOUS MEETINGS

Special Board of Aldermen..... 06/28/2023

- 9. COMMUNICATIONS REQUIRING ONLY PROCEDURAL ACTIONS AND WRITTEN REPORTS FROM LIAISONS

From: Lisa M. Fauteux, Director of Public Works  
 Re: Referral from Board of Aldermen – R-23-123 and R-23-128

From: Julian Long, Urban Programs Manager  
 Re: Community Development Block Grant Reallocation – Opportunity Networks and PLUS Company

- 9(a). PERIOD FOR PUBLIC COMMENT RELATIVE TO ITEMS EXPECTED TO BE ACTED UPON THIS EVENING

- 9(b). COMMUNICATIONS REQUIRING FINAL APPROVAL

From: Daniel R.C. Healey, City Clerk  
 Re: Resignation of Ward 4 State Representative David Cote

PETITIONS

NOMINATIONS, APPOINTMENTS AND ELECTIONS

REPORTS OF COMMITTEE

Budget Review Committee ..... 05/30/2023, 05/31/2023, 06/01/2023, 06/21/2023

- 10. CONFIRMATION OF MAYOR’S APPOINTMENTS

Greeley Park Advisory Committee

Stephanie P. Ballentine (new appointment)  
 9 Bartlett Avenue  
 Nashua, NH 03064

Term to Expire: June 13, 2026

UNFINISHED BUSINESS – RESOLUTIONS

**R-23-126**

Endorsers: Mayor Jim Donchess  
 Alderman-at-Large Michael B. O’Brien, Sr.  
 Alderman-at-Large Melbourne Moran, Jr.  
 Alderman Thomas Lopez

Alderman-at-Large Ben Clemons  
Alderman-at-Large Shoshanna Kelly  
Alderman Derek Thibeault  
Alderman-at-Large Gloria Timmons  
Alderman-at-Large Lori Wilshire

**ESTABLISHING AN EXPENDABLE TRUST FUND TO ACCEPT DONATIONS FOR THE NASHUA MULTICULTURAL FESTIVAL**

- Budget Review Committee with recommendation for final passage

**R-23-127**

Endorsers: Alderman-at-Large Lori Wilshire  
Alderman-at-Large Michael B. O'Brien, Sr.  
Alderman John Sullivan  
Alderman-at-Large Melbourne Moran, Jr.  
Alderman Thomas Lopez  
Alderman-at-Large Ben Clemons  
Alderman-at-Large Shoshanna Kelly  
Alderman Richard A. Dowd  
Alderman Tyler Gouveia  
Alderman June M. Caron  
Alderman Derek Thibeault  
Alderman-at-Large Gloria Timmons

**APPROVING THE COST ITEMS OF SIDEBAR AGREEMENTS BETWEEN THE NASHUA BOARD OF POLICE COMMISSIONERS AND THE FIVE NASHUA POLICE DEPARTMENT UNIONS REGARDING A POLICE DEPARTMENT RECRUITING INCENTIVE**

- Budget Review Committee with recommendation for final passage

**R-23-128, Amended**

Endorsers: Alderman Patricia Klee  
Alderman Alex Comeau  
Alderman-at-Large Michael B. O'Brien, Sr.  
Alderman-at-Large Melbourne Moran, Jr.  
Alderman Thomas Lopez  
Alderman-at-Large Ben Clemons  
Alderman Tyler Gouveia  
Alderman June M. Caron  
Alderman John Sullivan

**RELATIVE TO THE ACCEPTANCE OF AN ELECTRONIC SCOREBOARD LOCATED AT MURRAY FIELD DONATED TO THE CITY BY THE KYLE BEDINGER MEMORIAL TRUST AND ESTABLISHING AN EXPENDABLE TRUST FUND RELATED TO THE SCOREBOARD, FUNDED BY APPROPRIATIONS**

- Budget Review Committee with recommendation for final passage as amended

**R-23-129**

Endorsers: Mayor Jim Donchess  
Alderman-at-Large Michael B. O'Brien, Sr.  
Alderman-at-Large Melbourne Moran, Jr.  
Alderman-at-Large Shoshanna Kelly  
Alderman Richard A. Dowd  
Alderman Derek Thibeault  
Alderman-at-Large Gloria Timmons  
Alderman-at-Large Lori Wilshire

**AUTHORIZING THE CITY OF NASHUA TO ENTER INTO CONTRACTS WITH THE SOUHEGAN VALLEY TRANSPORTATION COLLABORATIVE, NASHUA COMMUNITY COLLEGE, RIVIER UNIVERSITY, TOWN OF HUDSON AND TOWN OF MERRIMACK FOR TRANSIT SERVICES**

- Budget Review Committee with recommendation for final passage

**R-23-130, Amended**

Endorsers: Alderman Thomas Lopez  
Alderman-at-Large Michael B. O'Brien, Sr.  
Alderman-at-Large Melbourne Moran, Jr.  
Alderman-at-Large Shoshanna Kelly  
Alderman Richard A. Dowd  
Alderman June M. Caron

Alderman Derek Thibeault  
Alderman-at-Large Gloria Timmons  
Alderman-at-Large Lori Wilshire

**RENAMING “LOS AMIGOS PARK” TO “REVEREND DOCTOR PERKINS LOS AMIGOS PARK”**

- Committee on Infrastructure with recommendation for final passage as amended

UNFINISHED BUSINESS – ORDINANCES

**O-23-054, Amended**

Endorsers: Alderman Alex Comeau  
Alderman John Sullivan  
Alderman Tyler Gouveia  
Alderman-at-Large Michael B. O'Brien, Sr.  
Alderman Richard A. Dowd  
Alderman-at-Large Gloria Timmons

**RELATIVE TO PUBLIC COMMENT**

- Personnel/Administrative Affairs Committee with recommendation for final passage as amended

NEW BUSINESS – RESOLUTIONS

**R-23-133**

Endorser: Mayor Jim Donchess

**RELATIVE TO THE TRANSFER OF \$110,000 FROM DEPARTMENT 162 “STREET LIGHTING”, ACCOUNT 54100 “ELECTRICITY” TO DEPARTMENT 159 “HYDRANTS - FIRE PROTECTION”, ACCOUNT 54835 “HYDRANT FEES”**

**R-23-134**

Endorser: Mayor Jim Donchess

**AUTHORIZING THE MAYOR TO ENTER INTO A FEDERAL AID PROGRAM PROJECT AGREEMENT WITH THE STATE OF NEW HAMPSHIRE DEPARTMENT OF TRANSPORTATION FOR THE PURPOSE OF IMPROVEMENTS TO THE WALNUT STREET OVAL INTERSECTION AND TO ACCEPT AND APPROPRIATE \$2,061,847.26 FOR THE PROJECT**

**R-23-135**

Endorser: Mayor Jim Donchess

**AMENDING THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT ANNUAL ACTION PLAN FOR FISCAL YEAR 2023 RELATIVE TO THE COMMUNITY DEVELOPMENT BLOCK GRANT (“CDBG”)**

NEW BUSINESS – ORDINANCES

PERIOD FOR GENERAL PUBLIC COMMENT

REMARKS BY THE MEMBERS OF THE BOARD OF ALDERMEN

Committee announcements:

ADJOURNMENT



# THE CITY OF NASHUA


*Division of Public Works  
Administration*

"The Gate City"

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## Memorandum

To: Board of Aldermen

From: Lisa M. Fauteux, Director of Public Works 

Date: June 22, 2023

RE: Referral from Board of Aldermen – R-23-123 and R-23-128

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Please be advised that the Board of Public Works met on June 22, 2023 and voted to provide the Board of Aldermen with positive recommendation concerning the proposed resolutions R-23-123 and R-23-128.



**City of Nashua**  
**Community Development Division**  
City Hall, 229 Main Street, PO Box 2019  
Nashua, New Hampshire 03061-2019

Community Development 589-3095  
Planning and Zoning 589-3090  
Building Safety 589-3080  
Code Enforcement 589-3100  
Urban Programs 589-3085  
Economic Development 589-3070  
Conservation Commission 589-3105  
FAX 589-3398  
[www.gonashua.com](http://www.gonashua.com)

# Memo

To: Board of Aldermen  
From: Julian Long, Urban Programs Manager (x3087)  
Date: June 22, 2023  
Re: Community Development Block Grant Reallocation – Opportunity Networks and PLUS Company

The City of Nashua allocated \$25,000 in Community Development Block Grant (CDBG) funds to Opportunity Networks for windows replacements at the agency's main offices and \$15,623 to the PLUS Company for flooring replacement at the agency's main offices in its FY 2023 Annual Action Plan. The Opportunity Networks project has been completed with \$3,000 remaining unexpended and the PLUS Company project's bids have come in higher than anticipated. Therefore, the Urban Programs Department proposed to reallocate the FY 2023 CDBG funds in the following amounts:

- FY23 CDBG funds for Opportunity Networks Windows Replacement: Decrease funding from \$3,000 to \$0.
- FY23 CDBG funds for PLUS Company Flooring: increase funding from \$15,623 to \$18,623, utilizing the reprogrammed funds listed above.

This necessitates a minor amendment to the FY 2023 Annual Action Plan.

City of Nashua  
229 Main Street  
Nashua, NH 03061-2019  
(603) 589-3010, Option #5  
CityClerkDept@NashuaNH.Gov

# Office of the City Clerk

**Daniel Healey**

City Clerk

**Roger Ordway Jr.**

Deputy City Clerk



July 7, 2023

Lori Wilshire, President  
Board of Aldermen  
229 Main Street  
Nashua, NH 03060

Dear President Wilshire:

I have been informed that Representative David Cote (Ward 4) has submitted his resignation to the House Clerk. The office of state representative shall be filled following the provisions of RSA 655:81 and RSA 655:82 by a special election if the selectmen of any town or the city for any ward in said district so request of the governor or council.

It is requested that the Board of Alderman authorize the City Clerk to deliver a letter on behalf of the Board to the Governor and Executive Council asking for approval to hold a Special Election to fill the Ward 4 State Representative vacancy.

The dates requested for the Governor and Executive Council to approve shall be:

- **Special State Primary Election: September 12, 2023**
- **Special General Election: November 7, 2023** (Moved to September 12, 2023 if Primary is not necessary).

Sincerely,

Daniel R.C. Healey  
City Clerk



## RESOLUTION

### RELATIVE TO THE ACCEPTANCE OF AN ELECTRONIC SCOREBOARD LOCATED AT MURRAY FIELD DONATED TO THE CITY BY THE KYLE BEDINGER MEMORIAL TRUST AND ESTABLISHING AN EXPENDABLE TRUST FUND RELATED TO THE SCOREBOARD, FUNDED BY APPROPRIATIONS

*In the Year Two Thousand and Twenty-Three*

**RESOLVED** by the Board of Aldermen of the City of Nashua that the City of Nashua is authorized to accept the gift of an electronic scoreboard located at Murray Field donated by the Kyle Bedinger Memorial Trust.

**FURTHER RESOLVED** by the Board of Aldermen of the City of Nashua that the City of Nashua will put the advertising space on the back of the scoreboard out to bid, and enter into contracts for advertising on the back of the scoreboard.

**FURTHER RESOLVED** by the Board of Aldermen of the City of Nashua that pursuant to NH RSA 31:19-a, the City of Nashua hereby establishes an expendable trust fund related to the Murray Field Scoreboard, funded by appropriations. It is the intention of this Board to make annual budgetary appropriations into this trust fund, and that the annual amount that will be appropriated in the budget will be equivalent to the amount of the prior calendar year's annual advertising revenue received by the City from advertising located on the back of the scoreboard less any expenses incurred by the City for the operation and maintenance of the scoreboard. Expenditures from this fund will be made as follows:

45% of the annual funding will be donated from the City to the Nashua Cal Ripken Baseball League, 45% of the funding will be donated from the City to Greater Nashua Little League Baseball, and 10% will be transferred into Expendable Trust Fund #7058, "Park Rehabilitation".

In the event that either Nashua Cal Ripken Baseball League or Greater Nashua Little League Baseball no longer exists or is otherwise unable to accept their share of these funds, their share shall instead be provided to the remaining of the two organizations.

The Chief Financial Officer is appointed as the agent to expend. Any balance remaining in the expendable trust fund at each fiscal year end will not lapse or be closed out to the General Fund, but will remain in this expendable trust fund.



## RESOLUTION

RENAMING “LOS AMIGOS PARK” TO “REVEREND DOCTOR BERTHA A. PERKINS LOS AMIGOS PARK”

### *CITY OF NASHUA*

*In the Year Two Thousand and Twenty-Three*

**WHEREAS**, Reverend Doctor Bertha Perkins was a strong proponent of multicultural unity and was very involved in the ongoing conversation on race and justice.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Aldermen of the City of Nashua that “Los Amigos Park” now be known as “Reverend Doctor Bertha A. Perkins Los Amigos Park”.





## ORDINANCE

### RELATIVE TO PUBLIC COMMENT

### *CITY OF NASHUA*

*In the Year Two Thousand and Twenty-Three*

*The City of Nashua ordains* that Part I “Administrative Legislation”, Chapter 5 “Administration of Government”, Part 2 “Board of Aldermen”, Article III “Rules and Order of Business”, Section 5-14, “Order of Business”, of the Nashua Revised Ordinances, as amended, be hereby further amended by deleting the struck-through language and adding the new underlined language and renumbering, as follows:

“C. Public comment allowed in A and B above shall be conducted as follows:

...

- (9) Excessive repetition and irrelevant remarks are discouraged; and
- (10) ~~Crude, vulgar.~~ Profane and/or obscene remarks are prohibited; and
- (11) The presiding officer has authority to terminate the remarks of any speaker when such remarks do not adhere to this ordinance or other applicable law.”

All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

This legislation shall take effect following its passage.



## RESOLUTION

**RELATIVE TO THE TRANSFER OF \$110,000 FROM DEPARTMENT 162 "STREET LIGHTING", ACCOUNT 54100 "ELECTRICITY" TO DEPARTMENT 159 "HYDRANTS - FIRE PROTECTION", ACCOUNT 54835 "HYDRANT FEES"**

### *CITY OF NASHUA*

*In the Year Two Thousand and Twenty-Three*

**RESOLVED** by the Board of Aldermen of the City of Nashua that \$110,000 be transferred from Department 162 "Street Lighting", Account 54100 "Electricity" to Department 159 "Hydrants - Fire Protection", Account 54835 "Hydrant Fees" for the purpose of funding retrospective capital recoupment costs from Pennichuck Water Works.

**LEGISLATIVE YEAR 2023**

**RESOLUTION:**

R-23-133

**PURPOSE:**

Relative to the transfer of \$110,000 from Department 162 "Street Lighting", Account 54100 "Electricity" to Department 159 "Hydrants - Fire Protection", Account 54835 "Hydrant Fees"

**SPONSOR(S):**

Mayor Jim Donchess

**COMMITTEE  
ASSIGNMENT:**

Budget Review Committee

**FISCAL NOTE:**

Reduces FY2023 General Fund surplus.

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**ANALYSIS**

This legislation authorizes the transfer of \$110,000 from Street Lighting, Electricity to Hydrant Fees for the purpose of funding retrospective capital recoupment costs from Pennichuck Water Works in excess of the original FY2023 Budget appropriation.

Charter Sec. 53 permits the Board of Aldermen to transfer any unencumbered appropriation balance or any portion thereof from one department, fund or agency to another.

NRO § 5-130, H provides that "when proposed legislation to transfer or reappropriate a particular appropriation or portion thereof has had its first reading, such funds shall not be expended or transferred while the legislation is pending".

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**Approved as to account  
structure, numbers,  
and amount:**

**Financial Services Division**

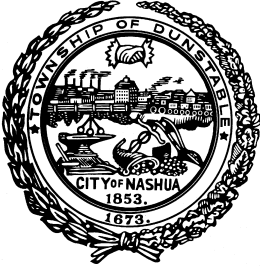
By: Patricia Barry, Deputy

**Approved as to form:**

**Office of Corporation Counsel**

By: Douby Clarke

Date: 5 July 2023



## RESOLUTION

**AUTHORIZING THE MAYOR TO ENTER INTO A FEDERAL AID PROGRAM PROJECT AGREEMENT WITH THE STATE OF NEW HAMPSHIRE DEPARTMENT OF TRANSPORTATION FOR THE PURPOSE OF IMPROVEMENTS TO THE WALNUT STREET OVAL INTERSECTION AND TO ACCEPT AND APPROPRIATE \$2,061,847.26 FOR THE PROJECT**

### *CITY OF NASHUA*

*In the Year Two Thousand and Twenty-Three*

**RESOLVED** by the Board of Aldermen of the City of Nashua that the Mayor is authorized to execute the attached Federal Aid Program Project Agreement with the State of New Hampshire Department of Transportation for the purpose of improvements to the Walnut Street Oval intersection.

The Mayor is further authorized to accept and appropriate the “Participating Federal Share 80%” for this project in the amount of \$2,061,847.26. The City’s “Participating Local Share 20%” in the amount of \$515,461.82 is available through a previously approved bond authorization (see R-22-038, passed on June 28, 2022).

**LEGISLATIVE YEAR 2023**

**RESOLUTION:** R-23-134

**PURPOSE:** Authorizing the Mayor to enter into a Federal Aid Program Project Agreement with the State of New Hampshire Department of Transportation for the purpose of improvements to the Walnut Street Oval intersection and to accept and appropriate \$2,061,847.26 for the project

**ENDORSER(S):** Mayor Jim Donchess

**COMMITTEE ASSIGNMENT:** Budget Review Committee

**FISCAL NOTE:** Fiscal impact is a \$2,061,847.26 federal grant to the City to be used for a specific purpose, with \$515,461.82 in City matching funds coming from a previously approved bond authorization (see R-22-038).

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**ANALYSIS**

This resolution authorizes the City to enter into the attached Agreement with the State of New Hampshire Department of Transportation and to accept and appropriate grant funds for the purpose of improving the Walnut Street Oval intersection.

Charter Sec. 53 permits specific non-budget, supplementary appropriations. There should be notice and a public hearing. A two-thirds vote is required under Charter Sec. 56-b for an item or amount not in the mayor's budget. A roll call is required under Charter Sec. 49.

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**Approved as to account structure, numbers, and amount:**

**Financial Services Division**

By: Patricia Barry, Deputy

**Approved as to form:**

**Office of Corporation Counsel**

By: Dorothy Clarke

Date: 5 July 2023

FEDERAL AID PROGRAM  
PROJECT AGREEMENT  
FOR

CITY OF NASHUA

STATE PROJECT #: 41586  
FEDERAL PROJECT #: X-A004(682)  
STATE VENDOR #: 177441  
UNIQUE ENTITY IDENTIFIER #: \_\_\_\_\_

THIS AGREEMENT, is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2023, between the State of New Hampshire, acting through its Department of Transportation, hereinafter called the "DEPARTMENT", and the City of Nashua, hereinafter called the "PROJECT SPONSOR".

WHEREAS, the DEPARTMENT and the PROJECT SPONSOR have determined that a project to improve the safety, capacity, and multimodal access to the Walnut Street oval intersection in the City of Nashua is an eligible project for funding under the Federal Aid Program created under the Federal Bipartisan Infrastructure Law (BIL); and

WHEREAS, the DEPARTMENT has established Project #41586 (the "Project") for the aforesaid project, with the project funding and target ad year as represented in the table below; and

<b>Programmed Year of Advertisement</b>	<b>Participating Federal Share 80%</b>	<b>Participating Local Share 20%</b>	<b>Additional Non- Participating Funds</b>	<b>*Total Budget</b>
<b>2025</b>	<b>\$2,061,847.26</b>	<b>\$515,461.82</b>	<b>\$0.00</b>	<b>*\$2,577,309.08</b>

\*The Total Budget shown is the FY 2023 estimated cost, inflated at 2.8% per year for 1 year

Additional Administrative Documentation Information: If this information is not available at the time of the Agreement signing, documentation will be sent to the PROJECT SPONSOR by the DEPARTMENT as soon as the information is available:

**FEDERAL FAIN #: {Not yet available}**

**CFDA #20.205 and DESCRIPTION Highway Planning and Construction**

**SUBAWARD Period of performance start date: {Not yet available}**

**SUBAWARD Period of performance end date: {Not yet available}**

**NHDOT Managed: Yes \_\_\_\_\_ No x \_\_\_\_\_**

**{If Yes, include description of funding with percentage federal funds and source of funds here}**

**NHDOT Indirect Cost Rate: N/A x 10% \_\_\_\_\_**

**Is award Research & Development: Yes \_\_\_\_\_ No x \_\_\_\_\_**

WHEREAS, the PROJECT SPONSOR has submitted an Application to sponsor the Project (the "Application") and the DEPARTMENT has accepted the Application; and

WHEREAS, the Application, by reference, is hereby incorporated and made a part of this AGREEMENT; and

WHEREAS, the PROJECT SPONSOR desires to act as Sponsor and Manager of the Project; and

WHEREAS, the DEPARTMENT desires to cooperate with the PROJECT SPONSOR in accomplishing the Project;

NOW, THEREFORE, in consideration of the above premises and in further consideration of the agreement herein set forth by and between the parties hereto, it is mutually agreed as follows:

**I. DUTIES AND RESPONSIBILITIES OF THE PROJECT SPONSOR:**

- A. The PROJECT SPONSOR shall comply with all Federal and State of New Hampshire laws and rules, regulations, and policies as applicable under the Federal-aid Highway Program for Federal Aid Construction Contracts.
- B. The PROJECT SPONSOR shall manage the design, environmental study, right-of-way acquisition and construction of the Project. This management is described in the current version of the DEPARTMENT's document titled "Local Public Agency Manual for the Development of Projects", as it may be amended from time to time, and, by reference, is hereby made a part of this AGREEMENT.
- C. The PROJECT SPONSOR shall provide or cause to provide for both the maintenance of the Project during construction and subsequent maintenance of all Project elements together with the maintenance of sidewalks, which includes winter snow and ice removal in accordance with the requirements of 23 CFR 1.27 and 28 CFR 35.133, once the work under this AGREEMENT is completed. Should operational adjustments be necessary, the PROJECT SPONSOR agrees that no changes will be made without prior approval of the DEPARTMENT and the Federal Highway Administration.
- D. The PROJECT SPONSOR shall submit monthly progress reports and invoices to the DEPARTMENT for reimbursement of its share of the amounts paid to engineering, environmental and/or right-of-way consultants and construction contractors for the performance of the work set forth in the Application or agreed upon at the scoping meeting. The invoice structure shall include details of work completed consistent with the Scope of Work as defined in the Application, as well as backup information to support the charges. The PROJECT SPONSOR shall certify that the invoices properly represent payment for work that has been completed and paid for by the PROJECT SPONSOR.
- E. The PROJECT SPONSOR is required to maintain all project and financial records pertinent to the development of the Project for three (3) years beyond the date of the DEPARTMENT's final voucher. The DEPARTMENT will send a letter to the PROJECT SPONSOR with the date of this approval. If there is a failure to maintain this documentation, NHDOT and/or Federal Highway Administration could take an action up to and including requesting a refund of all reimbursed project costs. Any and all of these project and financial records must be made available to the DEPARTMENT and Federal Highway Administration at their request.
- F. The PROJECT SPONSOR shall defend, indemnify and hold harmless the DEPARTMENT and its officials, agents and employees from and against any and all claims, liabilities or suits arising from (or which may be claimed to arise from) any act or omission of the PROJECT SPONSOR or its subcontractors in the performance of this AGREEMENT. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the sovereign immunity of the State of New Hampshire or the DEPARTMENT, which immunity is hereby reserved. This covenant shall survive the termination of this AGREEMENT.

G. Non-Discrimination:

1. The PROJECT SPONSOR agrees, for itself, its assignees and successors in interest, that it will comply with Title VI of the Civil Rights Act of 1964, (referred to as the ACT), and all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Part 21, (referred to as the “REGULATIONS”), the Federal-aid Highway Act of 1973, and other pertinent directives, to the end that no person shall on the grounds of race, color, religion, national origin, sex, age, sexual orientation, disability or handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity for which the PROJECT SPONSOR receives Federal financial assistance extended by the State of New Hampshire. The ACT and the REGULATIONS are herein incorporated by reference and made a part of this AGREEMENT. This AGREEMENT obligates the PROJECT SPONSOR for the period during which Federal financial assistance is extended.
2. The PROJECT SPONSOR hereby gives assurance as required by subsection 21.7(a)(1) of the REGULATIONS that it will promptly take any measures necessary to effectuate this AGREEMENT, including but not limited to the following specific assurances:
  - a. That each “program” and each “facility” as defined in subsections 21.23(e) and 21.23(b) of the REGULATIONS will be conducted or operated in compliance with all requirements of the REGULATIONS.
  - b. That the PROJECT SPONSOR shall insert the following notification in all solicitations for negotiated agreements or bids for work or material made in connection with this Project: *The PROJECT SPONSOR hereby notifies all bidders that it will affirmatively insure that in any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, religion, national origin, sex, age, sexual orientation, disability or handicap in consideration for an award.*
  - c. That the PROJECT SPONSOR shall not discriminate on the basis of race, color, religion, national origin, sex, age, sexual orientation, disability or handicap in the award and performance of any DEPARTMENT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR part 26. The PROJECT SPONSOR shall take all necessary and reasonable steps under 49 CFR part 26 to ensure nondiscrimination in the award and administration of DEPARTMENT-assisted contracts. The DEPARTMENT's DBE program, as required by 49 CFR part 26 and as approved by the United States Department of Transportation, is incorporated by reference in this AGREEMENT. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this AGREEMENT. Upon notification to the PROJECT SPONSOR of its failure to carry out its approved program, the DEPARTMENT may impose sanctions as provided for under part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 *et seq.*
  - d. That the PROJECT SPONSOR shall include the following assurance in each contract signed with a contractor and each subcontract the prime contractor signs with a subcontractor: *The contractor or subcontractor shall not discriminate on the basis of race, color, religion, national origin, sex, age, sexual orientation, disability or handicap in the performance of this contract. The contractor shall carry out*



*applicable requirements of 49 CFR Part 26 in the award and administration of DEPARTMENT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of the contract or such other remedy, as the recipient deems appropriate.*

3. The PROJECT SPONSOR shall insert a copy of the required provisions of Federally-assisted construction contracts in accordance with Executive Order 11246, Equal Employment Opportunity, and 41 CFR Part 60-4, Affirmative Action Requirements, in each contract entered into pursuant to this AGREEMENT. Required Federal contract provisions can be obtained through the DEPARTMENT's Labor Compliance Office (271-6612) or Online at: <http://www.nh.gov/dot/org/administration/ofc/documents.htm>
- H. The PROJECT SPONSOR certifies by entering into this Agreement that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from entering into this Agreement by any federal agency or by any department, agency or political subdivision of the State of New Hampshire. The term "principal" for purposes of this Agreement means an officer, director, key employee or other person with primary management or supervisory responsibilities, or a person who has critical influence on or substantive control over the operations of the PROJECT SPONSOR. The PROJECT SPONSOR also certifies that it will verify the state and federal suspension and debarment status for all parties (consultant/vendor/contractor, etc.) receiving funds under this Agreement as a sub-Agreement and shall be solely responsible for any recoupment, penalties or costs that might arise from use of a suspended or debarred party. The PROJECT SPONSOR shall immediately notify the Department if any sub-Agreement party is debarred or suspended, and shall, at the DEPARTMENT'S request, take all steps required by the State to terminate its sub-Agreement relationship with the party for work to be performed under this Agreement.
- I. If the PROJECT SPONSOR defaults or fails to fulfill any part of this AGREEMENT, the PROJECT SPONSOR shall be required to reimburse the DEPARTMENT and/or the Federal Highway Trust Fund for all funds expended under this Project.

## **II. DUTIES AND RESPONSIBILITIES OF THE DEPARTMENT:**

- A. The DEPARTMENT shall review the Project engineering plans, environmental documents and contract documents applicable to the Federal Highway Administration and State of New Hampshire requirements for a Federally-funded project and submit appropriate documentation to the Federal Highway Administration to receive Federal approval.
- B. The DEPARTMENT shall reimburse its share to the PROJECT SPONSOR after receipt and approval of properly documented invoices that have been certified by the PROJECT SPONSOR as properly representing work that has been completed and paid for by the PROJECT SPONSOR.
- C. The DEPARTMENT shall use its best efforts to obtain authorization of the Project from the Federal Highway Administration.

**III. IT IS FURTHER UNDERSTOOD AND AGREED BETWEEN THE DEPARTMENT AND THE PROJECT SPONSOR:**

- A. That the PROJECT SPONSOR will not incur any Project costs nor enter into any agreement with any third party, including but not limited to consultants, contractors, or engineers until such time that it receives a written notice to proceed from the DEPARTMENT to do so.
- B. That the maximum amount of funds available for this Project for reimbursement under this AGREEMENT from the DEPARTMENT shall be as set forth in the Table on page 1. As the scope of the Project is finalized, should the costs for the Project exceed the amount budgeted, the DEPARTMENT agrees to review Project costs for consideration of additional funding. Neither the DEPARTMENT nor the Federal Highway Administration will be responsible for any expenses or costs incurred by the PROJECT SPONSOR under this AGREEMENT in excess of the above amounts unless the DEPARTMENT expressly authorizes additional funding prior to the work being performed.
- C. That the PROJECT SPONSOR shall invoice the DEPARTMENT for incurred costs on a monthly basis and the DEPARTMENT will process these invoices for payment in an expeditious manner.
- D. That the PROJECT SPONSOR agrees to commence the PROJECT within 6 months of AGREEMENT execution date noted in the first paragraph of page 1. The PROJECT SPONSOR agrees to complete the Preliminary Engineering (PE) Phase of the PROJECT on or BEFORE December 31<sup>st</sup> of the Programmed Year of Advertisement date noted in the table on page 1, unless earlier terminated as provided herein. The PROJECT SPONSOR may apply to the DEPARTMENT for an extension to either the START or END date. Such application for extension must be made in writing, providing an explanation of the reasons for the delay, and proposing a revised schedule. Failure to meet any deadline without good cause or failure to submit an extension request may cause the DEPARTMENT to cancel its participation in this Project at its sole discretion, in which case any remaining funds will be forfeited. The PROJECT SPONSOR is responsible for informing and coordinating a new Project completion date that will need to be approved by the DEPARTMENT if any condition arises that may result in either deadline being unattainable.
- E. That the PROJECT SPONSOR will attend a meeting with the DEPARTMENT's representative after signing this AGREEMENT to discuss the Project's scope, budget and schedule. The PROJECT SPONSOR will subsequently provide a schedule showing project milestones with dates. Failure to meet these dates could delay funding for construction.
- F. This AGREEMENT may be amended to incorporate changes in project scope, schedule, and/or budget that may arise through the development and design stages of the project, pursuant to approval by the Governor and the Executive Council as Item No. 47 on March 23, 2022. Such amendments will be effective upon execution of an instrument in writing signed by both parties hereto. Otherwise, this AGREEMENT may be amended, waived, or discharged only by an instrument in writing signed by the parties hereto, and only after approval of such amendment, waiver of discharge by the Governor and Executive Council of the State of New Hampshire unless no such approval is required under the circumstances pursuant to State law, rule, or policy.

- G. That this AGREEMENT is contingent upon the appropriation of sufficient funds from the State of New Hampshire Legislature and/or the Federal Highway Administration. If sufficient funds are not appropriated, the DEPARTMENT may terminate this AGREEMENT upon thirty (30) days' written notice to the PROJECT SPONSOR. Such termination shall relieve the DEPARTMENT and the PROJECT SPONSOR from obligations under this AGREEMENT after the termination date.
  
- H. Pursuant to authorization by the Governor and Executive Council, as Item No. 47 on March 23, 2022, this AGREEMENT is effective upon the date shown on page one of this AGREEMENT. The DEPARTMENT will include this AGREEMENT in its annual report to the Governor and the Executive Council on the status of all active Federal Local Public Agency (LPA) projects.

IN WITNESS WHEREOF, the parties have executed this AGREEMENT on the date first written above.

**NEW HAMPSHIRE DEPARTMENT  
OF TRANSPORTATION**

**CITY OF NASHUA**

By: \_\_\_\_\_  
 William J. Cass, PE  
 Commissioner  
 State of New Hampshire  
 Department of Transportation

Signature: \_\_\_\_\_  
 Name (typed): \_\_\_\_\_  
 Title: \_\_\_\_\_



**RESOLUTION**

**AMENDING THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT ANNUAL ACTION PLAN FOR FISCAL YEAR 2023 RELATIVE TO THE COMMUNITY DEVELOPMENT BLOCK GRANT (“CDBG”)**

***CITY OF NASHUA***

*In the Year Two Thousand Twenty-Three*

**WHEREAS**, R-22-025, as amended, authorized the Mayor to file an application with the U.S. Department of Housing and Urban Development (“HUD”) for the Community Development Block Grant (“CDBG”), and the HOME Investment Partnership Program, and to execute all understandings, assurances and agreements as required therein for certain activities funded in FY23;

**WHEREAS**, the FY 2023 Annual Action plan allocated \$25,000 to Opportunity Networks for window replacement at the agency’s main offices and \$15,623 to the PLUS Company for flooring replacement at the agency’s main offices; and

**WHEREAS**, the Opportunity Networks project has been completed with \$3,000 remaining unexpended and the PLUS Company project’s bids have come in higher than anticipated.

**NOW THEREFORE BE IT RESOLVED BY THE BOARD OF ALDERMEN OF THE CITY OF NASHUA**, that the following CDBG activities shall be amended:

- 1. These CDBG balances are available and shall be reprogrammed:

FY23 Opportunity Networks Windows	\$3,000
FY23 PLUS Company Flooring	\$15,623
TOTAL	<hr/> \$18,623

**RESOLUTION**

**R-23-135**

2. FY23 CDBG funds for Opportunity Networks Windows Replacement: decrease funding from \$3,000 to \$0.

3. FY23 CDBG funds for PLUS Company Flooring: increase funding from \$15,623 to \$18,623, utilizing the reprogrammed funds listed above.

**LEGISLATIVE YEAR 2023**

**RESOLUTION:**

**R-23-135**

**PURPOSE:**

**Amending the U.S. Department of Housing and Urban Development Annual Action Plan for Fiscal Year 2023 relative to the Community Development Block Grant (“CDBG”)**

**SPONSOR(S):**

**Mayor Jim Donchess**

**COMMITTEE  
ASSIGNMENT:**

**Human Affairs Committee**

**FISCAL NOTE:**

**None.**

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**ANALYSIS**

This resolution amends the HUD Annual Action Plan for fiscal year 2023 to change the use in funds from one approved public facilities project to another approved public facilities project.

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**Approved as to account  
structure, number and  
amount:**

**Financial Services Division**

By: 

**Approved as to form:**

**Office of Corporation Counsel**

By: 

Date: 7 July 2023