



## RESOLUTION

**AUTHORIZING THE MAYOR TO ENTER INTO AN AMENDMENT TO THE RAILROAD AGREEMENT WITH THE STATE OF NEW HAMPSHIRE AND PAN AM RAILWAYS FOR THE PURPOSE OF REPLACING A RAILWAY HIGHWAY CROSSING ON EAST HOLLIS STREET**

### *CITY OF NASHUA*

*In the Year Two Thousand and Sixteen*

**WHEREAS**, R-15-160 “Authorizing the Mayor to enter into a railroad agreement with the State of New Hampshire and Pan Am Railways for the purpose of replacing a railway highway crossing on East Hollis Street”, passed on August 12, 2015, and authorized the Mayor to sign the Railroad Agreement for the purpose of replacing an at-grade railway highway crossing on East Hollis Street;

**WHEREAS**, the Railroad Agreement contemplates Pan Am purchasing materials for the reconstruction of the railroad crossing and obtaining reimbursement from the State of New Hampshire for those materials, which has proven to be a hardship for Pan Am;

**WHEREAS**, the City has agreed to purchase some of those materials and obtain reimbursement from the State, necessitating the attached amendment to the Railroad Agreement, which also increases the total amount of grant funds to the City for this project.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Aldermen of the City of Nashua that the Mayor is authorized to execute the attached Amendment to Agreement with the State of New Hampshire and Pan Am Railways for the East Hollis Street Railway Highway Crossing.

NASHUA  
X-A001(272)  
16394  
(EAST HOLLIS STREET)  
(PAN AM RAILWAYS  
RAILWAY-HIGHWAY CROSSING)

## **AMENDMENT TO AGREEMENT**

This Amendment to Agreement is made in triplicate this \_\_\_\_\_ day of \_\_\_\_\_, 2016, by and between the STATE OF NEW HAMPSHIRE, by its Department of Transportation, hereinafter called the "State", the CITY OF NASHUA (Vendor # 177441), hereinafter called the "City", and PAN AM RAILWAYS (Vendor #160980), a Corporation duly organized and existing under the laws of the State of Delaware, and the SPRINGFIELD TERMINAL RAILWAY (collectively) authorized to do business in the State of New Hampshire, hereinafter called the "Railroad".

### WITNESSETH:

WHEREAS, the State, the City and Railroad entered into a Railroad Agreement dated the twelfth day of August, 2015, for the replacement of the East Hollis Street at-Grade Railway Highway crossing on the above referenced State project in the City of Nashua, County of Hillsborough, New Hampshire, and,

WHEREAS, the aforementioned Railroad Agreement is to be amended to include State match in the Project, and the City's commitment to bear upfront cost for some of the materials required for the Railroad portion of the project, and,

NOW THEREFORE, in consideration thereof, the parties hereto mutually agree to amend this Agreement as shown on the attached Railroad Agreement Worksheet and described as follows:

Replace the first "WHEREAS" paragraph with the following:

WHEREAS, the State has approval of the Federal Highway Administration (FHWA), for a Federal-Aid Statewide Transportation Improvement Program (STIP) Project (Organization Code 3054), NASHUA, NH 111, EAST HOLLIS STREET, X-A001(272), 16394 in the City of Nashua, County of Hillsborough, New Hampshire, which construction necessitates the replacement of an at-grade Railway-Highway crossing, in the amount of Six hundred thirty-eight thousand four hundred twenty-one and 54/100 dollars (\$638,421.54) with Three hundred seventeen thousand two hundred four and 81/100 dollars (\$317,204.81) for Protective Devices and Three hundred twenty-one thousand two hundred sixteen and 73/100 dollars (\$321,216.73) for Hazard Elimination and Preliminary Engineering. One hundred percent (100%) of the cost of Protective Devices such amount being Three hundred seventeen thousand two hundred four and 81/100 dollars (\$317,204.81) coming from Federal Highway funds with State match being Turnpike Toll Credit. Ninety percent (90%) of the cost of Hazard Elimination and Preliminary Engineering such amount being Two hundred eighty-nine thousand ninety-five and 06/100 dollars (\$289,095.06) coming from Federal Highway funds with ten percent (10%) match coming from the City in the amount of Thirty two thousand one hundred twenty one and 67/100 (\$32,121.67). Total Federal Highway funds for the project are Six hundred and six thousand two hundred ninety-nine and 87/100 dollars (\$606,299.87); and

Amend the **Method of Payment for Described Work** by replacing the lines starting with “Total Federal Aid \$606,299.87” through “Shared Cost due from City of Nashua \$32,121.67” with the following:

<b>Federal Aid Required</b>	<b>\$574,579.39</b>
<b>State Match as Turnpike Toll Credit</b>	<b><u>\$ 31,720.48</u></b>
<b>Total Federal Aid Required</b>	<b>\$606,299.87</b>
<b>Total City Aid Required</b>	<b><u>\$ 32,121.67</u></b>
<b>Total Project Cost</b>	<b>\$638,421.54</b>

Preliminary Engineering Cost estimated at **\$25,000.00** (Work Class Code 1300)

Actual Construction Cost estimated at **\$549,579.39** (Work Class Code 2280)

State Match as Turnpike Toll Credit estimated at **\$31,720.48**

City of Nashua Aid due, estimated at **\$32,121.67**

Replace the RAILROAD AGREEMENT WORKSHEET dated June 16, 2015 with the attached worksheet dated September 9, 2015.

Amend the Agreement at the end of Paragraph 2 by adding the following:

**City advancing payment for some Railroad materials:**

- Prior to the Railroad performing any work on this project as described in Paragraph 1, City will deposit a check with the Railroad in the amount of One Hundred Thirty Thousand Dollars (\$130,000.00), to cover the cost of some of the materials for Railroad portion of the project for crossing, and turnout work listed in item number four (4) and, some of the materials for new signals, listed in item number fourteen (14) of the Construction Estimate dated May 20, 2015, attached to the Railroad Agreement.
- When materials are on hand, the Railroad shall inspect the materials to ensure all materials are free of defects, and conform to approved plans and specifications, and the itemized estimate prepared by the Railroad attached in the Railroad Agreement.
- Should the actual material costs be less than estimated, then the Railroad shall forward a check in the amount of the balance to the City within fifteen (15) days of delivery of all materials.
- The Railroad shall submit satisfactory detailed progress vouchers to the City within seven (7) days of the receipt of the materials. The City will submit the vouchers to State to be reimbursed for the amount paid for all materials pertaining to the Railroad portion of the project once installed.

All other terms and conditions of said Agreement remain unchanged.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment to Agreement on the day and year first above written.

THE STATE OF NEW HAMPSHIRE  
Department of Transportation

By: \_\_\_\_\_  
Christopher M. Waszczuk, P.E.  
Director of Project Development

PAN AM RAILWAYS

By: \_\_\_\_\_  
(Signature)

THE CITY OF NASHUA

By: \_\_\_\_\_  
James W. Donchess  
Mayor, City of Nashua

\_\_\_\_\_  
(Typed Signature)

\_\_\_\_\_  
(Title)

\_\_\_\_\_ JAM

**LEGISLATIVE YEAR 2016**

**RESOLUTION:**

**R-16-038**

**PURPOSE:**

**Authorizing the Mayor to enter into an amendment to the railroad agreement with the State of New Hampshire and Pan Am Railways for the purpose of replacing a railway highway crossing on East Hollis Street.**

**ENDORSER(S):**

**Mayor Jim Donchess**

**COMMITTEE  
ASSIGNMENT:**

**FISCAL NOTE:**

**No additional City share.**

---

**ANALYSIS**

This resolution authorizes the Mayor to enter into the attached Amendment to Agreement with the State of New Hampshire and Pan Am Railways for the East Hollis Street railway highway crossing, primarily addressing the City purchasing some of the railroad's materials and obtaining reimbursement from the State.

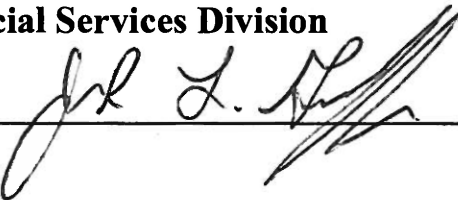
The amendment increases the total amount of grant funds to the city for this project, but does not increase the city's 10% share of the total cost (\$32,121.67).

---

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

**Financial Services Division**

**By:**

  
\_\_\_\_\_

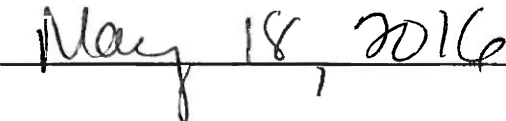
**Approved as to form:**

**Office of Corporation Counsel**

**By:**

  
\_\_\_\_\_

**Date:**

  
\_\_\_\_\_