



## RESOLUTION

AUTHORIZING THE CITY TO ENTER INTO A MEMORANDUM OF UNDERSTANDING WITH THE BOSTON SURFACE RAILROAD COMPANY, INC.

### *CITY OF NASHUA*

*In the Year Two Thousand and Seventeen*

**WHEREAS**, recent polling indicates that 74% of New Hampshire residents support the extension of passenger rail service from Massachusetts into the City of Nashua;

**WHEREAS**, the establishment of passenger rail service between Nashua and Boston enjoys widespread support among Nashua's residents; and

**WHEREAS**, the Nashua Board of Aldermen wishes to continue the work and make progress on the efforts to bring passenger rail service to the City.

**NOW THEREFORE, BE IT RESOLVED** by the Board of Aldermen of the City of Nashua that the Mayor is authorized to enter into an agreement substantially in the form of the attached.

**LEGISLATIVE YEAR 2017**

**RESOLUTION:**

R-17-133

**PURPOSE:**

Authorizing the City to enter into a Memorandum of Understanding with the Boston Surface Railroad Company, Inc.

**ENDORSERS:**

Mayor Jim Donchess

**COMMITTEE  
ASSIGNMENT:**

**FISCAL NOTE:**

None.

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**ANALYSIS**

This legislation gives Board of Aldermen approval for the City to enter into a Memorandum of Understanding (MOU) with the Boston Surface Railroad Company, Inc.

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**Approved as to form:**

**Office of Corporation Counsel**

By:

Drewby Clarke

Date:

September 20, 2017

**MEMORANDUM OF UNDERSTANDING  
(MOU)**

between

**THE BOSTON SURFACE RAILROAD COMPANY, INC**

and

**THE CITY OF WOONSOCKET RHODE ISLAND**

and

**THE CITY OF WORCESTER MASSACHUSETTS**

and

**THE CITY OF LOWELL MASSACHUSETTS**

and

**THE CITY OF NASHUA NEW HAMPSHIRE**

This is an agreement between The Boston Surface Railroad Company Inc. "BSRC" and The City of Woonsocket Rhode Island "Woonsocket" and The City of Worcester Massachusetts "Worcester" and The City of Lowell Massachusetts "Lowell" and the City of Nashua New Hampshire, "Nashua" hereinafter collectively referred to as "The Parties".

**I. PURPOSE & SCOPE**

The purpose of this MOU is to identify the proposed roles and responsibilities of each party as they relate to the establishment of Regional, Intercity Passenger Rail operated by BSRC between points in and between the municipal limits of the other Parties. This MOU is not intended to be legally binding, but it rather intends to promote and facilitate the Parties contemplating and entering into a binding agreement or agreements in the future, to jointly or respectively complete the tasks or conditions described herein.

**II. BACKGROUND**

In 2013, BSRC was formed to provide private, intercity passenger rail service between tightly coupled metropolitan area which are or were underserved by other transportation modes.

### III. BSRC RESPONSIBILITIES UNDER THIS MOU

BSRC shall undertake the following activities:

- Develop and deliver a plan “The Plan” to establish, enhance or expand passenger rail services between the municipal jurisdictions of the other Parties and other geographically desirable points
- “The Plan” shall be agreed to by all parties. Should a party not agree to the Plan, that party shall no longer be bound by this agreement, with the exception of the Non-Disclosure terms of Section VIII.4.
- Identify public and private funding sources required to implement The Plan
- Obtain all Federal Regulatory approval for The Plan
- Supply any applicable data to the National Transportation Database, and other Parties, required for the award of Formula Grant Funds
- Provide the other Parties with quarterly updates and financial status as requested
- Issue the other Parties each 1 percent of the overall Series A Common stock of BSRC , as requested by the other Parties and subject to all applicable laws, rules and regulations concerning the issuance of such stock.
- Establish a Financial Oversight Committee of five members to oversee financial operations of The Plan, including one representative from each Party.
- Appoint one member of the Financial Oversight Committee
- Work with all other Parties to develop a permanent Agreement to memorialize the terms of this MOU

#### IV. WOONSOCKET RESPONSIBILITIES UNDER THIS MOU

WOONSOCKET shall use commercially reasonable efforts to undertake the following activities:

- Appoint a member to the Financial Oversight Committee of BSRC
- Support the Parties in the promotion and development of The Plan
- Identify funding sources to support changes or additions to the Plan required by Woonsocket.
- Provide BSRC with 90% of any BSRC generated Formula Grant Money collected based on BSRC's fixed guideway miles or spend such revenue as directed by BSRC, subject to any approvals required by the Woonsocket City Council and in accordance with all applicable laws, rules and regulations concerning the receipt and expenditure of such funds.
- Promote The Plan with public officials at State and Federal Levels
- Sponsor BSRC for any identified funding opportunities that would benefit or advance The Plan in WOONSOCKET'S geographic area.
- Work with all other Parties to develop a permanent Agreement to memorialize the terms of this MOU

#### V. WORCESTER RESPONSIBILITIES UNDER THIS MOU

WORCESTER agrees to undertake the following activities:

- Appoint a member to the Financial Oversight Committee of BSRC
- Support the Parties in the promotion and development of The Plan
- Identify funding sources to support changes or additions to the Plan required by Worcester.
- Provide BSRC with 90% of any BSRC generated Formula Grant Money collected based on BSRC's fixed guideway miles or spend such revenue as directed by BSRC, subject to any approvals required by the Worcester City Council and in accordance with all applicable laws, rules and regulations concerning the receipt and expenditure of such funds.
- Promote The Plan with public officials at State and Federal Levels

- Sponsor BSRC for any identified funding opportunities that would benefit or advance The Plan in WORCESTER'S geographic area.
- Work with all other Parties to develop a permanent Agreement to memorialize the terms of this MOU

## VI. LOWELL RESPONSIBILITIES UNDER THIS MOU

LOWELL shall use commercially reasonable efforts to undertake the following activities:

- Appoint a member to the Financial Oversight Committee of BSRC
- Support the Parties in the promotion and development of The Plan
- Identify funding sources to support changes or additions to the Plan required by Lowell.
- Provide BSRC with 90% of any BSRC generated Formula Grant Money collected based on BSRC's fixed guideway miles or spend such revenue as directed by BSRC, subject to any approvals required by the Lowell City Council and in accordance with all applicable laws, rules and regulations concerning the receipt and expenditure of such funds.
- Promote The Plan with public officials at State and Federal Levels
- Sponsor BSRC for any identified funding opportunities that would benefit or advance The Plan in LOWELL'S geographic area.
- Work with all other Parties to develop a permanent Agreement to memorialize the terms of this MOU

## VII. NASHUA RESPONSIBILITIES UNDER THIS MOU

NASHUA shall use commercially reasonable efforts to undertake the following activities:

- Appoint a member to the Financial Oversight Committee of BSRC
- Support the Parties in the promotion and development of the Plan
- Identify funding sources to support changes or additions to the Plan required by Nashua.

- After receiving all necessary approvals, including but not limited to approval of the Nashua Board of Aldermen, provide BSRC with 90% of any BSRC generated Formula Grant Money collected based on BSRC's fixed guideway miles or spend such revenue as directed by BSRC in accordance with all applicable laws, rules and regulations concerning the receipt and expenditure of such funds.
- Promote The Plan with public officials at State and Federal Levels
- Sponsor BSRC for any identified funding opportunities that would benefit or advance The Plan in NASHUA'S geographic area.
- Work with all other Parties to develop a permanent Agreement to memorialize the terms of this MOU.

VIII. IT IS MUTUALLY UNDERSTOOD AND AGREED BY AND BETWEEN THE PARTIES THAT:

1. Modifications: No modifications to the MOU shall be made without the express written consent of all of the Parties.
2. Press-Release: No Party may issue any Press Releases or Statements mentioning by name or description any other party to this MOU without that Party's express prior written consent unless such statements reference facts or actions that would normally be public knowledge or a matter of public record.
3. Exclusivity: While this MOU is in effect no party shall engage in any substantive discussions with any other entity, public or private, to enact or establish an activity or project substantially similar to The Plan
4. Non-Disclosure: Subject to any applicable public records law, no Party shall disclose information supplied to it by any other Party, marked, labeled or identified as proprietary or confidential to any entity not party to this MOU without the express prior written consent of the supplying Party. The terms of this section VIII.4 shall survive Termination or expiration of this Agreement.
5. Term and Termination: This MOU will terminate automatically on September 30, 2018.

IX. EFFECTIVE DATE AND SIGNATURE

This MOU shall be effective as of October 1, 2017.

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BOSTON SURFACE RAILROAD COMPANY, INC  
VINCENT J. BONO, PRESIDENT  
1 DEPOT SQ, WOONSOCKET, RI 02895

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DATE

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CITY OF WOONSOCKET, RI  
LISA BALDELLI-HUNT, MAYOR  
169 MAIN ST, WOONSOCKET, RI 02895

\_\_\_\_\_  
DATE

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CITY OF NASHUA, NH  
JAMES DONCHESS, MAYOR  
292 MAIN ST, NASHUA, NH 03061

\_\_\_\_\_  
DATE

\_\_\_\_\_  
CITY OF WORCESTER, MA  
XXXXXXXXXXXXXXXXXXXX, XXXXXX  
455 MAIN ST, WORCESTER, MA 01608

\_\_\_\_\_  
DATE

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CITY OF LOWELL, MA  
XXXXXXXXXXXXXXXXXXXX, XXXXXX  
375 MERRIMACK ST, LOWELL, MA 01852

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DATE