



## RESOLUTION

Number 2021-047

### To Create the Derry Economic Development Expendable Trust Fund

WHEREAS, Section 5.1 of the Town Charter establishes the Town Council as the governing and legislative body of the Town; and

WHEREAS, the Town Council previously adopted Resolution #2019-018 which authorized participation in the Southern New Hampshire Regional Interconnection Project which requires the use of Derry assets to transport water from Manchester to points south; and

WHEREAS, the Town collects a fee for the use of its system for these purposes; and

WHEREAS, the Governor signed SB87 into law, which allows the use of no more than 50% of water wheeling revenues for economic development purposes; and


WHEREAS, a trust fund is necessary to hold said revenues for future investment in economic development initiatives for the benefit of Derry taxpayers;

NOW, THEREFORE, BE IT RESOLVED IN COUNCIL that the Derry Economic Development Expendable Trust Fund is hereby created pursuant to RSA 31:19-a for use in accordance with RSA 38:29 I-a as set forth below; further, the Town Administrator is hereby authorized to transfer appropriate revenues received from this project into the Trust. Finally, the Town Council is hereby designated as Agents to Expend.

This Resolution shall take effect immediately upon its passage.

Adopted: July 20, 2021.

Attest:

x 

James Morgan, Council Chair

Date: 7-20-2021

x 

Daniel Healey, Town Clerk

Date: 7-20-2021

## ***Derry Economic Development Expendable Maintenance Trust Fund***

Pursuant to the adoption of Resolution #2021-048, there is hereby created the Derry Economic Development Expendable Trust Fund, which shall be administered as follows:

- I. Water Wheeling Charges – Pursuant to RSA 38:29 I-a, revenues derived from water wheeling charges deposited into the Trust may be expended for the following purposes:
  - a. For the purposes set forth in RSA 38:28, including:
    - i. For the defraying of the cost of acquisition, construction, payment of the interest on any debt incurred, management, maintenance, operation, and repair of water systems, or construction, enlargement, or improvement of such systems.
  - b. For the acquisition, construction, payment of the interest on any debt incurred, management, maintenance, operation, and repair of sewer systems, or construction, enlargement, or improvement of such systems.
  - c. Placed into capital reserve funds of the Derry Water or Wastewater Systems.
  - d. For the expansion or replacement of natural gas lines or systems, by a municipal gas system or gas provider regulated by the public utilities commission.
  - e. For the purposes set forth in RSA 162-G:4, including:
    - i. To engage in projects and to acquire, lease as lessee, own, and dispose of business and industrial facilities within or without the Town, and to enter into option contracts to allow the Town to acquire business and industrial facilities at or before some certain date, at some certain price, or below some certain price.
    - ii. To issue bonds to pay project costs, or to reimburse a tenant for payments for project costs made before or after the bonds are issued, or to refund bonds previously issued.
    - iii. To lease business and industrial facilities as owner and lessor or as lessee and sublessor.

- iv. To mortgage, pledge, or assign as security for bonds, through use of a trust indenture or otherwise, any interest which the Town may have in a business and industrial facility as owner and lessor.
  - v. In the event of a default by a tenant, to lease or sell the business and industrial facility to another person in whole or in part.
  - vi. To enter into lease subsidy contracts with business and industrial facility tenants upon a vote by the authority and the Town Council that the business or industrial tenancy has a demonstrable public benefit.
  - vii. To make contracts or take any other action which is necessary or desirable in connection with the exercise of the foregoing powers. Nothing shall be construed to authorize the Town to operate a business and industrial facility itself or to conduct any business enterprise therein.
  - viii. To accept grants that assist in the carrying out of the purposes of RSA 162-G, and to do any and all things necessary or convenient in order to avail itself of such aid.
- f. For the purposes set forth in RSA 162-K:6, III and RSA 162-K:8, including:
- i. Acquire, construct, reconstruct, improve, alter, extend, operate, maintain or promote developments aimed at improving the physical facilities, quality of life and quality of transportation;
  - ii. Acquire real property or easements through negotiation or through powers of eminent domain, except that property acquired through powers of eminent domain shall be put to public use, as defined in RSA 162-K:2, IX-a;
  - iii. Adopt ordinances regulating the use of public parking structures and other facilities constructed within the development district and access to them and the conditions under which such access is allowed. Traffic regulations may include, but shall not be limited to, direction and speed of traffic, kinds of service activities that will be allowed in arcades, parking structures and plazas, and rates to be charged in the parking structures;
  - iv. Require construction of buildings so as to accommodate and support pedestrian systems. When the Town requires for the public benefit the

construction of columns, beams or girders with greater strength than required for normal building purposes, the Town shall reimburse the owner for the added expense;

- v. Install lighting systems, street signs and street furniture, landscaping of street and public property, and snow removal systems;
- vi. Acquire property;
- vii. Lease air rights over public property and spend public funds for constructing the foundations and columns in the public buildings strong enough to support the buildings to be constructed on air rights;
- viii. Lease all or portions of basements, ground and second floors of the public buildings constructed in the district; and
- ix. Negotiate the sale or lease of property for private development.
- x. The Town may authorize, issue and sell general obligation bonds, which shall mature within 30 years from the date of issue, to finance the acquisition and betterment of real and personal property together with all relocation costs incidental thereto. Bonds issued under this authority shall be payable in annual payments which shall be so arranged that the amount of annual payment of principal and interest in any year on account of any bond shall not be less than the amount of principal and interest payable in any subsequent year by more than 5 percent of the principal of the entire bond. The total amount of such payments shall be sufficient to extinguish the entire bond on account of which they are made at maturity. The first payment of principal on any bond shall be made no later than 5 years and the last payment not later than 30 years after the date thereof. Each authorized issue of bonds shall be a separate loan.

- II. From all other sources, including grants, gifts and loans – These funds may be used for any purpose related to economic development as determined by the Town Council, including those purposes listed above, subject to any terms and conditions as may be established by the grant, gift or loan.