



RESOLUTION

APPROVING A THREE YEAR AGREEMENT WITH THE SOCIETY FOR THE PROTECTION OF NEW HAMPSHIRE FORESTS FOR CONSULTING AND RELATED SERVICES TO IDENTIFY AND ACQUIRE PROPERTIES FOR CONSERVATION PURPOSES AND AUTHORIZING THE TRANSFER OF \$50,000 FROM ACCOUNT #372-7007 "NASHUA CONSERVATION FUND" INTO ACCOUNT #372-01045 "CONTRACTING SERVICES – PARCELS FOR ACQUISITION"

CITY OF NASHUA

In the Year Two Thousand and Ten

RESOLVED by the Board of Aldermen of the City of Nashua that the attached three year agreement by and between the City of Nashua and the Society for the Protection of New Hampshire Forests for consulting services to identify and acquire properties for conservation purposes is hereby approved.

In addition, this resolution authorizes the transfer of \$50,000 from Account #372-7007 "Nashua Conservation Fund" into Account #372-01045 "Contracting Services – Parcels for Acquisition" for the purpose of contracting services to identify specific parcels for acquisition for conservation purposes. Such services may include, but not be limited to, research, negotiations, appraisals, surveys and other related tasks.

INDEPENDENT CONSULTANT AGREEMENT

AGREEMENT made this _____ day of _____ 2010 by and between the City of Nashua, a municipal corporation (hereinafter "City") whose address is 229 Main Street, Nashua, New Hampshire 03060 and the Society for the Protection of New Hampshire Forests (hereinafter "Consultant") through its Center for Land Conservation Assistance Program, with a place of business at 54 Portsmouth Street, Concord, New Hampshire 03301.

SERVICES TO BE PERFORMED

The Consultant agrees to perform the following services for the City:

- Working in cooperation with the Nashua Conservation Commission and the Planning Department to refine the list of properties to pursue;
- Contacting landowners to determine their level of interest in protecting their property;
- Explaining to landowners the City's interest to work with them and the financial constraints in purchasing easements or land. Landowners will be informed early in the negotiation about capital gains and federal income tax deductions, and other incentives, and encouraged to obtain appropriate professional advice and information;
- Onsite meeting with landowners to identify or evaluate the important conservation values on the land;
- Project planning and design, including recommendations about appropriate ownership structure and holder for each conservation easement. This will depend on the conservation values, level of protection desired, current uses of the property, landowner preference and goals of the possible conservation easement holders.
- Arrange and coordinate the services of other professionals that may be required as part of the process including but not limited to appraisers, surveyors, natural resource scientists and others and contract directly with them.
- Negotiating agreements among City, landowner and potential easement holder that best reflect both the conservation goals of the City, the interests of the landowner and the requirements of the easement holder;
- Drafting or reviewing conservation easement deeds (depending on preference and policy of the easement holder);
- Attending meetings to explain project elements to City officials;
- Organizing and attending property closing;
- Ensuring that necessary baseline documentation is accomplished and properly recorded and stored.
- Overall project management, including developing a realistic timeline for each property of interest.
- Coordination of activities with city staff.
- Invoicing and tracking of each project separately.

The Consultant will report directly to the Community Development Director or to the person designated by the Community Development Director.

PLACE OF PERFORMANCE

The work described above shall be performed at 54 Portsmouth Street, Concord, NH as well as other locations as approved by City.

TIME PERIOD

The Consultant agrees to commence work immediately and complete all functions required in a timely, professional and competent manner. This contract will expire on November 20, 2013 unless the work is completed before that date or the City decides to end this contract sooner.

TERMINATION

The City can terminate this agreement at any time and pay the Consultant for all services performed up to that date. The City is entitled to all notes, draft, and documents produced by the Consultant up to that date.

PAYMENT FOR SERVICES

The Consultant will be paid as follows:

Each Project will be billed monthly on an hourly rate and will be tracked separately. Staff time will be billed at the following hourly rates:

Non travel time:	\$75, \$65 and \$50/hr based on staff involved
Travel Time:	\$27.50/hr + mileage from Concord

The Consultant staff working on the Projects under this Agreement will maintain individual time records with appropriate detail, which will be available to the City if requested.

INVOICES

The Consultant agrees to provide the City with written invoices for all work performed on a monthly basis, with details of time and expenses.

SUPERVISION

The City reserves the right to inspect the work being performed and to determine whether it is being performed in a good and "workmanlike" manner. The Consultant shall have the ultimate authority to determine the hours of work, the length of workdays, the means and methods of performance of the work, and the City shall not interfere in this regard.

SUBCONTRACTORS OR ASSISTANTS

The Consultant may, at his/her discretion and at his/her own expense, employ such assistants or subcontractors as may be necessary for the performance of work. The Consultant agrees to pay any wages, taxes, unemployment insurance, withholding taxes, and workers compensation insurance required by law for said assistants or subcontractors. Said assistants or subcontractors will not be paid or supervised by the City.

INSURANCE

The Consultant shall defend and indemnify the City of Nashua, NH, its agents and employees from and against all claims, damages, losses and expenses, including attorney's fees, arising out of the Consultant's performance under the agreement. Any assistant or subcontractors used is the agent of the Consultant and not the City of Nashua's. Assistants or subcontractors are subject to the same insurance requirements as the Consultant.

The Consultant shall be required to provide proof of insurance ten (10) days prior to commencing work under the contract document, as follows:

- Comprehensive General Liability - \$1,000,000 per occurrence/\$2,000,000 aggregate - City of Nashua must be named as an additional insured
- Workers' Compensation as required by statute/Employers' Liability of \$100,000/\$500,00/\$100,00
- Automobile Liability Insurance \$1,000,000 Combined Single Limit coverage must include all owned, non-owned and hired vehicles. City of Nashua must be named as additional insured.

Consultant shall maintain for the duration of the contract all required insurance coverage. Coverage must be written with an insurance carrier licensed to do business in the State of New Hampshire. City of Nashua requires thirty (30) days written notice of cancellation or material change in coverage.

Consultant is responsible for filing updated Certificates of Insurance with the City of Nashua Risk Management Department during the life of the contract.

INDEPENDENT CONSULTANT

The Consultant agrees that he/she is completely independent from the City and is not an employee of the City. The Consultant warrants that he/she may work for other individuals and/or entities.

CHOICE OF LAW AND VENUE

The laws of the State of New Hampshire shall govern this AGREEMENT exclusively and any litigation related to this AGREEMENT shall be brought in a court located in the State of New Hampshire.

City of Nashua

Contractor

Mayor Donnalee Lozeau for the City

LEGISLATIVE YEAR 2010

RESOLUTION: R-10-62

PURPOSE: Approving a three year agreement with the Society for the Protection of New Hampshire Forests for consulting and related services to identify and acquire properties for conservation purposes and authorizing the transfer of \$50,000 from Account #372-7007 "Nashua Conservation Fund" into account #372-01045 "Contracting Services – Parcels for Acquisition"

ENDORSERS: Alderman Arthur T. Craffey, Jr.

**COMMITTEE
ASSIGNMENT:**

FISCAL NOTE: The estimated cost to the City for this contract is \$50,000.

ANALYSIS

This resolution will approve a three year independent contractor agreement with the Society for the Protection of New Hampshire Forests to provide consulting and related services for the identification and acquisition of properties for conservation purposes. This agreement extends the existing agreement the City has had with the Society for the Protection of New Hampshire Forests since 2008. NRO §5-74, B, states that a contract that extends from the current fiscal year into succeeding fiscal year(s) which no funds have been appropriated nor otherwise designated for this purpose shall be approved by the board of aldermen before the contract shall become binding on the City.

This resolution also transfers \$50,000 from Account #372-7007 "Nashua Conservation Fund" into Account #372-01045 "Contracting Services – Parcels for Acquisition" for the purpose of contracting services to determine specific parcels for acquisition for conservation purposes.

NRO §5-118 states that monies in the Conservation Fund "may be expended by the Conservation Commission in accordance with the applicable law and ordinances, subject to the approval of the board of aldermen".

The Nashua Conservation Commission voted on September 7, 2010 to recommend an extension of the contract with the Society for the Protection of New Hampshire Forests and to recommend that additional funds (\$50,000) be transferred to support the continuing identification and acquisition of properties for conservation purposes.

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

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

Financial Services Division

By: Rosemarie Grant

Approved as to form:

Office of Corporation Counsel

By: [Signature]

Date: September 23, 2010

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IN THE BOARD OF ALDERMEN

1ST READING SEPTEMBER 28, 2010

Referred to:

FINANCE COMMITTEE & BUDGET REVIEW COMMITTEE

2nd Reading OCTOBER 12, 2010

3rd Reading OCTOBER 26,, 2010

4th Reading TABLED - OCTOBER 12, 2010

Other Action _____

Passed OCTOBER 26, 2010

Indefinitely Postponed _____

Defeated _____

Attest: Paul R. Bergeron
City Clerk

Bill McCall
President

Approved: Donna Lee Logan
Mayor's Signature

10/27/10
Date

Endorsed by

[Handwritten Signatures]

CRAFFEY

MELIZZI-GOLJA

TABACKSO

PRESSLY

SHEEHAN

[Handwritten Signature]

VITALE

Vetoed: _____

Veto Sustained: _____

Veto Overridden: _____

Attest: _____
City Clerk

President