



RESOLUTION

AUTHORIZING THE CITY OF NASHUA TO ENTER INTO A MEMORANDUM OF UNDERSTANDING WITH THE CITY OF MANCHESTER REGARDING A WELFARE SOFTWARE APPLICATION

CITY OF NASHUA

In the Year Two Thousand and Twenty-Two

RESOLVED by the Board of Aldermen of the City of Nashua that the City is authorized to enter into a Memorandum of Understanding with the City of Manchester, New Hampshire, regarding a welfare software application in substantially the same form as the attached after the Memorandum of Understanding has been approved and signed by the City of Manchester.

FURTHER RESOLVED by the Board of Aldermen of the City of Nashua that the Mayor, with the assistance of the Office of Corporation Counsel, is authorized to prepare and execute the Memorandum of Understanding and all necessary documents and take all necessary actions contemplated by the Memorandum of Understanding or required to effectuate the same.

LEGISLATIVE YEAR 2022

RESOLUTION:

R-22-028

PURPOSE:

Authorizing the City of Nashua to enter into a Memorandum of Understanding with the City of Manchester regarding a welfare software application

ENDORSERS:

Mayor Jim Donchess

**COMMITTEE
ASSIGNMENT:**

Finance Committee

FISCAL NOTE:

The City will receive unanticipated revenue in the amount of \$13,500.

ANALYSIS

This resolution authorizes the City of Nashua to enter into a Memorandum of Understanding with the City of Manchester regarding a welfare software application after the Memorandum has been authorized and signed by the City of Manchester.

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

Financial Services Division

By: /s/John L. Griffin

Approved as to form:

Office of Corporation Counsel

By: /s/Celia K. Leonard

Date: April 20, 2022

MEMORANDUM OF UNDERSTANDING

This MEMORANDUM OF UNDERSTANDING is made effective on _____, 2022 by and between the **City of Nashua**, New Hampshire, a municipal corporation, (hereafter "Nashua") of 229 Main Street, Nashua, New Hampshire 03253, and the **City of Manchester**, New Hampshire, a municipal corporation, (hereafter "Manchester") of 1 City Hall Plaza, Manchester, New Hampshire 03101. Nashua, and Manchester are sometimes individually referred to as "Party" and collectively referred to as the "Parties."

WHEREAS, Nashua has developed a Welfare Application (developed using Microsoft .NET framework. Language used is VB.NET. Reports and forms were created with Crystal Report 2008 and use the Crystal Report 2008 runtime for operation in the application, The backend is an SQL database) which provides local welfare staff with means to retain client data, providing for case notations, voucher creation based on local vendors, case decisions, and detailed reporting ("Welfare Application"); and

WHEREAS, in exchange for valuable consideration, Manchester desires to purchase the Welfare Application for its own uses;

NOW THEREFORE, in consideration of mutual covenants and conditions contained herein, Nashua, and Manchester hereby agree as follows:

TERMS

1. **Price.** In developing the Welfare Application, it cost Nashua Twenty Seven Thousand Dollars (\$27,000.00). In exchange for receiving the Welfare Application, Manchester agrees to pay Nashua Fifty Percent (50%) of that cost or Thirteen Thousand Five Hundred Dollars (\$13,500.00). It is further understood that Manchester will not re-sell or transfer in any manner the Welfare Application or any iteration or derivative of the Welfare Application.
2. **Product Only.** It is understood and agreed between the Parties that Nashua is only providing Manchester with the Welfare Application and backend SQL Database. The backend SQL database will contain no data. No support services will be provided by Nashua.
3. **Product Modification.** Manchester may, at its sole discretion, make any modifications to the Welfare Application as it sees fit, at any time and for any reason. Nashua may, with Manchester's assent, which shall not be unreasonably withheld, have access, at no charge, to any such modifications.

4. Indemnification. Manchester shall fully defend, indemnify, and hold harmless Nashua from any and all claims, lawsuits, demands and causes of action, liability, loss, damage and/or injury or any kind whatsoever (including without limitation all claims for monetary loss, property damage, equitable relief, personal injury, and/or wrongful death), whether brought by an individual or other entity, or imposed by a court of competent jurisdiction or by administrative action of any federal, state, or local government body or agency, arising out of, in any way whatsoever, any acts, omissions, negligence, or other misconduct related to Manchester's use of the Welfare Application. This indemnification applies to and includes, without limitation, the payment of all penalties, fines, judgments, awards, decrees, attorneys' fees, and related costs or expenses, and any reimbursements to Nashua for all legal fees, expenses, and costs incurred by them.

5. Authority to Enter Agreement. Each Party warrants that the individuals who have signed this Agreement have the actual legal authority and right to make this Agreement and bind each respective Party.

6. Amendment; Modification. No supplement, modification, or amendment of this Agreement shall be binding unless executed in writing and signed by the Parties.

7. Waiver. No waiver of any default shall constitute a waiver of any other default or breach, whether of the same or other covenant or condition. No waiver, benefit, privilege, or service voluntarily given or performed by a Party shall give the other Party any contractual right by custom, estoppels, or otherwise.

8. Attorneys' Fees and Costs. If any legal action or other proceeding is brought in connection with this Agreement, the successful or prevailing Party, if any, shall be entitled to recover reasonable attorneys' fees and other related costs, in addition to any other relief to which the Party is entitled.

9. Entire Agreement. This Agreement constitutes the entire agreement between the Parties related to the matters specified herein, and supersedes all prior oral or written statements or agreements between the Parties related to such matter.

10. Enforceability, Severability, and Reformation. If any provision of this Agreement shall be held invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. The intent of the Parties is to provide as broad an indemnification as possible under the laws of the State of New Hampshire. In the event that any aspect of this Agreement is deemed unenforceable, the Court is empowered to modify this Agreement to give the broadest possible interpretation permitted by the laws of the State of New Hampshire.

11. Applicable law. This Agreement shall be governed exclusively by the laws of the State of New Hampshire, without regard to conflict of law considerations.

12. Exclusive Venue and Jurisdiction. Any lawsuit or legal proceeding arising out of or relating to this Agreement in any way whatsoever shall be exclusively brought and litigated in Hillsborough

County Superior Court – South in Nashua , New Hampshire. Each Party expressly consents and submits to this exclusive jurisdiction and exclusive venue. Each Party consents to the dismissal of any lawsuit that they bring in any other jurisdiction or venue.

13. **Signatures.** This Agreement may be signed on behalf of the City of Nashua by James W. Donchess, Mayor and on behalf of the City of Manchester by Jean Fortier, Information Systems Director, and effective as of the date first written above.

CITY OF NASHUA, NEW HAMPSHIRE

By: _____
James W. Donchess, Mayor

Date: _____, 2022

For Mayor's authority see Resolution R-21-xxx "Authorizing the City of Nashua to Enter into a Memorandum of Understanding with the City of Manchester regarding a welfare software application" passed by the City's Board of Aldermen on _____ 2022.

CITY OF MANCHESTER, NEW HAMPSHIRE

By: _____
Jean Fortier, Information Systems Director, duly authorized

Date: _____, 2022