RESOLUTION

AUTHORIZING THE MAYOR TO GIVE PRIOR WRITTEN CONSENT, AS REQUIRED BY THE PENNICHUCK MERGER AGREEMENT, TO PITTSFIELD AQUEDUCT COMPANY'S PROPOSAL TO SELL THREE PARCELS OF LAND IN NORTH CONWAY NEW HAMPSHIRE

CITY OF NASHUA

In the Year Two Thousand and Eleven

RESOLVED *by the Board of Aldermen of the City of Nashua* that

WHEREAS on November 11, 2010 the city of Nashua and Pennichuck Corporation entered into an Agreement and Plan of Merger whereby the City will purchase all the outstanding stock of Pennichuck Corporation, and each of its subsidiaries, including Pittsfield Aqueduct Company, and

WHEREAS § 5.01(b)(vii) of that Merger Agreement provides that the City must give written approval for Pennichuck Corporation or any of its subsidiaries to sell real estate for a price greater that $50,000 prior to the closing of the stock purchase or termination of the Merger Agreement, and

WHEREAS Pittsfield Aqueduct Company (PAC) is proposing to sell three contiguous parcels of land in North Conway New Hampshire to the New Hampshire Institute of Agriculture and Forestry for the sum of $75,000. After the sale the property will be subject to access and water line easements. A copy of the proposed Purchase and sales agreement is attached, and

WHEREAS that sale requires the prior written consent of the City of Nashua under the terms of the Agreement and Plan of Merger.

NOW THEREFORE, BE IT RESOLVED *by the Board of Aldermen of the City of Nashua* that the mayor is authorized to give written approval of PAC's proposed sale of three contiguous parcels of land in North Conway New Hampshire to the New Hampshire Institute of Agriculture and Forestry for the sum of $75,000, subject to ongoing access and water easements.

PURCHASE AND SALES AGREEMENT
New Hampshire Association of REALTORS® Standard Form

REALTOR® Equal Housing Opportunity

_____, _____ ("EFFECTIVE DATE")
EFFECTIVE DATE is defined in Section 20 of this Agreement.

1. **THIS AGREEMENT** made this 31st day of May, 20 11 between Pittsfield Aqueduct Company, LLC ("SELLER")
of 25 Manchester Street,
City/Town Merrimack State NH Zip 03054
and New Hampshire Institute of Agriculture and Forestry or Nominee
("BUYER") of 1857 White Mountain Highway,
City/Town North Conway State NH Zip 03860.

2. **WITNESSETH:** That SELLER agrees to sell and convey, and BUYER agrees to buy certain real estate situated in City/Town of Conway, New Hampshire located at ,a location east of the West Side Road, being a 40.4+- acre parcel , a 9.7+- acre parcel and a 4.6+- acre parcel lying westerly of the Saco River
County Carroll Book 2681/2668 Page 316/915 Date 12/07/2007,1/28/08 ("PROPERTY").

3. The **SELLING PRICE** is Seventy Five Thousand and no/100 Dollars $ 75,000.00.
DEPOSIT in the form of Personal Check, is to be held in an escrow account by Mountain & Vale Realty LLC ("ESCROW AGENT"), BUYER ☒ has delivered, or ☐ will deliver to the _____'s real estate FIRM within _____ days of the EFFECTIVE DATE, a deposit of earnest money in the amount of $ 1,000.00.
If said deposit is to be delivered after this Offer is accepted by SELLER and is not delivered by the above deadline, this Agreement shall automatically terminate. BUYER agrees that an additional deposit of earnest money in the amount of $_____ will be delivered on or before _____. Failure by BUYER to deliver this additional deposit shall constitute a default under this Agreement. The remainder of the purchase price shall be paid by wire, certified, cashier's or trust account check in the amount of $ 74,000.00.

4. **DEED:** Marketable title shall be conveyed by a warranty deed, and shall be free and clear of all encumbrances except usual public utilities serving the PROPERTY.

5. **TRANSFER OF TITLE:** On or before September 1, 2011 at Carroll County Registry of Deeds or some other place of mutual consent as agreed to in writing.

6. **POSSESSION:** Full possession and occupancy of the premises with all keys shall be given upon the transfer of title free of all tenants and occupant's personal property and encumbrances except as herein stated. Said premises to be then in the same condition in which they now are, reasonable wear and tear excepted. SELLER agrees that the premises will be delivered to BUYER free of all debris and in "broom clean" condition. Exceptions: See lease agreement attached and made part hereof
Buyer reserves the right to conduct a walk through inspection upon reasonable notice to SELLER's real estate FIRM within 0 hours prior to time of closing to ensure compliance with the terms of this Agreement.

7. **REPRESENTATION:** The undersigned SELLER(S) and BUYER(S) acknowledge the roles of the agents as follows:
Steven Gourley of Mountain & Vale Realty is a ☐ seller agent ☒ buyer agent ☐ facilitator ☐ disclosed dual agent*
_____ of _____ is a ☐ seller agent ☐ buyer agent ☐ facilitator ☐ disclosed dual agent*
*If agent(s) are acting as disclosed dual agents, SELLER and BUYER acknowledge prior receipt and signing of a Dual Agency Informed Consent Agreement.
☐ NOTICE OF DESIGNATED AGENCY: If checked, notice is hereby given that BUYER is represented by a designated buyer's agent and SELLER is represented by a designated seller's agent in the same firm.

8. **INSURANCE:** The buildings on said premises shall, until full performance of this Agreement, be kept insured against fire, with extended coverage by SELLER. In case of loss, all sums recoverable from said insurance shall be paid or assigned, on delivery of deed, to BUYER, unless the premises shall previously have been restored to their former condition by SELLER; or, at the option of BUYER, this Agreement may be rescinded and the DEPOSIT refunded if any such loss exceeds $ 0.00.

SELLER(S) INITIALS _____ / _____ BUYER(S) INITIALS _____ / _____

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deposits will be returned to BUYER in accordance with the procedures required by the New Hampshire Real Estate Practice Act (N.H. RSA 331-A:13); or

(c) BUYER may terminate this Agreement in writing and all deposits will be returned to BUYER in accordance with the procedures required by the New Hampshire Real Estate Practice Act (N.H. RSA 331-A:13).

Notification in writing of SELLER'S intent to repair or remedy should be delivered to BUYER or BUYER'S Agent within five (5) days of receipt by SELLER of notification of unsatisfactory condition(s). In the absence of inspection mentioned above, BUYER is relying upon BUYER'S own opinion as to the condition of the PROPERTY.

BUYER HEREBY ELECTS TO *WAIVE THE RIGHT* TO ALL INSPECTIONS AND SIGNIFIES BY INITIALING HERE: _____ _____

14. DUE DILIGENCE: This Agreement is contingent upon BUYER'S satisfactory review of the following:

	YES	NO		YES	NO
a. Restrictive Covenants of Record	☒	☐	d. Condominium documentation per N.H. RSA 356-B:58	☐	☒
b. Easements of Record/Deed	☒	☐	e. Co-op/PUD/Association Documents	☐	☒
c. Park Rules and Regulations	☐	☒	f. Availability of Property/Casualty Insurance	☐	☒

If such review is unsatisfactory, BUYER must notify SELLER in writing within 30 days from the effective date of the Agreement failing which such contingency shall lapse.

15. LIQUIDATED DAMAGES: If BUYER shall default in the performance of their obligation under this Agreement, the amount of the deposit may, at the option of SELLER, become the property of SELLER as reasonable liquidated damages. In the event of any dispute relative to the deposit monies held in escrow, the ESCROW AGENT may, in its sole discretion, pay said deposit monies into the Clerk of Court of proper jurisdiction in an Action of Interpleader, providing each party with notice thereof at the address recited herein, and thereupon the ESCROW AGENT shall be discharged from its obligations as recited therein and each party to this Agreement shall thereafter hold the ESCROW AGENT harmless in such capacity. Both parties hereto agree that the ESCROW AGENT may deduct the cost of bringing such interpleader action from the deposit monies held in escrow prior to the forwarding of same to the Clerk of such court.

16. PRIOR STATEMENTS: Any verbal representation, statements and agreements are not valid unless contained herein. This Agreement completely expresses the obligations of the parties.

17. FINANCING: This Agreement (☒ is) (☐ is not) contingent upon BUYER obtaining financing under the following terms:

AMOUNT 53,000.00 TERM/YEARS 30 RATE 5.0% MORTGAGE TYPE USDA Farm Service Agency

For the purposes of this Agreement, financing is to be demonstrated by a conditional loan commitment letter, which states that BUYER is creditworthy, has been approved and that the lender shall make the loan in a timely manner at the Closing on specified customary conditions for a loan of the type specified above. BUYER is responsible to resolve all conditions included in the loan commitment by the Closing date.

The existence of conditions in the loan commitment will not extend either the Financing Deadline described below or the closing date.

BUYER hereby authorizes, directs and instructs its lender to communicate the status of BUYER'S financing and the satisfaction of lender's specified conditions to SELLER and SELLER'S/BUYER'S real estate FIRM.

SELLER(S) INITIALS _____ / _____ BUYER(S) INITIALS _____ / _____

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ADDENDUM

TO THE PURCHASE AND SALES AGREEMENT

New Hampshire Association of REALTORS® Standard Form

Addendum to the Purchase and Sales Agreement dated May 31, 2011 between Pittsfield Aqueduct Company, LLC ("SELLER"), and New Hampshire Institute of Agriculture and Forestry or Nominee ("BUYER"), for the property located at a location east of the West Side Road, being a 40.4+- acre parcel, an 9.7 acre parcel, and a 4.6 acre parcel

hereby agree to the following:

This agreement shall be contingent upon the following:

1) The Buyer shall lease the parcel for agricultural purposes under the terms and conditions of a lease agreement attached hereto and made a part hereof commencing on May 12, 2011 and terminating on September 15, 2011 or upon the date of transfer, whichever occurs first.

2) The conveyance will be subject to an easement not to exceed 25 feet either side of the pipeline to the Seller and/or their assignees to maintain a "water main" running under the surface of the ground.

3) The allocation of funds to each parcel shall be as follows:

40.6 Acres - $58,000.00
4.6 Acres - 3,000.00
9.7 Acres - 14,000.00

4). All real estate fees shall be paid by the buyer in addition to the purchase price.

All other aspects of the aforementioned Purchase and Sales Agreement shall remain in full force and effect.

EACH PARTY IS TO RECEIVE A FULLY EXECUTED DUPLICATE ORIGINAL OF THIS AGREEMENT.

BUYER NHIAF, by It's Exec. Dir	5/31/11 / 5:00 p.m. DATE / TIME	BUYER	DATE / TIME
SELLER Pittsfield Aqueduct Co., LLC	DATE / TIME	SELLER	DATE / TIME

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Description of Easement
Located within Tax Map Parcel 231-103
North Conway, New Hampshire

Beginning at a point on the South East side of said Easement 32.44' from the bank of the Saco River said point being North 00°27'45" West 228' +/- from the South East corner of Lot 231-106, thence

1. North 74°11'53" West -289.76' to a point, and
2. North 76°29'49" West – 156.46' to a point, and
3. North 77°16'46" West – 123.06' to a point, and
4. North 86°40'20" West – 113.94' to a point, and
5. South 89°27'19" West – 940.09' to a point, and
6. North 89°05'05" West – 409.00' to a point, and
7. South 86°28'25" West – 79.95' to a point, and
8. South 72°11'59" West – 77.68' to a point on the common lot line between lots 231-106 and 231-147, thence by Lot 231-147
9. North 30°16'08" West – 40.97' to a point, thence
10. North 72°11'59" East – 91.53' to a point, and
11. North 86°28'25" East – 86.51' to a point, and
12. South 89°05'05" East – 410.04' to a point, and
13. North 89°27'19" East – 940.93' to a point, and
14. South 86°40'20" East – 118.58' to a point, and
15. South 77°16'46" East – 126.62' to a point, and
16. South 76°29'49" East – 157.54' to a point, and
17. South 74°11'53" East – 317.23' to a point on the bank of the Saco River, thence

18. South 07°35'59" West – 40.0'+/- to a point, thence

19. North 74°11'53" West – 32.44' to the point of beginning.

Also shown on a plan entitled "Proposed Water Line Utility Easement Plan – Prepared For: - Pennichuck – Water Works Inc. – Lands Now Or Formerly Of: - Brian E. Hussey II, Eugene R. Hussey, - Tarberry Company LLC. And – Frederick D. Parker – Tax Map 231 Lots 106, 105, 109 & 147 –North Conway, New Hampshire", scale: 1"=100' dated July 22, 2010 By Meridian Land Services Recorded at the C.C.R.D. as Plan #_____.

LEGEND

NOTES:

1. THE PURPOSE OF THIS PLAN IS TO DEPICT THE WATER LINE EASEMENT AS SHOWN HEREON.

2. THE PARCEL OF RECORD OF TAX MAP 231 LOT 106 IS NOW OR FORMERLY BRIAN E. HUSSEY II AND ALYSSA LEIGH HUSSEY, 1314 WEST SIDE ROAD, NORTH CONWAY, NH 03860. SEE VOL 1664 PG 875 FEBRUARY 5, 1996.

3. THE BOUNDARY INFORMATION HEREON IS THE RESULT OF A TRUE FIELD SURVEY BY THIS OFFICE DURING SEPTEMBER & OCTOBER, 2007 AND SUPPLEMENTED WITH THE REFERENCE PLANS NOTED.

4. IMPROVEMENTS SHOWN ARE PER AN ON-SITE TOPOGRAPHIC FIELD SURVEY PERFORMED BY THIS OFFICE DURING SEPTEMBER & OCTOBER, 2007, AND JULY 2010. THE VERTICAL DATUM IS NGVD 1929. HORIZONTAL ORIENTATION IS N.H. GRID.

5. WATER LINE LOCATION IS PER LOCATION OF ON-SITE EVIDENCE SUPPLEMENTED BY A SKETCH PROVIDED BY PENNICHUCK WATER WORKS.

231-101
RICHARD DAVID & CHARLENE BROWNE

DEADWATER

231-147
EUGENE R. HUSSEY

231-108
FREDERICK D. PARKER

231-106
TARBERRY COMPANY LLC

231-106
48.41 ACRES

PROPOSED 40' WIDE WATER LINE EASEMENT

EXISTING 50' WIDE RIGHT-OF-WAY FOR ACCESS RIGHTS

50' RIGHT-OF-WAY FOR ACCESS RIGHTS

ALLARD'S EDDY

ALLARD'S POND

WEST SIDE ROAD

SACO RIVER

231-109
EUGENE R. HUSSEY

231-109
FREDERICK D. PARKER

231-107
TARBERRY COMPANY LLC

N

N

REFERENCE PLANS:

1. "BOUNDARY PLAN - LAND OF: - BRIAN E. HUSSEY II AND - ALYSSA LEIGH HUSSEY - TAX MAP 231 LOT 106 - NORTH CONWAY, NEW HAMPSHIRE", SCALE 1"=100' DATED OCTOBER 19, 2007 BY THIS OFFICE (NOT RECORDED).

2. "PROPOSED WATERLINE UTILITY EASEMENT PLAN - TAX MAP 231 LOT 106 - LAND OF - PITTSFIELD ADVENTURE COMPANY - NORTH CONWAY, NEW HAMPSHIRE", SCALE 1"=20' DATED JUNE 23, 2006 BY THIS OFFICE (NOT RECORDED).

CERTIFICATION:

I CERTIFY THAT THIS SURVEY PLAT IS NOT A SUBDIVISION PURSUANT TO THIS TITLE AND THAT THE LINES OF STREETS AND WAYS SHOWN ARE THOSE OF PUBLIC OR PRIVATE STREETS OR WAYS ALREADY ESTABLISHED AND THAT NO NEW WAYS ARE SHOWN (RSA 674:16 & 674:18).

PRELIMINARY
PROPOSED WATER LINE UTILITY EASEMENT PLAN

PREPARED FOR:

PENNICHUCK WATER WORKS INC.

LANDS NOW OR FORMERLY OF:
BRIAN E. HUSSEY II, EUGENE R. HUSSEY,
TARBERRY COMPANY LLC. AND
FREDERICK D. PARKER
TAX MAP 231 LOTS 106, 108, 109 & 147
NORTH CONWAY, NEW HAMPSHIRE

SCALE 1" =

MERIDIAN Land Services, Inc.

ENGINEERS • LAND SURVEYORS • SCIENTISTS • LAND PLANNERS

FILE | PROJECT NO 731303 | SHEET NO

RESOLUTION **R-11-132**

Authorizing the mayor to give prior written consent, as required by the Pennichuck merger agreement, to Pittsfield Aqueduct Company's proposal to sell three parcels of land in North Conway New Hampshire

Endorsed by Michael Lozeau MAYOR

IN THE BOARD OF ALDERMEN

1ST READING June 28, 2011

Referred to:

Pennichuck Water Special Committee

2nd Reading July 12, 2011

3rd Reading

4th Reading

Other Action

Passed July 12, 2011

Indefinitely Postponed

Defeated

Attest: Patricia A. Piecuch Deputy City Clerk

Brian McCarthy President

Approved Michael Lozeau Mayor's Signature

July 13, 2011 Date

Vetoed:

Veto Sustained:

Veto Overridden:

Attest: City Clerk

President