



RESOLUTION

**AUTHORIZING THE PURCHASE OF LAND AND IMPROVEMENTS AT
40 PINE STREET, TAX LOT 83-80 FOR THE SUM OF \$225,800**

CITY OF NASHUA

In the Year Two Thousand and Ten

RESOLVED by the Board of Aldermen of the City of Nashua that the Mayor is authorized to enter the attached Purchase and Sale Agreement with Tree Street Realty, LLC, owner of property at 40 Pine Street, approximately 0.08 acres with a building and other improvements thereon, Tax Lot 83-80, for the purchase of said property at a price of Two Hundred Twenty-Five Thousand Eight Hundred Dollars (\$225,800) and upon additional terms and conditions incorporated in the attached Purchase and Sale Agreement. The purchase price shall be paid from Account 753-3740 "Broad Street Parkway Project".

LEGISLATIVE YEAR 2010

RESOLUTION: R-10-10

PURPOSE: Authorizing the purchase of land and improvements at 40 Pine Street, Tax Lot 83-80, for the sum of \$225,800

SPONSOR(S): Mayor Donnalee Lozeau
Alderman Jeffrey T. Cox

**COMMITTEE
ASSIGNMENT:**

FISCAL NOTE: The fiscal impact of this legislation includes the cost of acquiring the property (\$225,800). Anticipated future costs would include demolishing and preparing the site for the Broad Street Parkway. Those costs are not known at this time.

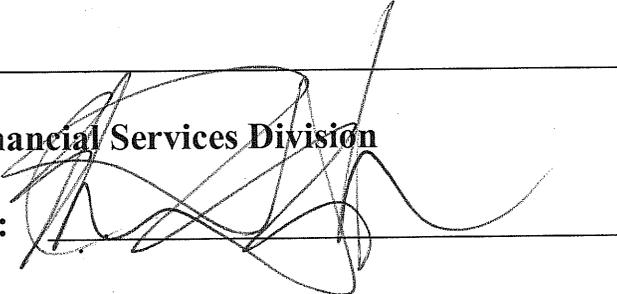
ANALYSIS

This resolution would authorize the city to acquire the property at 40 Pine Street for the sum of \$225,800 on the terms and conditions of the attached purchase and sale agreement. Funds for the purchase will come from Account 783-3740 "Broad Street Parkway Project".

Charter §77 provides that the planning board shall review and make recommendations to the mayor and board of aldermen on the purchase and sale of any land by the city.

Approved as to content:

Financial Services Division

By: 

Approved as to form:

Office of Corporation Counsel

By: Douglas Clarke

Date: March 4, 2010

PURCHASE AND SALE AGREEMENT AND DEPOSIT RECEIPT

1. **THIS AGREEMENT** is made this 3rd day of March, 2010 between **Tree Street Realty, LLC** ("SELLER") 5 Trombly Terrace, City of Nashua, County of Hillsborough, State of New Hampshire, 03062, and **The City of Nashua, New Hampshire** ("BUYER") of 229 Main Street, City of Nashua, County of Hillsborough, State of New Hampshire, 03060.

2. **WITNESSETH:** That SELLER agrees to sell and convey, and BUYER agrees to purchase, for the purchase price and subject to every one of the terms and conditions hereafter set forth, the real property located in City of Nashua, New Hampshire, known as or more particularly described as **40 Pine Street and the parcel formerly known as 42 Pine Street**, inclusive of all the buildings, structures and other improvements of every kind and description now in, on, over and under the land and as described in deeds recorded in the Hillsborough County Registry of Deeds at Book 7658 Page 1198 and Book 7658 Page 1201 on April 13, 2006. See also caveat regarding merger of lots recorded at Book 7741 Page 2837 (collectively referred to as the "PROPERTY").

3. The **PURCHASE PRICE** is Two-Hundred Twenty-Five Thousand Eight-Hundred Dollars \$225,800.00

DEPOSIT, receipt of which is hereby acknowledged in the form of a City Check, is to be held in a non interest bearing escrow account by Buchanan, Maynard & Parodi, Attorneys at Law ("ESCROW AGENT"), in the sum of \$10,000.00.

Initial Deposit shall be applied to the Purchase Price, unless otherwise described in Section 15.

Balance Due: Cash, Certified Check, Bank Draft or Wire Transfer payable to Seller on the date of transfer of title in the sum of \$215,800.00.

Provided, nonetheless, the Balance Due shall be net (whether plus or minus) of any prorations set forth within Section 10 of this Agreement, as applicable.

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, encumbrances noted herein, and encumbrances acceptable to BUYER.

5. **TRANSFER OF TITLE:** On or before March 31, 2010 at Nashua City Hall or some other place of mutual consent as agreed to in writing, time being of the essence ("CLOSING").

6. **POSSESSION:** Full possession and occupancy of the premises with all keys shall be given upon the transfer of title free of all occupants and occupant's personal property and encumbrances except as herein stated. SELLER agrees that the premises will be delivered to BUYER free of all contents & debris and in "broom clean" condition.

Exceptions and/or Additional Property included:

Buyer reserves the right to conduct a walk through inspection upon reasonable notice to SELLER's Broker within N/A hours prior to time of transfer of title to ensure compliance with the terms of this Agreement.

7. **MAINTENANCE:** Until possession is delivered, SELLER agrees to maintain the PROPERTY in good condition and working order with the PROPERTY to be then in the same conditions of the date of this Agreement, reasonable wear and tear exempted.

8. INSURANCE: The buildings and improvements on said PROPERTY shall, until full performance of this Agreement, be kept insured against fire and other casualty, with extended coverage by SELLER. In case of loss, all sums recoverable from said insurance shall be paid or assigned, on transfer of title, to BUYER, unless the PROPERTY shall previously have been restored to its former condition by SELLER; or, at the option of BUYER, this Agreement may be rescinded and the DEPOSIT refunded if any such loss exceeds \$ 25,000.00.

9. TITLE: Buyer shall have **10** calendar days to examine title from the effective date. If upon examination of title it is found that the title is not marketable or contains matters of record not previously disclosed to the BUYER, SELLER shall have a reasonable time, not to exceed thirty (30) days from the date of notification of defect (unless otherwise agreed to in writing), to remedy such defect. Should SELLER be unable to provide marketable title within said thirty (30) days, BUYER may rescind this Agreement at BUYER'S sole option, with full deposit being refunded to BUYER pursuant to RSA 331-A and all parties being released from any further obligations hereunder. SELLER hereby agrees to make a good faith effort to correct the title defect within the thirty (30) day period above prescribed once notification of such defect is received, except with respect to any monetary liens which BUYER may pay-off and remedy at the CLOSING. The cost of examination of the title shall be borne by BUYER.

10. PRORATIONS: All income earned but not received, all expenses incurred but not paid out, all income received but not earned, all expenses paid out but not incurred, all real estate taxes, and fuel in storage as of the date of transfer of title, shall be apportioned, as appropriate, between the SELLER and the BUYER as of the date of transfer of title.

11. In compliance with the requirements of RSA 477:4-a, the following information is provided to BUYER relative to Radon Gas and Lead Paint:

RADON GAS: Radon gas, the product of decay of radioactive materials in rock may be found in some areas of New Hampshire. This gas may pass into a structure through the ground or through water from a deep well. Testing can establish its presence and equipment is available to remove it from the air or water.

LEAD PAINT: Before 1978, paint containing lead may have been used in structures. The presence of flaking lead paint can present a serious health hazard, especially to young children and pregnant women. Tests are available to determine whether lead is present.

Disclosure required YES NO X Buyer acknowledges prior receipt of Seller's Property Disclosure Form attached hereto and signifies by initialing here: N/A

In compliance with RSA 477:4-d the following information is provided to BUYER relative to Water Supply, Sewage System and Insulation:

WATER SUPPLY :The water for this property is provided by municipal water. The SELLER has not experienced any difficulties with this system. There have been no unsatisfactory or limiting tests during SELLERS' ownership.

SEWAGE DISPOSAL : The sewage disposal system for this property is provided by municipal sewer. The SELLER has not experienced any difficulties with this system. There have been no unsatisfactory or limiting tests during SELLERS' ownership.

INSULATION : The insulation in the building is fiberglass in the upstairs wall and fiberglass in the ceiling of the second floor. There is no insulation in the first floor.

12. DUE DILIGENCE: The BUYER is encouraged to seek information from professionals normally engaged in the business regarding any specific issue of concern. Neither SELLER, nor its agents or representatives, make any warranties or representations regarding the condition, permitted use or value of the SELLER'S real or personal property. This Agreement is contingent upon the following inspections, with results being satisfactory to the BUYER:

TYPE OF INSPECTION:

N/A _____ within _____ days
_____ within _____ days

The use of days is intended to mean calendar days from the Effective Date of this Agreement. All inspections will be done by professionals normally engaged in the business, to be chosen and paid for by BUYER. BUYER shall hold the SELLER harmless and shall indemnify and defend SELLER (with counsel reasonably acceptable to SELLER) for any and all claims for injury alleged to be caused by BUYER or BUYER's representatives, agents or contractors arising out of or related to BUYER's inspections. If BUYER does not notify SELLER in writing that the results of an inspection are unsatisfactory within the time period set forth above, the contingency for that inspection is waived by BUYER, time being of the essence. BUYER's notice shall include sufficient details to allow SELLER to understand the condition and shall include any available inspection reports. At no time shall BUYER undertake destructive testing absent the prior approval of SELLER.

If the results of any inspection specified herein reveal significant issues or defects, which were not previously disclosed to BUYER in writing, then:

- (a) SELLER shall have the option of repairing or remedying the unsatisfactory condition(s) prior to transfer of title, so long as BUYER and SELLER both agree on the method of repair or remedy; or
- (b) if SELLER is unwilling or unable to repair or remedy the unsatisfactory condition(s) or BUYER and SELLER cannot reach agreement with respect to the method of repair or remedy, then this Agreement shall be null and void, 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); 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 broker within five (5) days of receipt by SELLER of notification of unsatisfactory condition(s). In the absence of inspection(s) mentioned above, the 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 *W*

13. LIQUIDATED DAMAGES: If BUYER shall default in the performance of its obligation under this Agreement, the amount of the DEPOSIT shall become the property of SELLER as reasonable liquidated damages. In the event of any dispute relative to the DEPOSIT held in escrow, the **ESCROW AGENT** may, in its sole discretion, pay said DEPOSIT 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 held in escrow prior to the forwarding of same to the Clerk of such court.

14. **FINANCING:** This agreement is not contingent upon BUYER obtaining financing.

15. **ADDITIONAL PROVISIONS:** Agreement is contingent upon

1. The approval of the Nashua Board of Aldermen by March 24, 2010, failing which this Agreement shall be null and void and all deposits returned to Buyer.
2. The property remaining empty until the purchase is complete and no zoning or planning applications for use of the building are submitted except that the existing building permit authorized shall remain however Seller agrees to not act on said permit during the pendency of this agreement.
3. No transfer taxes are required pursuant to RSA 78-B:2 I.
4. No Real Estate Brokers represented by either party.

16. **ENTIRE AGREEMENT:** This Agreement constitutes the entire agreement between the parties relating to the subject thereof, and any prior agreements pertaining thereto, whether oral or written, have been merged and integrated into this Agreement.

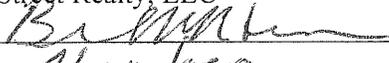
17. **GOVERNING LAW.** This Agreement shall be construed by and in accordance with the laws of the State of New Hampshire, excluding its choice of law rules or rulings.

18. **EFFECTIVE DATE:** This is a binding contract and the effective date is when signed and dated, whether by electronic transfer or original, and all changes initialed and dated, by SELLER and BUYER. Each party is to receive a fully executed duplicate original of this Agreement. This Agreement shall be binding upon the heirs and/or other authorized representatives of both parties.

This is a legal instrument. If not understood, legal, tax or other counsel should be consulted before signing.

SELLER

S: Tree Street Realty, LLC

By: 

Its: Member

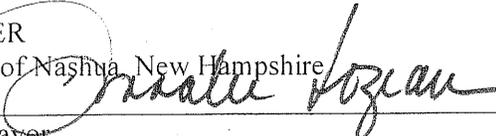
Hereunto Duly Authorized

3/4/10 Date

Address:

BUYER

: City of Nashua, New Hampshire

By: 

Its: Mayor

Hereunto Duly Authorized

3/3/10 Date

Address: 229 Main Street
Nashua, NH 03060

ORDINANCE 0-12-010

**Amending the parking zones on
portions of Lowell Street**

Endorsed by

Maureen Ryan MAYOR
Diane Sheehan SHEEHAN

IN THE BOARD OF ALDERMEN

1ST READING MAY 8, 2012

Referred to:

COMMITTEE ON INFRASTRUCTURE

2ND Reading JULY 10, 2012

3RD Reading _____

4TH Reading _____

Other Action _____

Passed JULY 10, 2012

Indefinitely Postponed _____

Defeated _____

Attest: *Maureen Ryan*
City Clerk

Diane Sheehan
President

Approved *Maureen Ryan*
Mayor's Signature

July 11-2012
Date

Vetoed: _____

Veto Sustained: _____

Veto Overridden: _____

Attest: _____
City Clerk

President