



## **RESOLUTION**

**AUTHORIZATION TO OFFER TO PURCHASE LAND AND BUILDINGS AT 11-13  
MULBERRY STREET (MAP 82, LOT 26) FOR RELOCATION OF THE DIVISION OF  
PUBLIC HEALTH AND COMMUNITY SERVICES**

### ***CITY OF NASHUA***

*In the Year Two Thousand and Fifteen*

***RESOLVED*** by the Board of Aldermen of the City of Nashua that the Mayor is hereby authorized to offer to purchase the property located at 11-13 Mulberry Street (Tax Map 82, Lot 26) from Iglesia Pentecostal Y Misionera, Inc. for an amount not to exceed Three Hundred Thousand Dollars (\$300,000) on terms and conditions substantially similar to the attached Purchase and Sale Agreement. The purchase price of said land and buildings shall be funded as follows: Two Hundred and Fifty Thousand Dollars (\$250,000) from Capital Project Fund #5060, Capital Project Activity, "Public Health Building Acquisition" and Fifty Thousand Dollars (\$50,000) from Expendable Trust Fund #7526-"Chairman Fund, Board of Health".

## LEGISLATIVE YEAR 2015

**RESOLUTION:**

**R-15-103**

**PURPOSE:**

**Authorization to offer to purchase land and buildings at 11-13 Mulberry Street (Map 82, Lot 26) for Relocation of the Division of Public Health and Community Services**

**ENDORSERS:**

**Mayor Donnalec Lozeau  
Alderman-at-Large Lori Wilshire**

**COMMITTEE  
ASSIGNMENT:**

**FISCAL NOTE:**

**The purchase price of three hundred thousand dollars (\$300,000) shall be funded as follows: Two Hundred and Fifty Thousand Dollars (\$250,000) from Capital Project Fund #5060, Capital Project Activity, "Public Health Building Acquisition" and Fifty Thousand Dollars (\$50,000) from Expendable Trust Fund #7526-"Chairman Fund, Board of Health".**

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### **ANALYSIS**

This resolution authorizes the city to offer to purchase the 11-13 Mulberry Street (Map 82, Lot 26) on terms and conditions substantially similar to the attached Purchase and Sale Agreement for the purpose of relocating the city's Division of Public Health and Community Services. Funds for the purchase of this property will come from Capital Project Fund #5060, Capital Project Activity "Public Health Building Acquisition" (\$250,000) and Fund #7526-"Chairman Fund, Board of Health" (\$50,000).

Charter §77 provides that the Planning Board "shall review and make recommendations to the Mayor and Board of Aldermen on all locations for proposed municipal building and facilities, including educational, [and] on the purchase and sale of any land by the city." The Planning Board has previously given a favorable recommendation for the relocation of the Division of Public Health and Community Services to this property.

The proposed Purchase and Sale Agreement has a purchase price of \$300,000 and a closing date not more than ninety (90) days after the agreement is fully executed. The proposed agreement allows thirty (30) calendar days from the effective day of the agreement for the city to complete a title examination. Should there be any material changes to the proposed agreement, approval of the amended agreement will require a vote of the Board of Aldermen.

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

**Approved as to form:**

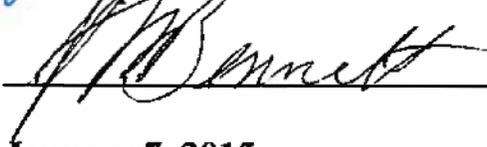
**Financial Services Division**

**By:**

  
\_\_\_\_\_

**Office of Corporation Counsel**

**By:**

  
\_\_\_\_\_

**Date: January 7, 2015**

**PURCHASE AND SALE AGREEMENT**

**11-13 MULBERRY STREET, NASHUA NH**

1. **THIS AGREEMENT** made this \_\_\_\_ day of , 2015 (“EFFECTIVE DATE”) between Iglesia Pentecostal Y Misionera, Inc. (“SELLER”) PO Box 3274, Nashua, New Hampshire, 03061-3274 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 the City of Nashua, New Hampshire, known as **11-13 Mulberry Street**, inclusive of all the buildings, structures and other improvements thereon, as more particularly described in deeds to SELLER, recorded in the Hillsborough County Registry of Deeds as Book 5578 Page 1352 on September 16, 1994 (the “PROPERTY”).
3. **PURCHASE PRICE:** The Purchase Price is Three Hundred Thousand Dollars, \$300,000.00 (“PURCHASE PRICE”). The PURCHASE PRICE shall be paid by BUYER at CLOSING (defined below). Payment of the PURCHASE PRICE shall be in Cash, Certified Check, Bank Draft or Wire Transfer.
4. **DEED:** Marketable title shall be conveyed by quitclaim deed (“DEED”), and shall be free and clear of all encumbrances except:
  - A. Provisions of existing building and zoning laws;
  - B. Such taxes for the then current tax year not due and payable on the date of the delivery of the DEED;
  - C. Any liens for municipal betterments assessed after the date of this Agreement;
  - D. Such easements, takings and rights of way, including usual public utilities serving the PROPERTY, all of record in the Hillsborough County Registry of Deeds;
  - E. Encumbrances noted herein; and
  - F. Encumbrances acceptable to BUYER.
5. **TRANSFER OF TITLE:** Title shall be transferred not later than ninety (90) days after this agreement has been executed by the parties. Said transfer shall take place at City Hall, 229 main Street, Nashua, N.H. or some other place of mutual consent as agreed to in writing (“CLOSING”).
6. **MAINTENANCE AND CONDITION OF PROPERTY:** SELLER does not make and has not at any time made, directly or indirectly, any warranties or representations of any kind or character, express or implied, save those expressly made in this Agreement, including, but not limited to, any warranties of habitability, merchantability, fitness for a particular purpose, title (other than as may be set forth in the DEED), physical or environmental condition (including

the possible presence on, at, under or emanating from or migrating onto the PROPERTY of hazardous materials, radon gas or lead-based paint. Upon CLOSING, SELLER shall sell and convey to BUYER and BUYER shall accept the PROPERTY "As Is, Where Is, With All Faults." BUYER is satisfied with the extent to which SELLER has agreed herein that BUYER may investigate the PROPERTY and BUYER will rely solely upon the same. Save solely for SELLER'S failure to communicate to BUYER prior to CLOSING actual knowledge of known adverse matters affecting the PROPERTY, BUYER shall, upon CLOSING, assume the risk that adverse matters, including but not limited to, construction defects and adverse physical and environmental conditions, may not have been known to BUYER, and SELLER shall not be under any obligation whatsoever to undertake any improvement, repair, modification, alteration, investigation, remediation, or other work of any kind with respect to the PROPERTY. It is expressly acknowledged and agreed that this Section 7 shall survive the CLOSING and delivery of the DEED and each and every other closing document and shall not merge with the DEED or any other closing document.

7. **INSURANCE:** Until the delivery of the DEED, SELLER shall maintain fire insurance and extended insurance coverage on the PROPERTY in such amounts as presently insured, but in no event shall such coverage be less than the PURCHASE PRICE.
8. **DAMAGE OR DESTRUCTION:** If, prior to the CLOSING, the PROPERTY shall have been damaged by fire or casualty, then the SELLER, within thirty (30) days of the loss, shall give the BUYER written notice of its election to take one of the following actions, in SELLER'S sole discretion:
  - A. Restore the PROPERTY to its former condition;
  - B. Pay over or assign to BUYER, on delivery of the DEED, all amounts recovered or recoverable on account of such insurance, less any amounts expended by the SELLER for any partial restoration;
  - C. If a mortgagee on the PROPERTY shall not permit the insurance proceeds or a part thereof to be used to restore the PROPERTY to its former condition or to be so paid over or assigned, give to the BUYER a credit against the PURCHASE PRICE, on delivery of the DEED, equal to said amounts so recovered or recoverable and retained by the mortgagee less any amounts expended by the SELLER for any partial restoration; or
  - D. Terminate this Agreement without penalty.
  - E. This provision may be waived in writing by BUYER and, if waived by BUYER, BUYER agrees to accept the PROPERTY in the damaged condition.
9. **TITLE:** BUYER shall have thirty (30) calendar days to examine title from the EFFECTIVE DATE (defined below). Other than the quitclaim covenants provided by law, SELLER makes no warranty as to the condition of title to the PROPERTY. If upon BUYER'S 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 sixty (60) days from the date of notification of defect (unless otherwise agreed to in writing), to remedy such defect. If SELLER is unable or unwilling to take such action as may be necessary to

clear title so that insurable title will be delivered at CLOSING, SELLER or BUYER may, at SELLER'S and BUYER'S option, as the case may be, terminate this Agreement, and all parties shall be released from any further obligations hereunder. The cost of examination of the title shall be borne by BUYER.

- 10. USE OF PURCHASE MONEY TO CLEAR TITLE:** To enable SELLER to make conveyance as herein provided, SELLER may, at the time of delivery of the DEED, use the purchase money or any portion thereof to clear the title of any or all encumbrances or interests, provided that all instruments so procured are recorded simultaneously with the delivery of the DEED or arrangements satisfactory to BUYER have been made for subsequent delivery and recording.
- 11. PRORATIONS AND EXPENSES:** 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, waste water fees 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. Except as otherwise specified in this Agreement or the other closing documents, each party hereto shall pay its own legal, accounting, out pocket and other expenses incident to this Agreement and to any action taken by such party in preparation for carrying this Agreement into effect.
- 12. ENVIRONMENTAL CONTAMINATION:** BUYER'S obligations under this Agreement are contingent upon its receipt of a satisfactory Phase I Environmental Site Assessment report regarding the environmental conditions directly affecting the PROPERTY. The satisfactory nature of any such report shall be determined in the reasonable judgment of BUYER and in consideration of similarly situated properties. In the event that BUYER does not provide notice to SELLER of its election to terminate this Agreement pursuant to this paragraph within sixty (60) days from the execution of this Agreement, this contingency shall be deemed waived by BUYER.
- 13. APPROVAL OF BOARD OF ALDERMEN:** The CLOSING is contingent upon a vote of approval at the sole discretion of the City of Nashua Board of Aldermen. BUYER agrees to use its best efforts to seek such approval within sixty (60) days of the EFFECTIVE DATE.
- 14. WAIVER OF JURY TRIAL:** The parties hereby knowingly, voluntarily, and intentionally waive any rights they may have to a trial by jury in respect of any litigation based hereon or arising out of, under or in connection with, this agreement or any of the other documents, or any course of conduct, course of dealing, statements (whether oral or written), or actions of the parties hereto. this provision is a material inducement for each of the parties to enter into this Agreement.
- 15. ENTIRE AGREEMENT; AMENDMENTS:** 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. This Agreement may be amended or modified only by an instrument in writing signed by

both SELLER and BUYER. Any material changes to this agreement from the original agreement authorized by R-15-103, shall not be effective unless approved by the City of Nashua Board of Aldermen.

- 16. SEVERABILITY:** Any provision of this Agreement that shall be prohibited or unenforceable shall be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions thereof. In the event that any such provision of this Agreement is so held invalid, the parties shall promptly renegotiate in good faith new provisions to restore this Agreement as near as possible to its original intent and effect. To the extent permitted by applicable law, the parties hereto hereby waive any provision of law that renders any provision hereof prohibited or unenforceable in any respect.
- 17. HEADINGS:** The headings of the various Sections of this Agreement are for convenience of reference only and shall not modify, define or limit any of the terms or provisions hereof.
- 18. SPECIFIC PERFORMANCE:** The parties hereto agree that irreparable damage would occur in the event any provision of this Agreement was not performed in accordance with the terms hereof and that the parties shall be entitled to specific performance of the terms hereof, in addition to any other remedy at law or equity.
- 19. DECISION MAKING BY PARTIES:** Except where this Agreement expressly provides for a different standard (e.g., sole discretion), whenever this Agreement provides for a determination, decision, permission, consent or approval of a party, the party shall promptly make such determination, decision, grant or withholding of permission, consent or approval in a commercially reasonable manner and without unreasonable delay. Any denial of consent required to be made in a commercially reasonable manner shall include in reasonable detail the reason for denial or the aspect of the request that was not acceptable. The parties agree to make all determinations and to take all actions required hereunder in good faith and in a reasonable manner, and to observe reasonable commercial standards of fair dealing.
- 20. EFFECT OF TERMINATION:** If this Agreement is terminated for any reason prior to CLOSING, this Agreement shall be null and void, and no party shall have any rights or obligations under this Agreement, except that: a termination shall not relieve any party from any liability for breach hereof occurring prior to termination, and the non-breaching party shall be entitled to any and all relief under applicable law or in equity on account of such breach.
- 21. MUTUAL REPRESENTATION:** BUYER and SELLER represent and warrant to each other that:  
(a) all corporate or other actions and proceedings required by law or the provisions of this Agreement to be taken at or prior to the CLOSING, in connection with the execution and delivery of this Agreement and the consummation of the transaction contemplated hereunder, have been duly and validly taken; and (b) the execution and delivery of this Agreement by and between BUYER and SELLER constitutes a legal, valid and binding obligation of BUYER and SELLER, respectively, enforceable in accordance with its terms.

- 22. ACCEPTANCE OF DEED:** The acceptance of a DEED by BUYER shall be deemed to be a full performance and discharge of every agreement and obligation herein contained or expressed, except such as are, by the terms hereof, to be performed after the delivery of the DEED.
- 23. COUNTERPARTS:** This Agreement may be executed and delivered in multiple originals or using counterpart signature pages and may be delivered by facsimile transmission. All such multiple originals shall constitute but one and the same document.
- 24. 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.
- 25. 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 ("EFFECTIVE DATE"). Each party is to receive a fully executed duplicate original of this Agreement. This Agreement shall be binding upon the successors 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.

**BUYER:** City of Nashua, New Hampshire

**By:** \_\_\_\_\_ **Date** \_\_\_\_\_  
Donnalee Lozeau

**Its:** Mayor  
Title

Hereunto Duly Authorized

**Address:** 229 Main St  
PO Box 2019  
Nashua, NH 03061

**SELLER:** Iglesia Pentecostal Y Misionera, Inc.

**By:** \_\_\_\_\_ **Date** \_\_\_\_\_

**Its:** \_\_\_\_\_  
Title

Hereunto Duly Authorized

**Address:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_