



RESOLUTION

AUTHORIZING THE ACQUISITION OF APPROXIMATELY 30,000 SQUARE FEET OF LAND AT 50 EAST HOLLIS STREET FOR A FUTURE FIRE STATION FOR THE PURCHASE PRICE OF FIVE HUNDRED THOUSAND DOLLARS (\$500,000.00) WITH FIFTY THOUSAND DOLLARS (\$50,000.00) TO BE PAID FROM ACCOUNT 532-75023 "FIRE DEPARTMENT MAINTENANCE, GENERAL BUILDINGS AND GROUNDS", AND AUTHORIZING THE MAYOR AND THE CITY TREASURER TO ISSUE BONDS NOT TO EXCEED THE AMOUNT OF FOUR HUNDRED FIFTY THOUSAND DOLLARS (\$450,000.00) BONDING TO FUND THE BALANCE OF THE PURCHASE

CITY OF NASHUA

In the Year Two Thousand and Four

RESOLVED by the Board of Aldermen of the City of Nashua that the Mayor, with assistance of Corporation Counsel, are authorized to do all things necessary to acquire for the City title to an approximately 30,000-square-foot parcel comprising the eastern portion of Lot 36-6 at 50 East Hollis Street, (shown on attached GIS Map), substantially on terms and conditions set forth in attached draft Purchase and Sale Agreement with 50 East Hollis Street, Inc. The purchase price of said land shall be Five Hundred Thousand Dollars (\$500,000.00), with a Fifty Thousand Dollar (\$50,000.00) nonrefundable deposit to be paid from Account 532-75023 "Fire Department Maintenance, General Buildings and Grounds", and the balance to be paid from bond proceeds.

And further resolved, that the Mayor of the City of Nashua and the City Treasurer of the City of Nashua are hereby authorized to issue and sell general obligation bonds of the City, in an aggregate principal not to exceed Four Hundred Fifty Thousand Dollars (\$450,000.00). The proceeds of said bonds shall be used to fund the purchase of land from 50 East Hollis Street, Inc., identified as the easterly 30,000 square feet Lot 36-6, to be subdivided.

The Bonds shall be general obligations of the City of Nashua, payable as to principal and interest from ad valorem taxes which will be levied without limitation as to rate or amount on all taxable property within the territorial limits of the City of Nashua.

The Bonds shall bear the manual or facsimile signature of the City Treasurer and the Mayor. None of said bonds shall be obligatory without the authenticating certificate signed by an authorized officer of a bank or trust company doing business in the State of New Hampshire or the Commonwealth of Massachusetts, or the Commissioner of Revenue Administration.

The Bonds are to be issued in fully-registered form by means of a book-entry system or otherwise and shall have such terms and conditions and be in such form, subject to the provisions of this resolution and applicable law, as shall be determined by the Mayor and the City Treasurer.

Resolved further, that the Mayor is authorized to enter into the required contracts therefore, as well as any amendments to be made thereto or any other documentation necessary for the receipt for said funds.

LEGISLATIVE YEAR 2004

RESOLUTION: R-2004- 37

PURPOSE: Authorizing the acquisition of approximately 30,000 square feet of land at 50 East Hollis Street for a future fire station for the purchase price of Five Hundred Thousand Dollars (\$500,000.00) with Fifty Thousand Dollars (\$50,000.00) to be paid from Account 532-75023 "Fire Department Maintenance, General Buildings and Grounds", and authorizing the Mayor and the City Treasurer to issue bonds not to exceed the amount of Four Hundred Fifty Thousand Dollars (\$450,000.00) bonding to fund the balance of the purchase

SPONSOR(S): Alderman Marc W. Plamondon, Ward 4
Alderman-at-large James Tollner
Alderman Lori Cardin, Ward 7
Alderman Rob Shaw, Ward 9
Alderman-at-large Steve Bolton
Alderman-at-large David Deane
Alderman Kathryn Vitale, Ward 1

COMMITTEE ASSIGNMENT: COMMITTEE ON INFRASTRUCTURE

ANALYSIS

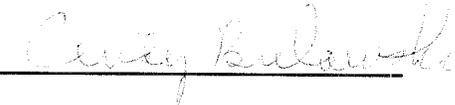
This resolution would empower the City to acquire approximately 30,000 square feet of land for a future fire station site on a parcel located at 50 East Hollis Street, being the easterly portion of Lot 36-6, at a price of \$500,000, substantially on the terms and conditions of the attached draft Purchase and Sale Agreement;

This resolution authorizes funding of the acquisition through expenditure of \$50,000 from Account 532-75023 Fire Department Maintenance, General Buildings and Grounds, and authorizes the Mayor of the City of Nashua and the City Treasurer of the City of Nashua to issue and sell general obligation bonds of the City in an aggregate principal not to exceed \$450,000.00. The proceeds of said bonds shall be used to fund the balance of the purchase price.

Pursuant to Nashua City Charter §54-a, this resolution requires a "duly advertised public hearing". Also see NH RSA 33:9 which requires a two-thirds (2/3) vote for passage of this resolution.

Approved as to content:

Financial Services Division

By: 

Approved as to form:

Office of Corporation Counsel

By: 

Date: April 7, 2004

PURCHASE AND SALE AGREEMENT

This Purchase and Sale Agreement is made this _____ day of April, 2004 by and between:

50 East Hollis Street, Inc., a New Hampshire Corporation, with a principal place of business at 116 Washington Street, Dover, Strafford County, New Hampshire (hereinafter sometimes referred to as SELLER); and

The City of Nashua, a Municipal Corporation with a principal place of business at 229 Main Street, Nashua, Hillsborough County, New Hampshire (hereinafter sometimes referred to as BUYER).

WITNESSETH

WHEREAS, the SELLER is the owner by deed recorded in the Hillsborough County Registry of Deeds, Book 5510, Page 1371, of a certain tract of real estate located at 50 East Hollis Street in Nashua, Hillsborough County, State of New Hampshire, identified as Assessor's Lot 36-6.

WHEREAS, the BUYER is interested in purchasing the easterly portion of said Lot 36-6 comprising approximately 30,000 square feet (hereinafter sometimes referred to as the PREMISES).

NOW THEREFORE, in consideration of the mutual covenants, payments, agreements, and promises of the parties hereto, the parties agree as follows:

Article 1. Purchase Agreement

1.01 Purchase Price. The SELLER agrees to sell and the BUYER agrees to buy the PREMISES on or about December 31, 2004 or as extended in accordance with Article 1 section 1.01 (C). The purchase price shall be Five Hundred Thousand Dollars (\$500,000.00) payable as follows:

A. Deposit: Upon execution of this Agreement, BUYER shall pay the SELLER the sum of Fifty Thousand Dollars (\$50,000.00) in cash as a nonrefundable deposit except in the case of default by SELLER per Article 7, and which shall be applied to the Purchase Price at the closing (as hereinafter defined).

B. Balance of Payments: The balance of the purchase price, namely Four Hundred Fifty Thousand Dollars (\$450,000.00) shall be paid in American currency by certified or cashier's check at the time of closing.

C. Closing: The closing shall occur on or about December 31, 2004. Nevertheless, the closing shall occur at the offices of City of Nashua Corporation

Counsel, 229 Main Street, Nashua, New Hampshire unless another site is mutually agreed upon.

1.02 Adjustments. The following adjustments and proration shall be made at closing:

Real estate taxes, governmental assessments and other governmental charges both general and special shall be prorated on the property that is purchased as of the date of closing and transfer of title. If the amount of the charges or assessments relating to the PREMISES is not known at the time of transfer of title, prorations shall be done on the basis of charges or assessments for the preceding year. Adjustments for these items shall occur at closing. The parties acknowledge that real estate transfer taxes will not be due on this conveyance to a municipality.

Article 2. Conveyance of the Premises

2.01 Title. Title to the PREMISES shall be conveyed by Quitclaim Deed running from the SELLER to the BUYER.

2.02 Condition of PREMISES. SELLER makes no warranties or representations with regard to the condition of the PREMISES and the PREMISES shall be sold "as is, where is".

2.03 Title Examination. The BUYER may cause the title to the PREMISES to be examined at BUYER'S discretion. If BUYER fails to notify SELLER of any title defects by August 1, 2004, it waives any defects. The title to the PREMISES shall be sufficient to enable the BUYER to obtain title insurance acceptable to the BUYER and BUYER'S counsel in a fee owner's policy of title insurance at normal premium rates and on the American Land Association form currently in use subject only to those printed exceptions to title normally included in the "jacket" PROVIDED, HOWEVER, the normal materialmen lien exception shall be deleted. The BUYER shall pay all title insurance premiums. In the event that the title examination or the title policy shall disclose any material objection to title to the PREMISES, the BUYER may, in BUYER'S sole discretion, terminate this agreement, unless the SELLER cures the problem to the satisfaction of said title company and the BUYER, within a reasonable period of time not to exceed thirty (30) days. In the event of termination, all other obligations under this agreement, shall cease, and this agreement shall become void without further recourse by either party. If the BUYER does not elect to terminate this agreement, the BUYER shall notify the SELLER of such objection to title. The SELLER shall be obligated to make reasonable good faith efforts to remove any objections to title. In the event that the objections are not removed within a thirty-day (30) period, then in that event, the BUYER, at the BUYER'S sole discretion, may terminate this agreement or accept title as the SELLER can provide.

2.04 Subdivision Approval. It is condition of this agreement that on or before November 30, 2004, BUYER, with the authorization of the SELLER, shall obtain a final subdivision approval of Lot 36-6 into two lots, one of which shall constitute the PREMISES. The lot retained by the SELLER shall conform with current dimensional land use control ordinances and regulations of the City of Nashua. Its present use may be validly continued. All costs of subdivision shall be the responsibility of the BUYER. BUYER will diligently pursue the subdivision approval.

Article 3. Closing and Transfer of Title

3.01 Document at Closing. The SELLER shall deliver at the time of closing and transfer of title, the following documents:

- A. A Quitclaim Deed in accordance with the terms of this Agreement;
- B. An Affidavit of Non-Foreign Status;
- C. Affidavits to the BUYER and to the title insurance company for the BUYER that there are no parties in possession and that no work has been done on the PREMISES which would entitle anyone to claim a statutory lien or to file notice of contract relating to the property; and
- D. All plans, studies, reports and other information relating to the PREMISES which are presently in the possession of either party;
- E. All existing permits, approvals or licenses which relate to the PREMISES; and
- F. Such other documents as may be required under provisions of this Agreement or as may reasonably be required in the practice of real estate transfers in the State of New Hampshire.
- G. SELLER may reserve utility easements as do not materially and adversely interfere with use of the PREMISES by the BUYER.

3.02 Consummation of Closing. All acts, deliveries and confirmations comprising the Closing regardless of chronological sequence shall be deemed to occur contemporaneously and simultaneously upon the occurrence of the last act, delivery, recording or confirmation of the Closing and none of such acts, deliveries, recording or confirmations shall be effective unless and until the last of the same shall have occurred

Article 4. Representations and Warranties

4.01 SELLER'S Representations and Warranties. In order to induce BUYER to enter into this Agreement, SELLER represents and warrants to BUYER that:

A. The SELLER is the sole and absolute owner of the PREMISES proposed for transfer under this Agreement.

B. There are no contracts, leases, subleases, tenancies, rental agreements, and occupancy agreements which affect the PREMISES. No person or entity has any right to use or occupy any portion of the PREMISES or to otherwise interfere with the BUYER'S exclusive right to use, occupy, and possess the same.

C. There are no amounts due to any person or entity on account or labor performed or materials provided to the SELLER relating to the PREMISES.

4.02 Obligations Regarding Representations. The representations and warranties of the SELLER contained in this Article are true and shall be true as of the time of closing and shall survive the closing. The BUYER represents that it has full authority to perform its obligations under this Agreement. SELLER and BUYER hereby agree to notify one another of any change in conditions or the discovery of any information which would render the foregoing representations and warranties untrue or incorrect in any material manner.

Article 5. Condition of Premises

5.01 Storage Tanks. The SELLER represents that to the best of SELLER'S knowledge, there are no underground storage facilities which is or are used for the underground storage of regulated substances.

5.02 Hazardous Materials. The SELLER represents that to the best of SELLER'S knowledge, there are no hazardous materials on the PREMISES.

5.03 Hazardous Substance. For the purpose of this Agreement, the term hazardous substance shall mean and include any asbestos, petroleum product, hazardous waste or other regulated material as defined in the comprehensive environmental response, Compensation and Liability Act, 42 USC Sect. 9601 and New Hampshire RSA 147 and New Hampshire RSA 147-A or any regulations promulgated thereunder.

5.04 Survival of Warranties. Etc. The representations and warranties of the SELLER contained in this Article are true and shall be true at the time of closing. The SELLER does hereby agree to notify the BUYER of any change in conditions or the discovery of any information by the SELLER which would render the foregoing representations untrue or incorrect in any material manner. The warranties and representations made in this Article shall expire as of the delivery and acceptance of the deed. The PREMISES is being sold in an "as is" condition. The SELLER shall provide to the BUYER, on a continuing basis, any reports, letters, etc. that may come into its possession regarding any regulated environmental condition.

5.05 Inspections. The BUYER may, at its sole cost and expense, conduct such surveys, tests, and inspections in, on, under or within the PREMISES as the BUYER deems appropriate, including, without limitation, tests and inspections of structures, utility systems, sanitary systems, and water systems (both drinking water and irrigation water); soil, drainage or other tests and inspections on, under or within the PREMISES; and environmental site inspections and assessments with regard to hazardous substances, asbestos, and other regulated materials and or conditions. If the BUYER is not reasonably satisfied with the results of any such survey, test, inspection, or assessment, the BUYER may terminate this agreement by sending written notice to the SELLER on or before August 31, 2004. The BUYER and its agents and consultants are hereby given permission to access the PREMISES for purposes of conducting such surveys, tests, and inspections provided that they shall be conducted in such a manner so as not to unreasonably interfere with the normal business operations of the PREMISES. After performing any such inspection, survey or test, the BUYER shall promptly restore the PREMISES to its prior condition to the extent practicable. The BUYER shall hold the SELLER harmless from any and all liabilities, losses, costs, damages, or expenses which arise from the conducting of such survey, test, inspection or assessment PROVIDED, HOWEVER, that this indemnity shall not apply to any liability, loss, cost, damage or expense which arises from the discovery or removal of hazardous substance located on the PREMISES on or before the date of closing and transfer of title.

Article 6. Easement to Howard Street and other easements

6.01 Easement to Howard Street. In the event that BUYER acquires the abutting former railroad right-of-way identified as Lot 36-70, the City, subject to applicable regulations, shall grant SELLER an access easement from SELLER'S Lot 36-6 to Howard Street.

6.02 Other easements. SELLER may also reserve such utility easements as do not materially affect the BUYER'S use of the PREMISES.

Article 7. Default

7.01 Default. In the event that either party defaults, the other party shall be entitled to all available remedies in law and equity. The only event of default by SELLER shall be its failure to close as required.

Article 8. Brokers' Commissions

8.01 Brokers' Commissions. The parties agree that no person, individual or entity is entitled to any fee, commission or wage as a result of this transaction and each party represents to the other that it has not communicated with any person who may claim any such fee, commission or wage. Each party agrees to indemnify and hold the other party harmless to the extent that any person, individual, or entity makes a claim for any such fee, commission, or wage as a result of communication with the said party.

Article 9. Miscellaneous

9.01 Notice. All notices required or permitted by this Agreement shall be in writing and shall be sent to the following addresses:

A. If to the BUYER:

Mayor
The City of Nashua
229 Main Street
Nashua, New Hampshire 03061-2019

with a copy to:

Office of Corporation Counsel	Fire Chief
City of Nashua	City of Nashua
229 Main Street	177 Lake Street
Nashua, New Hampshire 03061	Nashua, New Hampshire 03060

B. If to the SELLER:

Robert Weisner
50 East Hollis Street, Inc.
116 Washington Street
Dover, New Hampshire 03820

9.02 Construction of Agreement. This Agreement is to be construed as a New Hampshire contract and is to take effect immediately upon the execution by all parties. It sets forth the entire Agreement between the parties. All parties acknowledge and agree that the terms and conditions set forth in the Agreement have been actively negotiated and have been reviewed. Any terms or conditions which are not expressly stated in this written document are not part of the parties Agreement. This Agreement shall not be modified except by written document executed by both parties. This Agreement is binding upon and inures to the benefit of the parties hereto and their respective heirs, executors, administrators, successors and assigns.

9.03 Survival of Representations. The various representations and undertakings of the parties hereto shall not survive the closing.

9.04 Titles and Captions. All section titles or captions in this Agreement are for convenience only and shall not be deemed part of the context nor effect the interpretation of this Agreement.

9.05 Further Action. The parties hereto shall execute and deliver all documents, provide all information and take or forbear from all such action as may be necessary or appropriate to achieve the purposes of this Agreement.

9.06 Parties In Interest. Nothing herein shall be construed to be to the benefit of any third party nor is it intended that any provision shall be for the benefit of any third party.

9.07 Savings Clause. If any provision of this Agreement or the application of such provision to any person or circumstance shall be held invalid, the remainder of this Agreement or the application of such provision to persons or circumstances other than those to as which it is held invalid, shall not be affected thereby.

9.08 Arbitration. In the event of any dispute as to the meaning or interpretation of any provision of this Agreement, either party may, upon ten (10) days written notice to the other party, require that the dispute be determined by arbitration under the provisions of NH RSA 542. Each party shall choose an arbitrator at their cost and the two (2) arbitrators shall select a third arbitrator within fourteen (14) business days of their selection. The parties agree that one arbitrator is appropriate and that a decision of the arbitrator is binding in accord with said rule and shall be final and binding upon the parties hereto and enforceable in a court of law.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date and year first affixed hereto by their duly authorized officers or agents.

SELLER:

50 East Hollis Street, Inc.

Witness

By:
Its duly authorized

BUYERS:

The City of Nashua

Witness

By:
Its duly authorized