



# CITY OF CONCORD

## REPORT TO THE MAYOR AND CITY COUNCIL

**FROM:** Carlos P. Baía, Deputy City Manager – Development

**DATE:** October 28, 2016

**SUBJECT:** Revised Purchase and Sales Agreement with Kate Ackerson and Ryan Kibbee of 126 Liberty Street to acquire abutting City Lot MBL 52/7/14.

### **Recommendation**

Accept this report approving the attached resolution which authorizes the City Manager to enter into a Revised Purchase and Sales Agreement with Kate W. Ackerson and Ryan W. Kibbee of 126 Liberty Street, for the sale of a +/- 1,200 s.f. City lot identified as MBL 52/7/14 to resolve an encroachment.

### **Background**

At its September 2016 meeting, City Council authorized the City Manager to enter into a Purchase and Sales Agreement with Ms. Ackerson and Mr. Kibbee to resolve an encroachment matter. One of the requirements of the P&S was that the city's lot be consolidated with the buyers' existing lot upon closing.

### **Discussion**

In pursuing their due diligence, the buyers applied to the City's Planning Division to merge the lot. Under State law, such a merger requires consent from any lender holding a mortgage on the properties. The process and expense posed by the buyers' existing lender to agree to this merger was extraordinarily onerous and costly relative to the scale of the lot being acquired.

The buyers' sought relief from the City and staff agreed that it was still in all parties' best interest to move to a sale. Staff is recommending that the merger requirement be eliminated and instead be replaced by a deed restriction that states that the City lot cannot, in the future, be sold separately from the buyers' existing lot or alternatively that the buyers or their successors seek a merger at some future date. This requirement is an acceptable compromise that resolves the encroachment, does not involve the buyers' mortgage, and disposes of surplus city land.

w/att: 1) Resolution  
2) Revised P&S Agreement