

PUBLIC NOTICE

Sale of Real Estate

The Town of Deerfield, Massachusetts, seeks to sell certain Town-owned parcels of real estate, as follows:

- Barn off Jewett Avenue - Franklin County Registry of Deeds Book 138, page 18, Parcel "A"
- Brick Garage, Coates Avenue - Franklin County Registry of Deeds Book 138, page 18, Parcel "B"
- Upper Road, west side, immediately north of Stillwater Bridge -- Deerfield Assessors Map 88, Lot 1
- Upper Road, east side, immediately north of Lower Road. -- Deerfield Assessors Map 88, Lot 2

A map and assessor's card for each property is available for public inspection at the Deerfield Town Hall, 8 Conway Street, South Deerfield, MA 01373, between the hours of 8:00 a.m. and 4:00 p.m. Monday through Friday. This information is also available through the Town's website: <http://www.DeerfieldMA.us>

A site tour for the property is scheduled for March 30, 2016.

Potential RFP respondents may call 413-665-1400, extension 111, to request a bid packet be delivered by mail or email. RFP Proposals must comply with all submission criteria identified in the bid packet, and must be received no later than April 15, 2016, 2 PM.

The Deerfield Board of Selectmen is the awarding authority.

-- Deerfield Board of Selectmen
March 16, 2016

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Public Notice

Sale of Real Estate - Invitation for Bids
Town of Deerfield, Massachusetts

The Town of Deerfield, Massachusetts, seeks to sell certain parcels of real estate within the Town. The Subject property is described as follows:

<u>Description</u>	<u>Map / Page</u>	<u>Lot Size</u>	<u>Assessed Value</u>
Barn off Jewett Ave	Franklin County Registry of Deeds Book 138, page 18, Parcel "A"	8,035 +/- Sq. Ft. (about 0.18 acres)	Building: \$7,000 Land: \$83,600 Total: \$90,600
Brick Garage at the end of Coates Avenue, on west side.	Franklin County Registry of Deeds: Book 138, page 18, Parcel "B"	16,609 +/- Sq. Ft. (about 0.38 acres)	Building: \$66,700 Land: \$90,700 Total: \$157,400
Upper Road, west side, immediately north of Stillwater Bridge	Deerfield Assessors Map 88, Lot 1	2.800 Acres, approximately 1,161 ft. of road frontage.	Land: \$91,900
Upper Road, east side, immediately north of Lower Road.	Deerfield Assessors Map 88, Lot 2	1.5 Acres, approximately 711 ft. of road frontage.	Land: \$87,600

A site tour for each property is scheduled for March 30, 2016. Detailed Information about each property, including a map of the property, and assessor's card, is available for public inspection at the Deerfield Town Hall, 8 Conway Street, South Deerfield, MA 01373, between the hours of 8:00 a.m. and 4:00 p.m. Monday through Friday.

Written offers shall be submitted in person to the Town Administrator's Office, 8 Conway Street, South Deerfield, MA 01373, no later than 2:00 p.m. on April 15, 2016. Responses received by postal service, electronic mail or facsimile will not be accepted.

The Deerfield Board of Selectmen is the awarding authority. Questions may be submitted in writing by mail to Town Administrator, 8 Conway Street, South Deerfield, MA 01373. Questions must be received no later than April 7, 2016. Responses will be provided to those interested parties who are on record as having requested a bid package.

Proposal Submission Process

Written offers shall be submitted to the Town Administrator's Office, 8 Conway Street, South Deerfield, MA 01373, no later than 2:00 p.m. on April 15, 2016.

Offers will be time stamped as they are received. The Town's time stamp shall be controlling.

Proposals received by the Town after the Submission Deadline will be deemed non-responsive and will be rejected. Telecopied or electronically mailed (e-mailed) proposals will be deemed non-responsive and rejected regardless of the date received.

Proposers are directed to hand deliver their proposals. Any proposal delivered late in person, will be refused; if delivered late by mail, it will be returned to its respective sender.

Timely proposals will be opened after 2:00 PM on the Submission Deadline date, at which time only the names and addresses of proposers will be made public.

The Town will not accept any information or materials submitted after the Submission Deadline unless such information or materials are provided in response to the Town's written request for such information or materials.

Proposals shall be unconditional. Prior to the Submission Deadline, proposers may correct, modify or withdraw a proposal by written notice to the Town's contact person. Prior to opening the Proposals, any person(s) needing to make changes, correct, modify or withdraw their proposal, which has already been submitted, must submit a request in writing in order to receive their Proposal. No proposer may withdraw his proposal for a period of 180 days after the date set for the opening thereof. After the opening of proposals, a proposer may not correct or modify its proposal in any manner unless in response to a written request by the Town in its sole discretion. These submission requirements will be strictly enforced. **The Deerfield Board of Selectmen is the awarding authority.**

Each proposal shall be submitted in a sealed envelope clearly marked "Proposal to Purchase property in the Town of Deerfield – PROPOSED USE" containing the following:

- Name of Proposing Applicant;
- Name of Contact Person;
- Address and Telephone Number of Contact Person;
- Name of Property;
- Detailed narrative describing proposed use of property;
- Statement of Tax Compliance, signed (included in this RFP Packet)
- Certificate of Non-Collusion, signed (included in this RFP Packet)
- Disclosure of Beneficial Interests in Real Property Transaction, signed (included in this RFP Packet)

Each proposal shall include a separate, sealed enveloped cleared marked "Proposal to Purchase property in the Town of Deerfield – PRICE PROPOSAL" containing the following:

- Proposal to Purchase Real Property from the Town of Deerfield (this form is included in this RFP Packet), specifying the proposed purchase price
- Bid Deposit

A proposal that does not include properly completed forms will be deemed non-responsive and will be rejected.

A proposal that does not include a detailed narrative describing the proposed use of the property will be deemed non-responsive and will be rejected.

A proposal that does not include a separate purchase price proposal in a sealed envelope will be deemed non-responsive, and will be rejected.

The Town reserves the right to reject any and all proposals, to waive any technicalities, to advertise for new proposals, and to make awards as may be deemed to be in the best interest of the Town.

Property Condition

In all cases, all real property is sold “as is”, with “ALL DEFECTS”, and with no warranty and no representation of value.

Site Tour and Pre-Bid Meeting

A site tour will be conducted on March 30, 2016, as follows:

10 AM	Upper Road –	Assessor’s Map 88, Lots 1 & 2
11 AM	Brick Garage, Coates Avenue –	Franklin County Registry of Deeds, Book 138, page 18, Parcel “B”
12 PM	Barn off Jewett Ave --	Franklin County Registry of Deeds, Book 138, page 18, Parcel “A”

Prospective bidders are further encouraged to perform their own due diligence prior to submission of a bid.

Deposit Check

All bids must be accompanied by a deposit of \$10,000.00 in the form of a certified cashier’s, treasurer’s or bank check made payable to the Town of Deerfield. Bid deposits will be held by the Town. Bid deposits will be returned to non-selected Bidders after the award to the selected Bidder. The \$10,000.00 deposit paid by the selected Bidder shall be non-refundable except as provided in the Purchase and Sale Agreement. An additional deposit equal to 10% of the purchase price will be required at the time of execution of the Purchase and Sale Agreement. **Any proposal that does not include an appropriate bid deposit as requested will be deemed non-responsive and will be rejected.**

Expenses

In addition to the purchase price, the selected proposer will pay for all costs incurred by the Town of Deerfield in connection with the sale of the Property. These include, but are not limited to, real estate consultants, appraisals, survey, architectural, engineering and legal expenses.

Proposed Use

The Bid Proposal must include a detailed narrative of the use for the property. This narrative should include any improvements intended to be made to the property by the proposer. Proposals will be adjudicated on the thoroughness of this narrative, and the advantage of the proposed use to the Neighborhood and the Town (see "Rule for Award").

Verification of the present zoning and determination of the permitted uses thereunder shall be the responsibility of the Bidder, and the Town makes no representation thereto. It shall be the responsibility of the Bidder to verify applicable zoning, proposed use, and building code requirements prior to submission of his bid.

Purchase and Sale Agreement

The form of Purchase and Sale Agreement attached to this RFP as Appendix A shall be executed by the selected bidder without material modification. If a proposer believes that the specific nature of its project necessitates substantive changes to the Purchase and Sale Agreement, any such changes shall be requested in the proposal.

The final Purchase and Sale Agreement must be satisfactory to the Town in form and substance.

Execution of Required Documents

The Proposer shall be required to execute the final Purchase and Sale Agreement approved by The Town, and any other required closing documents and to pay an additional deposit in the amount of 10% of the purchase price within 30 days of the date of the Town's selection letter.

Failure of the selected Proposer to comply with the terms of this RFP shall entitle The Town to terminate the sale to the designated Proposer and to retain all deposits as liquidated damages.

Due Diligence

From and after the date of the execution of the Purchase and Sale Agreement, The designated Proposer must complete title-related due diligence within sixty (60) days. The designated Proposer must perform all other due diligence within ninety (90) days of the execution of the purchase and sale agreement. If an inspection and/or title search discloses legal or physical conditions that the designated Proposer finds objectionable in its reasonable discretion and as provided in the Purchase and Sale Agreement, then the selected Proposer may withdraw its bid by delivering written notice of such withdrawal to the Town prior to the expiration of the applicable due diligence period. If the selected Proposer does not withdraw its bid within such period, then the selected Proposer shall be deemed to have approved the legal and physical condition of the Property.

Bid Selection

The Town will review and evaluate all proposals that have been received by the Submission Deadline.

Evaluation of the proposals will be based on:

- The information provided in the proposal in accordance with the submission requirements.
- Any interviews, references and additional information requested by the Town.
- Any other information from publicly available and verifiable sources. Secondary selection criteria may include but not be limited to:
 - Positive or negative impact of the proposed use of the property to the immediate neighborhood and abutters (see “Evaluation Criteria”)
 - Overall benefit of the proposed use of the property to the Town (see “Evaluation Criteria”)
 - Ability of proposer to attain financing.
 - Ability of proposer to close the sale promptly.

The selection of the Proposer shall be made without regard to race, color, sex, age, religion, political affiliation, or national origin.

During the selection process, the Town reserves the following rights: to negotiate with one or more proposers; to waive portions of the RFP; to waive any informalities in proposals; to request “best and final” offers; to reject any or all proposals; and to issue a new request for proposals, for any reason deemed appropriate by the Town.

The Town is not obligated to select the proposal that offers the highest bid. The successful proposal will be the one that is most advantageous to the Town and best meets the selection criteria as a whole.

Upon selection, the designated Proposer will be required to submit the following to the Town:

- The final Purchase and Sale Agreement approved by the Town and executed by the winning Bidder.
- The additional deposit equal to 10% of the purchase price.
- Any other documents as required by the Town.

If the required documents are not executed and submitted to the Town within 30 days of selection, the designated Bidder’s selection will automatically expire, unless extended in writing by the Town in its sole discretion. Only a fully executed Purchase and Sale Agreement will constitute a binding agreement for the sale of the Property.

The Town reserves the right to negotiate with another proposer if the designated bidder does not satisfy the conditions specified by the Town. The Town further reserves the right to have a backup optional Purchase and Sale Agreement executed by another proposer which shall be subject to the terms of the designated Proposer’s Purchase and Sale Agreement.

Evaluation Criteria

The Town shall evaluate each proposal based on the following criteria:

Impact to the Immediate Neighborhood and Abutters

ADVANTAGE: A proposal will result in a positive impact on the immediate neighborhood and abutters, and may be reasonably expected to physically, environmentally or aesthetically improve the property.

NO ADVANTAGE: A proposal will result in a no impact on the immediate neighborhood and abutters, and does not detail or include any physical, environmental or aesthetic improvements to the property.

DISADVANTAGE: A proposal will result in a negative impact on the immediate neighborhood and abutters, and may be reasonably expected to physically, environmentally or aesthetically result in damage to or deterioration of the property.

Overall benefit of the proposed use of the property to the Town

ADVANTAGE: Proposed use may be reasonably expected to increase the property's assessed value.

NO ADVANTAGE: A proposal is not reasonably expected to change the property's assessed value.

DISADVANTAGE: A proposal may be reasonably expected to decrease the property's assessed value.

Ability of proposer to attain financing.

ADVANTAGE: Proposer demonstrates ability to obtain financing within 30 days.

NO ADVANTAGE: Proposer demonstrates ability to obtain financing within 60 days.

DISADVANTAGE: Proposer does not demonstrate ability to obtain financing within 60 days.

Ability of proposer to close the sale promptly.

ADVANTAGE: Proposer is prepared to close the sale within 30 days.

NO ADVANTAGE: Proposer is prepared to close the sale within 60 days.

DISADVANTAGE: Proposer is not prepared to close the sale within 60 days.

Proposal Bid Value

ADVANTAGE: Bid value exceeds all other bids from responsive and responsible bidders submitting advantageous proposals.

DISADVANTAGE: Bid value does not exceed other bids.

Rule for Award

Town's award will be to the responsive and responsible bidder, submitting a proposal for use of the property deemed most advantageous to the town, taking into consideration price and all other evaluation criteria.

PLEASE NOTE:

- *A proposal that does not include properly completed forms will be deemed non-responsive, and will be rejected.*
- *A proposal that does not include a detailed narrative describing the proposed use of the property will be deemed non-responsive, and will be rejected.*
- *A proposal that does not include a separate purchase price proposal in a sealed envelope will be deemed non-responsive, and will be rejected.*
- *The Town reserves the right to reject any and all proposals, to waive any technicalities, to advertise for new proposals, and to make awards as may be deemed to be in the best interest of the Town.*

Award will be made within as soon after bid opening as is practicable for the Town. All bids submitted shall be valid for a minimum period of 90 calendar days following the date established for acceptance.

GENERAL CONDITIONS AND RESERVATIONS

- A. The Town makes no express or implied representations or warranties, orally or in writing, as to the accuracy and/or completeness of any of the information contained in, or provided as part of, this RFP, including, without limitation, information in the RFP, in appendices, exhibits, attachments, technical information, and/or supplements, in hard copy, facsimile, electronic or on line, or available upon request or from other sources. The information is provided for convenience only, and cannot be relied upon, without outside, independent investigation and verification by the proposer. This information is subject to differing interpretation, analysis and conclusions and to errors, omissions, and changes in costs, conditions, economics, engineering, laws, rules and regulations that may occur on or after the date the information was created or assembled.
- B. Prospective Proposers must undertake their own review and analysis concerning physical and structural conditions, environmental conditions, title, access, easements, utilities, applicable zoning, required permits and approvals, reuse potentials, and any other development, ownership and legal considerations.
- C. This RFP is made subject to errors, omissions, prior authorized sale, lease or other disposition and any subsequent modifications, additions or changes in sale terms and conditions.
- D. The Town reserves the right to amend, suspend or withdraw this RFP by posting notice on the Town's website at any time for any reason whatsoever, in the Town's sole discretion.
- E. The Town reserves the right to seek best and final offers, to seek additional information or revised proposals from proposers at any time, to negotiate simultaneously with more than one proposer and to cease negotiation for any reason whatsoever at any time. The negotiation period and final form of agreement shall be determined by the Town, in the Town's sole discretion.
- F. The Town reserves the right, in The Town's sole discretion, to change the schedule or selection process by posting notice of any such changes on the Town's website at any time for any reason whatsoever in The Town's sole discretion.
- G. The Town reserves the right to reject, in The Town's sole discretion, any proposal not submitted in conformance with the requirements of the RFP and any amendments hereto, or to reject, in The Town's sole discretion, any and all proposals, for any reason whatsoever. The Town's further reserves the right, in The Town's sole discretion, to waive, or to decline to waive, irregularities in any proposal if and when The Town determines that it is in The Town's interest to do so.
- H. The Town reserves the right, in The Town's sole discretion, to discontinue its selection process, to solicit other proposals, to issue a new RFP or conduct any authorized alternative procurement method for any reason whatsoever at any time.
- I. The Town does not have a real estate broker representing it, and the proposer must agree to defend, indemnify the Town against and hold the Town harmless from any claim, loss, damage, costs or liabilities for any brokerage commission or fee which may be asserted against the Town by any broker in connection with this transaction.
- J. The successful proposer shall comply with all applicable federal, state, and local laws and regulations related to real estate transactions.

Contact:

**Douglas C. Finn, Interim Town Administrator
Selectmen's Office
8 Conway Street,
South Deerfield, MA 01373**

Tel: 413-665-1400 ext 105

FORM: Proposal to Purchase Real Property from the Town of Deerfield
Price Proposal

The property previously described on the Information Form is offered for Purchase from the Town of Deerfield.

I, _____, of _____, Offer
Printed-Full Name Home Address/or Company Address
the amount of _____ Dollars (\$ _____) for the Purchase of the property and building thereon located at _____, Deerfield, Massachusetts and identified as Book/Page _____, Map / Lot _____, and described as follows: _____
_____.

I am: (Please check only one)

- An Individual
- A legally married couple
- A Corporation
- Other (please explain) _____

Signed: _____

Date: _____

Title:(for Corporations) _____

(Note: This form must be included in the proposal submission)

FORM: Proposal to Purchase Real Property from the Town of Deerfield
PROPOSED USE OF PROPERTY

Signed: _____

Date: _____

Title:(for Corporations) _____

FORM: Tax Compliance and Non-Collusion Statements

(Note: This form must be included in the proposal submission)

Any person or corporation that fails to date, sign with original signature, and submit the following statements shall not be awarded this contract.

Tax Compliance

Pursuant to Chapter 62C of the Massachusetts General Laws, Section 49A(b), I,

_____ do hereby certify under the pains and penalties of perjury that said contractor and/or natural person has complied with all laws of the Commonwealth of Massachusetts relating to taxes.

Authorized Official's Signature (if Corporation)

Title of Person Signing

Typed or Printed Name of Person Signing

Company Name

Telephone Number

Address

Fax Number

Date

Certificate of Non-Collusion

The undersigned certifies under penalties of perjury that this bid or proposal has been made and submitted in good faith and without collusion or fraud with any other person. As used in this certification, the word "person" shall mean natural person, business, Town, corporation, union, committee, club, or other organization, entity, or group of individuals.

(Signature of person signing bid and/or proposal)

(Name of Business)

By: _____

Date: _____

FORM: Disclosure of Beneficial Interests in Real Property Transaction

(Note: This 2 page form must be included in the proposal submission)

This form contains a disclosure of the names and addresses of all persons with a direct or indirect beneficial interest in the real estate transaction described below. This form must be filed with the Massachusetts Division of Capital Planning and Operations, as required by M.G.L. c. 7C, § 38, prior to the conveyance of or execution of a lease for the real property described below. Attach additional sheets if necessary.

1. Public agency involved in this transaction: **Town of Deerfield**

Name of Jurisdiction

2. Complete legal description of the property:

3. Type of Transaction: Purchase

4. Seller(s): Town of Deerfield, 8 Conway Street, South Deerfield, MA 01373

Purchaser(s): _____

5. Names and addresses of all persons who have or will have direct or indirect beneficial interest in the real property described above. Note: *If a corporation has, or will have a direct, or indirect beneficial interest in the real property, the names of all stock holders must also be listed except that, if the stock of the corporation is for sale to the general public, the name of any person holding less than ten percent of the outstanding voting shares need **not** be disclosed.*

<u>Name</u>	<u>Address</u>
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

None of the persons listed in this section is an official elected to public Office in the Commonwealth of Massachusetts or is an employee of the Division of Capital Asset Management and Maintenance, except as noted below:

<u>Name</u>	<u>Title or position</u>
_____	_____
_____	_____

6. This section must be signed by the individual(s) or organization(s) entering in to this real property transaction with the public agency named in item 1. If this form is signed on behalf of a corporation, it must be signed by a duly authorized officer of that corporation.

The undersigned acknowledges that any changes or additions to item 4 of this form during the term of any lease or rental will require filing a new disclosure with the Division of Capital Asset Management and Maintenance within 30 days following the change or addition.

The undersigned swears under the pains and penalties of perjury that this form is complete and accurate in all respects.

Signature: _____

Printed name: _____

Title: _____

Date: _____

FORM: Certificate Of Authority

(Note: This 2 page form must be included in the proposal submission)

Give full names and residences of all persons and parties interested in the foregoing proposal:

(Notice: Give first and last name in full; in case of Corporation give names of President, Treasurer and Manager; and in case of Firms give names of the individual members.)

<u>Names</u>	<u>Addresses</u>	<u>Zip Code</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

Kindly furnish the following information regarding the Proposer, if applicable:

1. If a Proprietorship

Name of Owner: _____

	<u>Address</u>	<u>Telephone Number</u>
Business	_____	_____
Home	_____	_____

2. If a Partnership

Full names and addresses of all partners:

<u>Names</u>	<u>Addresses</u>	<u>Zip Code</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

<u>Business Address</u>	<u>Telephone Number</u>	<u>Zip Code</u>
_____	_____	_____

3. If a Corporation

Full Legal Name:

State of Incorporation:

Principal Place of Business: _____ Zip Code _____

Qualified in Massachusetts: Yes ___ No ___

Authorized Signature of Proponent: _____

Title: _____

Date: _____

THIS SECTION FOR CORPORATIONS ONLY

I hereby certify that I am the clerk of the _____
(Corporation)

that _____ is duly elected _____ of
(Name) (Office)

said company, and that the above vote has not been amended or rescinded and remains in full force and effect as of the date of this contract.

(Clerk)

CORPORATE SEAL:

SAMPLE PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT (the "Agreement"), made as of the ____ day of _____, 2016 (the "Effective Date"):

1. PARTIES; AGREEMENT TO SELL AND BUY

The Town of Deerfield a Massachusetts Municipality, 8 Conway Street, South Deerfield, MA 01373 ("Seller"), agrees to sell and _____ ("Buyer"), agrees to buy the Property, as hereinafter described, upon the terms set forth in this Agreement. Seller and Buyer are hereinafter sometimes referred to collectively as the "Parties" and individually as a "Party".

2. THE PROPERTY.

2.1 The Land.

That certain parcel of land, located on Assessors' Map _____, Lot ____ and, consisting of approximately _____ +/- SF, more or less, located at _____, Deerfield, Franklin County, Commonwealth of Massachusetts and together with all structures and improvements thereon and further described as a portion of the land described in the deeds to the Seller which said Deeds are recorded at the Franklin County Registry of Deeds in Book _____ Page _____, (hereinafter referred to as the "Premises") and as more fully set forth on the Plan attached hereto as Exhibit A.

2.2 Additional Interests in Real Estate.

(a) All buildings, structures and other improvements (hereinafter collectively referred to as the "Improvements") now located, placed, erected or constructed upon the Land;

(b) All of Seller's estate, right, title and interest, if any, in and to any and all streets, alleys, passages, easements, rights of way, ways, water, water courses, privileges, permits, licenses, and any appurtenances and other rights and benefits belonging, or in any way related, to the Land;

(c) All of Seller's estate, right, title and interest, if any, in and to any land lying in the bed of any street, road, avenue, way or boulevard which abuts the Land, and all right, title and interest of Seller, if any, in and to any award made or to be made in lieu thereof and in and to any award for damage to the Land or any Improvement by reason of any change of grade in any street, road, avenue, way or boulevard.

The Land, the Improvements and the other items mentioned in the preceding clauses (a), (b) and (c) are sometimes referred to as the "Real Estate".

2.3 Fixtures and Equipment.

All of Seller's right, title and interest in and to all fixtures and equipment presently affixed or attached to the Real Estate, together with, if not included within the foregoing, any, furnaces, heaters, heating equipment, oil and gas burners and fixtures appurtenant thereto, hot water heaters, plumbing and bathroom fixtures, electric and other lighting fixtures, fences, gates, trees,

shrubs, plants, situated upon and used in connection with the Land and the Improvements (collectively, the "Fixtures and Equipment").

2.4 Personal Property

(a) All of Seller's right, title and interest in and to any permits, licenses or governmental approvals with respect to the Real Estate, if any and if and to the extent transferable, (referred to herein collectively as, the "Permits");

(b) All plans, drawings and specifications, surveyors, engineering and other tests and reports relating to the Real Estate to the extent in Seller's possession or control and do not contain confidential or proprietary information (the "Plans").

The Permits and the Plans are sometimes referred to herein as the "Personal Property".

The Real Estate, the Fixtures and Equipment and the Personal Property are sometimes collectively referred to herein as the "Property".

3. PURCHASE PRICE.

THE AGREED PURCHASE PRICE FOR SAID PROPERTY IS _____ DOLLARS, OF WHICH:

\$_____ have been paid as a deposit this day, and

\$_____ are to be paid at the time of delivery of the Deed (subject to adjustments, if any, as provided in Section 11 below) in cash, or in good and immediately available funds by certified, or Bank cashier's or treasurer's check(s) drawn on or by a Boston Clearing House Bank payable directly to Seller, provided that, at Seller's request, all amounts due to Seller hereunder shall be transmitted by Federal wire to Seller's wire address specified in writing to Buyer not less than three (3) Business Days prior to the Closing.

\$_____ TOTAL

4. BUYER'S INSPECTION/DUE DILIGENCE.

4.1 Seller's Due Diligence Deliveries; Disclaimer of Reliance.

4.1.1 Deliveries. Within five (5) Business Days of the Effective Date of this Agreement, Seller will deliver to Buyer or Buyer's counsel copies of each the following, to the extent that the same are within the possession or control of Seller ("Seller's Due Diligence Deliveries"):

(a) Any surveys, plans and specifications and title insurance policies relating to the Property and any subdivision thereof;

(b) Any reports prepared for Seller by consultants or engineers relating to the environmental status and general physical condition of the Property or any such reports which are in the possession of the Seller but not necessarily prepared for Seller;

(c) Any Permits currently outstanding with respect to the Property;

(d) All contracts affecting the Property including but not limited to all leases and agreements for tenancies.

Notwithstanding the foregoing, if Seller determines that any items required to be provided to Buyer hereunder are too extensive or bulky to be copied and delivered in their entirety, Seller may make such items available to Buyer and its attorneys, consultants, and other representatives during normal business hours at the offices of the General Counsel of Northeastern University.

4.1.2 Disclaimer. Seller's Due Diligence Deliveries are provided to Buyer to assist Buyer in its evaluation of the Property, but without warranty or representation of any kind, as to accuracy, completeness or otherwise. Buyer acknowledges and agrees that, with the exception of Seller's Warranties and Representations set forth in Section 6.1 below, Buyer enters into and will consummate this Agreement based solely on its own knowledge and investigations and not based on Seller's Due Diligence Deliveries or on any other statement or information made or provided by Seller or any person acting on Seller's behalf.

4.2 Due Diligence Period.

From and after the Effective Date of this Agreement, Seller hereby grants to Buyer and Buyer's agents, employees, contractors, consultants and other representatives (collectively "Buyer Related Parties"), upon the terms and conditions hereinafter set forth, the right and license to go upon the Real Estate after reasonable notice given to _____ ("Seller's Representative"), from time to time during normal business hours and at such other times as Seller's Representative shall authorize, for the purposes of making such inspections, tests, surveys and other studies as Buyer may deem necessary or appropriate concerning percolation, soil compaction, water table, topography, utilities, survey, zoning, hazardous waste, wetlands, environmental matters, title issues, conservation matters, economic viability of the Project or any other matters relevant to the permitting and development of the Project (collectively, whether performed by Buyer or by any one or more of the Buyer Related Parties, "Buyer's Due Diligence Activities"); provided that any geotechnical or other subsurface testing, or other invasive or destructive testing, shall be subject to Seller's prior written approval in Seller's sole discretion. Seller shall have the right to have a representative present during all or any of Buyer's Due Diligence Activities.

4.3 Right to Terminate.

In the event that any of Buyer's tests, studies, or investigations are unsatisfactory to Buyer, Buyer may, in the exercise of Buyer's sole, exclusive and absolute discretion, for any reason or no reason or cause whatsoever, terminate this Agreement, by written notice given to the Seller not later than 5:00 PM on the sixtieth (60th) day after the Effective Date (the "Due Diligence Termination Date", the period from the Effective Date to the Due Diligence Termination Date being herein referred to as the "Due Diligence Period"), in which event, the Deposit, with interest earned thereon, shall be returned to Buyer forthwith, all obligations hereunder except those which are specifically stated to survive termination, shall terminate, and this Agreement shall be otherwise void and without recourse to either Party.

4.4 Effect of Failure to Terminate.

If Buyer does not terminate this Agreement on or before the Due Diligence Termination Date as hereinabove provided, Buyer will be deemed to have accepted the Property "AS IS", in its condition and with all defects and objections existing as on the Due Diligence Termination Date, and to have waived any and all defects and objections existing as of that Date, The forgoing shall likewise not be deemed to waive or otherwise affect Buyer's rights with respect to Title, as provided in Section 5 below.

4.5 Buyer's Indemnity; Restoration.

Buyer assumes all risks associated with Buyer's Due Diligence Activities and agrees, to the extent permitted by law, to indemnify and hold harmless Seller and its managers, members, trustees, officers, directors, employees, agents, invitees, consultants and contractors (collectively, "Seller Related Parties") of, from and against any and all costs, losses or damages to the Property or to other properties or persons, or other claims, demands, damages, liabilities, expenses and other obligations (including, without limitation, attorneys' fees and court costs) (collectively, "Liabilities"), including without limitation Liabilities suffered or incurred by Buyer, any Buyer Related Party or any other person, arising from, out of or in connection with or otherwise relating to Buyer's Due Diligence Activities, excepting only those resulting from the gross negligence or willful malfeasance of Seller, and shall promptly repair and restore to its prior condition, any portion of the Property damaged or altered by Buyer's Due Diligence Activities. The obligations of Buyer contained in this Section shall survive the Closing or earlier termination of this Agreement for whatever cause. Buyer shall provide to Seller prior to its entry on the Property, certificates of liability insurance for Buyer and any Buyer Related Parties and naming Seller as an additional insured, with limits not less than Three Million Dollars (\$3,000,000.00) per occurrence.

4.6 Disclosure.

If Buyer or any Buyer Related Party concludes that applicable laws require disclosure to any federal, state or local public agencies of any condition at the Property of which Buyer acquires knowledge as a result of any inspection, testing or analysis of the Property or otherwise in connection herewith, Buyer shall immediately notify Seller and agrees that Seller, not Buyer or any Buyer Related Party shall make such disclosure as Seller deems appropriate, unless such disclosure is required by law to be made by Buyer or a Buyer Related Party, in which case Buyer or such Buyer Related Party may make such disclosure and immediately notify Seller thereof.

4.7 Return of Materials.

If, for any reason, the Closing does not occur, Buyer shall return to Seller all Due Diligence Materials and other information regarding the Property that Seller has provided to Buyer which are within Buyer's possession or control. Buyer's obligations in this Section shall specifically survive the termination of this Agreement, for whatever cause.

4.8 Continued Access to Property Following the Due Diligence Period.

Provided that this Agreement has not been terminated and for so long as this Agreement remains in full force and effect and no Buyer Default is outstanding, Buyer and Buyer's agents shall have access to the Property subsequent to the expiration of the Due Diligence Period, for the purposes and subject to the same terms and conditions (including the insurance and other requirements set forth in Section 21) as applicable to Buyer's Due Diligence Activities during the Due Diligence Period.

5. TITLE AND SURVEY REVIEW

5.1 Title Review.

During the Due Diligence Period, Buyer shall be entitled, at Buyer's sole cost and expense, to cause title to the Property to be examined or to obtain a commitment for title insurance or preliminary report ("Title Report") and to obtain and review documents and information pertaining to the exceptions to title listed in the Title Report; and to obtain a survey of the Property ("Buyer's Survey"). Contemporaneously with the provision of a Title Objections Notice (as defined in Section 5.2) to Seller, Buyer shall provide copies of the Title Report and Buyer's Survey to Seller.

5.2 Title Objections.

Buyer shall advise Seller in writing and in reasonable detail, not later than 5:00 PM on the last day of Due Diligence Period, of any defects, encroachments or other objections to title or survey objections (collectively, "Title Objections"; and Buyer's notice as the "Title Objections Notice") which Buyer finds unacceptable. Seller shall use reasonable efforts to cure any Title Objection properly raised by Buyer in its Title Objections Notice, such that Buyer's Title Company agrees to delete such Title Objection from the title commitment or policy issued to Buyer or, if acceptable to Buyer, in its reasonable judgment, agrees to insure over such Title Objections (in either case, with such qualification, a "Cure"), provided that Seller shall not be required to expend or to incur costs for such purpose, including legal fees and costs, in excess of one-half of one-percent of the total purchase price in the aggregate for all Title Objections. Buyer will indicate in its Title Objection Notice any Title Objection as to which agreement by Buyer's Title Company to insure over would not be an acceptable Cure. Any Title Objection not set forth by Buyer in a timely Title Objections Notice shall constitute a Permitted Exception for the purposes of Section 9.1 below, provided however, the Buyer shall retain all rights hereunder as to any Title Objection that first comes into existence after expiration of the Due Diligence Period.

6. WARRANTIES AND REPRESENTATIONS

Unless otherwise expressly stated in this Agreement, each of the warranties and representations of Seller and Buyer shall survive the Closing and delivery of the deed and other closing documents by Seller to Buyer, for a period of one (1) year, and shall not be deemed to have merged therewith.

6.1 Seller's Warranties and Representations.

Seller warrants and represents to Buyer that the following statements ("Seller's Warranties") are true as of the Effective Date. Wherever a statement is made "to the best of Seller's knowledge", or words of like import, such statement is limited to the actual present knowledge.

- (a) Seller is a municipal corporation, duly organized, validly existing and in good standing under the laws of the Commonwealth of Massachusetts. Seller has all requisite power and authority to execute and deliver this Agreement and to carry out its obligations hereunder. This Agreement has been, and the documents contemplated hereby will be, duly executed and delivered by Seller and constitutes its legal, valid and binding obligation enforceable against Seller in accordance with their terms.

- (b) The consummation by Seller of the sale of the Real Estate is not in violation of or in conflict with, nor does it constitute a default under, any term or provision of the organizational documents of Seller, or with any of the material terms of any material agreement or instrument to which Seller is a party, or by which Seller is bound or with any provision of any applicable law.
- (c) There has not been filed by or, to Seller's actual knowledge, against Seller any petition in bankruptcy or other insolvency proceedings or proceedings for reorganization of Seller or for the appointment of a receiver or trustee for all or any substantial part of Seller's property, nor has Seller made any assignment for the benefit of its creditors or filed a petition for an arrangement, or entered into an arrangement with creditors which has not, in each case, been terminated prior to the Effective Date of the Agreement.
- (d) Except as set forth on EXHIBIT B hereto, there are no agreements or contracts affecting all or any part of the Real Estate or the use thereof to which Seller is a party which would be binding upon or otherwise affect the Buyer or its nominee that would not be terminable at will by Buyer without penalty from and after the time of Closing.
- (e) To the best of Seller's knowledge, Seller has received no notice of any suits, actions, orders, decrees, claims, writs, injunctions or proceedings pending against Seller or affecting all or any part of the Real Estate or the operation thereof before any court or administrative agency or officer which, if adversely determined, would have a material adverse effect upon the transactions contemplated by this Agreement, which have not been settled, withdrawn or otherwise terminated such that they do not represent an impediment to the transactions contemplated by this Agreement.
- (f) To the best of Seller's knowledge, Seller has not received notice of any condemnation proceeding pending against all or any material part of the Real Estate which Seller has not disclosed to Buyer.
- (g) Seller shall not take any of the following actions without the express written consent of Buyer:
 - i. Make or permit to be made any material alterations to or upon any of the Real Estate unless required by any governmental authority or otherwise by applicable law, the requirements of Seller's insurer or in connection with a casualty loss;
 - ii. Enter into leases or grant any easements or other interests or enter into any other agreements with respect to any of the Real Estate, or any portion thereof, which would be binding upon Buyer or its nominee subsequent to a Closing hereunder or amend, extend, renew, terminate or otherwise modify any lease on all or any portion of the Real Estate;
 - iii. Alienate, or otherwise transfer or voluntarily encumber any interest in the Real Estate.
- (h) Seller has no knowledge of any hazardous materials which have been released, disposed of, or otherwise deposited in, on or under the Real Estate (including, without limitation, the surface and subsurface waters of the Real Estate).

If the statements set forth above are not true in all material respects when made or if all such statements are not true at the time of Closing, Buyer shall be entitled to terminate this Agreement and receive a refund of its Deposit, provided that if, prior to Closing, Seller takes such

steps as are necessary to render and in fact renders true a statement which was untrue when made, such termination shall be deemed rescinded and this Agreement shall continue as if such notice had not been given.

6.2 Buyer's Warranties and Representations.

Buyer warrants and represents to Buyer that the following statements ("Buyer's Warranties") are true as of the Effective Date. Wherever a statement is made "to the best of Buyer's knowledge", or words of like import, such statement is limited to the actual present knowledge.

- (a) Buyer is a _____, _____(corporation/individual/etc?). Buyer has all requisite power and authority to execute and deliver this Agreement and to carry out its obligations hereunder. This Agreement has been, and the documents contemplated hereby will be, duly executed and delivered by Buyer and constitutes its legal, valid and binding obligation enforceable against Buyer in accordance with their terms.
- (b) There has not been filed by or, to Buyer's actual knowledge, against Buyer any petition in bankruptcy or other insolvency proceedings or proceedings for reorganization of Buyer or for the appointment of a receiver or trustee for all or any substantial part of Buyer's property, nor has Buyer made any assignment for the benefit of its creditors or filed a petition for an arrangement, or entered into an arrangement with creditors which has not, in each case, been terminated prior to the date of the Agreement.
- (c) Buyer has financial resources sufficient to pay the Purchase Price and otherwise undertake and complete the transactions set forth herein.

If the statements set forth above are not true in all material respects when made with respect to Buyer, or are not true as of the time of Closing with respect to Buyer and any person or entity nominated by Buyer to take title in accordance with Section 9.1, a Buyer Default shall be deemed to exist hereunder and Seller may exercise any of the remedies set forth in Section 19.1, provided that if, prior to Closing, Buyer takes such steps as are necessary to render and in fact renders true a statement which was untrue when made, such termination shall be deemed rescinded and this Agreement shall continue as if such notice had not been given.

6.3 Inaccurate Representations.

If after the date hereof and prior to the Closing, either party obtains knowledge that any of the representations or warranties made herein by the other are untrue, inaccurate or incorrect in any material respect, then such party shall give the other party written notice thereof within five (5) Business Days of obtaining such knowledge and the party so notified shall have the opportunity to cure such matter prior to the date on which the Closing is otherwise scheduled to occur under this Agreement, including any extension thereof.

7. CLOSING DATE, TIME and PLACE

Unless this Agreement is sooner terminated in accordance with its terms, the deed conveying the Real Estate is to be delivered at 10:00AM on the earlier of: (a) the date that is sixty (60) days following the date upon which the parties have executed this agreement (the "Time of Closing"). The Seller will in good faith cooperate with the Buyer and extend the Time of Closing for a reasonable period of time beyond the sixty (60) days as is necessary; provided, however, that in

no event shall the Time of Closing be extended later than _____. The Closing shall take place at the Town of Deerfield, Town Hall, 8 Conway Street, South Deerfield, MA 01373.

8. CONTINGENCIES TO CLOSING.

8.1 Buyer's Contingencies.

Buyer's obligation to complete the Closing under this Agreement, are contingent upon the satisfaction of each of the following:

Delivery of Documents. Delivery by Seller to Buyer of each of the documents listed in Section 10.1.

Possession, Condition and Legal Compliance of Real Estate. The Real Estate is in compliance with the provisions of this agreement.

Seller's Warranties. Seller's Warranties are true, accurate and not misleading in all material respects as of the Time of Closing;

Absence of Seller Defaults. No Seller Default has arisen and remains outstanding at the Time of Closing.

8.2 Seller's Contingencies.

Seller's obligation to complete the Closing under this Agreement, are contingent upon the satisfaction of each of the following:

- (a) Payment of Purchase Price. Payment by Buyer or its nominee of the balance of the Purchase Price in accordance with the provisions of Section 3 above.
- (b) Buyer's Warranties. Buyer's Warranties being true, accurate and not misleading in any material respect as of the Time of Closing;
- (c) Absence of Buyer Defaults. No Buyer Default has arisen and remains outstanding at the Time of Closing.

9. CONVEYANCE; QUALITY OF TITLE; CONDITION OF REAL ESTATE

9.1 Conveyance; Quality of Title.

The Real Estate is to be conveyed by a good and sufficient quitclaim deed (the "Deed") running to the Buyer, or to the nominee designated by the Buyer by written notice to the Seller at least three (3) Business Days prior the Time of Closing. The Deed shall convey a good and clear record marketable and insurable title thereto, free from defects and encumbrances, except:

- (a) Provisions of existing applicable building, zoning and other governmental laws, ordinances and regulations in effect on the date of delivery of the Deed;
- (b) Such taxes for the then current year as are not due and payable on the date of the delivery of such Deed;
- (c) Any liens for municipal betterments assessed after the date of this Agreement;
- (d) Any defects, easements, liens, restrictions, encumbrances, encroachments, agreements or other matters of record which constitute Permitted Exceptions as provided in Section 5.2.
- (e) All matters which would be revealed or disclosed by a survey (if Buyer does not obtain a Survey) or by a physical inspection of the Real Estate.

The excepted matters referred to in clauses (a) through (e) inclusive of this Section 9.1, are referred to in this Agreement as the “Permitted Exceptions”.

If the Deed refers to a plan necessary to be recorded herewith, the Seller shall deliver such plan with the Deed in form adequate for recording or registration. The Deed shall be in form sufficient to entitle the Buyer to a Certificate of Title of the Real Estate, and the Seller shall deliver with the Deed all instruments, if any, necessary to enable the Buyer to obtain such Certificate of Title.

9.2 Voluntary Encumbrances; Use Of Purchase Money To Clear Title.

Any other provision of this Agreement to the contrary notwithstanding, the term “Permitted Encumbrance” shall not include any mortgage or other voluntary monetary encumbrance given or assumed by Seller, all of which Seller shall payoff and, except as provided in the following sentence, cause to be discharged, on or before Closing. To enable Seller to make conveyance as herein provided, Seller may, at the time of Closing, use the purchase money or any portion thereof to clear the title of any or all Title Objections, provided that all instruments so procured are recorded simultaneously with the delivery of the Deed, or, with respect to institutional mortgages, subsequent to Closing in accordance with customary conveyancing practice in the Boston, Massachusetts.

9.3 Possession and Condition of Premises.

Full possession of said Real Estate shall be delivered at the Time of Closing, the Real Estate to be then (a) in the same condition as on the Effective Date, reasonable use and wear and damaged resulting from the actions of Buyer or anyone acting on behalf of Buyer excepted, and (b) not in violation of any applicable building and zoning laws, unless the violation in question has been waived or deemed waived by Buyer in accordance with Section 4.4, and (c) in compliance with provisions of any instrument referred to in Section 10.1, unless the noncompliance constitutes a Title Objection, which has become a Permitted Exception in accordance with Section 9.1.

9.4 Extension to Cure Title or Make Premises Conform.

9.4.1 Extension of Time of Closing. If Seller is unable, at the Time of Closing, to give title or to make conveyance, or to deliver possession of the Real Estate, all as herein stipulated, or if, at the Time of Closing, the Real Estate does not conform with the provisions hereof (collectively, “Surviving Objections”), then the Time of Closing shall be extended for sixty (60) days and Seller shall use reasonable efforts to remove and Cure any Surviving Objections, provided that Seller shall not be required to incur costs and expenses, including legal fees, to remove and cure any Surviving Objections in excess of Ten Thousand (\$10,000.00) Dollars in the aggregate, including any amounts previously expended by Buyer to Cure Title Objections in accordance with Section 5.2.

Notwithstanding the foregoing, if Seller has removed and Cured all Surviving Objections prior to the Time of Closing as extended as aforesaid, Seller shall give written notice to Buyer, accompanied by such documents and information reasonably necessary to establish that Cure has been effected and setting a Business Day, not less than ten (10) or more than fifteen (15) Business Days after Seller’s notice, as the Time of Closing.

9.4.2 Effect of Failure to Cure. If, at the expiration of the extended time, Seller has failed to remove and Cure any Surviving Objections pursuant to this Section 9, such failure shall not constitute a Seller Default as provided in Section 19.2, but Buyer may elect to

terminate this Agreement by written notice to Seller not later than the extended Time of Closing, in which event, the Deposit, with interest earned thereon, shall be returned to Buyer forthwith, all obligations hereunder except those which are specifically stated to survive termination, shall terminate, and this Agreement shall be otherwise void and without recourse to either Party; provided that Buyer shall have the election, at either the original or extended Time of Closing, to accept such title as Seller can deliver to the Real Estate (any existing Title Objections to thereafter be deemed Permitted Exceptions) in its then condition and to pay therefor the Purchase Price, without holdback, offset or deduction, in which case Seller shall convey such title to the Real Estate in its then condition, and provided further that, (i) if any portion of the Real Estate shall have been taken by exercise of the power of eminent domain, Seller shall pay over or assign to Buyer at Closing all awards recovered or recoverable on account of such taking, less any amounts reasonably expended by Seller in obtaining such award, (ii) if the Real Estate shall have been damaged by fire or casualty insured against, then Seller shall, unless Seller has previously restored the Real Estate to its former condition, pay over or assign to Buyer at Closing, all amounts recovered or recoverable on account of such insurance, less any amounts reasonably expended by Seller in the collection thereof or for partial restoration.

9.5 Environmental Conditions.

Buyer hereby agrees to release, and hold Seller and Seller's officers, trustees, agents, employees, assignees, and invitees harmless from any and all claims, liabilities, demands, judgments, actions, causes of action, injuries, administrative or regulatory orders, penalties, costs and expenses, including attorneys' fees and expert fees (inclusive of those incurred in enforcing this indemnity) arising directly or indirectly out of or resulting from the presence or release of any hazardous substances or materials (as the same are or may hereafter be defined by federal and state statutes and regulations), or other environmental conditions, on, in or under the Real Estate (or migrating from the Real Estate), whether existing or occurring prior to or after the date hereof (together, "Costs and Liabilities"), except to the extent that any such Costs and Liabilities are directly attributable to a release of such hazardous substances or materials caused by Seller during the period of its ownership of the Real Estate.

10. CLOSING DELIVERIES

10.1 Seller's Closing Deliveries.

In addition to the Deed, Seller shall, as a condition of Buyer's obligations to Close under this Agreement, deliver to Buyer or its nominee at the time of the Closing, at Seller's sole cost and expense, the following documents duly executed and acknowledged as provided therein in form and substance reasonably satisfactory to Buyer:

- (a) Evidence reasonably satisfactory to Buyer's Title Company of the authority of persons executing this Deed and the other documentation to be executed and delivered by Seller hereunder;
- (b) A release bill of sale conveying to Buyer or its nominee(s) good and clear title to any Personal Property not transferred by the Deed free and clear of all liens and encumbrances;

- (c) Such customary affidavits and indemnities as Buyer's Title Company may reasonably require in order to issue so-called owner's title insurance policies insuring Buyer's title to the Real Estate without any exception for mechanics' or materialmen's liens attributable to Seller or persons acting on Seller's behalf or for parties in possession;
- (d) Seller's certification, pursuant to the provisions of Section 1445 of the Internal Revenue Code of 1986, as amended, as to the status of Seller as a "nonforeign person" or corporation, as the case may be, thereunder, (provided, however, that if such certification shows any ownership interest in the Property that requires withholding of a portion of the Purchase Price by Buyer pursuant to the provisions of said Section 1445, Seller agrees that the amount of any such required withholding shall be withheld from the Purchase Price and Buyer agrees to comply with all requirements of said Section 1445 with respect to such withholding);
- (e) A certification by Seller that Seller's Warranties are true complete and accurate in all material respects as of the Time of Closing;
- (f) All proper documents for the assignment of any insurance or condemnation proceeds which are to be assigned in accordance with Section 9.4.2 above, if any;
- (g) If the Property constitutes all, or substantially all of the Seller's assets and Seller is a corporation, Seller will deliver at the Closing a corporate excise tax lien waiver in accordance with applicable law; and
- (h) A settlement statement setting forth the Closing Adjustments, amounts due and other customary matters regarding the Closing in accordance with the terms of this Agreement, mutually satisfactory to Seller and Buyer (the "Settlement Statement").

In the event that Seller cannot, after using all reasonable efforts, deliver to Buyer one or more of the foregoing instruments at the Time of Closing, then, at Buyer's option, exercised by notice in writing to Seller not later than the Closing, the Time of Closing shall be extended for thirty (30) days, and Seller shall use all reasonable efforts to deliver such instrument(s). If, at the expiration of the extended time, Seller shall be unable, after using all reasonable efforts, to deliver one or more of such instruments, then, at Buyer's option, exercised by notice in writing to Seller not later than the extended Time of Closing, Buyer shall either (i) waive Seller's failure to so deliver such instrument(s) and close as otherwise contemplated hereunder, without holdback, offset or deduction from the Purchase Price or (ii) terminate this Agreement, by written notice to Seller not later than the extended Time for Closing, in which event, the Deposit, with interest earned thereon, shall be returned to Buyer forthwith, all obligations hereunder except those which are specifically stated to survive termination, shall terminate, and this Agreement shall be otherwise void and without recourse to either Party.

10.2 Buyer's Closing Deliveries.

In addition to the balance of the Purchase Price, as affected by Closing Adjustments and other applicable terms of this Agreement, paid in accordance with Section 3 above, Buyer shall, as a condition of Seller's obligation to Close under this Agreement, deliver to Seller a counterpart of the Settlement Statement.

11. ADJUSTMENTS.

At the time of Closing, the Purchase Price shall be adjusted based upon the following procedures, and such adjustments (the "Closing Adjustments") shall be added to or deducted from the Purchase Price, as appropriate:

- (a) Real estate tax payments, water and sewer charges, operating expenses (if any) and other utility costs of the Real Estate shall be apportioned as of the Closing, and shall be added to or deducted from the Purchase Price, as appropriate. Seller shall be responsible for requesting a final reading for water or any other metered utilities and shall pay the same through the Time of Closing. If final real estate taxes for the then current tax year are not known on the Time of Closing, the apportionment of real estate taxes called for herein shall be made on the basis of the real estate taxes for the preceding tax year, and an appropriate adjustment shall be made when such real estate taxes are known. If the taxes which are to be apportioned shall thereafter be reduced by abatement, the amount of such abatement, less the reasonable third party costs of obtaining the same, shall be apportioned between the parties.
- (b) Seller will receive a credit against the Purchase Price for all interest accrued on the Deposit, if any.
- (c) The provisions of this Section 11 shall survive the Closing. In the event any prorations or apportionments made under this Section 11 shall prove to be incorrect for any reason, then either Party shall be entitled to an adjustment to correct the same so long as said correction is requested within sixty (60) days of the Closing. Any item which cannot be finally prorated because of the unavailability of the information shall be provisionally prorated on the basis of the best data then available and re-prorated when the information is available.

12. TRANSACTION COSTS.

Buyer shall pay all closing and transaction costs customarily paid by a purchaser of properties similar to the Real Estate in the Boston, Massachusetts area, including, without limitation, if any, recording fees (except as hereafter provided), Buyer's attorneys' fees, all costs of Buyer's due diligence investigations, the premium and any other costs incurred in connection with Buyer's title insurance policy, the cost of Buyer's Survey, the costs of municipal lien certificates and utility readings, and any other costs and expenses specifically assigned to Buyer under this Agreement. Seller shall pay all closing and transaction costs customarily paid by a seller of properties similar to the Real Estate in Boston, Massachusetts, including, without limitation, Seller's attorneys' fees, all costs of Curing any Title Objection which Seller is required Cure (subject to the provisions of Sections 5.2 and 9.4.1) and the cost of recording any documents required to be recorded in connection therewith, the Broker's commission payable to Seller's Broker, if any, identified in Section 14 below, pursuant to the terms of Seller's agreement with such Broker and any other costs and expenses specifically assigned to Seller under this Agreement.

13. ACCEPTANCE OF DEED.

The acceptance of the Deed by the Buyer or its nominee, as the case may be, 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 or survive the delivery of said Deed.

14. BROKER'S FEE.

A Broker's fee for professional services is due from the _____ to _____'s Broker, ("Broker") pursuant to a separate agreement, but only if, as and when the title passes, the Deed is recorded, and Seller is paid in full hereunder and not otherwise for any reason.

15. BROKERAGE WARRANTY AND INDEMNITY.

Buyer and Seller each warrant and represent to the other that they have not dealt with any broker or other person who would be entitled to any payment in the nature of a brokerage commission or finder's fee (a "Brokerage Commission") in connection with the Property or the transaction set forth in this Agreement except the Broker named in Section 14 and agrees to hold the other harmless and indemnified against any claim for a Brokerage Commission by any person with whom they have dealt in breach of the foregoing warranty.

16. BROKER'S WARRANTY.

The Broker named herein, _____, warrants that it is duly licensed as a Real Estate Broker by the Commonwealth of Massachusetts.

17. BROKER AS PARTY

The Brokers named herein join in this Agreement and become parties hereto, insofar as any provisions of this Agreement expressly apply to the Brokers, and to any amendments or modifications of such provisions to which the Brokers agree in writing.

18. DEPOSIT ESCROW PROVISIONS.

The deposit made hereunder (the "Deposit") shall be held in escrow by _____, as escrow agent ("Escrow Agent") subject to the terms of this Agreement and shall be duly accounted for at the Time of Closing. The Deposit made hereunder shall be maintained in an FDIC-insured account in bank local to the Town and shall be held and disbursed by Escrow Agent only in accordance with the terms of this Section 18.

- (a) If a Closing occurs and the Deed is recorded hereunder, Escrow Agent shall promptly transmit the Deposit and all interest accrued thereon as directed in writing by Seller.
- (b) If the Escrow Agent receives written notice from either Buyer or Seller (the "Notifying Party") that this Agreement has been terminated under circumstances which entitle the Notifying Party to the Deposit, then the Escrow Agent shall (i) promptly give notice to the other Party of the Escrow Agent's receipt of such notice from the Notifying Party and shall enclose a copy of the notice received from the Notifying Party, and (ii) subject to the provisions of Section 18 (c) below, if Escrow Agent does not receive written notice from the other Party objecting to the disbursement of the Deposit to the Notifying Party (a "Notice of Contest") within ten (10) Business Days of receipt by the other Party of Escrow Agent's notice, then Escrow Agent shall deliver the Deposit and the interest thereon to the Notifying Party. If Escrow Agent receives a Notice of

Contest in accordance with the foregoing, Escrow Agent shall continue to hold the Deposit and all interest thereon and shall only disburse the same (x) in accordance with written instructions, jointly signed by Buyer and Seller, or (y) in accordance with the final order of a court of competent jurisdiction.

- (c) If the Escrow Agent is uncertain as to its duties or action hereunder, Escrow Agent will be entitled to deliver the Deposit and all interest thereon, to a court of competent jurisdiction and commence an action for interpleader, naming Buyer and Seller, whereupon the Escrow Agent shall have no further duty with respect to the Deposit.
- (d) The Escrow Agent shall not be liable for any action taken or omitted in good faith and may rely, and shall be protected in acting or refraining from acting in reliance, upon an opinion of counsel and upon any directions, instructions, notices, certificates, instruments, requests, papers or other documents believed by it to be genuine and to have been made, sent, signed or presented by the proper party or parties.
- (e) Buyer and Seller agree, jointly and severally, to hold harmless the Escrow Agent against any loss, cost, liability, claim and expense incurred by Escrow Agent (“Escrow Agent Claims”) arising out of or in connection with its services hereunder, except such as may result from the gross negligence or willful malfeasance of Escrow Agent, including the costs and expenses of any interpleader action involving the Deposit or of defending itself against any claim or liability.

19. DEFAULTS AND REMEDIES

19.1 Buyer Defaults; Seller’s Remedies.

If the Buyer shall fail to fulfill the Buyer’s agreements herein and fail or refuse to Close and to pay the Purchase Price as and when required hereunder, (a “Buyer Default”, which term shall also include a Buyer Default arising under Section 22.18 below), this Agreement shall automatically terminate and all Deposit made hereunder by the Buyer, with interest accrued thereon, shall be paid over and disbursed to Seller as liquidated damages, and which shall be Seller’s sole remedy, at law or in equity, for Buyer’s Default hereunder.

19.2 Seller Default, Buyer’s Remedies.

If Seller shall fail to fulfill the Seller’s agreements herein, other than by reason of Buyer’s fault or other reasons beyond Seller’s control (a “Seller Default”), then, as Buyer’s sole and exclusive remedy in such event, Buyer shall have the right: (i) to terminate this Agreement by written notice to Seller and to obtain the return of the Deposit, together with interest accrued thereon and in addition, Seller shall pay to Buyer upon demand, Buyer’s Transaction Costs, as hereinafter defined, up to a maximum of Twenty-Five Thousand (\$25,000.00) Dollars; or (ii) to seek to compel Seller to convey the Property to Buyer in accordance with the terms of this Agreement in return for payment by Buyer to Seller of the full Purchase Price required hereunder, without offset or deduction, provided that Buyer shall give notice to Seller to terminate this Agreement or shall file suit to compel conveyance hereunder within thirty (30) days of the date of Seller’s alleged breach. The term “Buyer’s Transaction Costs” shall mean (a) the reasonable legal fees incurred by Buyer in connection with the preparation of this Agreement, (b) all arm’s length third party costs and expenses incurred by Buyer in connection with Buyer’s Due Diligence Activities, including all fees and expenses paid to environmental or other consultants, all fees and expenses paid to a surveyor, the cost of any title examination or title commitment obtained by Buyer, the

premiums for any additional insurance obtained in respect to Buyer’s Due Diligence Activities at the Real Estate in accordance with Section 4.2 of this Agreement, and any reasonable legal fees incurred by Buyer in connection with Buyer’s Due Diligence Activities. Buyer’s demand to Seller in connection with the foregoing shall be accompanied by such bills, invoices, evidence of payment and other information as are reasonably necessary to establish for Seller the amount and nature of all Transaction Costs which Buyer seeks to recover.

20. NOTICES

All notices required or permitted to be given hereunder shall be in writing, shall be delivered (a) in hand, evidenced by written receipt signed by the individual addressee (b) by a nationally-recognized overnight courier, such as FedEx or UPS, which provides confirmation of delivery, (c) by registered or certified mail, return receipt requested, postage and registration or certification charges prepaid, or (d) by facsimile, evidenced by facsimile machine hard copy confirmation of successful transmission, provided that a copy is simultaneously delivered by a method described in (a), (b) or (c) above. Notices given in accordance with the foregoing shall be deemed duly given and received: if delivered in hand, upon delivery, or if delivered by overnight courier or mail, when received or when delivery is first properly attempted, or if sent by facsimile, upon confirmation of transmission, if a copy is delivered as aforesaid. All such notices shall be addressed as follows:

If to SELLER:

Town Administrator
Town of Deerfield
8 Conway Street
So. Deerfield, MA 01373

with a copy to:

Lisa L. Mead
Blatman, Bobrowski, Mead & Talerman, LLC
30 Green Street
Newburyport MA 01950
978 463 7700 (phone)
978 463 7747 (fax)

If to BUYER:

If to Escrow Agent :

Any of the foregoing notice addressees may change its notice address by notice to all other notice addressees given in accordance with this Section 20.

21. MISCELLANEOUS

21.1 Amendments.

This Agreement may not be amended, modified, extended, revised or otherwise altered, nor may any Party hereto be relieved of any of its liabilities or obligations hereunder, except by a written instrument duly executed by both Parties. Any such written instrument entered into in accordance with the provisions of the preceding sentence shall be valid and enforceable notwithstanding the lack of separate legal consideration therefor.

21.2 Governing Law.

This Agreement is made pursuant to and shall be governed by and construed in accordance with the domestic laws of the Commonwealth of Massachusetts and the laws of the United States as applied in the Eastern District of Massachusetts, without reference to any principals of conflict or choice of laws which might dictate the application of the law of some other jurisdiction.

21.3 Headings and References.

The title of this Agreement and the Section and other headings used in this Agreement have been inserted for convenience of reference only, are not part of the Parties’ agreement, shall not be deemed in any manner to modify, expand, explain or restrict any of the provisions of this Agreement and are not intended to have any legal effect. Accordingly, no reference shall be made to any such title or heading for the purpose of interpreting, construing or enforcing any of the provisions of this Agreement.

21.4 Binding Effect.

This Agreement shall be binding upon and shall inure to the benefit of the Parties hereto, their successors in interest, heirs, legal representatives, and any permitted assigns.

21.5 Integration.

This Agreement, including the Exhibits attached hereto and the Non-Disclosure Agreement, constitutes the entire agreement and understanding of the Parties with respect to the subject matter hereof and supersedes all prior agreements, proposals, offers, counteroffers, agreements and understandings of the parties regarding said subject matter, whether written or oral,

including, without limitation, the Letter of Intent between Buyer and Seller dated September 28, 2007, all of which are hereby merged into and superseded by this Agreement.

21.6 Number and Gender, Section References.

All words used in this Agreement in the singular shall extend to and include the plural and all words used in this Agreement in the plural number shall extend to and include the singular, where the context so requires. All words used in this Agreement in any gender, whether male, female or neuter, shall extend to and include any and all genders as may be applicable in any particular context. The word "Section", when used in this Agreement shall mean the numbered Sections of this Agreement unless a contrary intent is explicitly stated.

21.7 Construction.

Each of the Parties acknowledges and agrees that they have fully read and understood the terms of this Agreement in consultation with competent counsel selected by them and that this Agreement has been negotiated with the advice of counsel and agree that neither this Agreement in its entirety nor any provision thereof shall be construed or applied more strictly against one Party than against the other by virtue of the fact that it may have been prepared by counsel for one of the Parties, it being recognized that both Seller and Buyer and their respective counsel have fully participated in the preparation of this Agreement.

21.8 Waiver.

Except as expressly provided herein, no waiver by any Party of any failure or refusal of the other Party to comply with its obligations under this Agreement shall be deemed a waiver of any other subsequent failure or refusal to so comply by such other Party of the same or any other provision of this Agreement. No waiver shall be valid unless in writing signed by the Party to be charged and then only to the extent specifically stated therein.

22.9 Severability.

If any term or provision of this Agreement or application thereof to any person or circumstance shall, to any extent, be found by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each other term or provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

21.10 Parties Not Partners.

Nothing contained in this Agreement or any of the documents or instruments to be executed pursuant hereto shall constitute any one or more of Buyer and its officers, directors, successors, as partners with, agents for, or principals of, any one or more of Seller and its officers, managers, members, successors and assigns.

21.11 Business Day.

The term "Business Day", as used in the Agreement, means any day except a Saturday, a Sunday, a day on which State or Federally chartered banks are required to close in the Commonwealth of Massachusetts or a day on which the Essex South Registry District of the Land Court is not open for the filing and registration of documents. If any payment to be made or obligation to be performed hereunder is to be made or performed on a day other than a Business Day, it shall be

deemed to be made or performed in a timely manner if done on the next succeeding Business Day.

21.12 No Third Party Beneficiaries.

This Agreement and the representations, warranties, covenants and agreements contained herein are made and entered into for the sole protection and benefit of the Parties hereto and their successors in interest, if any, and no other person, persons, entity or entities shall have any right of action hereon or right to claim any right or benefit from the terms contained herein or be deemed a third part beneficiary hereunder.

21.13 Time of the Essence.

Time is of the essence in the performance of each of the Parties' respective obligations contained herein.

21.14 IRS Real Estate Sales Reporting.

Buyer and Seller hereby agree that Buyer's attorneys shall act as "the person responsible for closing" the transaction which is the subject of this Agreement pursuant to Section 6045(e) of the Internal Revenue Code of 1986, as amended, and that Buyer's attorneys shall prepare and file the information return (IRS Form 1099-B) if required by said Section 6045(e).

21.15 Assignment.

Buyer shall not assign this Agreement or its rights and obligations hereunder without the express prior written consent of Seller which may be withheld for any reason, provided that Buyer may assign this Agreement to any corporation or other entity that directly or indirectly controls, or is controlled by, or is under common control with Buyer without the consent of Seller, but Buyer shall promptly provide to Seller written notice of such assignment together with a written assumption by assignee of the obligations of Buyer hereunder. No such assignment shall release Buyer from its obligations hereunder.

21.16 No Personal Liability.

In no event shall any officer, director, trustee, manager, shareholder, member, employee or agent of Seller or Buyer have any personal liability hereunder.

21.17 Submission Not an Offer.

The submission of this Agreement or any proposed amendment or modification to the Agreement, or supplementary agreement affecting this agreement by one of the Parties to the other for review and execution shall not be deemed an offer by Seller to sell the Property or by Buyer to buy the Property or to be bound by the terms or enter into any such amendment, modification or supplementary agreement. Neither this Agreement nor any such amendment, modification or supplementary agreement shall be binding upon or control the actions of either Party in any manner until each Party has executed and delivered to the other an original executed counterpart.

21.18 No Recording.

Buyer shall not record this Agreement or a copy, memorandum or notice thereof or cause or permit this Agreement or a copy, notice or memorandum thereof to be recorded. Any breach of the provisions of this Section shall constitute a Buyer's Default, without notice or opportunity to cure, and immediately upon such recording or at any time thereafter Seller shall be entitled to exercise any and all of its rights and remedies applicable to a Buyer's Default.

23. AGREEMENT.

This Agreement may be executed in counterparts and as so executed shall constitute one complete agreement.

Executed as an instrument under seal as of the Effective Date.

SELLER:

Town of Deerfield

By: _____

By: _____

By: _____

By: _____

By: _____

ESCROW AGENT:

As to Section 18 and 20 only

By: _____

BUYER:

By: _____

Its: President

BROKERS:

By: _____

EXHIBIT A: PLAN OF LAND