



FRANKLIN TOWN COUNCIL

September 3, 2014

7:00 PM

A. APPROVAL OF MINUTES –

B. ANNOUNCEMENTS – *This meeting is being recorded by Franklin TV and shown on Comcast channel 11 and Verizon channel 29. This meeting may be recorded by Franklin Matters.*

C. PROCLAMATIONS/RECOGNITIONS

D. CITIZEN COMMENTS

E. APPOINTMENTS – *Election Workers
Advisory Committee*

F. HEARINGS

G. LICENSE TRANSACTIONS

H. PRESENTATIONS/DISCUSSIONS – *Special Permits – Beth Wierling*

I. SUBCOMMITTEE REPORTS

J. LEGISLATION FOR ACTION

1. *Resolution 14-50: Chapter 61B – 1st Refusal Option – Property Located Off East Central Street*
2. *Resolution 14-51: Chapter 61B – 1st Refusal Option – Franklin Portion of Land on Maple Street Bellingham*
3. *Resolution 14-52: Appropriation – Recreation – Tot Lot*
4. *Resolution 14-53: Prior Year Bill*
5. *Resolution 14-54: Authorization to Issue Request for Proposals – Pond Street Property*
6. *Bylaw Amendment 14-741: Chapter 65, Collection Containers – 1st Reading*

K. TOWN ADMINISTRATOR'S REPORT

L. OLD BUSINESS

M. NEW BUSINESS

N. COUNCIL COMMENTS

O. EXECUTIVE SESSION – *Negotiations, Litigation, Real Property, as May Be Required*

P. ADJOURN

APPOINTMENTS

- ELECTION WORKERS
- ADVISORY COMMITTEE



APPOINTMENTS:

Election Workers

The Town Clerk has submitted two additional names to be appointed as Election Workers for directing voters in the new school.

Jeanne Blanchard
234 Lincoln Street

Joyce Pedersen
89 Highbank Road

MOTION to ratify the appointment by the Town Administrator of Jeanne Blanchard and Joyce Pedersen as Election Workers as requested by the Town Clerk.

DATED: _____, 2014

A True Record Attest:

Deborah L. Pellegri
Town Clerk

VOTED:

UNANIMOUS _____
YES _____ **NO** _____
ABSTAIN _____

ABSENT _____

Judith Pond Pfeffer, Clerk
Franklin Town Council


Town of Franklin



Deborah L. Pellegrini, CMC
Town Clerk
Election Administrator

Office of Town Clerk
355 East Central Street
Franklin, Massachusetts 02038-1352
(508) 520-4900
E-mail: dpellegrini@Franklin.MA.US

Notary Public
Justice of the Peace
Passport Agent

To: Jeff
From: Debbie 
Date: August 25, 2014
Subject: Additional Poll Workers

I would like to request the following residents be appointed poll workers:

Jeanne Blanchard, 234 Lincoln Street, Franklin, MA

Joyce Pedersen, 89 Highbank Road, Franklin, MA

I am planning to use additional workers to direct voters since we are in the new school.

Thank you.



APPOINTMENT:

Franklin Advisory Committee

Bruce Hunchard
496 Summer Street

Nancy Rappa
25 Queen Street

MOTION to appoint the above named individuals to serve as members of the Franklin Advisory Committee.

SECOND: _____.

DATED: _____, 2014

A True Record Attest:

Deborah L. Pellegrini
Town Clerk

UNANIMOUS _____
YES _____ **NO** _____

ABSTAIN _____

ABSENT _____

Judith Pond Pfeffer, Clerk
Franklin Town Council

PRESENTATIONS
AND
DISCUSSIONS

- SPECIAL PERMITS – BETH WIERLING, TOWN PLANNER

FRANKLIN PLANNING & COMMUNITY DEVELOPMENT

355 EAST CENTRAL STREET, ROOM 120
FRANKLIN, MA 02038-1352
TELEPHONE: 508-520-4907
FAX: 508-520-4906

MEMORANDUM

To: Jeffrey D. Nutting, Town Administrator
From: Beth Wierling, Town Planner
Re: Special Permits
Cc: Mark Cerel, Town Attorney
Bryan W. Taberner, AICP, Director
Date: August 26, 2014

As requested the Department of Planning and Community Development (DPCD) has developed the following summary regarding special permits.

The Special Permit granting Authority in Franklin is the Zoning Board of Appeals except where specifically designated in the Town's Zoning Bylaw (Chapter 185 of Franklin Town Code). A Special Permit allows for a use to be permissible in a zoning district under certain circumstances where it would otherwise not be permitted without having to obtain a variance.

Section 9 from Massachusetts General Law Chapter 40A states the following:

"Zoning ordinances or by-laws shall provide for specific types of uses which shall only be permitted in specified districts upon the issuance of a special permit. Special permits may be issued only for uses which are in harmony with the general purpose and intent of the ordinance or by-law, and shall be subject to general or specific provisions set forth therein; and such permits may also impose conditions, safeguards and limitations on time or use."

In order for Franklin's residents and business owners, and developers to easily identify when a special permit is required, the Town's Zoning Bylaw includes a use regulation schedule (Attachments 2 through 9). One page (Attachment X) of the use regulation schedule is attached as an example. As noted on top of the Attachment, uses are allowed by-right, by Special Permit from the Planning Board, by Special Permit from the Zoning Board of Appeals (ZBA) or not allowed at all.

If there were no provisions for Special permits in the Town's Zoning Bylaw, a use within a specific Zoning District would either be allowed by-right, or not allowed at all.

If there were no special permits and a use is not allowed within a specific Zoning District, developers have two possible options: 1.) Seek a use variance from the ZBA; or

2) work to get the use designated as permitted by right in that specific Zoning District through the acceptance of a Zoning Bylaw amendment by the Town Council.

Chapter 185 Section 45.D & E discusses the process for how both the Board of Appeals and the Planning Board, when designated, are to grant Special Permits. An applicant must prove that the proposed project will not have adverse effects which overbalance its beneficial effects on either the neighborhood or the Town, in view of particular characteristics of the site and the proposal in relation to that site. An applicant requesting a Special Permit from the ZBA and/or Planning Board must also provide a detailed response to several other findings in order to receive a special permit.

A Special Permit enables the granting authority "special" oversight on a proposed project that would otherwise not be available if a project was allowed by-right. For example, the Planning Board would be able to impose hours of operation on a Vehicular Service Establishment (VSE, Drive-thru) that abuts a residential neighborhood through the condition of approval, however, if allowed by right, the Planning Board would not be allowed to impose such a condition.

Planning Board would also be able to ensure the proposed project was consistent with Town and neighborhood need, that the use isn't negatively impacting traffic in the area, that pedestrian safety is addressed, that Town utilities are adequate for the proposed project's development, that the surrounding environment won't be destroyed, and the proposed buildings won't deprive surrounding residents of fresh air and light.

New Special Permit criteria were developed by Town Attorney Mark Cerel and approved by Town Council in the form of Zoning Bylaw Amendment 12-669 in March 2012. A copy of Zoning Bylaw Amendment 12-669 and a memo from Attorney Cerel to Town Council are attached for reference.

When a project is allowed by-right, the Planning Board, has minimal ability to ask for changes to a plan, only being able to ask for changes to health, safety and drainage items on a site; otherwise as indicated, the use is allowed, by-right. A use granted by special permit, is "special", allowing the granting authority to ensure the best possible project is put forward for the abutters and the Town.

ZONING

185 Attachment 3

Town of Franklin
USE REGULATIONS SCHEDULE
PART II

[Amended 3-25-1987 by Bylaw Amendment 87-91; 5-3-2000 by Bylaw Amendment 00-429; 5-3-2000 by Bylaw Amendment 00-430; 11-1-2000 by Bylaw Amendment 00-442; 2-21-2000 by Bylaw Amendment 00-451; 7-11-2001 by Bylaw Amendment 01-468; 6-1-2003 by Bylaw Amendment 03-511; 12-17-2003 by Bylaw Amendment 03-532; 10-6-2004 by Bylaw Amendment 04-549; 3-1-2006 by Bylaw Amendment 05-575; 7-13-2011 by Bylaw Amendment 11-653; 9-25-2013 by Bylaw Amendment 13-718; 10-16-2013 by Bylaw Amendment 13-723]

Symbols in the Use Regulations Schedule shall mean the following:

- Y = A permitted use.
- N = An excluded or prohibited use.
- BA = A use authorized under special permit from the Board of Appeals.
- PB = A use authorized under special permit from the Planning Board.
- P/SP = Permitted as of right. A special permit from the Board of Appeals is required if the proposed project results in an increase in estimated water consumption of more than 15,000 gallons per day.

| Principal Uses (cont'd) | DISTRICT | | | | | | | | | | | | | | | |
|---|----------|------|-----|------|--------|-------|-----|------|----------------|------|------|------|------|------|------|------|
| | RRI | RRII | RVI | RVII | SFRIII | SFRIV | GRV | NC | CI | CII | DC | B | I | LI | O | |
| 2. Commercial | | | | | | | | | | | | | | | | |
| 2.1 Adult entertainment establishment | N | | | | N | | N | N | N | N | N | N | N | N | N | N |
| 2.2 Animal kennel, hospital | BA | | | | BA | | BA | BA | BA | BA | N | BA | BA | BA | BA | BA |
| 2.21 Animal day care, training | BA | | | | BA | | BA | BA | BA | BA | N | BA | BA | BA | BA | BA |
| 2.22 Animal grooming | BA | | | | BA | | BA | BA | Y | BA | Y | BA | BA | BA | BA | BA |
| 2.3 Office, excluding office parks: | | | | | | | | | | | | | | | | |
| a. Bank or credit union | N | | | | N | | PB | PB | Y | Y | Y | Y | Y | Y | Y | Y |
| b. Medical or dental | PB | | | | PB | | PB | PB | P/SP | P/SP | P/SP | P/SP | P/SP | P/SP | P/SP | P/SP |
| c. Professional | PB | | | | PB | | PB | PB | P/SP | P/SP | P/SP | P/SP | P/SP | P/SP | P/SP | P/SP |
| d. Clerical, or administrative | N | | | | N | | PB | PB | Y ⁶ | Y | Y | Y | Y | Y | Y | Y |
| 2.4 Funeral home, undertaking | N | | | | N | | N | P/SP | P/SP | P/SP | P/SP | P/SP | N | N | N | N |
| 2.5 Hotel, motel | N | | | | N | | N | N | PB | PB | Y | PB | PB | PB | PB | PB |
| 2.6 Motor vehicle, boat, farm implement sales; rentals and leasing: | | | | | | | | | | | | | | | | |
| a. With repair service | N | | | | N | | N | N | N | PB | N | N | N | N | N | N |



355 East Central Street
Franklin, Massachusetts 02038-1352

MEMORANDUM

TO: Economic Development Committee

FROM: Mark G. Cerel, Town Attorney

RE: Proposed Zoning Bylaw Revision: Special Permit Criteria

DATE: December 28, 2011

The Massachusetts Zoning Statute G.L. Chapter 40A, Section 9 and the Town Zoning Bylaw, Town Code Chapter 185, Section 45 both provide for specially-permitted uses. These are uses which, while generally productive, have been identified as having the potential to negatively-impact the public health, safety, or welfare. As such, they are neither permitted as of right nor prohibited, but instead require application to the local special permit-granting authority (SPGA), generally, the Franklin Planning Board, but also the Zoning Board of Appeals, in certain cases, for a special permit. Both the statute and caselaw require that the local zoning bylaw provide standards or criteria for the SPGA to apply in determining whether or not to grant a special permit. As noted above, the Franklin Zoning Bylaw sets out criteria in Section 45. As presently worded, these criteria are both imprecise, raising questions about the legally-proper scope of the Board's inquiry, e.g.: (e) "qualities of the environment", and incomplete, omitting valid public concerns, e.g.: "pedestrian safety", "physical impact on abutter properties". In addition, as presently worded, some criteria are of questionable legality, e.g.: (f) "potential fiscal impact".

With the foregoing deficiencies in mind, I have drafted proposed revisions to make the criteria both specific and comprehensive. This will protect the Town by requiring the SPGA to fully analyze a proposed development to ensure that valid public health, safety and welfare concerns have been addressed; in turn, the SPGA is more likely to render legally-defensible decisions. The revisions will also benefit the development community by providing clearly-stated requirements, thereby expediting the approval process and minimizing the potential of the SPGA's abusing its discretion.

In order to understand the proposed revisions, I have provided the following "side-by-side" comparison of the existing and proposed revised language of each criteria:

Existing Provision

(a) Social, economical or community needs which are served by the proposal.

Proposed Revision

(a) Proposed project addresses or is consistent with neighborhood or Town need.

Comment

Language clarification.

Existing Provision

(b) Traffic flow and safety.

Proposed Revision

(b) Vehicular traffic flow, access and parking and pedestrian safety are properly addressed.

Comment

Adds specific elements to be considered: vehicular access and parking and pedestrian safety.

Existing Provision

(c) Adequacy of utilities and other public services.

Proposed Revision

(c) Public roadways, drainage, utilities and other infrastructure are adequate or will be upgraded to accommodate development.

Comment

Specifically defines public utilities and services and imposes specific requirements as to adequacy.

Existing Provision

(d) Neighborhood character and social structure.

Proposed Revision

(d) Neighborhood character and social structure will not be negatively impacted.

Comment

Provides specific standard for evaluating this aspect of a proposed development.

Existing Provision

(e) Qualities of the natural environment.

Proposed Revision

(e) Project will not destroy or cause substantial damage to any environmentally-significant natural resource, habitat, or feature or, if it will, proposed mitigation, remediation, replication, or compensatory measures are adequate.

Comment

Provides specific standards for evaluation of both development's impact and any mitigation measures.

Existing Provisions

(f) Potential fiscal impact.

Proposed Revision

Provision stricken.

Comment

Fiscal impact, if positive, is addressed in #1 and, if negative, is a legally-questionable ground for denial of special permit..

Existing Provision

None.

Proposed Revision

(f) Number, height, bulk, location and siting of building(s) and structure(s) will not result in abutting properties being deprived of light or fresh air circulation or being exposed to flooding or subjected to excessive noise, odor, light, vibrations, or airborne particulates.

Comment

New provision provides standards for evaluation of legally-cognizable abutter and immediate neighborhood concerns, re: physical impact(s) on existing properties.

Existing Provision

(g) Water consumption, taking into consideration current and projected future local water supply and demand.

Proposed Revision

(g) Water consumption and sewer use, taking into consideration current and projected future local water supply and demand and wastewater treatment capacity, will not be excessive.

Comment

Adds impact on sewer system capacity as consideration.

MGC:ce



TOWN OF FRANKLIN

ZONING BYLAW AMENDMENT 12-669

CHAPTER 185-45, ADMINISTRATION AND ENFORCEMENT

A BYLAW TO AMEND THE CODE OF THE TOWN OF FRANKLIN AT CHAPTER 185-45D(2)(a) and 185-45E(3).

BE IT ENACTED BY THE FRANKLIN TOWN COUNCIL that Chapter 185-45 of the Code of the Town of Franklin is amended by as follows:

Strike Section 185-45D(2)(a) in entirety:
and replace with:

~~(a) To hear and decide applications for special permits upon which the Board is empowered to act under this chapter. Special permits shall be granted by the Board of Appeals only upon its written determination that the proposed use will not have adverse effects which overbalance its beneficial effects on either the neighborhood or the Town, in view of the particular characteristics of the site and of the proposal in relation to that site. The determination shall indicate consideration of each of the following:~~

- ~~(1) Social, economic or community needs which are served by the proposal.~~
- ~~(2) Traffic flow and safety.~~
- ~~(3) Adequacy of utilities and other public services.~~
- ~~(4) Neighborhood character and social structure.~~
- ~~(5) Qualities of the natural environment.~~
- ~~(6) Potential fiscal impact.~~

(a) To hear and decide applications for special permits upon which the Board is empowered to act under this chapter. Special permits shall be granted by the Board of Appeals only upon its written determination that the proposed use will not have adverse effects which overbalance its beneficial effects on either the neighborhood or the Town, in view of the particular characteristics of the site and of the proposal in relation to that site. This determination shall be in addition to the following specific findings:

- (1) Proposed project addresses or is consistent with neighborhood or Town need.
- (2) Vehicular traffic flow, access and parking and pedestrian safety are properly addressed.
- (3) Public roadways, drainage, utilities and other infrastructure are adequate or will be upgraded to accommodate development.
- (4) Neighborhood character and social structure will not be negatively impacted.
- (5) Project will not destroy or cause substantial damage to any environmentally-significant natural resource, habitat, or feature or, if it will, proposed mitigation, remediation, replication, or compensatory measures are adequate.
- (6) Number, height, bulk, location and siting of building(s) and structure(s) will not result in abutting properties being deprived of light or fresh air circulation or being exposed to flooding or subjected to excessive noise, odor, light, vibrations, or airborne particulates.
- (7) Water consumption and sewer use, taking into consideration current and projected future local water supply and demand and wastewater treatment capacity, will not be excessive.

Strike Section 185-45E(3) in entirety:
and replace with:

~~(3) Criteria. Special permits shall be granted by the special permit granting authority only upon its written determination that the proposed use will not have adverse effects which overbalance its beneficial effects on either the neighborhood or the Town, in view of the particular characteristics of the site and of the proposal in relation to that site. The determination shall indicate consideration of each of the following:~~

~~(a) Social, economical or community needs which are served by the proposal.~~

~~(b) Traffic flow and safety.~~

~~(c) Adequacy of utilities and other public services.~~

~~(d) Neighborhood character and social structure.~~

- ~~(e) Qualities of the natural environment.~~
- ~~(f) Potential fiscal impact.~~
- ~~(g) Water consumption, taking into consideration current and projected future local water supply and demand.~~

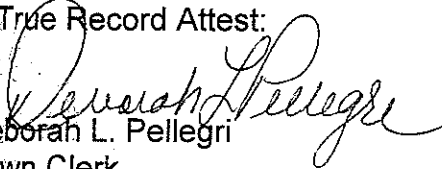
(3) Findings. Special permits shall be granted by the special permit granting authority only upon its written determination that the proposed use will not have adverse effects which overbalance its beneficial effects on either the neighborhood or the Town, in view of the particular characteristics of the site and of the proposal in relation to that site. This determination shall be in addition to the following specific findings:

- (a) Proposed project addresses or is consistent with neighborhood or Town need.
- (b) Vehicular traffic flow, access and parking and pedestrian safety are properly addressed.
- (c) Public roadways, drainage, utilities and other infrastructure are adequate or will be upgraded to accommodate development.
- (d) Neighborhood character and social structure will not be negatively impacted.
- (e) Project will not destroy or cause substantial damage to any environmentally-significant natural resource, habitat, or feature or, if it will, proposed mitigation, remediation, replication, or compensatory measures are adequate.
- (f) Number, height, bulk, location and siting of building(s) and structure(s) will not result in abutting properties being deprived of light or fresh air circulation or being exposed to flooding or subjected to excessive noise, odor, light, vibrations, or airborne particulates.
- (g) Water consumption and sewer use, taking into consideration current and projected future local water supply and demand and wastewater treatment capacity, will not be excessive.

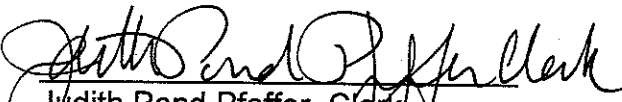
This bylaw amendment shall become effective upon passage in accordance with the provisions of the Franklin Home Rule Charter.

Dated: ~~January~~ March 21, 2012

A True Record Attest:


Deborah L. Pellegrini
Town Clerk

VOTED: Passed
UNANIMOUS
YES 9 NO 0
ABSTAIN 0
ABSENT 0


Judith Pond Pfeffer, Clerk
Franklin Town Council

LEGISLATION

FOR

ACTION



**TOWN OF FRANKLIN
RESOLUTION 14-50**

**Chapter 61B - 1st Refusal Option–
Property Located off East Central Street**

WHEREAS, the Town has been notified on August 14, 2014 of an intent to sell parcels of land off of East Central Street currently classified as Chapter 61B, Section 9 recreational land; and

WHEREAS, the Town has 120 days to exercise its first refusal option to meet a bona fide offer to purchase this land; and

WHEREAS, the Town Council, after consideration, does not wish to exercise said option to acquire this land.

BE IT RESOLVED THAT THE TOWN OF FRANKLIN, acting by and through the Town Council and pursuant to Section 9, MGL Chapter 61B, hereby declares that it will not exercise the first refusal option on the parcels of land as has been more particularly shown as Parcel A1 (Area = 208,459 +/- 4.786 AC), Parcel A2 (Area = 6,825+/- SF .157 +/- AC), Parcel A3 (Area = 11,049+/- SF .254+/- AC) and Parcel B1 (Area = 84+/- SF .002+/- AC) on a plan entitled “Plan of Land East of Central Street, Franklin, Massachusetts” prepared by Guerriere & Halnon, Inc., dated February 24, 2014 which has been attached hereto as Exhibit 2 and which Premises consists of approximately 5.197 acres of land, more or less.

This resolution shall become effective according to the provisions of the Town of Franklin Home Rule Charter.

DATED: ,2014

VOTED: _____

UNANIMOUSLY: _____

A TRUE RECORD ATTEST:

YES: ____ **NO:** ____

ABSTAIN:____ **ABSENT:**____

**Deborah L. Pellegrini
Town Clerk**

**Judy Pfeffer, Clerk
Franklin Town Council**

EXHIBIT 2

Plan of Land East Central Street, Franklin, Massachusetts”
prepared by Guerriere & Halnon, Inc., dated February 24, 2014

RECEIVED

AUG 14 2014

TOWN ADMINISTRATOR
TOWN OF FRANKLIN

LAW OFFICES
CORNETTA, FICCO & SIMMLER, P.C.
ATTORNEYS AT LAW
4 WEST STREET
FRANKLIN, MASSACHUSETTS 02038

RICHARD R. CORNETTA, JR.

VOICE (508) 528-5300
FAX (508) 528-5555

August 13, 2014

Mr. Robert Vallee, Chairman
c/o Deborah Pellegrini, Town Clerk
Town of Franklin
355 East Central Street
Franklin, MA 02038

Mr. Jeffrey Nutting, Administrator
Town of Franklin
✓ 355 East Central Street
Franklin, MA 02038

Mr. Kevin Doyle, Dir. Assessing
Franklin Board of Assessors
355 East Central Street
Franklin, MA 02038

Mr. Jeff Livingstone, Chairman
Franklin Conservation Commission
355 East Central Street
Franklin, MA 02038

Mr. Anthony Padula, Chairman
Franklin Planning Board
355 East Central Street
Franklin, MA 02038

Forester of the Commonwealth of Massachusetts
c/o Mr. Jack Murray, Commissioner
Department of Conservation & Recreation
251 Causeway Street
Boston, MA 02114

RE: NOTICE OF LANDOWNER'S INTENT TO SELL LAND

Dear Sir/Madam:

Please be advised that this firm is legal counsel to the landowner, Franklin Country Club, Inc. (hereinafter referred to as the "Landowner").

In accordance with Massachusetts General Laws, Chapter 61B, Section 9, this correspondence shall serve as formal notice of the Landowner's intent to sell a portion of the real property located off of East Central Street in Franklin, Norfolk County, Massachusetts, being a portion of the property more particularly described in deeds to the Landowner recorded with the Norfolk Registry of Deeds at Book 1487, Page 455; and Book 5044, Page 275 (hereinafter referred to as the "Premises"), a copy of which has been attached hereto as Exhibit 1. The Premises is a portion of the property identified by the Town of Franklin Assessor as Map 300, Parcel 002. The Premises has been more particularly shown as Parcel A1 (Area = 208,459+/- SF 4.786 +/- AC), Parcel A2 (Area = 6,825+/- SF .157+/- AC), Parcel A3 (Area = 11,049+/- SF .254 +/- AC) and), Parcel B1 (Area = 84+/- SF .002 +/- AC) on a plan entitled, "Plan of Land East

Central Street, Franklin, Massachusetts” prepared by Guerriere & Halnon, Inc., dated February 24, 2014, which has been attached hereto as Exhibit 2. A copy of the Franklin Assessors Map depicting the subject premises has been attached hereto as Exhibit 3.

The subject Premises consists of approximately 5.197 acres of land, more or less, the majority of which is undeveloped land bordering East Central Street in Franklin, Massachusetts. The subject property also contains an 85 foot protective netting system along the perimeter and a subsurface private septic system. The Landowner intends to sell the Premises to a third party purchaser who intends to convert the use of the Premises from recreational use as described in Chapter 61B of the Massachusetts General Laws, to a residential and/or commercial use. A certified copy of the Purchase and Sale Agreement of Franklin Country Club, Inc. and Village at Cooks Farm, LLC has been attached hereto as Exhibit 4.

Should you wish to make contact with the Landowner pertaining to this matter, kindly utilize the following contact information:

Landowner

Mr. Barry Zide, President
Franklin Country Club, Inc.
672 East Central Street
Franklin, MA 02038
Tel: (508) 528-6110

Landowner's Attorney

Richard R. Cornetta, Jr.
Cornetta, Ficco & Simmler, P.C.
4 West Street
Franklin, MA 02038
Tel: (508) 528-5300

Very truly yours,



Richard R. Cornetta, Jr.

CERTIFIED MAIL RETURN RECEIPT

PURCHASE AND SALE AGREEMENT

This day, March 10, 2014.

1. **PARTIES:**

Franklin Country Club, Inc., a not for profit corporation duly organized under the laws of the Commonwealth of Massachusetts with a principal place of business at 672 East Central Street, Franklin, Massachusetts 02038, hereinafter called the SELLER, agrees to SELL, and

Village at Cooks Farm, LLC, a limited liability company duly organized under the laws of the Commonwealth of Massachusetts, with a principal place of business of 31 Whitewood Road, Milford, MA 01757, hereinafter called the BUYER, agree to BUY, upon the terms hereinafter set forth, the following described premises:

2. **DESCRIPTION:**

Certain parcels of land situated on the southerly side of East Central Street, in the town of Franklin, Norfolk County, Massachusetts, (hereinafter referred to as the "Property"), as more particularly shown as Parcel A1 (Area = 208,459+/- SF 4.786 +/- AC), Proposed Parcel A2 (Area = 6,825+/- SF .157+/- AC), and Proposed Parcel A3 (Area = 11,049+/- SF .254 +/- AC) on a plan entitled, "Plan of Land East Central Street, Franklin, Massachusetts" prepared by Guerriere & Halnon, Inc., dated February 24, 2014, which has been recorded with the Norfolk County Registry of Deeds in Plan Book _____, as Plan No. _____ of _____ and

attached hereto as Exhibit 1 (hereinafter referred to as the "Plan") including all appurtenant rights, easements and rights of way, however reserving to the SELLER the easements, reservations and covenants as set forth in this Agreement below, and as shown on a plan entitled, "EASEMENTS PLAN OF LAND FRANKLIN MASSACHUSETTS", prepared by Guerriere & Halnon, Inc., dated February 25, 2014 which plan has been attached hereto as Exhibit 1A (hereinafter referred to as the "Easement Plan"). Being a portion of the premises conveyed to the SELLER by Deeds recorded with the Norfolk Registry of Deeds at Book 1487, Page 455; and Book 5044, Page 275. The Premises is a portion of the property identified by the Town of Franklin Assessor as Map 300, Parcels 002, hereinafter referred to as the "Premises".

3. **TITLE DEED:**

Said premises are to be conveyed by a good and sufficient quitclaim deed, in a form substantially similar to Exhibit 2, running to the BUYER, or to the nominee designated by the BUYER by written notice to the SELLER at least seven (7) days before the deed is to be delivered as herein provided, and said deed shall convey a good and clear record and marketable title thereto, free from all encumbrances, except:

- a. Provisions of existing building and zoning laws;
- b. Such taxes for the then current year as are not due and payable on the date of the delivery of such deed, exclusive of any conveyance or rollback taxes attributed to Massachusetts General Law, Chapter 61B;
- c. Any liens for municipal betterments assessed as of the date of the closing;
- d. Easements, restrictions, and reservations of record, if any, so long as the same do not prohibit or materially interfere with the redevelopment of the Premises as desired by BUYER;
- e. Easements, reservations and covenants to the SELLER and to the BUYER as more specifically set forth in this Agreement.

4. **PLANS:**

If said deed refers to a plan necessary to be recorded therewith the BUYER shall be responsible to deliver such plan with the deed in form adequate for recording or registration.

5. **REGISTERED TITLE:**

In addition to the foregoing, if the title to said premises is registered, said deed shall be in form sufficient to entitle the BUYER to a Certificate of Title of said premises, and the SELLER shall deliver with said deed all instruments, if any, necessary to enable the BUYER to obtain such Certificate of Title.

6. **PURCHASE PRICE:**

The agreed upon purchase price for said premises is **ONE MILLION (\$1,000,000.00) and 00/100 DOLLARS**, of which

| | |
|---------------|---|
| \$ 10,000.00 | have been paid as a deposit at the execution of this Agreement; |
| \$ 10,000.00 | is to be paid as an additional deposit upon the expiration of the "Due Diligence Period" as provided in this Agreement. |
| \$ 980,000.00 | are to be paid at the time of delivery of the deed to the premises by certified cashier's, treasurer's or bank check(s), or attorney's IOLTA check, all of which must be drawn on a Massachusetts Bank. |

\$1,000,000.00 Total

7. **TIME FOR PERFORMANCE; DELIVERY OF DEED:**

The deed is to be delivered and the closing shall take place at 10:00 a.m. on June 1, 2015, (the "Closing Date), said closing hereunder to take place at the Norfolk County Registry of Deeds, or, at the election of the BUYER, at the offices of the attorneys representing the BUYER or the BUYER's lender,. It is agreed that time is of the essence of this Agreement.

8. **POSSESSION AND CONDITION OF PREMISE:**

Full possession of said premises free of all tenants and occupants, is to be delivered at the time of the delivery of the deed, said premises to be then (a) in the same condition as they now are, reasonable use and wear thereof excepted, and (b) in compliance with provisions of any instrument referred to in clause 4 hereof. The Premises presently serves as the driving range and location of the private septic treatment system servicing the SELLER's property, and as such, contain a vertical protective netting system, and above/below ground piping, holding tanks, leeching fields and associated fixtures and facilities that comprise the private septic treatment system. The parties are in agreement that these improvements shall remain in their current condition in accordance with the terms and conditions contained within this Agreement.

9. **TITLE:**

Within ninety (90) days after the execution of this Agreement by both parties, BUYER shall notify SELLER of any objections or encumbrances to the title of the Property that make the fee title to the Property unmarketable, that interfere with or prevent the redevelopment of the Property as desired by the BUYER, or that otherwise renders SELLER's representations herein untrue. In the event that BUYER fails to provide notice of any objections or encumbrances to the title to the Property, BUYER will be deemed to have accepted the status of the title to the Property as to matters of record at the time of such report, and to have waived any objections with respect thereto. The SELLER shall make reasonable efforts to eliminate such objections or encumbrances, at the SELLER's cost, within sixty (60) days after receiving written notice from the BUYER. In the exercise of reasonable efforts in satisfaction of this section, the SELLER shall not be required to expend more than \$10,000.00, exclusive of tax liens, mortgage loans and equity credit loans.

10. **ACCEPTANCE OF DEED:**

The acceptance and recording of a deed by the BUYER or its nominees 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 the delivery of said deed. The term "acceptance of a deed" shall mean upon its recording in the Norfolk County Registry of Deeds.

11. **USE OF MONEY TO CLEAR TITLE:**

At the end of the Due Diligence Period, the SELLER shall exercise reasonable efforts to acquire a partial release of the following present encumbrances to the Premises, to wit: First Mortgage to Walpole Cooperative Bank recorded on April 16, 2013 at Book 31239, Page 92; Second Mortgage to Walpole Cooperative Bank recorded on December 24, 2003 at Book 20361, Page 484; Third Mortgage to Walpole Cooperative Bank recorded on April 16, 2013 at Book 31239, Page 107; Assignment of Leases and Rents to Walpole Cooperative Bank recorded on April 16, 2013 at Book 31239, Page 97. SELLER shall use

reasonable diligence to have the written agreement for the partial releases within ninety (90) days following the end of the Due Diligence Period. To enable the SELLER to make conveyance as herein provided, the SELLER may, at the time of delivery of the deed, use the purchase money or any portion thereof to clear the title of any or all encumbrances or interests, provided that all instruments so procured are recorded simultaneously with the delivery of said deed or within a reasonable time thereafter, in accordance with customary conveyancing practice. Institutional Mortgage Discharges may be recorded subsequently in accordance with local conveyancing standards. SELLER warrants and represents that the Purchase Proceeds are sufficient to cover both the 61B rollback or withdrawal taxes and the consideration for the Partial Releases of Walpole Corp. Mortgages and Assignment. In the event the Purchase Proceeds are not sufficient to pay both, SELLERS warrant and represent that there are sufficient funds available to pay any excess over and above the Purchase Proceeds.

12. **ADJUSTMENTS:**

Taxes for the then current fiscal year shall be apportioned as of the day of performance of this agreement and the net amount thereof shall be added to or deducted from, as the case may be, the Purchase Price payable by the BUYER at the time of delivery of the Deed. The adjustment of taxes as set forth herein shall not include any conveyance or roll back taxes that may be due upon removal of the Premises from classification as recreational land pursuant to Massachusetts General Law, Chapter 61B, which are to be paid solely by the SELLER.

13. **ADJUSTMENT OF UNASSESSED OR ABATED TAXES:**

If the amount of said taxes is not known at the time of the delivery of the deed, they shall be apportioned on the basis of the taxes assessed for the preceding fiscal year, with a reapportionment as soon as the new tax rate and valuation can be ascertained; and, if the taxes which are to be apportioned shall thereafter be reduced by abatement, the amount of such abatement, less the reasonable cost of obtaining the same, shall be apportioned between the parties, provided that neither party shall be obligated to institute or prosecute proceedings for an abatement unless herein otherwise agreed.

14. **BROKER:**

BUYER and SELLER warrant to each other that they have not dealt with any broker in connection with this Purchase and Sale Agreement, nor does either party know of any broker who has claimed or may have the right to claim a commission in connection with this Purchase and Sale. SELLER and BUYER shall indemnify and defend each other against any costs, claims or expenses, including attorney's fees, arising out of a breach of this Paragraph.

15. **DEPOSIT:**

All earnest deposits made hereunder shall be held by the law firm of Cornetta, Ficco & Simmler, PC, of Franklin, Massachusetts, (the "Escrow Agent"), subject to the terms of this agreement and shall be duly accounted for at the time for performance of this agreement. All deposits to be held in accordance with this Agreement shall be in a non-interest bearing account ("Escrowed Funds"). The duties of the Escrow Agent shall be limited to the safekeeping and disbursement of the Escrow Funds. The Escrow Agent shall not be liable for any acts or omissions taken or made in good faith, or for any claims, damages, liabilities or losses incurred by any party, unless caused by the Escrow Agent's willful misconduct. The Escrow Agent shall be entitled to assume in good faith and rely upon (and shall not be subject to any liability in acting in reliance thereon) the authenticity, validity and effectiveness of any writing delivered to the Escrow Agent and the Escrow Agent shall not be obligated to make any investigation of any information contained therein. The Escrow Agent may rely on any affidavit of either BUYER or SELLER or any other person as to the existence of any facts stated herein to be known by the affiant. In the event of any disagreement between BUYER and SELLER in connection with the Escrow Funds, the Escrow Agent shall refuse to comply with the claims or demands of either party until such disagreement is finally resolved (i) by a court of competent jurisdiction (in proceedings which the Escrow Agent or any other party may initiate, it being understood and agreed by BUYER and SELLER that the Escrow Agent has the authority, but not the obligation, to initiate such proceedings), or (ii) by written settlement between BUYER and SELLER. During the period of this disagreement between the parties, the Escrow Agent shall retain the Escrow Funds in an interest bearing account pending resolution of the dispute as provided herein. The parties hereto acknowledge that the Escrow Agent is counsel for the SELLER, and may continue to act as such counsel notwithstanding any dispute or litigation arising with respect to the Escrow Funds or the duties of the Escrow Agent.

16. **BUYER'S REPRESENTATIONS:**

The representations of the BUYER contained in this Agreement are material to the consideration of the parties to this Agreement, and these representations shall be true in all material respects at and as of the execution of this Agreement and the time for performance as anticipated hereunder:

- a. The BUYER has entered an agreement for the acquisition of title to the neighboring 14.75 acre property owned by the Cooks Farm Family Trust (hereinafter referred to as the "Cooks Farm Property").
- b. Along with the Cooks Farm Property and the Premises, the BUYER shall seek to the necessary licenses, permits and approvals for the development of up to fifty-five single family condominium townhouse units in accordance with the Plan attached hereto as Exhibit 1B (hereinafter collectively the "Village at Cooks Farm").
- c. That the BUYER/s are duly organized corporation validly existing and in good standing under the laws of the Commonwealth of Massachusetts.

- d. The execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby do not and will not violate or conflict with any provision of the Operating Agreement or By-Laws of the BUYER or violate any federal, state or local law or rule or regulation of any such body or any order, arbitration, award, judgment or decree to which the BUYER is a party or is bound. The execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby have been duly authorized by all requisite action on the part of the BUYER, its Board of Directors, Board of Managers and requisite Shareholders, and/or Members and this Agreement constitutes a valid and binding obligation of the BUYER and is enforceable in accordance with its terms.
- e. Prior to the completion of the plans, renderings and specifications of the proposed Village at Cooks Farm development, the BUYER will exercise its best efforts to provide such plans, renderings and specifications to the SELLER for advance review and approval, which approval shall not be unreasonably withheld or delayed, so long as plans are consistent with plans attached hereto as Exhibit 1B as they may be modified as a result of the permitting process.

17. **DUE DILIGENCE PERIOD:**

The BUYER shall have ninety (90) days from the Date hereof (the "Due Diligence Period") to conduct such due diligence as BUYER may, in BUYER's discretion, deem necessary to evaluate the feasibility of the development referred to herein as "Village at Cooks Farm" (herein referred to as the "Project"), including, but not limited to, the ability of the BUYER to obtain any and all necessary permits, licenses and approvals and the Project's economic feasibility. In the event that BUYER determines that the Project is not feasible, BUYER may at BUYER's option terminate this Agreement by written notice to SELLER on or before the expiration of the Due Diligence Period, whereupon the Agreement is void and without further recourse to the parties hereto, and the deposit made at the signing of this Agreement shall be refunded to the BUYER forthwith. BUYER shall, within the Due Diligence Period, at BUYER's sole cost and expense, make or have made such studies, inspections and tests of the Premises as it desires regarding the condition of soils and sub-surfaces of the Premises, which studies, inspections and tests may include, without limitation, an asbestos survey, soil borings, percolation tests and studies and an assessment of the Premises for the presence of any oil, hazardous material, hazardous waste or hazardous as those terms are defined by any applicable federal, state or local law, rule, regulation, which terms shall also include, whether or not contained in the definitions in Applicable Environmental Laws, petroleum, solvents, asbestos, polychlorinated biphenyls and other chemicals which are dangerous to the environment or to human beings. All such items shall be obtained and reviewed at BUYER's sole cost and expense. In the event that the BUYER finds the condition of the Premises or the results of any of BUYER's tests, reviews, investigations, samples, examinations, or the like to be unsatisfactory in any manner to BUYER, in BUYER's reasonable discretion, the BUYER may at BUYER's option terminate this Agreement by giving written notice to the SELLER and BUYER's notice is accompanied by a report from an engineering company with experience in

evaluating such matters, whereupon this Agreement shall terminate and neither party shall have any rights or remedies hereunder, except as otherwise provided herein. The failure of the BUYER, to notify the SELLER in writing of a condition of the Premises or the results of any of Buyer's tests, reviews, investigations, samples, examinations, or the like to be unsatisfactory in any manner to BUYER, said notice received by the SELLER prior to the expiration of the Due Diligence Period, shall entitle the SELLER to proceed with the transaction anticipated by this Agreement free from the condition precedents contained herein and shall grant the SELLER all rights reserved under the Agreement. At the expiration of the Due Diligence Period, should the BUYER not provide written notice to the SELLER of BUYER's intention to terminate this Agreement as set forth herein, the BUYER shall be required to place the additional deposit in the sum of TEN THOUSAND AND XX/100 (\$10,000.00) DOLLARS with the Escrow Agent named within this Agreement. In the event of an environmental issue arising subsequent to the expiration of the Due Diligence Period but Prior to the Closing, which event has not been caused by BUYER, BUYER shall have the right to continue to the Closing or to terminate the Agreement. The SELLER hereby authorizes the BUYER, and its agents, employees and representatives, with a minimum of twenty-four (24) hours advance notice to and approval of SELLER, to enter upon the Premises, from time to time, for the purpose of performing the above inspections. The BUYER agrees (a) to indemnify and save harmless the SELLER against any claims, liens, liabilities or lawsuits arising from BUYER's inspection activities, including without limitation, personal injury or property damage, (b) to obtain and keep in force a Commercial General Liability policy of insurance protecting BUYER and SELLER as an additional insured against claims for bodily injury, personal injury and property damage based upon or arising out of the BUYER's inspection activities; such insurance shall be on an occurrence basis providing single limit coverage in an amount not less than \$1,000,000 per occurrence with an annual aggregate of not less than \$2,000,000; all insurance carried by BUYER shall be primary to and not contributory with any similar insurance carried by SELLER, whose insurance shall be considered excess insurance only, (c) in the event the Premises are disturbed or damaged in any way as a result of BUYER's inspection activities, BUYER shall at its cost immediately restore the condition of the Premises as near as reasonably possible to that existing prior to entry by the BUYER, which obligation shall survive the termination of this Agreement.

18. **LICENSES, PERMITS AND AUTHORIZATION:**

BUYER intends to redevelop the Premises and use the Premises for BUYER 's intended use in accordance with BUYER 's plans and specifications (collectively, the "Project", also referred to as the "Village at Cooks Farm"). A concept plan of the BUYER's Project has been attached hereto as Exhibit 1B. The purchase price hereunder reflects the intention of the parties that the Premises, at BUYER 's option, be sold and conveyed together with the following duly issued and validly existing governmental agreements, certificates, assurances, permits and approvals, federal, regional, state and local necessary for the construction, operation and use of the Project, all of such agreements, certificates, assurances, permits and approvals having terms and conditions reasonably acceptable to the BUYER, which Permits shall be obtained by BUYER at BUYER 's sole cost and expense, to wit: (a) a special permit and approved Site Plan from the Town of Franklin's Planning

Board; (b) an ANRAD and Order of Conditions from the Franklin Conservation Commission; and (c) extension of town sewer and water to the lots to be created by the Project, being hereinafter collectively referred to as the "Permits". The SELLER agrees to cooperate with the BUYER in obtaining the Permits, provided that SELLER is not required to incur any expense. Accordingly, all of the obligations of the BUYER hereunder are conditional upon the BUYER having obtained all the Permits and all appeal periods from the issuance thereof having expired without any appeal having been taken, or in the event of any such appeal, that the same be finally adjudicated in favor of the BUYER; it being expressly understood and agreed that the BUYER shall assume any costs relative to any such appeals and the defense and pursuit of such appeals. Should the BUYER having duly applied for all Permits and despite the BUYER's exercise of reasonable diligence in the pursuit of such Permits, failed to obtain the Permits on or before the anticipated Closing Date hereunder (the "Permitting Period"), at the BUYER's option, the BUYER may extend the Closing Date for as many as four (4) extension periods, each extension period being ninety (90) days in length (each extension period hereinafter referred to as the "Extension Period, or collectively as the "Extension Period(s)") upon the payment of additional deposit(s) in the amount of \$10,000.00 (hereinafter the "Additional Deposit(s)") for each individual ninety (90) day Extension Period so exercised by BUYER. Additional Deposit(s) shall be payable before the start of any Extension Period, directly to the SELLER. However, upon BUYER's request for any Extension Period, both the initial Deposit and Additional Deposit(s) shall become non-refundable and released to the SELLER. Deposits and Additional Deposit(s) shall be applied to the Purchase Price under all scenarios.

19. **BUYERS' DEFAULT; DAMAGES:**

The BUYER and SELLER each agree that the anticipated damages from a default by the BUYER may be difficult to ascertain. If the BUYER shall fail to fulfill the BUYER'S agreements herein, all deposits made hereunder by the BUYER shall be retained by the SELLER as liquidated damages, and additionally, the SELLER shall have all other rights and remedies available at law and in equity.

20. **DOCUMENTS TO BE DELIVERED BY SELLER AT THE CLOSING:**

Simultaneously with the delivery of the Deed and Grants of Easements, the SELLER shall execute and deliver:

- a. Affidavits and Indemnities with respect to parties in possession and mechanic's liens to induce Lender's title insurance company to issue owner's and lender's policies of insurance without exceptions to those matters;
- b. An Affidavit satisfying the requirements of section 1445 of the Internal Revenue Code and Regulations issued thereunder, which states, under penalty of perjury, SELLER's United States Taxpayer Identification Number, that the SELLER is not a foreign person, and SELLER's address;

- c. Internal Revenue Service Form W-8 or Form W-9, as applicable, with SELLER's Tax Identification Number, and an Affidavit furnishing the information required for the filing of Form 1099-s with the Internal Revenue Service and stating that SELLER is not subject to back-up withholding; and
- d. Any and all other usual and customary documents normally executed by SELLER in connection with residential or commercial real estate closings, reasonably required by BUYER, BUYER's attorney, Lender and/or Lender's attorney and title insurance company.
- e. Vote of Town Council declining of exercise of Town's right to first refusal allowing with all other documents which must be recorded to perfect the non-exercise of rights under 61B. SELLER will obtain rollback or withdrawal tax amount from the Town of Franklin Assessor's Office at least two (2) weeks prior to closing, which rollback or withdrawal tax amount will be paid by SELLER at closing. SELLER will immediately after the closing obtain and record the release of the 61B Lien.
- f. Partial Release of the Premises from Walpole Cooperative Mortgages and Assignment referred to in Paragraph 11 of this Agreement.
- g. Certificate of Good Standing and Legal Existence for SELLER from the Massachusetts Department of Corporations.
- h. Record of all votes, actions or proceedings which grant authority from members of SELLER to the representatives of SELLER executing closing documentation.
- i. Subordination of Mortgages to Easements being granted to BUYER (BUYER will provide similar Subordinations regarding Easements reserved or granted to SELLER).

21. **SELLER'S REPRESENTATIONS:**

SELLER makes the following representations to the BUYER as of the date of the Agreement and also as of the time of the delivery of the Deed. All of SELLER's representations under this Agreement are to the SELLER's actual knowledge, and without conducting any independent investigation or inquiry and are not intended to imply or create any obligation for the SELLER to take additional actions or more further inquiry with regard to any topics contained within this Agreement or elsewhere, including but not limited to, documents to be executed in conjunction with the Closing; furthermore, it is acknowledged and agreed by the Parties that any such representations shall not constitute a representation or warranty against the existence of such conditions about which SELLER has no knowledge, nor a representation or warranty against the discovery or occurrence of such conditions. TO THE BEST OF SELLER'S KNOWLEDGE:

- a. There are no liens on or affecting the Premises imposed by any environmental laws.
- b. There are no pending or threatened assessments or takings affecting the Premises, excepting any conveyance or rollback taxes attributed to Massachusetts General Law, Chapter 61B.

- c. There are no pending or threatened litigation affecting the Premises.
- d. SELLER has not received any notice or communication from any public authority that there exists with respect to the Premises any condition, which violates any municipal, state, or federal laws, rule or regulation, which has not heretofore been rectified.
- e. SELLER has no actual knowledge of any pending bankruptcy, mortgage foreclosure, or other proceeding that might, in any material way, adversely impact on SELLER's ability to perform on the closing date.
- f. The SELLER has fully disclosed and the BUYER specifically acknowledges that the Premises has been classified as recreational land and is subject to the right of first refusal of the Town of Franklin to purchase the Premises accordance with Massachusetts General Law, Chapter 61B (referred to herein as "Franklin's First Right of Refusal"). The obligations of the parties in accordance with this Agreement are expressly contingent upon the waiver, expiration or non-exercise of Franklin's First Right of Refusal to purchase the Premises. Should the Town of Franklin duly exercise its right to purchase the Premises then this Agreement shall be void, and all deposits shall be refunded, without further recourse to the parties hereto. The SELLER agrees to exercise its best efforts in providing written notification of the SELLER's intention to sell as anticipated herein. The SELLER shall also keep the BUYER informed of any and all communications and correspondence as to Franklin's First Right of Refusal. SELLER will commence the right of first refusal process after the Due Diligence Period has expired without BUYER having had terminated this Agreement. SELLER will use reasonable diligence to pursue completion of that process.
- g. That the SELLER is a duly organized not for profit corporation validly existing and in good standing under the laws of the Commonwealth of Massachusetts.
- h. The execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby do not and will not violate or conflict with any provision of the Operating Agreement or By-Laws of the SELLER or violate any federal, state or local law or rule or regulation of any such body or any order, arbitration, award, judgment or decree to which the SELLER is a party or is bound. The execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby have been duly authorized by all requisite action on the part of the SELLER, its Board of Governors and requisite percentage of Voting Members and this Agreement constitutes a valid and binding obligation of the SELLER and is enforceable in accordance with its terms. Notwithstanding the foregoing, due to the addition of Parcels A2 and A3 to be conveyed, on or prior to the expiration of the Due Diligence Period, the Seller shall acquire a ratification of the Voting Membership so as to include these additional parcels. Accordingly, all of the obligations of the SELLER under this Agreement are conditional upon the

SELLER having obtained the ratification of this Agreement from the Voting Membership on or before the expiration of the Due Diligence Period.

22. **SELLER'S RELOCATION OF DRIVING RANGE/USE OF PREMISE FOLLOWING CLOSING:**

The SELLER intends to relocate the location of the SELLER's driving range which is currently located on the Premises. Accordingly, all of the obligations of the SELLER under this Agreement are conditional upon the SELLER having obtained all the duly issued and validly existing governmental agreements, certificates, assurances, permits and approvals, federal, regional, state and local necessary for the construction, operation and use of the SELLER's property located in the town of Wrentham, Massachusetts, as the location for the relocated driving range (hereinafter referred to as the "SELLER's Permits") on or before one hundred twenty (120) days following the execution of this Agreement by all parties (hereinafter referred to as the "SELLER's Permit Period"). All of such SELLER's Permits having terms and conditions reasonably acceptable to the SELLER, and all appeal periods from the issuance thereof having expired without any appeal having been taken, or in the event of any such appeal, that the same be finally adjudicated in favor of the SELLER. SELLER's Permits shall be obtained at the SELLER's sole cost and expense, including any costs relative to any such appeals and the defense and pursuit of such appeals. Should the SELLER fail to acquire the SELLER's Permits, to the reasonable satisfaction of the SELLER, the SELLER may terminate this Agreement by giving prompt written notice to the BUYER, whereupon this Agreement shall terminate and neither party shall have any rights or remedies hereunder, except as otherwise provided herein. The failure of the SELLER to notify the BUYER in writing, on or before the expiration of the SELLER's Permit Period of the SELLER's intention to terminate this Agreement according to the terms herein, said notice received by the BUYER prior to the expiration of the SELLER's Permit Period, shall entitle the BUYER to proceed with the transaction anticipated by this Agreement free from the condition precedents contained herein and shall grant the BUYER all rights reserved under the Agreement. The BUYER and SELLER are in agreement that despite the transfer of title at the Closing anticipated by this Agreement, the BUYER will grant to the SELLER, at no additional cost, expense or additional consideration, the exclusive use and occupancy of the Premises for continued use as a driving range until after the close of 2015 Labor Day weekend activities; or September 8, 2015 (hereinafter referred to as the "Use and Occupancy Period"), and the BUYER (or nominee taking legal title to the Premises) and SELLER shall execute a Use and Occupancy Agreement, in a form substantially similar to the terms and conditions as set forth in Exhibit 3 attached and made apart hereto. During the Use and Occupancy Period the BUYER shall not enter upon the Premises or conduct any activity on or about the Premises so as to interfere with the SELLER's exclusive use and occupancy. Should the BUYER seek to extend the Closing Date in accordance with the BUYER's rights and privileges set forth in this Agreement, at the sole option of the SELLER, the Use and Occupancy Period shall be extended to after the close of 2016 Labor Day weekend activities, or sooner as solely determined by the SELLER.

23. MUNICIPAL SEWER

As in integral part of the consideration for this Agreement, the BUYER shall, at its sole cost and expense, and to the reasonable satisfaction of the SELLER, with reasonable diligence following the Closing Date anticipated by this Agreement, complete the connection of the SELLER's clubhouse and other facilities to the town of Franklin Municipal Water and Sewer systems (hereinafter referred to as the "Utility Connection"). The services to be performed by the BUYER in completion of the Utility Connection shall include, but not be limited to, the following:

- a. Preparation of all engineering, plans, drawing and specifications associated with the Utility Connection. Prior to the completion of the plans and specifications of the proposed connection of the SELLER's facilities to the Franklin's Sewer systems, the BUYER will provide such plans and specifications to the SELLER for advance review and approval, and the SELLER reserves the right to make revisions to the same, which don't affect BUYER's responsibility to develop the Premises substantially in accordance with Exhibit 1B.
- b. Acquire all of the necessary permits, bonds, assessments, hookup charges, school fees, financing fees, facility fees, exactions of utilities, infiltration fees and public agencies that are imposed to pay facilities and connection costs, and generally shall secure and pay for the necessary approvals, assessments and charges required for expenses, costs and fees associated with and necessary for the Utility Connection, provided however that BUYER'S representations for paying for inflow and infiltration fees and connection fees shall not exceed Thirty Thousand and No/100 (\$30,000.00) Dollars, combined.
- c. Grant the SELLER an easement over the Premises, substantially similar to the terms and conditions as set forth in Exhibit 4 attached and made apart hereto, which shall run with the land, to allow the SELLER, at the SELLER's sole election and without the imposition of any obligation, the right to access and repair in, on and over that area of the Village at Cooks Farm in order to maintain and repair the sewer connections and facilities of the SELLER to Franklin's Sewer System.
- d. The BUYER and SELLER are in agreement that despite the transfer of title at the Closing anticipated by this Agreement, the BUYER shall grant to the SELLER, at no additional cost, expense or additional consideration, the exclusive use and occupancy of the Premises for its continued use as the location of the private septic treatment facility serving the SELLER's property (hereinafter referred to as the "Use and Occupancy Period"). During the Use and Occupancy Period the BUYER shall not conduct any activity on or about the Premises so as to interrupt or compromise the SELLER's exclusive use and occupancy of the private septic treatment facility. The BUYER (or nominee taking legal title to the Premises) and SELLER shall execute a Use and Occupancy Agreement substantially similar in terms and conditions as set forth in Exhibit 3 attached and made apart hereto.

The provisions of this paragraph shall survive the delivery of the deed anticipated by this Agreement.

24. **QUIET ENJOYMENT**

Contemporaneously with the delivery of the quitclaim deed from the SELLER to the BUYER as anticipated by this Agreement, the BUYER, or its nominee (taking legal title to the Premises) shall execute an Easement of Quiet Enjoyment, substantially similar to the terms and conditions as set forth in Exhibit 4 attached and made apart hereto, which shall run with the title to the Premises, for the benefit of the adjacent property being retained by the SELLER for the SELLER's continued use as a country club, golf course and recreational facility, including any and all uses incidental thereto. Such acknowledgement is to be reflected in the condominium documents that will govern the Village at Cooks Farm. The provisions of this paragraph shall survive the delivery of the deed anticipated by this Agreement.

25. **ACCESS DRIVE**

Contemporaneously with the delivery of the quitclaim deed from the SELLER to the BUYER as anticipated by this Agreement, substantially similar to the terms and conditions as set forth in Exhibit 2 attached and made apart hereto, the SELLER shall reserve the non-exclusive perpetual right, as appurtenant to the contiguous property being retained by the SELLER, to use, pass and repass, by vehicle, or otherwise, in, on, upon, through, and over, that portion of the Property lying within the area labeled "E-1 24' WIDE PERMANENT ACCESS EASEMENT AREA = 9,675 +/- SF", as shown on the Easement Plan, so as to allow the SELLER a secondary means of access to the SELLER's retained property; the purpose of which is to be used for emergencies. The provisions of this paragraph shall survive the delivery of the deed anticipated by this Agreement.

26. **CULVERT/AQUEDUCT**

The parties acknowledge the mutual importance of the culvert/aqueduct area bordering the property of the SELLER and the property presently owned by Cooks Farm Family Trust (hereinafter referred to as "Cooks Farm Property") which provides a flow of water from the Pond located on the Cooks Farm Property to the creek that runs through the SELLER's property. It is anticipated that in connection with the BUYER's proposed development, the BUYER intends to complete alterations to this culvert/aqueduct area. Prior to the completion of the plans and specifications of the proposed alterations to this culvert/aqueduct area, the BUYER will provide such plans and specifications to the SELLER for advance review and approval, which approval shall not be unreasonably withheld or delayed. Further, the BUYER shall grant to the SELLER an easement, substantially similar to the terms and conditions as set forth in Exhibit 4 attached and made apart hereof, which shall run with the land, to allow the SELLER, at the SELLER's sole election and without the imposition of any obligation, the right to access and repair in the area of this culvert/aqueduct in order to clean and clear any debris or condition that may impair or restrict the flow of water through the culvert/aqueduct area, in the event that the

BUYER, or its successors in title, should fail to complete any such ordinary maintenance, cleaning and/or repair. The provisions of this paragraph shall survive the delivery of the deed anticipated by this Agreement.

27. **CONSTRUCTION OF AGREEMENT:**

This instrument, executed in multiple counterparts, is to be construed as a Massachusetts contract, is to take effect as a sealed instrument, sets forth the entire contract between the parties, is binding upon and inures to the benefit of the parties hereto and their respective heirs, devisees, executors, Administrators, successors, and assigns, and may be canceled, modified or amended only by a written instrument executed by both the SELLER and the BUYER. If two or more persons are named herein as BUYER, their obligations hereunder shall be joint and several. The captions and marginal notes are used only as a matter of convenience and are not to be considered a part of this agreement or to be used in determining the intent of the parties.

28. **SIGNING OF DOCUMENTS:**

The SELLER hereby agrees to sign and deliver, at the time of performance, such affidavits, documents and certificates as may be reasonably required in accordance with standard conveyance practices.

29. **NOTICES:**

Any and all notices or other communications required or permitted by this Agreement to be served on or given to any party hereto by any other party hereto and to whom it is directed, shall be deemed given when and if delivered in hand, by facsimile (fax) or sent postage prepaid by certified mail, return receipt requested, or by private overnight carrier, with confirmation of receipt, to the BUYER or SELLER, as the case may be to the address set forth in Paragraph 1 herein, and if applicable, with a copy, to:

If to the BUYER:

Douglas W. Resnick, Esquire
11 Grove Street – 3rd Floor
Hopkinton, MA 01748
Phone: 508-435-8600
Fas: 508-497-0826
Email: doug@dougresnickpc.com

If to the SELLER: Richard R. Cornetta, Jr., Esquire
Cornetta, Ficco & Simmler, P.C.
4 West Street
Franklin, MA 02038
Telephone: 508-528-5300
Facsimile: 508-528-5555
Email: richard@cornettalaw.com

If notification is by facsimile transmission, such transmission must be made between the hours of 9:00 AM and 5:00 PM Eastern Standard Time, Monday through Friday, excluding holidays.

30. **PRACTICE AND TITLE STANDARDS:**

Any matter relating to the performance of this Agreement which is the subject to a title, practice or ethical standard of the Real Estate Bar Association shall be governed by the provisions of said standard.

31. **GENDER:**

As used herein, all pronouns shall include the masculine, feminine, neuter, singular and plural thereof, whenever the context and facts so require.

32. **LIMITED POWER OF ATTORNEY:**

By executing this Agreement, the BUYER and the SELLER hereby grant to their attorneys, the actual authority to bind them for the sole limited purpose of allowing them to grant extensions and the SELLER and the BUYER shall be able to rely upon signatures of said attorneys as binding unless they have actual knowledge that the principles have disclaimed the authority granted herein to bind them.

33. **AGREEMENT SUPERSEDES PRIOR AGREEMENTS:**

This Agreement supersedes all prior agreements and other understandings between the parties and represents the complete and full agreement of the parties hereto except as this Agreement is modified or altered by written agreement signed by the parties hereto. All prior offers and agreements between the parties with respect to the transaction contemplated hereby shall be null and void.

34. **ERRORS:**

If any errors or omissions are found to have occurred in any calculations or figures used in the settlement signed by the parties (or would have been included if not for any such error or omission) and notice thereof is given within two (2) months of the date of delivery of the deed to the party to be charged, then such party agrees to make such payment as may be necessary to correct the error or omission.

35. **SIGNATURES:**

The parties agree that electronic signatures or facsimile signatures on these documents shall have the same significance as original signatures.

36. **REIMBURSEMENT FOR FEES:**

If any legal action is brought for the enforcement of this Agreement or any portion thereof, or because of any alleged dispute, breach, default or misrepresentation in connection with any of the provisions of this Agreement, the prevailing party shall be entitled to recover from the other reimbursement for the reasonable fees of attorneys and other costs (including court costs and witness fees) incurred by it, in addition to any other relief to which it may be entitled.

37. **BUYER'S ASSIGNMENT OF PERMITS AND TEST RESULTS**

Should the BUYER withdraw from this agreement, for any reason, in addition to any rights and remedies afforded the SELLER under this Agreement, the BUYER shall assign to the SELLER, at no cost to the SELLER, all of the BUYER's right, title and interest to any Permits, and the written results of any tests, reviews, investigations, samples, examinations, studies conducted by the BUYER, or the BUYER's agents, which pertain to the Premises. The BUYER shall provide the BUYER's full cooperation to see that the SELLER receives any such documentation detailed herein. Nothing contained herein should limit any other right that the SELLER may have under this Agreement, nor obligate the SELLER to incur any expense in order to obtain the any such documentation as detailed herein.

38. **GUARANTOR OF BUYER'S OBLIGATIONS**

In consideration of the SELLER having this day made this Agreement with the BUYER for the sale of the Property, **The Design Build Group, LLC**, a limited liability company duly organized under the laws of the Commonwealth of Massachusetts, with a principal place of business of 295 North Street, Medfield, Massachusetts 02052, and **Lobisser & Ferreira Construction Corp**, a corporation duly organized under the laws of the Commonwealth of Massachusetts, with a principal place of business of 31 Whitewood Road, Milford, Massachusetts 01757, hereinafter collectively referred to as the "GUARANTOR", or "GUARANTORS", hereby unconditionally guarantee to the SELLER the performance of all the BUYER'S obligations as set forth within this Agreement. The GUARANTOR agrees that this guarantee shall operate as a continuing, absolute and unlimited guaranty and shall remain in full force and effect during the term of this Agreement, and any revisions, modifications, and extensions thereof. The obligations of the GUARANTOR shall be joint and several, however, the release by the SELLER of anyone of the GUARANTORS shall not release any other GUARANTOR as obligated herein. The execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby do not and will not violate or conflict with any provision of the Operating Agreement or By-Laws of the GUARANTOR or violate any federal, state or local law or

rule or regulation of any such body or any order, arbitration, award, judgment or decree to which the GUARANTOR is a party or is bound. The execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby have been duly authorized by all requisite action on the part of the GUARANTOR, its Board of Directors, Board of Managers and requisite Shareholders, and/or Members and this Agreement constitutes a valid and binding obligation of the GUARANTOR and is enforceable in accordance with its terms.


39. **EASEMENTS TO BE GRANTED BY SELLER TO BUYER**

Contemporaneously with the delivery of the quitclaim deed from the SELLER to the BUYER as anticipated by this Agreement, the SELLER shall execute a Grant of Easement substantially similar to the terms and conditions as set forth in Exhibit 5 attached and made apart hereto.

[END OF TEXT]


NOTICE: This is a legal document that creates binding obligations. If not understood, consult an attorney.

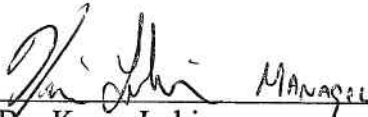

By: Barry M. Zayas Date: 3/5/14
Title: PRESIDENT
Franklin Country Club, Inc.
SELLER

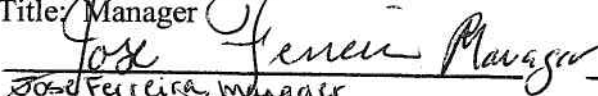

By: Paul Carrish Date: 3/5/14
Title: Treasurer
Franklin Country Club, Inc.
SELLER

By: _____ Date: _____
Title: _____

BUYER
Villages at Cooks' Farm, LLC


By: Ron Roux Date: 3/9/14
Title: Manager


By: Kevin Lobisser Date: 3/9/14
Title: Manager


By: José Ferreira Date: 3/10/14
Title: Manager
The Design Build Group, LLC
GUARANTOR


By: Ron Roux Date: 3/9/14
Title: Manager

Lobisser & Ferreira Construction Corp
GUARANTOR

Jose Ferreira P.R. 3/10/14
By: Jose Ferreira Date
Title: President

Kevin Lobisser 3/9/14
By: Kevin Lobisser Date
Title: Treasurer



TOWN OF FRANKLIN

RESOLUTION 14-51

Chapter 61B – 1st Refusal Option – Franklin Portion of Land on Maple Street Bellingham

WHEREAS, The Town has been notified by Attorney for the owner of Parcel No. 239-11 and 239-13 of the owner’s intent to convert the property to other use.

WHEREAS, the Town has 120 days to exercise its first refusal option; and

WHEREAS, the Town Council, after consideration, does not wish to exercise said option to acquire this parcel of land.

BE IT RESOLVED THAT THE TOWN OF FRANKLIN, acting by and through the Town Council and pursuant to Section 9, MGL Chapter 61B, hereby declares that it will not exercise the first refusal option on the parcels of land containing 13.221 acres of land known as Assessors’ Parcel ID Nos.: 239-11 and 239-13 and is shown on the map attached herewith as Exhibit “A”.

This resolution shall become effective according to the provisions of the Town of Franklin Home Rule Charter.

DATED: 2014

VOTED: _____

UNANIMOUSLY: _____

A TRUE RECORD ATTEST:

YES: ____ NO: ____

ABSTAIN: ____ ABSENT: ____

**Deborah L. Pellegrini
Town Clerk**

**Judith Pond Pfeffer, Clerk
Franklin Town Council**

GILMORE REES & CARLSON, P.C.

DANIEL J. GILMORE (1950 - 2005)

CHRISTOPHER T. CARLSON
WILLIAM J. REES
BRUCE J. BETTIGOLE*⁺
PAUL D. BISHOP
JOSEPH D. KROPP
GARY M. HOGAN*
KATHERINE A. BOTELHO*
ROBERT J. MORRILL
DEBORAH E. BATOG

ATTORNEYS AT LAW

1000 FRANKLIN VILLAGE DRIVE SUITE 305
FRANKLIN, MA 02038
508-520-2200
FAX: 508-520-2217

ghogan@grcpc.com

JANE FISHER CARLSON
KATHERINE R. DORVAL*
BUNKER L. HIGHMARK**
BRIAN T. LIBERIS
ALISON E. LOTHES

OF COUNSEL
SIDNEY A. SLOBODKIN

*Also Admitted in RI
**Also Admitted in CT
⁺Also Admitted in OH

August 6, 2014

**VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED
and REGULAR FIRST CLASS MAIL**

Mr. Kevin W. Doyle
Director of Assessing
Board of Assessors
Town of Franklin
Municipal Building
355 East Central Street
Franklin, MA 02038

Mr. Robert Vallee
Chairman
Town Council
Town of Franklin
Municipal Building
355 East Central Street
Franklin, MA 02038

Ms. Elizabeth Hoey
Planning Board Secretary
Planning Board
Town of Franklin
Municipal Building
355 East Central Street
Franklin, MA 02038

Ms. Kathleen Celorier
Conservation Office Secretary
Conservation Commission
Town of Franklin
Municipal Building
355 East Central Street
Franklin, MA 02038

Re: Notice of Intent to Convert Use Pursuant to M.G.L. c. 61B §9
Parcel Nos.: 239-11 and 239-13, Franklin, MA

Ladies and Gentlemen:

This firm is counsel to LMP Properties, LLC, the owner of the above-referenced property possibly subject to a Recreational Land Tax Lien. LMP Properties hereby notifies the Town of Franklin, via the Town Council, Board of Assessors, Planning Board and Conservation Commission, of its intent to convert the above-referenced property to other use, resulting in its removal from the provisions of Chapter 61B. Attached please find a Statement of Intent to Convert Use describing the proposed conversion.

Please be advised that there is no land tax lien of record executed by the Franklin Board of Assessors associated with these parcels. However, there is a land tax lien of record executed by the Bellingham Board of Assessors in connection with abutting land in Bellingham under common ownership and conveyed by the same deed. Furthermore, the above-referenced parcels are listed as Chapter 61B land by the Franklin Board of Assessors. Therefore, out of an abundance of caution, LMP Properties is providing the within notice and attached Statement of Intent to Convert Use.

As time is of the essence in this matter, we respectfully request that the Board address this issue as soon as possible. If the Town decides not to exercise its right of first refusal, it would be appreciated if the Town would execute and deliver a waiver, in recordable form to this office as soon as possible. Thank you in advance for your immediate attention to this matter.

Should you have any questions, please do not hesitate to contact me.

Very truly yours,

Gary M. Hogan

GMH/nac
Enclosures

cc: Mr. Bill Rayfield (w/ encl.)

643448.1

STATEMENT OF INTENT TO CONVERT USE
PURSUANT TO M.G.L. c. 61B

WHEREAS, by Deed dated January 30, 2014 and recorded with the Norfolk County Registry of Deeds in Book 32050, Page 98, 186 MAPLE STREET, LLC, conveyed to LMP PROPERTIES, LLC (the "Landowner"), the land located at 186 Maple Street, Bellingham, Norfolk County, Massachusetts (the "Land"), which Land is subject to a Recreational Land Tax Lien under M.G.L. c. 61B recorded with said Registry in Book 20183, Page 455.

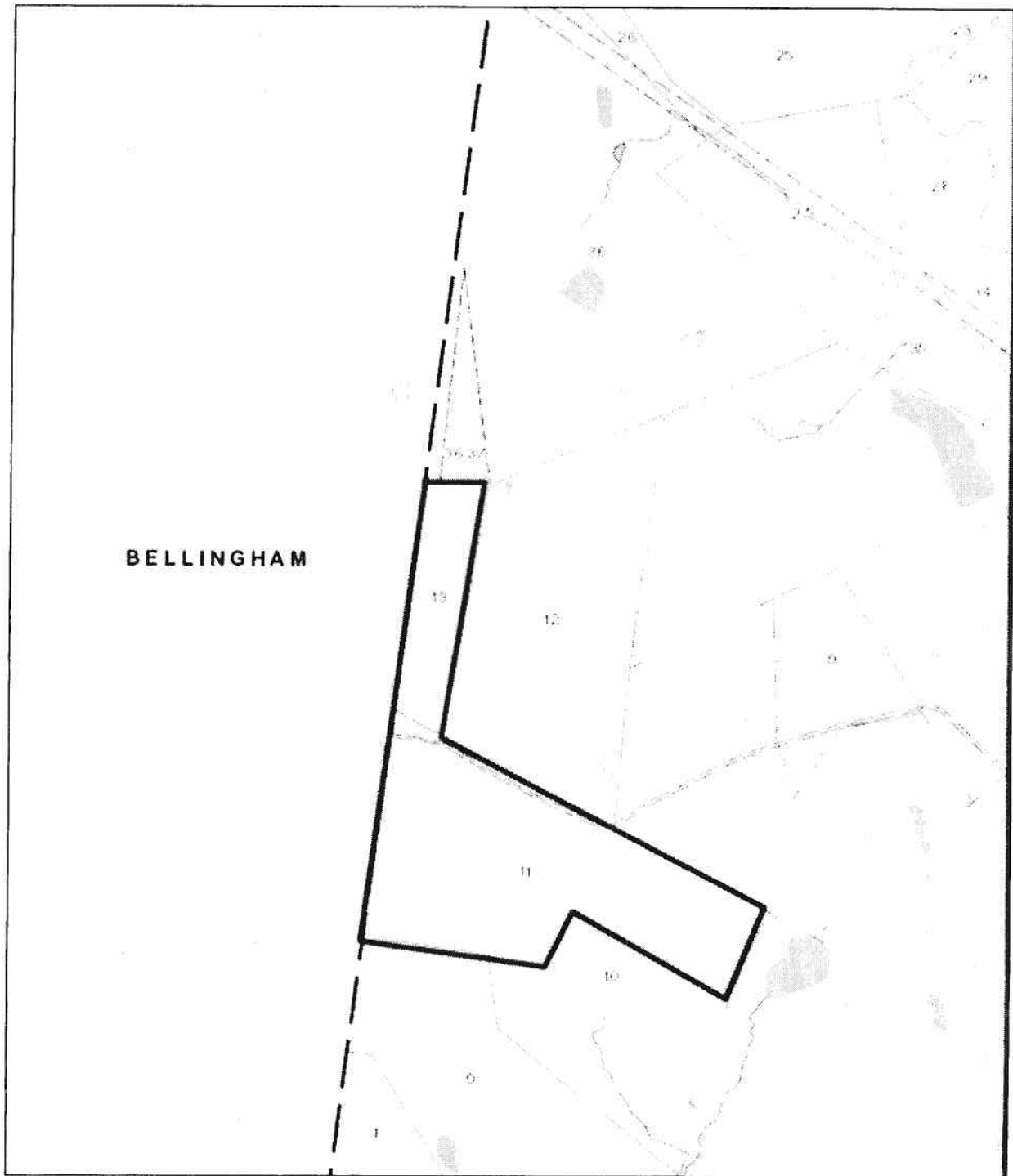
Now, THEREFORE, the undersigned states as follows:

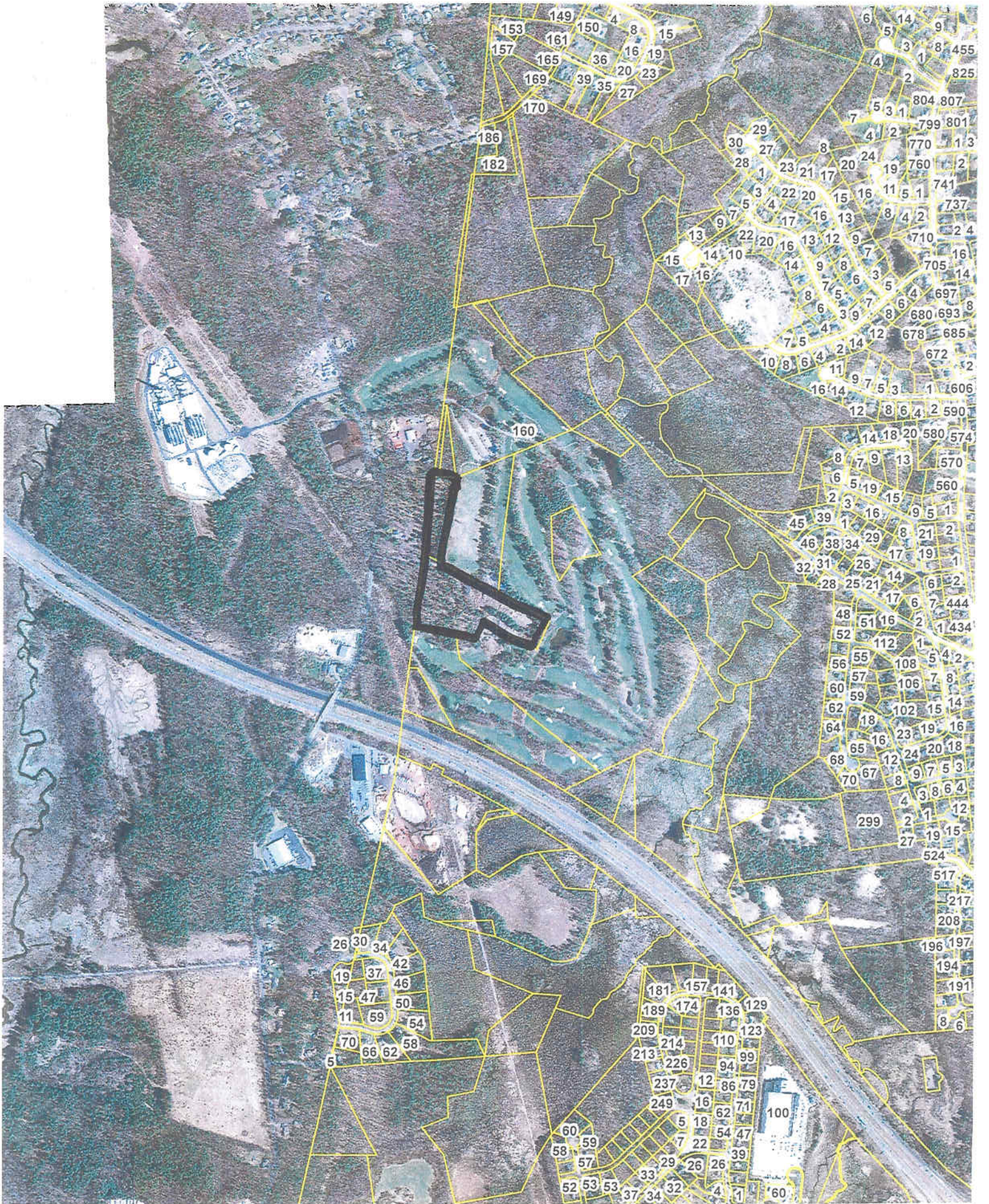
1. The Landowner intends to convert the Land to other use, thereby removing the Land from the provisions of M.G.L. c. 61B;
2. The Landowner's proposed use of the Land is production and storage of clean landscaping material;
3. The portion of the Land in Bellingham is known as Assessors' Parcel ID No.: 32-7-0 in the Town of Bellingham, consists of 10.14 acres of land. The portion of the Land in Franklin is known as Assessors' Parcel ID Nos.: 239-11 and 239-13, consists of 13.221 acres of land, and is shown on the map attached herewith as Exhibit "A."
4. The Landowner's address and telephone number are:

LMP Properties, LLC
64 E. Main Street
P.O. Box 28
Dover Foxcroft, Maine 04426
(207) 945-9001; and
5. The Landowner's attorney is:

Gary M. Hogan
Gilmore, Rees & Carlson, P.C.
1000 Franklin Village Drive
Franklin, Massachusetts 02038
(508) 520-2200

Exhibit "A"







TOWN OF FRANKLIN

RESOLUTION NO.: 14-52
APPROPRIATION: Recreation – Tot Lot
TOTAL REQUESTED: \$ 150,000

PURPOSE: To transfer funds from Recreation – Spray Park, Resolution 14-25 for the purpose of funding Recreation – Tot Lot at Fletcher Field

FINANCE COMMITTEE ACTION

Meeting Date: Vote:

Recommended Amount:

MOTION

Be It Moved and Voted by the Town Council that the sum of One Hundred Fifty thousand Dollars (\$150,000) be transferred from Resolution 14-25 Recreation-Spray Park to fund a Recreation Tot Lot at Fletcher Field.

DATED: _____, 2014

VOTED:

UNANIMOUS _____

YES _____ **NO** _____

ABSTAIN _____

ABSENT _____

A True Record Attest:

Deborah L. Pellegri
Town Clerk

Judith Pond Pfeffer, Clerk
Franklin Town Council



Town of Franklin Recreation Department

150 EMMONS STREET
FRANKLIN, MASSACHUSETTS 02038
WEBSITE: www.franklin.ma.us/recreation

Telephone: (508) 520-4909
520-4963
Fax: 520-4976

Director of Recreation
RYAN JETTE
rjette@franklin.ma.us

Program Coordinator
MEGAN WOODACRE
mwoodacre@franklin.ma.us

Administrative Assistant
DIANNE WILSON
dwilson@franklin.ma.us

August 22, 2014

Mr. Jeffrey Nutting
355 East Central Street
Franklin, MA 02038


Dear Jeff,

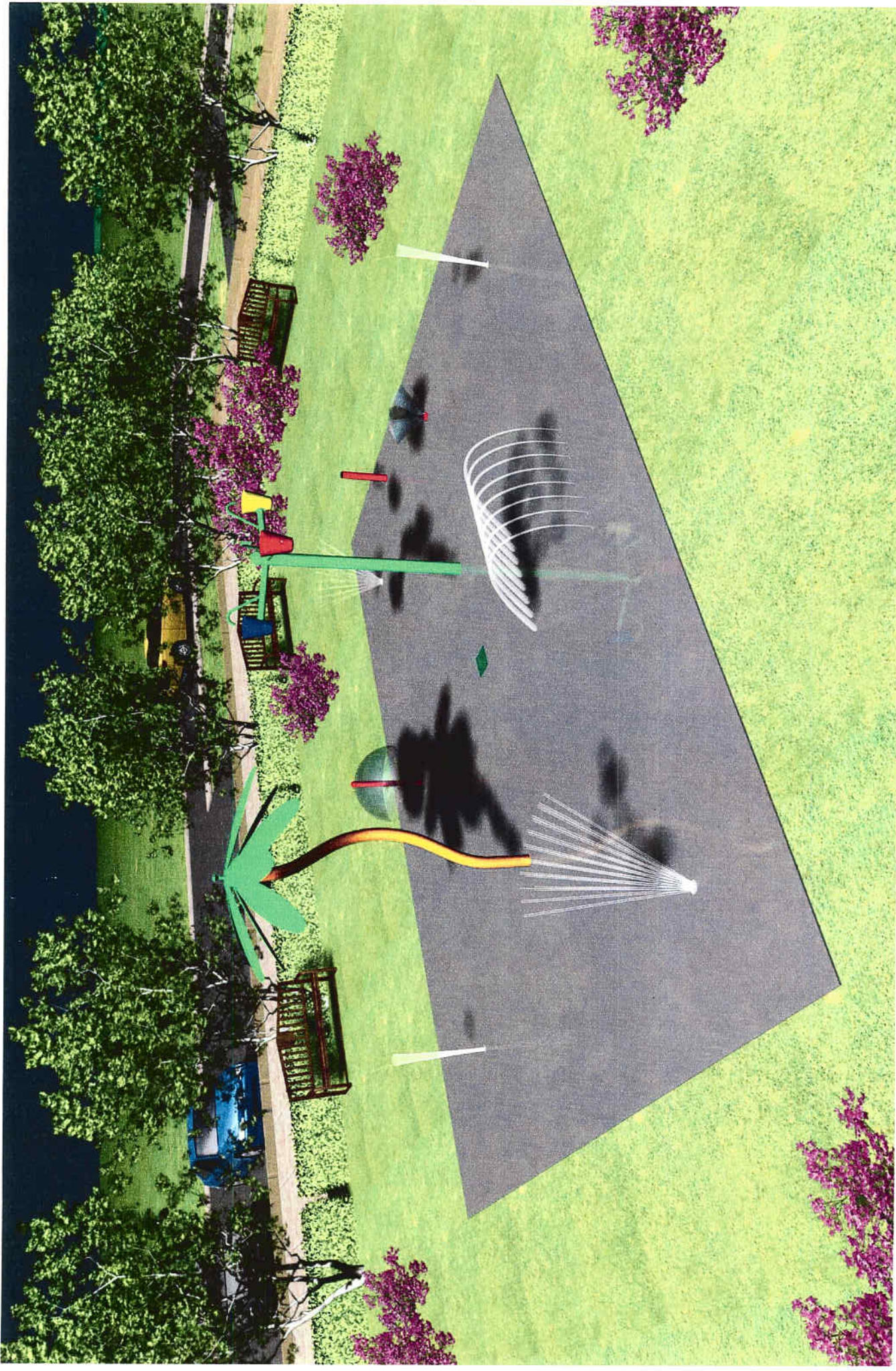
I wanted to inform you that the plans for the spray park have changed. With the resignation of our purchasing agent, and a deadline of August 1, 2014 set by the Executive Office of Environmental Affairs, this project could not have been designed, bid and executed in time. As you are aware, the State has this grant money available through the "Our Common Backyards Grant," for calendar year of 2014. I have been in contact with the Grant Coordinator, Melissa Cryan. She has informed me that they would like to see us put this grant money to use in 2014. I have requested the transfer of monies to be used for a Tot Lot (playground designed for ages 2-5 years old), instead of a spray park. Because the tot lot can be designed and constructed using state bid contractors, this project will not need to go out to bid, therefore, we can meet our December 31st deadline for installation.

I would ask you to support this change in project scope as it still meets the needs of building a playground in an environmental justice area at Fletcher Field, Peck Street. Furthermore, the State will still reimburse the Town for the majority of the costs.

The Town of Franklin has one tot lot in town; which is located at Nason Street Tot Lot. This playground gets a lot of use and we could use another location. The large play structure currently at Fletcher Field will remain in place, but it is designed for 5-12 year olds. We would like to construct the tot lot adjacent to the 5-12 year old main structure. This will be a significant improvement and will meet the needs of the residents with children ages 2-5 years old.

Sincerely,


Ryan Jette, CPRP
Director of Recreation



2012-1069 killingly splash park



TOWN OF FRANKLIN

RESOLUTION NO.: 14-53

PRIOR YEAR BILL: \$80,000

PURPOSE: To authorize payment of a prior year bill for Capital Dynamics (Solar Electricity) from the FY 15 Facilities electricity budget.

FINANCE COMMITTEE ACTION

Meeting Date Vote:

Recommended Amount:

MOTION

Be It Moved and Voted by the Town Council that the sum of Eighty Thousand Dollars (\$80,000) be authorized to pay a prior year bill from the FY 2015 Facilities Electricity budget.

DATED: _____, 2014

VOTED:

UNANIMOUS _____

YES _____ **NO** _____

A True Record Attest:

ABSTAIN _____

ABSENT _____

**Deborah L. Pellegri
Town Clerk**

**Judith Pond Pfeffer, Clerk
Franklin Town Council**



TOWN OF FRANKLIN

RESOLUTION 14-54

Authorization to Issue Request for Proposals – Pond Street Property

WHEREAS, The Town Council has previously considered making a parcel of land located off Pond Street and owned by the Town of Franklin available for development.

Now therefore, be it moved that the Town Council authorizes the Town Administrator to work with the Director of Planning and the Director of Purchasing to issue a Request for Proposals that will include, but not be limited to the provisions as set forth in the attached Pond Street RFP for the purpose of considering the sale of the Pond Street parcel.

This resolution shall become effective according to the provisions of the Town of Franklin Home Rule Charter.

DATED: , 2014

VOTED: _____

UNANIMOUSLY: _____

A TRUE RECORD ATTEST:

YES: ____ **NO:** ____

ABSTAIN: ____ **ABSENT:** ____

Deborah L. Pellegri
Town Clerk

Judith Pond Pfeffer, Clerk
Franklin Town Council

FRANKLIN PLANNING & COMMUNITY DEVELOPMENT

355 EAST CENTRAL STREET, ROOM 120
FRANKLIN, MA 02038-1352
TELEPHONE: 508-520-4907
FAX: 508-520-4906

MEMORANDUM

TO: JEFFREY D. NUTTING, TOWN ADMINISTRATOR
FROM: BRYAN W. TABERNER, AICP, DIRECTOR
RE: POND STREET PROPERTY RFP
CC: BETH A. WIERLING, TOWN PLANNER
DATE: AUGUST 26, 2014

As you know the Economic Development Committee (EDC) voted in support of the Pond Street Property Request for Proposal (RFP) and asked that the issue be added to the September 3, 2014 Town Council Agenda.

Attached for review and consideration by Town Council is the RFP and related attachments. Section II of the RFP contains a list of minimum Proposal requirements, including a minimum bid price of \$1,500,000. In addition to general information about the Property contained in the RFP, DPCD staff have developed a web page, which contains Pond Street Property specific information, as well as general Town of Franklin reference documents:

(http://town.franklin.ma.us/Pages/FranklinMA_Planning/pondstrfp).

DPCD staff are developing a marketing effort that will be implemented once Town Council votes to distribute the RFP. These efforts include purchasing ads in site selection periodicals, communicating with State agencies/organizations (MOBD, MassDevelopment, MassEcon) and identifying a list of individuals and organizations, including realtors/site selection companies and hotel development and management companies, that the RFP will be distributed.

Please let me know if you have questions. I will be in attendance at the September 3rd Town Council meeting.

TOWN OF FRANKLIN
REQUEST FOR PROPOSALS (RFP)
DISPOSAL OF REAL PROPERTY

In accordance with the provisions of Massachusetts General Laws, Chapter 30B, §16 the Town of Franklin seeks written proposals to purchase and develop a strategically located, highly visible, property bordered by Interstate 495 in Franklin, Massachusetts. The Town-owned ***Pond Street Property*** (the Property) consists of two parcels totaling 33.954+/-.

The Property has been owned by the Town of Franklin for over 110 years, and was used as a wastewater treatment facility between 1902 and 1980. The site is currently vacant. A variety of existing site development restraints require as much as half of the property to remain undeveloped

The location of this Property directly adjacent to I-495 and within presents a key opportunity for qualified developers to locate a commercial office building or a corporate campus facility with high visibility and accessibility via Exit 17.

The Town hopes to hear from individuals and organizations who will present compelling and appropriate development proposals for the use of the Pond Street site. Proposals that meet the minimum requirements in Section II, and basic submittal requirements outlined in Section III, will be rated as “responsive”, and shall be further evaluated in accordance with the comparative evaluation criteria outlined in Section IX. Comparative evaluation criteria outlined in Section IX was developed by identifying specifically what type of redevelopment the Town’s officials and residents determined to be the most appropriate reuse of the site.

The Town hopes to receive a wide variety of development proposals. Multiple proposals (with alternative site plan and building designs) from the same developer are welcome. The Town reserves the right to reject in whole or in part any and all proposals. This Request for Proposals may be cancelled if the Town determines that cancellation serves the best interests of the Town of Franklin.

Minimum Bid Price. Based upon a recent real estate appraisal, a minimum bid price for the Property has been established as \$1,500,000.

Proposal Deadline. Interested Developers are asked to submit an original (un-bound) and ten (10) copies of their Proposal to Franklin’s Purchasing Agent, by the 10:30 a.m. Wednesday November 19, 2014 submission deadline.

Site Visit. The Town will conduct an informal session and tour of the site at 10:30 a.m. on Wednesday, October 1, 2014. The Town requests interested parties meet at the Pond Street site.

Additional Information: In addition to Property information contained in this RFP the Town invites you to examine reference documents found on the Town’s website:

(http://town.franklin.ma.us/Pages/FranklinMA_Planning/pondstrfp).

All inquiries regarding to this RFP shall be directed to the Town’s Purchasing Officer:

John Bugbee, Purchasing Officer
Franklin Purchasing Department
355 East Central Street, Room 206
Franklin, MA 02038
Phone: 508-553-4866
Fax: 508-541-5253
Email: jbugbee@franklin.ma.us

I. PROPERTY DESCRIPTION

The Town of Franklin seeks written proposals to purchase and develop a strategically located, highly visible, property bordered by Interstate 495 in Franklin, Massachusetts. The Town-owned *Pond Street Property* (the Property) consists of two parcels: Parcel 258-003-000 [0.784 acre]; and Parcel 258-004-000 [33.170 acres], totaling approximately 33.954+/- . Below is a description of the Property,

Location and Acreage: The site consists of 33.954 acres of land on two parcels located in the Town of Franklin. The Property is bordered to the west by I-495, to the east by Pond Street, to the south by commercial properties, and to the north by wetlands owned by the U.S. Army Corps of Engineers and a residential subdivision

Brief History of Site: The Town has owned the Site for over 100 years. The former use of the Site was a permitted Wastewater Treatment Facility continuously from 1902 until 1980. The plant ceased operations in 1980 and closure operations began with all salvageable equipment being removed and filling of channels, tanks, lagoons and sludge beds. Street sweepings were deposited over the lagoons and sludge drying beds, and storm debris and rubble have been buried southerly of the sludge drying beds.

The site is currently abandoned. The only aboveground structures remaining from the former sewage treatment plant are two circular trickling filters located in the eastern portion of the Site and the cascade aerator located in the western portion of the Site.

Utilities: Connection to the municipal sanitary sewer system, the municipal water supply, overhead electric power, and natural gas service is available on Pond Street.

Zoning: The property is within the Town's Office zoning district, which is intended primarily for office parks, business uses, and limited commercial and light industrial uses. Hotel, restaurant, and office uses are being considered by the Town to support its vision to expand the commercial tax base and create jobs. All of these uses are allowed under the current Zoning Bylaw by Special Permit. The restaurant is allowed as an accessory use. The Office zoning district allows a building coverage of 50 percent and up to 3 stories by right.

Economic Development: Previous attempts to sell and redevelop the Property have been unsuccessful. In recent years the Town has implemented several economic development initiatives related to the Property. In 2011 Franklin Town Council voted to approve two zoning changes, which involved streamlining permitting of certain biotechnology uses in the Town's Biotechnology Uses Overlay Zoning District. At the same time the Pond Street Property was added to the Biotechnology Uses Overlay Zoning District to enable the Town to market the property to a wider audience. The Property is the Town's first Priority Development Site (PDS); Town's PDS streamlined permitting processes expedite permit issuance by concurrent review of development applications. Also, the Property is an Economic Opportunity Area and as such the Town can offer businesses looking to start up or expand in Franklin a Tax Increment Finance (TIF) agreement.

Additional Information: Attachment A contains a descriptive summary of the Property and the following diagrams: 1.) Vicinity Map; 2.) Diagram showing Former Wastewater Treatment Plant Resources; 3.) ANRAD Diagram; and 4.) Map of Pond Street Priority Development Site.

The Town performed an Assessment of the Property, which included identification of development limitations. The resulting document, *Pond Street Property Assessment*, was developed for the Town by Fuss & O'Neill (September 2010) and includes valuable information about the Property. The assessment document and several other reference documents, including a Real Estate Appraisal Report completed in June 2014, are available on the Town's web site. A list of these available resources is within Attachment B of this document.

Development Teams should examine all available information and materials. Failure to do so will be at Development Team's risk.

II. PROJECT GOALS AND ALLOWED USE OF THE SITE

Minimum Town Requirements for Site Development

Below is a short list of conditions that are required of all proposals. Any Firm desiring consideration that submits a proposal not meeting these “initial” minimum qualifications/requirements will be determined to be non-responsive and disqualified from any further review.

At a minimum, the following conditions will be required of all Proposals:

- Demolition of the existing trickling filters and other wastewater treatment facility structures, and removal of previously dumped debris.
- Development of the site for uses currently allowed by-right or by special permit. Please refer to the Town of Franklin’s Zoning Bylaw.
- Nonprofit Use: Any nonprofit user will be expected to sign a “payment-in-lieu of taxes” (PILOT) agreement acceptable to the Town;
- Price: The minimum bid price for the property, as voted by Franklin Town Council, is \$1.5 million dollars (**\$1,500,000**) with the stipulations contained in this RFP.
- Proposals will include all information requested in Section III of this RFP.

In addition to the minimal requirements listed above, Developers are asked to consider the following while developing proposals:

- Development of the Office-zoned Property for commercial purposes, with emphasis on commercial offices, medical offices, corporate headquarters, research & development facilities, life sciences park or campus, or hotel with or without a conference center and/or attached restaurant.
- Develop the site in a way that will maximize financial benefit to the Town and its residents, including both short-term (purchase of property) and long-term revenues (real estate tax, hotel room tax).
- Stimulate economic development within the community and region, including creation of new temporary construction and permanent living wage positions.
- Emphasis in development that will benefit from the site location and accessibility, as it relates to Interstate 495, Route 140, and the Forge Park MBTA Commuter Station;
- Preservation of the Property’s natural and aesthetic resources;
- The Development team should provide sufficient natural buffering and screening to limit the noise and light impacts of the development to adjacent residential properties on the east side of Pond Street and to the north of the Property. At a minimum the Developer will provide a 75 feet wide no-build buffer on the north edge of the Property.
- Creation of public green space and other passive recreation resources, including incorporating into the design parking and pedestrian access to Mine Brook, pedestrian loop trails, canoe launch and benches and or picnic areas.

Given the Property’s site limitations, especially its substantial wetlands and riverfront resources, and the desire to buffer adjacent residential neighborhoods from future non-residential uses, the Town recognizes developers may need to submit proposals that include private/public partnerships, conservation easements, or subdivision of the Property. The Town is willing to consider multiple development options for the Pond Street property from a single developer.

III. SUBMISSION REQUIREMENTS

Each Proposal shall contain the information requested in this Section of the RFP. Development Teams should follow the prescribed format and use the included forms or reasonable facsimiles thereof.

Proposals that do not include all of the information required below in this section, or proposals with insufficient information to meet the criteria described below, shall be considered as non-responsive and dropped from further consideration.

Any information that is considered relevant by the Development Team that does not apply to the requirements listed below should be added as an appendix to the Proposal.

All Proposals shall be submitted in an envelope marked "Pond Street Property Development Proposal".

In order to be considered responsive, proposals must include the following:

- **Letter of Intent:** A one to two page letter, signed by the principals of the firm and outlining the reasons behind the firm's interest in this RFP. The letter shall contain the name and address of the developer, and the name, address, telephone number, and email of the contact person. The letter should indicate the respondents offer to purchase and intended re-use of the property and bid offer. In addition, letters must acknowledge receipt of all RFP addendums (if issued).
- **Required Forms and Statements.** The submitted Proposal should include *all* of the *required signed state forms* and statements including non-collusion, certificate of state tax compliance, if non-profit the required Disclosure of Beneficial Interest in Real Property, and a Corporate Vote (see Section XII).
- **Proposal Form:** Use of the Proposal Form in Section XII of this RFP is suggested. Proposers must provide all information requested on the form, and provide such additional sheets as needed.
- **Description of the Purchaser(s):** A description of the entity submitting the proposal, that includes: corporate name(s) and dba(s) if applicable; corporate address and telephone number; names and addresses of all investors/shareholders and officers of the corporation; names and titles of persons with the authority to contractually bind an offer to purchase with proof of authority by corporate vote or other.
- **Description of the Developer(s):** Please provide a description of the proposed Developer(s) if different from the proposed Purchaser above, including name of Developer's legal organization name(s), contact information of the Developer's principal(s), development team members (e.g., architect, contractor) if known, and a description of the Developer's experience with similar projects.
- **Offer to Purchase and Bid Deposit:** The proposal shall contain a written offer to purchase, and a ten percent (10%) refundable Bid deposit, based upon the offered purchase price.
- **Project Description:** Proposals must contain a detailed description of the proposed development project including but not limited to the following:
 - A full description of the proposed use of the "Site", including intensity of use. The site is zoned *Office*. The use and development of the site must conform to the requirements of the Town of Franklin Zoning Bylaw. The Proposal must demonstrate compliance with the Zoning Bylaw and include a listing of all special permits needed for the project.
 - Identification of any Planning Board, Zoning Board of Appeals, Conservation Commission or Town Council actions required for authorization of the proposed use.

- The Proposer should submit preliminary *site development plans* showing the location of existing man-made and natural features, easements, and proposed improvements including buildings, parking areas and roadways. Site Plans should be to scale and contain reasonably accurate depictions of existing and proposed conditions, however, submission of architectural drawings and engineered site plans are not necessary at this stage.
- In the case where full buildout of the site is to be phased, or where two or more Developers are partnering to subdivide the property, a Phasing Plan or Master Plan shall be submitted depicting concepts for the future build out of the site.
- The Project Description shall contain a *development timetable* listing potential dates of the following:
 - Execution of Agreement following Town Council action;
 - Financing in place;
 - Permitting;
 - Start of construction;
 - End of construction;
 - Occupancy.

Note: The disposition of the property shall take place within a reasonable amount of time, as mutually agreed, following the Town Council's approval and acceptance of the winning proposal.

- **Financial Plan:** A financial plan demonstrating the availability of sufficient resources to purchase the property, secure the property, and complete the contemplated re-use of the property must be presented. The plan shall include commitments from potential funding sources, both public and private, a financing plan and supporting documentation demonstrating that sufficient funding is available to undertake the project. For example, financing commitments in legally binding form shall rate higher than letters of interest; and financing commitments shall rate higher than financing commitments with conditions pertaining to additional debt/equity contributions or participation.

Proposers must demonstrate that they have the financial resources to support the proposed development; such information shall indicate both internal financing, as well as anticipated borrowing; proposers must be willing to provide the evaluation committee with financial statements (preferably audited) and bank references, if requested during a final proposal evaluation.

- **Fiscal Impact Assessments:** Proposers must submit an evaluation of fiscal and economic impacts of the proposed development on the Town. Fiscal Impacts Statements shall include the following:
 - Projections of costs arising from increased demands for public services and infrastructure;
 - Projections of financial benefits from increased tax revenues, employment (construction and permanent) and value of public infrastructure to be provided;
 - Projections of the impacts of the proposed development on the values of abutting properties;
 - Ten year projection of Town revenues and costs resulting from the proposed development.

IV. ADDITIONAL INFORMATION

- Any questions concerning the content or interpretation of this RFP must be submitted in writing to the office of the Purchasing Officer (508-553-4866 or jbugbee@franklin.ma.us) no later than three (3) business days prior to the submission deadline.
- Any response to such questions will be provided in writing to all parties that have been provided a copy of this RFP by mail. Acceptance for any and all addenda must be acknowledged in the proposal being submitted for consideration.
- The Town will not be bound by any oral interpretation(s) or representation(s) made by any Town official or employee with respect to the terms and conditions of this RFP procedure, or of the condition of the Property.

V. DISCLOSURES AND LIMITING CONDITIONS

- This RFP is subject to the process outlined within this document.
- This RFP is made subject to errors, omissions, or withdrawal without prior notice. In no way does this obligate the Town to select a developer.
- The Property is presented in “as-is condition”, with no representations or warranties by the Town.
- While all information furnished herein was gathered from sources deemed to be reliable, no representation or warranty is made as to the accuracy or completeness thereof. Prospective developers should undertake their own review and reach their own conclusions concerning zoning, physical conditions, environmental concerns, required approvals, use potential, and other development and ownership considerations.
- Proponents are asked to provide information regarding any legal or administrative actions past, pending, or threatened which could relate to the conduct of the proponent’s (or its principals or affiliates) business and/or their compliance with laws.
- Disclosure is required of any past or present affiliations of the proponent, proponent team members or proponent employees with the Town of Franklin. Please describe the nature and duration of the affiliation, including a disclosure of existing or past public contracts in Franklin, the contracting parties, scope of the contract, and period of performance.
- Nothing herein is intended to exclude any responsible Proposer, or in any way restrain competition. All responsible purchaser/developers are encouraged to submit proposals.
- The Town of Franklin encourages participation by Minority and Women Owned Business Enterprises (MWBE).

VI. QUALIFICATIONS

The recommendation for award of this property is based on a Qualification Based Selection (QBS) Process. All Firms must possess and provide evidence of “initial” minimum qualifications stated in Section II, and meet all submission requirements in Section III for the submitted proposal to be considered as “responsive”.

Non-responsive Proposals. Any Firm desiring consideration that has not provided all initial submittal requirements and meet the minimal qualifications in Section II will be determined to be non-responsive and disqualified from any further review.

VII. SUBMISSION OF PROPOSALS

Interested Proposers/Developers must submit the following in a sealed envelope clearly marked “Pond Street Proposal” with the name and address of the Proposer on the outside of the envelope to the Town of Franklin’s Purchasing Agent by the Submittal Deadline:

- A. One (1) original (un-bound) and ten (10) copies of Proposal, including Cover Letter, all required forms, and all information requested in Section II.

John Bugbee, Purchasing Officer
Franklin Purchasing Department
Town of Franklin, Municipal Building
355 East Central Street, Room 206
Franklin, MA 02038
Phone: 508-553-4866
Fax: 508-541-5253
Email: jbugbee@franklin.ma.us

Proposal Deadline: Deadline for submission of Proposals is 10:30 a.m. Wednesday November 19, 2014.

- Proposals will be publicly opened at that time, with the name of each proposer and the price recorded.
- Proposals become public information when they are opened.
- Proposals received after the deadline will be rejected and returned to the proposer unopened.
- Proposals submitted prior to the deadline may be corrected, modified or withdrawn by written notice received in the office of the Purchasing Agent prior to the submission deadline stated above. The Town may waive any informality in a proposal submission or allow the proposer to correct them.
- Persons submitting a proposal by mail or other delivery service shall bear full responsibility for delivery to the designated office prior to the submission deadline.
- All materials submitted by Purchaser/Developer become the property of the Town. The Town is under no obligation to return any of the material submitted by a Purchaser/Developer in response to this RFP.
- The Town reserves the right to accept or reject any or all of the proposals submitted and waive informalities and technicalities.

VIII. PROPOSAL TIME FRAME

Each Purchaser/Developer’s proposal must remain in effect for at least 120 days from the Deadline for its submission. The Town will decide upon acceptance within 120 days of submission.

IX. CRITERIA FOR EVALUATION

All proposals will be reviewed by a Proposal Evaluation Committee comprised of the Purchasing Agent, Town Administrator, Town Planner, and Director of Planning and Community Development.

To be considered responsive, Proposals must meet the submission requirements set out in Sections II and III of this RFP. Once a Proposal is considered responsive, the Town will evaluate it using the comparative evaluation criteria detailed below in this section.

Each Proposal that meets the Minimum Submittal Requirements will be further evaluated and rated according to the Evaluation Criteria in order to determine the proposal which indicates the most appropriate use of the site, and which is deemed to be in the best interests of the Town of Franklin.

Within each category, the degree to which the proposal satisfies the stated objective shall be reviewed and rated on a system of “Highly Advantageous”, “Advantageous”, and “Not Advantageous”:

PROPERTY REUSE

Highly Advantageous – A proposal that demonstrates the most viable reuse of the property and stimulates further development opportunities consistent with the goals stated.

Advantageous – A proposal that demonstrates a viable reuse of the property in accordance with goals previously stated but does not stimulate further development.

Not Advantageous – A proposal that minimizes the reuse of the property and is not consistent with goals and objectives listed in the RFP and also does not stimulate further development.

EMPLOYMENT OPPORTUNITIES

Highly Advantageous – A proposal that maximizes new full time employment opportunities with advancement, livable wages, and benefits for residents of the Town of Franklin, and any other employment related functions such as training opportunities.

Advantageous – A proposal that will offer a considerable amount of new employment opportunities with livable wages and benefits.

Not Advantageous – A proposal that offers a minimal amount of new employment opportunities.

FISCAL IMPACTS AND TAXATION ISSUES

Highly Advantageous – A proposal that exhibits uses which are taxable under property taxation laws of the Commonwealth, demonstrates maximum annual tax revenue yield for the Town of Franklin and enhances the vitality of the local economy.

Advantageous – A proposal that exhibits uses which are taxable under property taxation laws of the Commonwealth, demonstrates a reasonable annual tax revenue yield for the Town of Franklin.

Not Advantageous – A proposal that exhibits uses which are either non-taxable under property taxation laws of the Commonwealth, or demonstrates low annual tax revenue yield for the Town of Franklin.

REDEVELOPMENT PLAN

Highly Advantageous – A proposal that has a redevelopment plan that demonstrates a well planned use of the property, management experience, and a development team which can show a strong commitment to commence the redevelopment within ninety (90) days of conveyance of title and the ability to complete the work within one year of conveyance. The proposal provides lease commitments from end users of the development.

Advantageous – A proposal that has a redevelopment plan that demonstrates a well planned use of the property, management experience, and a development team which can show a strong commitment to commence the redevelopment within six months of conveyance of title and the ability to complete the work within twenty-four months of conveyance. The proposal provides letters of interest from end users of the development.

Not Advantageous – A proposal that does not demonstrate a well-planned use of the property, or does not demonstrate management experience and a development team which can show a strong commitment to commence the redevelopment within six months of conveyance of title, and the ability to complete the work within twenty-four months of conveyance. Or the proposal does not contain letters of interest from end users of the development.

All finalist on the shortlist will be required to provide evidence of financial ability and will be subject to one additional evaluation as follows:

Highly Advantageous – A proposal that demonstrates firm financial commitments and the financial capability to initiate and complete the redevelopment within a definitive timeframe that is in the best interests of the Town of Franklin.

Advantageous – A proposal that has letters of financial interest and the capability to initiate and complete the redevelopment within a definitive timeframe that is in the best interests of the Town of Franklin.

Not Advantageous – A proposal that does not include letters of financial interest or does not adequately address a timetable for the redevelopment of the property.

X. RULE FOR AWARD

The Proposal Evaluation Committee will evaluate and rate all responsive proposals, and shall submit to the Town Administrator a list of the three best proposals. A written statement of the advantages and disadvantages of each Proposal and a recommendation as to the most advantageous proposal will be generated by the Committee.

The Committee will interview prospective Proposal proponents and the results of the interviews will be considered in the full evaluation process. The Town Administrator shall make recommendation to the Town Council as to the successful proposer, taking into consideration the Committee's recommendation, and their independent judgment as to which proposal is in the best interests of the Town.

Award of the Disposition shall be subject to the approval of the Franklin Town Council. The Town Council will vote to award taking into consideration the best interest of the Town including the proposed development and the bid price for the site.

In no way is the Town obligated to select a developer. The Town reserves the right to reject in whole or in part any and all proposals. This Request for Proposals may be cancelled if the Town determines that cancellation serves the best interests of the Town of Franklin.

XI. TERMS OF AGREEMENT

- A Land Disposition Agreement will be reviewed by the Town Attorney for compliance with the terms of the RFP, and may incorporate the terms of this RFP and of the proposal selected. A draft Land Disposition Agreement is provided in Attachment C.
- The successful Proposer will be expected to execute a Land Disposition Agreement within thirty (30) days of the delivery of the Agreement. Failure to execute the Land Disposition Agreement within thirty (30) days will result in forfeiture of the security, otherwise, the deposit will be returned.
- Bid deposits of unsuccessful proposers will be returned upon the execution of the Land Disposition Agreement.
- The Purchaser/Developer shall not assign, transfer, sublet, convey or otherwise dispose of any agreement or contract which results from this RFP, or its right, title or interest therein or its power to execute the same to any other person, firm, partnership, company or corporation without the previous consent in writing of the Town. Should the Purchaser/Developer attempt any of the above without written consent of the Town, the Town reserves the right to declare the Purchaser in default and terminate the agreement or contract for cause.
- Prospective Purchaser/Developers must be current in taxes and all water and sewer liabilities on any and all real estate owned in the Town of Franklin.
- The sale of the property is subject to any easements existing and required for street, sewer and water or any other public purposes within the Property or in the streets abutting the Property.
- The Purchaser/Developer is to be responsible for providing for, and paying for, all title work and is responsible for paying for a survey of the parcel of land, with that survey being subject to the approval of the Town of Franklin.
- The Developer will have complete responsibility for all expenses related to the operations and maintenance of any future buildings including taxes, as required by law (real estate and personal property; any nonprofit user will be required to sign a “payment-in-lieu of taxes” (PILOT) agreement acceptable to the Town.
- All building and expansion schedules will be subject to the prior approval of the Town, including any and all building and or construction permits.
- The Developer will be responsible for all utilities, including water, sewer and storm drainage, solid waste disposal, snow and ice removal, and all repairs required to maintain any building or other facilities constructed at the Property in compliance with all applicable provisions of law, regulations, and building codes.

XII. STATEMENTS REQUIRED WITH SUBMISSION

All proposals shall include the following statements:

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 submitted in good faith and without collusion or fraud with any other person. As used in this certification, the word "person" shall mean any natural person, business, partnership, corporation, union, committee club, or other organization, entity, or group or individuals.

Signature of person submitting the proposal

Name of Business or Development

CERTIFICATE OF COMPLIANCE WITH STATE TAX LAWS

Pursuant to M.G.L. Chapter 62C, Sec. 49A, and M.G.L. Ch. 151A, Section 19A, I certify under the penalty of perjury that _____ has complied with all laws of the Commonwealth of Massachusetts relating to taxes, reporting of employees and contractors, and withholding and remitting child support.

*Signature of Individual
Or Corporate Officer

**Social Security Number/
Federal Identification Number

Corporate Name: _____
(if applicable)

Name and Title: _____
Of Corporate Officer
(if applicable)

*Approval of a contract or other agreement will not be granted unless this certification clause is signed by the applicant. For all corporations, a certified copy of the vote of the Board of Directors must be provided.

**Your social security number will be furnished to the Massachusetts Department of Revenue to determine whether you have met tax filing or tax payment obligations. Providers who fail to correct their non-filing or delinquency will not have a contract or other agreement issued, renewed or extended. This request is made under the authority of Massachusetts General Laws, Chapter 62C, Section 49A.

August 22, 2014

CERTIFICATE OF CORPORATE VOTE (if applicable)

If a corporation, complete below or attach to each signed copy of a contract a notarized copy of vote of corporation authorizing the signatory to sign this contract. If attesting clerk is same as individual executing contract, have signature notarized below.

At a duly authorized meeting of the Board of Directors of the _____ held on _____
(Name of Corporation) (Date)

At which all the Directors were present or waived notice, it was VOTED That,

(Name) (Officer)

of this company be and hereby is authorized to execute contracts and bonds in the name and behalf of said company, and affix its corporate seal thereto, and such execution of any contract or obligation in this company's name on its behalf by such _____
(Officer)

of the company, shall be valid and binding upon this company.

I hereby certify that I am the Clerk of the _____

that _____ is the duly elected
_____ of said company, and that the above vote has not been amended or rescinded
(Officer)

in full force and effect as of the date of this contract.

A true copy,
ATTEST _____
Clerk
Place of Business _____
Corporate
_____ Seal

SWORN TO AND SUBSCRIBED BEFORE ME THIS _____
DAY OF _____, 20_____.

NOTARY PUBLIC

DISCLOSURE OF BENEFICIAL INTEREST IN REAL PROPERTY

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 Asset Management (DCAM), formerly the Division of Capital Planning and Operations, as required by M.G.L. c. 7 section 40J, prior to the conveyance for the real property described below. Attach additional sheets if necessary.

1. Public Agency involved in this transaction: _____
(Name of jurisdiction)

2. Complete legal description of the property:

3. Type of Transaction ____Sale ____ Lease or rental for ____
(Term)

4. Seller(s) or Lessee(s): _____

Purchaser(s) or Lessee(s): _____

5. Names and addresses of all persons who have or will have a 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 stockholders must also be listed except that, if the stock of the corporation is listed 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.

| Name | Address |
|-------|---------|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

None of the persons listed in this section is an official elected to public office in the Commonwealth of Massachusetts except as listed below:

| Name | Address |
|-------|---------|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

6. This section must be signed by the individual(s) or organization(s) entering into this real property transaction with the public agency names 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.

August 22, 2014

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 within Thirty (30) days following the change or addition.

The undersigned swears under pains and penalties of (perjury) that this Form is completed and accurate in all respects.

Signature: _____

Printed Name: _____

Title: _____

Date: _____

TOWN OF FRANKLIN

**PROPOSAL FORM
DISPOSITION OF REAL PROPERTY**

Date: _____

Name and address of Individual, Corporation or other Entity submitting this proposal:

The following information shall be provided on this form or on such additional sheets as shall be required.

1. The Individual, Corporation or other entity submitting this proposal operates on a for-profit ____, not-for-profit ____ basis. Evidence of not-for-profit status is attached to this proposal form. ____ Yes
____ No
2. Provide a brief history of the entity submitting this proposal, including length of time in existence, name and address of officers or trustees, current location, description of current operations, including number of employees etc.
3. The Prospective Developer agrees to execute a Purchase and Sales Agreement in substantially the form included in the Request for Proposals within thirty (30) days of delivery of such Agreement by the Town. ____ Yes ____ No
4. Proposed price to purchase the Pond Street Site _____

By: _____
Signature and Title

By: _____
Name of Business (if applicable)

Pond Street Property, Franklin, MA Property Summary

The Town-owned Pond Street Property consists of two parcels: Parcel 258-003-000 [0.784 acre]; and Parcel 258-004-000 [33.170 acres], totaling 33.954+/- acres.

The Site is bordered to the west by I-495, to the east by Pond Street, to the south by a commercial property, and to the north by wetlands owned by the U.S. Army Corps of Engineers and a residential subdivision (see Diagram 1).

The Pond Street Property (the Property) has been owned by the Town of Franklin for over 110 years, and was used as a wastewater treatment facility between 1902 and 1980. The site is currently vacant.

The Property contains substantial wetland resources and other site development limitations (see Diagram 3). The area within 100 feet of wetland resources and within 200 feet of the river setback is 18.95 acres. Existing site development restraints requires approximately half of the property to remain undeveloped.

The Town performed an Assessment of the Property, which included identification of development limitations. The resulting document, Pond Street Property Assessment, was developed by Fuss & O'Neill (September 2010) and includes valuable information about the Property. The assessment document and other reference documents are available from the Town of Franklin Department of Planning and Community Development

A few key details about the property are listed below:

- **History of the Parcel:** The Town has owned the Site since 1900. The former use of the Site was a permitted Wastewater Treatment Facility from 1902 until 1980. Diagram 2 is a diagram showing the approximate location of the wastewater treatment facility's trickling filters, and former lagoons and sludge drying bed areas located to the west of the trickling filters. An abandoned, concrete cascade aerator is located between Mine Brook and the former lagoon area.

The plant ceased operations in 1980 and closure operations began with all salvageable equipment being removed and channels, tanks, lagoons and sludge beds being filled. Street sweepings have been deposited over the lagoons and sludge drying beds, and storm debris and rubble have been buried southerly of the sludge drying beds. The concrete channels, sludge drying beds, and lagoons have been completely covered, while the primary and secondary sludge storage tanks have been partially filled. No work has been done to fill the trickling filters which still contain the filter media.

- **General Description of the Parcel:** The site is currently abandoned. The only aboveground structures remaining from the former sewage treatment plant are two circular trickling filters located in the eastern portion of the Site and the cascade aerator located in the western portion of the Site. Records indicate the parcel contains an 18-inch sewer force main from the Conlyn Avenue area, a Mine Brook interceptor, a cross-country gravity sewer line, and chlorine feeder lines and pipes interconnecting the former lagoons.

The southern portion of the Site has been used as a stockpile area for excess soil and debris (primarily concrete and asphalt) from roadway and sewer line construction projects. The portion of the site where the former wastewater discharge lagoons were located was filled with clean fill and street sweepings during closure of the former

sewage treatment plant and is overgrown with shrubs, grasses and annual plant species. The remainder of the site is either forest or wetland.

The site is located in a Current Drinking Water Source Area (CDWSA), and more specifically Zone II of public well No. 410100-07G, which is located 1.5 miles north of the site.

- **Roads, Access:** Current access to the site derives from Pond Street. The Property's location is considered highly desirable due to its close proximity to I-495 and the Route 140/I-495 interchange.
- **Water Service:** Connection to the municipal water supply is available on Pond Street. Additional information can be found in the 2010 Pond Street Property Assessment, and by contacting Franklin Department of Public Works.
- **Sanitary Sewer:** Connection to the municipal sewer system is available. Mine Brook interceptor and other sewer lines cross the Property. Additional information can be found in the 2010 Pond Street Property Assessment, and by contacting Franklin Department of Public Works.
- **Electricity:** Overhead electric power is along the eastern side of Pond Street and crosses over to the western side of the street approximately 200 yards north of the Property's gravel access driveway. More information can be found in the 2010 Pond Street Property Assessment, and by contacting the utility.
- **Natural Gas:** According to a representative from Bay State Gas Company, which provides the Town with natural gas service, there is a two-inch to three-inch gas main in Pond Street with sufficient pressure to accommodate redevelopment.
- **Storm drainage:** There are two storm drainage outfalls that discharge runoff from the Pond Street drainage system to wetland resources on the Pond Street Property
 - 48-inch (estimated) concrete pipe from a concrete structure located in the southeastern corner of the site that connects 18-inch and 48-inch culverts from Pond Street.
 - 36-inch (estimated) concrete pipe from Pond Street in the northeastern corner of the site to an intermittent stream located along the northern boundary of the site.

These storm drainage outfalls must remain in service subsequent to future development. In addition, there is a catch basin pipe that encroaches onto the southern part of the site from an adjacent property. More information can be found in the 2010 Pond Street Property Assessment, and by contacting Franklin Department of Public Works.

- **Hazardous Materials:** During 2001 the United States Environmental Protection Agency (EPA) awarded the Town of Franklin a Targeted Brownfields Assessment grant to conduct an environmental assessment of the Old Sewer Bed Site. As mentioned above, the Property is located within a Current Drinking Water Source Area; Reportable Concentrations for Soil Category RCS-1 and Groundwater Category RCGW-1 were applicable to the Site. A release was reported on the Site on November 19, 2002 due to the detection of concentrations of naphthalene in one groundwater sample and polycyclic aromatic hydrocarbons (PAHs) in soil samples that exceeded reportable concentrations for soil and groundwater, respectively.

Field investigations performed at the site in April and September 2003 did not detect naphthalene in two rounds of additional groundwater sampling. Analysis of soil performed during these investigations determined that the PAH compounds detected in

soil were exempt from reporting requirements as their source was either coal ash, wood ash, or bituminous pavement; all of which were contained in the soil samples collected from the Site. The Method 2 risk assessment determined that a condition of “No Significant Risk to human health or the environment” exists at the site under current and foreseeable future conditions. Because remedial actions were not required to create the conditions of No Significant Risk, a Class B-1 Response Action Outcome Statement (RAO) is appropriate at the site.

Copies of the November 2003 Draft Phase I Initial Site Investigation, which includes the Method 2 Risk Assessment, and the RAO completion Statement are available from the Department of Planning and Community Development.

- **Zoning:** The property is within the Town’s Office zoning district, which is intended primarily for office parks, business uses, and limited commercial and light industrial uses. Industrial uses such as warehouse and manufacturing are not permitted except as accessory uses. All types of residential development or use within this zone are prohibited. The Office zoning district allows a building coverage of 50 percent and up to 3 stories by right.
- **Biotechnology Uses.** In 2011 Franklin Town Council voted to approve a variety of economic development related zoning changes, two of which involved streamlining permitting of certain biotechnology uses in the Town’s Biotechnology Uses Overlay Zoning District. The Pond Street Property was added to the Overlay Zone at that time to enable the Town to market the property to a wider audience.
- **Pond Street Economic Opportunity Area:** The Property is an Economic Opportunity Area and as such the Town can offer businesses looking to start up or expand in Franklin a Tax Increment Finance (TIF) agreement.
- **Pond Street Priority Development Site:** The Property is the Town’s first Priority Development Site (PDS). Diagram 4 is a map of Pond Street PDS. The Town’s PDS streamlined permitting processes expedite permit issuance by concurrent review of development applications. The expedited permitting program includes a recommended Pre-Application Process.

Attachments

Attached are the following diagrams:

1. Vicinity Map
2. Diagram showing Former Wastewater Treatment Plant Resources
3. ANRAD Diagram
4. Map of Pond Street Priority Development Site

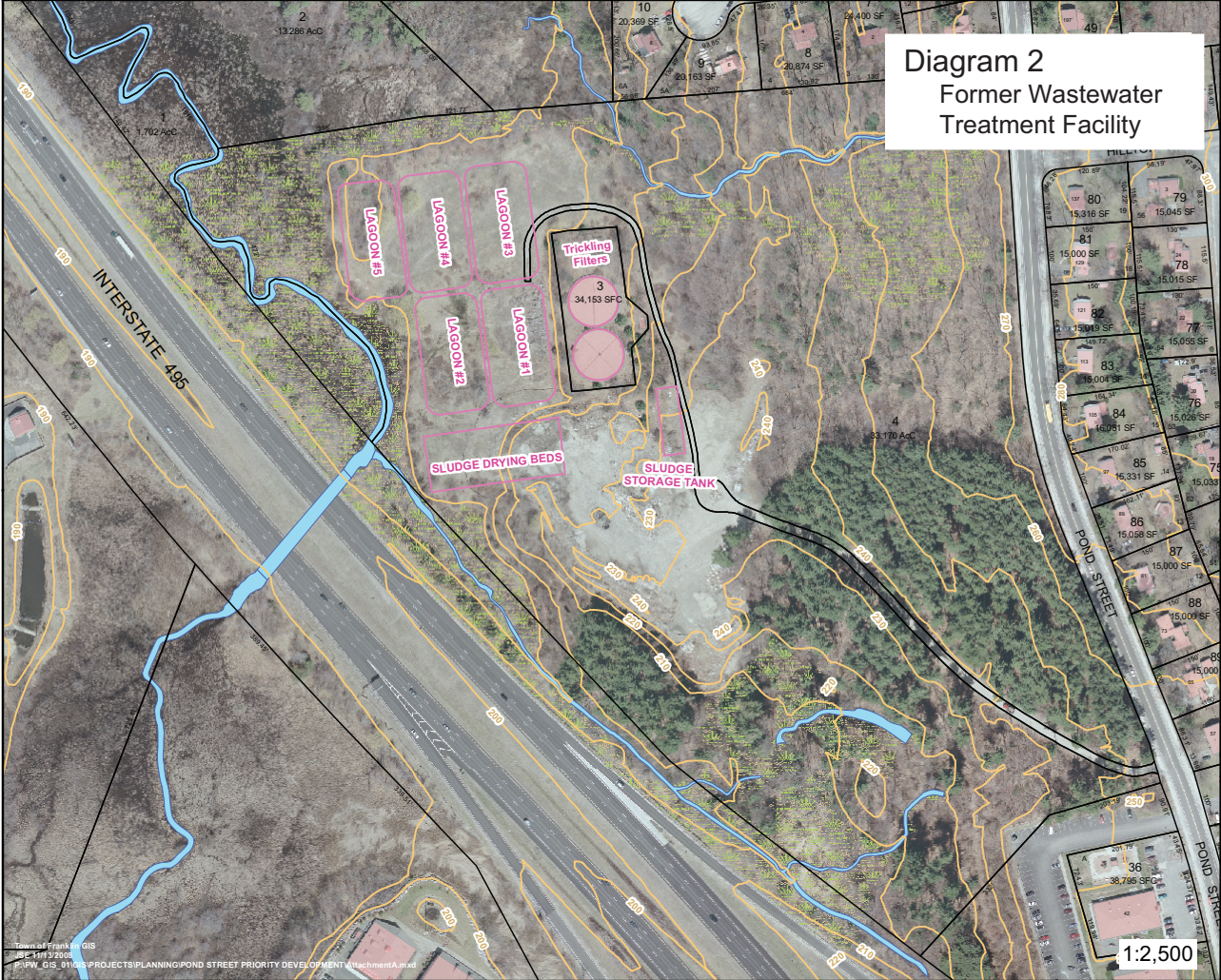
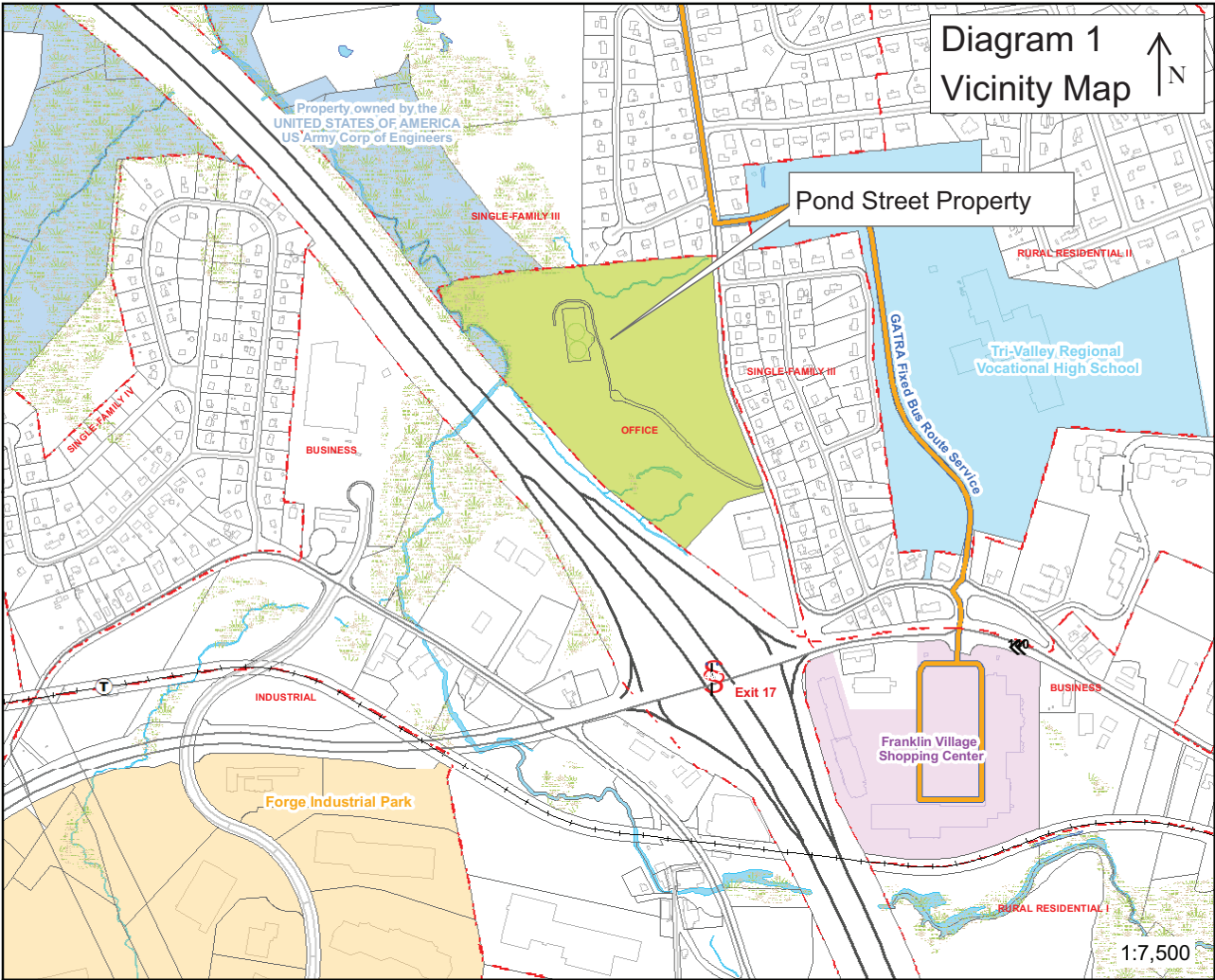
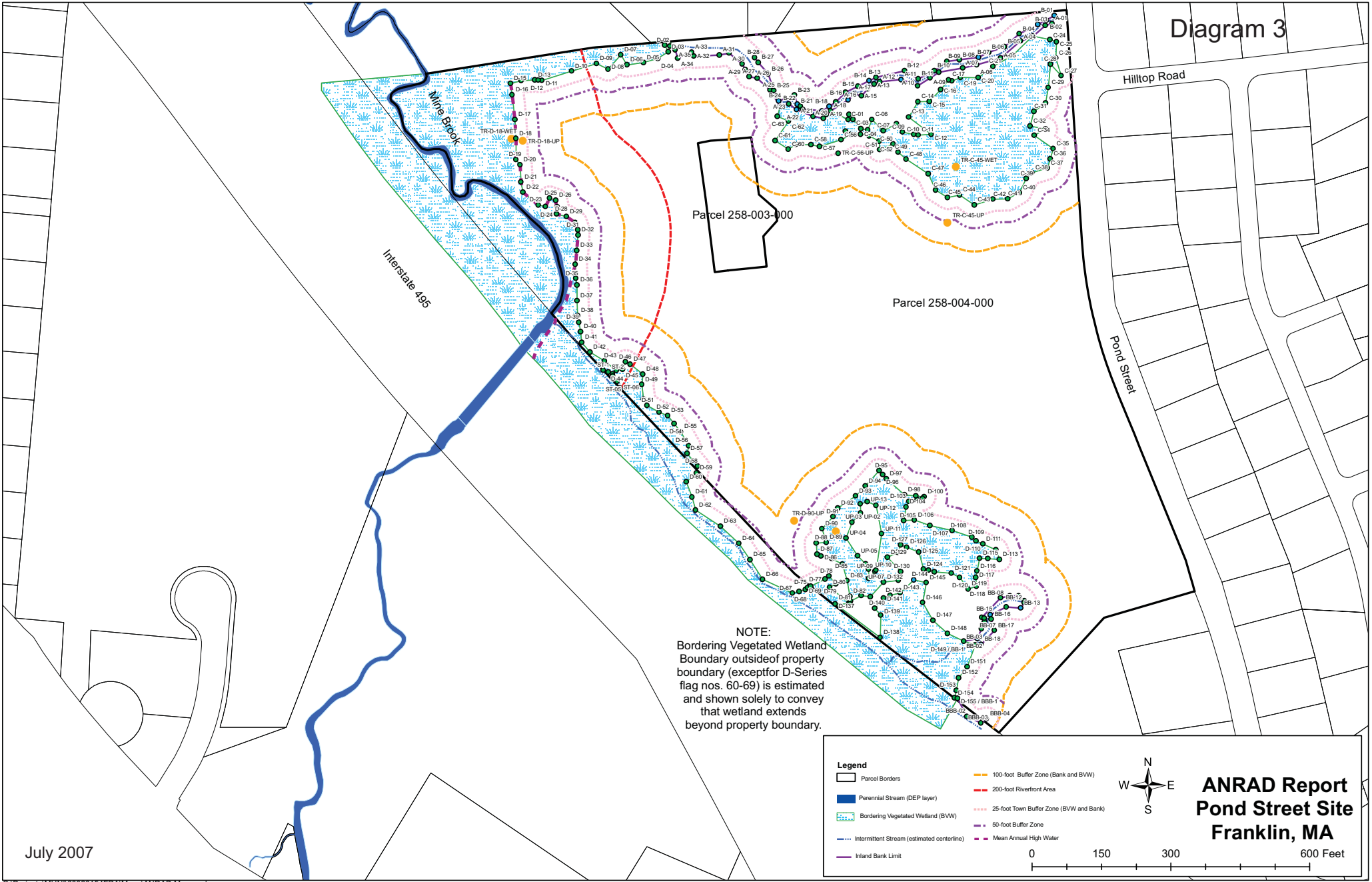


Diagram 3



NOTE:
 Bordering Vegetated Wetland
 Boundary outside of property
 boundary (except for D-Series
 flag nos. 60-69) is estimated
 and shown solely to convey
 that wetland extends
 beyond property boundary.

Legend

- Parcel Borders
- Perennial Stream (DEP layer)
- Bordering Vegetated Wetland (BWW)
- Intermittent Stream (estimated centerline)
- Inland Bank Limit
- 100-foot Buffer Zone (Bank and BWW)
- 200-foot Riverfront Area
- 25-foot Town Buffer Zone (BWW and Bank)
- 50-foot Buffer Zone
- Mean Annual High Water

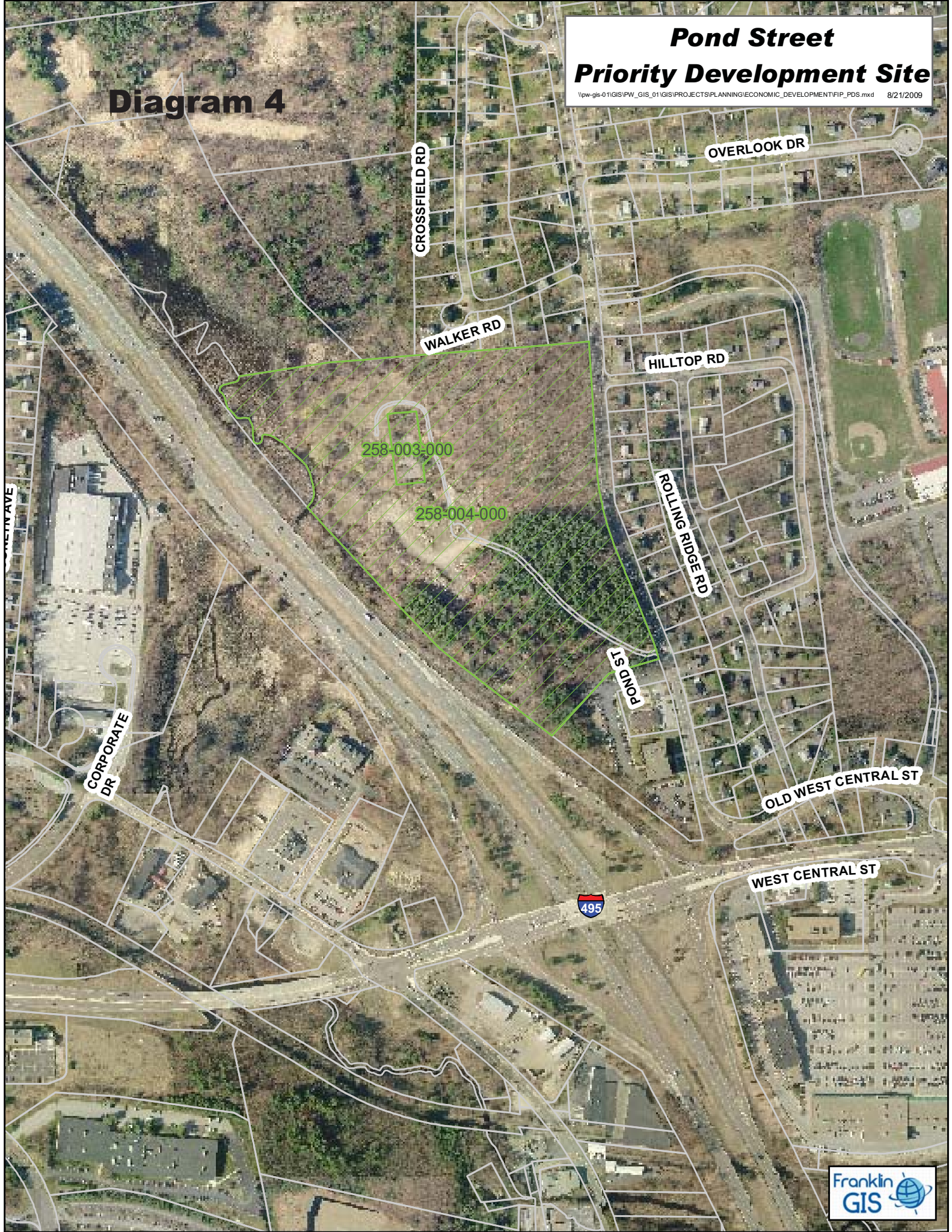
0 150 300 600 Feet

**ANRAD Report
 Pond Street Site
 Franklin, MA**

Pond Street Priority Development Site

\\pw-gis-01\GIS\IPW_GIS_01\GIS\PROJECTS\PLANNING\ECONOMIC_DEVELOPMENT\FIP_PDS.mxd 8/21/2009

Diagram 4



CROSSFIELD RD

OVERLOOK DR

WALKER RD

HILLTOP RD

258-003-000

258-004-000

ROLLING RIDGE RD

POND ST

CORPORATE DR

OLD WEST CENTRAL ST

WEST CENTRAL ST



Additional Information

The following reference documents are available on the Town's Department of Planning & Community Development web page (http://town.franklin.ma.us/Pages/FranklinMA_Planning/):

- Pond Street Property Assessment, Fuss & O'Neill, September 2010. The Property Assessment Document includes a wide range of information, including:
 - Description of the property's existing conditions
 - Phase I Environmental Site Assessment Report (May 2010)
 - Test pit locations and related data
 - Planning, zoning and local permitting requirements
 - Conceptual Commercial Subdivision Development Plans, including a Color Rendering
 - Traffic Assessment, including traffic counts and Intersection Level of Service Data.
- Town of Franklin Assessor Parcel Map
- CAI Property Card
- Pond Street Property Description Summary
- Pond Street Property Photographs
- Pond Street Real Estate Appraisal Report, FW Bucklin Appraisal Company (June 2014)
- Franklin's Priority Development Sites Information Sheet
- Pond Street Priority Development Site Map
- Pond Street Property Commercial Subdivision Concept Plan
- Priority Development Site Pre-application Process
- Franklin's Economic Opportunity Areas and Related Incentives Information Sheet
- Pond Street Economic Opportunity Area TIF Plan, 2009
- Town of Franklin Zoning Bylaw (January 1, 2014)
- Town of Franklin Zoning Map
- The Town of Franklin's Design Review Guidelines
- Town of Franklin 2013 Master Plan, Implementation Element (Goals, Objectives and Actions)
- Draft Phase I Initial Site Investigation Method 2 Risk Assessment and Response Action Outcome Statement, TetraTech NUS, November 2003
- Town of Franklin Quick Facts - April 2014
- Franklin Wants Your Business Information Sheet
- Education Information Sheet
- Industrial Parks Information Sheet
- Quality of Life Information Sheet
- I-495/MetroWest Partnership Strength in Numbers, 2014

LAND DISPOSITION AGREEMENT (Draft)

AGREEMENT made this _____ day of _____, 200__.

1. Parties and Mailing Address:

The TOWN OF FRANKLIN, a municipal corporation, hereinafter called the "TOWN" or "SELLER", with an address of Municipal Building, 355 East Central Street, Franklin, MA 02038, agrees to sell and _____, a Massachusetts corporation (together with its successors, transferees and assigns), hereinafter called "DEVELOPER" or "BUYER", with an address of _____, agrees to purchase, upon the terms and conditions hereinafter set forth and as may be binding on the property and under applicable law, the premises described herein.

2. Description of Premises:

The property which is the subject of this agreement is described as follows: _____ . A plan showing the property to be conveyed is attached hereto and incorporated by reference herein in as Exhibit A.

3. Deed:

The TOWN shall convey said premises by a good and sufficient quitclaim deed running to the BUYER, and said deed shall convey a good and clear record and marketable title thereto, free from encumbrances, except as follows:

- (a) Provisions of building and zoning laws now existing and as may be existing at the time of the closing.
- (b) Easements, restrictions and reservations of record, if any, so long as the same do not prohibit or materially interfere with the use of the property for purposes set forth herein.
- (c) Such taxes for the then current year as are assessed subsequent to delivery of said deed, the property not presently being subject to taxation as municipal property.
- (d) Any liens for municipal betterments assessed after the delivery date.
- (e) Terms and conditions of this Land Disposition Agreement, Land Development Agreement, reverter/reversionary interest and/or mortgage, at TOWN's option, to ensure timely construction of Project consistent with TOWN's RFP and BUYER's Proposal.
- (f) Permanent restriction(s) contained in deed or other recorded instrument to ensure that the property is only used for _____; if such restriction(s) are contained in a separate instrument, it shall be recorded prior and be superior to BUYER's financing. All such restrictions shall be binding upon BUYER's successors, transferees and assigns and shall run with the land.
- (g) Deed restrictions to ensure that all property shall be owned or treated as owned by a for profit entity and not as tax-exempt or reduced tax property; and if such property becomes

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owned by a non-profit or would regardless of ownership be entitled to reduced assessment or reduced tax obligations or treatment, that the property shall nonetheless be taxed and/or pay taxes or in lieu of tax payments, based on what the taxes would be if the owner/operator was a for profit entity or activity.

- (h) Such deed restrictions as necessary to ensure access and use to and of the subject property as provided for herein, including for parking purposes on the subject property.

4. Description of Project:

BUYER proposes to acquire the Premises for the purposes of _____ as set forth generally in the proposal of the BUYER dated _____ (BUYER's Proposal), submitted in response to the TOWN's Request for Proposals dated _____ (TOWN's RFP). The parties hereto acknowledge that specific design plans and site plans are not established as of the date hereof. All such plans shall comply with TOWN's RFP and BUYER's Proposal and shall be subject to TOWN's review and approval. BUYER may not deviate from its response to TOWN's RFP unless it receives TOWN's written prior approval, which approval shall be solely within TOWN's discretion. BUYER acknowledges that any use of the subject real estate shall be restricted as to the use and the manner set forth in this paragraph. All costs and expenses relative to construction and renovation for the project, including but not limited to any building demolition, removal of material from the site, environmental compliance expenses, abatement/remediation expenses, or the like, shall be the obligation of the BUYER and TOWN shall bear no portion thereof or responsibility therefor, the BUYER agreeing to indemnify, defend and hold harmless the TOWN from any such costs, expenses or liability arising therefrom and/or the work to be performed by the BUYER. The BUYER acknowledges that it has been afforded the opportunity to inspect the premises and is aware that there may be hazardous materials on the premises and it agrees to be solely responsible for any legally required removal or other site remediation. The property is being sold "AS IS" with no warranties or representations by TOWN either express or implied. This provision shall survive the delivery of the deed.

5. Construction of Project:

BUYER shall commence construction of Project immediately following the closing and shall diligently and continuously prosecute the work until fully completed, i.e.: all occupancy permits issued; BUYER shall fully complete Project no later than _____. BUYER's obligations under this paragraph shall, at TOWN's option, be more fully set out in a Land Development Agreement, covenant or other separate document, together with a mortgage to secure BUYER's obligations thereunder, to be executed by BUYER at time of closing and recorded with the deed from TOWN to BUYER; any such document(s) shall be superior to BUYER's financing. This provision shall survive the delivery of the deed.

6. Purchase Price and Payment Schedule:

The purchase price for the property being conveyed hereunder shall be \$ _____ and shall be paid as follows:

- (a) \$ _____ having been paid as a deposit.
- (b) \$ _____ to be paid by _____.
- (c) \$ _____ paid at the time of delivery of the deed, in cash, or by certified, bank, treasurer or cashier's check, drawn on a Massachusetts bank and paid directly to the TOWN without the need for further endorsement.

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Total purchase price:

In addition to the purchase price described herein, the BUYER shall make a grant to the TOWN of \$_____ for the purposes of improvements to TOWN property in the immediate vicinity of the premises.

7. Closing Documents:

At the time of the closing, the SELLER shall deliver to the BUYER a deed in such form as necessary to convey title to the property, subject to the terms of this Agreement, to the BUYER. The SELLER shall also deliver an affidavit that the SELLER is not a foreign person or non-resident alien within the meaning of Section 897 of the Internal Revenue Code. The SELLER shall also provide evidence of the authority of the SELLER to deliver the deed and of the party executing the deed to do same on behalf of the TOWN.

The BUYER agrees to execute any and all closing documents reasonably necessary to effectuate the conveyance hereunder and as may be necessary to ensure the timely development of the property consistent with TOWN's RFP and BUYER's Proposal and the terms and conditions contained in this agreement. Such documents may include a Land Development Agreement, covenant, mortgage deed restriction(s) and/or other agreement(s) and documents to ensure the performance by the BUYER of its obligations. Any such document(s) shall be in form satisfactory to TOWN, shall contain a provision making the obligations stated therein binding upon BUYER's successors, transferees and assigns, may be recorded, at TOWN's option, and if recorded shall be superior to BUYER's financing. BUYER's compliance with this provision satisfactory to TOWN is a condition of TOWN's obligation to perform, i.e. tender a deed.

8. Time For Performance and Delivery of Deed:

The sale and purchase of the property and the conveyance and delivery of possession of the property and of the deed and purchase price of same shall take place at the office of the TOWN ATTORNEY. The parties shall establish a closing date to be at _____ p.m. on the tenth business day following the expiration of the _____ day period, or any extension thereof, or when BUYER has obtained its permits as provided for in Paragraph 15, whichever is the sooner, unless the parties otherwise agree in writing. It is agreed that time is of the essence of this Agreement.

9. Possession and Condition of the Premises:

Except to the extent that the parties may otherwise agree, full possession of the premises to be conveyed hereunder shall be delivered by the TOWN to the BUYER, free of all tenants and occupants, except as herein provided, at the time of delivery of the deed. The same shall be in the same condition as they now are, reasonable use and wear thereof accepted. The BUYER shall be entitled either personally or by its agents to inspect the premises prior to delivery of the deed for the purpose of determining compliance with the conditions of this Agreement.

10. Need to Perfect Title:

- (a) Should the SELLER at the time of the delivery of the deed or at any extension to said time be unable to give title or make conveyance or deliver the premises in accordance with the requirements contained herein, then the SELLER shall use reasonable efforts to remove any infirmities creating its inability as described in this section to make said conveyance, in which event the TOWN shall give notice of same to the BUYER at or before the time for performance hereunder and the closing date shall be extended for up to sixty (60) days or such period as the parties shall agree. "Reasonable efforts" shall not require TOWN to expend more than _____ dollars including attorney's fees.

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- (b) If by the expiration of any extended time referred to herein, the TOWN shall have been unable to so remove the defects in the title, deliver possession or otherwise make the premises conform to requirements hereunder, as the case may be, then any deposits made under this Agreement for said lot(s) shall be forthwith refunded to the BUYER and all obligations by and between the parties hereto shall cease and this Agreement shall be null and void without recourse at law or in equity to the parties hereto as relates to said lot(s). However, the BUYER shall have the election at the original delivery date or any extended time therefor, to accept such title as the TOWN can deliver to the premises in their then condition and to pay therefor the agreed purchase price, as may be adjusted by agreement of the parties.

11. Acceptance of Deed:

The acceptance of the deed by the BUYER shall be deemed to be the full performance and discharge of every agreement and obligation of the TOWN, herein contained or expressed, except such as are, by the terms hereof or by the necessary implications of the conditions of this Agreement, to be performed after the delivery of the deed.

12. BUYER's Additional Obligations Contained Hereunder:

The BUYER agrees that it shall work diligently and in good faith with the TOWN in terms of submitting any and all documents, plans and other matters for the review and approval by the TOWN and any other governmental agency or authority to ensure that the work to be performed by the BUYER upon the premises shall be in accordance with the agreement and that said premises shall be maintained by the BUYER and its transferees, successors and assigns all in accordance with the terms and conditions of the agreement. This provision shall survive the delivery of the deed.

13. Use of Funds to Clear Title:

The TOWN may, at the time of delivery of the deed or following same, use the purchase money or any portion thereof to obtain the release or discharge or removal of any and all encumbrances or interests effecting the title, provided that all such instruments obtained are recorded simultaneously with the delivery of the deed or arrangements are made for the recording thereafter in accordance with customary conveyancing practices.

14. Adjustments:

In accordance with the provisions of G. L. c. 59, sec. 2C, an adjustment shall be made at the closing whereby the BUYER shall pay the taxes on the real estate being conveyed hereunder in accordance with all legal requirements. If the amount of said taxes is not known at the time of the delivery of the deed, the same shall be a portion on the basis of the taxes assessed by the Tax Collector for the previous year or the value determined by the Board of Assessors, whichever is the greater, with a reapportionment to be made as soon as the new tax rate and valuation can be ascertained.

15. Building and Other Related Permits:

- (a) Governmental Approvals:

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Within _____ (_____) days following the date hereof (the "Permit Satisfaction Date") or such later date to which the Permit Satisfaction Date may be extended, in accordance with Paragraph 15(b) hereof, BUYER shall obtain, at its sole cost and expense all Governmental Approvals for construction of the Project, as described in Par. 4. At any time prior to the Permit Satisfaction Date that BUYER reasonably determines that the Governmental Approvals for this project will not be obtained as above provided, BUYER shall forthwith so notify SELLER, whereupon the deposit shall be refunded to BUYER and this Agreement shall thereupon terminate and become void without further recourse to the parties hereto, provided BUYER has used due diligence and reasonable efforts and acted in good faith in pursuing said Governmental Approvals. In the event that BUYER fails to give notice of rescission prior to the Permit Satisfaction Date, as it may be extended in this Section, BUYER shall be deemed to have waived the conditions to Closing contained in this Paragraph 15(a).

The term "Governmental Approval" hereunder shall expressly include those permits which BUYER has identified as necessary for the Project and are identified as follows, with the date by which the same shall be applied for:

1. ANR Plan (Franklin Planning Board Endorsement)
2. Comprehensive Permit (Franklin ZBA)
3. Possible Sewer Extension Permit (Mass. Dept. of Environmental Protection)
4. Request for Determination (Franklin Conservation Commission)
5. Notice of Intent and Local Wetland Filing (If no. 4 is positive) (Franklin Conservation Commission)
6. Building Permit (Franklin Building Department)
7. Public Way Access Permit (Franklin Department of Public Works)

Should there be any additional permits which become necessary for BUYER to obtain due to changes in the law or because of project changes approved by TOWN, the parties shall confer with each other relative to same. TOWN may terminate this agreement if in its reasonable opinion any such new permit will cause an unreasonable delay in the closing, provided however that BUYER may opt to continue and close on or before the Permit Satisfaction Date. Governmental Approvals shall not be deemed to have been received until all appeal periods therefrom shall have expired without appeal, or if an appeal is taken, such appeal shall have been resolved to the reasonable satisfaction of the BUYER.

BUYER shall promptly notify SELLER when all Governmental Approvals have been granted, all appeal periods therefrom having expired without appeal, or if an appeal is taken, when such appeal is resolved to the reasonable satisfaction of BUYER ("the Permit Satisfaction Notice").

Any appeals shall be defended by BUYER at its sole cost and expense. The SELLER shall be kept informed, supplied with such information as it may request and shall be allowed to participate to the extent SELLER desires.

15(b) SELLER hereby authorizes and empowers BUYER in the name of SELLER or BUYER, or both, to make at its sole cost and expense, any and all applications, filings and submissions necessary and appropriate to obtain the Governmental Approvals, as relates to matters involving the SELLER, subject to review and approval by the SELLER, which shall not be unreasonably withheld or delayed. SELLER agrees to cooperate fully with BUYER in securing all Governmental Approvals so long as there is no cost or expense to the SELLER. BUYER shall reimburse and/or pay for any cost or expense incurred by SELLER so long as BUYER is informed of said cost or expense prior thereto and approves of same.

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If BUYER has not obtained said approvals by the Permit Satisfaction Date, and upon the its determination that the BUYER has utilized due diligence, reasonable efforts and acted in good faith in attempting to obtain said approvals, the SELLER may, in its sole discretion, extend the Permit Satisfaction Date for an additional period. SELLER may, as a condition of such extension, require a nonrefundable, payment by BUYER, the amount of said payment to be mutually agreed-to by the parties at that time.

BUYER shall inform the TOWN periodically or as requested as to the progress of the Governmental Approvals and shall supply such information as is requested by SELLER.

16. Compliance With Applicable Law:

Any and all actions undertaken by the BUYER in accordance with this Agreement or its obligations to construct and maintain the property under the agreement shall be done in full compliance with all applicable local, state and federal laws, rules and regulations.

17. Deposits:

All deposits made hereunder shall be held in escrow by the TOWN ATTORNEY and the same shall be duly accounted for at the time for performance of this Agreement. In the event of a disagreement between the parties considering the deposit, the deposit shall continue to be held in escrow pending mutual instructions given by the TOWN and the BUYER or in accordance with judicial determination.

18. BUYER's Default and TOWN's Right to Terminate

Each of the following shall constitute BUYER's default and grounds for TOWN to terminate this agreement:

- a. BUYER's failure to tender the balance of the purchase price at the time set for closing or to make any deposit or other payment when due.
- b. BUYER's refusal or failure to execute any agreement restriction, covenant, mortgage or other instrument in form satisfactory to TOWN to ensure the timely construction of the project and/or land use restrictions as described in Paragraph 4.
- c. BUYER's refusal or failure to perform any other obligation imposed upon it by any provision of this agreement PROVIDED THAT TOWN shall have given written notice thereof to BUYER and thirty (30) days have elapsed without BUYER's taking remedial action satisfactory to TOWN.
- d. BUYER's attempted assignment of its rights and obligations under this agreement in violation of Paragraph 28.
- e. BUYER's filing for voluntary bankruptcy or reorganization, BUYER's legal dissolution or formal cessation of business, the filing of an involuntary bankruptcy or other creditor's proceeding against BUYER which BUYER fails to have dismissed within thirty (30) days.
- f. TOWN's determination that any warranty, representation, or information contained in BUYER's Proposal or this agreement was not completely true and accurate when made or is no longer so PROVIDED THAT TOWN shall have given written notice thereof to

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BUYER and thirty (30) days have elapsed without BUYER's taking remedial action satisfactory to TOWN.

19. TOWN's Remedies in Event of BUYER's Default:

Should the BUYER fail to fulfill the BUYER's obligations to purchase the property or otherwise commit an event of default specified in the previous paragraph, all deposits made by the BUYER shall be retained by the TOWN as liquidated damages, unless within thirty (30) days after the time for performance of this Agreement, or any extension period, the TOWN shall otherwise notify the BUYER in writing. In the event of BUYER's default, TOWN shall not be limited to retention of BUYER's deposit but shall, instead, have available to it, at its option, all rights and remedies both at Law and in Equity.

20. No Broker Involved: Mutual Indemnification:

The TOWN and the BUYER warrant and represent to each other that they have had no contacts with anyone who would be entitled to a commission or similar fee in connection with the purchase and sale of the premises hereunder. Each party agrees to protect, indemnify and hold the other harmless from and against any and all liability, claims, losses, costs and expenses (including attorneys fees and expenses), should such representation or warranty not be true. The provisions of this section shall specifically survive the delivery of the deed or any earlier termination of this Agreement.

21. Restrictions And Controls Upon BUYER:

In addition to all other restrictions and obligations that may be imposed upon the BUYER pursuant to this agreement, the BUYER agrees for itself and its successors, transferees and assigns, and every successor in interest to the property or any part or portion thereof, and the deed and other closing documents shall be subject to and contain covenants on the part of the BUYER for itself and its successors and assigns that:

- (a) BUYER shall timely construct the Project in full compliance with TOWN's RFP, BUYER's Proposal and all Governmental Approvals, and BUYER agrees to execute a Land Development Agreement covenant, or other separate document, together with a mortgage to secure BUYER's obligations thereunder, and
- (b) The BUYER shall devote the property only to and in accordance with the use(s) as specified in Paragraph 4 of this Agreement, and subject further to the provisions of any applicable laws, rules or regulations. BUYER agrees to execute permanent restrictions to be contained in the Deed or other recorded instrument to ensure that property's use shall be limited to _____, and
- (c) BUYER shall not discriminate upon the basis of race, color, sex, religion, physical condition or national origin in the sale, lease or rental or in the use or occupancy of the property or any improvements erected or to be erected thereon or any part thereof, and
- (d) BUYER agrees to execute deed restrictions and/or an agreement to ensure that all property shall be owned or treated as owned by a for profit entity and not as tax-exempt or reduced tax property; and if such property becomes owned by a non-profit or would

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regardless of ownership be entitled to reduced assessment or reduced tax obligations or treatment, that the property owner shall nonetheless be taxed and/or pay taxes or in lieu of tax payments based on what the taxes would be if the owner/operator was a for profit entity or activity, and

- (e) BUYER agrees to execute such deed restrictions as necessary to ensure access to and use of the subject property as provided for herein, including for parking purposes on the subject property.
- (f) BUYER agrees to execute an easement for the creation of a maintenance and emergency access lane between the subject property and the adjoining property of the Town of Franklin.
- (g) BUYER agrees to execute such conditions as set forth by TOWN regulatory bodies and departments, such as, by way of example, conditions imposed by the Planning Board as part of the permit process.
- (h) Conveyance is subject to such easements as shown on the final subdivision plan approved by the Planning Board for water, sewer, utilities and access. The TOWN shall make said conveyance subject to reserving said easements or the BUYER shall grant said easements to the TOWN.

These obligations and covenants may be contained in the deed and in such other documents requested by the SELLER, including a recorded Land Development Agreement, covenant, easement or other instruments, reasonably necessary to ensure their continued existence and being in full force and effect.

It is intended and agreed, and the deed and other closing documents shall so expressly provide, that the covenants provided under this Agreement shall run with the land, binding to the fullest extent permitted by law and equity for the benefit and in favor of, and enforceable by the TOWN, its successors and assigns, both for and its or their own right and also to protect the interest of the community and other parties, public and private, in whose favor or for whose benefit the covenants have been provided, against the BUYER, its successors and assigns, and every successor in interest to the property or any part thereof or any interest therein and any party in possession or occupancy of the property or any part thereof. The covenant provided herein shall remain in effect without limitation as to time. The closing documents may include a mortgage or other document to ensure the performance of the BUYER of its obligations to construct the project as called for hereunder or otherwise approved by the SELLER, which mortgage shall be discharged upon the issuance of the certificate of occupancy, subject to an agreement by the BUYER to complete the construction of such other items not then completed which would not otherwise delay the issuance of a certificate of occupancy. BUYER's satisfaction of its obligations contained in this Paragraph 21 and its subparts shall be both a condition to TOWN's obligation to deliver the deed and shall survive said delivery.

22. Limitation on Liability of SELLER:

No officer, director, employee, agent, official or representative of the TOWN or any of such person's separate assets or property shall have or be subject to any liability with respect to any obligation or liability of the TOWN. It is acknowledged and understood by the parties that the members of the TOWN executing this Agreement and any related documents thereto either now or in the future, are doing so in their official capacity only and not in their individual capacity. The

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provisions of this clause shall specifically survive delivery of the deed or earlier termination of this agreement.

23. Non-Discrimination In Employment:

The BUYER, for itself, its successors and assigns, agrees that in the construction of the improvements in accordance with the provisions of this Agreement:

- (a) The BUYER will not discriminate against any employee or applicant for employment because of race, color, sex, religion or national origin. The BUYER will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The BUYER agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the TOWN setting forth the provisions of this non-discrimination clause.
- (b) The BUYER will, in all solicitations or advertisements for employees placed by or on behalf of the BUYER, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

24. BUYER's Access to Property Prior to Transfer:

TOWN may permit BUYER access to the property prior to transfer for the purpose of inspections, measurements testing and/or preliminary site work; if TOWN chooses to provide access, it may condition its approval upon BUYER's execution of an access agreement satisfactory to TOWN which shall, at a minimum, require BUYER, at its expense, to restore any land disturbances or otherwise to provide remediation for BUYER's activities in the event BUYER fails to take title to the property, to waive in advance all claims for injury or damages; to indemnify and hold TOWN harmless from and against all liability, damage or expense arising from any activity of BUYER or its agents, consultants or contractors, and to provide surety satisfactory to TOWN.

25. TOWN's Access To Property Subsequent to Transfer:

The BUYER, its successors and assigns, shall from time to time until the construction is completed, at all reasonable hours, give to the duly authorized representatives of the TOWN, free and unobstructed access for inspection purposes to any and all of the improvements constructed on the property by the BUYER, its successors and assigns, and to all open areas surrounding the same. SELLER shall provide BUYER, its successors and assigns and agents, access to the Premises upon twenty-four (24) hours notice. This provision shall survive the delivery of the deed.

26. Notices:

Any and all notices hereunder shall be deemed given if (i) delivered by hand, or (ii) sent by certified or registered mail, postage pre-paid, or delivered in a manner by which civil process may be served, if delivered/addressed as follows: To the TOWN: TOWN OF FRANKLIN, with a copy to: Mark G. Cerel, Franklin Town Attorney, 355 East Central Street, Franklin, MA 02038; to the BUYER _____, with a copy to its attorney: _____.

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27. Representation As To Warranties By the BUYER Relative To Execution Hereof:

The BUYER expressly warrants and represents to the TOWN, and the TOWN in reliance thereof, entered into this agreement that:

- (a) The BUYER is a Massachusetts corporation, validly existing, with full right, power and authority to make, execute, deliver and perform this Agreement, and
- (b) The person executing this Agreement on behalf of the BUYER is duly and validly authorized to do so. A certificate of corporate vote shall be supplied by the BUYER upon the execution of this Agreement, and
- (c) The BUYER is acquiring the property with the express intent to develop it in full compliance with TOWN's RFP and BUYER's Proposal and within the agreed-upon time period.

28. Estoppel Certificate:

At the request of either party prior to the delivery date, and any time and from time to time, the other shall execute and deliver within ten (10) business days after request therefor, a certificate which acknowledges facts concerning this Agreement, any provisions of this Agreement and any payments made in connection with this Agreement.

29. Assignment:

The BUYER shall not assign its rights and obligations under this Agreement without the prior consent of the TOWN, provided however, that an assignment to an affiliate organization controlled by BUYER shall be approved upon the presentment of satisfactory evidence to the SELLER that the affiliate is controlled 100% by the BUYER. The giving of consent under any other circumstances shall be solely within TOWN's discretion.

30. Recordation:

BUYER shall not record either this agreement or any notice thereof without TOWN's prior written permission; any violation of this provision shall render this agreement null and void at TOWN's option.

31. Construction Of Agreement And Severability:

This Agreement, executed in multiple originals, is to be construed as a Massachusetts contract and is to take effect as a sealed instrument. If any provision of this Agreement shall to any extent be deemed invalid, the remainder of this Agreement shall not be effected thereby and shall remain in full force and effect as if such invalid provision were never included herein, if the remainder would continue to conform to the requirements of applicable law and the Plan. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. This Agreement may not be cancelled, modified or amended except by a written instrument executed by both the TOWN and the BUYER. This Agreement shall not be recorded by the BUYER; if the same is recorded by the BUYER, then at the option of the TOWN, this agreement may be terminated and the deposit shall be forfeited to the TOWN. The captions used herein are only being used as a matter of convenience and are not to be

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considered a part of this Agreement or to be used in determining the intent of the parties entering into same.

32. Obligations and Rights and Remedies Cumulative and Separable

The respective rights and remedies of the TOWN, the Town of Franklin, and the BUYER, whether provided by this Agreement, or by law, shall be cumulative, and the exercise of any one or more of such rights or remedies shall not preclude the exercise, at the same or different time of any other such rights or remedies.

33. Covenants to be Enforceable by TOWN

The covenants herein contained, which are expressed to be covenants running with the land, shall be stated or incorporated by reference in any installment or conveyance or lease relating to the Property or any portion thereof or any interest therein and shall in any event and without regard to technical classification or designation, legal or otherwise, and except only as otherwise specifically provided in this Agreement be, to the fullest extent permitted by law and equity, binding for the benefit and in favor of, and TOWN against the BUYER (including its successors and assigns to or of the Property or any part thereof or any interest therein and any party in possession or occupancy of the Property or any part thereof). It is the intention of the TOWN that the benefit of the covenants running with the land which are contained in any instrument or conveyance relating to the Property shall be enforceable only by the TOWN, those authorized by law to enforce the same and their successors and assigns.

34. TOWN's Officials and Officers Barred From Interest

- a. No member, official or employee of the TOWN shall have any personal interest, direct or indirect, in this Agreement or the BUYER, nor shall any such member, official or employee participate in any decision relating to this Agreement which affects his personal interest or the interests of any corporation, partnership, or association in which he is, directly or indirectly, interested. No member, official or employee of the TOWN shall be personally liable to the BUYER or any successor in interest in the event of any default or breach by the TOWN or for any amount which may become due to the BUYER or to its successors or on any obligations under the terms of this Agreement.
- b. After the date hereinabove first written, the BUYER shall not, without a prior finding by the TOWN that such action is consistent with the public interest, employ in connection with its obligations under this Agreement, any person who has participated in the planning or execution of the Plan or related Project and who is named on any list which may be furnished by the TOWN to the BUYER as having so participated, or permit any such person to directly or indirectly acquire an interest (except an interest based upon the ownership of its capital stock if such stock is publicly held or offered) in the BUYER or in the Property prior to the completion of the project in accordance with this Agreement and the Plan.
- c. The BUYER covenants that it has not employed or retained any company or person (other than full-time, bonafide employee working for the BUYER) to solicit or secure this Agreement, and that he has not paid or agreed to pay any company or person any percentage, or brokerage fee, contingent upon or resulting from the execution of this Agreement.

35. Matters To Be Disregarded

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The titles of the several articles and sections of this Agreement are inserted for convenience of reference only and shall be disregarded in constructing or interpreting any of the provisions of this Agreement.

36. Agreement Binding on Successors, Transferees and Assigns

The respective provisions of this Agreement, in accordance with their terms, shall be binding upon, and shall inure to the benefit of the successors, transferees and assigns of the TOWN, the BUYER and the public body or bodies succeeding to the interests of the TOWN, and to any subsequent grantees of the Property.

37. Incorporation of other laws and documents:

It is agreed and understood that all applicable laws, rules and regulations, whether stated herein or not, are deemed incorporated by reference herein. Furthermore, it is agreed and understood that terms of the TOWN's RFP dated _____ and the Developer's proposal dated _____ are incorporated by reference herein, except as the same may be changed by the terms of this Agreement. In the event of a conflict, the terms of this Agreement shall govern.

IN WITNESS WHEREOF, the parties have executed this Agreement under seal as of the day and year first written above.

Approved as to form:

SELLER, Town of Franklin by,

Mark G. Cerel
Franklin Town Attorney

BUYER, _____
by,

, President

FRANKLIN PLANNING & COMMUNITY DEVELOPMENT

355 EAST CENTRAL STREET, ROOM 120
FRANKLIN, MA 02038-1352
TELEPHONE: 508-520-4907
FAX: 508-520-4906

MEMORANDUM

TO: JEFFREY D. NUTTING, TOWN ADMINISTRATOR
FROM: BRYAN W. TABERNER, AICP, DIRECTOR
RE: POND STREET PROPERTY RFP
CC: BETH A. WIERLING, TOWN PLANNER
DATE: AUGUST 26, 2014

As you know the Economic Development Committee (EDC) voted in support of the Pond Street Property Request for Proposal (RFP) and asked that the issue be added to the September 3, 2014 Town Council Agenda.

Attached for review and consideration by Town Council is the RFP and related attachments. Section II of the RFP contains a list of minimum Proposal requirements, including a minimum bid price of \$1,500,000. In addition to general information about the Property contained in the RFP, DPCD staff have developed a web page, which contains Pond Street Property specific information, as well as general Town of Franklin reference documents:

(http://town.franklin.ma.us/Pages/FranklinMA_Planning/pondstrfp).

DPCD staff are developing a marketing effort that will be implemented once Town Council votes to distribute the RFP. These efforts include purchasing ads in site selection periodicals, communicating with State agencies/organizations (MOBD, MassDevelopment, MassEcon) and identifying a list of individuals and organizations, including realtors/site selection companies and hotel development and management companies, that the RFP will be distributed.

Please let me know if you have questions. I will be in attendance at the September 3rd Town Council meeting.

**TOWN OF FRANKLIN
BYLAW AMENDMENT 14-741
CHAPTER 65, COLLECTION CONTAINERS**

A BYLAW TO AMEND THE CODE OF THE TOWN OF FRANKLIN BY ADDING A NEW CHAPTER.

Be it enacted by the Franklin Town Council that Chapter 65, Collection Containers is added in its entirety as follows to the Code of the Town of Franklin.

**Chapter 65
Collection Containers**

65.1 Purpose

The purpose of this bylaw is to regulate the location, siting, and maintenance of collection containers for used clothing, household goods, books and other items to protect public health and safety, including preventing rodents and vermin and blight.

65.2 Definitions

Collection Containers: Any bin or other container where a member of the public may donate or otherwise dispose of used clothing, shoes, household goods, books or other items.

Charitable Organization: A duly-organized and existing legal entity which has received a formal designation under Section 501C(3) of the United State Internal Revenue Code and maintains an office or facility within the Town.

House of Worship: Property containing a building which serves as the principal place of worship for a local congregation of a duly-established and generally recognized religious denomination.

Dumpster/Dumpster-type: A container with a hinged lid on top designed to be emptied by mechanically lifting and inverting it.

Uncollectible Goods or Item: Any goods or item, the collection of which is not specifically authorized in Section 65.3.

65.3 Permitted Collection Containers

Collection containers for used clothing, shoes, household goods, and books, only, are permitted within the Town and only in the locations specified in this bylaw; collection containers for other goods or items and at other locations are prohibited.

A collection container shall be fully enclosed with a pull-down, self-closing door located on the front section. It shall have a footprint of no more than twenty-five (25) square feet and a height of no more than six feet, measured from the bottom edge to the top edge of the front and rear sections. Dumpster-type containers are prohibited, regardless of dimensions.

Any existing collection container for uncollectible goods or items or which does not comply with specifications contained in this section shall be removed within thirty (30) days following the effective date of this bylaw; any existing collection container located in a non-permitted location or improperly sited shall be removed and/or relocated within ninety (90) days following the effective date of this bylaw.

65.4 Exclusions

This bylaw shall not apply to:

- a. Commercial trash dumpsters,
- b. Town of Franklin trash and recycling totes.

65.5 Permitted Locations

Collection containers are permitted in the following locations:

- a. Private property located within the Industrial District, as defined in Chapter 185 of the Franklin Town Code and designated on the Town's official zoning map; a collection container is not permitted on an unimproved or vacant lot and no more than four (4) containers are permitted on an improved lot.
- b. Up to two collection containers may be placed and maintained at a House of Worship for the particular religious denomination's own charitable work.
- c. A charitable organization may place and maintain up to two collection containers on its property for its own charitable work.
- d. The Town Recycling Center, in the discretion of the Director of Public Works.

65.7 Permit Required

Placement of a collection container pursuant to Section 65.5(a) shall require written application to and issuance of a permit from the Town Administrator; all existing collection containers which otherwise comply with this bylaw shall comply with this subsection within thirty (30) days following the effective date of this bylaw.

65.8 Permit Application Contents

The application pursuant to Section 65.7 shall include:

- a. Legal name, principal business address and legal identification of applicant.
- b. Name, address, telephone number and email address for contact person.
- c. Legal address of property where each container is to be located, together with a sketch plan showing compliance with the requirements of Section 65.9.
- d. Written permission from property owner, including information for owner required of applicant in (a) and (b).
- e. Description of collection container.

- f. Listing of collectible items.
- g. Pick-up, inspection, and maintenance schedules.

65.9 Siting

- a. Collection containers shall be sited so as not to obstruct traffic sight lines or distances and not to otherwise impede the flow of traffic or pose a safety hazard to pedestrians.
- b. Collection containers shall not be sited within any setback or buffer required by Chapter 185, Town's Zoning Bylaw.
- c. Collection containers shall be placed upon a concrete pad or asphalt paved surface.
- d. Collection containers shall not utilize or obstruct any parking space required for minimum zoning compliance or any space designated for trash dumpster placement or snow storage on an approved site plan.

65.10 Maintenance

- a. Collection container shall be kept clean and in good repair and its site shall be clean and free of debris at all times. Without limiting this requirement, no container overflow and no disposal of uncollectible goods or items shall be permitted.

65.11 Penalties for Non-Compliance

- a. Placement of collection container for uncollectible goods or items or which does not comply with specifications contained in Section 65.3 or placement of a collection container in a non-permitted location: \$300; each day shall constitute a separate offense.
- b. Failure to obtain a permit for a collection container where one is required \$100; each day shall constitute a separate offense.
- c. All other violations, including but not limited to non-compliance with requirements of Section 65.9 and 65.10:
First offense: \$50
Second offense: \$100
Third and subsequent offense: \$300
In the case of continuing violations, each day shall constitute a separate offense.

Property owner and collection container owner shall each be responsible for compliance with this bylaw and shall be liable for any violation.

65.12 Enforcement

In addition to the Franklin Police Department, this bylaw may be enforced by the Franklin Building Commissioner and the Franklin Board of Health Agent.

This bylaw amendment shall become effective in accordance with the provisions of the Franklin Home Rule Charter.

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DATED: _____, 2014

A True Record Attest:

Deborah L. Pellegrini
Town Clerk

VOTED:

UNANIMOUS _____

YES _____ **NO** _____

ABSTAIN _____

ABSENT _____

Judith Pond Pfeffer, Clerk
Franklin Town Council