

**TOWN OF PLYMPTON, MA
REQUEST FOR PROPOSALS 2019-001A**

**SALE OF A PARCEL OF TOWN LAND
0 Prospect Road, Plympton, MA**

Assessor's Lot 1: 23-2-6

SEALED PROPOSALS WILL BE ACCEPTED AS FOLLOWS:

**DATE: SEPTEMBER 3, 2019
TIME: 12:00 PM
PLACE: TREASURER'S OFFICE
 PLYMPTON TOWN HOUSE
 5 PALMER ROAD
 PLYMPTON, MA 02367**

TOWN OF PLYMPTON

REQUEST FOR PROPOSALS (RFP 2019-001A)

SALE OF A PARCEL OF TOWN-OWNED LAND

0 Prospect Road, Plympton, MA

LOT 1: 23-2-6

A. INTRODUCTION

The Town of Plympton (the “Town”) is seeking proposals to purchase an unimproved parcel of Town-owned land located at 0 Prospect Road, depicted as “Lot 1” on the plan entitled: “Plan of Land, Prospect Road, Plympton, Massachusetts, Prepared for: Town of Plympton, 5 Palmer Road, Plympton, MA 02367, 781-585-2700,” dated January 2, 2019, prepared by Grady Consulting, LLC, and recorded with the Plymouth County Registry of Deeds in Plan Book 63, Page 542 (the “Plan”). Lot 1 consists of 1.39 acres with 239.45 feet of frontage on Prospect Road. The Property is zoned for residential use.

The Property is part of the land acquired by the Town on November 5, 2018 by deed recorded with the Plymouth County Registry of Deeds in Book 50486, Page 153. Following the purchase, the Town divided the land to create Lots 1 and 2 as depicted on the Plan.

The Town has established a minimum price for Lot 1 of One Hundred Seventy-Five Thousand Dollars (\$175,000) Proposers are encouraged to offer more than the minimum purchase price, as price is one of the major criteria used by the Town to award the sale of the Property.

Sealed proposals for purchasing the Property will be received at the Treasurer’s Office, Plympton Town House, 5 Palmer Road, Plympton, MA 02367 until the time specified in Section C below, at which time the proposals will be publicly opened. **All proposers are required to submit a binder in the amount of One Thousand Dollars (\$1,000.00). Any proposal submitted without the binder shall be rejected.**

The successful proposer shall enter into a purchase and sale agreement substantially similar to the Purchase and Sale Agreement attached hereto as Exhibit A within twenty (20) days from the date of the award, and the closing date established by the Agreement shall be no later than sixty (60) days from the date on which the parties enter into the Purchase and Sale Agreement.

B. THE PARCEL

The Town of Plympton is selling the following parcel of land in Plympton:

PROSPECT ROAD

- Assessors Id.: Lot 1: Assessor's Map 23-2-6
- Site Zoning: Agricultural-Residential
- Title Reference: Book 50486, Page 153
- Plan Reference: Book 63, Page 542
- Site Improvements Unimproved
- Utilities Electricity is available. There is no public water or sewer service, and no natural gas service available.
- Current Permits:

Septic and well design –In February, 2019, the Plympton Board of Health issued a permit for an approved septic and well design for Lot 1. See attached Plan & letter.

- Adjacent Conservation Land

Lot 1 is adjacent to more than 150 acres of conservation land now owned by the Town of Plympton and protected by the Plympton Conservation Commission. This new "Two Brooks Preserve", which is open to the public, includes forests and wetlands that are recognized for their important environmental qualities. The Preserve will provide a number of recreational trails for passive recreation, but no motorized access.

- Minimum Bid: \$175,000

The Town of Plympton is providing some of the information suitable to making an informed decision on the suitability of the Property for building purposes or other lawful use. While the Town believes that the information provided in this RFP is accurate, the Town makes **no representations or warranties whatsoever**, either express or implied, as to the accuracy and completeness of the information in this RFP. The proposer assumes all risk in connection with the use of the information, and releases the Town from any liability in connection with the use of the information provided by the Town. Further, the Town makes and will make no representation or warranty with respect to the Property, including without limitation, the value,

quality or character of the Property, the physical and environmental condition of the Property, the fitness or suitability of the Property for any particular use, or the application of any law to the Property and prospective use thereof. The Property will be sold in its “AS-IS” condition.

Each proposer shall undertake its own review and analysis (due diligence) concerning the physical and environmental condition of the Property, applicable zoning and other land use laws, required permits and approvals, and other development, ownership, and legal considerations pertaining to the Property and the use of the Property, and shall be responsible for applying for and obtaining any and all permits and approvals necessary or convenient for the proposer’s use of the Property. All costs and expenses of purchasing and developing the Property, including without limitation, all costs of permitting and improvements, shall be the sole responsibility of the successful proposer.

To place your name on a list of possible bidders and to inform the Town of your intention to visit the parcel, send an email to: conservation@plymptontown.org, with the subject line “bidders list”.

Proposers may passively inspect the Property between the hours of 8 am and 7 pm. Look for the “For Sale by Town” sign at the site on Prospect Road. The parcel’s boundaries and the location of the approved septic and well sites are marked. Proposers are advised to do their own due diligence prior to inspection, and neither the Town nor any of its agents or representatives are responsible for representations made regarding the physical condition of the site. The site has downed trees and uneven footing. Proposers going on the Property to inspect do so at their own risk.

Copies of the RFP package may be accessed electronically via the Town’s website: town.plympton.ma.us or may be picked up from the Town Treasurer’s Office at the Plympton Town House, 5 Palmer Road, Plympton, MA 02367, during normal business hours.

C. BID OPENING

Sealed proposals will be accepted at the Treasurer’s Office at the Plympton Town House, 5 Palmer Road, Plympton, MA 02367 on or before 12:00 p.m. (noon) **on September 3, 2019**. At that time and place, said bids will be publicly opened. Proposals become public information when opened. Late proposals will not be considered. The Town of Plympton reserves the right to reject any and all proposals.

Bid Title: 2019-001A - Proposal for the Purchase of Lot 1, Prospect Road, Plympton
Time: **12:00 p.m. (noon) on September 3, 2019**
Location: Treasurer’s Office, Plympton Town House, 5 Palmer Road, Plympton, MA 02367

The Town of Plympton is an affirmative action/equal opportunity Town. The proposer agrees that its proposal shall be good and may not be withdrawn for a period of one hundred and fifty (150) days after the opening of the proposals.

D. PRICE

The Town of Plympton has established a minimum sale price for Lot 1 of \$175,000

Proposers are strongly encouraged to offer more than the minimum purchase price, as the price is one of the major criteria used by the Town to award the sale of the Property.

The Town is interested in conveying the Property at the highest responsible price. However, the Town reserves the right to make an award to a proposal that offers other than the highest price. The Town will consider the overall value of the offer.

E. EVALUATION CRITERIA

The Town will offer to sell the Property to the proposer who submits the most advantageous Proposal based on the following criteria:

1. The proposer must meet all of the Submittal Requirements set forth above and in Section G below; and
2. The price offered by the proposer; and
3. The ability of the proposer to meet the financial obligations of the purchase.

The Board of Selectmen will consider all of the above factors and will make an award deemed to be in the best interest of the Town. The Board of Selectmen shall not be obligated to award the Property to the proposer proposing the highest purchase price.

The Town reserves the right, at its sole discretion, to select a finalist to submit and negotiate a more fully developed response. If, at any time, negotiations with any selected proposer are not proceeding to the satisfaction of the Town, in its sole judgment, then the Town may choose to select another proposer with which to conduct negotiations.

F. AWARD AND CLOSING SCHEDULE

The Property will be awarded to the proposer selected in accordance with Section E above. The Town reserves the right to waive any informality, to accept or reject, in whole or in part any or all bids, to reissue the RFP, or take whatever other action may be deemed to be in the best interest of the Town.

The successful proposer (also referred to as the “Buyer”) and the Town shall enter into a purchase and sale agreement substantially in the form of the Purchase and Sale Agreement attached hereto as Exhibit A (the “Agreement”) within twenty (20) days from the date of the award. In the event the successful proposer fails to enter into the Agreement with the Town within said twenty (20) day period, the Town may rescind the award and retain the binder as liquidated damages.

The Agreement shall contain, in addition to the usual provisions, the following terms:

1. At time of execution of the Agreement, the Buyer shall pay a deposit, which, with the binder to be paid with the submission of the proposal, will equal ten percent (10%) of the purchase price. The deposit submitted by the Buyer for the Property shall be held in escrow in a non-interest bearing account by an escrow agent selected by the Town, which may be the Treasurer of the Town of Plympton, and shall be duly accounted for at the time for performance of this Agreement. In the event that the Buyer fails to fulfill its obligation to purchase the Property, the Town shall retain the deposit as liquidated damages. In the event of any disagreement between the parties, the escrow agent may retain all deposits made under the Agreement pending instructions mutually given by the Town and the Buyer.

2. If the acquisition of the Property is financed by a lending institution, the Buyer must deliver a firm letter of commitment to the Town within fourteen (14) days from the date of the Agreement.

3. Buyer acknowledges that Buyer has not been influenced to enter into this transaction and that it has not relied upon any warranties or representations not set forth in this Agreement. Buyer represents and warrants that it or its agents have conducted a full inspection of the Property, and based upon Buyer's investigation, Buyer is aware of the condition of the Property and will accept the Property "AS IS." Buyer acknowledges that the Town has no responsibility for hazardous waste, oil, hazardous material or hazardous substances, as those terms are defined by any applicable law, rule or regulation, including, without limitation, the Massachusetts Oil and Hazardous Materials Release Prevention and Response Act, M.G. L. c. 21E, the Massachusetts Hazardous Waste Management Act, M.G.L. c. 21C, the Comprehensive Environmental Response, Compensation and Liability Act, as amended, 42 U.S.C. §§ 9601 et seq. and the Resource Conservation and Recovery Act, as amended, 42 U.S.C. §§ 6901 et seq. (herein collectively referred to as "Hazardous Waste") on, in, under or emitting from the Property or for any other condition or defect on the Property, including the condition of the building located thereon, if any. The provisions of this section shall survive delivery of the deed.

4. No broker's commission shall be paid by the Town, and the Buyer shall indemnify and hold harmless the Town from any claims for such commission.

5. A payment in lieu of taxes shall be paid in accordance with G.L. c. 44, § 63A as of the day of performance of the Agreement and the net amount thereof shall be added to the purchase price payable by the Buyer at the time of delivery of the deed.

6. The Buyer shall pay the monetary consideration for the Property by certified, treasurer's, or bank check or by wire transfer.

7. In the event that the Town defaults under the Agreement, the Buyer shall be entitled to terminate the Agreement, and receive a refund of the deposit. The foregoing shall be Buyer's sole and exclusive remedy at law and equity for any breach of the Agreement by the Town.

8. The purchase of the Property shall not be contingent on the sale of any other property.

9. The Closing Date shall be sixty (60) days from the date on which the Agreement is signed by the Town and the Buyer, or within such further time as the Board of Selectmen, in its sole discretion, and the Buyer shall agree.

10. Roll-back taxes will be assessed to the buyer pursuant to G.L. c.61A, §13.

G. SUBMITTAL REQUIREMENTS

To submit a proposal, proposers shall submit in a sealed envelope the following items, which are referred to, collectively, as the “Proposal Package”.

1. Cover letter: This letter shall provide an expression of interest, identify the proposer, and list the name, address and telephone number of all interested parties.
2. Price Proposal Form: Proposers must insert the price offered for the Property by filling in the blank spaces in the Price Proposal Form attached hereto in both words and figures. Please note the minimum purchase price stated in this RFP for the relevant Property.
3. Forms A through D: Proposers are required to fill out and sign Forms A through D attached hereto:
 - *Form A, Certificate of Non-Collusion*: required under G.L. c. 30B, §10, in which the proposer states that this proposal is made in good faith without fraud or collusion or connection with any other person submitting a proposal signed and dated by the proposer.
 - *Form B, Certificate of Tax Compliance*: required under G.L. c. 62C, §49A, in which the proposer certifies that he or she has complied with all laws of the Commonwealth of Massachusetts relating to taxes.
 - *Form C, Certificate of Authority*: in which the proposer gives the names and residences of all persons and parties with an interest in the foregoing proposal.
 - *Form D, Real Property Disclosure Statement*: required under G.L. c. 7C, § 38, in which the proposer identifies the parties having an interest in the property and whether any such party is a state or local employee.
4. Binder: Proposers are required to submit a certified check, bank check, or money order in the amount of \$1,000.00, payable to the Town of Plympton, as a binder to be credited to the deposit to be paid under the Agreement with the successful proposer or otherwise

returned. Proposals that are not accompanied by this binder at the time of Proposal submission deadline will be rejected.

5. Financing Information and, if applicable, Loan Commitment: Each proposer must provide evidence of having funds available in an amount to pay the purchase price and comply with any other financial obligations related to the proposed purchase of the Property. Financial statements and background information must be attached to the proposal. If a proposer intends to purchase the Property with a purchase money mortgage, the proposer must specify how much is to be borrowed and submit, in its proposal package, a pre-approval letter from an institutional lender acknowledging that the proposer has sufficient financial resources to obtain a loan commitment, subject to prevailing terms and conditions. The proposer must deliver a firm letter of commitment to the Town within fourteen (14) days from the date of the Agreement.
6. Other: The proposer should include in this section any other information or unique features which the proposer believes the Town should know in order to fully evaluate the Proposal.

One (1) original and three (3) copies of the Proposal Package shall be submitted to the Plympton Treasurer's Office and must be delivered in a sealed package that is clearly marked "2019-001A- Proposal for the Purchase of Lot 1, Prospect Road, Plympton"

Any bid submitted without the Price Proposal Form, Forms A through D, the Binder, and, if applicable, the Financing Approval, **will not be considered**.

Sealed proposals for purchasing the Property will be received at the Plympton Treasurer's Office until the time specified in Section C above, at which time the proposals will be publicly opened and read aloud.

H. INSTRUCTIONS TO PROPOSERS

1. Proposers requiring clarification or interpretation of the RFP documents shall promptly make a written inquiry via email to conservation@plymptontown.org, with the subject line noting "Questions". All such requests **received seven (7) calendar days prior to the proposal opening date**, or earlier, shall be considered for response. Requests that, in the opinion of the Town, require a response for the benefit of proposers or that require correction or change in the RFP documents as originally issued shall be addressed in the form of an addendum to the RFP documents and posted on the web site. Such addendum shall become part of the RFP documents and final contract. A copy of any addendum as may be issued will be on file at the Town Treasurer's office at the address indicated in section C of this RFP. No instructions other than those set forth in the RFP documents, including addenda, shall have any force or effect.

2. Failure of any proposer to receive any such addendum or interpretation shall not relieve such proposer from the obligation to comply with the terms of such addenda. All addenda so issued shall become part of this RFP.

3. At the time of the opening of bids each proposer will be presumed to have inspected the Property and to have read and be thoroughly familiar with the RFP (including all addenda). The failure or omission of any proposer to examine any form, instrument, or document shall in no way relieve any proposer from any obligation to comply with the RFP.

4. Proposers are cautioned that it is the responsibility of each individual proposer to assure that his/her proposal is in the possession of the responsible official or his designated alternate prior to the stated time and at the place of proposal by the due date. The Town is not responsible for proposals delayed by mail and/or delivery service of any nature. The clock in Plympton Treasurer's Office shall be the official time for submittals.

5. Proposals may be corrected, modified, or withdrawn prior to the deadline for submission of Proposals by submitting the required number of copies of such correction, modification, withdrawal or a new submission, clearly marked on the outside envelope with the appropriate heading, by the deadline listed above. The Town is not responsible for the inadvertent opening of unmarked or poorly marked packages.

6. Proposals cannot be withdrawn for a period of 150 days after the opening of the proposals.

7. The successful proposer shall comply with all applicable federal, state, and local laws and regulations related to real estate transactions.

8. All proposals submitted to the Town must include all forms included within the contents of this RFP and they must all be filled out and properly executed. Failure to submit all forms properly filled out and executed will be grounds for rejection of the proposal.

9. All signatures must be handwritten and in ink by the person(s) seeking to purchase the Property. All other words and figures submitted on the proposal shall be neatly written in ink or typed. Proposals that are conditional, obscure, or which contain additions not called for in the specifications, erasures, alteration, or irregularities may be rejected.

10. All proposals become the property of the Town. All proposals are deemed to be public records within the meaning of MA General Law Chapter 4, Section 7(26).

11. The Town reserves the right to interview or to seek additional information from any proposer after bidding, but before entering into an Agreement, to reject any Proposal if it deems it to be in the best interest of the Town, and to award the opportunity to purchase the Property to the next qualified proposer.

12. Consistent with MA General Laws Chapter 30B, Section 16, the Town reserves the right to award the opportunity to sell the Property based on considerations other than price, as long as such award is advantageous to the Town. The Town will consider the overall value of the offer, including both monetary and non-monetary considerations.

13. The selection of the proposer shall be made without regard to race, color, sex, age, religion, sexual orientation, gender identity, political affiliation, or national origin.

14. The Town reserves the right to reject any and all proposals, to negotiate any and all non-mandatory contract terms with the successful proposer, or to cancel this procurement at any time if it is in the Town's best interest to do so.

TOWN OF PLYMPTON

REQUEST FOR PROPOSALS (RFP) **2019-001A**
SALE OF A PARCEL OF TOWN-OWNED LAND

0 Prospect Road, Plympton, MA
LOT 1: 23-2-6

PRICE PROPOSAL FORM

The Town of Plympton has established a minimum sales price of \$175,000 for Lot 1.

- 1) **BID PRICE:** Please write your bid offer on the spaces provided below in both written words and numbers:

Print/Type your bid amount in written form.

\$

Print/Type your bid amount above in number form.

***Note:** Both the written form and the number form should indicate the same total amount. If there is a conflict between the written form and the number form amount, the written form will be held.*

(SIGNATURE)

(DATE)

PRINT NAME: _____

ENTITY: _____

MAILING ADDRESS: _____

TELEPHONE NUMBER: _____

In the case of an entity, please attach a copy of an authorization to submit this proposal.

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

TOWN OF PLYMPTON

**REQUEST FOR PROPOSALS (RFP) 2019-001A
SALE OF A PARCEL OF TOWN-OWNED LAND**

**0 Prospect Road, Plympton, MA
LOT 1: 23-2-6**

FORM A

Certificate of Non-Collusion

Pursuant to General Laws Ch. 30B, Sec. 10, the undersigned certifies under penalties of perjury that this bid or proposal has been made and submitted in good faith and without collusion or fraud with any other person. As used in this certification, the word "person" shall mean any natural person, business, partnership, corporation, union, committee, club, or other organization, entity, or group of individuals.

Individual/Authorized Official's Signature

Title

Typed or Printed Name of Person Signing

Company Name

Telephone Number

Address

Fax Number

Address

Date: _____

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

TOWN OF PLYMPTON

**REQUEST FOR PROPOSALS (RFP) 2019-001A
SALE OF A PARCEL OF TOWN-OWNED LAND**

**0 Prospect Road, Plympton, MA
LOT 1: 23-2-6**

FORM B

Certificate of Tax Compliance

Pursuant to M.G.L. Ch. 62C, Sec. 49A, I certify under the penalties of perjury that I, to my best knowledge and belief, have filed all state tax returns and paid all state taxes required under law.

Authorized Official's Signature

Title

Typed or Printed Name of Person Signing

Company Name

Telephone Number

Address

Fax Number

Address

Date: _____

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

TOWN OF PLYMPTON

**REQUEST FOR PROPOSALS (RFP) 2019-001A
SALE OF A PARCEL OF TOWN-OWNED LAND**

**0 Prospect Road, Plympton, MA
LOT 1: 23-2-6**

FORM C

Certificate of Authority

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

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

NAMES	ADDRESSES	ZIP CODE
_____	_____	_____
_____	_____	_____
_____	_____	_____

Kindly furnish the following information regarding the Proposer:

(1) If a Proprietorship

Name of Owner: _____

ADDRESS ZIP CODE TEL. # _____

Business: _____

Home: _____

(2) If a Partnership

Full names and address of all partners:

NAMES	ADDRESSES	ZIP CODE
_____	_____	_____
_____	_____	_____

BUSINESS ADDRESS ZIP CODE TEL. # _____

(3) If a Corporation

Full Legal Name:

State of Incorporation:

Principal Place of Business: ZIP _____

Qualified in Massachusetts: Yes _____ No _____

Place of Business in Massachusetts: ZIP CODE TEL. # _____

(4) If a Trustee

Full Legal Name of Trust:

Recording Information on Declaration of Trust:

Authorized Signature of Proponent: _____

Title: _____

Date: _____

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

TOWN OF PLYMPTON

**REQUEST FOR PROPOSALS (RFP) 2019-001A
SALE OF A PARCEL OF TOWN-OWNED LAND**

**0 Prospect Road, Plympton, MA
LOT 1: 23-2-6**

FORM D

**DISCLOSURE STATEMENT FOR
TRANSACTION WITH A PUBLIC AGENCY CONCERNING REAL PROPERTY
M.G.L. c. 7C, s. 38**

The undersigned party to a real property transaction with a public agency hereby discloses and certifies, under pains and penalties of perjury, the following information as required by law:

(1) Real Property:

(2) Type of Transaction, Agreement, or Document: Sale of land by the Town of Plympton.

(3) Public Agency Participating in Transaction: Town of Plympton

(4) Disclosing Party's Name and Type of Entity (if not an individual):

(5) Role of Disclosing Party (Check appropriate role):

Lessor/Landlord Tenant/Tenant
 Seller/Grantor Buyer/Grantee
 Other (Please describe)

(6) The names and addresses of all persons and individuals who have or will have a direct or indirect beneficial interest in the real property excluding only 1) a stockholder of a corporation the stock of which is listed for sale to the general public with the securities and exchange commission, if such stockholder holds less than ten per cent of the outstanding stock entitled to vote at the annual meeting of such corporation or 2) an owner of a time share that has an interest in a leasehold condominium meeting all of the conditions specified in M.G.L. c. 7C, s. 38, are hereby disclosed as follows (attach additional pages if necessary):

NAME

RESIDENCE

(7) None of the above- named persons is an employee of the Division of Capital Asset Management and Maintenance or an official elected to public office in the Commonwealth of Massachusetts, except as listed below (insert “none” if none)

(8) The individual signing this statement on behalf of the above-named party acknowledges that he/she has read the following provisions of Chapter 7C, Section 38 (formerly Chapter 7, Section 40J) of the General Laws of Massachusetts:

No agreement to rent or to sell real property to or to rent or purchase real property from a public agency, and no renewal or extension of such agreement, shall be valid and no payment shall be made to the lessor or seller of such property unless a statement, signed, under the penalties of perjury, has been filed by the lessor, Tenant, seller or purchaser, and in the case of a corporation by a duly authorized officer thereof giving the true names and addresses of all persons who have or will have a direct or indirect beneficial interest in said property with the commissioner of capital asset management and maintenance. The provisions of this section shall not apply to any stockholder of a corporation the stock of which is listed for sale to the general public with the securities and exchange commission, if such stockholder holds less than ten per cent of the outstanding stock entitled to vote at the annual meeting of such corporation. In the case of an agreement to rent property from a public agency where the Tenant’s interest is held by the organization of unit owners of a leasehold condominium created under chapter one hundred and eighty-three A, and time-shares are created in the leasehold condominium under chapter one hundred and eighty-three B, the provisions of this section shall not apply to an owner of a time-share in the leasehold condominium who (i) acquires the time-share on or after a bona fide arms-length transfer of such time-share made after the rental agreement with the public agency is executed and (ii) who holds less than three percent of the votes entitled to vote at the annual meeting of such organization of unit owners. A disclosure statement shall also be made in writing, under penalty of perjury, during the term of a rental agreement in case of any change of interest in such property, as provided for above, within thirty days of such change.

Any official elected to public office in the Commonwealth, or any employee of the division of capital asset management and maintenance disclosing beneficial interest in real property pursuant to this section, shall identify his position as part of the disclosure statement. The commissioner shall notify the state ethics commission of such names, and shall make copies of any and all disclosure statements received available to the state ethics commission upon request.

The commissioner shall keep a copy of each disclosure statement received available for public inspection during regular business hours.

(9) This Disclosure Statement is hereby signed under penalties of perjury.

Print Name of Disclosing Party (from Section 4, above)

Authorized Signature of Disclosing Party

Date (m / d / y)

Print Name & Title of Authorized Signer

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

EXHIBIT A

PURCHASE AND SALE AGREEMENT

1. **PARTIES.** **The Town of Plympton**, having an address of Plympton Town House 5 Palmer Road, Plympton, MA 02367, hereinafter called the SELLER, agrees to sell, and _____, having an address of _____, hereinafter called the BUYER or PURCHASER, agrees to buy, upon the terms hereinafter set forth, the following described premises.

2. **PREMISES.** A parcel of land with the improvements located 0 Prospect Road, Plympton, shown as Lot 1:23-2-6 on that plan entitled: Plan of Land, Prospect Road, Plympton, Massachusetts January 2 2019.

3. **BUILDINGS, STRUCTURES, IMPROVEMENTS, FIXTURES.** Included in the sale as a part of said premises are the buildings, structures, and improvements now thereon, and the fixtures belonging to the SELLER and used in connection therewith, if any.

4. **TITLE DEED.** Said premises are to be conveyed by a quitclaim deed running to the BUYER, or to the nominee designated by the BUYER by written notice to the SELLER at least seven business 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 encumbrances, except:

- (a) Provisions of existing building and zoning laws;
- (b) Existing rights and obligations in party walls which are not the subject of written agreement;
- (c) Such taxes for the then current year as are not due and payable on the date of the delivery of such deed;
- (d) Any liens for municipal betterments assessed after the date of this agreement; and
- (e) Easements, restrictions and reservations of record, if any, so long as the same do not prohibit or materially interfere with the use of said premises for residential purposes.

5. **PLANS.** A plan is not needed. See the information about the Plan in the RFP.

6. **TIME FOR PERFORMANCE; DELIVERY.** Such deed is to be delivered at 11:00 a.m. at the Plymouth County Registry of Deeds on _____, 2019, unless otherwise agreed upon in writing. If the closing date shall fall on a weekend or holiday on which the Registry of Deeds is closed, the closing shall take place on the next business day thereafter. It is agreed that time is of the essence of this agreement.

7. **PURCHASE PRICE.** The agreed purchase price for said premises is the conveyance to the SELLER of _____ Thousand and 00/100 Dollars (\$_____), of which:

\$ 1,000.00	has been paid as a binder, to be credited to the deposit
\$ _____	has been paid as the balance of deposit on this day; and
\$ _____	are to be paid at the time of delivery of the deed by certified, treasurer's, or bank check or by wire transfer, at SELLER'S <u>discretion</u>
<hr/>	
\$	TOTAL

8. POSSESSION AND CONTROL OF PREMISES. Full possession of said premises free of all tenants and occupants, except as herein provided, 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 Section 4 hereof. The BUYER shall be entitled personally to inspect said premises prior to the delivery of the deed in order to determine whether the condition thereof complies with the terms of this clause.

9. EXTENSION TO MAKE TITLE OR PREMISES CONFORM. If the SELLER shall be unable to give title or to make conveyance, or to deliver possession of the premises, all as herein stipulated, or if at the time of the delivery of the deed the premises do not conform with the provisions hereof, then any payments made under this agreement shall be forthwith refunded and all other obligations of the parties hereto shall cease and this agreement shall be void without recourse to the parties hereto, unless the SELLER elects, in its sole discretion, to use reasonable efforts to remove any defects in title, or to deliver possession as provided herein, or to make the said premises conform to the provisions hereof, as the case may be, in which event the SELLER shall give written notice thereof to the BUYER at or before the time for performance hereunder, and thereupon the time for performance hereof shall be extended for a period of thirty calendar days. In no event, however, shall reasonable efforts require the SELLER to expend more than \$1,000.00, including attorneys' fees.

10. FAILURE TO PERFECT TITLE OR MAKE PREMISES CONFORM. If at the expiration of the extended time the SELLER shall have failed so to remove any defects in title, deliver possession, or make the premises conform, as the case may be, all as herein agreed, or if at any time during the period of this agreement or any extension thereof, the holder of a mortgage on said premises shall refuse to permit the insurance proceeds, if any, to be used for such purposes, then any payments made under this agreement shall be forthwith refunded and all other obligations of the parties hereto shall cease and this agreement shall be void without recourse to the parties hereto.

11. BUYER'S ELECTION TO ACCEPT TITLE. The BUYER shall have the election, at either the original or any extended time for performance, to accept such title as the SELLER can deliver to the said premises in their then condition and to pay therefore the purchase price, without deduction, in which case the SELLER shall convey such title.

12. ACCEPTANCE OF DEED. The acceptance of a deed by the BUYER shall be deemed to be a full performance and discharge of every agreement and obligation herein contained or expressed, except such as are, by the terms hereof, to be performed after the delivery of said deed.

13. INSURANCE. Until the delivery of the deed, the SELLER shall maintain insurance on said premises as presently insured.

14. ADJUSTMENTS. A payment in lieu of taxes shall be paid in accordance with G.L.c.44, §63A as of the day of performance of this agreement and the net amount thereof shall be added to the purchase price payable by the BUYER at the time of delivery of the deed.

15. ADJUSTMENT OF UNASSESSED AND 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.

16. DEPOSIT. All deposits made hereunder shall be held in escrow in a non-interest bearing account, subject to the terms of this agreement and shall be duly accounted for at the time for performance of this agreement. In the event of any disagreement between the parties, the escrow agent may retain all deposits made under this agreement pending instructions mutually given by the SELLER and the BUYER.

17. BUYER'S DEFAULT; DAMAGES. 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 SELLER'S sole and exclusive remedy at law and equity for BUYER'S breach of this agreement.

18. LIABILITY OF TRUSTEE, SHAREHOLDER, BENEFICIARY, etc. If the SELLER or BUYER executes this agreement in a representative or fiduciary capacity, only the principal or the estate represented shall be bound, and neither the SELLER or BUYER so executing, nor any shareholder or beneficiary of any trust, shall be personally liable for any obligation, express or implied, hereunder.

19. WARRANTIES AND REPRESENTATIONS. The BUYER acknowledges that the BUYER has not been influenced to enter into this transaction nor has BUYER relied upon any warranties or representations not set forth or incorporated in this agreement or previously made in writing, except for the additional warranties and representations, if any, made by either the SELLER or the Broker(s): NONE.

20. MORTGAGE CONTINGENCY CLAUSE. The BUYER'S performance hereunder is contingent upon receipt by the BUYER of a firm written loan commitment from an institutional lender (the "Lender"), upon commercially reasonable terms, in the amount of _____ Dollars (\$ _____ .00) (the "Financing"). BUYER shall use good faith, commercially reasonable and diligent efforts to obtain such Financing. If despite the BUYER'S diligent efforts a commitment for such loan cannot be obtained fourteen (14) days from the date of this agreement, the BUYER and the SELLER shall each have the right to terminate this agreement by written notice to the other party prior to the expiration of such time, whereupon any payments made under this agreement shall be forthwith refunded and all other obligations of the parties hereto shall cease and this agreement shall be void without recourse to the parties hereto. In no event will the BUYER be deemed to have used diligent efforts to obtain such commitment unless the BUYER submits a complete mortgage loan application conforming

to the foregoing provisions within three (3) days from the date of this agreement. The provisions of this Section shall survive the termination of this agreement.

21. BROKERS. BUYER and SELLER each represent and warrant to the other that each has not contacted any real estate broker in connection with this transaction and was not directed to the other as a result of any services or facilities of any real estate broker. BUYER and SELLER agree to defend, indemnify the other against and hold the other harmless, to the extent permitted by law, from any claim, loss, damage, costs or liabilities for any brokerage commission or fee which may be asserted against the other by any broker in connection with this transaction. The provisions of this paragraph shall survive the delivery of the deed.

22. CONTINGENCIES. The obligations of BUYER and SELLER are contingent upon the satisfaction of each of the following conditions:

- (a) BUYER shall have complied with the disclosure provisions of G.L. c.7C, § 38, and SELLER and BUYER agree to diligently pursue full compliance with said statute. SELLER shall prepare and file all required statements;
- (b) Compliance with the provisions of G.L.c.30B, §16; and
- (c) Compliance with any other requirements of the Massachusetts General or Special Laws relative to the sale of the premises by the SELLER.

Provided, however, that if any of the foregoing conditions are not satisfied by the closing date, BUYER and/or SELLER shall have the option of extending the closing date until such conditions are satisfied, and further provided that the closing date shall not be extended beyond _____, 2019, provided that the party seeking the extension shall give the other parties three (3) days written notice of its exercise of this option and shall give seven (7) days written notice of the new closing date. BUYER and SELLER shall use diligent efforts to satisfy all contingencies.

23. AFFIDAVITS. At the time of delivery of the deed, SELLER shall execute and deliver all the usual and customary affidavits required by BUYER'S attorney, including but not limited to a statement under oath to any title insurance company issuing a policy to BUYER and/or BUYER'S mortgagee and/or the BUYER individually to the effect that: (1) there are no tenants, lessees or parties in possession of the premises, except as noted herein; (2) that SELLER is not a foreign person subject to the withholding provisions of the Internal Revenue Code of 1986, as amended (FIRPTA).

24. HAZARDOUS MATERIALS. Buyer represents and warrants that they or their agents have conducted or have had sufficient opportunity to conduct a full inspection of the Property and that Buyer is aware of the condition of the Property and will accept the Property "AS IS". Buyer acknowledges that Buyer has not been influenced to enter into this transaction and that it has not relied upon any warranties or representations not set forth in this Agreement. Buyer acknowledges that Seller has no responsibility for hazardous waste, oil, hazardous material or hazardous substances, as those terms are defined by any applicable law, rule or regulation, including, without limitation, the Massachusetts Oil and Hazardous Materials Release

Prevention and Response Act, M.G. L. c. 21E, the Massachusetts Hazardous Waste Management Act, M.G.L. c. 21C, the Comprehensive Environmental Response, Compensation and Liability Act, as amended, 42 U.S.C. §§ 9601 et seq. and the Resource Conservation and Recovery Act, as amended, 42 U.S.C. §§ 6901 et seq. (herein collectively referred to as “Hazardous Waste”) on, in, under or released from the Property or for any other condition or defect on the Property, and agrees to defend with counsel reasonably satisfactory to the Seller and to pay, protect, release, indemnify and save harmless Seller from and against, any and all liabilities, damages, loss, costs expenses (including any and all attorneys’ fees, and expenses of Seller), causes of action, suits, claims, demands or judgments of any nature whatsoever arising prior and subsequent to delivery of the deed for any contribution toward the costs of any liability or clean-up, remediation or restoration costs or any other claim based upon the environmental condition of the Property and for injury to person or property arising from (a) any Hazardous Waste on, in, under, or released from the Property, or (b) any defect or condition on the Property. The provisions of this Section shall survive delivery of the deed.

25. ASSIGNMENT. BUYER shall not assign this agreement or any of its rights hereunder without prior written consent of SELLER, which may be withheld in the SELLER’S sole and absolute discretion.

26. PROPERTY INSPECTION; CONDITION OF PREMISES, BUILDING. BUYER or BUYER’S agent(s) shall have the right, to enter the premises, upon no less than forty-eight (48) hours written notice to SELLER, at BUYER’S own risk for the purposes of inspecting the premises, provided that BUYER shall not conduct any subsurface tests without SELLER’S prior written consent, which shall not to be unreasonably withheld. BUYER shall indemnify, defend and hold SELLER harmless against any claim by BUYER or BUYER’S agents, employees or invitees for any harm to them arising from said entry and shall restore the premises to substantially the same condition as prior to such entry. In the event BUYER finds Hazardous Waste on the premises in quantities that must be reported to the Department of Environmental Protection under the provisions of G.L. c. 21E or the regulations thereunder, and informs SELLER of the same in writing prior to the closing date, this agreement shall be null and void and without recourse to the parties, unless SELLER, at SELLER’S sole and absolute discretion, gives written notice to BUYER within twenty (20) days of receiving BUYER’S notice of its intention to remediate such contamination and thereafter remediates such hazardous condition in full compliance with applicable law within a reasonable period of time, with SELLER paying all of the costs of remediation. Nothing herein shall require SELLER to remediate any contamination on the premises. The provisions of this Section shall survive the delivery of the deed.

27. TITLE OR PRACTICE STANDARDS. Any matter or practice arising under or relating to this agreement which is the subject of a title standard or a practice standard of the Massachusetts Real Estate Bar Association at the time for delivery of the deed shall be covered by said title standard or practice standard to the extent applicable. It is understood and agreed by the parties that, without limitation, the premises shall not be in conformity with the title provisions of this agreement unless:

- (a) no building, structure or improvement of any kind belonging to any person or entity encroaches upon or under the premises from other premises;

- (b) title to the premises is insurable, for the benefit of the BUYER, by a title insurance company acceptable to the BUYER, in a fee owner's policy of title insurance at normal premium rates, in the American Land Title Association form currently in use;
- (c) all structures and improvements and all means of access to the premises shall not encroach upon or under any property not within the lot lines of the premises; and
- (d) the premises shall abut a public way, duly laid out or accepted as such by the municipality in which the premises are located, or have the benefit of a valid easement leading to public ways.

28. CLOSING. The deed and other documents required by this agreement are to be delivered and the Purchase Price paid at the Date and Time of Closing and at the Place of Closing. Unless the Closing takes place at the appropriate Registry of Deeds, all documents and funds are to be delivered in escrow subject to prompt rundown of title and recording, which term shall include registration in the case of registered land. Unless otherwise agreed, SELLER'S attorney may disburse the funds if no report has been received by 5:00 p.m. of the next business day following the date of the delivery of the deed that the documents have not been recorded, due to some problem beyond the recording attorney's control.

29. BUYER'S WARRANTIES. BUYER hereby represents and warrants:

- (a) This agreement and all documents to be executed by BUYER and delivered to BUYER at the closing are, or at the time of the closing will be, duly authorized, executed and delivered by BUYER.
- (b) BUYER hereby acknowledges and agrees that, except for the representations and warranties of the SELLER expressly set forth in this agreement, the BUYER has not relied upon nor been induced by any representations, warranties, guarantees, promises or statements, whether written or oral, express or implied, or whether made by the SELLER or any employee or representative of the SELLER.

30. NOTICE. Any notice required or permitted to be given under this Agreement shall be in writing and signed by the party or the party's attorney or agent and shall be deemed to have been given upon the earlier of: (i) two business days after deposit with the United States Postal Service, if sent by registered or certified mail, return receipt requested, postage prepaid; (ii) one business day after deposit with an express courier service such as Federal Express; (iii) actual receipt, or (iv) confirmed facsimile transmission (provided such facsimile notice is promptly followed by other acceptable means of sending notice), addressed in the case of:

SELLER:

Board of Selectmen
Attn: Chairperson
5 Palmer Road
Plympton, MA 02367

with a copy to:

Jonathan D. Eichman, Esq.
KP Law, P.C
101 Arch Street, 12th Floor
Boston, MA 02110
E-mail: jeichman@k-plaw.com

In the case of BUYER:

with a copy to:

By such notice, either party may notify the other of a new address, in which case such new address shall be employed for all subsequent deliveries and mailings.

31. CASUALTY AND CONDEMNATION. Notwithstanding anything herein to the contrary, in the event that all or a substantial part of the premises is damaged or destroyed by fire, vandalism or other casualty (and such fire, vandalism or other casualty is not the result of the negligence of BUYER, or its agents, employees, contractors and invitees), or in the event of a taking of all or substantially all of the premises by eminent domain by an entity other than the Town of Plympton, then SELLER or BUYER, may, at its option, terminate this agreement, whereupon all deposits made by BUYER under this agreement shall be returned to BUYER. "Substantial part" shall be defined as that portion of the premises which if damaged or taken by eminent domain would materially and adversely affect the use of the premises for the purposes set forth herein.

32. DEFAULT. In the event that SELLER defaults under this agreement, BUYER shall be entitled to terminate this agreement, and receive a refund of the deposit. The foregoing shall be BUYER'S sole and exclusive remedy at law and in equity for any breach of this agreement by SELLER.

33. POST CLOSING COMPLIANCE AND ADJUSTMENTS. If any errors or omissions are found to have occurred in any calculations or figures used in the settlement statement signed by the parties (or would have been included if not for any such error or omission) and notice hereof is given within sixty (60) days of the date of the delivery of the deed to the party to be charged, then such party agrees to make a payment to correct the error or omission. This provision shall survive delivery of the Deed.

34. EXTENSIONS. BUYER and SELLER hereby authorize their respective attorneys (as the case may be) to execute on their behalf any extensions to the time for performance and any change of location and/or time for delivery of the deed. BUYER and SELLER shall be able to rely upon the signature of said attorneys as binding unless they have actual knowledge before the execution or other consent to such extensions, that either party has disclaimed the authority granted herein to bind them. For purposes of this agreement, facsimile signatures shall be construed as original.

35. CONSTRUCTION. 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 SELLER and 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 to it.

[signature page follows]

SELLER:

TOWN OF PLYMPTON, by its
Board of Selectmen

BUYER:
