



**TOWN OF ORLEANS  
REQUEST FOR PROPOSAL  
FIRE-RESCUE STATION BUILDING PROJECT  
PURCHASE OF REAL PROPERTY**

The Town Administrator will receive sealed proposals to purchase a parcel or parcels of land, with or without buildings thereon for the purpose of constructing a new Fire-Rescue Station in accordance with Mass General Law Chapter 30B. The areas deemed advantageous to the Town and purchase conditions are described in the Request for Proposal (RFP).

The RFP documents are available by registering at [www.town.orleans.ma.us/bids](http://www.town.orleans.ma.us/bids)

Proposals will be received at the Town Administrator's Office, Orleans Town Hall, 19 School Road, Orleans, Massachusetts 02653 until **3:00 PM prevailing time on Wednesday, April 6, 2022**. Late proposals will be rejected and returned to the proposer unopened. No exceptions will be made. Faxed/emailed proposals will not be accepted. Proposals must be submitted in a sealed envelope indicating the applicant's name and address and clearly marked "TOWN OF ORLEANS - PURCHASE OF REAL PROPERTY FOR MUNICIPAL PURPOSES". Unforeseen Office Closure – if at the time of the scheduled proposals submission deadline, Orleans Town Hall is closed due to uncontrolled events such as fire, snow, ice, wind, or building evacuation, the deadline for receiving proposals will be extended to 3:00 PM prevailing time on the next normal business day.

The Town Administrator reserves the right to accept and/or reject any and all proposals and waive any informality in procurement procedures to the extent allowed by law if it is deemed to be in the best interest of the Town.

John F. Kelly  
Town Administrator

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## SCHEDULE OF EVENTS

<u>Event</u>	<u>Date</u>	<u>Time</u>
RFP Released	Wednesday, March 2, 2022,	3:00 PM
Written Inquiries due by	Friday, March, 25, 2022,	3:00 PM
Proposal Submissions due by	Wednesday, April 6, 2022,	3:00 PM

## INTRODUCTION

The Town of Orleans, hereinafter referred to as the "Town" for the purpose of this Request for Proposal (RFP), seeks to purchase a parcel or parcels of land, with or without buildings thereon, within the Town limits as described in the Evaluation Criteria. It is the intent of the Town to use the land for the location of a new Fire-Rescue Station. The Town has determined that this purchase is subject to Massachusetts General Law (M.G.L.), Chapter (c.) 30B, and has issued this RFP for soliciting proposals from property owners.

Notice of this RFP is published in the Central Register, which is a weekly publication of the Office of the Secretary of State, and in a newspaper with a circulation sufficient to inform the people of the affected locality. Additionally, this RFP is posted on the Town's website <https://www.town.orleans.ma.us> .

The Orleans Select Board and Town Meeting must authorize the purchase of the real property selected under this RFP. Therefore, any purchase and sales agreement entered into pursuant to this RFP will be subject to the Select Board's authorization, Town Meeting approval and a favorable subsequent ballot vote.

The successful property owner must be prepared to enter into a purchase and sale agreement within forty-five (45) days from the selection of the successful proposer substantially in the form of the Purchase and Sale Agreement attached hereto as Exhibit A. The Town may extend the date for execution of the Purchase and Sale Agreement for 90 days after initial 45 days to accommodate its processing schedules. The closing will occur subsequent to the appropriation of funds at a Town Meeting to be held after selection of a proposal and within one year (365 days) after date of selection.

## INSTRUCTIONS TO PROPOSERS

Failure to submit required forms may result in the rejection of the proposal. The Town reserves the right to waive any informality in the proposal or any details contained therein that do not exactly comply with the terms of this RFP.

- All proposals must be signed by the owner of the property, enclosed in an envelope that is sealed and plainly marked on the outside "Town of Orleans Purchase of Real Property"
- A proposal must be signed as follows:

1. If the proposer is an individual, by him/her personally, or
  2. If the proposer is a partnership, by the name of the partnership, followed by the signature of each general partner, or
  3. If the proposer is a corporation, by the president/vice-president and the treasurer/assistant treasurer or any other authorized officer, whose signature must be attested to by the clerk/secretary of the corporation and the corporate seal affixed (see Attachment E).
  4. If an LLC, by the managing partner authorized to transact in real property.
- A proposal must include the following attachments properly completed and executed:
    1. Information Form (Attachment A)
    2. Price Proposal Form (Attachment B)
    3. Certificate of Non-Collusion (Attachment C)
    4. Certificate of Tax Compliance (Attachment D)
    5. Disclosure of Beneficial Interest (Attachment E)
    6. Certificate of Corporate Vote (Attachment F) (for corporate owned property only)
    7. LLC Certificate (Attachment G) (if an LLC is property owner)
  - Questions concerning this RFP must be submitted, via email by 3:00 PM on March 25,2022, to Michaela Miteva at [mmiteva@town.orleans.ma.us](mailto:mmiteva@town.orleans.ma.us)
  - The Town of Orleans may cancel this RFP or reject in whole or in part any and all proposals, if the Town determines that cancellation or rejection is in the best interest of the Town, and it may select the proposal that it deems to be in the best interest of the Town, notwithstanding that it may not be the lowest priced proposal, all in accordance with Chapter 30B.
  - All terms of the proposals submitted in response to this RFP, including the price stated therein, must remain firm for one year (365 days) following the day of the proposal opening.
  - If on the date and time of the submittal deadline Town Hall is closed due to an event such as fire, snow, ice, wind or building evacuation, the submittal deadline will be postponed until 3:00 PM on the next business day.
  - By submitting a proposal, each proposer agrees that closing on the property submitted may not occur for one (1) year after the proposal submission date and agrees not to withdraw or otherwise alter its proposal due to lapse of time between proposal opening date and date of closing during the year following the opening of proposals.

### SPECIFICATIONS OF DESIRED PROPERTY

The Town will consider the suitability of the proposed property, including but not limited to, factors relating to size of the property; site access for vehicles and pedestrians; availability of parking; environmental conditions, wetlands, grading, drainage, soil conditions, and other conditions of the property; security of the surrounding area; availability and proximity to, and adequacy of, public utilities; compatibility with existing land uses on surrounding parcels; characteristics of any building(s) and other improvements on the property, and whether it/they would have to be demolished or would be used; cost of development for the intended use; and such other characteristics as it deems advisable depending on the particular property being addressed.

At a minimum, the property must satisfy the following criteria:

- The property must be located within Town limits.
- The proposal must include a copy of the latest deed for the property; a site plan or survey of the property should be included, if available.
- If there are any easements, right-of-way privileges, restrictions or liens encumbering the property, they must be clearly stated on the Information Form or an attachment thereto.
- Subdivision of larger parcels is acceptable and will be considered on par with stand-alone parcels. All zoning categories, business, industrial or residential, will be considered and are acceptable.
- Proposed property may be a single parcel or contiguous parcels.

The Town retains the right to waive, retain, adjust, modify, enforce, or not enforce any criteria stated herein as it sees fit in the best interest of the Town of Orleans.

### SUBMISSION REQUIREMENTS

Town Administrator, 19 School Road, Orleans, MA 02653 must receive six (6) complete printed copies of each proposal, with all attachments on or before the submission deadline of April 6, 2022 at 3:00 PM prevailing time. One copy in electronic format must also be included. Bids will not be publicly opened. All proposals must be labeled "Town of Orleans Purchase of Real Property" and be mailed or hand delivered to the following address:

Town of Orleans, Town Administrator, 19 School Road, Orleans, MA 02653

- Absent exigent circumstances beyond proposer's control, proposals received by the Town later than the Submission Deadline will be deemed non-responsive and will be rejected. (any acceptance would be subject to approval by the Inspector General of the Commonwealth of Massachusetts)
- All proposals will be date/time stamped as they are received, and the Town's date/time stamp will be controlling. No proposals will be accepted after submission

deadline. Late delivery of materials due to any type of delivery system may be cause for rejection.

- Emailed or faxed proposals will be deemed non-responsive and will be rejected, regardless of the date/time received.
- The Town will not accept any information or materials submitted after the Submission Deadline unless said information or materials are provided in response to the Town's request for such information or materials.
- Submission requirements are strictly enforced. Proposers are cautioned to hand deliver their proposals or to allow sufficient time for their proposals to be received by mail or other delivery service.
- Prior to the Submission Deadline, proposers may correct, modify, or withdraw a proposal by written notice to the Town's Awarding Authority at the address specified above. After the opening of proposals, a proposer may not correct or modify the price or any other provisions of its proposal in a manner prejudicial to the interests of the Town or fair competition as determined by the Inspector General. No proposer may withdraw his proposal for a period of 365 days (one year) after the date and time set for the opening of the proposals.
- All proposals shall be unconditional.
- The Town reserves the right to request additional information from any and all proposers if it is deemed necessary in order to identify the most advantageous proposal.
- This RFP is issued pursuant to M.G.L. c. 30B, 16. The Town is interested in securing a property at the lowest responsible price. However, the Town reserves the right to award the purchase to the proposer offering the most advantageous combination of property characteristics and purchase price and shall not be required to award the purchase to the proposer offering the lowest price. The Town reserves the right to negotiate the purchase price and other terms with the selected proposer in a manner not prejudicial to fair competition. Any award is subject to obtaining the proper zoning and regulatory approvals to the extent any may be necessary to carry out the purposes of this RFP. Any award is also subject to the authorization and appropriation of the Town.
- The Town reserves the right to conduct site visits to verify the information provided in the proposals and to perform detailed evaluations of the property proposed prior to award. The proposer's failure to cooperate with the Town in this regard may result in rejection of the proposal.

#### RFP COMMUNICATIONS:

It is the sole responsibility of the proposer to ascertain the existence of any addenda and/or modifications disseminated by the Town, whether or not the same are mailed to, or received by, proposer. This RFP has been published on the Town's website <https://www.town.orleans.ma.us/bids>

The Town accepts no liability for and will provide no accommodations to proposers who fail to check for amendments and/or modifications to this RFP and subsequently submit inadequate or incorrect responses. Proposers may contact the Town Awarding Authority

in the event this RFP is incomplete, or the proposer is having trouble obtaining any part of the RFP electronically through the Town's website, including, and without limitation, the proposal form, and attachments.

Proposers with disabilities or hardships that seek reasonable accommodations, which may include the receipt of RFP information and/or addenda and/or modifications in an alternative format, must communicate such requests in writing and accommodation will be made by agreement.

All questions or inquiries concerning this RFP must be made in via email to Michaela Miteva at [mmiteva@town.orleans.ma.us](mailto:mmiteva@town.orleans.ma.us). All inquiries received by 3:00 PM on March 25, 2022, will be considered. Questions may be delivered, mailed, or emailed. Written responses will be emailed to all applicants on record as having received this RFP.

### EVALUATION CRITERIA

Evaluation of proposals will be based upon information provided in the proposals, obtained on site visits and from other generally available and verifiable information. The Town reserves the right to request clarification of proposal terms or additional information after the Submission Deadline.

Proposals will be evaluated based upon minimum and comparative criteria. Depending on the terms of the particular proposal, the Town may offer to purchase the property from the proposer who submits the most advantageous proposal based on consideration of the specified minimum and comparative criteria, and the price.

**Minimum Criteria:** Each proposal must meet all of the following criteria in order to be considered for further evaluation:

- Proposer must have good clear record and marketable title and be able to transfer same to the Town.
- Proposer must submit all required forms properly completed and executed.
- Proposer must submit all required explanations and documentation required herein.
- Proposer must meet all the material and mandatory terms and conditions of the Purchase & Sale Agreement form incorporated herein and attached hereto as Exhibit A and any of its reiterations.

Proposals that do not meet the Minimum Criteria may be judged non-responsive and, in such case, will not be reviewed further.

**Comparative Criteria:** Proposals that meet the Minimum Criteria listed above will be evaluated by the following Comparative Criteria:

Size of parcel

Highly Advantageous	Upland greater than 3.0 Acres
Advantageous	Upland greater than 2.5 Acres but less than 3.0 Acres
Not Advantageous	Upland is less than 2.5 Acres

Frontage on Town-Accepted Roadway

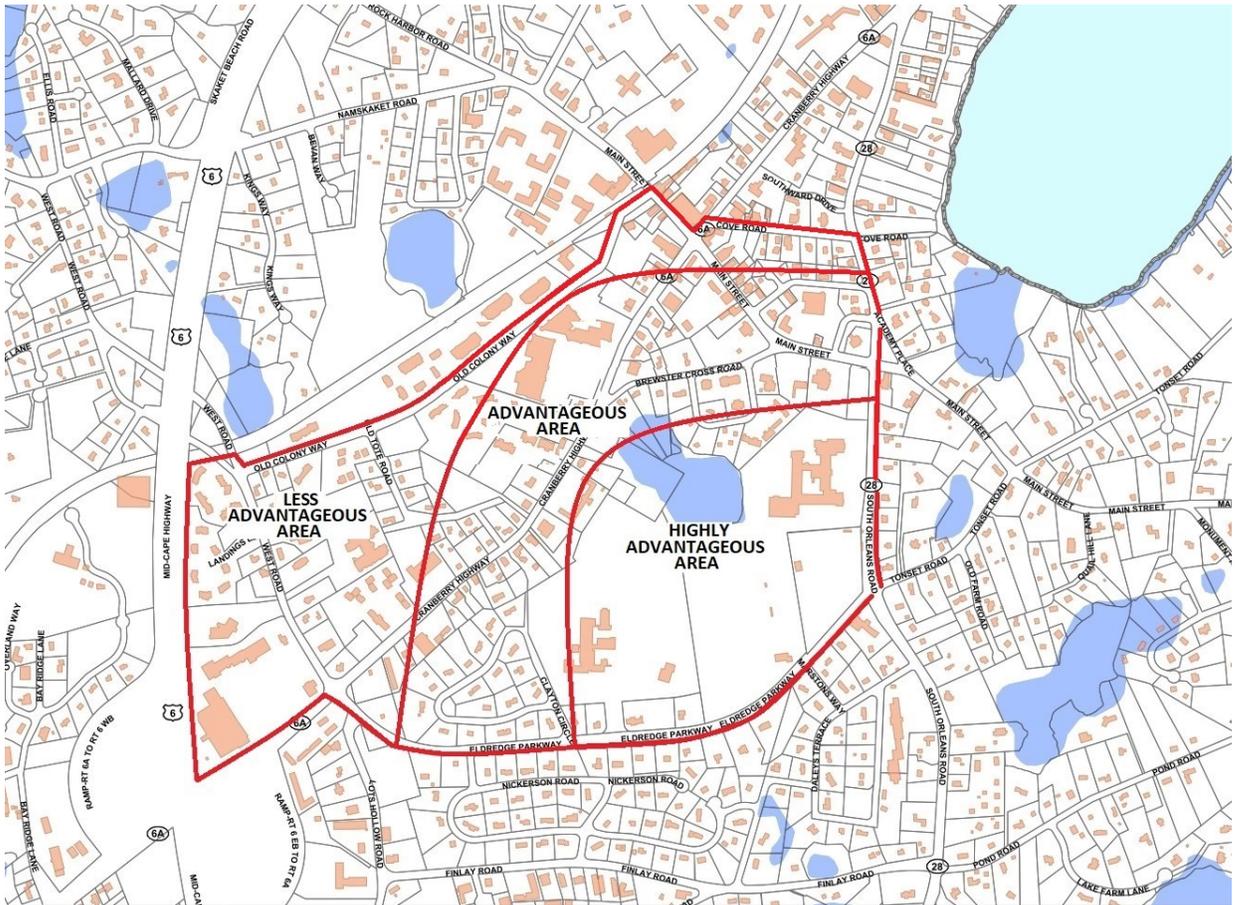
Highly Advantageous:	150 or more feet of direct frontage upon a town accepted public roadway.
Advantageous:	75 to 150 feet of direct frontage upon a town accepted roadway.
Not Advantageous:	Less than 75 feet of frontage on a town accepted roadway, or the property does not have direct frontage on a town accepted roadway but provides easement/right of way through private ways.

Rights-Of-Way, Easements, Restrictions

Highly Advantageous:	There are no rights-of-way or easements either over or under the property, or restrictions affecting the use of the property for the Town's intended purpose.
Advantageous:	There are rights-of-way or easements either over or under, or restrictions that affect, the property, but that do not interfere unreasonably with the Town's intended use of the property.
Not Advantageous:	There are rights-of way or easements either over or under, or restrictions affecting, the property that materially affect the use of the property for the Town's intended use.
Unacceptable:	There are rights-of-way or easements either over or under, or restrictions affecting, the property that prohibit the use of the property for the Town's intended use.

PROXIMITY TO (see map below)

- Highly Advantageous: Located within the Highly Advantageous Area
- Advantageous: Located within the Advantageous Area
- Less Advantageous: Located within the Less Advantageous Area
- Unacceptable: Not within the map areas shown



## EVALUATION AND SELECTION PROCESS

The Town may conduct site visits of properties offered for sale pursuant to this RFP.

The Town will evaluate proposals in accordance with the evaluation criteria set forth in this RFP and will select the proposal most advantageous to the Town, taking into consideration the evaluation criteria and the price.

Any purchase and sales agreement entered into pursuant to this RFP will be subject to Town's authorization and appropriation.

## TERMS OF PURCHASE

The Purchase and Sale Agreement to be executed between the Town and the successful proposer shall be substantially in the form of the Purchase and Sale Agreement attached hereto as Exhibit A, and shall include, at a minimum, the following mandatory terms:

- No down payment will be made upon execution of the Purchase and Sale Agreement. The Town will pay the entire purchase price, at closing, subject to customary and usual adjustments.
- The Town does not have a real estate broker representing it, and the seller must agree to defend, indemnify the Town against and hold the Town harmless from any claim, loss, damage, costs or liabilities for any brokerage commission or fee which may be asserted against the Town by any broker in connection with this transaction.
- On reasonable notice, the Town and its consultants, agents, employees, and representatives however characterized, will be granted access to the property to examine the property, including, without limitation, conducting surveys, soil tests and environmental investigations, and inspections of buildings and other existing structures. The seller shall grant reasonable access to the Town and its consultants, contractors, agents and representatives to the proposed property for such inspections and investigations. The Town in the selection process will consider information obtained from site visits.
- The property will be delivered vacant and free of all tenants, occupants, and personal property, unless specifically agreed to by both parties in writing.
- The seller shall deliver a good and sufficient quitclaim deed of the property to the Town of Orleans, which deed shall convey good, clear record and marketable title to the property, subject only to those easements, restrictions and encumbrances which are acceptable to the Town and do not interfere with the use of the property for its proposed municipal purpose.
- If the land is registered, the quitclaim deed must be in form sufficient to entitle the Town to an Owner's Certificate of Title, and the property owner shall deliver at closing all documents necessary to enable the Town to obtain a Certificate of Title and to satisfy all Land Court and registration requirements.

- The physical and environmental condition of the property and the improvements therein shall be entirely acceptable to the Town, in the Town's discretion, or the Town shall not be obligated to purchase the property. .
- The seller shall provide sufficient authority documentation, in recordable form, including, without limitation, as applicable, legal existence and good standing certificates from the Secretary of State, complete incumbency certificates and trustee's certificates, valid current vote(s)/resolution(s), direction of partners, members or beneficiaries, and other documentation reasonably required by the Town.
- Taxes for the then current fiscal year shall be adjusted in accordance with M.G.L. c. 59, 72A. Any taxes paid by the seller prior to the closing shall not be refunded.
- The Town shall have no obligation to purchase the property, and the Purchase and Sales Agreement will become null and void if, by way of example, and not limitation:
  1. The Town determines at any time prior to closing that the property and/or the improvements thereon are not suitable, for its specific needs.
  2. The information contained in the proposal proves to be inaccurate.
  3. It becomes unlawful for either party to execute the purchase and sale agreement or consummate the transaction.
  4. The Town fails to obtain approval and/or funding by an affirmative vote of the Town.
  5. The Town finds undisclosed hazardous waste or hazardous materials on the property.
  6. The Town fails to comply with the provisions of M.G.L. c. 30B (the Uniform Procurement Act) for acquisition of real property.
  7. The property is damaged or destroyed by fire, vandalism, or other casualty, or all or part of the property is taken by eminent domain by any entity.
  8. The seller fails to waive relocation benefits under M.G.L. c. 79A and 760 CMR 27.03 for itself and all other tenants or other occupants of the property.
  9. The Town fails to obtain the proper zoning and regulatory approvals to the extent necessary to use and operate the property for the Town's intended purposes.

PROPOSAL TO SELL REAL PROPERTY TO  
THE TOWN OF ORLEANS

ATTACHMENT A  
INFORMATION FORM

*Page 1 of 2*

Property Street Address: \_\_\_\_\_ Map # \_\_\_\_\_ Parcel ID \_\_\_\_\_

Total sq. ft.:

Amount of Frontage on

(# of feet) (Name of Town accepted roadway)

- a. Describe valid easement rights over private way(s) leading to a public way duly laid out or accepted as such by the municipality or other government entity, including distance from property to public way and width of easement. Include deed references in the description, if attaching these details, indicate here: \_\_\_\_\_.
  
- b. Attach a copy of the current deed(s) with the Registry of Deeds Book and Page reference.
  
- c. Are there any structures on the property?
  
- d. Are there any right-of-way privileges or easements benefiting the property? If yes, please attach detailed explanation.
  
- e. Are there any deed restrictions? If yes, please attach detailed explanation.
  
- f. Attach a description of the and past uses of the property, including any history of the release or disposal of any oil or other hazardous materials on the property.
- g. Has the property been surveyed? \_\_\_\_\_ Date of survey: \_\_\_\_\_



PROPOSAL TO SELL REAL PROPERTY TO  
THE TOWN OF ORLEANS

ATTACHMENT B - PRICE PROPOSAL FORM

To the Awarding Authority:

- A. The Undersigned proposes to sell the property listed in this Response to the Town of Orleans's Request for Proposal to the Town of Orleans Massachusetts, for the price listed below in accordance with the terms and conditions of the Request for Proposals.

Property Address:

Assessor's map and Lot Number:

Registry of Deeds Book and Page:

- B. The proposed sale price is dollars:

\_\_\_\_\_ dollars (\$ \_\_\_\_\_ )

This price includes the parcel(s) and all amenities required by this RFP.

Date: \_\_\_\_\_

Name of Proposer: \_\_\_\_\_

Signature: \_\_\_\_\_

Business Address: \_\_\_\_\_

Town, State, and Zip: \_\_\_\_\_

Phone and Fax. Nos. \_\_\_\_\_

E-Mail \_\_\_\_\_

PROPOSAL TO SELL REAL PROPERTY TO  
THE TOWN OF ORLEANS

ATTACHMENT C - CERTIFICATE OF NON-COLLUSION

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

Signature: \_\_\_\_\_

Print Name & Title: \_\_\_\_\_

Date: \_\_\_\_\_

PROPOSAL TO SELL REAL PROPERTY TO  
THE TOWN OF ORLEANS

ATTACHMENT D - CERTIFICATE OF TAX COMPLIANCE

Pursuant to Chapter 62C of the Massachusetts General Laws, Section 49A (b), I  
\_\_\_\_\_, authorized signatory for \_\_\_\_\_

*Name of individual*

*Name of owner*

Do hereby certify under the pains and penalties of perjury that said owner has complied  
with all laws of the Commonwealth of Massachusetts, and the Town of Orleans,  
relating to taxes, permit or other fees, reporting of employees and contractors, and

\_\_\_\_\_  
withholding and remitting child support.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

PROPOSAL TO SELL REAL PROPERTY TO  
THE TOWN OF ORLEANS

ATTACHMENT E - DISCLOSURE OF BENEFICIAL INTERESTS IN REAL PROPERTY  
TRANSACTION

*Page 1 of 3*

This form contains a disclosure of the names and addresses of all persons with a direct or indirect beneficial interest in the real estate transaction described below. This form must be filed with the Massachusetts Division of Capital Planning and Operations, as required by M.G.L. c. 7, S 40J, prior to the conveyance of or execution of a lease for the real property described below. Attach additional sheets if necessary.

1. Public agency involved in this transaction:

Town of Orleans  
(Name of jurisdiction)

2. Complete legal description of the property:

3. Type of transaction: Sale

4. Seller(s):

Purchaser(s): Town of Orleans

PROPOSAL TO SELL REAL PROPERTY TO  
THE TOWN OF ORLEANS  
ATTACHMENT E *Page 2 of 3*

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 stock holders must also be listed except that, if the stock of the corporation is for sale to the general public, the name of any person holding less than ten percent of the outstanding voting shares need **not** be disclosed.*

Name	Address
_____	_____
_____	_____
_____	_____

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

Name	Title or position
_____	_____
_____	_____

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

PROPOSAL TO SELL REAL PROPERTY TO  
THE TOWN OF ORLEANS

ATTACHMENT E *Page 3 of 3*

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

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

Signature: \_\_\_\_\_

Printed name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

PROPOSAL TO SELL REAL PROPERTY TO  
THE TOWN OF ORLEANS

ATTACHMENT F - CERTIFICATE OF CORPORATE VOTE

At a duly authorized meeting, held on \_\_\_\_\_ the Board of Directors  
of the \_\_\_\_\_ it was VOTED, THAT

Name

Title/ Office

of \_\_\_\_\_ be, and hereby is, authorized to execute  
contracts and bonds in the name, and on behalf of, said \_\_\_\_\_,  
and affix its corporate seal hereto; and such execution of any contract or obligation in  
the name of \_\_\_\_\_ on its behalf by such officer under seal  
of \_\_\_\_\_, shall be valid and binding upon.

I hereby certify that I am the clerk of the above named \_\_\_\_\_  
and that \_\_\_\_\_ is the duly elected officer as above of  
said, \_\_\_\_\_ and that the above vote has not been amended or rescinded and  
remains in full force and effect as of the date of this contract.

\_\_\_\_\_  
(Clerk)

\_\_\_\_\_  
(Date)

ATTACHMENT G - LLC CERTIFICATE OF INCUMBENCY AND AUTHORITY

Re: Purchase and Sale of Property located at \_\_\_\_\_

This certificate is made as of the \_\_\_\_\_ day of \_\_\_\_\_, 2022,  
by \_\_\_\_\_ Manager of \_\_\_\_\_ LLC, a  
Massachusetts Limited Liability Company.

The undersigned Manager of \_\_\_\_\_ LLC, a Massachusetts Limited  
Liability Company, being duly authorized to execute documents to be filed with Office of the  
Secretary of State of Massachusetts, hereby does state as follows:

1. The Purchase and Sales Agreement between the Town of Orleans and  
\_\_\_\_\_ LLC is approved, as is the purchase and sale of the  
property described therein.
2. \_\_\_\_\_ is a Manager of \_\_\_\_\_ LLC.
3. \_\_\_\_\_ hereby is authorized to execute the Purchase and Sale  
Agreement, deed(s), and associated documents between the Town of Orleans and  
\_\_\_\_\_ LLC pertaining to the purchase and sale of the above property.

IN WITNESS WHEREOF, I have affixed my name as \_\_\_\_\_  
of \_\_\_\_\_ LLC this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
(name)

COMMONWEALTH OF MASSACHUSETTS

\_\_\_\_\_, ss. \_\_\_\_\_, 2022  
Then personally appeared the above-named \_\_\_\_\_ Manager of \_\_\_\_\_ LLC  
identity proven to me by driver's license, and acknowledged the foregoing statements to be true  
and the foregoing instrument to be his free act and deed and the free act and deed  
of \_\_\_\_\_ LLC, before me,

\_\_\_\_\_  
Notary Public/Justice of the Peace

My commission Expires: \_\_\_\_\_

EXHIBIT A  
(SAMPLE)  
PURCHASE AND SALE AGREEMENT  
(COMMERCIAL PROPERTY)

This Agreement is dated as of the \_\_\_\_\_ day of \_\_\_\_\_ 2022.

1. PARTIES. \_\_\_\_\_ a  
Massachusetts, \_\_\_\_\_ having a principal office address of  
\_\_\_\_\_ (hereinafter called the SELLER), to sell, and the  
TOWN OF ORLEANS, a Municipal Corporation in the Commonwealth of Massachusetts, acting  
by and through its Town Administrator, the Awarding Authority, with offices at 19 School Road,  
Orleans MA 02653 (hereinafter called the BUYER), agrees to buy, upon the terms hereinafter  
set forth, the Premises as defined below.
  
2. DESCRIPTION. The land, with all buildings, structures and improvements thereon  
located at, Orleans, Barnstable County, Massachusetts \_\_\_\_\_ (Orleans Assessors Map,  
\_\_\_\_\_ Lot \_\_\_\_\_, as more particularly described in a deed dated \_\_\_\_\_  
\_\_\_\_\_ and recorded in the Barnstable County (S.D.) Registry of Deeds in Book , Page \_\_\_\_\_  
containing \_\_\_\_\_ S.F. and being shown as LOT \_\_\_\_\_ on Plan  
Book \_\_\_\_\_, Page \_\_\_\_\_, copies of which are attached hereto as Exhibit "A" and  
incorporated herein by reference. (hereinafter called the "PREMISES").
  
3. BUILDINGS STRUCTURES IMPROVEMENTS FIXTURES. Included in the sale as a  
part of the Premises are the buildings, structures, and improvements thereon and used in  
connection therewith. Excepting the personal property of the BUYER as set forth on Exhibit "C"  
attached hereto and incorporated herein by reference.
  
4. TITLE DEED. The Premises are to be conveyed by a good and sufficient quitclaim deed  
running to the BUYER or to the nominee designated by the BUYER by written notice to  
SELLER at least seven (7) days before the deed is to be delivered as herein provided, which  
deed shall convey a good and clear record, marketable and insurable title thereto, free from  
encumbrances, except:
  - (a) Provisions of existing building and zoning laws and environmental laws.
  - (b) Such taxes for the then current year as are not due and payable on the date of the delivery  
of such deed.
  - (c) Any liens for municipal betterments assessed after the date of this Agreement; and

(d) All easements, restrictions, and reservations of record to the extent the same do not interfere with the proposed use of the Premises.

5. PLANS. If the deed refers to a plan necessary to be recorded therewith, SELLER shall deliver such plan with the deed in form adequate for recording or registration.

6. PURCHASE PRICE. The agreed purchase price for the Premises is:  
\$ \_\_\_\_\_ TOTAL

7. TIME FOR PERFORMANCE/DELIVERY OF DEED. The deed is to be delivered prior to the official transfer of property \_\_\_\_\_ or the closing date at a time to be determined. The closing shall be at the Orleans Town Hall, 19 School Road Orleans, MA 02653 or at such other location as shall be mutually agreeable to the parties. IT IS AGREED THAT TIME IS OF THE ESSENCE OF THIS AGREEMENT.

8. POSSESSION AND CONDITION OF THE PREMISES. Full possession of the Premises is to be delivered at the time of the delivery of the deed, the Premises to be (a) then in the same condition as they now are, reasonable use and wear thereof excepted; (b) in compliance with the provisions of any instrument referred to in Section 4 hereof; and (c) not in violation of any building or zoning laws and environmental laws. BUYER shall be entitled to an inspection of the premises prior to the delivery of the deed in order to determine whether their condition complies with the terms hereof.

9. EXTENSION TO PERFECT TITLE OR MAKE THE PREMISES CONFORM. If 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, SELLER shall use reasonable efforts to remove any defects in title, or to deliver possession as provided herein, or to make the Premises conform to the provisions hereof, as the case may be, in which event the time for performance hereof shall be extended for a period of thirty (30) days to allow the SELLER to undertake such efforts.

10. FAILURE TO PERFECT TITLE OR MAKE THE PREMISES CONFORM. If at any point during such extended time 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, then any payments made under this Agreement shall be forthwith refunded, except as provided for herein, and all other obligations of all parties hereto shall cease and this Agreement shall be void without recourse to the parties hereto.

11. BUYER'S ELECTION TO ACCEPT TITLE. BUYER shall have the election, at either the original or during any extended time for performance, to accept such title as SELLER can deliver to the Premises in their then condition and to pay the purchase price without deduction (except as otherwise provided herein), in which case SELLER shall convey such title.

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

13. USE OF PURCHASE MONEY TO CLEAR TITLE. To enable SELLER to make conveyance as herein provided or to cause the condition of the Premises to conform to the provisions hereof, SELLER shall, 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 or to cause the condition of the Premises to conform to the provisions hereof, provided that all instruments so procured are recorded simultaneously with the delivery of the deed, or within a reasonable time thereafter in accordance with local customs.

14. INSURANCE. Until the delivery of the deed, SELLER shall continue to maintain the insurance that is currently in effect with respect to the Premises.

15. RISK OF LOSS. Notwithstanding anything to the contrary contained within this Agreement, in the event of a fire or other casualty (occurring any time after the date of this Agreement) causing damage to the premises, then, at the sole and absolute option of the BUYER, he may cancel this Agreement, without recourse to the parties, at which time the same shall become null and void, and, all deposits held hereunder shall be returned to the BUYER.

16. ADJUSTMENTS. Real estate taxes, outstanding water and sewer charges, fuel value and other items 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 BUYER at the time of delivery of the deed. Taxes for the then current fiscal year shall be adjusted in accordance with M.G.L. c. 59, 72A. Any taxes paid by SELLER prior to the closing shall not be refunded. 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.

17. BROKERAGE WARRANTY. The parties hereby agree that no real estate brokers are involved in this transaction and both parties hereby agree to indemnify and save harmless the other party from and against all claims for commissions, broker's fees/finder's fees made by any person actually retained by such party or with whom such party has dealt in connection with said property or this transaction. The provisions of this paragraph shall survive delivery of the deed.

18. TITLE STANDARDS. Any matter of practice arising under or relating to this Agreement which is the subject of a practice standard of the Real Estate Bar Association for Massachusetts shall be governed by such standard to the extent possible. Any title matter which is the subject of a title standard of the Real Estate Bar Association for Massachusetts at the time of the delivery of the deed shall be governed by said title standard to the extent applicable.

19. AFFIDAVITS/CERTIFICATES. Simultaneously with the delivery of the deed, SELLER shall execute and deliver: (a) Affidavits and indemnities under oath with respect to parties in possession and mechanic's liens to induce BUYER'S title insurance company to issue lender's and owner's policies of title insurance without exception for those matters, and SELLER shall indemnify and hold harmless the title insurance company for any losses, costs, or damages sustained as a result of issuing a policy without exceptions covered by such representations; (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 SELLER is not a foreign person, and SELLER'S address (the " 1445 Affidavit"); (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 1099S with the Internal Revenue Service and stating SELLER is not subject to back-up withholding; and (d) Such additional and further instruments and documents as may be consistent with this Agreement and customarily and reasonably required by BUYER and/or the BUYER'S title insurance company to complete the transactions described in this Agreement.

20. BUYER INSPECTION RIGHTS. BUYER or BUYER'S representatives, consultants, engineers, and/or agents shall have the right, at any time, to enter the premises at BUYER'S own risk for the purposes of conducting surveys, inspections and tests, and environmental site assessments, including testing building, mechanical, and plumbing systems of the building on the premises or for any and all investigations leading to the demolition of the existing building and construction of a new building including but not limited to the following due diligence: building, structural, mechanical, electrical, zoning compliance, environmental, plumbing and anticipated build-out requirements by the BUYER. BUYER, to the extent permitted by law, shall hold SELLER harmless against any claim by BUYER of any harm to BUYER arising from said entry and shall restore the premises to substantially the same condition as prior to such entry if the closing does not occur. BUYER'S performance hereunder is expressly conditional, at BUYER'S option, upon BUYER being satisfied with the condition of the premises and/or the building thereon and on not having found on the premises any hazardous waste or hazardous material. In the event hazardous waste or hazardous material is found, or BUYER is not satisfied with the condition of the premises or the building, BUYER shall have the right, to be exercised in its sole and absolute discretion, to (a) terminate this agreement, whereupon all the rights and obligations of the parties shall cease, or (b) provide SELLER with the option, to be exercised in SELLER'S sole discretion, to repair the condition of the premises/building and/or remediate such hazardous condition, with SELLER paying all of the costs of repair/remediation. If BUYER requests SELLER to repair the premises/building and/or remediate the hazardous condition, and SELLER elects to undertake the same, BUYER shall perform under the terms of this agreement, provided, however, that SELLER repairs the premises/building to BUYER'S reasonable satisfaction and/or remediates the hazardous condition within a reasonable time and in full compliance with all applicable laws, rules, and regulations; otherwise this agreement shall be null and void and of no further effect between the parties. Nothing herein shall affect BUYER'S rights under this agreement to walk through and inspect the premises at any time prior to the delivery of the deed.

If the results of any such test or BUYER'S other engineering, architectural or other examinations concerning the property are unsatisfactory to BUYER, in BUYER'S sole and absolute discretion,

then BUYER may terminate this Agreement by providing written notice of such unsatisfactory results to the SELLER, by \_\_\_\_\_ 2022, whereupon this Agreement shall be terminated without further recourse to either party and the deposit shall be forthwith refunded to the BUYER.

21. LIABILITY OF TRUSTEE SHAREHOLDER BENEFICIARY. If SELLER or BUYER execute this Agreement in a representative or fiduciary capacity, only the principal or the estate represented shall be bound, and neither SELLER nor BUYER so executing, nor any trustee, shareholder or beneficiary of any trust, partner of any partnership or member of any limited liability corporation shall be personally liable for any obligation, expressed or implied, hereunder.

22. CONSTRUCTION OF AGREEMENT. instrument, executed in triplicate 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. 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.

23. NOTICES. All notices and other communications or deliveries that are required or permitted to be given hereunder shall be given in writing, by facsimile transmission with a copy following in the United States mail, or be registered or certified mail, return receipt requested, or by generally recognized overnight delivery, or by hand and if intended for BUYER, addressed to:

Town of Orleans  
Town Administrator  
19 School Road  
Orleans, MA 02653

Copy To:  
Ford & Ford Attorneys At Law  
Michael D. Ford, Esq.  
72 Main Street  
PO Box 485  
West Harwich, MA 02671

If intended for SELLER, addressed to it at the address set forth above, or to such other address established by like notice.

All such notices and communications shall be effective when so deposited in the United States mail or with such overnight delivery carrier, provided that the same are received in the ordinary course at the address to which the same are mailed or sent pursuant to the foregoing.

24. TITLE. It is understood and agreed by the parties that the premises shall not be in conformity with title provisions of the Agreement unless:

- i. All buildings, structures and improvements including but not limited to any driveways, garages and all means of access to the premises, shall be located completely within the boundary lines of said premises and shall not encroach upon or under the property of any other person or entities.
- ii. No building, structures or improvement of any kind belonging to any other person or entity shall encroach upon or under said premises.
- iii. Title to the Premises is insurable, for the benefit of BUYER, by a title insurance company acceptable to BUYER, in a fee owner's policy of title insurance at normal premium rates, in the American Land Title Association form currently in use, containing no exception for any matter not expressly permitted by this Agreement.
- iv. The premises shall abut or have access to a public way which public way is duly laid out or accepted as such by the Town or town in which said premises are located; and
- v. The premises are equipped with all necessary utilities, including without implied limitation municipal water and sewer, electricity wiring for telephone service, and the Premises are not in a flood zone.

25. PRIOR MEMORANDUM OF THE PARTIES This Agreement supersedes any and all other agreements made prior hereto, including any memorandums or letters of intent dated prior by and between the BUYER and SELLER with respect to the transaction contemplated hereby which is hereby superseded and made void and without recourse to the parties hereto.

26. LEGAL COUNSEL. BUYER and SELLER acknowledge that they have each been advised of the importance of seeking legal advice prior to signing this Agreement, and each acknowledges that they have been afforded the opportunity to confer with legal counsel of their choice prior to signing this Purchase and Sale Agreement.

27. WARRANTIES AND REPRESENTATIONS. In order to induce BUYER to enter into this Agreement, SELLER warrants and represents to BUYER, effective as of the date of this Agreement and also effective as of the date of closing, that:

- (a) There are no lawsuits, actions or proceedings pending or threatened in writing against or affecting the Premises.
- (b) There are no outstanding violations of any environmental, building, health or other applicable local, state or federal laws, rules, ordinances, regulations, permits and requirements of public authorities having jurisdiction over the Premises, or any state of facts that could ripen into any such violations.
- (c) No work has been performed on the Premises which would give rise to the filing of a mechanic's lien, nor there be any such lien filed against the Premises for work performed or goods or services provided to, on behalf of or with the consent of SELLER between the date hereof and the closing date.
- (d) To the best of SELLER'S knowledge, SELLER holds good and clear, record and marketable title to the Premises in fee simple, and SELLER has not granted any options, rights of first refusal, or other contracts have been granted or entered into which give any other party a right to purchase or acquire any interest in the Premises.
- (e) SELLER has not entered into leases, licenses, or other occupancy agreements (whether written or oral) in effect with respect to any part of the Premises.
- (f) SELLER has no present knowledge of and will disclose and deliver all received written notices of, any planned or threatened condemnation or eminent domain proceedings with respect to the Premises.
- (g) This Agreement has been duly authorized by all requisite action is not in contravention of any law or organizational documents and this Agreement has been duly executed by a duly authorized officer of SELLER.
- (h) To the best of SELLER'S knowledge, SELLER'S execution of this Agreement does not violate any other contracts, Agreements, or any other arrangements of any nature whatsoever that SELLER has third parties.
- (i) To the best of SELLER'S knowledge, information and belief, (i) SELLER has not received notice of any release of any hazardous materials or oil on, from or near the Premises (as used in this Agreement, the terms "release," "hazardous materials" and "oil" shall have the meaning given to them in M.G.L.c.21 E), (ii) there are no underground storage tanks or other subsurface facilities holding petroleum or oil products currently in use or previously abandoned on the Premises and (iii) chlordane has not been used as a pesticide on the Premises;

(j) SELLER has received no notice from any governmental authority or agency having jurisdiction over the Premises of any environmental contamination, or the existence of any hazardous materials at the Property in violation of the Comprehensive Environmental Response, Compensation and Liability Act 42 U.S.C. 9601, et seq. (CERCLA), or any similar federal, state or local statute, rule or regulation; and

(k) No petition in bankruptcy (voluntary or otherwise), assignment for the benefit of creditors, or petition seeking reorganization or arrangement or other action under Federal or State bankruptcy laws is pending against or contemplated by SELLER.

SELLER will not cause nor, to the best of SELLER'S ability, permit any action to be taken which would cause any of SELLER'S representations or warranties to be false as of closing, and in any event shall notify BUYER of any change in these representations and warranties. SELLER'S representations and warranties shall survive the closing and the delivery of the deed.

32. FOREIGN PERSON. SELLER hereby warrants and represents to BUYER that SELLER is not a "foreign person" as defined by the Internal Revenue Code, Section 1445, and agrees to execute and deliver to BUYER at closing, an affidavit or certificate in compliance with Section 1445 (b) (2) and the applicable regulations thereunder.

33. ACCESS. The BUYER shall have continuing access to the premises at reasonable times and upon reasonable notice for inspections, arranging financing, measurements, and other reasonable purposes.

34. PERMITS/LICENSES ETC. CONTINGENCY Agreement is subject to and contingent upon our client receiving and/or obtaining all necessary local, state and/or federal approvals, permits and licenses which allow for the use of the property for a Municipal Facility. In the event that the BUYER is unable to obtain said approvals, after the expiration of all appeal periods, by July 30, 2018, then the BUYER shall have the option to terminate the Agreement by written notice to the SELLER, said notice to be dated on or before said date, and the deposit shall be forthwith refunded to the BUYER.

35. SELLER COOPERATION. SELLER agrees to cooperate in a reasonable manner with the BUYERS' efforts to obtain any necessary approvals, permits, etc., including the execution of any reasonably requested application, petition or document.

36. UNDERGROUND STORAGE TANKS: The SELLER hereby warrants and covenants, to the best of his knowledge and belief, that there are no underground storage tank (UST) located on the property and agree to hold the BUYER harmless from the existence of same. This clause shall survive delivery of the Deed. SELLER shall provide BUYER with information of any past or current release or threat of release, or the presence of "hazardous materials" and "oil" on the Premises, as such terms are defined in M.G.L. c. 21 E, and copies of all environmental tests, studies, and assessments relating to the Premises and copies of all notices of noncompliance or

responsibility received from the Department of Environmental Protection or any other federal, state, or local governmental body. The provisions of this paragraph shall survive the delivery of the deed.

37. CONTINGENCIES. BUYER'S performance hereunder is, at BUYER'S option, expressly subject to the following conditions:

(a) TOWN MEETING AUTHORIZATION. BUYER's performance is contingent upon:

(a) (1). Town Meeting Authorization to undertake the purchase and to raise an appropriation sufficient to pay for the purchase price; and (a) (2.) satisfaction of all contingencies of the Town Meeting Vote.

(b) BUYER shall have complied with the provisions of M.G.L. c.30B (the Uniform Procurement Act) for acquisition of real property.

(c) SELLER shall have complied with the disclosure provisions of M.G.L. c.7C, {38, and SELLER and BUYER agree to diligently pursue full compliance with said statute. SELLER hereby agrees to execute a "Disclosure of Beneficial Interests in Real Property Transaction" certificate as required by M.G.L.c.7C, 538.

(d) SELLER shall have obtained written waivers of any right to claim relocation benefits under the provisions of M.G.L. c.79A and 760 CMR 27.03 from all occupants of the Premises and SELLER shall represent and warrant in writing at closing that all such waivers have been provided as to all occupants. SELLER hereby agrees to waive any rights SELLER may have to relocation benefits under the provisions of M.G.L. c. 79A; Furthermore, SELLER shall defend, indemnify and hold BUYER harmless as to any claim for relocation benefits or payments brought against BUYER by any former or present occupant (or future occupant between now and the Closing Date) of the Premises and pay any costs incurred by BUYER resulting from any such claim. The provisions of this paragraph are expressly agreed to survive the delivery of the deed.

(e) BUYER shall have inspected the Premises and SELLER'S title to the Premises and be satisfied with the condition thereof, in its sole and absolute discretion; and

(f) Any other requirements of the Massachusetts General or Special Laws relative to the acquisition of property by BUYER.

Provided, however, that if any of the foregoing conditions are not satisfied by \_\_\_\_\_2022, BUYER 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

\_\_\_\_\_2022, provided that BUYER shall give SELLER days written notice of its exercise of this option prior to the closing date and shall give SELLER seven (7) days written notice of the new closing date.

(g) In the event any of provisions 38 (a) through (f) are not met, at the option of the BUYER, the deposit (if any) shall be forthwith refunded to the BUYER and this Agreement shall be null and void the parties having no further recourse hereunder.

39. 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.

40. ERRORS. 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 thereof is given within sixty (60) days of the date of delivery of the deed to the party to be charged, then such party agrees to make payment to correct the error or omission.

41. CAPTIONS. The captions and headings throughout this agreement are for convenience of reference only and the words contained therein shall in no way be held or deemed to define, limit, explain, modify, amplify or add to the interpretation, construction or meaning of any provisions of, or the scope or intent of this agreement, nor in any way affect this agreement, and shall have no legal effect.

42. Seller Corporate Deliveries

This Agreement is also made subject to the following additional provisions:

- (a) The SELLER agrees to provide the BUYER with a Certificate of Good Standing for the corporation from the Commonwealth of Massachusetts, Office of the Secretary of State, prior to closing, in recordable form.
- (b) The SELLER agrees to provide the BUYER with a Certificate of Good Standing for the corporation from the Commonwealth of Massachusetts, Department of Revenue, prior to closing, in recordable form.
- (c) The SELLER agrees to provide the BUYER with a Corporate Excise Tax Waiver, prior to closing, in recordable form.

SEE NEXT PAGE FOR SIGNATURES

THIS AGREEMENT IS EXECUTED AS A SEALED INSTRUMENT AS OF THE DAY AND DATE SET FORTH ABOVE.

SELLER:

\_\_\_\_\_

Witness

\_\_\_\_\_

\_\_\_\_\_

Witness

BUYER:

Town of Orleans acting by and through its Select Board

\_\_\_\_\_

Witness

\_\_\_\_\_

Approved as to form:

By:

\_\_\_\_\_

Town Counsel