

Town of Franklin

355 East Central Street
Franklin, Massachusetts 02038-1352



Phone: (508) 520-4949
www.franklinma.gov

OFFICE OF THE TOWN ADMINISTRATOR

Memorandum

July 16, 2021

To: Town Council
From: Jamie Hellen, Town Administrator
Alecia Alleyne, Assistant to the Town Administrator

Re: Maple Hill - Right of First Refusal

This evening the Town Council will consider two resolutions that will represent the final two required votes needed to exercise the right of first refusal to purchase the 70 +/- acres off of Maple Street for town ownership.

The Finance Committee unanimously endorsed the purchase.

The Community Preservation Committee also unanimously endorsed the purchase, as well as recommended the purchase of the land using Community Preservation Act funds. This purchase will represent the first usage of CPA funds in town and will also be the first known time the Town has exercised a right of first refusal for open space protection.

For details on the purchase, please see the [Town Administrator's presentation at the June 9, 2021 public hearing](#) before the Town Council.

If you have any questions please feel free to ask.



**TOWN OF FRANKLIN
RESOLUTION 21-44**

**Appropriating Funds by Borrowing and Transfer to Pay Costs of Land
Acquisition: Land of Franklin LaBastie Family, LLC off Maple Street**

Whereas: The Franklin Town Council desires to acquire the land of Franklin LaBastie Family, LLC, off Maple Street, Norfolk County Registry of Deeds title references: Plan No. 97 of 1990, Plan Book 389: Parcels 1, 2, 3 and 4, containing a total of 68.4456 acres, more or less, and Plan Book 701, Page 16: Parcels A and B containing a total of 52,178 square feet more or less

NOW THEREFORE BE IT ORDERED by the Town Council of the Town of Franklin that:

- (1) \$4,600,000 is appropriated to pay costs of purchasing the land of Franklin Labastie Family, LLC, and for the payment of all costs incidental and related thereto, and that to meet this appropriation: (i) \$ 1,559,848.00 shall be transferred from Receipts Reserved for Appropriation, and (ii) the Treasurer-Collector with the approval of the Town Administrator is authorized to borrow \$3,040,152, at one time or from time to time, under G.L. c. 44B, §11, or pursuant to any other enabling authority, and to issue bonds or notes of the Town therefor.
- (2) Any premium received upon the sale of any bonds or notes approved by this vote, less any such premium applied to the payment of the costs of issuance of such bonds or notes, may be applied to the payment of costs approved by this vote in accordance with M.G.L. c. 44, §20, thereby reducing the amount authorized to be borrowed to pay such costs by a like amount.
- (3) This resolution shall become effective according to the provisions of the Town of Franklin Home Rule Charter.

DATED: _____, 2021

VOTED:

UNANIMOUS: _____

A True Record Attest:

YES: _____ **NO:** _____

ABSTAIN: _____

ABSENT: _____

**Nancy Danello, CMC
Temporary Town Clerk**

**Glenn Jones, Clerk
Franklin Town Council**



**TOWN OF FRANKLIN
RESOLUTION 21-45**

**TOWN OF FRANKLIN'S EXERCISE OF TOWN'S CHAPTER 61A,
SECTION 14 FIRST REFUSAL OPTION, RE: LAND OF FRANKLIN
LABASTIE FAMILY, LLC OFF MAPLE STREET NORFOLK COUNTY
REGISTRY OF DEEDS TITLE REFERENCES:**

**PLAN NO. 97 OF 1990, PLAN BOOK 389: PARCELS 1, 2, 3 AND 4,
CONTAINING A TOTAL OF 68.4456 ACRES, MORE OR LESS,
AND
PLAN BOOK 701, PAGE 16: PARCELS A AND B CONTAINING A
TOTAL OF 52,178 SQUARE FEET MORE OR LESS**

- WHEREAS,** Franklin LaBastie Family, LLC, a duly-organized Delaware limited liability company, is the titleholder of record (hereinafter: "Landowner") of four parcels of land shown as Parcel 1, Parcel 2, Parcel 3 and Parcel 4 on a plan of land recorded at Norfolk County Registry of Deeds as Plan No. 97 of 1990 in Plan Book 389 containing a total of 68.4456 acres more or less, according to said plan, said land also being shown on Town of Franklin Assessor's Map 234, Parcel 12, and two parcels of land shown as Parcel A and Parcel B on a plan of land recorded at Norfolk County Registry of Deeds in Plan Book 701 at Page 16 containing a total of 52,178 square feet, more or less, according to said plan, said land also being shown on Town of Franklin Assessors Map 235 as a portion of Parcel 142 (hereinafter collectively: "Land"), and
- WHEREAS,** Landowner has placed "Land" under the provisions of G.L. Chapter 61A as agricultural land, more specifically "productive forestland", and
- WHEREAS,** G.L. Chapter 61A, Section 14 provides that, in the event if an of an intended sale, a municipality has a first refusal option to meet a bonafide option to purchase the land placed under the statute, and
- WHEREAS,** Landowner gave written notice to the Town of Franklin (hereinafter: "Town") of its intent to sell "Land", which notice was received by "Town" on May 3, 2021, and
- WHEREAS,** the Franklin Town Council held a public hearing on June 9, 2021 in accordance with the provisions of G.L. Chapter 61A, Section 14, and
- WHEREAS,** by Resolution 21-44, the Franklin Town Council appropriated a sum of money, to acquire "Land" through Town's exercise of its first refusal option, said appropriation to be met by transfer of available funds and borrowing pursuant to the provisions of G.L. Chapter 44B, Section 11.

NOW THEREFORE, BE IT RESOLVED by the Franklin Town Council, on behalf of the Town of Franklin, as follows:

1. The Town of Franklin hereby exercises its first refusal option to purchase "Land", as described above, for the purchase price of four million, five hundred, ninety thousand dollars (\$4,590,000).

2. The Franklin Town Council directs that a copy of this vote be mailed to the Franklin LaBastie Family, LLC, Attn: Steven H. LaBastie, Manager (“Landowner”) by certified mail as notice of Town’s exercise, together with a copy of Town’s proposed purchase and sales agreement described in the next paragraph and that an attested copy of this vote also be recorded at Norfolk Registry of Deeds, all as provided in G.L. Chapter 61A, Section 14.

3. The Franklin Town Council hereby approves the proposed purchase and sales agreement for Town’s purchase of “Land” from Landowner and directs that a copy accompany the notice to Landowner of Town’s exercise of its first refusal option, as provided in G.L. Chapter 61A, Section 14.

4. The Franklin Town Council authorizes and directs the Town Administrator, in consultation with the Town Attorney, to negotiate any revision(s) to the terms, and conditions of the purchase and sales agreement with Landowner and to execute same and further authorizes the Town Administrator to execute any other documents and to take any and all other action necessary to consummate Town’s purchase of “Land”.

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

DATED: _____, 2021

VOTED:

UNANIMOUS: _____

A True Record Attest:

YES: _____ **NO:** _____

ABSTAIN: _____

ABSENT: _____

Nancy Danello, CMC
Temporary Town Clerk

Glenn Jones, Clerk
Franklin Town Council

VIA CERTIFIED MAIL

May 3, 2021

Franklin Town Council
c/o Franklin Town Clerk
Municipal Building
355 East Central Street
Franklin, MA 02038

Jamie Hellen, Town Administrator
Municipal Building
355 East Central Street
Franklin, MA 02038

Franklin Board of Assessors
Municipal Building
355 East Central Street
Franklin, MA 02038

Franklin Planning Board
Municipal Building
355 East Central Street
Franklin, MA 02038

Franklin Conservation Commission
Municipal Building
355 East Central Street
Franklin, MA 02038

The Commissioner of the Department of Conservation and Recreation
251 Causeway Street
Boston, MA 02114

RE: NOTICE OF INTENT TO SELL FOR RESIDENTIAL USE LAND OFF MAPLE STREET, BEING FRANKLIN ASSESSOR'S PARCEL ID 234-012-000-000; AND PARCEL A AND PARCEL B SUBDIVIDED FROM FRANKLIN ASSESSOR'S PARCEL ID 235-142-000-000

The undersigned owner hereby notifies the above addressees pursuant to Massachusetts General Laws that the owner intends to sell the land described below for use as a residential subdivision.

The location and acreage of the land which owner intends to sell for residential use is shown on the plan enclosed herewith entitled "Chapter 61 Plan" drawn by Bay Colony Group, Inc. dated January 5, 2020 ("The Plan") as follows: (a) the parcel of land shown on The Plan as "Assessors Map 234, Parcel 12-000 68.4± Acres" (being the whole of said assessor's parcel and shown as the white area within the orange boundary lines on The Plan)-this parcel is also shown as Parcel 12 on the enclosed Assessor's Map; and (b) the 2

RECEIVED
2021 MAY -5 P 2:58
TOWN OF FRANKLIN
TOWN CLERK

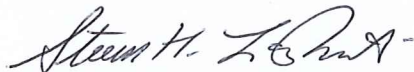
Notice of Intent to Sell For Residential Use
Off Maple Street, Franklin, MA
May 3, 2021
Page 2

parcels of land shown on The Plan as "Portion of Assessors Map 235, Parcel 142- 000 1.2± Acres (being Parcel A and Parcel B on the plan attached to the Amendment to Purchase and Sale Agreement enclosed herewith and shown as the cross-hatched areas within the orange boundary lines on The Plan)-these parcels have been subdivided from Parcel 142 shown on the enclosed Assessor's Map.

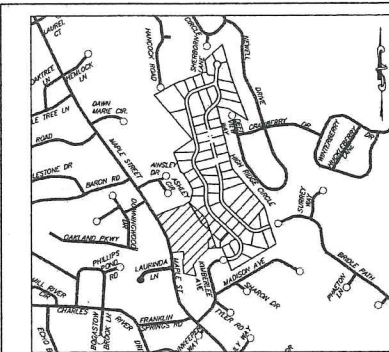
The name, address and telephone number of the landowner is: The Franklin LaBastie Family L.L.C., c/o Steven H. LaBastie, manager, 469 Maple Street, Franklin, MA. (508)498-8557.

I also enclose herewith a certified copy of the signed purchase and sale agreement and a certified copy of the Amendment to Purchase and Sale Agreement.

Respectfully submitted,



The Franklin LaBastie Family L.L.C.
By: Steven H. LaBastie, Manager



SCALE: 1"=1,000'

APPROVAL UNDER SUBDIVISION CONTROL LAW NOT REQUIRED

[Signature]

DATE: 2/22/21
FRANKLIN PLANNING BOARD

PLANNING BOARD ENDORSEMENT IS NOT A DETERMINATION AS TO CONFORMANCE WITH THE ZONING BYLAW

PARCELS A & B ARE NON-BUILDABLE / NON-CONFORMING PARCELS. THEY ARE TO BE COMBINED WITH ADJUTING LAND OWNED NOW OR FORMERLY BY THE FRANKLIN LABASTIE FAMILY, LLC, DEPICTED ON ASSESSOR'S MAP 234, AS PARCEL 012 FOR THE FUTURE DESIGN AND DEVELOPMENT OF THE MAPLE HILL SUBDIVISION.

THE CERTIFICATIONS SHOWN HEREON ARE INTENDED TO MEET REGISTRY OF DEEDS AND/OR MUNICIPAL REQUIREMENTS AND ARE NOT A CERTIFICATION TO TITLE OR OWNERSHIP OF PROPERTY SHOWN. OWNERS OF ADJOINING PROPERTIES ARE ACCORDING TO CURRENT ASSESSORS RECORDS.

I CERTIFY THAT THIS PLAN WAS PREPARED IN ACCORDANCE WITH THE RULES AND REGULATIONS OF THE REGISTERS OF DEEDS.

DATE: 1/22/2021
PROFESSIONAL LAND SURVEYOR



Horolk Registry of Deeds
Dedham, Mass.
Received March 25 2021
With Deed
Kathleen A Labastie TR to
Franklin Labastie Family LLC
Filed as Page 6
Pl. Bk. 701
Attest: *[Signature]* Register
(REGISTRY)

PROJECT:
469 Maple Street
Franklin
Massachusetts

OWNER:
THE KATHLEEN A.
LABASTIE TRUST
469 MAPLE STREET
FRANKLIN, MA 02038

PREPARED FOR:
CARROLL
CONSTRUCTION
CORP.
BOX 395
FOXBOROUGH, MA
02035

Bay Colony Group, Inc.
Professional Civil Engineers &
Professional Land Surveyors

FOUR SCHOOL STREET
P.O. BOX 9136
FOXBOROUGH, MA 02005
508-543-3333

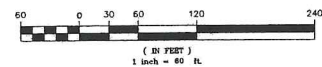
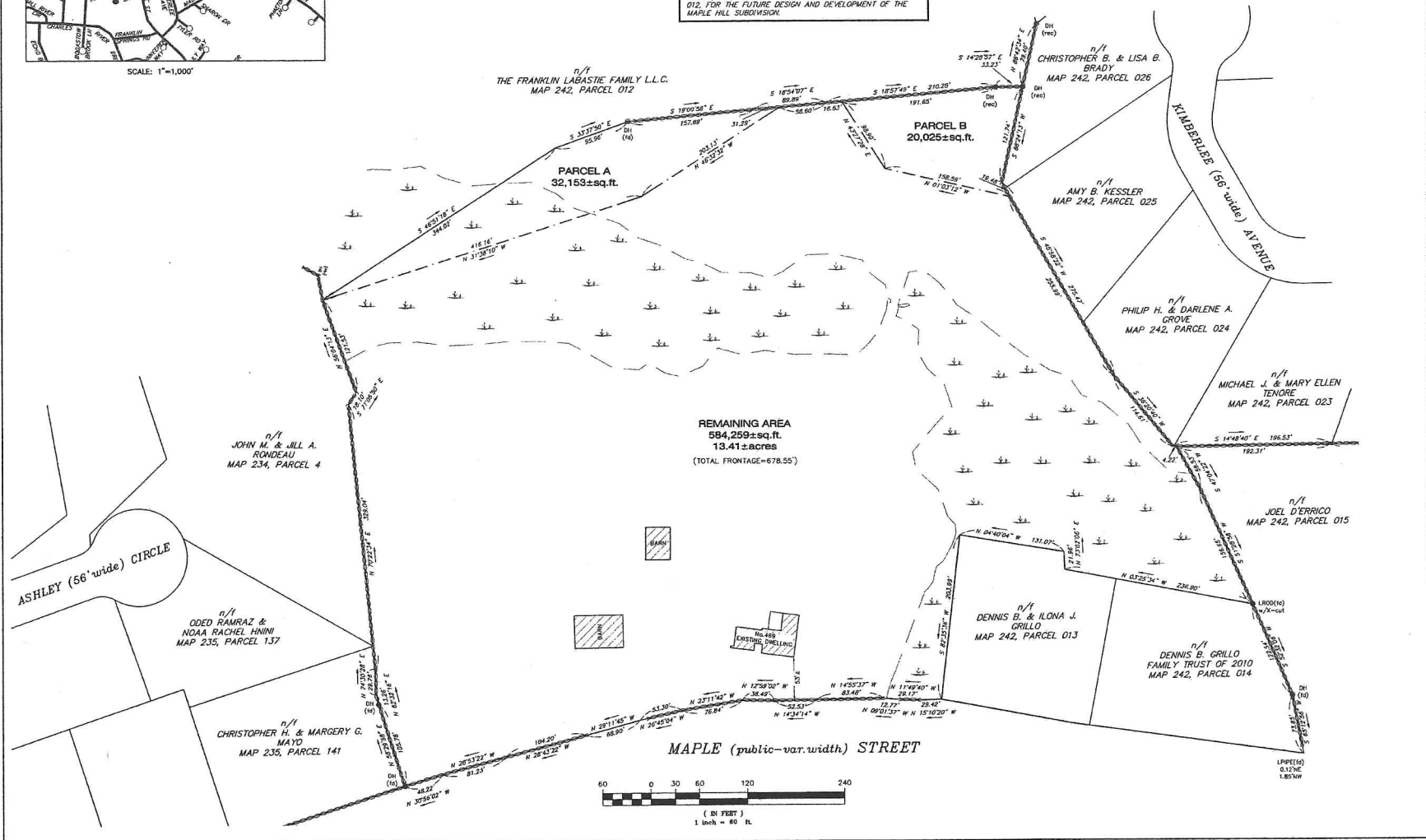
REFERENCES:

DEED REF.
BK.33781, PG.179

ASSESSOR'S REF.
MAP 235, PARCEL 142

PLAN REF.
LCP No.38163
PB.353, PLAN No.506-1987
PB.355, PLAN No.708-1987
PB.355, PLAN No.800-1987
PB.355, PLAN No.857-1989
PB.358, PLAN No.97-1980
PB.390, PLAN No.146-1980
PB.396, PLAN No.853-1980
PB.414, PLAN No.410-1983
PB.424, PLAN No.552-1994
PB.424, PLAN No.588-1994
PB.431, PLAN No.445-1995
PB.431, PLAN No.446-1995
PB.437, PLAN No.139-1996
PB.437, PLAN No.190-1996
PB.446, PLAN No.161-1997
PB.447, PLAN No.265-1997
PB.447, PLAN No.271-1997
PB.447, PLAN No.272-1997
PB.489, PLAN No.575-2001
PB.493, PLAN No.150-2003
PB.588, PLAN No.10-2008
PB.588, PLAN No.13-2008
PB.663, PAGES 31-53

ZONING REF.
RURAL RESIDENTIAL II



701-10-2021

DRAWING TITLE
Approval
Not Required
Plan

SCALE: 1" = 60'

JAN. 22, 2021 SHEET NUMBER

16-0148-ANR 1 of 1



PROJECT:

469 Maple Street
Franklin
Massachusetts

OWNERS:

STEVEN LABASTIE
THE FRANKLIN
LABASTIE FAMILY.LLC
&
THE KATHLEEN A.
LABASTIE TRUST
469 MAPLE STREET
FRANKLIN, MA 02038



FOUR SCHOOL STREET
P.O. BOX 9136
FOXBOROUGH, MA 02035
508-543-3939

STAMP

DRAWING TITLE

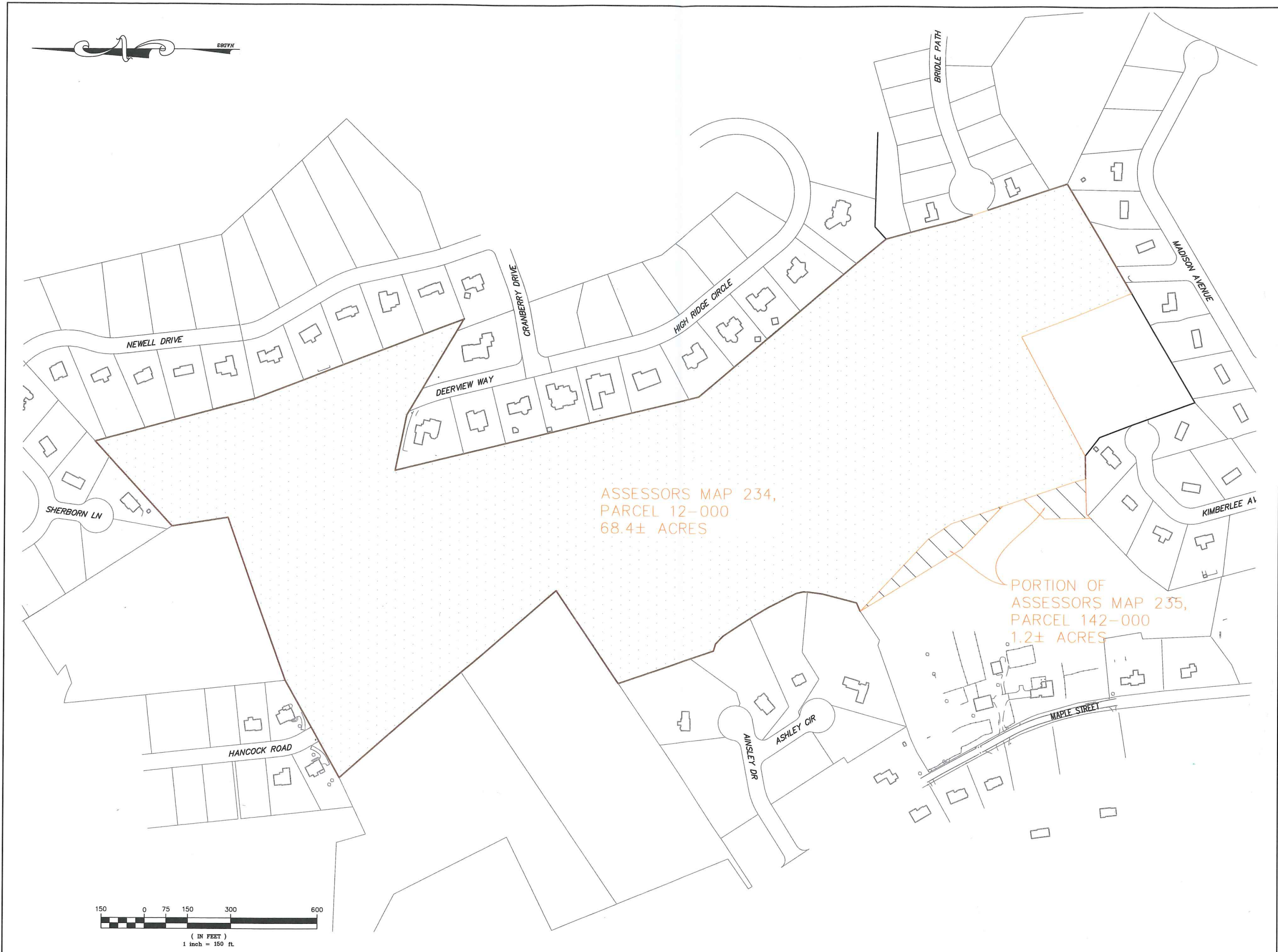
Chapter 61 Plan

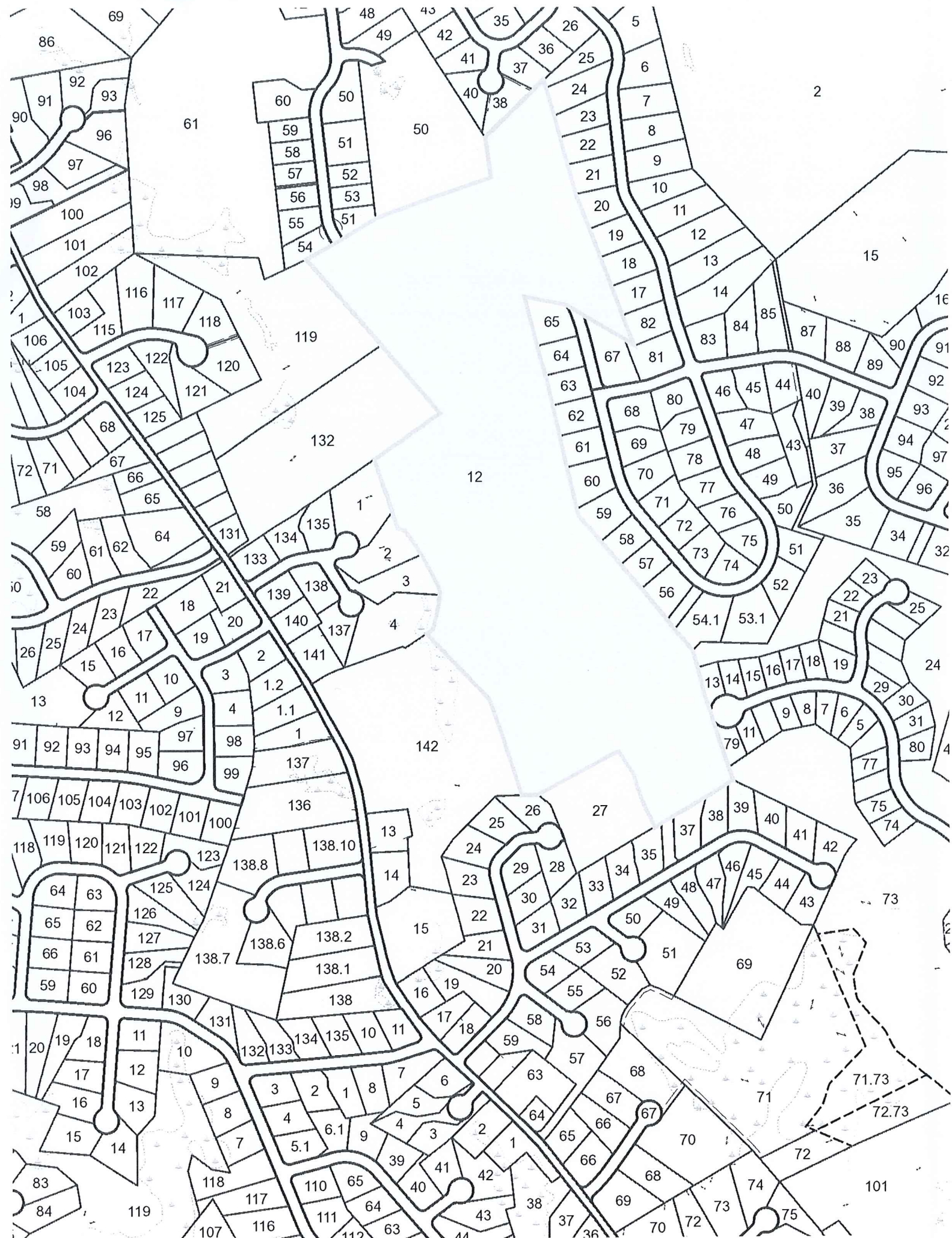
SCALE: 1" = 150'

JANUARY 5, 2020 SHEET NUMBER

16-0148J-CHAPTER 61

1





A true copy attest: Steven H. LaBastie

AMENDMENT TO PURCHASE AND SALE AGREEMENT

This Amendment to Purchase and Sale Agreement dated this 25th day of March, 2021.

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, THE FRANKLIN LABASTIE FAMILY L.L.C., Seller, and FRANKLIN HOLDINGS LLC, Buyer, hereby amend a certain purchase and sale agreement entered by and between them dated March 6, 2020 for certain premises located off of Maple Street, Franklin, Massachusetts ("The Agreement") as follows:

1. Exhibit "A attached thereto and defined within the Agreement as "the Premises" is hereby amended by adding Parcel A containing 32,153 \pm sq. ft. and Parcel B containing 20,025 \pm sq. ft on the Approval Not Required Plan attached hereto ("Parcel A and Parcel B").
2. The parties acknowledge that the title to Parcel A and Parcel B has not been examined and shall not be subject to the terms and conditions set forth in the Agreement with respect to title. At Closing, Seller shall convey good, clear, record, marketable and insurable (at ordinary premium rates, on the then-current ALTA form) fee simple title to Parcel A and Parcel B free and clear of all tenants, occupants, leases, claims, liens, defects and encumbrances except for (i) the provisions of existing building, environmental and zoning laws, and (ii) real estate taxes that are not yet due and payable.
3. The parties acknowledge and agree that with the addition of Parcel A and Parcel B, the number of lots used to determine the purchase price is 54 lots and the purchase price for the Premises is therefore \$4,590,000.00.
4. The parties acknowledge that Parcel A and Parcel B are subject to a lien under Massachusetts General Laws Chapter 61A (or 61B, to be determined). All the provisions of Article 4 of The Agreement shall be deemed to also apply to Parcel A and Parcel B.
5. Parcel A and Parcel B is hereby be added to each exhibit attached to The Agreement that contains a legal description of the Premises.
6. Article 13 of The Agreement is hereby modified to state that a copy of Buyer's notice shall be sent to: Florence M. Spillane, Esq., 83 Mechanic Street, PO Box 393, Foxboro, MA 02035; FAX 508-543-9727; email: florence.spillane@spillaneandspillane.com

Except as expressly amended herein, all the terms and conditions of The Agreement shall remain in full force and effect.

Seller
The Franklin Labastie Family L.L.C.

Steven H. LaBastie

Steven H. LaBastie, manager

Buyer
Franklin Holdings LLC

Laurinda A. Carroll

Laurinda A. Carroll, manager

A True Copy Attest: *Stew H. Duda*

PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT (this "Agreement") is entered into as of this 6th day of March, 2020 (the "Effective Date"), by and between **FRANKLIN LABASTE FAMILY L.L.C.**, a Delaware limited liability company, with a principal place of business at 469 Maple Street, Franklin, Massachusetts 02038, (the "Seller"), and **FRANKLIN HOLDINGS LLC**, a limited liability company with a principal place of business 14 Camp Road, Foxborough, Massachusetts 02035, or such nominee as Franklin Holdings LLC may designate on or before the Closing Date (as defined below) (the "Buyer").

RECITALS

- A. The Seller is a Delaware limited liability engaged in the business of property management and ownership, including that property consisting of approximately sixty-eight (68) acre parcel located off of Maple Street in Franklin, Massachusetts described at EXHIBIT "A" hereto (the "Premises").
- B. The Seller desires to convey the Premises.
- C. The Buyer desires to acquire the Premises for the purpose of developing residential single-family homes thereon.
- D. The Seller desires to sell the Premises (as defined at Section 1.1 hereof) to the Buyer and provide other accommodations to the Buyer and the Buyer desires to purchase and benefit from such accommodations all in accordance with the terms and provisions of this Agreement.

PROVISIONS

NOW, THEREFORE, for and in consideration of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Buyer and the Seller hereby agree as follows:

ARTICLE 1. Purchase and Sale.

1.1 The Seller agrees to sell and the Buyer agrees to purchase, pursuant to the terms and conditions hereof, the Premises shown on EXHIBIT A attached hereto and made a part hereof, consisting of approximately 68 contiguous acres. For the purposes of this Agreement, the term "Lot" shall mean each buildable single-family lot permitted for development by the Town of Franklin, Massachusetts (the "Town") as evidenced by Final Approvals (defined below) and "Units" shall mean single family, attached or detached, market rate homes of the type permitted under applicable laws to be constructed upon the Premises.

1.2 The parties hereby acknowledge and agree that the sale of the Premises pursuant to this Agreement will be exempt from the provisions of the Interstate Property Sales Full Disclosure Act (15 U.S.C. §§1701-1720) ("IPSFDA") and the regulations promulgated thereunder, under the exemption applicable to the sale or lease of property to any person who acquires such property for the purpose of engaging in the business of constructing residential, commercial or industrial buildings (15 U.S.C. §1710.5(g)). The Seller shall not be responsible for the registration or disclosure requirements of the Buyer, if any, under IPSFDA with respect to marketing and sales of the lots within the Premises.

ARTICLE 2. Deposit and Purchase Price.

2.1 Deposit. Prior to the Effective Date, the Buyer has delivered to the Seller a deposit in the amount of \$5,000.00, inclusive of the interest to accrue thereon, the "**Deposit**"), which Deposit shall be held by the Seller's counsel Daniel W. Nye, Esq., 50 North Street, Suite 215, P.O. Box 470, Medfield, Massachusetts 02052 (the "**Escrow Agent**") in a segregated IOLTA client funds account. Provided that the Buyer and the Seller proceed to the closing and consummation of the purchase and sale of the Premises as provided hereunder, the Deposit shall be applied to the Purchase Price (as defined herein) at the Closing (also as defined herein). In the event that the closing of the purchase and sale of the Premises does not occur and this Agreement and the transactions contemplated herein are terminated, the Escrow Agents shall refund the Buyer the Deposit within three (3) business days following the termination of this Agreement, and subject to the terms and conditions set forth herein. The Deposit shall be applied against the Purchase Price payable (as defined at Section 2.2 hereof).

2.2 Purchase Price. The purchase price for the Premises shall equal

- (a) The product of the following (the "**Purchase Price**").
 - (i) the number of Lots approved by Final Approvals (as defined below) by the Town and the Commonwealth of Massachusetts multiplied by
 - (ii) **\$85,000.00** for each Lot, payable as provided herein, subject to the assumption that fifty-four (54) or more Lots, meeting the requirements of Section 2.2(c) below are duly and validly permitted and allowed by final and non-appealable approvals issued by the various boards, departments and authorities of the Town of Franklin (collectively, the "**Town Authorities**") and (if applicable) departments and authorities of the County of Norfolk, Commonwealth of Massachusetts and the federal government (collectively, with the Town Authorities, the "**Authorities**");
- (b) less the Deposit balance above; and
- (c) subject to the permitting and approval by the zoning, planning and other boards and authorities comprising the Authorities with jurisdiction over some or all of the Lots:
 - (i) Having at least the minimum square foot size required under applicable zoning laws and regulations within the Premises (not including any property other than the Premises); and
 - (ii) Developable as single-family homes of at least at least 2,500 square feet of living space, having up to four (4) bedrooms and a two-car garage.

(the "**Project**") for which the Buyer is able to obtain final (with all appeal periods have run) subdivision and other approvals, orders and permits (the "**Final Approvals**") from all Authorities.

2.3 The total Purchase Price as provided above shall be adjusted at the Closing as follows:

- (a) If Final Approvals are obtained for all authorities for less than 54 Lots in total, then the total Purchase Price shall be reduced by \$85,000.00 for each proposed Lot not permitted and approved under Final Approvals.

2.4 As more particularly described at Sections 8.5 and 8.6 hereof, the Purchase Price shall be offset, without limitation, by the following closing costs attributable to the Seller:

- (a) Payoff of all mortgages and voluntary liens, along with any Unpermitted Exceptions (as defined at Section 3.1(a) hereof;
- (b) Payment of deed transfer tax stamps as provided under Massachusetts General Laws Chapter 61D, Sec. 1, *et seq.*; and
- (c) Payment of all other closing costs, as more particularly described at Sections 8.5 and 8.6 hereof, as may be customarily paid by a Seller of real property pursuant to statute, regulation, or local custom and practice.

ARTICLE 3. Title and Survey Review and Due Diligence.

3.1 Title Review.

- (a) Examination of the Title Commitment by the Buyer. The Buyer shall obtain, at its cost, on or before the sixtieth (60th) day following the Effective Date (the "Title Review Deadline") a Commitment for Owner's Policy of Title Insurance (the "Title Commitment"), prepared and issued by a title insurance company of the Buyer's sole choice licensed to issue owner's and lender's title insurance policies in the Commonwealth of Massachusetts (the "Title Company") describing and covering the Premises, which Title Commitment shall constitute the commitment of the Title Company to insure the Buyer as the fee simple owner of the Premises, pursuant to the issuance of the standard form of an Owner's Policy of Title Insurance in use in the state in which the Premises is located, subject only to the Permitted Exceptions. The Buyer may also obtain, at its cost, a current ALTA survey (the "Survey") of the Premises. The Buyer shall give written notice to the Seller not later than 5:00 p.m. (Eastern time) on the Title Review Deadline, if such Title Commitment or the Survey discloses any title defect upon the Premises existing as of the date of such Title Commitment (collectively, the "Unpermitted Exceptions"), which notice shall contain a description of each Unpermitted Exception together with copies of all documents evidencing such Unpermitted Exception. Such notice of an Unpermitted Exception is hereinafter referred to as a "Title Defect Notice." Notwithstanding any other provision of this Agreement, the Buyer disapproves all monetary and financing liens and encumbrances (other than liens for non-delinquent real property taxes) as Unpermitted Exceptions. The Seller, at its sole cost and expense, shall be obligated at Closing to discharge:

- (i) By payment in full all mortgages executed or assumed by the Seller; and the Seller shall be obligated to discharge
- (ii) By payment or other manner acceptable to the Title Company and the Buyer any

mechanics liens, tax liens, any lien securing an obligation of the Seller or any prior owner of the Premises in fixed or determinable monetary amount; and

- (iii) By payment in full or other manner acceptable to the Title Company and the Buyer any broker's liens arising from any written agreement entered into or assumed by the Seller.

The liens and encumbrances that the Seller is obligated to discharge in accordance with this Section 3.1(a) are herein called "**Voluntary Liens.**"

- (b) Curing and Removal of Title Objections. If the Buyer provides a Title Defect Notice to the Seller in accordance with the provisions of Section 3.1(a) hereof, then the Seller may elect, in writing, in its sole discretion, one of the following options:

- (i) To use commercially reasonable efforts to remove or cure the Unpermitted Exceptions at or before the Closing, provided that the Seller shall not be required or obligated to:

- (a) Subject to Section 3.1(f) hereof, incur more than \$25,000.00 in costs and expenses (including, without limitation, attorney's fees) in the aggregate to cure all Unpermitted Exceptions (the "Seller's Cure Cost Limit");

- (b) Subject Section 3.1(f) hereof, commence any effort to remove or cure any Unpermitted Exception, if the Seller reasonably determines that the cost of such removal or cure is likely to cost more than the Seller's Cure Cost Limit (including, without limitation, attorney's fees) in the aggregate; or

- (c) Commence any litigation or other proceeding in any court to effectuate such cure;

- (ii) On or prior to the Closing Date, to obtain recordable instruments or other documentation sufficient to cause Title Company, without the payment of additional premiums by the Buyer therefor, either to delete such matters from an owner's title insurance policy to be issued to the Buyer or, if the Buyer agrees in the Buyer's sole discretion, to affirmatively insure the Buyer in such owner's title insurance policy against loss arising out of the enforcement or attempted enforcement of such Unpermitted Exceptions, which affirmative insurance must be in form satisfactory to the Buyer in the Buyer's sole discretion; or

- (iii) To take no action in connection with the existence of such Unpermitted Exception, in which event all of the Unpermitted Exceptions would be deemed waived by the Buyer and shall thereupon be deemed to be Permitted Exceptions, unless the Buyer terminates this Agreement pursuant to this Section 3.1 as provided in Section 3.1(c) hereof.

- (c) Notice of Title Defects. The Seller shall give written notice to the Buyer not later than thirty (30) calendar days following receipt of the Buyer's Title Defect Notice as to which of the foregoing options 3.1(b)(i), 3.1(b)(ii) or 3.1(b)(iii) that the Seller elects, provided that if the Seller elects option 3.1(b)(iii), the Buyer shall have the right to terminate this Agreement by giving written notice of its election to terminate this Agreement to the Seller within ten (10) business days after its receipt of such notice from the Seller.

- (d) Issues with Regard to Cure of Title Defects. If the Seller elects to make commercially reasonable efforts to cure the Unpermitted Exceptions pursuant to Section 3.1.(b)(i) hereof, but is unable to complete such cure within ninety (90) days following its written election to so cure, and provided that the Seller has used commercially reasonable best efforts to effect such cure(s), the Seller shall notify the Buyer and the Buyer shall, as its sole and exclusive remedy, on or before the tenth (10th) business day after the Buyer's receipt of the Seller's notice (such date, the "Notice to Proceed Date"), give notice to the Seller that the Buyer either elects to:
- (i) proceed with the Closing, in which event all Unpermitted Exceptions identified in the Title Defect Notice which the Seller has not cured or removed after expending reasonably commercial best efforts shall thereafter constitute Permitted Exceptions and the Closing (as same may be extended pursuant hereto) shall occur as provided in this Agreement, without any credit against or abatement of the Purchase Price on account thereof; or
 - (ii) extend the period for the cure by a period of up to 60 days from the Notice to Proceed Date, whereupon the Seller shall continue to undertake commercially reasonable best efforts to effect such cure, subject to the Seller's Cure Cost Limit; or
 - (iii) Terminate this Agreement, in which event the Buyer shall be entitled to the prompt return of the Deposit and repayment of the Buyer Costs and, except as expressly provided otherwise in this Agreement, this Agreement shall be of no further force and effect and the parties shall have no further rights, obligations or liabilities hereunder.
- (e) Termination Due to Title Defects. In the event of a termination of this Agreement pursuant to this Section 3.1, the Seller shall promptly return the Deposit to the Buyer and shall reimburse the Buyer for all Buyer Costs, as provided in Section 4.4 hereof, incurred as of the date of the Seller's notice of termination. In the event of a termination of this Agreement pursuant to this Section 3.1 and following the return of the Deposit and the Buyer Costs to the Buyer, except as expressly provided otherwise herein, this Agreement shall be of no further force and effect and the parties shall have no further rights, obligations or liabilities hereunder.
- (f) Discharge of Voluntary Liens. Notwithstanding the foregoing, the Seller agrees to remove any Voluntary Liens without application of the Seller Cure Cost Limit and irrespective of whether the same is noted in any Title Defect Notice sent by the Buyer.

3.2 Change of Title Conditions. If between the date of the Title Commitment and the Closing Date, an updated title report or update of the Survey shows any new Unpermitted Exceptions which were placed of record following the effective date of the Title Commitment, then the Buyer shall have the right to give the Seller written notice of any such new Unpermitted Exception, the Seller's Cure Cost Limit shall not apply any such new Unpermitted Exception and the Seller shall cure each such new Unpermitted Exception no later than ten (10) business days prior to the Closing Date. If the Buyer does not give notice of any such new Unpermitted Exceptions to the Seller on or before the Closing Date, the Buyer shall be conclusively presumed to have waived such Unpermitted Exceptions and to have agreed to accept title subject to such new Unpermitted Exceptions (which shall thereupon be deemed to be Permitted Exceptions), and the Closing shall occur without any credit or abatement of the Purchase Price.

3.3 Access and Buyer's Indemnification. From and after the date hereof, the Seller shall make the Premises available to the Buyer and its agents, subcontractors, suppliers, employees, contractors, consultants, engineers and representatives (collectively, the "Buyer Representatives") for such environmental, topographical and other inspections and tests as the Buyer deems appropriate in connection with the Buyer's due diligence, upon a minimum of twenty-four (24) hours prior notice to the Seller. Neither the Buyer, nor any the Buyer Representative shall enter the Premises to exercise its rights hereunder until an insurance certificate for the Buyer and the Buyer Representatives has been provided to the Seller evidencing commercial general liability insurance (including property damage, bodily injury and death and personal injury) with limits of at least \$500,000 per occurrence and \$1,000,000 annual aggregate liability coverage, which coverage shall remain in place for a period of one (1) year following the completion of construction of the last Lot at the Premises, for damage done to the Seller's property or assets in connection with such site access. The Buyer shall indemnify and hold the Seller harmless from and against any and all loss, costs or damage to the Premises arising out of the actions taken by the Buyer or any the Buyer Representative(s) in connection with the Buyer's performance of due diligence, to the extent the same are evidenced by direct damages, actually incurred by the Seller or its affiliate entities.

3.4 Delivery of Documents. In order to facilitate the Buyer's engineering and other work at the Premises, within three (3) business days after the full execution and mutual delivery of this Agreement, the Seller shall deliver to the Buyer copies of any existing files relating to permitting, hazardous materials reports, current operating cost information, appraisals, engineering reports, traffic studies, drainage calculations, real estate tax bills, soils reports, owner's title reports and exception documents referred to therein, surveys, and notices from local governmental authorities applicable to the Premises.

ARTICLE 4. Sewer Easement Agreement; Statutory Right of First Refusal; Real Estate Taxes Following Conversion.

4.1 INTENTIONALLY DELETED

4.2 Statutory Right of First Refusal. The Buyer and the Seller acknowledge and agree the Seller is obligated under Part I, Title IX, Chapter 61B, Section 8 of the Massachusetts General Laws, as the same may be amended (the "Code") to provide the Town with a right of first refusal with respect to the transaction contemplated by this Agreement (the "ROFR"). Within thirty (30) days following the entry of the last of the Final Approvals required for development of the Project, the entry of which the Buyer shall notify the Seller in writing following the entry of the last of the Final Approvals (together with passage of any appeal periods), as of which time the Buyer and the Seller shall have fixed the value of the Purchase Price as provided in Section 2.2 and 2.3 (the Seller's obligation to satisfy the requirements for determination by the Town on the ROFR to be stayed until such time as the Buyer and Seller agree in writing on the fixed value of the Purchase Price as provided in Section 2 hereof, the Seller covenants it will satisfy the requirements of the Seller under the Code with respect to the ROFR, with the understanding that time is of the essence. Pursuant to the Code, the Town shall have one hundred twenty (120) days from delivery of the formal request from the Seller within which to accept or reject the ROFR. In the event the Town timely accepts the transaction offered to the Town hereunder, the Seller shall notify the Buyer within three (3) days after such acceptance (the "ROFR Acceptance Notification Date") and this Agreement shall terminate as of such date (the "ROFR Termination"). Upon exercise of the ROFR Termination, the Escrow Agent shall within three (3) business days following the ROFR Acceptance Notice Date refund to the Buyer the Deposit and the Seller shall reimburse the Buyer for the Buyer Costs (as defined at Section 4.3 hereof). In the event the Town declines to exercise the ROFR, either by express written waiver or by not timely exercising the ROFR Under the time permitted under the Code, the Seller shall notify in writing the Buyer within three (3) days after such waiver by the Town (the "ROFR

Waiver Notification Date").

4.3 Reimbursement of Buyer in Event of Exercise of ROFR. In the event that the Town exercises the ROFR, the Seller shall reimburse the Buyer in full the following amounts, effective as of the date of closing of the purchase of the Premises by the Town, provided that the Town agrees to purchase the Premises on the same timeline agreed in this Agreement for the Closing following the Town's waiver of the ROFR, but in any event no later than 90 days following the Town's exercise of the ROFR:

- (i) All costs that the Buyer incurred in the permitting and due diligence process with regard to the Premises and the negotiation and consummation of the prior Offer agreed to by the Buyer and the Seller, including reasonable attorney's fees; and
- (ii) A fee to the Buyer in compensation for its time and effort in the sale process of five percent (5%) of the Purchase Price.

(the "Buyer Costs"). The Buyer Costs to be reimbursed shall not include any labor costs incurred by officers or employees of the Buyer or of any entity more than forty-nine percent (49%) controlled by the Buyer. This provision shall survive the closing of a sale of the Premises to the Town pursuant to its statutory ROFR and/or the termination of this Agreement.

4.4 Reimbursement of Buyer Costs in the Event Seller Terminates Under Section 3(b)(i)(a). In the event that it is determined that the cost of curing title to the Premises noted in the Buyer's Title Defect Notice will reasonably exceed the Seller Cure Cost Limit and the Seller terminates this Agreement under Section 3(b)(i)(a) hereof, the Seller shall reimburse within sixty (60) calendar days following the date of any notice of termination hereof from the Seller the Buyer for the Buyer Costs incurred as of the date of the Seller's notice of termination under Section 3(b)(i)(a) above. The Deposit shall be returned to the Buyer within 10 calendar days following the date of any notice of termination by or for the Seller under Section 3(b)(i)(a) hereof.

4.5 Taxation of Premises for Residential Purposes following Conversion from Recreational Land. The Buyer and the Seller agree and acknowledge that under Part I, Title IX, Chapter 61B, of the Massachusetts General Laws, as the same may be amended (the "Land Conversion Statute"), the Town may:

- (a) Assess a conversion tax against the Premises under Section 7 of the Land Conversion Statute upon the conversion of its classification from recreational use to the extent that the Premises was designated as recreational land for the purposes of said statute within ten (10) years from the date of conversion, in an amount and in accordance with the formula set forth in Section 7 of the Land Conversion Statute ("Conversion Taxes"); and
- (b) Per Section 8 of the Land Conversion Statute, effective as of the date that the Premises no longer qualifies for recreational use under the Land Conversion Statute, additional real estate taxes for the current tax year in which its use is converted from recreational use and for each of the four (4) immediately preceding tax years ("Roll-Back Taxes"). Per Section 8 of the Land Conversion Statute, the Roll-Back Taxes are to equal the difference between the real estate tax liability for the current year in which the use of the Premises is converted from recreation land and for the four (4) preceding tax years based on the Premises' designation for recreational use and the tax liability that would have been assessed against the Premises in the absence of a recreational use designation under the Land Conversion Statute.

The Seller shall be responsible for any Conversion Taxes or Roll Back Taxes that are assessed by and whose collection is sought by the Town prior to the date when the same are due and payable to the Town. The Seller's failure to timely pay such Conversion Taxes or Roll Back Taxes to the Town prior to the due date imposed therefor by the Town shall be a default by the Seller hereunder and the Buyer shall have the option to exercise all remedies provided in this Agreement against the Seller. The Seller shall have the right, at the Seller's sole cost, to challenge the assessment or the amount of any Conversion Taxes and/or Roll Back Taxes assessed by the Town, provided that the Seller undertakes such challenge in full compliance with all dispute and abatement procedures imposed under applicable law.

ARTICLE 5. The Seller Representations, Warranties and Covenants. As of the Effective Date and the Closing Date, the Seller represents and warrants to the Buyer as follows:

5.1 This Agreement constitutes the legal, valid and binding obligations of the Seller and (together with all documents contemplated hereby when executed and delivered) is enforceable against the Seller in accordance with its terms, as such enforceability may be modified by applicable bankruptcy laws, the laws applicable to creditors' rights generally and general equitable principles. All of the Seller's members/holders of beneficial interests have approved and authorized the Seller to enter into this Agreement as a binding obligation of the Seller.

5.2 The Seller is a Delaware limited liability company, duly incorporated, validly existing, and in good standing under the laws of the State of Delaware and duly qualified and in good standing as a foreign limited liability company with the Commonwealth of Massachusetts and the individuals executing this Agreement and the documents contemplated by this Agreement on its behalf are duly elected or appointed and validly authorized to execute and deliver the same.

5.3 To the Seller's knowledge and to the knowledge of the Seller's undersigned manager, Steven H. Labastie (the "Seller Manager"), neither the Seller nor any party acting for, by or under the Seller has used any oil or hazardous materials (as those terms are defined in M.G.L. c. 21E) on, from or affecting the Premises in any manner which is not in compliance with applicable federal, state or local environmental laws, rules or regulations. Except as disclosed in the environmental reports forwarded to the Buyer, if any, the Seller and the Seller's Manager have no knowledge and have not received any written notice from any governmental agency, body or subdivision, of the presence of any hazardous materials on or emanating from the Premises or from any abutting parcel.

5.4 Except as disclosed in Schedule 5.4 attached hereto, neither the Seller and the Seller Manager has any knowledge of any pending, threatened or contemplated action or litigation, by or against the Seller or any party related to the Seller, or in connection with all or any part of the Site which would materially affect the transactions contemplated by this Agreement.

5.5 Except as disclosed in Schedule 5.5 attached hereto, neither the Seller and the Seller Manager has any knowledge and neither has received any written notice from any governmental agency, body or subdivision to the effect that the Seller or the Premises is in violation of applicable laws or ordinances of any such governmental agency, body or subdivision which would prevent the Buyer's development of the Premises.

5.6 Following the Closing, the Buyer shall maintain insurance upon the Premises in keeping with its current insurance coverage types and amounts until the conveyance of each Lot hereunder to third party purchases, whereupon the Buyer shall not be required to provide insurance with respect to such Lots.

5.7 The Seller has not and shall not grant to any other party (except the Buyer) any option,

contract or other agreement with respect to a purchase or sale of the Premises, nor shall the Seller further encumber the Premises, except as more particularly described at Section 5.8 and Section 7.1(a) hereof, unless the subject encumbrancer acknowledges and agrees to the terms and provisions of the transaction contemplated hereby, specifically, the release of the Premises as of the Closing Date at a release price equal to or less than the Purchase Price.

5.8 To the Seller's and the Seller Manager's knowledge, the Premises are not encumbered by the lien of any mortgage, except as follows:

- (a) Potential federal and state statutory liens for estate tax liabilities potentially owed in connection with the death of Henry D. Labastie; and
- (b) No other lien or mortgage.

5.9 To the actual knowledge of the Seller Manager, the only required approvals or consents to this Agreement and/or the transaction to be effected hereby are more particularly described on Schedule 5.9 attached hereto.

5.10 The Seller has not received written notice from any governmental authority regarding and to the best knowledge of the Seller there are no assessments or special assessments (including, without limitation, assessments for municipal improvements) filed, pending or proposed against the Premises or any portion thereof, including, without limitation, any street improvement or special district assessments.

5.11 **INTENTIONALLY DELETED.**

5.12 The Seller Manager shall provide all reasonable assistance and cooperation to the Buyer in connection with the permitting required to close the purchase and sale of the Premises as provided herein, including the signature of all applications for permitting relief prepared by the Buyer (at the Buyer's expense), the participation, cooperation and support of the Seller Manager at all meetings, proceedings, hearings and other matters scheduled in connection with the permitting of the Premises sought by the Buyer as well the Seller's participation, cooperation and support (including but not limited to cooperation in any lender's environmental review and analysis of the Premises) in connection with the construction financing application and approval process to be undertaken by the Buyer. In connection therewith, the Seller and the Seller Manager shall allow for any reasonable environmental investigation of the Premises sought by a prospective lender to the Buyer and shall provide such lender(s) with all documents, materials and information sought by the Buyer's construction lender to the extent the same are in the possession or knowledge of the Seller or the Seller Manager. The Buyer shall not be required to pay or reimburse the Seller for such participation or any costs associated with assisting the Buyer in the permitting and construction financing approval process undertaken pursuant to this Agreement.

ARTICLE 6. Buyer's Representations, Warranties and Covenants. As of the Effective Date and the Closing Date, the Buyer represents and warrants to the Seller as follows:

6.1 This Agreement constitutes the legal, valid, and binding obligation of the Buyer and (together with all documents contemplated hereby when executed and delivered) is enforceable against the Buyer in accordance with its terms, as such enforceability may be modified by applicable bankruptcy laws, laws applicable to creditors' rights generally and general equitable principles.

6.2 The Buyer is a duly organized limited liability company existing and in good standing under the laws of the Commonwealth of Massachusetts and the individuals executing this Agreement and the documents contemplated by this Agreement on behalf of the Buyer are duly elected or appointed and

validly authorized to execute and deliver the same.

6.3 The Buyer is acquiring the Premises for the purpose of engaging in the business of constructing residential buildings thereon in conformance with the provisions of 15 U.S.C. §1710.5(g).

ARTICLE 7 Conditions Precedent to Closing.

7.1 Conditions Precedent to the Seller's Obligation to Close. The Seller's obligation to consummate the Closing shall be conditioned upon the occurrence or waiver, in writing, of the following conditions (the "**Seller's Conditions Precedent**") no later than ten (10) days prior to the Closing Date:

- (a) In the event the Seller further encumbers the Premises prior to the Closing Date, then contemporaneously with the Closing, the Seller shall provide evidence that the holder of such mortgage has approved the sale of the Premises and irrevocably agreed to release the Premises upon the conveyance thereof to the Buyer in accordance with this Agreement. The Seller shall secure the release of the applicable portion of the Premises prior to or simultaneously with the conveyance of the Premises, or any lot therein, pursuant to the terms hereof from the lien, operation, effect and provisions of that certain mortgage from the Seller to the holder of the Seller's Monetary Encumbrances, if any, it being agreed that an instrument or instruments so releasing the Premises shall be duly recorded prior to or concurrently with the Deed (as defined at Section 8.4(a)(i) hereof. For the purposes of this Agreement, the term "**Seller's Monetary Encumbrance(s)**" shall mean the holder of any monetary encumbrance upon the Premises as of the Closing Date.
- (b) All of the representations and warranties of the Buyer contained in Article 6 hereof shall be true and correct in all material respects on and as of the Closing Date, as though republished and remade as of the Closing Date.
- (c) The Buyer shall have performed, observed and complied in all material respects with all of the covenants, agreements and conditions required by this Agreement to be performed, observed and complied with on its part on or before the Closing Date.
- (d) This Agreement shall not have been terminated previously in accordance with its terms.
- (e) The Buyer shall not be the subject of any proceeding by or against said party under any federal or state law or statute regarding bankruptcy, insolvency, fraudulent transfers, receivership, conservatorship, custodianship, trusteeship, moratorium or creditors' rights or debtors' obligations generally; any assignment for the benefit of creditors by said party; any failure of said party to pay its obligations as they come due; the insolvency of said party; or entry by said party into a composition agreement.

7.2 Conditions Precedent to the Buyer's Obligation to Close. The Buyer's obligation to consummate the Closing shall be conditioned upon the occurrence or waiver, in writing, of the following conditions (the "**Conditions Precedent**") no later than ten (10) days prior to the Closing Date:

- (a) On or before the Closing Date, each holder of a Seller's Monetary Encumbrance shall have approved the sale of the Premises and irrevocably agreed to release the Premises upon the conveyance thereof to the Buyer in accordance with this Agreement.

- (b) Title to the Premises shall be in conformance with Section 8.4(a)(i) hereof.
- (c) No environmental condition shall exist on the Premises that would require the filing of any notice or the conduct of any remedial action, any local, state or federal environmental law or regulation, except for any environmental condition caused by or resulting from the actions or omissions of the Buyer or any of its employees, agents, contractors, engineers, subcontractors or any third party invitee of the Buyer, the remediation of which shall be an obligation of the Buyer pursuant to Section 3.4 of this Agreement.
- (d) All of the representations of the Seller contained in Article 5 hereof shall be true and correct in all material respects on and as of the Closing Date, as though republished and remade as of the Closing Date.
- (e) The Seller shall have performed, observed and complied in all material respects with all of the covenants, agreements and conditions required by this Agreement to be performed, observed and complied with on its part on or before the Closing Date.
- (f) This Agreement shall not have been terminated previously in accordance with its terms.
- (g) The Premises shall then be in substantially the same condition as they were as of the Effective Date.
- (h) The Seller shall not be the subject of any proceeding by or against said party under any federal or state law or statute regarding bankruptcy, insolvency, fraudulent transfers, receivership, conservatorship, custodianship, trusteeship, moratorium or creditors' rights or debtors' obligations generally; any assignment for the benefit of creditors by said party; any failure of said party to pay its obligations as they come due; the insolvency of said party; or entry by said party into a composition agreement.
- (i) No change shall have occurred subsequent to the Effective Date to any zoning regulation, municipal building restriction or any other law, ordinance, regulation, resolution or restriction of any duly constituted public authority, which change shall have a material adverse effect upon the Premises or the development contemplated hereby.

ARTICLE 8 Closing.

8.1 The Closing. The closing of the conveyance of the Premises contemplated hereby (the "Closing") shall occur on the ninetieth (90th) calendar day following the RCER Waiver Notification Date, subject to this Section 8.1 (the date upon which such conveyance is consummated, the "Closing Date").

- (a) Notwithstanding any provision of this Agreement to the contrary, the Buyer is hereby granted the option to extend the Closing Date under one or more written requests up to a total of one hundred twenty (120) calendar days beyond the original Closing Date (the "Closing Date Extension"). The Buyer shall exercise each Closing Date Extension by providing a written notice of extension to the Seller no less than five (5) days prior to then-scheduled Closing Date (the "Closing Date Extension Notice"). Following exercise of any Closing Date Extension, each reference within this Agreement to the Closing Date shall be construed as the Closing Date, as so-extended.
- (b) Notwithstanding anything to the contrary contained herein, the Seller or the Buyer may

elect to extend the Closing Date for a period not to exceed thirty (30) days, upon notice to the Buyer or the Seller, as applicable, to permit either party to complete any Condition Precedent to Closing provided such party has, and is, continuing in good faith to achieve such completion.

8.2 Closing Date; Generally. The Closing Date shall be a regular business day on which the national banks located within the City of Boston shall be open for business. The Buyer may, upon not less than five (5) business days' prior notice to the Seller given at any time during the term of this Agreement, elect to waive any of the conditions to Closing as set forth herein and to proceed with the Closing. For the purposes of this Agreement, the term "Closing" means the actual closing and consummation of the transaction contemplated by the subject conveyance.

8.3 Place of Closing. The Closing shall occur at the offices of the Buyer's lender's counsel or such other location as the parties hereto shall agree upon in writing.

8.4 Closing Deliverables.

(a) Seller's Closing Deliverables. On or prior to the Closing Date, the Seller shall deliver the following documents and instruments to the Title Company:

- (i) A Quitclaim Deed(s) (the "Deed"), substantially in the form attached as **EXHIBIT B**, conveying good and marketable title to the Premises, free and clear of all tenants and occupants, and free from encumbrances, except for the following matters (the "Permitted Encumbrances"):
 - (a) The Site Approvals, which are those permits, approvals and other matters, including, without limitation, any restrictive covenants that may be placed upon the Premises in connection therewith, as they may have been modified or supplemented from time to time (collectively, the "Site Approvals"); and
 - (b) the grantee thereunder takes title to the subject Lot subject to the Easement Agreement.
 - (c) Taxes on the Premises for then current tax year as are not due and payable on the subject Closing Date.
 - (d) Any matters that would be described by an accurate survey of the Premises and any other restrictions, covenants, easements, agreements described in this Agreement or other matters accepted by the Buyer pursuant to Article 3 of this Agreement.
- (ii) A waiver in writing by the Town of the ROFR that the Town has with respect to the Premises in connection with the purchase and sale as provided in this Agreement;
- (iii) The Mechanic's Lien/Parties-in-Possession Title Affidavit of the Seller (substantially in the form attached hereto as **EXHIBIT C** or in the standard form required by the Title Company).
- (iv) An affidavit of the Seller, substantially in the form attached hereto as **EXHIBIT**

D stating the Seller's U.S. taxpayer identification number and that the Seller is not a "foreign person" within the meaning of Section 1445(f)(3) of the Internal Revenue Code of 1986, as amended (the "**FIRPTA Certificate**")

- (v) **A Unanimous Consent of the Manager** and all other Managers of the Seller certifying that the all of the Managers and all of the Members of (all holders of beneficial interests in) the Seller have approved and authorized the sale of the Premises to the Buyer for the consideration and on the terms presented in this Agreement, as the same may be amended by mutual written agreement of the Seller and the Buyer, and that the Managers are authorized to execute and deliver to the Buyer or its closing counsel at the Closing all Deeds, settlement statements, waivers, agreements, affidavits and certifications of title and of the tax status and information of the Seller as are reasonably required in connection with the purchase and sale of the Premises under applicable Massachusetts law, standards and customs, which Managers Consent shall be fully executed and notarized for filing with the Deed to the Premises;
- (vi) **A Unanimous Consent of the Members** of (holders of beneficial interests in) the Seller have approved and authorized the sale of the Premises to the Buyer for the consideration and on the terms presented in this Agreement, as the same may be amended by mutual written agreement of the Seller and the Buyer, and that the Managers are authorized to execute and deliver to the Buyer or its closing counsel at the Closing all Deeds, settlement statements, waivers, agreements, affidavits and certifications of title and of the tax status and information of the Seller as are reasonably required in connection with the purchase and sale of the Premises under applicable Massachusetts law, standards and customs. Further, such certificate shall certify the identity of the Members of the Seller and of the Managers of the Seller and attach a true and accurate current Operating Agreement for the Seller which the Members shall certify under oath to be true accurate and complete. This Certificate of the Members of the Seller shall not be recorded at the Norfolk County Registry of Deeds (the "**Registry of Deeds**"), but shall be retained in the records of the Buyer or its closing counsel;
- (vii) A Seller's certificate certifying in writing that all of the representations and warranties made by the Seller in this Agreement continue to be true and correct in all material respects as of such Closing Date as if the same were made on such Closing Date ("**Seller's Bring Down Certificate**")
- (viii) Such other and further documents and evidence as may be requested reasonably by the Buyer's closing counsel or the Title Company evidencing that all necessary consents and approvals by the members of the Seller have been obtained and that the person executing the Deed and other closing documents on behalf of the Seller has been duly authorized.
- (ix) A settlement statement, setting forth the purchase price being paid and the closing adjustments and prorations being applied thereto, duly executed by the Seller.
- (x) Payoff letters from each holder of a Seller's Monetary Encumbrance as to the Premises, confirming the payoff amount due to the holder(s) of the Seller's

Monetary Encumbrances in order to obtain a release and discharge of each mortgage affecting the Premises.

- (b) Buyer's Closing Deliverables. On or prior to the Closing Date, the Buyer shall deliver the following documents and instruments to the Seller:
- (i) A Promissory Note, in form substantially similar to the Promissory Note attached hereto as EXHIBIT E, in the original principal amount of the Purchase Price, as adjusted pursuant to Sections 2.2, 2.3, 8.5 and 8.6 hereof, less the total of the Deposit paid by the Buyer, issued by the Buyer in favor of the Seller (the "Seller Note") under which the Buyer shall pay the Seller the Purchase Price, as adjusted, in installments equal to the net adjusted Purchase Price divided by the total number of Lots approved by Final Approvals as and when the Lots are improved by single family homes of the size and type provided above (the "Payment Installments"), payable as and when each such improved Lot is sold to a third party buyer, such Payment Installments to be made by the Buyer contemporaneously with the closing of the sale of a Lot to a third party buyer. The Deposit shall be credited ratably to each Lot, with an equal portion applied to the Payment Installments of each approved Lot as released by the Seller from the Seller Mortgage (defined below).
 - (ii) a Mortgage, Security Agreement and Financing Statement, in a form substantially similar to that attached hereto as EXHIBIT F, encumbering the Premises as security for the Seller Note (the "Seller Mortgage"), which shall provide that, absent default by the Buyer, the Seller shall release each Lot requested by the Buyer in writing with each sale of a Lot to a third party buyer in consideration for delivery in good and immediately available funds of the Payment Installment for each such Lot requested. Upon request of the Buyer, the Seller shall be required to and shall subordinate the Seller Mortgage at the closing of any construction financing obtained by the Buyer for one or more Lots such that the Seller Mortgage shall be junior in priority and in right to proceeds to such construction financing, such subordination to be effected by a standard form Subordination Agreement to be executed and delivered for recording at the Registry of Deeds at the closing of a construction financing facility covering one or more of the Lots;
 - (iii) A certificate as to the authority and incumbency of the Buyer's representatives executing the documents and instruments delivered at the Closing;
 - (iv) Buyer's certificate certifying in writing that all of the representations and warranties made by the Buyer in this Agreement continue to be true and correct in all material respects as of such Closing Date as if the same were made on such Closing Date (the "Buyer's Bring Down Certificate");
 - (v) A settlement statement, setting forth the Purchase Price being paid, as adjusted pursuant to the terms of this Agreement and the closing adjustments and prorations being applied thereto, duly executed by the Buyer.

8.5 Prorations and Adjustments. The following items shall be prorated and adjusted between

the parties as of the day immediately preceding the Closing (the "Proration Date") in the following manner:

- (a) Subject to and except as provided in Section 4.3 hereof, real estate taxes and assessments on the subject Lots shall be prorated between the Buyer and the Seller (based on a 365-day year) as of the Closing Date based on the actual number of days within the applicable proration period and the most current statement available to the parties hereto; provided, however, the Buyer shall pay any incremental increase in real estate taxes assessed against the Lots attributable to the taxation of the Lots for non-recreational use commencing as of the date immediately following completion of conversion under the Land Conversion Statute through the Closing Date (specifically excluding any liability for Conversion Taxes and/or Rollback Taxes);
- (b) Water and sewer use charges and other utility charges, payments under municipal or other service agreements and all other expenses relating to the Premises shall be apportioned as of the Closing Date based on the most recently ascertainable information in respect of each such expense and the amount thereof shall be added to or deducted from, as the case may be, the Purchase Price; and
- (c) It is the intent of the parties that any other costs or expenses will be equitably allocated between the parties as of the Closing Date in accordance with the terms and conditions of this Agreement or, if the Agreement is silent, customary practice in the state in which the Premises is located.

To the extent that the amount of any such proration proves to be more or less than the actual charges for the period in question, a further adjustment shall be made after the Closing Date as soon as the actual charges for such proration are available. The provisions of this Section 8.5 shall survive the Closing.

8.6 Fees and Closing Costs.

- (a) Seller's Allocations. The Seller shall pay:
 - (i) All transfer taxes, deed stamp assessments, and similar conveyance taxes or charges in connection with the Closing; and
 - (ii) All costs, including without limitation, recording costs, to remove any encumbrances against the Premises, to the extent the Seller is required or elects to remove the same pursuant to the provisions of this Agreement.
- (b) Buyer's Allocations. The Buyer shall pay:
 - (i) The cost of recording the Deed and any other documents that the Buyer may choose to record;
 - (ii) Any costs associated with the issuance of an owner's policy of title insurance;
 - (iii) The cost of any survey prepared by or on behalf of the Buyer in connection herewith and of any endorsements to the owner's title policy requested by the Buyer; and

- (iv) All fees, charges and expenses of any kind whatsoever arising out of or relating to the performance of the Buyer's due diligence investigations;
- (c) Allocation of Costs, Generally. All other expenses incurred by the Seller or the Buyer with respect to the Closing and other costs not specifically identified for reimbursement herein by the other party, including, but not limited to, attorneys' fees of the Buyer and the Seller, shall be borne and paid exclusively by the party incurring the same, without the obligation of reimbursement, except to the extent otherwise specifically provided herein.

Article 9 Casualty; Condemnation. If prior to the Closing Date, all or a "substantial part" of the Premises or all or substantially all of the necessary access roads or utilities serving the Premises, is or are taken by condemnation, eminent domain or by agreement in lieu thereof, or any proceeding to acquire, take or condemn all or any "substantial part" of such access roads or utilities is commenced (a "Taking") with respect to the Premises or the same has suffered casualty damage, the Buyer may terminate this Agreement upon written notice to the Seller delivered within thirty (30) days after receipt of the Buyer becoming aware of such Taking or the Buyer may take title to the Premises in accordance with the terms hereof, without reduction in the Purchase Price therefor, together with an assignment of the Seller's rights to any award paid or payable by or on behalf of the condemning authority or the Seller's insurance provider, as applicable. If the Seller has received payments from the condemning authority or its insurance provider for the Premises, and if the Buyer elects to close title to the Premises, the Seller shall credit the amount of said payment against the Purchase Price at the Closing. For purposes of this Article 9, "substantial part" as to the Premises shall mean such portion of the Premises which would prevent at least 4 Lots from being developed and constructed on the remainder of the Premises.

Article 10 Indemnification.

10.1 Seller's Indemnification. The Seller shall indemnify, defend with counsel reasonably acceptable to the Buyer and hold the Buyer and the Buyer's members, managers, officers, directors, shareholders, employees, agents, lenders, successors and assigns and their affiliates and constituent entities and individuals (collectively, the "Buyer Indemnified Parties") harmless from and against, and shall reimburse the Buyer's Indemnified Parties for, any and all obligations, claims, demands, causes of action, liabilities, losses, damages, judgments, penalties, costs and expenses which may be imposed upon, asserted against or incurred or paid by the Buyer's Indemnified Parties or for which the Buyer's Indemnified Parties become obligated or liable, by reason of, on account of, or in connection with:

- (a) Any claim against the Buyer or for which the Buyer becomes obligated or liable as permittee under and holder of any permit or approval for the Premises obtained by or on behalf of the Buyer, by reason of, on account of or in connection with, any action or omission of the Seller in material violation of any permit or approval, to the extent the Buyer has provided the Seller with prior written notice of any such permit or approvals;
- (b) Any claim against the Buyer or for which the Buyer becomes obligated or liable by reason of, on account of or in connection with, any action or omission of the Seller in material violation of any permit or approval relating to the use, operation or maintenance of the Premises;
- (c) Any material breach of any of the Seller's representation or warranty under this Agreement giving rise to a claim for which the Buyer seeks indemnification;

- (d) Any breach by the Seller of its obligations under this Agreement to deliver any portion of the Premises to the Buyer in compliance with the terms of this Agreement; or
- (e) To the extent attributable to any action or omission of the Seller in violation of this Agreement or in connection with any injury suffered by persons or property due to actions or omissions of the Seller or the Seller's representatives, agents, contractors, invitees, consultants or employees, any claim against the Buyer or for which the Buyer becomes obligated or by reason of, on account of, or in connection therewith.

10.2 Buyer's Indemnification. The Buyer shall indemnify, defend with counsel reasonably acceptable to the Seller and save the Seller and the Seller's members, managers, officers, directors, shareholders, employees, agents, successors and assigns and their affiliates and constituent entities and individuals (collectively, the "Indemnified Parties") forever harmless from and against, and shall reimburse the Indemnified Parties for, any and all obligations, claims, demands, causes of action, liabilities, losses, damages, judgments, penalties, costs and expenses which may be imposed upon, asserted against or incurred or paid by the Indemnified Parties or for which the Indemnified Parties may become obligated or liable, by reason of, on account of or in connection with:

- (a) The Buyer's failure to comply or the failure of the Premises to comply with the Site Approvals;
- (b) To the extent attributable to any action or omission of the Buyer in violation of any Site Approval, a claim against the Seller or for which the Seller may become obligated or liable as permittee under and holder of any Permit;
- (c) To the extent attributable to the Buyer's failure to fulfill any of its obligations to the Town relating to subdivision approval or otherwise requiring a bond or other security relating solely to development of the Premises, a claim by the Town that the Seller is obligated to fulfill such obligations in whole or in part; or
- (d) to the extent attributable to any action or omission of the Buyer in violation of this Agreement or in connection with any injury suffered by persons or property due to actions or omissions of the Buyer or the Buyer's representatives, agents, contractors, invitees, consultants or employees, any claim against the Seller or for which the Seller becomes obligated or by reason of, on account of, or in connection therewith.

10.3 Survival. The terms and provisions of this Article 10 shall survive the Closing Date for a period equal to one (1) year following the completion of all development of the Premises by the Buyer.

ARTICLE 11 Notice of Exclusive Rights.

Upon execution of this Agreement, the Buyer and the Seller shall execute and have properly notarized a Notice of Exclusive Rights and that Certificate of Authority to Develop by the Buyer each in substantially the forms attached hereto as EXHIBIT "G" (the "Notices of Exclusive Rights") under which the Seller shall acknowledge and agree that the Buyer shall have the exclusive right to pursue the permitting, engineering and development of the Premises and the right to purchase the Premises, all on the terms set forth in this Agreement, and shall deliver the Notices of Exclusive Rights to the Buyer for recording at the of the Premises on the terms contemplated in this Agreement

ARTICLE 12. Default and Remedies.

12.1 Buyer's Defaults and the Seller Remedies.

- (a) **Buyer's Default.** It shall be a default by the Buyer under this Agreement (a "**Buyer Default**") if any one or more of the following shall occur:
- (i) The Closing shall fail to timely occur and such failure shall be continuing for a period of ten (10) business days after the Closing Date once designated as provided in Article 8 hereof; or
 - (ii) The Buyer shall fail to perform any of its other covenants and agreements contained in this Agreement when required to be performed hereunder and such failure shall continue for five (5) business days after the Seller gives the Buyer written notice of such failure.
- (b) **Seller Remedies for the Buyer's Default.** If a Buyer Default occurs pursuant to Section 12(a), in consideration of the efforts and costs of the Buyer in permitting the Premises, the Closing may, at the Buyer's option, be delayed until the Buyer delivers its Closing Notice therefor, not to exceed one hundred twenty (120) days in total following the original Closing Date as defined herein (the "**Extended Closing Date**"). In the event such Closing does not occur on or before the Extended Closing Date, the Seller shall have the right to terminate this Agreement upon ten (10) business days prior written notice to the Buyer (the "**Seller Notice of Termination**"), in the event such rescheduled Closing does not occur within such ten (10) business day notice period;
- (c) In the event that the Seller terminates this Agreement as a result of a Buyer's Default following the Seller's Notice of Termination and the expiration of the cure period therefor provided in Section 12(b) above, then the Seller shall be entitled to all engineering plans and work obtained by the Buyer to date, which engineering plans and work may be used by or valuable to the Seller and a subsequent buyer in connection with the continued development of the Premises, but the Buyer shall be entitled to repayment in full of all documented, out-of-pocket third party expenses that the Buyer incurred in connection with the engineering of the Premises and the plans and permits with respect to the septic and sewer systems to serve the Premises (the "**Reimbursement Costs**"), to be paid as provided in Section 12.1(e) below.
- (d) In the event of a Buyer Default following the Buyer's completion of all engineering and sewer and septic plans and permits but before obtaining substantially all permitting approvals, which efforts on the part of the Buyer shall provide substantial value to the Seller and a subsequent buyer of some or all of the Premises, the Buyer shall be entitled to repayment in full of Reimbursement Costs, to be paid as provided in Section 12.1(e) below.
- (e) In the event of a Buyer Default and the Seller's termination of this Agreement as provided in Section 12(c) or 12(d) hereof, the Seller shall reimburse the Buyer in full for the Reimbursement Costs, through either:
- (i) Payment in full in cash or other immediately available funds; or

- (ii) Delivery by the Seller of a promissory note to the Buyer payable in full on or before 24 months from the date of the Seller's notice of termination of this Agreement, with interest accruing at the applicable mid-term federal rate at the time of the Seller's notice of termination of this Agreement, which shall be secured by a mortgage and security agreement from the Seller to the Buyer encumbering the entirety of the Premises, with payment due thereunder from the first proceeds of the sale of the Lots (after payment of real estate taxes, county deed transfer taxes and recording fees (the "Net Proceeds") to one or more third party purchasers following a Buyer Default. At the time of repayment of the Reimbursement Costs, the Buyer shall cancel the Reimbursement Note and release the Reimbursement Mortgage given by Seller to secure the repayment of the Reimbursement Costs;

This provision shall survive the termination of this Agreement;

- (f) In the event that Seller terminates this Agreement pursuant to Section 12.1(b) hereof, then after the Seller has satisfied in full its obligation to return the Buyer's Deposit and the Reimbursement Costs as provided above, as applicable, this Agreement shall be of no further force and effect and neither the Buyer nor the Seller shall have any further rights, obligations or liabilities hereunder or any other agreements, documents or instruments executed by the Buyer and/or the Seller pursuant to this Agreement;
- (g) The Parties acknowledge and agree that, in consideration of the efforts and expenses undertaken by the Buyer in subdividing and permitting the Lots and in developing the Premises for sale as a residential development, the Seller's damages from such Buyer Default shall be limited to retaining the Deposit, and, given the benefit to the Seller from the Buyer's development and permitting efforts with respect to the Premises and the turnover of all engineering plans, permits and related permitting materials, such limitation on damages is fair and equitable. Notwithstanding anything to the contrary contained herein, under no circumstances shall the Seller be entitled to recover any special, indirect, consequential, punitive, or similar damages for the Buyer's Default.

12.2 Seller Default and the Buyer's Remedies.

- (a) Seller Default. Subject to Section 8.1 hereof, it shall be a default by the Seller under this Agreement (a "**Seller Default**") if the Seller shall fail to perform any of its covenants and agreements under this Agreement when required to be performed hereunder and such failure shall continue for ten (10) business days after the Buyer gives the Seller notice of such failure (but in no event later than the Closing Date).
- (b) Buyer's Remedies for the Seller Default. If a Seller Default occurs, then the Buyer shall have the right to either:
 - (i) Terminate this Agreement immediately pursuant to this Section 12.2(b) by giving written notice to the Seller, in which event the Buyer shall be entitled to payment in full of the Deposit as provided in the Deposit Note

and shall be entitled to an immediately return to the Buyer or all documented Buyer Costs, which shall be immediately payable by the Seller upon written demand therefor from the Buyer; or

- (ii) In a court of competent jurisdiction, seek specific performance of the Seller's obligation to tender the Premises.

The foregoing election of remedies shall be the Buyer's sole and exclusive remedy hereunder, or at law or in equity, for a Seller Default. In the event that the Buyer terminates this Agreement pursuant to this Section 12.2(b)(i), then except as expressly provided otherwise herein, upon payment by the Seller to the Buyer of the Buyer Costs, this Agreement shall be of no further force and effect and neither the Buyer nor the Seller shall have any further rights, obligations or liabilities hereunder.

ARTICLE 13. Notices. Any and all notices or other communications required or permitted by this Agreement to be served on or given to any party hereto by any other party hereto and to whom it is directed, shall be deemed given when and if delivered in hand, by facsimile (fax), by email transmission or by overnight mail via a courier of national reputation, to the BUYER and the BUYER's counsel or to the SELLER and the SELLER's counsel at the contact information below:

If to the Seller, to: **FRANKLIN LABASTIE FAMILY L.C.C.**
Attn.: Steven H. Labastie, Manager
469 Maple Street,
Franklin, Massachusetts 02038
Email: stevenhomesstead@verizon.net

With copy to: Daniel H. Nye, Esq.
LAW OFFICE OF DANIEL H. NYE
50 North Street, Suite 215
Medfield, Massachusetts 02052
Fax: (508) 359-4169
Email: dannyclaw@gmail.com

If to the Buyer: Franklin Holdings, LLC
c/o Carroll Construction Corp.
14 Camp Road
Foxborough, MA 02035
Fax: (508)
Email: carrollcorp92@gmail.com

With a copy to: Michael A. Khoury, Esq.
MADOFF & KHOURY LLP
Pine Brook Office Park
124 Washington Street, Suite 202
Foxborough, MA 02035
Fax: (508) 543-0020
Email: khoury@mandkllp.com

provided that any party may change its address for notice by giving to the other party written notice of such change. Any notice request, demand or other communication given under this Article 13 shall be effective upon the earlier of (i) hand delivery, fax delivery or email transmittal to the party to receive such

notice, request, demand or communication, or (ii) receipt at the address for notice as provided for herein for the party to receive such notice, request, demand or communication by nationally recognized overnight carrier for first priority morning delivery. If notification is by facsimile or email transmission, such transmission must be made between the hours of 9:00 AM and 5:00 PM prevailing Eastern Time, Monday through Friday, excluding holidays. The attorneys for the parties hereto may give notice on behalf of their client.

ARTICLE 14 Miscellaneous.

14.1 Each party shall pay the costs of its own attorneys, consultants and accountants' fees and expenses.

14.2 For the purposes hereof, "Unavoidable Delay" shall mean and refer to any prevention, delay or stoppage in the work of subdivision or other work which is caused by or through acts of God, war, inclement weather, settlement or consolidation of soils, strikes, acts of public utilities or governmental authorities in failing to approve necessary permits and plans despite diligent efforts to obtain the same, moratoria (whether imposed by governmental authority or by initiative), inability to obtain labor or materials or reasonable substitutes therefore, or governmental regulations or controls. If the performance of any act is rendered difficult primarily because of the financial condition of a party, the same shall not constitute an Unavoidable Delay. To the extent the Buyer or the Seller is impeded or impaired by an Unavoidable Delay in timely performing hereunder, such performance shall be deferred on a day-for-day basis during the continuance of such impediment or impairment.

14.3 Nothing contained in this Agreement shall be construed to make the Seller and the Buyer partners or joint venturers or to render either party liable for the debts or obligations of the other, except as in this Agreement expressly provided.

14.4 No delay or omission by either party hereto to exercise any right or power accruing upon any noncompliance or failure of performance by the other party under the provisions of this Agreement shall impair any such right or power or be construed to be a waiver thereof. The failure herein to specify a right, power or remedy accruing upon any noncompliance or failure of performance by either party hereto shall not be construed to be a waiver thereof or as impairing the right of the party thereby aggrieved to all remedies then available to such party at law or in equity by reason of such noncompliance or failure of performance subject. A waiver by either party hereto of any of the covenants, conditions, or agreements hereof to be performed by the other party shall not be construed to be a waiver of any succeeding breach thereof or of any other covenant, condition or agreement herein contained.

14.5 This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts. If any provision, or portion thereof, of this Agreement shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such provision, or portion thereof, to any other person or circumstance, shall not be affected thereby, and each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

14.6 EACH OF PURCHASER AND THE SELLER HEREBY AGREES NOT TO ELECT A TRIAL BY JURY OF ANY ISSUE TRIABLE OF RIGHT BY JURY, AND WAIVES ANY RIGHT TO TRIAL BY JURY FULLY TO THE EXTENT THAT ANY SUCH RIGHT SHALL NOW OR HEREAFTER EXIST WITH REGARD TO THIS AGREEMENT, THE TRANSACTION CONTEMPLATED HEREBY, OR ANY CLAIM, COUNTERCLAIM OR OTHER ACTION ARISING IN CONNECTION THEREWITH. THIS WAIVER OF RIGHT TO TRIAL BY JURY IS GIVEN KNOWINGLY AND VOLUNTARILY BY EACH OF

PURCHASER AND THE SELLER AND IS INTENDED TO ENCOMPASS INDIVIDUALLY EACH INSTANCE AND EACH ISSUE AS TO WHICH THE RIGHT TO A TRIAL BY JURY WOULD OTHERWISE ACCRUE. EACH OF PURCHASER AND THE SELLER IS HEREBY AUTHORIZED TO FILE A COPY OF THIS PARAGRAPH IN ANY PROCEEDING AS CONCLUSIVE EVIDENCE OF THIS WAIVER BY PURCHASER AND THE SELLER.

14.7 Where used herein, the neuter gender shall include the masculine or feminine whenever applicable.

14.8 No agreement shall be effective to add to, change, modify, waive, or discharge this Agreement in whole or in part unless such agreement is in writing and signed by the parties hereto.

14.9 This Agreement may be executed in several counterparts, each of which shall be deemed an original, and all of such counterparts shall together constitute one and the same instrument.

14.10 All negotiations regarding the acquisition and development of the Premises will be confidential and shall not be disclosed to any party, other than the employees, agents, consultants, prospective or actual lenders, prospective or actual investors, attorneys and financial advisors or either party possessing a need to know about the transaction contemplated hereby. No press or other publicity release shall be issued to the general public concerning the transaction contemplated hereby without the mutual consent of the Buyer and the Seller, unless the same is compelled by law, in which event the party so-compelled shall notify the other party of such requirement.

14.11 This Agreement, by its terms, contemplates continuing cooperation and specifies continuing obligations between the parties during the pendency of this Agreement and also after Closing. It is expressly understood and agreed that any term or provision hereof which by its nature is intended to be performed, or any amount, which is intended to be paid after Closing shall also survive Closing, or earlier termination of this Agreement, whether or not so expressly stated in the applicable section of this Agreement.

14.12 Except as in this Agreement otherwise expressly provided, the terms hereof shall be binding upon and shall inure to the benefit of the parties hereto and their respective permitted successors and assigns.

14.13 No agreement shall be effective to add to, change, modify, waive, or discharge this Agreement in whole or in part unless such agreement is in writing and signed by the parties hereto.

14.14 In the event of any litigation regarding the rights and obligations of the parties under this Agreement, the prevailing party shall be entitled to recover reasonable counsel fees, court costs and other direct litigation expenses.

14.15 This Agreement may be executed in several counterparts, each of which shall be deemed an original, and all of such counterparts shall together constitute one and the same instrument.

14.16 The Buyer and the Seller each represent and warrant to each other that they have dealt with no broker, finder or like agents who might claim a commission or fee in connection with the transaction contemplated by this Agreement. The Buyer and the Seller each agree to indemnify and hold harmless the other and their respective successors and assigns from and against any and all claims, losses, liabilities and expenses, including, without limitation, reasonable attorneys' fees and expenses, arising out

of any claim or demand for commission or other compensation for bringing about this transaction by any broker, finder, or like agents who claim to have dealt with the indemnifying party or any affiliate thereof in connection with this transaction. The provisions of this Section 14.16 shall survive the Closing or the termination of this Agreement.

14.17 Notwithstanding any other provision of this Agreement to the contrary, and notwithstanding the Closing of the sale of the Premises, the Buyer and the Seller agree in good faith before and after the Closing hereunder to execute such further or additional documents, and to take such other actions, as may be reasonably necessary or appropriate to fully carry out the intent and purposes of the parties as set forth in this Agreement.

14.18 In computing any period of time under this Agreement, the date of the act or event from which the designated period of time begins to run shall not be included, the last day of the period so computed shall be included unless it is a Saturday, Sunday, or federal legal holiday, in which event the period shall run until the end of the next day which is not a Saturday, Sunday, or federal legal holiday.

14.19 This Agreement shall not be construed more strictly against one party than against the other merely by virtue of the fact that it may have been prepared by counsel for one of the parties, it being recognized that both the Seller and the Buyer have contributed substantially and materially to the preparation of this Agreement.

[The remainder of this page intentionally left blank.]

Signature Page to Agreement of Purchase and Sale

IN WITNESS WHEREOF, the parties hereof have duly executed this agreement as a sealed instrument all as of the day and year first above written in any number of counterpart copies, each of which shall be deemed an original for all purposes.

FRANKLIN LABASTIE FAMILY L.L.C.
Seller

By: Steven H. Labastie
Name: Steven H. Labastie
Title: Sole Manager
Duly authorized

FRANKLIN HOLDINGS, L.L.C.

Buyer

By: Laurinda A. Carroll
Laurinda A. Carroll, its duly-authorized
Manager

EXHIBIT A

Description of the Premises

Four (4) lots of land, with all buildings and improvements thereon, if any, situated on the easterly side of Maple Street in the northerly part of said Franklin, MA, and being shown as Parcel 1, Parcel 2, Parcel 3 and Parcel 4 on a certain plan of land entitled "Plan of Land in Franklin, Mass., Prepared for Henry D. Labastie, dated February 1, 1990, prepared by Clayton T. Ryan, Jr., P.L.S. (hereinafter "Plan"), which Plan is Recorded with the Norfolk County Registry of Deeds as Plan No. 97 of 1990 in Plan Book 389, and to which Plan reference is hereby made for a more particular description of such premises.

The above-described premises contain 68.4456 acres of land, more or less, according to said Plan.

EXHIBIT "B"

The Deed

[To be attached.]

QUITCLAIM DEED

THE FRANKLIN LABASTIE FAMILY L.L.C., a Delaware limited liability company duly organized by law with a principal mailing address of 469 Maple Street, Franklin, Norfolk County, Massachusetts 02038 (the "Grantor") hereby sells, conveys and transfers to **FRANKLIN HOLDINGS LLC**, a Massachusetts limited liability company with a principal place of business at 14 Camp Road, Foxborough, Massachusetts 02035 (the "Grantee") in consideration for the payment of _____ **DOLLARS (\$ _____)**, the receipt and sufficiency of which is hereby confirmed the below-described premises

WITH QUITCLAIM COVENANTS

Four (4) lots of land, with all buildings and improvements thereon, if any, situated on the easterly side of Maple Street in the northerly part of said Franklin, MA, and being shown as Parcel 1, Parcel 2, Parcel 3 and Parcel 4 on a certain plan of land entitled "Plan of Land in Franklin, Mass., Prepared for Henry D. Labastie", dated February 1, 1990, prepared by Clayton T. Ryan, Jr., P.L.S. (hereinafter "Plan"), which Plan is recorded with the Norfolk County Registry of Deeds, as Plan No. 97 of 1990 in Plan Book 389, and to which Plan reference is hereby made for a more particular description of the granted premises.

The foregoing premises are each conveyed subject to, and with the benefit of, all rights, easements, conditions and restrictions of record, if any, and insofar as in force and applicable.

The undersigned attests that the Grantor is not classified for federal tax purposes as a corporation.

The foregoing premises are the same identified as Parcel 1 in that Deed to the Grantor from Henry D. Labastie dated November 21, 2007 recorded at the Norfolk County Registry of Deeds in Book 25317, Page 578.

WITNESS my hand and seal this ___ day of _____, 202__.

THE FRANKLIN LABASTIE FAMILY L.L.C

By: _____
Steven H. Labastie, its duly-authorized Sole
Manager

COMMONWEALTH OF MASSACHUSETTS

Norfolk, ss.

February __, 2020

Before me personally appeared the above-named Steven H. Labastie, proved to me through satisfactory evidence of identification, which was a valid, current Massachusetts driver's license [OR _____] bearing his photographic image, to be the person who signed the preceding document in my presence, and who acknowledged to me that he signed it voluntarily for its stated purpose as the Sole Manager of Labastie Franklin Family L.L.C.

[PLACE NOTARY STAMP OR
SEAL HERE]

Name of Notary Public: _____
My Commission Expires: _____

COMMONWEALTH OF MASSACHUSETTS)
)
COUNTY OF NORFOLK)

On this ____ day of _____, _____, before me, the undersigned notary public, personally appeared Steven H. Labastie, the Sole Manager of Franklin Labastie Family L.L.C., a Delaware limited liability company, provided to me through satisfactory evidence of identification which was _____ to be the person whose name is signed on the preceding or attached document and acknowledged to me that he signed it voluntarily for its stated purpose in the above-noted capacity.

Notary Public
My commission expires: _____

EXHIBIT "D"

FIRPTA Certificate

Section 1445 of the Internal Revenue Code provides that a transferee (or the Buyer) of a U.S. real property interest must withhold tax if the transferor (or the Seller) is a foreign person. To inform the transferee that withholding of tax is not required in connection with the transfer of a U.S. real property interest by Franklin Labastie Family L.L.C., a Delaware limited liability company (the "Company"), the undersigned being the duly authorized sole Manager of the Company hereby certifies the following:

1. The Company is not a foreign corporation, foreign partnership, foreign trust, foreign estate or non-resident alien individual (as those terms are defined in the Internal Revenue Code and regulations promulgated thereunder).
2. The Company is not a foreign corporation, foreign partnership, foreign trust, foreign estate or non-resident alien individual (as those terms are defined in the Internal Revenue Code and regulations promulgated thereunder).
3. The U.S. Employer Identification Number of the Company is as follows:

4. The address of the Company is 469 Maple Street, Franklin, Massachusetts 02038.

The undersigned understands that this Certification may be disclosed to the Internal Revenue Service and that any false statement contained herein could be punished by fine, imprisonment or both.

Under penalties of perjury the undersigned declare that they have examined this certification and to the best of the undersigned's knowledge and belief it is true, correct and complete.

FRANKLIN LABASTIE FAMILY, L.L.C.

By: _____
Name: Steven H. Labastie
Title: Sole Manager
Duly authorized

EXHIBIT "E"

Form of Seller Note

[To be attached.]

MORTGAGE NOTE

EFFECTIVE DATE: _____, 2020
BORROWER: Franklin Holdings LLC
LENDER: Labastie Franklin Family, LLC
ORIGINAL PRINCIPAL AMOUNT: \$ _____
ADDRESS OF BORROWER: 14 Camp Road, Foxborough, Massachusetts 02035
SECURED PARCEL: As more particularly described on Exhibit A attached hereto

FOR VALUE RECEIVED, the Borrower promises to pay to the Lender, or order, at 469 Maple Street, Franklin, Massachusetts 02038, the Original Principal Amount in accordance with the terms of this Mortgage Note (this "Note"). The unpaid balance of this Note is due and payable upon the sale of the last of the Lots (as defined below). Except during the continuance of an Event of Default, as more particularly described hereinbelow, the Original Principal Amount is loaned hereunder on an interest-free basis. The unpaid Original Principal Amount outstanding from time to time hereunder shall be payable as follows:

1. Certain Defined Terms. For the purposes of this Note, the following terms shall be defined as follows:

(a) "Development" shall mean the _____ buildable single-family Lots as designated in the Lot Plan (defined below) located upon the Secured Parcel to be developed for the purpose of resale to third-party purchasers of the Units to be constructed thereon all as designated in the plan appended hereto as Exhibit "A" (the "Lot Plan").

(b) "Installment Notice" shall mean each thirty (30) day advance written notice given hereunder in connection with the a Lot Takedown, each of which shall specify the Lots to be released in connection with such payment, in Good Funds, to the Lender

(c) "Lot" shall mean any one of the _____ buildable single-family lots located upon the Secured Parcel and comprising the Development upon which a Unit shall be constructed.

(d) "Lot Takedown" shall mean the Lots to be released in connection with a given payment hereunder.

(e) "Secured Parcel" shall mean the Mortgaged Premises, as that term is defined in the Mortgage.

(f) "Units" shall mean single family, attached or detached, market rate homes of the type permitted under applicable laws to be constructed upon the Secured Parcel.

2. Installment Payments. upon the issuance by the Borrower to the Lender of its thirty (30) day written Installment Notice identifying the Lot or Lots to be included within the subject Lot Takedown (such date, the "Installment Date"), the Borrower shall deliver to the Lender per the Lender's delivery instructions, by wire transfer, certified or the Lender check or other good and immediately available funds ("Good Funds") a minimum payment OF EIGHTY-FIVE THOUSAND AND 00/100 DOLLARS (\$85,000.00) (an "Installment Payment"), which shall be equal to the Original Principal Amount divided by the total number of Lots approved by Final Approvals (as defined in that Purchase Agreement by and between the Borrower, as Buyer, and the Lender, as Seller, dated as of February ____, 2020).

8. Partial Mortgage Release Following Payment. Contemporaneous with its receipt in Good Funds of an Installment Payment, the Lender shall execute and deliver to the Borrower for the Borrower's recording at the Norfolk County Registry of Deeds (the "Registry") a partial release from the Mortgage of those Lots identified by the Borrower in the Installment Notice to the Lender at least 30 days prior to such Installment Date. With each Installment Payment, the Lender shall release one Lot as designated by the Borrower. At no time can the Borrower sell any Lots without having first paid an Installment Payment to the Lender which shall in turn provide for the Lender's release of the Lot being sold by the Borrower to a third party.

9. **Full or Partial Prepayments.** This Note may be prepaid in full or in part at any time without premium or penalty.

10. **Events of Default.** The occurrence of any of the following events shall be deemed an "Event of Default" under this Note:

- (a) the failure to make punctual payment of any sum(s) due, or declared to be due, under this Note and such failure remains uncured for a period of fifteen (15) calendar days following the date upon which such payment is due hereunder;
- (b) the filing by or against the Borrower of any proceeding in bankruptcy, reorganization, debt adjustment, or receivership that is not dismissed within ninety (90) days after the filing thereof or an assignment by the Borrower for the benefit of creditors which assignment is not withdrawn or set aside within ninety (90) days after its origination;
- (c) the commencement of any execution against the Secured Parcel; or
- (d) the breach or failure to observe or perform by the Borrower any other term, condition, covenant, agreement, representation, or warranty (whether monetary or non-monetary) provided for under this Note or the Mortgage and the lapse of any applicable notice or cure period thereunder.

During the continuance of an Event of Default, if any,

- (i) The Lender shall possess no obligation to honor any Installment Notice, including, without limitation, any obligation to release any Lot from security of the Mortgage;
- (ii) at the option of the Lender, the entire Original Principal Amount then-outstanding shall immediately become due and payable upon receipt of written notice received by the Borrower from the Lender; and
- (iii) the Lender may exercise any rights or remedies available to it under this Note and the Mortgage, at law or in equity.

The remedies of the Lender as provided in this Note and the Mortgage shall be cumulative and concurrent with other remedies as provided in the Purchase Agreement, whose terms shall survive the Closing (as defined in the Purchase Agreement) and may be pursued singly, successively, or together against the Borrower or the Secured Parcel, in the sole discretion of the Lender.

11. **Application of Payments During the Continuance of an Event of Default.** During the continuance of an Event of Default, all payments received from, or on behalf of, the Borrower shall be applied in the following order:

- (i) to any advancements of, or funds established for, payment of any insurance costs or premiums, taxes, assessments, or other advances or to any unpaid charges or fees as provided for in this Note or in the Mortgage, together with interest at the Default Rate;
- (ii) any Late Payment Charges (as defined hereinbelow); and
- (iii) to the unpaid principal balance of this Note.

The Borrower recognizes that a default by the Borrower in the timely making the payments agreed to be paid under this Note and pursuant to the Mortgage when due, including any agreed Lender charges or fees, shall result in the Lender incurring additional expense in servicing the Loan, in loss to the Lender of the use of the money due, and in frustration to the Lender in meeting its loan commitments. The Borrower therefore agrees that the Borrower shall pay, on demand from the Lender, an amount equal to five percent (5%) of each delinquent sum (the "Late Payment Charge") if any installment or other payment arising hereunder is not paid within fifteen (15) calendar days after it is due. Acceptance of such late charge by the Lender shall not constitute a waiver of the default with respect to the overdue amount and shall not prevent the Lender from exercising any other rights and remedies available to it. Further, upon the occurrence of an Event of Default, this Note shall bear interest thereafter until paid in full at a default rate equal to five percent (5.0%) from the date of the Event of Default forward (such rate, the "Default Rate"). The Default Rate shall continue to apply whether or not judgment shall be entered on this Note. Both the Late Payment Charge and the Default Rate are imposed as liquidated damages for the

14. **Borrower's Representations and Warranties.** The Lender's agreement to advance funds and extend credit to the Borrower pursuant to the terms hereof is made in reliance upon the information that the Borrower has given to the Lender in connection with this Note, the Mortgage, the Purchase Agreement, and the documents, certifications, affidavits and instruments that the Borrower has provided to the Lender, which the Borrower represents, warrants and covenants to be true and correct as of the date hereof. The Borrower represents, warrants and covenants that any information that the Borrower provides to the Lender in the future shall also be true and correct.

15. **Costs Following Default.** The Borrower hereby agrees to pay all costs and expenses of collection when incurred (which costs and expenses may be added to the principal balance due under this Note and be receivable therewith), including reasonable attorneys' fees and costs, if this Note is placed in the hands of an attorney for collection or if collected through probate, bankruptcy, or other judicial or nonjudicial proceedings. Such attorney's fees shall include, but not be limited to, the reasonable fees and costs incurred in all matters of collection and enforcement, construction, protection, and interpretation before and after suit, trial, proceedings and appeals, as well as appearance in and connected with any bankruptcy proceedings or creditors' reorganization or arrangement proceedings.

16. **Severability.** If any terms of this Note are determined to exceed limits provided for under applicable law, or are adjudicated by final order of a court of competent jurisdiction to exceed legal limits, the provisions of this paragraph shall govern, and neither the Borrower nor any of the Borrower's successors or assigns shall be obligated to pay or perform to the extent such payment or performance is in excess of the amount permitted by law, and any such amount so paid, at the option of the Lender, shall be either applied against the principal balance of the Note or rebated to the Borrower within thirty (30) days following such final determination. Any determination that any provision of this Note or any application thereof in any particular instance is invalid, illegal or unenforceable in any respect in any instance shall not affect the validity, legality and enforceability of such provision in any other instance, nor the validity, legality or enforceability of any other provision of this Note.

17. **Negotiability of Note; Waiver of Presentment, Notice of Dishonor, Etc.** The Borrower hereby waives presentment, demand, notice, protest, and all other demands or notices in connection with the delivery, acceptance, endorsement, performance, default, or enforcement of this Note, assents to any and all extensions or postponements of the time of payment or any other indulgence, to any substitution, exchange or release of collateral, and/or to the addition or release of any other party or person primarily or secondarily liable, and generally waives all suretyship defenses and defenses in the nature thereof. The Borrower acknowledges and agrees that the Lender may assign, sell, transfer or convey its rights under this Note upon written notice to the Borrower.

18. **Successors and Assigns.** This Note shall be binding upon the Borrower and shall inure to the benefit of the Lender and its successors, endorsees and assigns.

19. **Reproduction Admissible.** A photographic or other reproduction of this Note shall be admissible in evidence with the same effect as the original Note in any judicial or other proceeding, whether or not the original is in existence.

20. **Headings; References to Parties.** The headings herein are for convenience only and shall not be deemed to be part of this Note. Any references to any party shall be construed in the masculine, feminine or neuter, singular or plural, as the context may require.

21. **Governing Law.** This Note shall be governed, construed, applied and enforced in accordance with the internal laws of the Commonwealth of Massachusetts without regard to principles of conflicts of law. The Borrower hereby consents to personal jurisdiction in any state or Federal court located within the Commonwealth of Massachusetts.

22. **JURY TRIAL WAIVER: EACH OF THE BORROWER AND THE LENDER KNOWINGLY, VOLUNTARILY, INTENTIONALLY AND IRREVOCABLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION, ACTION OR PROCEEDING WHICH ARISES OUT OF, OR IS IN ANY WAY CONNECTED WITH THIS NOTE, OR ANY OTHER INSTRUMENT OR DOCUMENT EXECUTED IN CONNECTION**

HEREWITH OR ANY OF THE TRANSACTIONS CONTEMPLATED HEREIN OR THEREIN. EACH OF THE BORROWER AND THE LENDER MUTUALLY HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE THE RIGHT TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED ON THIS NOTE, ARISING OUT OF, UNDER OR IN CONNECTION WITH THE MORTGAGE OR ANY OTHER SECURITY INSTRUMENT CONTEMPLATED TO BE EXECUTED IN CONNECTION HEREWITH, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENT (WHETHER VERBAL OR WRITTEN) OR ACTION OF ANY PARTY. THIS WAIVER CONSTITUTES A MATERIAL INDUCEMENT FOR THE BORROWER AND THE LENDER TO ENTER INTO THE TRANSACTIONS CONTEMPLATED HEREBY.

THIS NOTE IS PAYABLE IN FULL AT MATURITY. BORROWER MUST REPAY THE ENTIRE PRINCIPAL BALANCE OF THE LOAN AT MATURITY. THE LENDER IS UNDER NO OBLIGATION TO REFINANCE THE LOAN EVIDENCED BY THIS NOTE AT THAT TIME.

Executed as of this ____ day of _____, 20__.

WITNESS:

FRANKLIN HOLDINGS LLC

Name: _____

By: _____
Name: Laurinda A. Carrell
Title: Sole Manager

EXHIBIT A

Description of the Secured Parcel

Four (4) lots of land, with all buildings and improvements thereon, if any, situated on the easterly side of Maple Street in the northerly part of said Franklin, MA, and being shown as Parcel 1, Parcel 2, Parcel 3 and Parcel 4 on a certain plan of land entitled "Plan of Land in Franklin, Mass., Prepared for Henry D. Labastie, dated February 1, 1990, prepared by Clayton T. Ryan, Jr., P.L.S. (hereinafter "Plan"), which Plan is Recorded with the Norfolk County Registry of Deeds as Plan No. 97 of 1990 in Plan Book 389, and to which Plan reference is hereby made for a more particular description of such premises.

The above-described premises contain 68.4456 acres of land, more or less, according to said Plan.

EXHIBIT "F"

Form of Seller Mortgage

[To be attached.]

MORTGAGE AND SECURITY AGREEMENT

_____, 2012

MORTGAGOR: Franklin Holdings LLC

ADDRESS OF MORTGAGOR: 14 Camp Road, Foxborough, Massachusetts 02035

MORTGAGEE: Labastie Franklin Family, L.L.C., 469 Maple Street, Franklin, MA 02038

ORIGINAL PRINCIPAL AMOUNT: [_____] and [_____] /100 Dollars (\$ _____)

NOTE: That certain Mortgage Note of even date herewith issued by Mortgagor in favor of Mortgagee

MORTGAGED PREMISES: As more particularly described on Exhibit "A" attached hereto

Mortgagor, for consideration paid, hereby grants the Mortgaged Premises to Mortgagee and any endorsees, assignees or successors thereof, WITH MORTGAGE COVENANTS to secure:

(i) the payment of the Original Principal Amount, together with interest and any other charges thereon, as evidenced by and as provided in the Note, as any term, provision or condition of the Note may be changed by any extension, amendment or restatement thereof, and

(ii) the payment and performance of all other covenants and agreements in the Note, this Mortgage and Security Agreement (this "Mortgage"), as the same may be amended or restated from time to time, or in any other document executed in connection herewith.

Mortgagor also hereby grants to Mortgagee a security interest in all of the personal property, fixtures, machinery and equipment now or hereafter owned by Mortgagor and now or hereafter situated on the Mortgaged Premises or used therewith and all products and proceeds of and accessions to any thereof and all sums which may become payable under insurance policies procured and maintained by Mortgagor with respect to such personal property, fixtures, machinery and equipment and Mortgagor covenants and agrees that, as of the execution hereof and upon the subsequent acquisition of such articles, fixtures and equipment, Mortgagor shall provide to Mortgagee such other assurances, including, without limitation, such financing and continuation statements as may be required by Mortgagee to establish Mortgagee's first and prior security interest in such personal property, fixtures and equipment. The above-described land, buildings, personal property, fixtures, and equipment, together with any all improvements now thereon, or from time to time thereon, and any additions thereto or replacements thereof, inclusive of but not limited to the Mortgaged Premises, are herein individually or collectively as the context requires referred to as the "Property".

Mortgagor covenants:

1. Taxes and Ground Rents: To pay before the same become delinquent (and to provide evidence of such payment satisfactory to Mortgagee) all taxes, ground rents, charges, sewer use fees, water rates and assessments of every name and nature, whether or not assessed against Mortgagor, if applicable or related to the Property, or any interest therein, or the debt, obligation or any agreement secured hereby;

2. Repairs: To keep the Property in good order, repair and condition, damage from casualty expressly not excepted. Not to permit or commit waste on the Property nor to remove or alter anything which constitutes a part of the Property without the written consent of Mortgagee and to permit Mortgagee to enter the Property at any reasonable time to determine whether Mortgagor is in compliance with its obligations under this Mortgage; that all construction on the Property shall comply with, and each and every part of the Property shall be maintained and used in accordance with all applicable building, health, sanitary and zoning codes, rent control and eviction regulations, laws relating to hazardous waste and materials and other lawful requirements, provisions, or regulations, public or private, relating to the same or the use thereof. Mortgagor shall not permit the Property to become contaminated by hazardous waste or materials as defined in G.L. C. 21C or 21E as a result of any conduct, whether active or passive, of Mortgagor or tenants of the Property or the agents, employees or licensees of Mortgagor or of tenants of the Property, and any such contamination shall be deemed to constitute an act of waste in default of this Mortgage. Mortgagee or its authorized agent may inspect the Property during normal business hours during the term of this Mortgage in order to determine whether or not the Property complies with the provisions of this Section. Mortgagee's inspections may include, without limitation, inspection by a qualified engineer to determine whether any hazardous waste or materials are located on the Property. Mortgagor shall reimburse Mortgagee its actual third-party costs and expenses incurred for any such inspections.

3. Insurance: To keep in force and effect with respect to the Property and its use, fire and casualty insurance with broad form extended coverage endorsements including vandalism and malicious mischief in amounts and with such companies as Mortgagee may require, and in no event less than 100% of full replacement value or such lesser amount as is at least the Original Principal Amount and will preclude the applicability of any co-insurance provisions and also to keep in force and effect such other insurance, including without limitation, commercial general liability insurance (including property damage, bodily injury and death and personal injury) with limits of at least \$500,000.00 per occurrence and \$1,000,000 annual aggregate liability coverage, listing Mortgagee as an additional insured and as a loss payee, flood hazard insurance as may from time to time be required by any applicable Federal, State or local law or regulation; and all such insurance policies (with evidence of payment of premiums thereon satisfactory to Mortgagee) so required to be maintained, together with any other insurance with respect to the Property maintained by Mortgagor. Except for commercial general liability coverage and any other coverage Mortgagee may determine shall not be payable to it in case of loss, all insurance proceeds shall be first payable in case of loss to Mortgagee as mortgagee. All renewals or replacements of such insurance from time to time in force, together with evidence of payment of premiums thereon satisfactory to Mortgagee shall be delivered to Mortgagee at least 10 days before the expiration date of then current insurance. All insurance required as aforesaid to be maintained with respect to the Property shall be written by such companies, on such terms, in such form and for such periods and amounts as Mortgagee shall from time to time reasonably approve, such approval not to be unreasonably withheld, conditioned, or delayed, and such insurance shall not be canceled or modified without 30 days prior written notice to Mortgagee. No settlement on account of any loss covered by such

insurance shall be effected without the express written consent of Mortgagee;

4. Insurance Proceeds: The proceeds of any hazard insurance shall, at the option of Mortgagee, be applied to or toward the indebtedness secured hereby in such order as Mortgagee may determine. Provided and to the extent that Mortgagor is not in default in payments under the Note or this Mortgage, Mortgagor shall be relieved of the obligation in Section 2 of this Mortgage to the extent of the repair of that part of the Property damaged by the hazard with respect to which insurance is paid to Mortgagee and applied against such indebtedness; or if Mortgagee shall require repair of that part of the Property so damaged by such insured hazard, Mortgagee shall release to Mortgagor insurance proceeds paid to it upon such conditions as Mortgagee may prescribe and upon completion of such repair Mortgagee shall at its option, apply any excess insurance proceeds to or toward the indebtedness secured hereby in such order as Mortgagee may determine or release the same to Mortgagor; notwithstanding anything in this Section 4 to the contrary, however, if the insurer denies liability to Mortgagor, or if and to the extent for any other reason insurance proceeds are not actually paid to Mortgagee, Mortgagor shall not be relieved of any obligation under Section 2 of this Mortgage, whether or not Mortgagee has elected to apply the proceeds of insurance to or toward the indebtedness secured hereby;

5. Eminent Domain: The award of damages on account of any condemnation for public use of or injury to the Property shall be paid to Mortgagee. Such awards shall, at the option of Mortgagee, be applied to or toward the indebtedness secured hereby in such order as Mortgagee may determine, in which event Mortgagor shall be relieved of the obligation in Section 2 of this Mortgage to the extent of the repair of that part of the Property which remains and which has been damaged or injured by such public action; or if Mortgagee shall require restoration of that part of the Property which remains, Mortgagee shall release to Mortgagor such awards paid to it upon such conditions as Mortgagee may prescribe, but not more than such portion of such awards as may be required to repair such damage or injury; and any balance remaining may at Mortgagee's option either be applied by Mortgagee to or toward the indebtedness secured hereby in such order as Mortgagee may determine or released to Mortgagor;

6. Leases: Not lease the Property or any substantial part thereof or enter into a use and occupancy arrangement without the express written consent of Mortgagee, otherwise faithfully to keep, observe and satisfy all the obligations on the part of Mortgagor as lessor to be kept, performed or satisfied under every lease from time to time in force and affecting the Property or obligations under statute or express or implied warranties in law (and to give Mortgagee notice of any default claimed by any lessee with respect thereto); not to collect any of the rent, income and profits arising or accruing under any lease or otherwise from the Property in advance of the time when the same shall become due; not to alter, modify or change the terms of any of any lease or cancel or terminate the same or accept a surrender or assignment or subletting (except as required by any such lease) thereof without the prior written consent of Mortgagee; not to enter into any new lease with respect to all or any portion of the Property without the prior written consent of Mortgagee and to execute and deliver at the request of Mortgagee all such further assurances and assignments in the Property as Mortgagee shall from time to time require; and Mortgagee shall have the right but not any obligation, by the execution of suitable written instruments from time to time to subordinate this Mortgage and the rights of Mortgagee hereunder to any lease or leases from time to time in force and affecting to the Property pursuant to a standard Subordination, Attornment and Non-Disturbance Agreement in a form reasonably acceptable to each of Mortgagee and each such lessee, pursuant to the provisions of which each such lessee shall agree and acknowledge upon written notice of default by Mortgagor under this Mortgage, each such lessee shall pay to Mortgagee all lease payments due under each such lease. Each lessee who is party to such Subordination, Attornment and Non-Disturbance Agreement shall acknowledge and agree that Mortgagee shall step into the rights of the lessor under the subject lease agreement, including eviction for non-performance by such lessee, and on

the execution of any such instrument, this Mortgage shall be subordinate to the lease for which such subordination is applicable with the same force and effect as if such lease has been executed and delivered prior to the execution, delivery and recording of this Mortgage;

7. Security Deposits: If Mortgagor shall obtain from a lessee or occupant of the Property or a part thereof, a deposit to secure such lessee's obligations, such funds, if so requested by Mortgagee, shall be deposited with Mortgagee in an account which shall be governed by the terms of G.L. C. 186, Section 15B; but any such deposit shall be returned to Mortgagor when required by the terms of any such lease or any statute to be paid over to the lessee;

8. Late Payment Fee: That if any payment due under the Note or this Mortgage is not paid within fifteen (15) days after the date when due, Mortgagor shall pay at the option of Mortgagee, in addition to any other sums due under this Mortgage (and without limiting Mortgagee's other remedies on account thereof) a sum equal to 5% of the amount of such delinquency;

9. Fees and Charges: To pay when due all fees and charges incurred incident to the loan transaction evidenced by the Note and secured by this Mortgage, the assurance of the security represented by this Mortgage, and/or incident to the enforcement of Mortgagor's obligations under the Note and this Mortgage including without limitation reasonable fees of attorneys, appraisers, inspectors, engineers, consultants, management agents and all costs;

10. Statement of Indebtedness: That, from time to time, on the request of Mortgagee, Mortgagor shall furnish a written statement, signed and, if requested, acknowledged, setting forth the amount of the indebtedness which Mortgagor acknowledges to be due on the Note and under this Mortgage, specifying any claims of offset or defense which Mortgagor, asserts against the indebtedness secured hereby or any obligations to be paid or performed hereunder, the then state of facts relative to the condition of the Property and any other facts reasonably requested by Mortgagee relative to Mortgagor's obligations hereunder;

11. Forbearance; Waiver: Whether or not additional interest or other consideration is paid or payable to Mortgagee, no forbearance on the part of Mortgagee or extension of the time for the payment of the whole or any part of the obligations secured hereby, whether oral or in writing, or any other indulgence given by Mortgagee to Mortgagor or to any other party claiming any interest in or to the Property shall operate to release or in any manner affect the original liability of Mortgagor or the priority of this Mortgage or to limit, prejudice or impair any right of Mortgagee, including without limitation, the right to realize upon the security or any part thereof for the obligations secured hereby or any of them, notice of any such extension, forbearance or indulgence being hereby waived by Mortgagor; and no consent or waiver, express or implied, by Mortgagee to or of any default by Mortgagor shall be construed as a consent or waiver to or of any further default in the same or any other term, condition, covenant or provision of this Mortgage or of the obligations secured hereby; in case redemption is had by Mortgagor after foreclosure proceedings have begun, Mortgagee shall be entitled to collect all costs, charges and expenses incurred up to the time of redemption; in case of foreclosure sale, Mortgagee shall be entitled to the costs, charges and expenses allowed under the Statutory Power of Sale; and in case any one or more of the provisions of this Mortgage may be found to be invalid, or unenforceable for any reason or in any respect, such invalidity or unenforceability shall not limit or impair enforcement of any other provision hereof;

12. Notices: That whenever notice, demand or a request may properly be given to Mortgagee or Mortgagor under this Mortgage, the same shall always be sufficient to serve as a notice, demand or

request hereunder if in writing and delivered by nationally recognized overnight courier providing for receipted service, addressed as follows:

To Mortgagor:

Franklin Holdings LLC
14 Camp Road
Foxborough, Massachusetts 02035
Attn: Laurinda A. Carroll, Sole Manager

To Mortgagee:

Labastie Franklin Family L.L.C.
469 Maple Street
Franklin, Massachusetts 02038
Attn: Steven Labastie, Sole Manager

or at such other place as Mortgagor or Mortgagee may hereafter designate in writing; and any such notice demand or request shall be treated as having been given upon such delivery by such overnight courier and a notice so addressed shall always be a sufficient notice, notwithstanding a change in the ownership of the equity of redemption of the Property, whether or not consented to by Mortgagee; and where more than one person constitutes Mortgagor, one notice sent to the address given in this Mortgage as Mortgagor's address or the last known business address of any one of them shall constitute sufficient notice to all;

13. Survival of Certain Obligations: The undertaking of Mortgagor contained in Section 1 of this Mortgage with respect to the payment of real estate taxes, sewer use fees, water rates, and assessments and of Section 2 with respect to contamination by hazardous wastes, oil or hazardous materials shall survive the payment of all obligations secured hereby; provided, however, after an acknowledgement of the satisfaction of the obligations secured hereby or a discharge of this Mortgage, this Mortgage shall no longer be security for the performance of such undertakings, notwithstanding the survival of the same;

14. Conditions: That the following are conditions of this Mortgage:

- (a) Mortgagor shall not default in the payment or performance of any obligations under this Mortgage or the Note, including the obligation to pay in full when due any installment of principal or interest under the Note;
- (b) Except as consented to in writing by Mortgagee prior to the Mortgagor's grant thereof, such consent not to be unreasonably withheld, conditioned, or delayed, Mortgagor shall not permit any encumbrance, including without limitation, any state or federal tax lien filed against Mortgagor or any entity or individual comprising Mortgagor to exist against the Property, even if such encumbrance is subordinated to this Mortgage;
- (c) Mortgagor shall not voluntarily or involuntarily transfer any legal or equitable title to the Property or any part thereof without Mortgagee's prior written approval, not to be unreasonably withheld, conditioned or delayed, and if Mortgagor or any other obligor hereunder is a corporation, a trust, L.L.C., LLP or a partnership, it shall not dissolve or permit its dissolution;

- (d) Mortgagor shall not file a petition or any application for relief, extension, moratorium or reorganization under any bankruptcy, insolvency or debtor's relief law, or make any assignment for the benefit of creditors or enter into any trust mortgage arrangement, so-called, or consent to the appointment of a receiver of any of the property of Mortgagor;
- (e) Mortgagor shall not permit any petition under any bankruptcy, insolvency or debtor's relief law filed against it to remain undischarged for a period of more than ninety (90) days after the filing thereof, nor shall Mortgagor permit the continuation of any receivership proceedings instituted against it for more than a period of ninety (90) days after the commencement thereof;
- (f) Except to the extent Mortgagor is able to secure the release (whether through payment or the bonding thereof enabling a title insurance provider to insure over such matter during the pendency of the pursuit of any defense thereto by Mortgagor) or removal of the same within sixty (60) days following the filing of the same, Mortgagor shall not permit a judgment or judgments for the payment of money to be rendered against Mortgagor for which a lien upon all or any portion of the Property shall be asserted or attach;
- (g) Mortgagor shall not permit any levy, seizure, attachment, execution or similar process to be issued or levied on any of the Property which levy, seizure, attachment, execution or similar process has not been dismissed or set aside within sixty (60) days following the commencement of the same; and
- (i) THE NOTE INCLUDES A MANDATORY COLLATERAL RELEASE PROVISION PURSUANT TO THE PAYMENT OF CERTAIN \$85,000.00 INSTALLMENTS OF THE ORIGINAL PRINCIPAL AMOUNT. CONCURRENT WITH THE RECEIPT OF PROCEEDS PURSUANT TO THE INITIAL INSTALLMENT AND ANY LOT TAKEDOWN, MORTGAGEE SHALL RELEASE THE SUBJECT LOTS FROM THE COLLATERAL ENCUMBERED HEREBY. IN THE EVENT MORTGAGEE FAILS TO RELEASE ANY LOT FOLLOWING THE RECEIPT OF PROCEEDS PURSUANT TO A LOT TAKEDOWN, FORTHWITH MORTGAGOR MAY PURSUE ANY REMEDY AVAILABLE TO IT AT LAW OR IN EQUITY, INCLUDING, WITHOUT LIMITATION, THE REMEDY OF SPECIFIC PERFORMANCE. PURSUANT TO WHICH MORTGAGEE, IN CONSIDERATION OF THE PROCEEDS THEN-REMITTED UNDER THE NOTE AND OTHER GOOD AND VALUABLE CONSIDERATION, THE SUFFICIENCY OF WHICH IS HEREBY ACKNOWLEDGED, HEREBY SPECIFICALLY WAIVES ANY RIGHT TO ASSERT A DEFENSE THERETO. BY ITS SIGNATURE HERETO, MORTGAGEE HEREBY INDEMNIFIES AND HOLDS MORTGAGOR HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, CAUSES OF ACTION, LIABILITIES, LOSSES, DAMAGES, JUDGMENTS, PENALTIES, COSTS AND EXPENSES IMPOSED UPON, ASSERTED AGAINST, OR INCURRED OR PAID BY MORTGAGOR BY REASON OF A FAILURE OF MORTGAGEE TO RELEASE ANY LOT FOLLOWING THE RECEIPT OF

PROCEEDS IN CONNECTION WITH THE INITIAL INSTALLMENT. ANY
LOT TAKEDOWN.

15. **Defaults:** That if there shall be any breach of any covenant or condition under Sections 3 or 14(a) of this Mortgage and cure thereof shall not be made within fifteen (15) calendar days following receipt of written notice thereof from Mortgagee or, except for sub-Sections 14(e), (f), or (g) hereof which shall be curable within the period so-stated, if there shall be any breach of any other condition or covenant of this Mortgage which shall exist for more than thirty (30) days following receipt of written notice of Mortgagee thereof, Mortgagee shall have the right to declare the entire indebtedness of Mortgagor under the Note forthwith due and payable; provided, however, that if there shall be any breach of the condition of Section 14(c) or 14(d), or in the event of death, dissolution, termination of existence, insolvency, or business failure of any of the parties to this note (meaning thereby makers, endorsers, and guaranters), appointment of a receiver of any part of the property of any of them, levy on or attachment of any of the property of any of them, assignment for benefit of creditors by or against any of them, the entire indebtedness of Mortgagor under the Note shall become immediately and automatically due and payable without notice or demand.

16. **Remedies.** During the continuance of a default under Section 15 hereof following the passage of any applicable cure period without cure of such default, the Mortgagee may, at any time thereafter, at its option and, to the extent permitted by applicable law, without notice, exercise any or all of the following remedies:

- (a) Declare the obligations of Mortgagor under the Note and this Mortgage (collectively, the "Obligations") due and payable, and the Obligations shall thereupon become immediately due and payable, without presentment, protest, demand or notice of any kind, all of which are hereby expressly waived by Mortgagor except for Obligations due and payable on demand, which shall be due and payable on demand whether or not an event of default has occurred hereunder;
- (b) Take possession of the Property (including all records and documents pertaining thereto) and exclude Mortgagor therefrom, and operate the Property as a mortgagee in possession with all the powers as could be exercised by a receiver or as otherwise provided herein or by applicable law;
- (c) Receive and collect all rents, income and profits from the Property, including as may arise under any lease affecting the Property, and Mortgagor appoints Mortgagee as its true and lawful attorney with the power for Mortgagee in its own name and capacity to demand and collect such rents, income and profits and take any action that Mortgagor is authorized to take under any such lease, if any. Each lessees under any leases affecting the Property is hereby authorized and directed, following notice from Mortgagee, to pay all amounts due Mortgagor thereunder to Mortgagee, whereupon such lessees shall be relieved of any and all duty and obligation to Mortgagor with respect to such payments so made;
- (d) Sell the Property or any part thereof or interest therein pursuant to exercise of its **STATUTORY POWER OF SALE** or otherwise at public auction on terms and conditions as Mortgagee may determine or otherwise foreclose this Mortgage in any manner permitted by law, and upon such sale, Mortgagor shall execute and deliver such instruments as Mortgagee may request in order to convey and transfer all of the Mortgagor's interest in the Property, and the same shall operate to divest all rights, title and interests of Mortgagor in

and to the Property. In the event this Mortgage shall include more than one parcel of property or subdivision (each hereinafter called a "portion"), Mortgagee, in its sole and exclusive discretion, is empowered to foreclose upon any such portion without impairing its right to foreclose subsequently upon any other portion or the entirety of the Property from time to time thereafter. In addition, Mortgagee may, in its discretion, subordinate this mortgage to one or more leases for the sole purpose of preserving any such lease in the event of a foreclosure;

- (e) Cause one or more environmental assessments to be taken, arrange for the clean-up of any Hazardous Substances, to the extent the same are attributable to the actions or omissions of Mortgagee, or otherwise cure Mortgagor's failure to comply with any statute, regulation or ordinance relating to the presence or clean-up of Hazardous Substances and Mortgagor shall provide Mortgagee or its agents with access to the Property for such purposes; provided that the exercise of any of such remedies shall not be deemed to have relieved the Mortgagor from any responsibility therefor or given the Mortgagee "control" over the Property or cause Mortgagee to be considered to be a mortgagee in possession, "owner" or "operator" of the Property for purposes of any applicable law, rule or regulation pertaining to Hazardous Substances; and
- (f) Take such other actions or proceedings as Mortgagee deems necessary or advisable to protect its interest in the Property and ensure payment and performance of the Obligations including, without limitation, appointment of a receiver (and Mortgagor hereby waives any right to object to such appointment) and exercise of any of Mortgagee's remedies provided in the Obligations or in any document evidencing, securing or relating to any of the Obligations or available to a secured party under the Uniform Commercial Code of Massachusetts or under other applicable law.

This Mortgage is upon the **STATUTORY CONDITION**, for any breach of which Mortgagee shall have the **STATUTORY POWER OF SALE** and any other remedies provided by applicable law including, without limitation, the right to pursue a judicial sale of the Property or any portion thereof by deed, assignment or otherwise. Mortgagor agrees and acknowledges that the acceptance by Mortgagee of any payments from either Mortgagor or Mortgagee during the continuance of any default following the expiration of any cure period therefor, the exercise by Mortgagee of any remedy set forth herein or the commencement of foreclosure proceedings against the Property shall not waive Mortgagee's right to foreclose or operate as a bar or estoppel to the exercise of any other rights or remedies of Mortgagee. Mortgagor agrees and acknowledges that Mortgagee, by making payments or incurring costs described herein, shall be subrogated to any right of Mortgagor to seek reimbursement from any third parties including, without limitation, any predecessor in interest to Mortgagor's title or other party who may be responsible under any law, regulation, or ordinance relating to the presence or clean-up of Hazardous Substances.

17. **Cumulative Rights and Remedies.** All of the foregoing rights, remedies and options are cumulative and in addition to any rights Mortgagee might otherwise have, whether at law or by agreement and may be exercised separately or concurrently. Mortgagor further agrees that Mortgagee may exercise any or all of its rights or remedies set forth herein without having to pay Mortgagor any sums for use or occupancy of the Property.

18. **Right to Cure; Additional Remedies.** That if there shall be any breach or default in any condition or covenant of this Mortgage, Mortgagee shall have the right, but without any obligation to do so, to cure such breach or default for the account of Mortgagor and, to the fullest extent permissible

according to law, apply any funds credited by or due from Mortgagee to Mortgagor or to any individuals comprising Mortgagor against the same (without any obligation first to enforce any other rights of Mortgagee, including, without limitation, any rights under the Note or this Mortgage, or any guarantee thereof, and without prejudice to any such rights); without limiting the generality of the foregoing, Mortgagor hereby authorizes Mortgagee to pay all taxes, sewer use fees, ground rents, water rates and assessments, with interest, costs, and charges accrued thereon, which may at any time be a lien upon the Property, or any part thereof; to pay the premiums for any insurance required hereunder, to undertake at Mortgagor's expense investigations of the physical condition of the Property, appraisals of the value of the Property and examinations of title or other matters of the factual or legal condition of the Property; to incur and pay reasonable expenses undertaking the investigations allowed and in protecting its rights hereunder and the security hereby granted including without limitation reasonable costs and expenses of appraisers, inspectors, engineers, consultants, management agents and attorneys; to pay any balance due on any personal property fixtures and equipment included as a part of the Property; and the payment of all amounts so incurred shall be secured hereby as fully and effectually as any other obligation of Mortgagor secured hereby; and, to the fullest extent permissible according to law, to apply to any of these purposes or to the repayment of any amounts so paid by Mortgagee under any sums paid on the Note or this Mortgage by Mortgagor as interest or otherwise; and that all remedies granted herein shall be cumulative and in addition to other remedies granted to Mortgagee by this Mortgage or at law.

19. **Waiver of Marshaling.** At any foreclosure sale, any combination, or all, of the Property may be offered for sale for one total price and the proceeds of such sale accounted for in one account without distinction between the items of security or without assigning to them any proportion of such proceeds, Mortgagor hereby waiving the application of any doctrine of marshaling; and, in case Mortgagee, in the exercise of the power of sale herein given, elects to sell in parts or parcels, said sales may be held from time to time, and the power shall not be fully executed until all of the property or security not previously sold shall have been sold.

20. **UCC Notices.** If the provisions of the Uniform Commercial Code as adopted in Massachusetts are applicable to any property or security given to secure the indebtedness secured hereby which is sold in combination with or as a part of the Property, or any part thereof, at one or more foreclosure sales, any notice required under such provisions shall be fully satisfied by the notice given in execution of the Statutory Power of Sale with respect to the Property or any part thereof.

21. **Obligation.** Mortgagor will promptly and fully pay and perform each and every obligation of Mortgagor to be performed under the Note and this Mortgage.

22. **Certain Defined Terms.**

The word "Mortgagor", as used herein, shall mean the person or persons named at the beginning of this instrument as Mortgagor. If Mortgagor is a partnership, provisions in this Mortgage with reference to bankruptcy or insolvency or the like shall refer to each of the persons who is at that time one of the general partners of Mortgagor, so that if, for example, but without limitation, any person who is a general partner of Mortgagor shall file a petition in bankruptcy, such filing shall be treated as a breach by Mortgagor of a condition of this Mortgage.

The word "Liabilities" and "Obligations" as used herein, shall include, without limitation, (unless specifically excepted below) any and all liabilities, debts and obligations of Mortgagor to Mortgagee, including, without limitation, those contained in the Note. The words "Liabilities" and "Obligations" shall also include all interest and other charges chargeable to Mortgagor or due from

Mortgagor to Mortgagee, from time to time, and all costs or expenses incurred or paid by Mortgagee to enforce this or any other agreement between Mortgagor and Mortgagee.

As used herein, the word "indirect" includes without limitation all obligations and liabilities that Mortgagee may incur or become liable for on account of or as a result of any financial transactions between Mortgagor and Mortgagee.

As used herein, the term "Indebtedness" includes without limitation, any and all loans, advances and other credits made at any time by Mortgagee to or on account of Mortgagor and includes all liabilities and obligations of a financial nature and all costs, costs of collection, attorney's fees and any other amounts paid by Mortgagee on behalf of Mortgagor or on account of Mortgagor's transactions with Mortgagee.

As additional security hereunder, Mortgagor hereby collaterally assigns to Mortgagee, Mortgagee's rents of the Property and, upon the continuance of a default hereunder following the lapse of any cure period with respect thereto, the same may be collected without the necessity of making entry upon the Property.

All the covenants and agreements of Mortgagor herein contained shall be binding upon Mortgagor and its administrators and shall inure to the benefit of Mortgagee, its successors and assigns, and, where more than one person constitutes Mortgagor the liability of such persons under this Mortgage for the obligations set forth herein shall be joint and several.

Each of Mortgagor and Mortgagee hereby knowingly, voluntarily, intentionally and irrevocably waives any right either of them may have to a trial by jury in respect of any litigation, action or proceeding which arises out of, or is in any way connected with this Mortgage or the Note or any other instrument or document executed in connection herewith or any of the transactions contemplated herein or therein.

Capitalized terms herein shall have the meanings set forth on Page 1 of this Mortgage. Capitalized terms not otherwise defined herein shall bear the meanings ascribed such terms in the Note. Paragraph captions are used only for convenience and are not intended to import additional or different meanings from the text of such paragraphs or to limit such texts.

Executed as of this _____ day of _____, 202__.

MORTGAGOR:

FRANKLIN HOLDINGS LLC

By: _____
Laurinda A. Carroll, its duly-authorized Sole
Manager

COMMONWEALTH OF MASSACHUSETTS

Norfolk, ss.

On this ___ day of _____, 202___, before me, the undersigned notary public, personally appeared Laurinda A Carroll, proved to me through satisfactory evidence of identification which was a valid Massachusetts driver's license bearing her photographic image, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that she signed it voluntarily for its stated purpose in the above-noted capacity.

Notary Public:
My commission expires:

EXHIBIT A

Description of the Mortgaged Premises

Four (4) lots of land, with all buildings and improvements thereon, if any, situated on the easterly side of Maple Street in the northerly part of said Franklin, MA, and being shown as Parcel 1, Parcel 2, Parcel 3 and Parcel 4 on a certain plan of land entitled "Plan of Land in Franklin, Mass., Prepared for Henry D. Labastie, dated February 1, 1990, prepared by Clayton T. Ryan, Jr., P.L.S. (hereinafter "Plan"), which Plan is Recorded with the Norfolk County Registry of Deeds as Plan No. 97 of 1990 in Plan Book 389, and to which Plan reference is hereby made for a more particular description of such premises.

The above-described premises contain 68.4456 acres of land, more or less, according to said Plan.

EXHIBIT G

Form of Exclusive Rights Notice

[to be attached]

**NOTICE OF PURCHASE AGREEMENT AND OF DEVELOPMENT AND
PERMITTING RIGHTS IN FAVOR OF FRANKLIN HOLDINGS, L.L.C.**

[68 Acres Located off Maple Street, Franklin, Massachusetts]

NOTICE is hereby given that LABASTIE FRANKLIN FAMILY, L.L.C., a Delaware limited liability company, qualified in the Commonwealth of Massachusetts, with a principal place of business at 469 Maple Street, Franklin, Massachusetts 02038 (the "Owner") and FRANKLIN HOLDINGS L.L.C., a Massachusetts limited liability company with a principal place of business of 14 Camp Road, Massachusetts 02035, together with its development affiliate Carroll Construction Corp., a Massachusetts corporation also with a principal place of business of 14 Camp Road, Massachusetts 02035 (collectively, the "Buyer") have, for good and valuable consideration, entered into a Purchase and Sale Agreement dated as of even date herewith (the "Agreement") by which the Buyer has agreed, subject to its ability prior to the closing of such purchase to obtain the permitting and approvals necessary for the development of the Premises (as defined below) as provided in the Agreement, to purchase from the Owner those premises, measuring approximately sixty-eight (68) acres located off of Maple Street in Franklin, Massachusetts and identified as "Parcel 2" in that Quitclaim Deed of Henry D. Labastie dated November 21, 2007 and recorded at the Norfolk County Registry of Deeds at Book 25317, Page 578, all as more particularly described at Exhibit "A" hereto, including all buildings and other improvements located at the Premises, together with all of the right, title and interest of the Seller in any permits, rights, options and other intangible rights associated therewith (the "Premises").

In addition, pursuant to the Agreement, the Seller has granted the Buyer the right to undertake zoning and other approvals and permitting necessary under the terms of the Agreement of the Premises and has authorized the Buyer on the Seller's behalf to execute and file such documents with the various departments and boards and other authorities of the Town of Franklin, the County of Norfolk, the Commonwealth of Massachusetts and the federal government as may be necessary to commence and prosecute the contemplated permitting, zoning and other relief contemplated in the Agreement with respect to development of the Premises.

Time is of the essence with respect to the Exclusive Right.

EXECUTED UNDER SEAL as of this ____ day of February, 2020.

FRANKLIN LABASTIE FAMILY L.L.C.
Seller

By: _____
Steven H. Labastie, Sole Manager
duly authorized

FRANKLIN HOLDINGS LLC
Buyer

By: _____
Laurinda A. Carroll, Sole Manager
duly-authorized

CARROLL CONSTRUCTION CORP.

By: _____
Mark Carroll, President, *duly-authorized*

COMMONWEALTH OF MASSACHUSETTS

Norfolk, ss.

February __, 2020

Before me personally appeared the above-named Steven H. Labastie, proved to me through satisfactory evidence of identification, which was a valid, current Massachusetts driver's license [OR _____] bearing his photographic image, to be the person who signed the preceding document in my presence, and who acknowledged to me that he signed it voluntarily for its stated purpose as the Sole Manager of Labastie Franklin Family L.L.C.

[PLACE NOTARY STAMP OR SEAL HERE]

Name of Notary Public: _____
My Commission Expires: _____

COMMONWEALTH OF MASSACHUSETTS

Norfolk, ss.

February __, 2020

Before me personally appeared the above-named Laurinda A. Carroll, proved to me through satisfactory evidence of identification, which was a valid, current Massachusetts driver's license [OR _____] bearing her photographic image, to be the person who signed the preceding document in my presence, and who acknowledged to me that she signed it voluntarily for its stated purpose as the Sole Manager of Franklin Holdings, L.L.C.

[PLACE NOTARY STAMP OR SEAL HERE]

Name of Notary Public: _____
My Commission Expires: _____

COMMONWEALTH OF MASSACHUSETTS

Norfolk, ss.

February __, 2020

Before me personally appeared the above-named Mark Carroli, proved to me through satisfactory evidence of identification, which was a valid, current Massachusetts driver's license [OR _____] bearing his photographic image, to be the person who signed the preceding document in my presence, and who acknowledged to me that he signed it voluntarily for its stated purpose as the President of Franklin Construction Corp.

[PLACE NOTARY STAMP OR SEAL HERE]

Name of Notary Public: _____
My Commission Expires: _____

EXHIBIT "A"

PROPERTY DESCRIPTION

Four (4) lots of land, with all buildings and improvements thereon, if any, situated on the easterly side of Maple Street in the northerly part of said Franklin, MA, and being shown as Parcel 1, Parcel 2, Parcel 3 and Parcel 4 on a certain plan of land entitled "Plan of Land in Franklin, Mass., Prepared for Henry D. Labastie, dated February 1, 1990, prepared by Clayton T. Ryan, Jr., P.L.S. (hereinafter "Plan"), which Plan is Recorded with the Norfolk County Registry of Deeds as Plan No. 97 of 1990 in Plan Book 389, and to which Plan reference is hereby made for a more particular description of such premises.

The above-described premises contain 68.4456 acres of land, more or less, according to said Plan.

SCHEDULE 5.4

Seller Pending or Threatened Litigation

None to the Actual Knowledge of the Seller

SCHEDULE 5.5

Seller Written Notices Regarding Violations of Laws

Note, to the Actual Knowledge of the Seller

SCHEDULE 5.9

**Seller Required Approvals and Consents with Respect to
this Agreement or the Transaction Contemplated Thereby**

1. Waiver of Statutory Right of First Refusal in favor of Town of Franklin regarding Premises

From the office of:
Mark G. Cerel, Franklin Town Attorney
Franklin Municipal Building
355 East Central Street
Franklin, MA 02038
Tel. No.: (508) 520-4964
Fax: (508) 520-4903
Email: mcerel@franklinma.gov

**STANDARD FORM
PURCHASE AND SALE AGREEMENT**

This ____ day of _____ 2021

1. PARTIES AND MAILING ADDRESSES
(fill in)
Franklin LaBastie Family, LLC, a duly-organized Delaware limited liability company with a business address at 469 Maple Street, Franklin, MA, hereinafter called SELLER agrees to sell and Town of Franklin, a municipal corporation with administrative offices located in the Franklin Municipal Building at 355 East Central Street, Franklin, MA acting by and through its Town Administrator, duly-authorized, hereinafter called the BUYER or TOWN, agrees to BUY, upon the terms hereinafter set forth, the following described premises:
2. DESCRIPTION
(fill in and include title reference)
Six parcels of unimproved land consisting of four parcels of land shown as Parcel 1, Parcel 2, Parcel 3 and Parcel 4 on a plan of land recorded at Norfolk County Registry of Deeds as Plan No. 97 of 1990 in Plan Book 389 containing a total of 68.4456 acres more or less, according to said plan, said land also being shown on Town of Franklin Assessor's Map 234, Parcel 12, and two parcels of land shown as Parcel A and Parcel B on a plan of land recorded at Norfolk County Registry of Deeds in Plan Book 701 at Page 16 containing a total of 52,178 square feet, more or less, according to said plan, said land also being shown on Town of Franklin Assessors Map 235 as a portion of Parcel 142 (hereinafter collectively: "Land").
3. BUILDINGS, STRUCTURES, IMPROVEMENTS, FIXTURES
(fill in or delete)
None
4. TITLE DEED
(fill in)
** Include here by specific reference any restrictions, easements, rights and obligations in party walls not included in (b) leases, municipal and other liens, other encumbrances, and make provision to protect SELLER against BUYER's breach of SELLER's covenants in leases, where necessary.*
Said 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 the SELLER at least seven 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;
 - e Easements, restrictions and reservations of record, if any, so long as the same do not prohibit or materially interfere with full and unrestricted access from the parcel's frontage to all remaining land which comprises the parcel.

5. PLANS If said deed refers to a plan necessary to be recorded therewith the SELLER shall deliver such plan with the deed in form adequate for recording or registration.
6. REGISTERED TITLE In addition to the foregoing, if the title to said premises is registered, said deed shall be in form sufficient to entitle the BUYER to a Certificate of Title of said premises, and the SELLER shall deliver with said deed all instruments, if any, necessary to enable the BUYER to obtain such Certificate of Title.
7. PURCHASE PRICE
(fill in); space is allowed to write out the amounts if desired
- | | | |
|--|---|---|
| The agreed purchase price for said premises is | four million, five hundred, ninety thousand dollars (\$4,590,000), of which | |
| \$ 5,000 | | have been paid as deposit this day and |
| \$ | | |
| \$4,585,000 | | are to be paid at the time of delivery of the deed in cash, or by certified, cashier's, treasurer's or bank check(s). |
| \$ | | |
| \$4,590,000 | TOTAL | |
-
8. TIME FOR PERFORMANCE; DELIVERY OF DEED *(fill in)* Such deed is to be delivered at 10:00 o'clock A.M. on the ___ day of _____, 2021, at the Franklin Municipal Building, Town Administrator's Offices, Third Floor, 355 East Central Street, Franklin, MA, unless otherwise agreed upon in writing. It is agreed that time is of the essence of this agreement.
9. POSSESSION AND CONDITION OF PREMISE.
(attach a list of exceptions, if any) 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) not in violation of said building and zoning laws, and (c) in compliance with provisions of any instrument referred to in clause 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 the clause.
10. EXTENSION TO PERFECT TITLE OR MAKE PREMISES CONFORM
(Change period of time if desired). 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 the SELLER shall 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 days.
11. FAILURE TO PERFECT TITLE OR MAKE PREMISES CONFORM, etc. 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.
12. 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, except that in the event of such conveyance in accord with the provisions of this clause, if the said premises shall have been damaged by fire or casualty insured against, then the SELLER shall, unless the SELLER has previously restored the premises to their former condition, either
- a Pay over or assign to the BUYER, on delivery of the deed, all amounts recovered or recoverable on account of such insurance, less any amounts reasonably expended by the SELLER for any partial restoration, or
 - b If a holder of a mortgage on said premises shall not permit the insurance proceeds or a part thereof to be used to restore the said premises to their former condition or to be so paid over or assigned, give to the BUYER a credit against the purchase price, on delivery of the deed, equal to said amounts so recovered or recoverable and retained by the holder of the said mortgage less any amounts reasonably expended by the SELLER for any partial restoration.

13. ACCEPTANCE OF DEED The acceptance of a deed by the BUYER or his 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 said deed.
14. USE OF MONEY TO CLEAR TITLE To enable the SELLER to make conveyance as herein provided, the SELLER may, at the time of delivery of the deed, use the purchase money or any portion thereof to clear the title of any or all encumbrances or interests, provided that all instruments so procured are recorded simultaneously with the delivery of said deed.
15. INSURANCE
**Insurance amount (list additional types of insurance and amounts as agreed)*
- Until the delivery of the deed, the SELLER shall maintain insurance on said premises as follows:
- | <i>Type of Insurance</i> | <i>Amount of Coverage</i> |
|-------------------------------|---------------------------|
| a. Fire and Extended Coverage | *\$As presently insured |
- Risk of loss shall remain with SELLER pending closing.
16. ADJUSTMENTS
(list operating expenses, if any, or attach schedule) Taxes for the then current fiscal year, shall be apportioned, as of the day of performance of this agreement and the net amount thereof shall be added to or deducted from, as the case may be, the purchase price payable by the BUYER at the time of delivery of the deed.
17. 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, with a reapportionment as soon as the new tax rate and valuation can be ascertained; and, if the taxes which are to be apportioned shall thereafter be reduced by abatement, the amount of such abatement, less the reasonable cost of obtaining the same, shall be apportioned between the parties, provided that neither party shall be obligated to institute or prosecute proceedings for an abatement unless herein otherwise agreed.
18. BROKER'S FEE
(fill in fee with dollar amount or percentage; also name of Brokerage firm(s)) Not applicable; no real estate broker involved.
19. BROKER(S) WARRANTY
(fill in name) Not applicable; no real estate broker involved.
20. DEPOSIT
(fill in name) All deposits made hereunder shall be held in escrow by Florence M. Spillane, attorney for SELLER, as escrow agent subject to the terms of this agreement and shall be duly accounted for at the time for performance of this agreement.
21. 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 liquidated damages and this shall be SELLER'S sole and exclusive remedy, both at Law and in Equity.
22. RELEASE BY HUSBAND OR WIFE Not applicable.
23. BROKER AS PARTY Not applicable; no real estate broker involved.

- | | | |
|-----|--|--|
| 24. | 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. |
| 25. | WARRANTIES AND REPRESENTATIONS <i>(fill in); if none, state "none"; if any listed, indicate by whom each warranty or representation was made</i> | The BUYER acknowledges that the BUYER has not been influenced to enter into this transaction nor has he relied upon any warranties or representations not set forth or incorporated in this agreement or previously made in writing, except for the following additional warranties and representations, if any, made by either the SELLER or the Broker(s);
See Addendum attached hereto and incorporated herein. |
| 26. | MORTGAGE CONTINGENCY CLAUSE <i>(omit if not provided for in Offer to Purchase)</i> | Not applicable. |
| 27. | CONSTRUCTION OF AGREEMENT | This instrument, executed in multiple counterparts, is to be construed as a Massachusetts contract, is to take effect as a sealed instrument, sets forth the entire contract between the parties, is binding upon and enures to the benefit of the parties hereto and their respective heirs, devisees, executors, administrators, successors and assigns, and may be cancelled, modified or amended only by a written instrument executed by both the SELLER and the BUYER. If two or more persons are named herein as BUYER their obligations hereunder shall be joint and several. The captions and marginal notes are used only as a matter of convenience and are not to be considered a part of this agreement or to be used in determining the intent of the parties to it. |
| 28. | LEAD PAINT LAW | Not applicable; unimproved land. |
| 29. | SMOKE DETECTORS | Not applicable; unimproved land. |
| 30. | ADDITIONAL PROVISIONS | See Addendum attached hereto and incorporated herein. |

SELLER:

Franklin LaBastie Family, LLC, by:

BUYER:

Town of Franklin, by its Town Administrator, duly-authorized:

Steven H. LaBastie, Manager

Jamie Hellen

EXTENSION OF TIME FOR PERFORMANCE

Date _____

The time for the performance of the foregoing agreement is extended until _____ o'clock
_____ M. on the _____ day of _____ 20____, time still being of
the essence of this agreement as extended. In all other respects, this agreement is hereby ratified and confirmed.
This extension, executed in multiple counterparts, is intended to take effect as a sealed instrument.

SELLER

SELLER

SELLER

BUYER

Broker(s)

ADDENDUM to Purchase and Sale Agreement between Franklin LaBastie Family, LLC, SELLER and Town of Franklin, BUYER, for land located off Maple Street, Franklin, Massachusetts:

30. (a) If any paragraph contained in this Addendum conflicts in any way with the printed form of the Purchase and Sale Agreement then the paragraph contained in this Addendum shall control.
- (b) Any matter or practice arising under or relating to this Agreement which is the subject of a practice standard of the Massachusetts Conveyancers Association shall be governed by such standard to the extent applicable, unless otherwise provided for herein.
- (c) Should the context of any paragraph, condition, term or provision of this Purchase and Sale Agreement and/or Addendum thereto require that same should survive the merger of the Agreement into the Deed, then any such paragraph, condition, term or provision shall so survive and maintain independent significance.
- (d) SELLER warrants and represents that it has not disposed of any petroleum, waste oil or other hazardous materials as defined by G.L. Chapter 21E on the property and that, to the best of its knowledge, the property does not contain any such hazardous materials.
- (e) The SELLER agrees to allow the BUYER, its agents or designees, to have access to the premises for the purpose of having inspections, performing testing, taking measurements, etc.
- (f) It is understood and agreed by the parties that the premises shall not be in conformity with the title provisions of this Agreement unless:
- (i) All buildings, structures and improvements, including but not limited to any driveways, parking spaces, landscaping, drainage structures and utilities, 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 entity with the exception of easements of record.
 - (ii) No building, structure, or improvements of any kind belonging to any other person or entity shall encroach upon or under said premises, with the exception of easements of record;
 - (iii) The premises shall abut or have access to a public way duly laid out or accepted as such by the city or town in which said premises are located; and
 - (iv) Title to the premises is insurable for the benefit of the BUYER by a title insurance company at normal premium rates in the American Land Title Association form currently in use, subject only to those printed exceptions to title normally included in the "jacket" to such form and to exceptions set forth in Paragraph 4 of this Agreement.
 - (v) The premises are presently in conformity with the Town of Franklin Zoning and Town by-laws and the proposed conveyance will not result in a violation thereof.
- (g) At the time of delivery of the SELLER'S Deed, the SELLER, if requested, shall execute and deliver an affidavit to any title insurance company insuring title to the premises to the BUYER and/or lender granting mortgage financing to the BUYER with respect to the premises stating that there are no parties in possession of the premises and that no work has been done on the premises which would entitle anyone to claim a mechanic's or laborer's lien with respect to the premises.
- (h) At the time of the delivery of the SELLER'S Deed, the SELLER shall execute and deliver to the BUYER and any title insurance company insuring title to the premises (for the BUYER or for any lender granting mortgage financing to the BUYER with respect to the premises) either (i) affidavits setting forth that the SELLER is not a foreign person or foreign corporation and providing the SELLER'S United States Taxpayer Identification Number, or (ii) such other documentation as is required by Section 1445 of the Internal Revenue Code and any regulations promulgated thereunder to exempt the SELLER and/or the sale of the premises from the provisions of said Section 1445.
- (i) At the time of delivery of SELLER'S Deed, the SELLER shall execute and deliver such other affidavits and documents as may be requested by the Town's attorney, consistent with usual conveyancing practices.

(j) All references to the "then current year" and like references with respect to real estate taxes payable for the premises shall be construed to mean the then current fiscal tax period within which such taxes are payable.

(k) All notices required or permitted to be given hereunder shall be in writing and delivered by hand or mailed postage prepaid by registered or certified mail, in case of the:

Sellers to: Franklin LaBastie Family, LLC
469 Maple Street
Franklin, MA 02038
Attn: Steven H. LaBastie, Manager

with simultaneous copy to its attorney:
Spillane and Spillane
83 Mechanic Street
Foxboro, MA 02035
Attn: Attorney Florence M. Spillane

Buyer to: Franklin Municipal Building
355 East Central Street
Franklin, MA 02038
Attn: Franklin Town Administrator

with simultaneous copy to their attorney:
Mark G. Cerel, Esq.
Franklin Municipal Building
355 East Central Street
Franklin, MA 02038

Or in the case of either party to such other address as shall be designated by written notice given to the other party. Any such notice shall be deemed given when so delivered by hand or if mailed certified mail, return-receipt requested, on the date shown on the return-receipt.

(l) The SELLER shall deliver the premises at the time of delivery of the SELLER'S Deed removing all of the SELLER'S possessions therefrom not being sold to the BUYER.

(m) SELLER warrants and represents that:

1. It is a duly-organized and existing limited liability company under laws of State of Delaware.
2. It has a right to do business within Commonwealth of Massachusetts and is in good standing with Massachusetts Secretary of State's office.
3. It has no outstanding tax liabilities to either United States or Commonwealth of Massachusetts.
4. Steven H. LaBastie is its Manager and has full authority to enter into and to consummate this transaction on its behalf.

It shall be a condition of BUYER'S obligation to perform that the foregoing representations remain accurate. SELLER shall provide documentation thereof satisfactory to BUYER or its closing attorney.

(n) SELLER further warrants and represents that:

1. Premises are not the subject of any outstanding agreements with any party pursuant to which any such party may acquire any interest in the premises, other than mortgagees.
2. SELLER has no knowledge of any litigation or proceeding, pending or threatened, against or relating to the premises.

3. SELLER has received no written notice from (A) any public authority that (i) the premises are not zoned for their present use, or (ii) there exists with respect to the premises any condition which violates any municipal, state or federal law, rule or regulation, or (B) any insurance carrier of the premises regarding any dangerous, illegal or other condition requiring any corrective action, that has not already been fully complied with.
4. To the best of the SELLER'S knowledge, all terms and conditions of recorded restrictive agreements applicable to the premises have been met.

(o) SELLER hereby consents to a confirmatory taking if Town's attorney deems it necessary or desirable to clear title; in the event of a confirmatory taking, SELLER accepts the amount paid pursuant to this Agreement in full compensation and agrees that this provision constitutes a written waiver of any and all claims for further compensation or for damages, direct or indirect. This provision shall survive the delivery of the deed.

Franklin LaBastie Family, LLC, Seller, by:

Town of Franklin, by its Town Administrator,
duly authorized, Buyer:

Steven H. LaBastie, Manager

Jamie Hellen

Date

Date