


# Memo

**To:** Town Council  
**From:** Jeffrey Nutting   
**Date:** September 21, 2017  
**Re:** RFP – Nu-Style Property

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As you are aware, the Nu-Style property cleanup has dragged on for a very long time.

We are at a point that we would need to request another round of funding to remove the collapsed building and do further testing around the building. This would cost hundreds of thousands of dollars.

In lieu of that solution, we thought it was worthwhile to issue a Request for Proposal (RFP) to see if someone wished to purchase the land for \$100 and clean up the site.

A private company or property owner can accomplish the cleanup for less money than the town and apply for tax credits. If no one bids then we will have to look at resuming the cleanup process ourselves.

I am happy to answer any questions that you may have.



Sponsor: Administration

## TOWN OF FRANKLIN

### RESOLUTION 17-59

#### DECLARATION OF TOWN-OWNED LAND ON GROVE STREET (REMAINING PORTION OF FORMER NU-STYLE PROPERTY) AS SURPLUS AND AVAILABLE FOR DISPOSITION

**WHEREAS**, Town owns a parcel of land on Grove Street shown on a plan of land captioned "Plan of Land Grove Street and Old Grove Street Franklin, Massachusetts for Town of Franklin 355 East Central Street Franklin, Massachusetts December 7, 2015 Scale 1" = 20" prepared by United Consultants, Inc. and recorded at Norfolk County Registry of Deeds in Plan Book 647 at Page 20, and

**WHEREAS**, Town is not currently using and does not intend to use "Lot 1" shown on said plan and containing 24,813 square feet, more or less, according to said plan, with the exception of a twenty-foot wide sewer easement abutting Grove Street, also shown on said plan,

**NOW, THEREFORE, BE IT RESOLVED** that the Town of Franklin, acting by and through its Town Council:

1. Declares the parcel of Town-owned land shown as "Lot 1" on the plan of land described above to be no longer needed for municipal purposes, except for the twenty-foot wide sewer easement also described above, and therefore to be surplus and available for disposition (sale), subject to the reserved sewer easement abutting Grove Street, shown on said plan.
2. Directs the Town's Chief Procurement Officer to prepare and issue an "Invitation to Bid" or "Request for Proposals" for the disposition (sale) of said parcel in accordance with the requirements of G.L. Chapter 30B, Section 16, containing a minimum bid price of one hundred dollars (\$100) and such other terms and conditions as the Town Administrator determines to be in Town's best interests.
3. Directs the Town Administrator to submit all qualifying responses to the "Invitation to Bid" or "Request for Proposals", together with his and Planning Department's recommendations, to the Town Council for its consideration and potential acceptance of the bid or proposal it determines to be most advantageous to the Town, the Council expressly reserving its right to reject all bids and/or proposals if, in its sole discretion, it deems none of the bids or proposals to be in the Town's best interests, financial or otherwise.

This Resolution shall become effective according to the rules and regulations of the Town of Franklin Home Rule Charter.

DATED: \_\_\_\_\_, 2017

VOTED:  
UNANIMOUS \_\_\_\_\_

A True Record Attest:

YES \_\_\_\_\_ NO \_\_\_\_\_

ABSTAIN \_\_\_\_\_

Teresa M. Burr  
Town Clerk

ABSENT \_\_\_\_\_

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Judith Pond Pfeffer, Clerk  
Franklin Town Council



**TOWN OF FRANKLIN  
REQUEST FOR PROPOSALS**

**DISPOSAL OF REAL PROPERTY  
FORMER NU-STYLE PROPERTY, 21 GROVE STREET**

In accordance with the provisions of Massachusetts General Laws, Chapter 30B, §16 the Town of Franklin seeks written proposals to purchase and redevelop the so-called *Nu-Style Property* (Assessor's Map 276, Lot 22). The Town-owned former manufacturing property is located at 21 Grove Street, 0.2 mile south of West Central Street (Route 140) and approximately 0.3 mile from I-495's Exit 17.

The 35,923+/- square feet (0.825+/- acre) parcel has had a long industrial history (at least 90 years) including textiles and costume jewelry, and is the location of a dilapidated former manufacturing building and at least some contaminated soil and groundwater. The primary environmental concerns at the site are chlorinated volatile organic compounds in the bedrock aquifer and shallow overburden groundwater, and polycyclic aromatic hydrocarbon compounds in soil and sediment, as well as hazardous building materials including lead and asbestos.

A substantial amount of assessment activities have been conducted to characterize the nature and extent of releases and hazardous building materials at the site; however, the full extent of groundwater contamination is not known. The Developer will be required to demolish the site's building, and complete assessment and remedial response actions in order to prepare the site for redevelopment, including achieving compliance with the Massachusetts Contingency Plan (310 CMR 40.0000), Massachusetts Department of Environmental Protection requirements.

The Town hopes to hear from a variety of individuals and organizations who will present proposals for the redevelopment of the Business-zoned site. Multiple proposals (with alternative concept plans and building designs) from the same developer are welcome.

Copies of this Request for Proposals (RFP) may be obtained at the Procurement Office, Franklin Municipal Building, Room 206, 355 East Central Street, Franklin, Massachusetts, or by calling 508-520-4918 Monday, Tuesday, Thursday between 8:00AM - 4:00 PM, Wednesday between 8:00AM- 6:00 PM, and Friday between 8:00AM - 1:00 PM.

Proposals that meet the minimum requirements in Section II and basic submittal requirements outlined in Section III of this RFP will be rated as "responsive", and shall be further evaluated in accordance with the comparative evaluation criteria outlined in Section IX.

The Town reserves the right to reject in whole or in part any and all proposals. This RFP may be cancelled if the Town determines that cancellation serves the best interests of the Town of Franklin.

Minimum Bid Price. Due to the fact that the Town is seeking redevelopment of the Property that contains a building requiring demolition and soil and groundwater contamination, and based upon a recent real estate appraisal, a minimum bid price for the Property has been established as \$100.

Proposal Submission Deadline. Interested Developers are asked to submit an original (un-bound) and eight (8) copies of their Proposal to Franklin's Purchasing Agent, by the 11:00 a.m. Thursday November 16, 2017 submission deadline.

Site Visit. The Town will conduct an informal session and tour of the site at 10:30 a.m. Thursday, October 26, 2017. The Town requests interested parties meet at the site (21 Grove Street). Please note the site's building is not safe to enter and has been fenced off; access to the building's interior or the rear of the building will not be allowed during the site visit.

Additional Information: The Town of Franklin invites you to examine reference documents found on the Town's website:

<http://www.franklinma.gov/planning-community-development/pages/21-grove-street-rfp>

In addition, the majority of environmental assessment documents listed in Attachment D of this RFP are available for review at the Town of Franklin's Planning and Community Development Office during regular office hours.

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

John Bugbee, Purchasing Officer  
Franklin Purchasing Department  
355 East Central Street, Room 206  
Franklin, MA 02038  
Phone: 508-553-4866  
Fax: 508-541-5253  
Email: [jbugbee@franklinma.gov](mailto:jbugbee@franklinma.gov)

## I. PROPERTY DESCRIPTION AND SITE HISTORY

The Town of Franklin seeks written proposals to purchase and redevelop the so-called *Nu-Style Property* (Assessor's Map 276, Lot 22). The Town-owned 35,923+/- square feet (0.825+/- acre) parcel is a former manufacturing property located at 21 Grove Street, 0.2 mile south of West Central Street (Route 140) and approximately 0.3 mile from I-495's Exit 17. A location map is in Attachment A.

The site has had a long industrial history (at least 90 years) including textiles and costume jewelry, and is the location of a dilapidated former manufacturing building and at least some contaminated soil and groundwater. The building was historically occupied by Norfolk Woolen Mills, Unionville Woolen Mills, Franklin Paint Company, and most recently by Nu-Style Company and Image Jewelry. Materials used and stored at the site associated with jewelry manufacturing include cyanides, metals, chlorinated solvents, and petroleum products. Additional substances associated with textile manufacturing were also likely used. Use of oil and hazardous materials ceased at the property in 1989.

The primary environmental concerns at the site are chlorinated volatile organic compounds in the bedrock aquifer and shallow overburden groundwater, and polycyclic aromatic hydrocarbon compounds in soil and sediment, as well as hazardous building materials including lead and asbestos.

A substantial amount of assessment activities have been conducted to characterize the nature and extent of releases and hazardous building materials at the site; however, the full extent of groundwater contamination is not known. A summary of assessment and remediation activities is included in Attachment C, and a list of environmental documents related to the Nu-Style property is in Attachment D.

The site's existing building (Building II) is adjacent to Mine Brook on the west side of the property. Originally built in 1945 the building has had at least two additions, one of which joined Building II to an adjacent former Nu-Style building, which is currently privately owned. The former manufacturing facility is a 4,000+ sf one and one-half story building, which is dilapidated, unsafe, blight on the neighborhood, and presents a risk to public health and safety. In 2014 substantial portions of the building collapsed; at that time the site was fenced to limit exposure and enhance safety.

The Developer will be required to demolish Building II, and complete assessment and remedial response actions in order to prepare the site for redevelopment, including achieving compliance with the Massachusetts Contingency Plan (310 CMR 40.0000), Massachusetts Department of Environmental Protection requirements.

Various reference documents, including several environmental assessment documents listed in Attachment D, are available on the Town's web site. The environmental documents available on the web site are the most recent documents available. Hard copies of additional environmental assessment reports are available for review at the Town of Franklin's Planning and Community Development Office during regular office hours:

Department of Planning and Community Development  
355 East Central Street  
Franklin, MA 02038-1352  
Phone: [508-520-4907](tel:508-520-4907)  
Fax: [508-520-4906](tel:508-520-4906)  
Email: [btaberner@franklinma.gov](mailto:btaberner@franklinma.gov)

Attachment E of this document is a list of available resources. **Development Teams should examine all available information and materials. Failure to do so will be at Development Team's risk.**

**Utilities.** Municipal water and sewer, and electricity are available on site or directly adjacent on Grove Street.

**Zoning.** The subject parcel is located within Franklin's Business Zoning District; the intent of the B

zoning district, as described in Subsection C of Section 185-4 Districts Enumerated is as follows:

The Business District (B) is intended primarily for nonresidential uses such as office, retail, service, trade, restaurant, and other commercial uses with some limited industrial uses in a suburban commercial environment.

Dimensional restrictions (setbacks, height, impervious coverage) are provided in Attachment 9 of the Town's Zoning Bylaw. Attachments 2 through 8 of the Zoning Bylaw is a list of land uses allowed by right or through special permits. Proposals needing regulatory relief should demonstrate a high probability of permitting approval within a reasonable time frame. The speed and probability of securing approvals will influence the evaluation of the proposal. The Town of Franklin's Zoning Bylaw can be found on the Town's website at: <http://ecode360.com/10434967>.

**Economic Development.** The Property is within the North Grove Street Economic Opportunity Area and as such the Town can offer businesses looking to start up or expand in Franklin a Tax Increment Finance (TIF) agreement. To qualify for a TIF the Developer's proposal would need to include a project that meet specific requirements, including meeting mandatory requirements within 402 CMR 2.00, result in creation of new permanent jobs, and also either result in redevelopment of empty or underutilized industrially or commercial properties, or development of new facilities. Additional information concerning this incentive is available on the Town's website.

## II. MINIMUM TOWN REQUIREMENTS FOR SITE DEVELOPMENT

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

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

- Price: The minimum bid price for the property, as voted by Franklin Town Council, is \$100 with the stipulations contained in this RFP.
- Demolition of the former Nu-Style manufacturing facility (Building II) and removal and off-site disposal of building materials and components within one (1) year of conveyance of the property.
- Complete environmental assessment and remedial response actions, including achieving compliance with the Massachusetts Contingency Plan (310 CMR 40.0000), Massachusetts Department of Environmental Protection requirements, within two years of conveyance.
- Development of the site for uses currently allowed by-right or by special permit; please refer to the Town of Franklin's Zoning Bylaw.
- Nonprofit Use: Any nonprofit user will be expected to sign a "payment-in-lieu of taxes" (PILOT) agreement acceptable to the Town.
- Proposals will include all information requested in Section III of this RFP.

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

- Develop the Property in a way that will esthetically enhance the neighborhood.
- Stimulate economic development within the area, including creation of new temporary construction and permanent living wage positions.
- Proposals that include private/public partnerships, or subdivision of the Property are welcome.
- The Town is willing to consider multiple development options for the Property from a single developer.



### III. SUBMISSION REQUIREMENTS

Each Proposal shall contain the information requested in this Section of the RFP. Development Teams should follow the prescribed format and use the included forms or reasonable facsimiles thereof. Proposals that do not include all of the information required below in this section, or proposals not meeting the minimum qualifications/requirements in Section II, shall be considered as non-responsive and may be dropped from further consideration.

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

All Proposals shall be submitted in an envelope marked "21 Grove Street Property Redevelopment Proposal".

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

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

including buildings and parking areas. Site Plans should be to scale and contain reasonably accurate depictions of existing and proposed conditions, however, submission of architectural drawings and engineered site plans are not necessary at this stage.

- In the case where buildout of the site is to be phased, or where two or more Developers are partnering to subdivide the property, a Phasing Plan or Master Plan shall be submitted depicting concepts for the future build out of the site.
- The Project Description shall contain a *development timetable* listing potential dates of the following:
  - Execution of Land Disposition Agreement<sup>(1)</sup> following Town Council action;
  - Financing in place;
  - Permitting required to demolish Building II, including but not limited to Conservation Commission order of conditions;
  - Demolition of Building II and proper disposal of hazardous building materials<sup>(2)</sup>;
  - Complete environmental assessment and remedial response actions in order to prepare the site for redevelopment, including achieving compliance with the Massachusetts Contingency Plan (310 CMR 40.0000), Massachusetts Department of Environmental Protection requirements<sup>(3)</sup>;
  - Permitting for redevelopment, including but not limited to Planning Board site plan approval and Conservation Commission order of conditions;
  - Start of construction;
  - End of construction;
  - Occupancy.

Notes:

1. The disposition of the property shall take place within a reasonable amount of time, as mutually agreed, following the Town Council's approval and acceptance of the winning proposal.
2. The Town of Franklin requires the demolition of Building II to occur within one (1) year of execution of the Land Disposition Agreement.
3. The Town of Franklin requires all required environmental assessment and remediation actions needed to achieve compliance with the Massachusetts Contingency Plan (310 CMR 40.0000) be complete within two (2) years of execution of the Land Disposition Agreement.

- **Financial Plan:** A financial plan demonstrating the availability of sufficient resources to purchase the property, secure the property, and complete the contemplated re-use of the property must be presented. The plan shall include commitments from potential funding sources, both public and private, and supporting documentation demonstrating that sufficient funding is available to undertake the project.

Proposers must demonstrate that they have the financial resources to support the proposed development; such information shall indicate both internal financing, as well as anticipated borrowing. For example, financing commitments in legally binding form shall rate higher than letters of interest; and firm financing commitments shall rate higher than financing commitments with conditions pertaining to additional debt/equity contributions or participation.

Please note that proposers must be willing to provide the evaluation committee with financial statements (preferably audited) and bank references, if requested during a final proposal evaluation.

- **Fiscal Impact Assessments:** Proposers must submit an evaluation of fiscal and economic impacts of the proposed development on the Town. Fiscal Impacts Statements shall include the following:

- Projections of costs to the Town arising from increased demands for public services and infrastructure;
- Projections of financial benefits to the Town from increased tax revenues, employment (construction and permanent), and value of public infrastructure to be provided;
- Projections of the positive or negative impacts of the proposed development on the values of abutting properties;
- Ten year projection of Town revenues and costs resulting from the proposed development.

#### **IV. ADDITIONAL INFORMATION**

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

#### **V. DISCLOSURES AND LIMITING CONDITIONS**

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

## VI. QUALIFICATIONS

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

**Non-responsive Proposals.** Any Proposers/Developers desiring consideration that has not provided evidence of initial minimum qualifications stated in Section II, and meet all submission requirements in Section III will be determined to be non-responsive and disqualified from any further review.

## VII. SUBMISSION OF PROPOSALS

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

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

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

**Proposal Deadline:** Deadline for submission of Proposals is 11:00 a.m. Thursday November 16, 2017. Proposals will be publicly opened at that time, with the name of each proposer and the price recorded.

Proposals become public information when they are opened. Proposals received after the deadline will be rejected and returned to the proposer unopened.

Proposals submitted prior to the deadline may be corrected, modified or withdrawn by written notice received in the office of the Purchasing Officer prior to the submission deadline stated above. The Town may waive any informality in a proposal submission or allow the proposer to correct them.

Persons submitting a proposal by mail or other delivery service shall bear full responsibility for delivery to the designated office prior to the submission deadline.

All materials submitted by Purchaser/Developer become the property of the Town. The Town is under no obligation to return any of the material submitted by a Purchaser/Developer in response to this RFP.

The Town reserves the right to accept or reject any or all of the proposals submitted and waive informalities and technicalities.

## VIII. PROPOSAL TIME FRAME

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

## **IX. CRITERIA FOR EVALUATION**

All proposals will be reviewed by a Proposal Evaluation Committee comprised of the Town Administrator, Town Planner, and Director of Planning and Community Development. To be considered responsive, Proposals must meet the minimum submittal requirements set out in Sections II and III of this RFP.

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

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

### **PROPERTY REUSE**

**Highly Advantageous** - A proposal that demonstrates the most viable reuse of the property for uses currently allowed by-right or by special permit, and demonstrates substantial annual tax revenue for the Town of Franklin.

**Advantageous** - A proposal that demonstrates a viable reuse of the property for uses currently allowed by-right or by special permit, and demonstrates a reasonable annual tax revenue yield for the Town of Franklin.

**Not Advantageous** - A proposal that minimizes the reuse of the property, or a proposal for uses not currently allowed by-right or by special permit, or a proposal that does not demonstrate a reasonable annual tax revenue yield for the Town of Franklin.

### **REDEVELOPMENT PLAN**

**Highly Advantageous** - A proposal that has a redevelopment plan that demonstrates a well-planned use of the property, and a development team that shows a strong commitment to the following:

- Commence the redevelopment project within thirty (30) days of conveyance of title.
- Demolition of the former Nu-Style manufacturing facility (Building II) and removal and off-site disposal of building materials and components within six (6) months of conveyance of the property.
- Complete environmental assessment and remedial response actions, including achieving compliance with the MCP (310 CMR 40.0000), MassDEP requirements, within eighteen (18) months of conveyance.
- Complete redevelopment of the property within three (3) years of conveyance.

**Advantageous** - A proposal that has a redevelopment plan that demonstrates a well-planned use of the property, and a development team that shows a strong commitment to the following:

- Commence the redevelopment project within ninety (90) days of conveyance of title.
- Demolition of the former Nu-Style manufacturing facility (Building II) and removal and off-site disposal of building materials and components within one (1) year of conveyance of the property.
- Complete environmental assessment and remedial response actions, including achieving compliance with the MCP (310 CMR 40.0000), MassDEP requirements, within two (2) years of conveyance.
- Complete redevelopment of the property within five (5) years of conveyance.

**Not Advantageous** - A proposal that does not demonstrate a well-planned use of the property, or a

development team that does not show a strong commitment to the following:

- Commence the redevelopment project within ninety (90) days of conveyance of title.
- Demolition of the former Nu-Style manufacturing facility (Building II) and removal and off-site disposal of building materials and components within one (1) year of conveyance of the property.
- Complete environmental assessment and remedial response actions, including achieving compliance with the MCP (310 CMR 40.0000), MassDEP requirements, within two (2) years of conveyance.
- Complete redevelopment of the property within five (5) years of conveyance.

#### **ECONOMIC DEVELOPMENT ISSUES**

**Highly Advantageous** - A proposal that will stimulate maximum economic development opportunities within the area, and will esthetically enhance the neighborhood.

**Advantageous** - A proposal that will stimulate further development opportunities, or will esthetically enhances the neighborhood.

**Not Advantageous** - A proposal that will not stimulate further development opportunities, or will not esthetically enhance the neighborhood.

#### **EMPLOYMENT OPPORTUNITIES**

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

**Advantageous** - A proposal that will offer at least some new employment opportunities with livable wages and benefits.

**Not Advantageous** - A proposal that does not offer new employment opportunities.

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

#### **EVIDENCE OF FINANCIAL ABILITY**

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

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

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

#### **X. RULE FOR AWARD**

The Proposal Evaluation Committee will evaluate and rate all responsive proposals, and shall submit to the Town Administrator a written statement of the advantages and disadvantages of each Proposal and a recommendation as to the most advantageous proposal(s). The Committee reserves the right to interview prospective Proposal proponents and the results of the interviews will be considered in the full evaluation

process. The Town Administrator shall make recommendation to the Town Council as to the successful proposer, taking into consideration the Committee's recommendation, and their independent judgment as to which proposal is in the best interests of the Town.

**Award of the Disposition shall be subject to the approval of the Franklin Town Council.** The Town Council will vote to award taking into consideration the best interest of the Town.

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

## **XI. TERMS OF AGREEMENT**

- A Land Disposition Agreement will be reviewed by the Town Attorney for compliance with the terms of the RFP, and may incorporate the terms of this RFP and of the proposal selected. A draft Land Disposition Agreement is provided in Attachment A.
- The successful Proposer will be expected to execute a Land Disposition Agreement within thirty (30) days of the delivery of the Agreement. Failure to execute the Land Disposition Agreement within thirty (30) days will result in forfeiture of the security, otherwise, the deposit will be returned.
- Bid deposits of unsuccessful proposers will be returned upon the execution of the Land Disposition Agreement.
- The Purchaser/Developer shall not assign, transfer, sublet, convey or otherwise dispose of any agreement or contract which results from this RFP, or its right, title or interest therein or its power to execute the same to any other person, firm, partnership, company or corporation without the previous consent in writing of the Town. Should the Purchaser/Developer attempt any of the above without written consent of the Town, the Town reserves the right to declare the Purchaser in default and terminate the agreement or contract for cause.
- Developer expressly acknowledges that he is aware of historical presence of hazardous waste and/or contaminated soil or other material on property and understands that, if Town accepts Developer's proposal, Town will require Developer to agree to a provision in the Land Disposition/Development Agreement, substantially as follows:

Developer releases the Town of Franklin from any and all claims which he now has, or may in the future have, for damage or expense in any way arising from or related to the presence of hazardous waste and/or contaminated soil or other material and/or all costs to remove or remediate same and Developer expressly waives in advance any and all rights to sue which Developer now has or may, in the future, have against Town to recover for any loss, damage or expense of any type in any way arising from or related to the presence of hazardous waste and/or contaminated soil or other material and/or all costs to remove or remediate same. Developer agrees to defend, indemnify, and hold harmless Town from and against any and all loss, damage or expense, including court costs and attorney's fees which Town incurs as the result of action against Town by Developer, any representative, heir, transferee, assignee or subrogee of Developer in any way arising from or related to the presence of hazardous waste and/or contaminated soil or other material and/or all costs to remove or remediate same.
- Prospective Purchaser/Developers must be current in taxes and all water and sewer liabilities on any and all real estate owned in the Town of Franklin.
- The sale of the property is subject to any easements existing and required for street, sewer and water or any other public purposes within the Property or in the streets abutting the Property.

- The Purchaser/Developer is to be responsible for providing for, and paying for, all title work and is responsible for paying for a survey of the parcel of land, with that survey being subject to the approval of the Town of Franklin.
- The Developer will have complete responsibility for all expenses related to the operations and maintenance of any future buildings including taxes, as required by law (real estate and personal property); any nonprofit user will be required to sign a “payment-in-lieu of taxes” (PILOT) agreement acceptable to the Town.
- All building and expansion schedules will be subject to the prior approval of the Town, including any and all building and or construction permits.
- The Developer will be responsible for all utilities, including water, sewer and storm drainage, solid waste disposal, snow and ice removal, and all repairs required to maintain any building or other facilities constructed at the Property in compliance with all applicable provisions of law, regulations, and building codes.



**XII. STATEMENTS REQUIRED WITH SUBMISSION**

All proposals shall include the following statements:

**CERTIFICATE OF NON-COLLUSION**

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

\_\_\_\_\_  
Signature of person submitting the proposal

\_\_\_\_\_  
Name of Business or Development

**CERTIFICATE OF COMPLIANCE WITH STATE TAX LAWS**

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

\_\_\_\_\_  
\*Signature of Individual  
Or Corporate Officer

\_\_\_\_\_  
\*\*Social Security Number/  
Federal Identification Number

Corporate Name: \_\_\_\_\_  
(if applicable)

Name and Title: \_\_\_\_\_

*Of Corporate Officer*  
(if applicable)

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

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

**CERTIFICATE OF CORPORATE VOTE (if applicable)**

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

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

At which all the Directors were present or waived notice, it was VOTED That,  
\_\_\_\_\_  
(Name) (Officer)

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

I hereby certify that I am the Clerk of the \_\_\_\_\_

that \_\_\_\_\_ is the duly elected  
\_\_\_\_\_ of said company, and that the above vote has not been amended or rescinded  
(Officer)  
in full force and effect as of the date of this contract.

A true copy,  
ATTEST \_\_\_\_\_  
Clerk  
Place of Business \_\_\_\_\_  
Corporate  
Seal

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

\_\_\_\_\_  
NOTARY PUBLIC

**DISCLOSURE OF BENEFICIAL INTEREST IN REAL PROPERTY**

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

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

2. Complete legal description of the property:

3. Type of Transaction \_\_\_\_ Sale \_\_\_\_ Lease or rental for \_\_\_\_  
(Term)

4. Seller(s) or Lessee(s): \_\_\_\_\_

Purchaser(s) or Lessee(s): \_\_\_\_\_

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

Name	Address
_____	_____
_____	_____
_____	_____

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

Name	Address
_____	_____
_____	_____
_____	_____

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

The undersigned acknowledges that any changes or additions to item 4 of this form during the term of any lease or rental will require filing a New Disclosure with the Division of Capital Asset Management within Thirty (30) days following the change or addition.

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

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

Printed Name: \_\_\_\_\_

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

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

**XIII. PROPOSAL FORM**

**TOWN OF FRANKLIN  
DISPOSITION OF REAL PROPERTY  
FORMER NU-STYLE PROPERTY, 21 GROVE STREET**

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

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

1. The Individual, Corporation or other entity submitting this proposal operates on a for-profit , not-for-profit  basis. Evidence of not-for-profit status is attached to this proposal form.  Yes  
 No
2. Provide a brief history of the entity submitting this proposal, including length of time in existence, name and address of officers or trustees, current location, description of current operations, including number of employees etc. Attach additional sheets as needed.
3. The Prospective Developer agrees to execute a Land Disposition Agreement in substantially the form included in the Request for Proposals within thirty (30) days of delivery of such Agreement by the Town.  Yes  No
4. Proposed price to purchase the 21 Grove Street Site \_\_\_\_\_

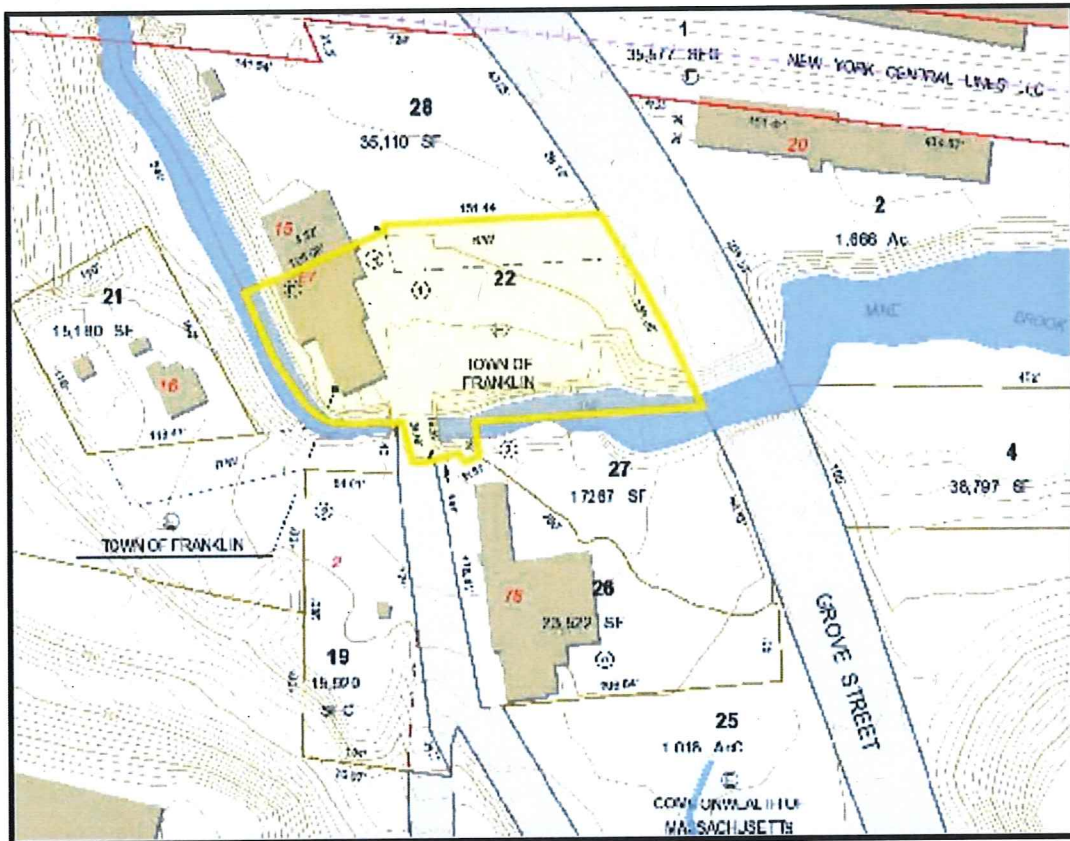
By: \_\_\_\_\_  
Signature and Title

By: \_\_\_\_\_  
Name of Business (if applicable)

#### **XIV. ATTACHMENTS**

- Attachment A: Location Map
- Attachment B: ANR Plan - 2015, Showing Lot 1 (Map 276, Parcel 22), 21 Grove Street
- Attachment C: Summary of Previous Assessment & Remediation Activities
- Attachment D: List of Environmental Documents
- Attachment E: Resources Available
- Attachment F: Draft Land Disposition Agreement

Location Map







## Summary of Previous Assessment & Remediation Activities

### Site History

In 2002 and 2005 the Town of Franklin obtained by foreclosure via tax title two parcels (Assessor's Map 276, Lots 022 and 027) at 87 Grove Street known as the former Nu-Style property. When acquired, the two parcels (totaling 53,190 sf [1.22+/- acres]) each contained a former industrial building. Both buildings were condemned in October 2005. The two buildings were once part of a larger mill complex that contained as many as six buildings.

The larger of the two buildings (Building I), which was a two-story building with a footprint of 12,046+/- sf, was demolished by the Town in 2012 as part of an EPA funded brownfields remediation project.

The remaining Town owned building (Building II) is adjacent to Mine Brook on the west side of the property. Originally built in 1945 the building has had at least two additions, one of which joined Building II to an adjacent former Nu-Style building, which is currently privately owned. The former manufacturing facility is a 4,000+ sf one and one-half story building, which is dilapidated, unsafe, blight on the neighborhood, and presents a risk to public health and safety. In 2014 substantial portions of the building collapsed; at that time the site was fenced to limit exposure and enhance safety.

The site had a long manufacturing history (at least 90 years), including textiles and costume jewelry. The buildings were historically occupied by Norfolk Woolen Mills, Unionville Woolen Mills, Franklin Paint Company, and most recently by Nu-Style Company and Image Jewelry. Materials used and stored at the site associated with jewelry manufacturing include cyanides, metals, chlorinated solvents, and petroleum products. Additional substances associated with textile manufacturing were also likely used. Use of oil and hazardous materials ceased at the property in 1989.

Starting in 2006 the Town worked to assess, remediate and redevelop the property. A substantial amount of assessment activities have been conducted to characterize the nature and extent of releases and hazardous building materials at the Town owned Nu-Style Property. The primary environmental concerns at the site are as follows:

- Chlorinated volatile organic compounds (VOC) including TCE and PCE in shallow overburden groundwater
- Chlorinated VOC in groundwater in the bedrock aquifer
- Polycyclic aromatic hydrocarbon (PAH) compounds in soil
- PAH compounds in sediment
- Hazardous building materials including lead and asbestos in the building structures.

The assessment activities mentioned above showed that the majority of the Town's Nu-Style property to the south of Mine Brook was "primarily used for parking and available documentation indicates that no industrial processes occurred on this portion of the Site". Franklin's LSP, Tata & Howard, completed a related assessment document, *Permanent Solution with Conditions - Partial*, in October 2015. The Town's LSP "is of the opinion that a condition of No Significant Risk has been achieved at the Property. "The sources of the release, which are the former manufacturing operations at other areas of the Site, have been terminated and the concentrations of CVOCs in the monitoring wells... have been reduced to background". In addition, an Activity and Use Limitation is not required to maintain the condition of No Significant Risk.

For these reasons the Town decided to separate the relatively clean portion of the property south of Mine Brook from the rest of the former manufacturing property. In December 2015 the Town submitted a plan to Franklin Planning Board for endorsement, which changed the boundaries of lots 022 and 027, created one parcel south of Mine Brook (17,267+/- sf) and a second parcel (35,923+/- sf) mostly north of Mine Brook (see ANR Plan in Attachment B). The parcel south of Mine Brook noted as Lot 2 on the ANR Plan (currently Parcel #276-027-000) was sold during 2016.

The remainder of the Town's former Nu-Style property (currently Parcel #276-022-000), noted in the ANR Plan as **Lot I**, is the subject of this RFP document; this property includes all of the former Lot 22, and more than half of the former Lot 27. The boundaries of Lot 1 have been highlighted in black on the ANR Plan; the location of Building II, which needs to be demolished, is highlighted in red.

### **Description of Previous Assessment Activities**

During 2006 and 2008 the Town of Franklin in partnership with Norfolk County and their LSP contractor conducted Phase I and Phase II assessments of the site. The work was performed using EPA grant funding. The assessment activities between 2006 and 2008 included sediment samples, surface water samples, soil samples, and three groundwater monitoring events on the whole Town owned Nu-Style property.

The majority of contamination at the Nu-Style property was found to be primarily north of Mine Brook, adjacent to and within the footprint of Building I, and was the focus of the majority of previous assessment and remediation work, which included demolition of Building I and removal of over 500 tons of contaminated soil and other materials. For those reasons the focus of the Town's Phase II assessment activities since 2008 has been on former Lot 27.

However, at least some of the more recent sampling was performed on the former Lot 22, which is the western one third of the new Lot 1 and location of Building II; Phase I and Phase II environmental assessment activities performed that include portions of Lot 1 near Building II Include: Phase I Environmental Site Assessments developed in May 2006, January 2007, and May 2008, a Phase II Environmental Site Assessment developed in September 2007, with Addendums in February 2008 and July 2009, and a Phase II Site Assessment Report developed in September 2010. Chlorinated VOC are present in shallow soil to the east of Building II, and in overburden groundwater to the northeast, east, and south of the building. PAH compounds were detected in shallow sediment in one isolated area of Mine Brook to the west of the site. Attachment D is a list of related environmental documents.

A description of assessment activities related to mostly the portion of Lot I formally known as Lot 27 is below. Collectively the reports do not identify the full extent of groundwater hazardous chemical contamination.

Assessment work was performed in 2009 and 2010; funding was provided through a MassDevelopment Reimbursable Grant. The work consisted of groundwater gauging and monitoring activities in order to characterize the site in support of a Phase II Comprehensive Site Assessment (CSA). Environmental site assessments conducted between 2006 and 2010 indicated the presence of chlorinated volatile organic compounds, metals, and polycyclic aromatic hydrocarbon compounds in soil. The Phase II CSA standard requires that the full nature and extent of a disposal site be characterized. Additional Site Assessment activities were necessary in order to characterize deep groundwater at the site, but due to the dilapidated nature of the building, these activities could not be completed until the building was demolished.

In 2010, the Town was awarded a \$200,000 *EPA Brownfield Grant* for remediation of hazardous materials on the former Nu-Style Property, and the Town appropriated additional funds. In 2012, the Town awarded a contract for demolition of Building I and partial remediation of the site. During 2012 Building I was demolished and substantial soil remediation was accomplished.

*Release Abatement Measure (RAM) Report, April 2013.* In May 2012 the Town's LSP (Fuss & O'Neill, Inc.) developed a Release Abatement Measure (RAM) Plan for soil remediation activities at the site in accordance with the MCP (310 CMR 40.0440), and in April 2013 a related RAM Completion Report was produced, which documented the response actions completed at the site and the completion of activities under the RAM Plan. Below is a summary of activities and findings upon completion of the RAM activities:

- Approximately 523 tons of contaminated environmental media (soil and raceway materials) were removed from the site. Approximately 407 tons of soil containing metals and chlorinated VOC was removed from the site and disposed at ESMI of NY, and approximately 116 tons of

soil/sediment material containing metals and PAH was removed from the site and disposed at ESMI of NH.

- Confirmatory soil samples collected at the extents of the soil excavations generally contained significantly lower, but detectable, concentrations of chlorinated VOC.
- The concentrations of PCE and TCE at the northern end of the subject site adjacent to the sewer line remain in excess of the MassDEP Method 1 S-1 soil standards, but that soil was not removed due to the presence of on-site utilities.
- A permanent solution has not been achieved because of the following conditions:
  - The nature and extent of VOC in bedrock groundwater had not been characterized.
  - Groundwater which historically contained VOC at concentrations greater than the MassDEP Method 1 groundwater standards has not been documented to have attenuated to date.
  - VOC remain in soil at the northern end of the site at concentrations greater than the MassDEP Method 1 S-1 soil standards, which may warrant further evaluation.
  - A comprehensive risk characterization incorporating the post-remediation soil data set has not been completed to date to demonstrate whether this soil warrants further remediation activities.

*EPA Targeted Brownfields Assessment.* In 2013 the Town received technical assistance through the EPA Brownfields Targeted Assessment Program. In May 2013 an EPA contractor sampled soil on site, installed twelve monitoring wells (six shallow and deep monitoring well couplets), and sampled and analyzed shallow and bedrock groundwater. In August 2013 a second round of groundwater sampling was performed from the 12 new monitoring wells, as well as at several monitoring wells installed previously during other Phase II activities. The resulting Targeted Brownfields Assessment Report (Nobis, September 2013) summarizes the assessment results. The vertical nature and extent of contamination was not fully delineated, and additional well locations were recommended.

*Soil and Vapor Intrusion Study Report.* During the 2013 Brownfields Targeted Assessment, mentioned above, VOCs above the MCP GW-2 standard were detected, particularly TCE in the shallow groundwater monitoring well MW 101S and PCE in the deeper bedrock monitoring well MW 101D. To assure vapors were not infiltrating an adjacent building, the EPA performed a soil vapor intrusion study. Sub-slab sampling ports were installed on December 9, 2014. On December 15, 2014 sub-slab soil gas and 8-hour indoor air samples were collected. Results of the air sampling are included in the Soil Vapor Intrusion Study Report (ECA, January 2015).

*Results of Passive Soil Gas Survey, March 2015.* During the first three months of 2015 the Town's LSP conducted a passive soil gas analysis in order to evaluate whether additional sources of contamination are present, and to identify the ideal location for additional ground water monitoring wells. A total of 42 passive soil gas samplers were installed across the site and abutting properties. The results of the passive soil gas survey were summarized in a detailed letter (Tata & Howard, March 2015).

#### **Additional Required Phase II ESA Activities**

Even with the substantial Phase II assessment activities performed to date, the nature and extent of releases at the site have not been fully delineated. The number and location of sampling points (soil borings, and monitoring wells) have not been sufficient to characterize the site. The data is both representative and usable to characterize the majority of the disposal site, however, there are at least two important exceptions:

- The area of the site within the footprint of Building II has not been characterized.
- The portion of Lot I formally known as Lot 27 near the Old Grove Street bridge, and on adjacent privately owned property just south south-west of the site has not been fully characterized.

To fully assess the property's soil and groundwater contamination, Building II needs to be removed. In 2015 The Town distributed an Invitation for Bids for demolition of Building II resulting in several bids from demolition contractors. The Town did not go through with the demolition project for the following reasons:

- The cost of demolition of Building II and off-site disposal of asbestos containing materials was somewhat higher than expected.
- Problems with the structural integrity of the privately owned building that is connected to Building II were identified. The adjacent/attached building is owned by World Marble & Granite of 20 Grove Street, Franklin, MA.

Instead of going forward with the demolition of Building II the Town hired a structural engineer to assess the adjacent building's structural problems and provide a scope of work and related estimate of needed improvements. The Town received permission to access the adjacent property from the President of World Marble & Granite, Mr. John Neto. The results of the initial structural assessment showed that the Town's building (Building II) cannot be demolished without first designing and implementing structural improvements to World Marble & Granite's adjacent/attached building.

### **Reassessment of Project Approach**

Since identifying problems with the structural integrity of the adjacent/connected privately owned building the Town has reassessed its project approach and potential alternatives. Given the higher than expected cost of building demolition the Town has decided to distribute this RFP in hopes to obtain a private developer who will make structural improvements to the adjacent privately owned building as needed, demolish Building II and remediate hazardous building materials, complete assessment and remedial response actions including achieving compliance with the MCP (310 CMR 40.0000), MassDEP requirements, and redevelop the site.

### **Potential Federal Tax Credits**

A privately owned organization or individual may be able to access significant Federal tax credits to remediate the property, which the Town is not able to access. Therefore total cost of remediation of the former manufacturing site by a privately owned company or individual may be much less than if the Town of Franklin were to perform the work.

### **A Note on Demolition of Building II**

Demolition specifications, a demolition and segregation plan, wetland/waterway protection plans, and an invitation for bids for a demolition contractor were all prepared during 2015. These documents can be made available to the Developer and can serve as draft specifications for the demolition portion of required work.

Building materials within Building II that were suspect of containing hazardous materials have been quantified and characterized. Asbestos was confirmed to be present, and evidence indicates that lead and PCB-containing materials are presumed to be present in the dilapidated building. Building material data compiled by EnviroScience in the March 2009 *Hazardous Building Materials Inspection* is generally sufficient to solicit bids for building demolition, and the bid documents can specifically solicit qualifications relative to controlled demolition and segregation of building materials proximal to wetland areas, hazardous materials abatement, and other project-specific requirements, in order to ensure that the selected contractor is capable of implementing a project of this magnitude. Interior abatement work is not considered feasible due to the structural condition of the building. To implement this approach it will be necessary for the Developer to apply for and receive a waiver from MassDEP to allow demolition prior to abatement.

**Environmental Reporting for Nu-Style Property****87 Grove Street, Franklin, MA**Unless otherwise noted, all reports developed by  
Fuss & O'Neill, Inc., Providence, RI

Permanent Solution with Conditions - Partial  
for 87 Grove Street, Franklin, MA  
RTN 2-16694  
Tata & Howard  
September 2015

Results of Passive Soil Gas Survey  
87 Grove Street, Franklin, MA  
Tata & Howard  
T&H No. 3969  
March 2015

Soil Vapor Intrusion Study Report  
Former Nu-Style Facility  
87 Grove St. Franklin, MA  
Environmental Corp of America  
December 2014

Targeted Brownfields Assessment  
Nu Style, Franklin MA  
EPA Task Order No. 0078-SI-BZ-0100  
Nobis Engineering, Inc.  
September 2013

Release Abatement Measure  
Completion Report  
Former Nu-Style Property  
87 Grove St. Franklin, MA  
RTN 2-16694  
April 2013

Release Abatement Measure  
Former Nu-Style Property  
87 Grove St. Franklin, MA  
May 2013

Segregation and Demolition Plan for  
Asbestos, Lead and Hazardous Building  
Materials – Former Nu-Style Facility  
Town of Franklin, Massachusetts  
October 2011

Site-Specific QAPP Modification  
Supplemental Building Materials Sampling  
Former Nu-Style Facility, 87 Grove Street  
Franklin, Massachusetts  
USEPA QA RFA Tracking # 08312  
June 2011

Site-Specific Quality Assurance Project Plan  
Addendum – Revision 1.0  
Building Materials Investigation  
Former Nu-Style Facility  
Franklin, MA  
QA Tracking #: 08132  
May 2011

Analysis of Brownfields Cleanup Alternatives  
Former Nu-Style Property, Lot 27  
87 Grove Street  
Franklin, Massachusetts  
Mass DEP RTN 2-16694  
May 2011

Site-Specific Quality Assurance Project Plan  
Addendum - Revision 0.0  
Building Materials Assessment  
Former Nu-Style Facility  
Franklin, Massachusetts  
USEPA QA Tracking #: 08312  
April 2011

Community Relations Plan  
Former Nu-Style Property, Lot 27  
87 Grove Street  
Franklin, Massachusetts  
March 2011

Phase II Site Assessment Report  
Former Nu-Style Property  
RTN 2-16694  
87 Grove Street (Lot 22 & 27)  
Franklin, MA  
September 2010

Limited Site Assessment Report  
Former Nu-Style Property  
RTN 2-0016694  
87 Grove Street (Lot 22 & 27)  
Franklin, MA  
July 2009

Hazardous Building Materials Inspection  
Former Nu-Style Building  
87 Grove Street  
Town of Franklin  
Franklin, Massachusetts  
March 2009

Phase I- Initial Site Investigation Report  
Former Nu-Style Property  
87 Grove Street (Lot 22 & 27)  
Franklin, MA  
RTN 2-16694  
May 2008

Phase II Environmental Site Assessment  
Addendum  
Former Nu-Style Property  
RTN 2-0016694  
87 Grove Street (Lot 22 & 27)  
Franklin, MA  
February 2008

Phase II Site Assessment Report  
Former Nu-Style Property  
RTN 2-0016694  
87 Grove Street (Lot 22 & 27)  
Franklin, MA  
February 2008

Phase II Environmental Site Assessment Report  
Former Nu-Style Company, Inc. Facility  
87 Grove Street (Lot 22 & 27)  
Franklin, MA  
September 2007

Quality Assurance Project Plan Addendum  
Revision 3.0  
Former Nu-Style Company, Inc. Facility  
RFA #07011  
87 Grove Street (Lot 22 & 27)  
Franklin, MA  
September 2007

UST Closure Assessment Report  
Former Nu-Style Company, Inc.  
Franklin, MA  
July 2007

Chapter 21E Site Evaluation of 87 Grove Street  
for National Bank of Milford, Massachusetts  
IES, Inc. Environmental Consultants  
IES Job No, 789-374  
January 1990

IES, Inc. Environmental Consultants collected soil samples from four additional borings (B1A through B-4A) to assess whether releases associated with underground storage tanks had occurred. Only a portion of this document is available and is located at the Franklin Fire Department. (July 1991).

Note: The majority of environmental assessment documents listed above are available for review at the Town of Franklin's Planning and Community Development Office during regular office hours.

Quality Assurance Project Plan Addendum  
Revision 2.0  
Former Nu-Style Company, Inc. Facility  
RFA #07011  
87 Grove Street (Lot 22 & 27)  
Franklin, MA  
March 2007

Phase I Environmental Site Assessment  
Former Nu-Style Company, Inc.  
87 Grove Street (Lot 22 & 27)  
Franklin, MA  
February 2007

Phase II Environmental Site Assessment Report  
Former Nu-Style Company, Inc.  
87 Grove Street (Lot 22 & 27)  
Franklin, MA  
January 2007

Quality Assurance Project Plan  
Revision 1.0  
Phase II Site Assessment  
Former Nu-Style Company, Inc. Facility  
RFA #07011  
87 Grove Street (Lot 22 & 27)  
Franklin, MA  
October 2006

Quality Assurance Project Plan  
Revision 0.0  
Phase II Site Assessment  
Former Nu-Style Company, Inc. Facility  
87 Grove Street (Lot 22 & 27)  
Franklin, MA  
September 2006

Phase I Environmental Site Assessment  
Former Nu-Style Company, Inc. Facility  
87 Grove Street (Lot 22 & 27)  
Franklin, MA  
May 2006

## Resources Available

### Resources Available on Town Website

The following reference documents are available on the Town of Franklin Department of Planning and Community Development's web page:

<http://www.franklinma.gov/planning-community-development/pages/21-grove-street-rfp>

### Request for Proposals: Disposal of Real Property, Former Nu-Style Property

Request for Proposals

Attachments

- A: Location Map
- B: ANR Plan - 2015, Showing Lot 1 (Map 276, Parcel 22), 21 Grove Street
- C: Summary of Previous Assessment & Remediation Activities
- D: List of Environmental Documents
- E: Resources Available
- F: Draft Land Disposition Agreement

### General Property Information

- Unofficial Property Record Card - 08252017
- CAI Property Card - 08252017
- Aerial Photo - c 1970
- Nu-Style Building Aerial Image - 2003
- Nu-Style Parcel 276-022 - Aerial Diagram 2013-2014
- ANR Plan - Final - 02162016
- Building II Floor Plan and Access
- Millrace Location - 21 Grove Street
- Location of Barrels Removed in 2015

### Environmental Assessment Activities

- PSC-P Report - Southern Portion - 2015
- Nu Style - Targeted Brownfields Assessment, 2013
- Fuss & O'Neill Status Memo, Sept. 2010
- Phase-II-ESA - Sept. 2010
- Phase I Assessment - May 2008

### Building II Demolition - Potential Resources

- Draft ABCA - Nu-Style - 2017 - 12012016
- Location of Common Wall-March 2015
- Nu-Style Building Structural Issues - 2015
- Draft Seg. and Demo. Plan - January 2014
- FLI Final Asbestos Report - August 2014
- Franklin Historical Comm. 06132011 Letter

**Conservation Commission Related**

Notice of Intent - February 2015  
Erosion control plan  
Order of Conditions - March 2015 - NuStyle II

**Building I Demolition and Remediation - 2012**

ABCA - Nu-Style Building I - 05182011  
RAM Completion Report - April 2013

**25 Grove Street - Potential Impacts**

Nu-Style 25 Grove St VI Report - Dec2014

**Building II Photos**

**Town of Franklin Information**

Town of Franklin Zoning Bylaw, January 1, 2016  
Design Review Guidelines, 2005  
Best Development Practices Guidebook, 2016  
2013 Master Plan, Implementation Element (Goals, Objectives and Actions)  
I-495/MetroWest Partnership Strength in Numbers, 2017  
Town of Franklin Strength in Numbers Report, I-495/MetroWest Partnership 2017  
Franklin Commuting Data, I-495/MetroWest Partnership 2017  
Franklin's Economic Opportunity Areas  
Town of Franklin Marketing Materials

**Additional Resources Available**

The majority of environmental assessment documents listed in Attachment D are available for review at the Town of Franklin's Planning and Community Development Office during regular office hours.

**Department of Planning and Community Development**

355 East Central Street, Franklin, MA 02038-1352  
508-520-4907; btaberner@franklinma.gov

**Office Hours**

Mon, Tues & Thurs: 8:00 am to 4:00 pm  
Wed: 8:00 am to 6:00 pm  
Fri: 8:00 am to 1:00 pm



**Mark G. Cerel, Franklin Town Attorney**

LAND DISPOSITION AGREEMENT (Draft)

AGREEMENT made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

1. Parties and Mailing Address:

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

2. Description of Premises:

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

3. Deed:

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

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

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

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

4. Description of Project:

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

5. Construction of Project:

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

6. Purchase Price and Payment Schedule:

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

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

Total purchase price:

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

7. Closing Documents:

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

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

8. Time For Performance and Delivery of Deed:

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

9. Possession and Condition of the Premises:

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

10. Need to Perfect Title:

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

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

11. Acceptance of Deed:

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

12. BUYER's Additional Obligations Contained Hereunder:

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

13. Use of Funds to Clear Title:

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

14. Adjustments:

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

15. Building and Other Related Permits:

(a) Governmental Approvals:

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

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

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

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

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

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

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

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

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

16. Compliance With Applicable Law:

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

17. Deposits:

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

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

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

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

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

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

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

20. No Broker Involved: Mutual Indemnification:

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

21. Restrictions And Controls Upon BUYER:

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

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

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

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

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

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

22. Limitation on Liability of SELLER:

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



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

23. Non-Discrimination In Employment:

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

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

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

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

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

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

26. Notices:

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

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

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

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

28. Estoppel Certificate:

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

29. Assignment:

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

30. Recordation:

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

31. Construction Of Agreement And Severability:

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

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

32. Obligations and Rights and Remedies Cumulative and Separable

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

33. Covenants to be Enforceable by TOWN

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

34. TOWN's Officials and Officers Barred From Interest

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

35. Matters To Be Disregarded

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

36. Agreement Binding on Successors, Transferees and Assigns

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

37. Incorporation of other laws and documents:

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

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

Approved as to form:

SELLER, Town of Franklin by,

\_\_\_\_\_  
Mark G. Cerel  
Franklin Town Attorney

\_\_\_\_\_

BUYER, \_\_\_\_\_  
by,

\_\_\_\_\_  
, President