

PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT (“*Agreement*”) is made and entered into this _____ day of December, 2020, by and between **GREAT FALLS CONSTRUCTION, INC.**, with a mailing address of 20 Mechanic Street, Gorham, Maine 04038 (“*Buyer*”), and its successors or assigns, and **THE TOWN OF WINDHAM**, a Maine municipal corporation, with a mailing address of 8 School Road, Windham, Maine 04602 (“*Seller*”), and witnesses that Buyer hereby agrees to purchase and take from Seller and, for consideration paid, Seller hereby agrees to sell and convey to Buyer, upon the terms and conditions set forth below, the real estate located in Windham, Cumberland County, Maine known as the South Windham Fire Station and depicted on the Town’s tax maps as Map 38, Lot 12 (“*Property*”).

Terms and Conditions.

1. Purchase Price. The total purchase price for the Property shall be One Hundred Twenty-Five Thousand Dollars (\$125,000.00) (“*Purchase Price*”). Upon acceptance of this offer by Seller, the Buyer shall pay a deposit of Ten Thousand Dollars (\$10,000.00) (“*Earnest Money Deposit*”) to be held in a non-interest bearing account by PRETI FLAHERTY (“*Escrow Agent*”), and which shall be applied against the Purchase Price at closing. The Purchase Price shall be payable in one payment of \$75,000 at closing (less the Earnest Money Deposit), plus an additional amount of \$50,000 due and payable five (5) years from the date of closing, said additional amount to be secured by a mortgage holding the Property as security. The term of said mortgage shall be extendable for an additional five-year period at an interest rate of 2% per annum. Seller shall subordinate Buyer’s mortgage to one other mortgage on the Property at the request of the Purchaser and its lender. Each payment of the Purchase Price shall be made by federal funds wire transfer, certified check or attorney-client escrow account check, in immediately available funds, made payable to the order of Seller, or Seller’s designee(s), and delivered to Seller.
2. Title. Seller, agrees, upon receiving payment of the amount due at closing in the manner above specified, to execute and deliver to Buyer a Deed (“*Deed*”) in accordance with the Maine Short Forms Deed Act, 33 M.R.S.A. §§ 761 et seq. During that period that ends on March 24, 2021 (the “*Title Inspection Period*”), Buyer may examine title to the Property, and if Buyer finds title to the Property not to be good and marketable, in accordance with the Title Standards promulgated by the Maine Bar Association, then the closing shall be delayed for not more than thirty (30) days in order for Seller to cure the

defect or defects. In the event Seller is unwilling or unable to cure such title defect or defects, Buyer may, at Buyer's option, (a) accept such title as Seller can convey, or (b) terminate this Agreement, and all parties shall be released from their obligations under this Agreement. Seller may, at the time of delivery of the Deed, use the purchase money or any portion thereof to clear the title of any and all encumbrances or interests, provided that all instruments so procured are recorded simultaneously with the delivery of said deed, or if said encumbrance is a mortgage with an institutional lender, by reasonable provision for the procurement of a discharge or depositing sufficient purchase money with an attorney representing Buyer.

3. Buyer specifically acknowledges and agrees that (a) Seller does not make any representations or warranties of any kind whatsoever, either express or implied, with respect to the Property (or any related matters), except this limitation in no way limits or modifies Seller's covenants of title, which remain in full force and effect; and (b) the Property is sold to Buyer in an "AS IS" and "WITH ALL FAULTS" condition as of the date of closing, including, without limitation, the stability of soils, habitability, fitness for any purpose whatsoever, suitability of or for any construction or development, encroachment or boundary questions, drainage, availability or utilities, zoning, access and similar matter. Purchase assume the risk that adverse physical conditions may be revealed by its investigation. Buyer agrees to and does hereby indemnify and hold harmless Seller against any loss, cost, damage, claims or expense which may arise from its or its agents', employees' or contractors' activities at the Property.
4. Seller Covenants.
 - a. Seller shall, at its own expense, obtain a complete land survey of Property and provide it for Buyer's review and use in development of the Property by March 4, 2020.
 - b. Seller shall remove all items stored on the Property prior to closing.
 - c. Seller shall have a Phase One Environmental Site Assessment completed at its own expense and perform appropriate remediation as determined by Seller prior to closing.
5. Buyer Covenants.
 - a. Upon receipt of title to the Property, Buyer shall proceed in good faith to develop the Property in substantial accordance with the Proposal made by Buyer to Seller dated September 30, 2020 for the purchase and development of the Property, attached hereto as Exhibit A.
 - b. Should Buyer sell the Property within six (6) years following its receipt of title to the Property, Buyer shall be entitled to retain from the proceeds of such sale the Purchase Price actually paid to Buyer prior to the date of sale, plus its total amount expended on direct physical improvements to the Property during its ownership. Once said amounts are retained, Buyer shall pay any balance to the

Seller, up to the following amounts depending on the date of sale, and may retain any remainder:

Within one year following conveyance	\$175,000
From one to two years following conveyance	\$150,000
From two to three years following conveyance	\$125,000
From three to four years following conveyance	\$100,000
From four to five years following conveyance	\$75,000
From five to six years following conveyance	\$50,000

- c. During the first six years following its receipt of title to the Property neither Buyer nor its successors or assigns shall make any residential use of the first floor of any building on the Property.
 - d. These covenants shall be further and more completely described in one or more covenants to be included in the Deed, the terms of which covenant(s) shall be mutually agreed upon by Buyer and Seller prior to closing.
6. Buyer Contingencies.
- a. Buyer's obligation pursuant to this Agreement is contingent upon obtaining approval from the Windham Planning Board as needed for any change of use and/or site plan approval necessary to develop the Property as outlined in the Proposal by Buyer to Seller dated September 30, 2020 for the purchase and development of the Property, attached hereto as Exhibit A.
 - b. Buyer's obligation pursuant to this Agreement is contingent upon completion of the Property survey by Seller as set forth in Section 4, and Buyer's satisfactory review thereof during the Title Inspection Period.
7. Possession. Unless a different date is provided for herein, Buyer, SUBJECT TO the easements, encumbrances, exceptions, restrictions and reservations set forth above, shall be entitled to possession of the Property on the date of closing.
8. Closing. The closing of the sale contemplated hereby shall take place no later than June 30, 2021 or within 30 days of Planning Board or Staff Review approval, at a time and location mutually agreeable to the parties, unless delayed in accordance with Section 2.
9. Closing Costs.
- a. Seller shall pay the following costs and expenses in connection with this transaction:

- i. Seller's attorney fees, if any;
 - ii. Taxes, water and other utilities constituting a lien prorated to the date of closing;
 - iii. All special assessment installments and local improvement district assessment installments against the Property that are due prior to the date of closing; and
 - iv. One half of transfer taxes, unless exempt.
 - b. Buyer shall pay the following costs and expenses in connection with this transaction:
 - i. One-half of transfer taxes, unless exempt;
 - ii. Purchaser's attorney fees, if any;
 - iii. Recording fee for the Deed and Mortgage; and
 - iv. Title Insurance premium and update fees, if any.
10. Default. If Seller fails to perform its obligations as set forth in this Agreement, and if Buyer is not then in default hereunder, then the Earnest Money Deposit shall be returned to Buyer or Buyer may seek specific performance of this Agreement. If Buyer fails to perform its obligations as set forth in this Agreement, then Seller will have the right to retain the Earnest Money Deposit as full liquidated damages and not as a penalty (the parties hereto acknowledging that Seller's damages as a result of such default are not capable of exact ascertainment and that said liquidated damages are fair and reasonable).
11. Broker's Commission. Buyer and Seller each represent and warrant to the other that no real estate broker, agent or finder, licensee or otherwise has been engaged by them, respectively, in connection with the transaction contemplated by this Agreement. In the event of any such claim for broker's agent's or finder's fee or commission in connection with the negotiation, execution, or consummation of this transaction, the party upon whose alleged statement, representation, or agreement such claim or liability arises, shall indemnify, hold harmless and defend the other party from and against such claim and liability, including without limitation, reasonable attorney's fees and court costs. Buyer and Seller acknowledge that the representation and warranties contained in this Section shall survive the closing.
12. Risk of Loss. All risk of loss to the Property prior to the closing shall be borne by Seller, except and unless the loss was caused by Buyer. In the event that, prior to the closing, the Property is destroyed or substantially damaged, Buyer may either (a) terminate this Agreement, or (b) close without an adjustment in Purchase Price.
13. General Provisions. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, personal representatives, successors and assigns. This Agreement shall not be assigned by Buyer to any other person except by prior written agreement of Seller. This Agreement constitutes the entire agreement between the

parties with respect to the subject matter hereof, supersedes all prior negotiations and understandings between them (whether written, electronic or verbal) with respect to such subject matter, and shall not be altered or amended except by a written amendment signed by the parties hereto. This Agreement may be simultaneously executed in any number of counterparts, each of which when duly executed and delivered shall be an original; but such counterparts shall constitute but one and the same agreement. If any provision of this Agreement is found to be invalid or unenforceable, such finding shall not affect the validity or enforceability of any other provision hereof. This Agreement shall be interpreted, construed and enforced in accordance with and governed by the laws of the State of Maine, without regard to any choice of law principles thereof that would direct or require the application of the laws of any jurisdiction other than the State of Maine. Any notices required by this Agreement shall be in writing and shall be personally delivered or sent by first class certified mail, return receipt requested, with postage prepaid, to the parties' addresses set forth above. Either party may change such address for notice. All notices which are so addressed and paid for shall be deemed effective when personally delivered, or, if mailed, on the earlier of receipt or two (2) days after deposit thereof in the U.S. Mail. The words or words appearing at the commencement of the sections and subsections of this Agreement are included only as a guide to the contents thereof and are not to be considered as controlling, enlarging or restricting the language or meaning of those sections or subsections. This Agreement has been reviewed by both parties. No stricter construction or interpretation of the terms hereof shall be applied against either party as the drafter hereof. For purposes of this Agreement, "notice" shall mean written notice delivered in accordance with this section. For purposes of this Agreement, "includes" and "including" means "without limitation"; and "or" includes "and".

[signature page follows]

IN WITNESS WHEREOF, the parties have executed and delivered this Agreement as of the date on which the last signature appears.

BUYER:

Witness

**GREAT FALLS CONSTRUCTION,
INC.**

By:_____

Print Name:_____

Its:_____

Duly authorized

Date:_____

SELLER:

TOWN OF WINDHAM

Witness

By:_____

Print Name:_____

Its:_____

Duly authorized

Date:_____