HEARINGS, MEETINGS, LICENSES

8-12-13

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OF THE WORLD

Town of Middleborough
Massachusetts

CHARLES J. CRISTELLO
Town Manager

508-947-0928
FAX 508-946-2320

MEMORANDUM

TO: Charles Cristello, Town Manager

FROM: Caroline LaCroix, Assistant to the Town Manager CL

RE: Town of Middleborough Emergency Notification System

DATE: August 1, 2013

The Town of Middleborough was awarded a grant from MIIA during FY13 to implement an emergency notification system to allow the Town to notify residents of a public safety or public health emergency via a telephone recording, email or text message CodeRED is the system that has been chosen for use by the Town of Middleborough. The Middleborough Gas & Electric Department will utilize this system as well. Currently the Town relies on a system operated by the Sherriff's Department, which is not always available to us.

The CodeRED system allows for emergency notifications to be sent out as a telephone message (land line and cell phone), email message or text message. The system has all land line telephone numbers in the Town of Middleborough in its database. In order to expand the database to include cell phone numbers and email addresses, the Town is asking residents to voluntarily provide this information through the website at www.middleborough.com and selecting the CodeRED symbol on the Home page (see attachment). The CodeRED website will provide instructions on setting up an account and signing up for the additional notification features available (cell phone and email messages).

The Town and the Gas & Electric Department will use the G& E newsletter and local media to continue to announce the program to solicit cellphone numbers and email addresses for the database.

Already have an account? Login

CODERED

Keeping citizens informed.

Middleborough, Town of, MA

PROVIDE VERIFY SUBMIT

Location Details

* required fields

* Address to be notified
please no P.O. boxes

* This address is: residential business

* City

* State -- * Zip Code

Contact Information

* First Name

* Last Name

* Phone 1

Mobile

TDD/TTY device
Tone delivery, for hearing impaired

Phone 2

Mobile

TDD/TTY device
Tone delivery, for hearing impaired

Email

Alert Types

Emergency Notifications

General Notifications

Account Creation

Create an account to easily manage your preferences.

*User Name

*Password

*Confirm password

Password must be alphanumeric, at least 8 characters, and include at least one number.

Continue

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Town of Middleborough
Massachusetts

CHARLES J. CRISTELLO
Town Manager

508-947-0928
FAX 508-946-2320

MEMORANDUM

TO: Charles Cristello, Town Manager

FROM: Caroline LaCroix, Assistant to the Town Manager CL

RE: Town of Middleborough launches the Commonwealth Connect – mobile application program

DATE: July 30, 2013

The City of Boston was awarded a Community Innovation Challenge (CIC) Grant from the Commonwealth of Massachusetts to implement the commonwealth connect program; a software program designed to allow residents to report problems/issues via mobile devices (iphones, androids) software to their town./city hall departments. The Town of Middleborough was selected to pilot the program for a three year period for zero dollars along with thirty-four other municipalities.

The Town has established two service request areas and a general other category for reporting issues through the Commonwealth Connect program. Zoning issues and illegal dumping issues/reports can be submitted. A third other category has also been set up for other requests. Residents need to answer a short series of the questions and may download a photograph or other material when reporting a service request. Once a request has been submitted, it is routed as follows for review and response:

- Zoning issues – Building Department
- Illegal Dumping issues – Department of Public Works
- Other Service Requests Town Manager's Office

The software allows our staff to acknowledge and close each request as well as generate work orders and reports when needed.

Residents can obtain the application in several ways. For use on a mobile device (iphone, android), residents can download the mobile application called Commonwealth Connect from the apps store for apple products (iphones) or Google Play store for android devices.

For residents that do not have a mobile device, but have access to a computer, go to the Town of Middleborough website at www.middleborough.com and select the Commonwealth Connect link. www.middleborough.com , which offers a link to See Click Fix to report service requests.

Town of Middleborough

Massachusetts

BOARD OF SELECTMEN

MEMORANDUM

TO: Assessor's Office
Conservation Commission
Planning Board
Park Department
Zoning Board
Historical Commission
Agricultural Commission

FROM: Board of Selectmen's office

DATE: July 26, 2013

RE: Town's Option to Buy Chapter 61B-Recreational Land
68 Purchase Street

The Board of Selectmen has received notice that Ralph R. Holton of Middleborough has signed a Purchase & Sale Agreement for the property located at 68 Purchase Street, Assessors Map 073, Lot 4583/r/. This recreational property consists of 30.00 acres of land, according to the Town of Middleborough Assessor's records.

Please submit written comments regarding this property to the Selectmen's office by **Wednesday, August 7, 2013.**

Thank you.

Attachments

Town of Middleborough

CONSERVATION COMMISSION

MEMORANDUM

TO: Board of Selectmen

FROM: Patricia J. Cassady, Conservation Agent

DATE: July 29, 2013

RE: Town's Option to Buy Chapter 61B-Recreational Land
68 Purchase Street (Map 73, Lot 4583/r/)

The Conservation Department is in receipt of this notice that Ralph R. Holton of Middleborough is giving the town the option to buy the above-mentioned property in Chapter 61B-Recreational Land.

The Conservation Commission will be discussing this matter at their August 15th, 2013 meeting. Until that time the Department cannot offer any comments.

Thank you

pjc

Town of Middleborough

Massachusetts

PLANNING DIRECTOR
Ruth McCawley Geoffroy

Planning Board

Telephone (508) 946-2425
Fax (508) 946-1991

MEMORANDUM

To: Board of Selectmen
Town Manager
Planning Board
Conservation Commission
Board of Assessors
Park Commission

From: Ruth McCawley Geoffroy, Planning Director

Date: July 25, 2013

Re: Tispaquin Family Campground, MGL Chapter 61B Notice of Sale

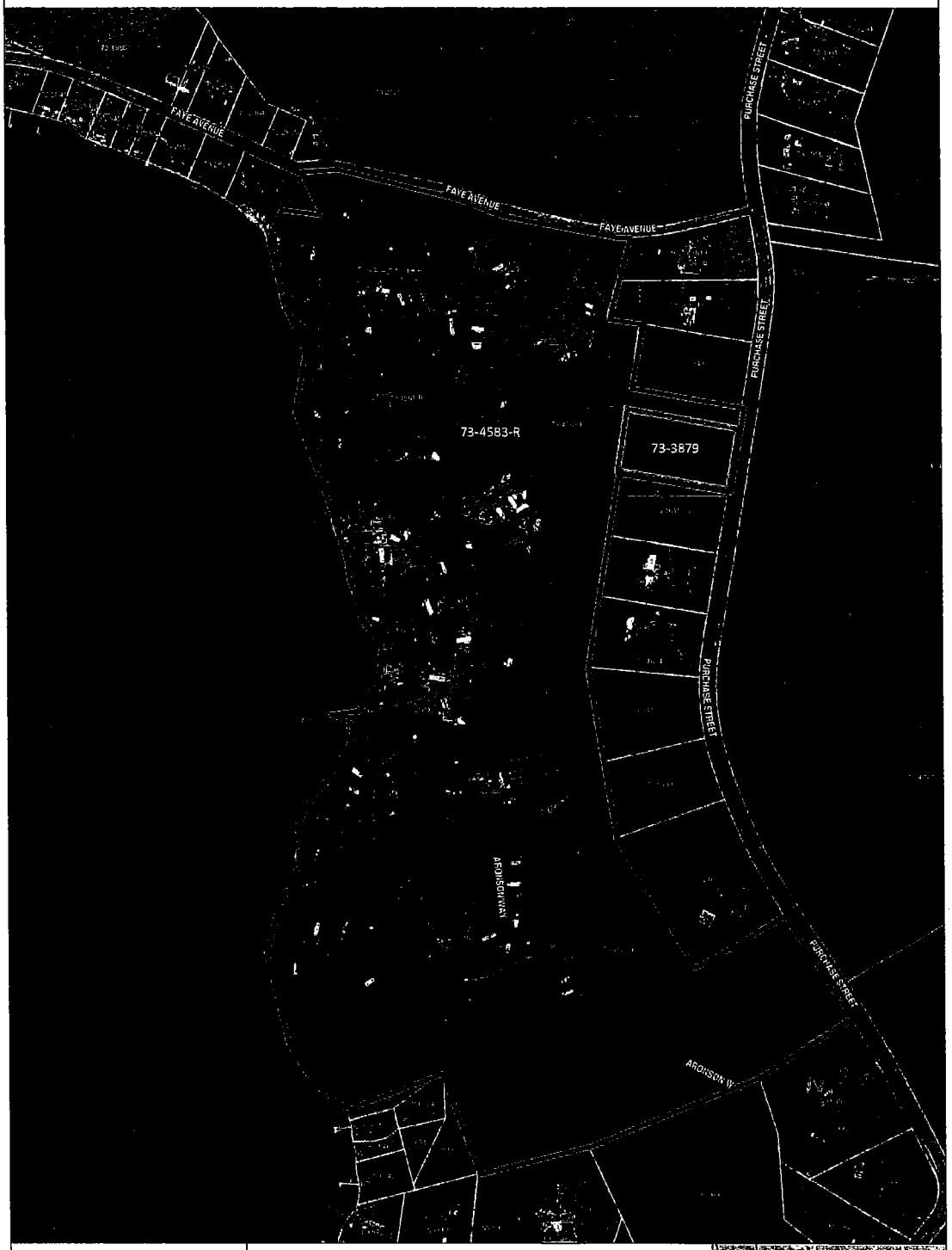
The Town is in receipt of an MGL Chapter 61B Notice of Sale from Ralph Holton for the Tispaquin Family Campground property, attached to this email. This gives the Town the right of first refusal for this property. The Purchase and Sale Agreement is dated 7/22/13 between Ralph Holton and Malloch Construction Company, Inc. The purchase price is $2,470,000 for 41.74 acres of land. There appears to be conflict between the acreage identified on the P&S and the lots identified in Ralph Holton's Notice. There is no time for performance specified; it is contingent on financing of $1,980,000, approval of four Form A Lots off of Faye Ave, approval of a 40 lot 40B subdivision, and the seller removing all of the campers. I have attached as much information presently available including the Land Court Plan and deeds.

I do not believe that the P&S represents a bona fide offer as required by Ch. 61B. It is my understanding after reading the attached statute, MGL Ch. 61B Section 9, that the good faith offer cannot be dependent on changes to current zoning or conditions or contingencies relating to the potential for subdivision of the property for residential use. There is also no time for performance specified in the P&S and it does not appear to be "certified". It is also my understanding that the purchase price for land upon which a 40B project will be developed must be based on its value as a conventional subdivision, not the value as a 40B. This can be confirmed through the MA Department of Housing and Community Development or the Town's 40B attorney, John Witten.

The Town was offered this land in the late 1970's but decided not to purchase it. Since that time the sentiment in Town has been that "it is too bad we don't have a beach like Lakeville has in Clear Pond". If there is any interest in the Town exploring the possible purchase of this property, the first steps would be to make sure that the Town receives a bona fide offer. The statute says that the Town has 30 days from receipt (7/24/13) to notify the landowner in writing that notice is insufficient and does not comply with the statue. Once a proper notice is received, the Town has 120 days after the day following the latest date of mailing of the notice, to exercise the option, by recording a notice of exercise or notice of assignment with the registry of deeds. Purchase occurs after that and is more fully outlined in the law.

It would seem in any case, that if the Town has any interest at all in this property, an appraisal should be done to determine what the fair market value would be so that we will know when a bona fide offer is received as well as know what price would be reasonable to be paying for such a property.

I have also attached an aerial photo showing the lots in question, the property deeds from the Registry of deeds, the Land Court Plan, and the Assessor's field cards.



Property Information

Property ID 073-3879
Location PURCHASE ST
Owner HOLTON, RALPH F

Holton 61B Notice

Tispaquin Family Campground

Purchase Street

MAP FOR REFERENCE ONLY
NOT A LEGAL DOCUMENT

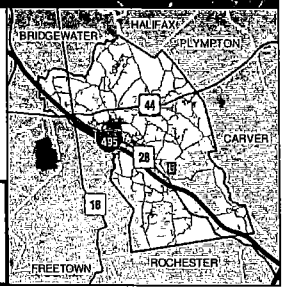
This Town makes no claims and no warranties, expressed or implied, concerning the validity or accuracy of the GIS data presented on this map.

Parcels updated 12/31/2011

Prepared by: Middleborough Planning Department

July 25, 2013

Note: According to Assessor's Office the area shown as Lot 73-4583-R above also includes Lot 73-4583 (house on 1.84 ac.) which has been classified separately for 61B purposes. The total acreage combined according to the Assessors is 31.84 ac. Lot 73-3879 is 0.92 ac. according to Assessors.



7/23/2013

Notice of Intent

I Ralph R. Holton do hereby intend to sell my property described in the purchase and sale agreement attachment to this notice. Said land shown on assessors map 073/14583/r/ and 073/13879.

Ralph F. Holton

68 Purchase St.

Middleborough, MA 02346

774-260-0905

7/24/13

Included in packet:

Notice of intent

The location and map of land situated in Middleborough

The name, address, and telephone number of landowner

Purchase and sales agreement to the landowner

Packets hand delivered to assessor's office

Planning board

Conservation commission

Board of selectmen

Packet to Forestry Certified Mail

Received 7.24.13

Town of Middleborough
Board of Selectmen

Jacqueline M. Shanley
Executive Assistant

Town Hall
10 Nickerson Avenue
Middleborough, MA 02346

Tel: 508-946-2405
Fax: 508-946-0058
Email: jshanley@middleborough.com

MASSACHUSETTS ASSOCIATION OF REALTORS®

STANDARD RESIDENTIAL PURCHASE AND SALE AGREEMENT *[#503]*

(With Contingencies)

The parties make this Agreement this 22nd day of July, 2013. This Agreement supersedes and replaces all obligations made in any prior Contract To Purchase or agreement for sale entered into by the parties.

1. **Parties:**

Ralph F. Holton *[insert name]*, the "SELLER," agrees to sell and Malloch Construction Co., Inc. *[insert name]*, the "BUYER," agrees to buy, the premises described in paragraph 2 on the terms set forth below. BUYER may require the conveyance to be made to another person or entity ("Nominee") upon notification in writing to SELLER at least five business days prior to the date for performance set forth in paragraph 5. Designation of a Nominee shall not discharge the BUYER from any obligation under this Agreement and BUYER hereby agrees to guarantee performance by the Nominee.

2. **Description Of Premises**. The premises (the "Premises") consist of:

(a) the land with any and all buildings thereon known as 68 Purchase Street, Middleboro, MA. 02346 consisting of (1) parcel 1.84 acres +/- and (1) 39.9+/- acre parcel LCD489906-489906, as more specifically described in a deed recorded in the Plymouth County Registry of Deeds at Book 499, Page 149-150, [Certificate No.], a copy of which ☐ is ☒ is not *[choose one]* attached; and

(b) all structures, and improvements on the land and the fixtures, including, but not limited to: any and all storm windows and doors, screens, screen doors, awnings, shutters, window shades and blinds, curtain rods, furnaces, heaters, heating equipment, oil and gas burners and fixtures, hot water heaters, plumbing and bathroom fixtures, towel racks, built-in dishwashers, garbage disposals and trash compactors, stoves, ranges, chandeliers, electric and other lighting fixtures, burglar and fire alarm systems, mantelpieces, wall-to-wall carpets, stair carpets, exterior television antennas and satellite dishes, fences, gates, landscaping including trees, shrubs, flowers; and the following built-in components, if any: air conditioners, vacuums systems, cabinets, shelves, bookcases and stereo speakers, and _____, but excluding _____.

[insert references to refrigerators, dishwashers, microwave ovens, washing machines, dryers or other items, where appropriate]

3. **Purchase Price:** The purchase price for the Premises is $ 2,475,000.00 dollars of which

$ _____ were paid as a deposit with Contract To Purchase; and

$ 5,000.00 are paid with this Agreement;

$ _____ are to be paid _____; and

$ 2,470,000.00 are to be paid at the time for performance by bank's, cashier's, treasurer's or certified check or by wire transfer.

$ 2,475,000.00 Total

4. **Escrow.** All funds deposited or paid by the BUYER shall be held in a non-interest bearing escrow account, by Proline Realty Inc., as escrow agent, subject to the terms of this Agreement and shall be paid or otherwise duly accounted for at the time for performance. If a

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dispute arises between the BUYER and SELLER concerning to whom escrowed funds should be paid, the escrow agent may retain all escrowed funds pending written instructions mutually given by the BUYER and the SELLER. The escrow agent shall abide by any Court decision concerning to whom the funds shall be paid and shall not be made a party to a lawsuit solely as a result of holding escrowed funds. Should the escrow agent be made a party in violation of this paragraph, the escrow agent shall be dismissed and the party asserting a claim against the escrow agent shall pay the agent's reasonable attorneys' fees and costs. *[If interest is to accrue on escrowed funds, indicate to whom it shall be paid.]*

5. **Time For Performance.** The SELLER shall deliver the deed and the BUYER shall pay the balance of the purchase price at 2 o'clock P. m. on the TBD day of TBD, _____, at the Plymouth County Registry of Deeds, or at such other time and place as is mutually agreed in writing. TIME IS OF THE ESSENCE AS TO EACH PROVISION OF THIS AGREEMENT. Unless the deed and other documents required by this Agreement are recorded at the time for performance, all documents and funds are to be held in escrow, pending prompt rundown of the title and recording (or registration in the case of registered land). SELLER'S attorney or other escrow agent shall disburse funds the next business day following the date for performance, provided that the recording attorney has not reported a problem outside the recording attorney's control.

6. **Title/Plans**. The SELLER shall convey the Premises by a good and sufficient quitclaim deed running to the BUYER or to the BUYER'S nominee, conveying good and clear record and marketable title to the Premises, free from liens and encumbrances, except:

(a) Real estate taxes assessed on the Premises which are not yet due and payable;

(b) Betterment assessments, if any, which are not a recorded lien on the date of this Agreement;

(c) Federal, state and local laws, ordinances, bylaws, rules and regulations regulating use of land, including building codes, zoning bylaws, health and environmental laws;

(d) Rights and obligations in party walls;

(e) Any easement, restriction or agreement of record presently in force which does not interfere with the reasonable use of the Premises as now used;

(f) Utility easements in the adjoining ways;

(g) Matters that would be disclosed by an accurate survey of the Premises; and

(h) _____

[insert in (h) references to any other easement, restriction, lease or encumbrance which may continue after title is transferred]

If the deed refers to a plan needed to be recorded with it, at the time for performance the SELLER shall deliver the plan with the deed in proper form for recording or registration.

7. **Title Insurance**. BUYER'S obligations are contingent upon the availability (at normal premium rates) of an owner's title insurance policy insuring BUYER'S title to the premises without exceptions other than the standard exclusions from coverage printed in the current American Land Title Association ("ALTA") policy cover, the standard printed exceptions contained in the ALTA form currently in use for survey matters and real estate taxes (which shall only except real estate taxes not yet due and payable) and those exceptions permitted by paragraph 6 of this Agreement.

8. **Closing Certifications and Documents**. The SELLER shall execute and deliver simultaneously with the delivery of the deed such certifications and documents as may customarily and reasonably be required by the BUYER'S attorney,

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BUYER'S lender, BUYER'S lender's attorney or any title insurance company insuring the BUYER'S title to the Premises, including, without limitation, certifications and documents relating to: (a) parties in possession of the premises; (b) the creation of mechanics' or materialmen's liens; (c) the HUD-1 Settlement Statement and other financial affidavits and agreements as may reasonably be required by the lender or lender's attorney; (d) the citizenship and residency of SELLER as required by law; and (I) information required to permit the closing agent to report the transaction to the Internal Revenue Service. At the time of delivery of the deed, the SELLER may use monies from the purchase to clear the title, provided that all documents related thereto are recorded with the deed or within a reasonable time thereafter acceptable to the BUYER and, provided further, that discharges of mortgages from banks, credit unions, insurance companies and other institutional lenders may be recorded within a reasonable time after recording of the deed in accordance with usual conveyancing practices. The SELLER'S spouse hereby agrees to release all statutory, common law or other rights or interest in the Premises and to execute the deed, if necessary.

9. **Possession And Condition Of Premises**. At the time for performance the SELLER shall give the BUYER possession of the entire Premises, free of all occupants and tenants and of all personal property, except property included in the sale or tenants permitted to remain. At the time for performance the Premises also shall comply with the requirements of paragraph 6, and be broom clean and in the same condition as the Premises now are, reasonable wear and tear excepted, with the SELLER to have performed all maintenance customarily undertaken by the SELLER between the date of this Agreement and the time for performance, and there shall be no outstanding notices of violation of any building, zoning, health or environmental law, bylaw, code or regulation, except as agreed. The BUYER shall have the right to enter the Premises within forty-eight (48) hours prior to the time for performance or such other time as may be agreed and upon reasonable notice to SELLER for the purpose of determining compliance with this paragraph. At the time of recording of the deed, or as otherwise agreed, the SELLER shall deliver to BUYER all keys to the Premises, garage door openers and any security codes. Until delivery of the deed, the SELLER shall maintain fire and extended coverage insurance on the Premises in the same amount as currently insured.

10. **Extension Of Time For Performance**. If the SELLER cannot convey title as required by this Agreement or cannot deliver possession of the Premises as agreed, or if at the time of the delivery of the deed the Premises do not conform with the requirements set forth in this Agreement or the BUYER is unable to obtain title insurance in accordance with paragraph 7, upon written notice given no later than the time for performance from either party to the other, the time for performance shall be automatically extended for thirty (30) days, except that if BUYER'S mortgage commitment expires or the terms will materially and adversely change in fewer than thirty (30) days, the time for performance set forth in paragraph 5 shall be extended to one business day before expiration of the mortgage commitment. SELLER shall use reasonable efforts to make title conform or to deliver possession as agreed, or to make the Premises conform to the requirements of this Agreement. Excluding discharge of mortgages and liens, about which the SELLER has actual knowledge at the time of signing this Agreement, the SELLER shall not be required to incur costs or expenses totaling in excess of one-half (1/2) of one percent of the purchase price to make the title or the Premises conform or to deliver possession as agreed. If at the expiration of the time for performance, or if there has been an extension, at the expiration of the time for performance as extended, the SELLER, despite reasonable efforts, cannot make the title or Premises conform, as agreed, or cannot deliver possession, as agreed, or if during the period of this Agreement or any extension thereof, the SELLER has been unable to use proceeds from an insurance claim, if any, to make the Premises conform, then, at the BUYER'S election, any payments

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made by the BUYER pursuant to this Agreement shall be immediately returned. Upon return of all such funds, all obligations of the BUYER and SELLER shall terminate and this Agreement shall automatically become void and neither the BUYER nor SELLER shall have further recourse or remedy against the other.

11. **Nonconformance Of Premises.** If the Premises do not conform to the requirements of paragraph 9 because they have been damaged by fire or other casualty (occurring after the date of this Agreement) that is covered by insurance, then the BUYER shall have the right to elect whether or not to proceed to accept the Premises and take title. If BUYER elects to proceed BUYER shall have the right to elect to have the SELLER pay or assign to the BUYER, at the time for performance, the proceeds recoverable on account of such insurance, less any cost reasonably incurred by the SELLER for any incomplete repairs or restoration. If the SELLER, despite reasonable efforts, has neither been able to restore the Premises to its former condition nor to pay or assign to the BUYER the appropriate portion of insurance proceeds, the BUYER shall have the right to elect to have the SELLER give the BUYER a credit toward the purchase price, for the appropriate amount of insurance proceeds recoverable less any costs reasonably incurred by the SELLER for any incomplete restoration.

12. **Acceptance Of Deed.** The BUYER shall have the right to accept such title to the Premises as the SELLER can deliver at the time for performance and if extended, shall have such right at the time for performance, as extended. The BUYER shall also have the right to accept the Premises in the then current condition and to pay the purchase price without reduction of price. Upon notice in writing of BUYER'S decision to accept the Premises and title, the SELLER shall convey title and deliver possession. Acceptance of a deed by the BUYER or BUYER'S nominee, if any, shall constitute full performance by the SELLER and shall be deemed to release and discharge the SELLER from every duty and obligation set forth in this Agreement, except any duty or obligation of the SELLER that the SELLER has agreed to perform after the time for performance. Notwithstanding the foregoing, the warranties, if any, made by the SELLER shall survive delivery of the deed.

13. **Adjustments.** At the time for performance of this Agreement adjustments shall be made as of the date of performance for current real estate taxes, fuel value, water rates, sewer use charges, collected rents, uncollected rents (if and when collected by either party), security deposits, prepaid premiums on insurance if assigned. The net total of such adjustments shall be added to or deducted from the purchase price payable by the BUYER at the time for performance. If the real estate tax rate or assessment has not been established at the time for performance, apportionment of real estate taxes shall be made on the basis of the tax for the most recent tax year with either party having the right to request apportionment from the other within twelve months of the date that the amount of the current year's tax is established. *[If tenants will continue to occupy the Premises, use of the Rental Property Addendum to Purchase And Sale Agreement should be considered.]*

14. **Acknowledgment Of Fee Due Broker.** The SELLER and BUYER acknowledge that a fee of One Hundred & Four Thousand Five Hundred Dollars ($ 148,500.00) for professional services shall be paid by the SELLER to Proline Realty Inc, the "BROKER", at the time for performance. In the event of a conflict between the terms of this Agreement and a prior fee agreement with BROKER, the terms of the prior fee agreement shall control unless BROKER has expressly agreed to a change in writing. The BUYER and SELLER acknowledge receipt of a notice from BROKER, pursuant to 254 of the Code of Massachusetts Regulations Section 3.0 (13), regarding any agency

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relationship of the BROKER with the BUYER and/or the SELLER. The BUYER and SELLER understand that N/A *[insert name]*, a real estate broker, is seeking a fee from N/A *[name of listing broker, seller or buyer, if applicable]* for services rendered as a ☐ seller's subagent ☐ buyer's agent ☐ facilitator (non-agent) *[choose one]*. The BUYER further represents and warrants that there is no other broker with whom BUYER has dealt in connection with the purchase of the Premises.

15. **Buyer's Default**. If the BUYER or BUYER'S Nominee breaches this Agreement, all escrowed funds paid or deposited by the BUYER shall be paid to the SELLER as liquidated damages. Receipt of such payment shall constitute the SELLER'S sole remedy, at law, in equity or otherwise, for BUYER'S default. The BUYER and SELLER agree that in the event of default by the BUYER the amount of damages suffered by the SELLER will not be easy to ascertain with certainty and, therefore, BUYER and SELLER agree that the amount of the BUYER'S deposit represents a reasonable estimate of the damages likely to be suffered.

16. **Buyer's Financing**. *(Delete If Waived)* The BUYER'S obligation to purchase is conditioned upon obtaining a written commitment for mortgage financing in the amount of $ 1,980,000.00 at prevailing rates, terms and conditions by TBD. The BUYER shall have an obligation to act reasonably diligently to satisfy any condition within BUYER'S control. If, despite such diligent efforts, the BUYER has been unable to obtain such written commitment, the BUYER may terminate this Agreement by giving written notice that is received by SELLER or SELLER'S agent by 5:00 p.m. on the calendar day after the date set forth above. In the event that notice has not been actually or constructively received, this condition is deemed waived. In the event that due notice has been received, all monies deposited or paid by the BUYER shall be returned and all obligations of the BUYER and SELLER pursuant to this Agreement shall cease and this Agreement shall become void. In no event shall the BUYER be deemed to have used reasonable efforts to obtain financing unless the BUYER has submitted at least one (1) application to a licensed mortgage lender by TBD and acted reasonably promptly in providing any additional information requested by the mortgage lender.

17. **Inspections/Survey**. The BUYER has had an opportunity to conduct all inspections and accepts the condition of the property as is, subject to any work expressly agreed in writing to be performed at the expense of SELLER. Notwithstanding the foregoing, the BUYER has 60 days from the date of this Agreement to complete inspection of 68 Purchase Street, Middleboro, MA by consultant(s) regularly in the business of conducting said inspections, of BUYER'S own choosing, and at BUYER'S sole cost. If the results are not satisfactory to BUYER, in BUYER'S sole discretion, BUYER shall have the right to give written notice received by the SELLER or SELLER'S agent by 5:00 p.m. on the calendar day after the date set forth above, terminating this Agreement. Upon receipt of such notice this Agreement shall be void and all monies deposited by the BUYER shall be returned. Failure to provide timely notice of termination shall constitute a waiver. In the event that the BUYER does not exercise the right to have such inspection(s) or to so terminate, the SELLER and the listing broker are each released from claims relating to the condition of the Premises that the BUYER or the BUYER'S consultants could reasonably have discovered.

18. **Lead Paint Laws.** For premises built before 1978 BUYER acknowledges receipt of the "Department of Public Health Property Transfer Notification" regarding the Lead Law, acknowledges verbal notification of the possible presence of lead hazards and the provisions of the Federal and Massachusetts Lead Laws and regulations, including the right to inspect for dangerous levels of lead. Occupancy of premises containing dangerous levels of lead by a child under six years of age is prohibited, subjected to exceptions permitted by law. BUYER further acknowledges that neither the SELLER nor any real estate agent has made any representation, express or implied, regarding the absence of lead paint or compliance with

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any lead law, except as set forth in writing. BUYER assumes full responsibility for compliance with all laws relating to lead paint removal, if required by law, and related matters (in particular, without limitation, Mass. G.L., c. 111, § 197), and BUYER assumes full responsibility for all tests, lead paint removal and other costs of compliance. Pursuant to 40 CMR 745.113(a), the Property Transfer Notification Certification is attached to this agreement.

19. **Certificate of Approved Installation.** The SELLER shall equip the residential structure on the Premises with approved smoke detectors and carbon monoxide detectors and furnish BUYER with Certificate of Approved Installation from the local Fire Department at the time for performance to the extent required by law as well as any wood stove permit, if any, required by law, regulation or ordinance.

20. **Warranties And Representations.** The SELLER represents and warrants that the Premises ☐ is ☐ is not *[choose one]* served by a septic system or cesspool. [If yes, a copy of the Title 5 Addendum is attached.] The SELLER further represents that there ☐ is an ☐ is not ☐ has no knowledge of *[choose one]* an underground storage tank or an unapproved and abandoned septic tank. The SELLER further represents and warrants that SELLER has full authority to enter into this Agreement. The buyer is not relying upon any representation, verbal or written, from any real estate broker or licensee concerning legal use. Any reference to the category (single family, multi-family, residential, commercial) or the use of this property in any advertisement or listing sheet, including the number of units, number of rooms or other classification is not a representation concerning legal use or compliance with zoning by-laws, building code, sanitary code or other public or private restrictions by the broker. The BUYER understands that if this information is important to BUYER, it is the duty of the BUYER to seek advice from an attorney or written confirmation from the municipality. In addition, the BUYER acknowledges that there are no warranties or representations made by the SELLER or any broker on which BUYER relies in making this Offer, except those previously made in writing and the following:

NONE

[If none, state "none"; if any listed, indicate by whom the warranty or representation was made.]

21. **Notices.** All notices required or permitted to be made under this Agreement shall be in writing and delivered in hand, sent by certified mail, return receipt requested or sent by United States Postal Service overnight Express Mail or other overnight delivery service, addressed to the BUYER or SELLER or their authorized representative at the address set forth in this paragraph. Such notice shall be deemed to have been given upon delivery or, if sent by certified mail on the date of delivery set forth in the receipt or in the absence of a receipt three business days after deposited or, if sent by overnight mail or delivery, the next business day after deposit with the overnight mail or delivery service, whether or not a signature is required. Acceptance of any notice, whether by delivery or mail, shall be sufficient if accepted or signed by a person having express or implied authority to receive same. Notice shall also be deemed adequate if given in any other form permitted by law. *[If there are multiple buyers, identify the mailing address of each buyer in paragraph 23.]*

BUYER:	Malloch Construction Co., Inc. Malloch Construction Co., Inc.	SELLER:	Ralph F. Holton
Address:	113 Padelford Street Berkley, MA 02779	Address:	68 Purchase Street Middleboro, MA. 02346

22. **Counterparts / Electronic Delivery / Construction Of Agreement.** This Agreement may be executed in counterparts. All documents related to this transaction may be delivered electronically, including by encrypted email or facsimile, and shall have the same effect as delivery of an original. This Agreement shall be construed as a Massachusetts contract; is to take effect as a sealed instrument; sets forth the entire agreement between the parties; is binding upon

BUYER'S Initials BUYER'S Initials SELLER'S Initials SELLER'S Initials

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and is intended to benefit the BUYER and SELLER and each of their respective heirs, devisees, executors, administrators, successors and assigns; and may be canceled, modified or amended only by a written agreement executed by both the SELLER and the BUYER. If two or more persons are named as BUYER their obligations are joint and several. If the SELLER or BUYER is a trust, corporation, limited liability company or entity whose representative executes this Agreement in a representative or fiduciary capacity, only the principal or the trust or estate represented shall be bound, and neither the trustee, officer, shareholder or beneficiary shall be personally liable for any obligation, express or implied. The captions and any notes are used only as a matter of convenience and are not to be considered a part of this Agreement and are not to be used in determining the intent of the parties. Any matter or practice which has not been addressed in this agreement and which is the subject of a Title Standard or Practice of the Real Estate Bar Association for Massachusetts, formerly known as the Massachusetts Conveyancers Association, at the time of performance shall be governed by the Standard of Practice of the Massachusetts Real Estate Bar for Massachusetts.

23. **Additional Provisions.**

Subject to Buyer being able to Form "A" four lots on Faye Avenue
Subject to an approved 40B Sub-division of 40 Lots
Subject to obtaining 80% financing
Subject to Seller removing all campers on property

UPON SIGNING, THIS DOCUMENT WILL BECOME A LEGALLY BINDING AGREEMENT. IF NOT UNDERSTOOD, SEEK ADVICE FROM AN ATTORNEY.

7-22-13		7/22/13	
BUYER Malloch Construction Co., Inc.	Date	SELLER Ralph F. Holton	Date
BUYER Malloch Construction Co., Inc.	Date	SELLER, *or spouse*	Date
BUYER	Date	SELLER, *or spouse*	Date

Escrow Agent. By signing below, the escrow agent agrees to perform in accordance with paragraph 4, but does not otherwise become a party to this Agreement.

ESCROW AGENT or representative Date

BUYER'S Initials BUYER'S Initials

SELLER'S Initials SELLER'S Initials

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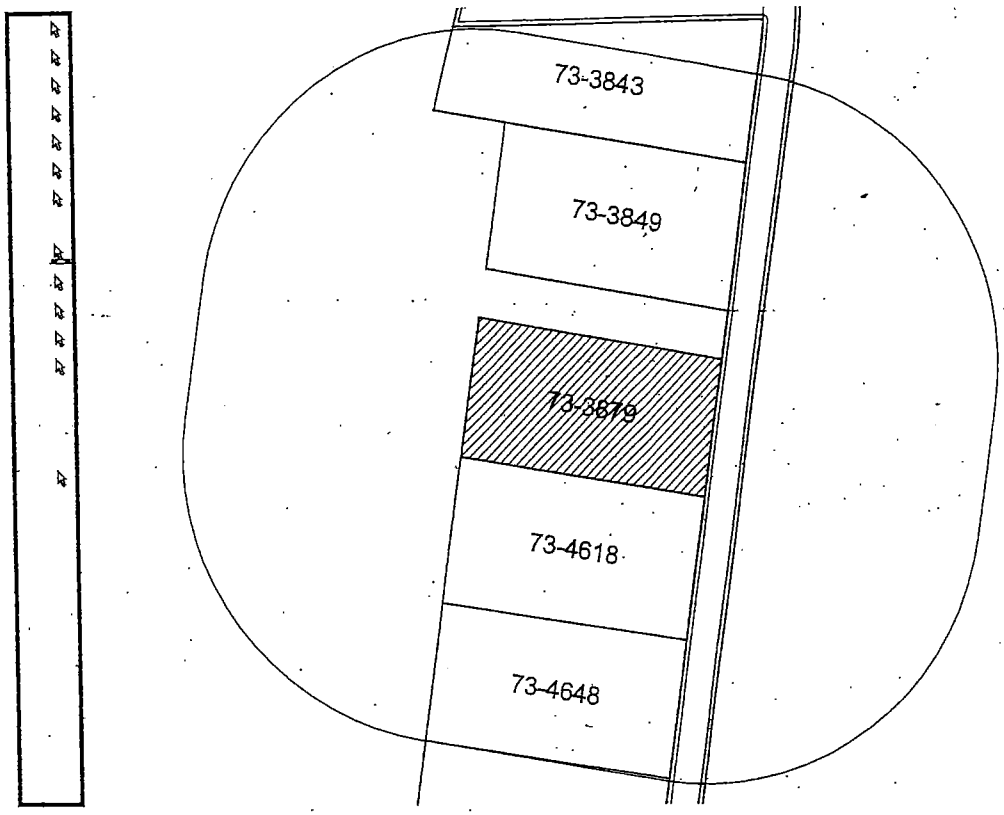
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