

**McCormick, Murtagh  
& Marcus**

ATTORNEYS AND COUNSELORS AT LAW

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ATTORNEYS

**Edward G. McCormick**

**Kathleen M. McCormick**

**C. Nicholas Arienti**

February 9, 2011

Kevin O'Donnell, Town Manager  
Town of Great Barrington  
334 Main Street  
Great Barrington, MA 01230

Re: Purchase of Fire Station

Dear Mr. O'Donnell:

As Manager of 20 Castle Street, LLC ("20 Castle"), I hereby submit a response to the Town of Great Barrington's Request For Proposal for the purchase and reuse of the Fire Station building located at 20 Castle Street, Great Barrington.

20 Castle's proposal which is attached hereto falls into two parts, the historical restoration and the adaptive reuse of the building. The first part will consist of further arresting the building deterioration and the structural restoration of the Fire Station. This Phase will consist of a proper, well planned and well-executed historical restoration of the building's exterior, which will make the building a long term asset for the community. Attached hereto are two drawings illustrating a historical and conceptual restoration.

The second part will be the adaptive reuse of the building. It is a vision of 20 Castle to create "ArtWorks", a facility that will house a mix of entities that will have a programmatic focus on education, vocational training, jobs, and career counseling; directed at being a catalyst for employment growth in Berkshire County.

The vision, mission and motivation inspired by this property lies within its rich history and the original purpose of the building to help and serve the community. "ArtWorks", through its programming will provide young people with the opportunity to learn valuable technical skills as well as practice business guidance counseling. Keeping our young people employed within the community is essential to the future growth and economic development of Great Barrington, inclusive of farm and agricultural, high tech and the culinary arts. I believe private enterprise has a responsibility for investing in the future. "ArtWorks" will be the model.



Two of the first floor businesses will be for profit businesses designated to make a long term economic contribution to the building's viability, while having specific education and career programs built into them. It is anticipated that located on the first floor will be "The Wooden Yankee". The Wooden Yankee will operate a for profit business, split between paid for fine furniture and cabinetry classes and vocational training in all aspects of home building and remodeling. The later focus will be towards young adults. The vocational area will have a cross section of home building under construction with foundation, framing, electrical, plumbing, heating, bath, kitchen, etc. It will be a life cycle of being built, dismantled and rebuilt and providing hands on experience for students. Courses will also include the economics of operating and sustaining one's own business.

"The Local Canvas", a for profit café utilizing the farm to table concept shall serve breakfast, lunch and dinner. The cafe will be located in the westerly portion of the first floor occupying approximately 3,000 square feet. Unique to Local Canvas will be its educational and training component. It will have an enlarged kitchen to be utilized for culinary classes.

"The Great Barrington Historical Society and Museum" will be located in approximately 2,500 square feet of the remaining first floor located in the original Fire House building. The Historical Society will participate with 20 Castle in an advisory capacity during the restoration and will use the facility not only for exhibits but will incorporate art shows, book signings and small gatherings. The museum will provide a secure research repository for the town's archives and artifacts for students, historians and local organizations to easily access.

On the second floor, "Hope Hall", a non-profit organization will occupy approximately 600 feet of the large meeting room to provide career, vocational and employment counseling, as well as specific classes to educate in the basics of starting and running of your own business. Also on the second floor, there will be a small for profit retail store and office space.

The use for the third floor has not been determined at this time but it is intended to be utilized in the future consistent with the vision of "ArtWorks".

20 Castle has assembled the following development team to carry out the attached proposal which I hope will be accepted by the Town of Great Barrington: Ed McCormick, Project Manager; Tom Borshoff, Development Financial Coordinator; Phil Fitsimmons, Space Coordinator; and Jim Mercer, Historic Coordinator.

The attached proposal by 20 Castle is for a bid price of \$50,000.00 subject to the terms and conditions set forth in the proposed Purchase & Sale Agreement, with an anticipated closing within 45 days.

Kevin O'Donnell, Town Manager  
February 9, 2011  
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Enclosed is a certified check payable to the Town of Great Barrington in the amount of \$2,500.00. In addition, 20 Castle will allow the Town to continue to occupy, for its existing use, the second floor for at least one year and the ground floor on a month to month basis.

If you or the Board of Selectmen have any questions or would like to discuss our proposal in greater detail, I am available to meet with you at your earliest convenience.

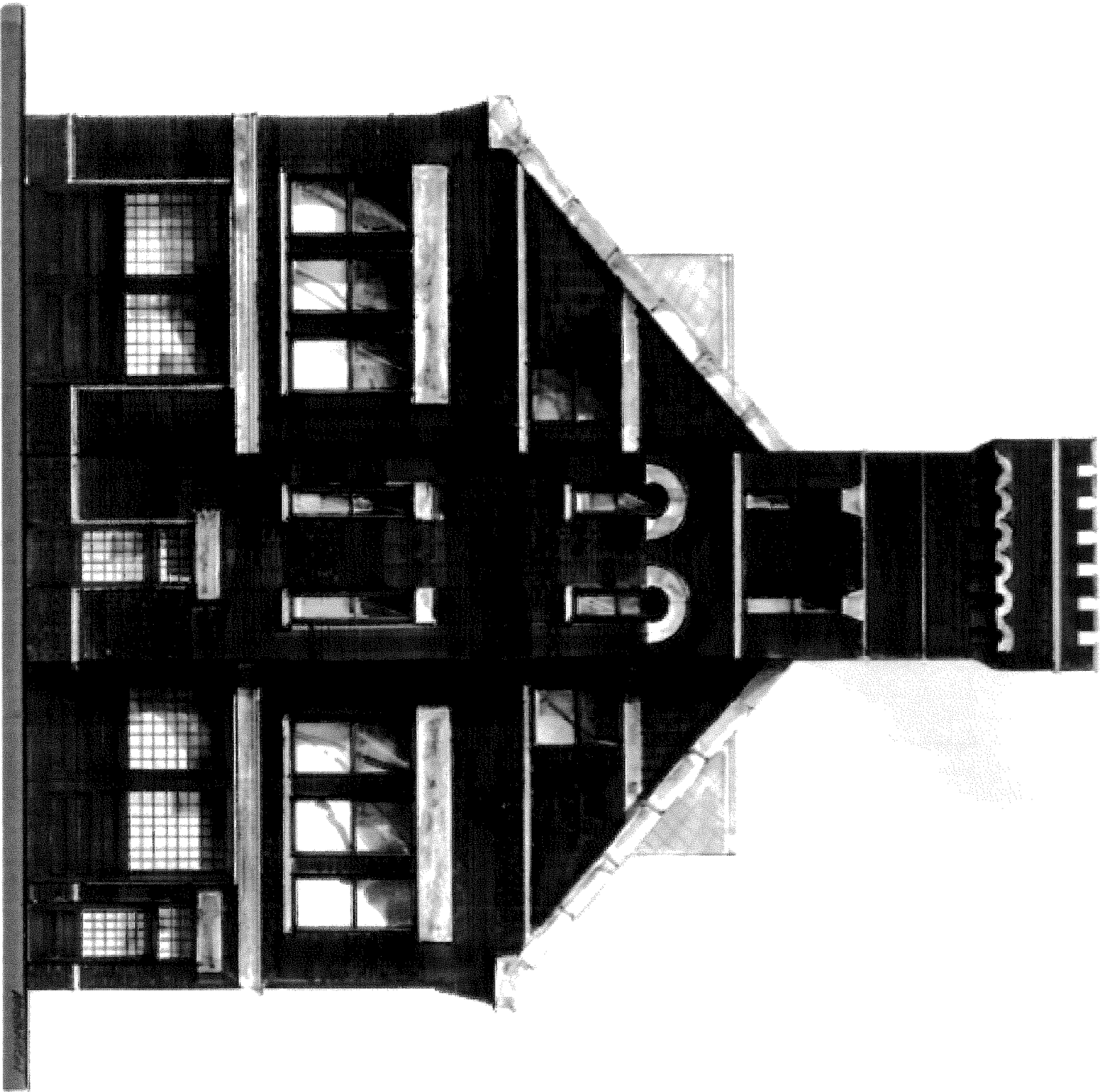
Sincerely,

McCormick, Murtagh & Marcus

A handwritten signature in dark ink, appearing to read "Edward G. McCormick", written over a horizontal line.

Edward G. McCormick

EGM/cap





TOWN OF GREAT BARRINGTON  
BID FORM

**Purchase of Real Property – Fire Station**

**Bids Due:** February 9, 2011 @ 2:00 PM  
Office of the Town Manager  
Town Hall, 334 Main Street  
Great Barrington, MA 01230

Proposed purchase price \$ 50,000.00

Please attach the information requested in the Request For Proposals under the 10 points of Evaluation Criteria so that the Town may adequately review the proposal.

  
Signature/Title Edward G. McCormick, Manager

2-9-2011  
Date

20 Castle Street, LLC  
Company/Firm/Individual Name

413-528-0630  
Phone

390 Main Street Great Barrington MA 01230  
Street City/Town State ZIP

## **PROPOSAL OF 20 CASTLE STREET, LLC ("20 Castle")**

"The Project": The Historical Restoration of 20 Castle Street

"Vision": "ArtWorks", a community asset and facility with a programmatic scheme geared towards vocational training, education and job creation.

### **1. Bid price.**

\$50,000 plus free use and occupancy of the 2<sup>nd</sup> floor for its current use for minimum of one year and continued use and occupancy of first floor on a month to month basis (subject to the terms of the Purchase and Sale Agreement attached hereto as Exhibit "A").

### **2. The projected date of commencement and completion of the development project.**

20 Castle shall forthwith commence The Project upon the purchase of the property from the Town of Great Barrington.

Phase 1 will consist of further arresting building deterioration and historic restoration. This Phase will consist of proper, well-planned and well-executed historical restoration of the building's exterior. Exhibit "B" consists of 2 drawings, the first is a historical restoration and the second is a conceptual restoration. 20 Castle shall work with the Great Barrington Historical Society to insure the proper restoration so as to make the building a long-term asset for the community. 20 Castle has been and will continue to seek the advice and guidance of the Great Barrington Historical Society to ensure a quality historical renovation.

The structural, architectural and engineering evaluation, together with the planning and bidding process will commence immediately upon purchase. Arresting of deterioration will commence as soon as practical. Structural restoration is planned to commence in the spring/summer 2012. This will be the first priority with no other development and adaptive space reuse commencing until completion of total structural evaluation and structural repair. This Phase would be inclusive of identifying and remediating

environmental issues. 20 Castle anticipates completion of Phase 1 within eighteen 18 to 24 months of purchase.

Phase 2 will be exterior improvement of space between the west side of the building and the westerly property boundary line subject to existing easements, encroachments and ownership. This Phase includes a plan for lighting, brick sidewalks and a potential pedestrian tie-in loop to upper Railroad Street. This Phase is planned to commence as early as third quarter 2012, and should be completed within a 6 month time period from commencement. Phase 2 may incur delays if this space is necessary for large equipment or material storage needed for Phase 1.

Phases 1 and 2 are the two Phases dedicated to the structural and historical restoration of the Fire House. The following Phases for the adaptable reuse are the Vision of 20 Castle to create “ArtWorks”, a community asset and facility with a programmatic scheme geared towards vocational training, education and job creation. At this stage, it is unclear if this Vision will be economically viable. For the building to be a true long-term asset to the community, it must be economically viable and capable of sustaining itself.

Phase 3 is the adaptive reuse of the property into space to serve the community as laid out in 20 Castle’s Vision for reuse in Paragraph 7 of this proposal and is planned for late 2013 or 2014. Each space should take 12-18 months build out from commencement.

Phase 4, which may be done concurrently with Phase 3 or sequentially afterward, is the second floor build out (see Paragraph 7 for Vision for reuse).

Currently, there are no plans for the third floor, but it is the intent of 20 Castle to propose future utilization of this space consistent with its Vision for “ArtWorks”.

Overall completion of Phases 1-4 is expected to be completed within 4 years from The Project’s commencement date.

### **3. The amount of time required to affect the transfer of ownership.**

20 Castle is prepared to close within 45 days of executing a Purchase and Sale Agreement materially similar to the proposed Purchase and Sale Agreement set forth in Exhibit “A”. The purchase by 20 Castle shall be subject to the terms of said proposed Purchase and Sale Agreement.



**4. Economic benefit to the Town in the amount of funds the Town is to receive pursuant to the development proposal and in real property tax value to the Town.**

- The purchase price of \$50,000.
- At this time, 20 Castle has estimated that the capital improvements to the old Fire House will be in excess of \$1,000,000, increasing the taxable property value for the Town at the completion of The Project. As 20 Castle will have a negative carry cost until The Project is economically viable (estimated next 5 years), 20 Castle is seeking the following fixed tax assessment by the Town for years 1-7:
  - Years 1 and 2: \$50,000 valuation
  - Years 3 and 4: \$300,000 valuation
  - Years 5 through 7: \$500,000 valuation
- 20 Castle is offering free use and occupancy to the Town for a minimum of one year, reasonably valued at \$15,000 (subject to the terms of the Purchase and Sale Agreement, Exhibit "A").

In addition to the direct economic benefit to the Town listed above, 20 Castle intends, where economically feasible, to utilize professional services, labor and materials from the local community.

The premises will be a community asset and cultural center for the Town. It will have far-reaching economic values for other businesses and the community as a whole.

**5. Impact of the project on the existing Town infrastructure.**

There shall be no negative impacts on the Town, including but not limited to parking, traffic flow, safety, adequacy of utilities and public services, environment nor open spaces.

In addition to having no negative impacts on the Town, there will be no negative impacts on the character of the neighborhood, including the Mahaiwe Theatre and other area businesses.

**6. The number of jobs, if any, created.**

In addition to the temporary employment of local professionals during the restoration portion of The Project, the greatest contribution of our purchase is continued job training and creation for the community. Its original name, "Hope Hall" is symbolic of its desire to serve community. This history "of purpose and meaning" like the physical structure, must also be restored and preserved as an asset to the community. To this end, the Vision for this building is to create "ArtWorks", a community asset and facility with a programmatic scheme geared towards vocational training, education and job creation. Through vocational skills training and entrepreneurial counseling, it is anticipated that annually 10 to 20 young people will be meaningfully, and rewardingly employable within the community, who otherwise would not have been.

During the "restoration phases", there will be 15-25 part time jobs generated as part of this 12-24 month construction process. It is intended that work be done on the building by local professionals and trades people when economically feasible.

During the "adaptive reuse phases", we envision the final business tenants generating a mix of full time and part time jobs. Our current Vision for "ArtWorks" prospectively generates 14-22 part time and full time job opportunities. This number is in addition to jobs created through the vocational training and educational programming built into the concept of the proposed businesses.

**7. The compatibility of proposed reuse with the surrounding neighborhood or the compatibility of any new construction with the surrounding neighborhood, and, if appropriate, the existing building.**

The Vision for Reuse

The greatest contribution resulting from our purchase goes beyond the historic restoration of the building, and is in its use. It is the Vision of 20 Castle to create "ArtWorks", a facility that will house a mix of entities that shall focus on education, vocational training, jobs and career counseling; directed at being a catalyst for employment growth in Great Barrington and Berkshire County. The vision, mission and motivation inspired by this property lays within its rich history and original purpose of existing, to help and serve the community, and is symbolized in the building's original name, "Hope Hall". "ArtWorks", through its

programming, will provide young people with the opportunity to learn valuable technical skills, as well as practical business guidance and counseling. Keeping our young people employed within the community is essential to the future growth and economic development of Great Barrington, inclusive of farm and agricultural, high tech and the culinary arts. We believe private enterprise has a responsibility for investing in our future. “ArtWorks” will be a model.

#### What Will “ArtWorks” Look Like?

Two of the three first floor businesses will be for profit businesses designed to make a long term economic contribution to the building’s economic viability, while having “course specific” educational and career building programs built into them. A portion of the second floor will be non-profit, and will serve as a career counseling center working in harmony with the businesses of the first floor.

- A) “The Wooden Yankee” will be located in the existing rear addition on the first floor, approximately 2000 square feet. The Wooden Yankee will operate a for-profit business model, split between paid for fine furniture and cabinetry making classes, and vocational training in all aspects of homebuilding and remodeling. The later focus will be towards young adults. The broad spectrum of furniture making classes will be designed to provide people in the community the enjoyment, enrichment and satisfaction of learning to work with and create from the beautiful and natural product of fine hardwoods. A front display window will open to the small retail store carrying small hand tools and wood working products. The vocational area will have a cross section of a home under construction, with foundation, framing, electrical, plumbing, heating, bath, kitchen, etc. It will be a live cycle of being built, dismantled, and rebuilt, providing hands on experience to supplement the more formal instructional teaching. “ArtWorks” envisions collaboration with local high schools for school credit, as well as working with State licensing agencies to provide the foundation towards becoming a licensed electrician, plumber, etc. Courses will also include the economics of operating and sustaining one’s own business. Some classes will be shared with the second floor career counseling center.
- B) “The Local Canvas”, a for profit, café and restaurant, serving breakfast, lunch and dinner, will be located in the first floor Castle Street existing addition and a portion of the first floor original structure, approximately

3000 square feet. With farm to table food and a menu designed to be local in pricing, design and aesthetics will create a warm and comfortable gathering spot. Unique to “The Local Canvas” will be its educational and training component. It will have an enlarged kitchen to be utilized for culinary classes.

- C) The Great Barrington Historical Society and Museum will be located in the approximately 2500 square feet of space remaining in the first floor located in the original Fire House building. The Historic Society would participate with 20 Castle in an advisory capacity during the historic restoration of the structure. The Historic Society envisions a facility not only for its exhibits, but will incorporate art shows, book signings, and small gatherings. The Museum will have a symbiotic relationship with the “Local Canvas Café” to make events flow in this desirable event space. The museum will provide a secure research repository for the Town’s archives and artifacts for students, historians and local organizations to easily access.
- D) “Hope Hall” a non-profit organization located on the second floor, approximately 600 square feet, would provide career, vocational and employment counseling, as well as specific classes designed to educate in the basics of starting and running your own business. A common area suite consisting of two offices, with a shared reception and conference room, would be created in this space.
- E) The second floor will contain a small, for profit, retail store. The store will be staffed by individuals interested in learning the potential of opening their own retail business. Their employment will be supplemented by educational training. They will learn preparation of a business plan, the budget, decisions on inventory purchasing, etc.
- F) The remainder of the second floor will be rental space as shared offices with a common reception area.
- G) Use of the third floor has not been determined at this stage, but it is intended to be utilized in the future consistent with the Vision for “ArtWorks”.

As A-G is merely the Vision of 20 Castle for “ArtWorks”, 20 Castle reserves the right to modify and or adjust the visionary plan as may be economically required.

#### Social Benefits:

- Innovative educational/vocational training/career counseling programs for area youth
- Increased activity in the downtown during the day
- Enriching the quality of life for residents
- Civic pride

#### Compatibility of Proposed Reuse

The proposed renovation and reuse is compatible with the neighborhood and the community at large. The building’s renovation and utilization will draw people down Castle Street past the theater. The corner café, serving breakfast, lunch, dinner, later evening light menu and take out, will be a part of this draw and will be a link tying the pedestrian traffic of the tunnel from the Castle Hill neighborhood, Railroad Street and the rest of downtown.

Events like the farmers market, gazebo concerts, August car show and the winter stroll have reintroduced locals to downtown and they liked what they saw. The new playground being planned behind the Town Hall will be another draw. Hope Hall will complement events like these and introduce a dynamic into the area that would draw and keep activity in the area year round and throughout the day rather than exclusively at nights and weekends.

The new exterior of the west side of the building, facing The Hill, combined with brick walkways, lighting, awnings, benches, landscaping and the display windows in the “Wooden Yankee” and “Local Canvas”, will create an inviting atmosphere increasing pedestrian traffic to the northwest corner of the property and over to upper Railroad Street. Thus creating a pedestrian loop connecting Main Street, Castle Street and Railroad Street. This will create a more vibrant, active and significantly more inviting Town center. The pedestrian traffic pattern will cause the building to operate with little need for additional parking beyond that which will be available at the structure. In addition, creating increased foot traffic in the Town center will benefit the other businesses and merchants on Main Street, Castle Street and Railroad Street.

**8. The financial stability and past development projects of the proposed purchaser/developer (credit history and references required).**

Upon acceptance of the 20 Castle Proposal, the Development Partner of the Purchaser, Thomas Borshoff, will provide the Board of Selectmen with confidential financial information to insure the financial stability to develop the Project without the necessity of financing.

20 Castle's Team consists of:

Edward G. McCormick, Project Manager  
Tom Borshoff, Development and Financial Coordinator  
Phil Fitzsimmons, Space Coordinator  
Jim Mercer, Historic Coordinator

The Development Partner has had vast experience in many development projects.

He pioneered the concept and development of the first complete new residential neighborhood built in the City of Rochester, New York in over 50 years. Through partnering with the City, Financial Institution, Federal Government, neighborhood alliances/coalitions, subcontractors, and the City of Rochester School District, "First Place" is a development consisting of 49 low and moderate income single family homes, built on a 5 ½ acre parcel of inner city land, complete with new sewers, streets, sidewalks and street lights. Every home had architectural detail fitting of old neighborhood tradition, including front porches. One of the significant side benefits of "First Place" was the educational program set up in partnership with the City School District. "At risk" high school students earned high school credits in courses developed in apprenticeship with each of the subcontractors. Actual work in field experience taught high school students the complete process of building a home, with specific knowledge of each trade. While unplanned, many of these students gained eventual employment with "First Place" subcontractors. "First Place" earned multiple national awards.

The Development Partner was President of HWD Corp. (Hard Working Dollar), Monroe County, New York's fourth largest home builder which built over 700 homes and multiple apartment projects. He managed two shopping malls and was directly responsible for the leasing and build out and ongoing management of a 20 story office building, topped with a revolving restaurant and outside glass elevator.

He individually owns and manages over 50 properties.

The Development Partner will provide confidential credit history and references to support his financial stability, together with required references upon request.

**9. The benefit of the proposed reuse to the Town of Great Barrington.**

A) Structural and historic restoration of a deteriorating building and property resulting in a community asset

B) Creating a pedestrian loop to better stimulate and tie-in foot traffic between The Hill, Railroad Street, Main Street and Castle Street, to stimulate all Town commerce.

C) Provide the community with a viable Museum preserving and showcasing Great Barrington's history.

D) Create a local Café geared towards serving the dining needs of people in Great Barrington at reasonable prices, while providing training in the culinary arts.

E) A building with emphasis on educational programs (non duplicative of high school classes) to stimulate, train and foster skilled jobs training for all ages, but primarily focused on teens. The mission is to provide each student the opportunity to have a valuable technical skill, as well as business guidance and counseling, allowing that person meaningful employment or career opportunities within the Berkshire community.

F) Retaining our youth in the community is the perpetuation of our community.

**10. The understanding that any use must comply with the existing zoning.**

All of the proposed uses for "ArtWorks" comply with existing zoning for the Downtown Business Zone and are either permitted as of right or by Special Permit of the Board of Selectmen.

## **Purchase and Sale Agreement for Massachusetts Real Estate**

If premises are residential property constructed prior to 1978 buyer must sign lead paint "Property Transfer Notification Certification" prior to signing Purchase and Sale Agreement.

### **SECTION 1 -- INFORMATION AND DEFINITIONS**

**1.1 DATE OF THIS AGREEMENT:** \_\_\_\_\_, 2011

**1.2 PREMISES:**

City or Town: Great Barrington

Land Area:

Street Address: 20 Castle Street, Great Barrington, MA

Seller's Title Reference: Book 417, Page 227 (See Rider "A" attached)

Assessor's Map Reference: Map 19, Lot 87

**1.3 SELLER: INHABITANTS OF THE TOWN OF GREAT BARRINGTON**

Address: 334 Main Street, Great Barrington, MA 01230

Phone: (413)528-1619

Seller's Attorney:

Phone:

Fax:

Address:

**1.4 BUYER: 20 CASTLE STREET, LLC**

Address: c/o McCormick Murtagh & Marcus

Phone: (413)528-0630

Buyer's Attorney: McCormick Murtagh & Marcus

Phone: (413)528-0630

Fax: (413)528-5287

Address: 390 Main Street, Great Barrington, MA 01230

**1.5 PURCHASE PRICE:** \$ 50,000.00

Paid as follows: Deposit paid this date: (to be held by Escrow Agent) \$ 2,500.00

Balance of Purchase Price due on Closing Date \$ 47,500.00



**1.6 ESCROW AGENT:** Treasurer, Town of Great Barrington

Address: 344 Main Street, Great Barrington, MA 01230

Deposits to be held in: (check one)

( X ) non-interest bearing account

(\_\_\_) insured interest bearing bank account

(\_\_\_) other interest bearing account

**1.7 CLOSING:**

DATE: Within 45 days of execution of Purchase & Sale Agreement

TIME: TBD

PLACE: McCormick Murtagh & Marcus  
390 Main Street  
Great Barrington, MA 01230

**1.8 INCLUDED ITEMS:** the following items are included in the sale of the Premises in addition to those generally listed below in Paragraph 2.2 of this Agreement: See Rider "C"

**1.9 EXCLUDED ITEMS:** The following items are excluded from the sale and will be removed by Seller prior to the Time of Closing: See Rider "C"

**1.10 TITLE:** The Seller's deed will be a quitclaim deed unless otherwise specified here:

**1.11 OTHER MATTERS:** In addition to the matters set forth in Paragraph 2.4 of this Agreement, the Premises shall be conveyed subject to the following matters (include here subdivision restrictions, rights of way over the Premises, etc. agreed to by Buyer):

and together with the benefit of the following matters:

**1.12 SELLER'S FIRE AND EXTENDED COVERAGE INSURANCE :** as currently insured

### **1.13 ITEMS TO BE APPORTIONED AS OF DATE OF CLOSING:**

\_\_\_\_\_ Current real estate taxes  
\_\_\_\_\_ Fuel value  
\_\_\_\_\_ Water rates  
\_\_\_\_\_ Sewer use charges  
\_\_\_\_\_ Collected rents  
\_\_\_\_\_ Uncollected rents if and when collected by either party  
\_\_\_\_\_ Other:

**1.14 BUYER'S MORTGAGE CONTINGENCY:** (as described in Paragraph 2.23 of this Agreement): **N/A**

**1.15 BUYER' S INSPECTION CONTINGENCY DATE:** (as described in Paragraph 2.24 of this Agreement) Inspection to occur within 30 days of execution of Purchase and Sale Agreement. For specific inspection items, please see attached Rider B.

**1.16 BROKER: NONE**

**1.17 WARRANTIES** - The following representations and warranties are made by Seller as of the Date of this Agreement and also as of the time of the delivery of the deed (modify as appropriate);

- a.** Seller owns the personal property described in Paragraphs 1.8 and 2.2 free of any lien or encumbrance;
- b.** The Premises does not now, nor has ever had, any urea formaldehyde foam insulation (UFFI), or asbestos, or lead paint or unsafe concentrations of radon gas or underground storage tanks, not exceeding the scope and/or cost set forth in the RFP;
- c.** The building on the Premises is situated entirely within the boundaries thereof.
- d.** Other (including representations by Broker):

UNLESS OTHERWISE NOTED, THE FOLLOWING PROVISIONS SHALL APPLY:

## **SECTION 2 -- GENERAL PROVISIONS**

**2.1** Seller agrees to sell and Buyer agrees to buy the Premises upon the terms hereinafter set forth.

**2.2** Included in the premises to be sold, unless excluded by Paragraph 1.9, are the buildings, structures and improvements now thereon, the fixtures and attached personal property used in connection therewith including, if any, chandeliers, electric and other lighting fixtures, stair carpets and wall to wall carpeting, Venetian blinds, window shades, curtain rods, screens, screen doors, storm windows and doors, awnings, shutters, furnaces, heaters, heating equipment, stoves, ranges, oil and gas burners, hot water heaters, plumbing and bathroom fixtures, mantelpieces, outside television antennae, satellite dishes, fences, gates, trees, shrubs, plants, ventilators, garbage disposers, dishwashers, washing machines, dryers, burglar and fire alarm systems, and if built in, cabinets, shelving, bookcases and air conditioning equipment.

Seller shall at the closing deliver to Buyer all existing keys to the premises, garage door openers and all security codes.

**2.3** The deed and other documents required by this Agreement are to be delivered and the balance of the Purchase Price paid at the Date and Time of Closing and at the Place of Closing. Unless the Closing takes place at the appropriate Registry of Deeds, all documents and funds are to be delivered in escrow subject to prompt rundown of title and recording, which term shall include registration in the case of registered land. Unless otherwise agreed, Seller's attorney may disburse the funds if no report has been received by 5:00 p.m. of the next business day following the date of the delivery of the deed that the documents have not been recorded, due to some problem beyond the recording attorney's control.

**2.4** The Premises shall be conveyed on the Date and Time of Closing at the Place of Closing by a good and sufficient deed (accompanied by a Certificate of Title if this is registered) running to Buyer (or Buyer's Nominee) conveying a good and clear record and marketable title thereto free from all encumbrances except those listed in Paragraph 1.11 and the following:

- a.** Real Estate Taxes assessed or to be assessed on the Premises to the extent that such taxes then are not yet due and payable.
- b.** Betterment assessments, if any, which are not a recorded lien on the Premises as of the Date of this Agreement.
- c.** Federal, state and local laws, ordinances, by-laws and rules regulating the use of land, particularly environmental, building code, zoning, health, safety, rent control and condominium conversion laws, if any, applicable as of the Date of this Agreement, provided that at the Date and Time of closing the Premises may be used for existing uses. Seller further warrants that the building condition, as exists at closing, does not warrant condemnation nor will it warrant condemnation during any structural renovation that will progress in the future;
- d.** Existing rights, if any, in party or partition walls; and
- e.** Rights of ways, easements and utility easements which do not materially affect the Buyer's use;

**2.5** Buyer may require the conveyance to be made to another person, persons or entity ("Nominee"), upon notification in writing delivered to Seller at least five days prior to the Date of Closing.

**2.6** Simultaneously with the delivery of the deed, Seller shall execute and deliver:

- a.** Smoke Detector and Carbon Monoxide Alarm Certificate of Compliance in accordance with M.G.L.;
- b.** Affidavits and indemnities with respect to parties in possession and mechanic's liens to induce Buyer's title insurance company to issue lender's and owner's policies of title insurance without exception for those matters;
- c.** A bill of sale for all personal property included as part of the sale, if requested by the Buyer.
- d.** In the case of new construction a Certificate of Occupancy and an assignment of any and all builder's, seller's or manufacturer's warranties on the Premises or on any appliances or other property included in the sale. N/A
- e.** FNMA Vendor's affidavit FNMA 1009;
- f.** An affidavit, satisfying the requirements of Section 1445 of the Internal Revenue Code and regulations issued there under, which states, under penalty of perjury, the Seller's United States taxpayer identification number, that the Seller is not a foreign person, and the Seller's address (the "1445 Affidavit");
- g.** Internal Revenue Service Form W-8 or Form W-9, as applicable, with Seller's tax identification number, and an affidavit furnishing the information required for the filing of Form 1099S with the Internal Revenue Services and stating Seller is not subject to back-up withholding;
- h.** Any plan not previously recorded, referred to in the deed, such plan to be recordable.

**2.7** THE BALANCE OF THE PURCHASE PRICE SHALL BE PAID BY BUYER UPON DELIVERY OF THE DEED BY A CERTIFIED CHECK, TREASURER'S CHECK, CASHIER'S CHECK (IN EACH CASE DRAWN ON A MASSACHUSETTS BANK OR CREDIT UNION) OR BY FEDERAL FUNDS WIRE TRANSFER. IT IS BUYER'S OBLIGATION TO INSURE THAT BUYER'S LENDER FURNISHES FUNDS IN COMPLIANCE WITH THIS PARAGRAPH.

**2.8** The deposits (which term shall include all interest earned, if any) made hereunder shall be held in escrow, subject to the terms of this Agreement and shall be duly accounted for at the time for performance of this Agreement. The deposits may not be released from escrow without the assent of both Buyer and Seller. The recording of the deed to the Premises shall constitute

such assent. In the event of any disagreement the Escrow Agent may retain the deposits pending written instructions by both the Seller and Buyer, or by a court of competent jurisdiction. So long as Escrow Agent served in good faith, Buyer and Seller each agree to hold harmless Escrow Agent from damages, losses or expenses, arising out of this Agreement or any action or failure to act, including reasonable attorney's fees, related thereto.

Buyer and Seller acknowledge that the Escrow Agent may be counsel to one of the parties and agree that Escrow Agent may continue to act as such counsel notwithstanding any dispute or litigation arising with respect to the deposits or Escrow Agent's duties.

If interest is to be earned on the deposits: Escrow Agent shall not be obliged to deposit the deposits in any interest-bearing account until receipt from the Buyer of an IRS Form W-8 or W-9 setting for the Buyer's taxpayer identification number. Interest on the deposits shall be reported for income tax purposes in all events as being for the account of Buyer, and shall be paid to Buyer in all events, including those events in which the deposits are paid to Seller pursuant to this Agreement.

**2.9** If the real estate tax rate is not set at the Time of closing, the apportionment of real estate taxes shall be made on the basis of the tax assessed for the most recent preceding year, with a readjustment at the request of either party, when the amount of the current year's tax is set. If the amount of the tax is reduced by abatement, the rebate, less the reasonable cost of obtaining it, shall be apportioned between the parties.

**2.10** Full possession of the Premises free of all tenants and occupants shall be delivered at the Date and Time of Closing. The Premises then shall (a) not be in violation of any of the matters in Paragraph 2.4c or of the provisions of any matter or instrument referred to in Paragraph 1.11; (b) be free of encroachments burdening the Premises and of improvements which encroach on adjoining property, including buildings, septic system, well and driveway; and, (c) have sufficient legal access to a public way. From the Date of Agreement to the Closing, Seller shall maintain Seller's Fire and Extended Coverage Insurance and shall do all work to the Premises as is normally undertaken by an owner but shall not be required to repair damage caused by reasonable use or wear.

Upon Seller vacating, the Premises shall be in the same condition as they now are (reasonable use or wear excepted) and broom clean and free of trash, debris and personal property not included in the sale.

**2.11** Seller may, if Seller so desires, at the Closing, use all or part of the Purchase Price to clear the title of any encumbrances or interests provided at all instruments necessary for this purpose are recorded by and at the expense of Seller simultaneously with the deed or at such later time as shall be reasonably acceptable to Buyer, and provided further, with respect to discharges of mortgages from insurance companies, banks and credit unions, such discharges may be recorded within a reasonable time after the recording of the deed.

**2.12** If Seller is unable to convey title or deliver possession of the Premises as required hereunder or the Premises do not comply with the requirements of Paragraph 2.10, upon notice by either party, prior to the Date of Closing, this Agreement shall be automatically extended for 30 days (or if Buyer's mortgage commitment sooner expires, to a date one business day before the expiration of such commitment). Seller shall remove all mortgages, attachments and other encumbrances incurred or assumed by Seller which secure the payment of money, provided the total amount thereof does not exceed the Purchase Price, and Seller shall use reasonable efforts to remove other defects in title, or to deliver possession as provided herein, or to make the Premises conform to the provisions hereof.

At the end of the extended period, if all such defects have not been removed, or the Seller is unable to deliver possession, or the Premises do not conform with the requirements of this Agreement, Buyer may elect to terminate this Agreement and to receive back all deposits, upon receipt of which all obligations of the parties hereto shall cease.

At the original or extended time for performance, Buyer may elect to proceed with the Closing upon payment of the full Purchase Price reduced by an amount sufficient to remove all mortgages, attachments and other encumbrances which secure the payment of money which have not been removed by Seller but otherwise without deduction. In the event that the reason the Premises do not conform is damage to the Premises caused by fire or other casualty insured against, and Seller has not restored the Premises to their former condition and Buyer elects to proceed, Seller shall assign all insurance proceeds to Buyer and the Purchase Price shall be reduced by:

- a.** the net amount of any insurance proceeds which a mortgagee has applied to the mortgage debt, less any amounts reasonably expended by Seller for partial renovation.
- b.** the amount of any insurance proceeds received by Seller; and
- c.** any deductible amount under Seller's insurance policy.

**2.13** All offers and agreements made prior to this Agreement are hereby discharged and all further obligations of the parties are contained only in this Agreement. The acceptance of a deed by Buyer (or Buyer's Nominee) shall be a full performance and shall discharge every agreement and obligation herein except any agreements which by their terms are to be performed after the Closing. All representations and warranties herein shall survive the delivery of the deed. Buyer has not relied upon the representations or warranties of either Seller or Broker except as specifically set forth in Paragraph 1.17.

**2.14** If Buyer shall fail to fulfill Buyer's part of this Agreement, all deposits made hereunder shall be forfeited and become the property of Seller as liquidated damages, which shall constitute Seller's sole remedy at law or in equity for Buyer's default under this Agreement. Both parties specifically consent to the deposits as the acceptable measure of Seller's damages

regardless of the amount of any subsequent sales price which Seller may receive for the Premises.

**2.15** Buyer's designating a Nominee to take title to the Premises shall not relieve Buyer of any obligation hereunder. Any note, mortgage or other document to be delivered from Buyer to Seller shall be executed by and be the personal obligation of Buyer, or be unconditionally guaranteed by Buyer, unless otherwise specified herein.

**2.16** Buyer warrants and represents that Buyer has dealt with no other broker or agent with respect to this transaction or these Premises other than the Broker and agrees to indemnify and hold Seller harmless from all claims for brokerage or commission on account of this sale by any person, other than the broker, provided:

- a.** Seller gives Buyer prompt notice of the claim;
- b.** Buyer is afforded an opportunity to defend against the claim;
- c.** The claimant produces evidence that claimant dealt with Buyer with respect to the Premises; and,
- d.** The claimant obtains a judgment against Seller for a brokerage commission. Seller agrees to indemnify and hold Buyer harmless from all claims for brokerage or commission on account of this transaction or these Premises by any person, including the Broker, provided Buyer has not dealt with any other broker or agent with respect to this transaction.

**2.17** If a party hereto is a corporation, no shareholder, or if a party hereto is a trust, no trustee or beneficiary of the trust, shall be personally liable for any obligation, express or implied, hereunder. If Seller or Buyer discloses in this Agreement that either of them is acting in a representative or fiduciary capacity, only the principal or estate represented shall be bound. If more than one person is named herein as Buyer or Seller their obligations hereunder are joint and several.

**2.18** TIME IS OF THE ESSENCE OF ALL PROVISIONS OF THIS AGREEMENT.

**2.19** This Agreement is to be construed as a Massachusetts contract.

**2.20** Any matter or practice arising under or relating to this Agreement which is the subject of a Title Standard or a Practice Standard of the Massachusetts Conveyancers Association shall be governed by said Standard to the extent applicable.

**2.21** Except as provided in Paragraph 2.22 all notices required or permitted to be given hereunder shall be in writing and delivered in hand, or sent by Federal Express or other recognized overnight delivery service, or mailed postage prepaid, by registered or certified mail, addressed to Buyer or Seller at the appropriate address as specified in Paragraphs 1.3 and 1.4

or to such other address as shall be designated by written notice given to the other party. Any such notice shall be deemed given when so delivered in hand or, if sent by Federal Express or other recognized overnight delivery service, on the next business day after deposit with said delivery service, or, if so mailed, five (5) business days after deposit with the U.S. Postal Service.

**2.22** (This Paragraph is applicable only if the Buyer's Inspection Contingency Date has been specified in Paragraph 1.15.) See Rider "B"

The Buyer's obligations hereunder are contingent upon Buyer's receipt, prior to 5:00p.m. on the Inspection Contingency Date, of written inspection reports on the Premises satisfactory to Buyer. Such reports may, at Buyer's option, include inspections for structural and mechanical matters, pests, including wood-boring insects, lead paint, asbestos, UFFI, radon gas other hazardous substances, underground tanks, septic system and well water. Should the results of any such test be unsatisfactory to Buyer, Buyer may cancel this Agreement by written notice received by the Seller no later than 5:00 p.m. on the day after the Inspection Contingency Date, whereupon all obligations of the parties shall cease and Buyer's deposits shall be promptly returned in full. Buyer's failure to give such notice shall be a waiver of Buyer's right to cancel under this Paragraph.

**2.23** The Riders listed below and attached to this Agreement are incorporated herein by reference:

Rider "A" – Copy of Deed

Rider "B" – Inspection Contingency

Rider "C" – Special Conditions

Rider "D" – Real Estate Broker

Executed under seal by the Parties hereto as of the date of this Agreement.

WHEN EXECUTED, THIS WILL BE A BINDING CONTRACT AND AN ATTORNEY SHOULD BE CONSULTED BEFORE SIGNING.

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Buyer

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Seller



RIDER "A"

MASSACHUSETTS WARRANTY DEED BY CORPORATION (LONG FORM) 708  
BOOK 417 PAGE 227

KNOW ALL MEN BY THESE PRESENTS

That, The GREAT BARRINGTON FIRE DISTRICT, a duly authorized municipal corporation under the laws of the Commonwealth of Massachusetts,  
~~corporation duly established under the laws of the Commonwealth of Massachusetts~~  
of Great Barrington, Berkshire County, Massachusetts  
~~and in full consideration of ONE DOLLAR (\$1.00)~~

~~Grant to~~ ~~George A. Stevens~~ for consideration paid  
and in full consideration of ONE DOLLAR (\$1.00)  
grant to THE INHABITANTS OF THE TOWN OF GREAT BARRINGTON.

X

with warranty covenants

the land in the Town of Great Barrington, Berkshire County, Massachusetts,  
bounded and described as follows:

(DANGER: DO NOT WRITE IN THESE SPACES)

PARCEL I. A certain tract or parcel of land situated in Great Barrington, bounded and described as follows: Beginning at a set stone which marks the southwesterly corner of land of the Great Barrington Fire District and southeasterly corner of the premises hereby conveyed, said stone being located in or near the north line of said Castle Street; thence westerly on said Castle Street 55.9 feet to an iron pipe which marks the southeasterly corner of land now or formerly of G. E. Nettleton; thence north by line parallel with the west line of the house located on the premises hereby conveyed and 2 feet distant therefrom and on the east line of said Nettleton 141.8 feet to an iron pipe standing in the south line of land now or formerly of the George A. Stevens Lumber Company; thence easterly on line of land now or formerly of said George A. Stevens Lumber Company and land formerly of Gimlich & White to the northwesterly corner of land of the Great Barrington Fire District; thence southerly in the west line of the said Great Barrington Fire District to the place of beginning.

Being all and the same premises as were conveyed to the Great Barrington Fire District by deed of Irene Carson dated October 18, 1966 recorded in the Southern Berkshire Registry of Deeds in Book 354, Page 252.



1976 00417227

Bk: 417 Pg: 0227 Doc: DEED  
Page 1 of 3 08/31/1976 12:00PM

PARCEL 2. A certain tract or parcel of land situated on the northerly side of Castle Street, in said Great Barrington, bounded and described as follows: Beginning at an iron pin set in the ground at the northeast corner of the premises hereby conveyed (it being supposed to be also the northwest corner of premises formerly owned by Maria O. Manning); thence south,  $35\frac{1}{2}$  degrees west, 8 rods and 5 links to the northerly line of Castle Street; thence westerly along the line of said Castle Street 75 feet; thence northerly, in a line parallel with the easterly line, and 75 feet distant therefrom, to land formerly of Silas Sprague, deceased; thence easterly, on said Sprague's southerly line 75 feet to the place of beginning.

Meaning and intending hereby to convey a portion of the same premises described in a certain deed from Richard H. Moore to Martha E. Norton, dated April 1, 1895, and recorded in the Southern Berkshire Registry of Deeds in Book 171, Page 444. The said premises are hereby conveyed subject to the reservation and agreement in relation to sewer, which are contained in said deed.

Being all and the same premises as were conveyed to the Inhabitants of the Great Barrington Fire District by deed of Martha E. Norton dated August 9, 1899, recorded in said Registry of Deeds in Book 180, Page 31.

PARCEL 3. A certain tract or parcel of land situated on the northerly side of Castle Street, in said Great Barrington, bounded and described as follows: Beginning at the northeast corner of the tract hereby conveyed, it being also the northwest corner of other premises

conveyed by Martha E. Norton, to said inhabitants of the Great Barrington Fire District; thence south 35½ degrees west, 8 rods and 5 links, to the northerly line of Castle Street, thence westerly, along the line of said Castle Street, 6 feet, thence northerly, in a line parallel with the easterly line of the tract hereby conveyed, and 6 feet distant therefrom, to land formerly of Silas Sprague, deceased, thence easterly on said Sprague's southerly line 6 feet, to the place of beginning; being a portion of the premises described in a certain deed from Richard H. Moore to said Martha E. Norton, dated April 1, 1895, and recorded in the Southern Berkshire Registry of Deeds in Book 171, Page 444. The said premises are hereby conveyed subject to the reservation and agreement in relation to sewer, which are contained in said deed.

Being all and the same premises as were conveyed to The Inhabitants of the Great Barrington Fire District by deed of Martha E. Norton, dated August 9, 1899, recorded in said Registry of Deeds in Book 178, Page 41. This conveyance is subject to reservations of the Great Barrington Fire District to continue the use of the said building on the above described parcels presently being used by said Fire District for Water Department purposes. Said use of building shall be without cost to the said District.

Reference is made to Article 16 of the 1976 Annual Meeting of the Great Barrington Fire District and Article 20 of the 1976 Annual Meeting of the Town of Great Barrington accepting Chapter 136 of the Acts of 1975 authorizing the Town to take over the fire and sidewalk duties and responsibilities of the Great Barrington Fire District.

IN WITNESS WHEREOF, the GREAT BARRINGTON FIRE DISTRICT has caused its corporate seal to be hereto affixed and these presents to be signed, acknowledged and delivered in its name and behalf by its PRUDENTIAL COMMITTEE, this 23<sup>rd</sup> day of August, 1976.

GREAT BARRINGTON FIRE DISTRICT  
PRUDENTIAL COMMITTEE

*Mortimer T. Cavanaugh*  
Mortimer T. Cavanaugh

*Robert O. Hammer*  
Robert O. Hammer

*John B. O'Hara*  
John B. O'Hara

*Armand L. Ferron*  
Armand L. Ferron

*Edward J. McQuirk*  
to all

The Commonwealth of Massachusetts

Berkshire,

August 23, 1976

Then personally appeared the above named Mortimer T. Cavanaugh, Robert O. Hammer, John B. O'Hara, and Armand L. Ferron and acknowledged the foregoing instrument to be the free act and deed of the Great Barrington Fire District

before me

*Edward J. McQuirk*  
Notary Public - Berkshire County

My commission expires Nov 17 1978

Received Southern Berkshire Registry of Deeds Aug. 31, 1976 at 11:02 A.M.

*Catherine B. Comerford*

Register

## RIDER "B"

### Inspection Contingency

During the 30 day inspection contingency period:

- Seller shall provide, at its expense, a satisfactory survey showing all encroachments, easements, rights of way, etc., which shall not affect the intended use of the premises.
- Seller to provide Buyer with documentation to verify that the underground oil tank was filled in 1999 and was done so with all appropriate environmental inspections and that all other gas or oil tanks have been removed and were done so with appropriate environmental inspections.
- Seller grants permission to Buyer to remove portions of the brickwork for inspection purposes during the contingency period. Buyer shall restore said bricks to same condition as at time of removal.
- Buyer shall have the right to terminate this contract during the inspection contingency period if the structural estimates of the stability of the building and/or cost of brickwork make the restoration economically unfeasible.

## RIDER "C"

### Special Conditions

- Any municipal water lines running within the Building of the Premises shall be rerouted by the Seller or the Great Barrington Fire District to the satisfaction of the Buyer.
- The Town of Great Barrington agrees to assess the Premises at \$50,000.00 for the first two years from the date of purchase; \$300,000.00 for the third and fourth years; and \$500,000.00 for the fifth through the seventh years.
- Buyer shall provide Seller with use and occupancy of the second floor of the Building, for its current use, for a term of 12 months from the date of closing, provided Seller makes entire Premises available to Buyer for its consultants and contractors upon reasonable notice from Buyer. Seller shall have use and occupancy of the first floor of said Building on a month to month basis. Seller shall be responsible for all utilities including, but not limited to, fuel oil and electricity.
- Seller and Buyer to agree upon the personal items that shall remain on the Premises. Seller shall provide a Bill of Sale for said items at closing as provided for in 2.6 (c) of this Agreement.

RIDER "D"

REAL ESTATE BROKER

The Buyer and Seller warrant and represent to each other that neither one has dealt with a real estate broker or agent with respect to this transaction or these premises.

The Buyer and the Seller agree to indemnify and hold each other harmless from any and all claims for brokerage or commission on account of this transaction or these premises by any person(s), including a real estate broker(s) or real estate brokerage firm(s).

The Seller and the Buyer agree to the terms and conditions set forth hereinabove.