

REQUEST FOR PROPOSAL

The Norfolk County Retirement System (“NCRS”) and the members of its Retirement Board (hereinafter “Board”) are seeking proposals from qualified property owners to purchase a parcel of land, with buildings thereon, within Norfolk County, to use for the administrative offices of the NCRS. The Board has determined that this purchase is subject to M.G.L. Chapter 30B, and Commonwealth of Massachusetts Regulations 840 C.M.R. - Public Employee Retirement Administration Commission.

All bidders are hereby advised that any proposal selected shall be subject to: (1) approval of the Board per the specified evaluation criteria, including but not limited to, the best interests of the NCRS, (2) a written contract and (3) approval of the engagement by the Public Employee Retirement Administration Commission (“PERAC”).

The Request For Proposals (“RFP”) will be available on Friday, May 12, 2023. Completed original, hard copy and electronic copy of the bidder’s RFP response must be received no later than 12:00 P.M. EST on Friday, June 16, 2023. The NCRS will open any submitted proposals on Monday, June 19, 2023. The Board reserves the right to reject any or all bids. The Board further reserves the right to cancel or reject, in whole or in part, any or all proposals in the best interest of the NCRS. Additionally, should the Board not receive any proposals by the June 16, 2023, deadline or should the Board not accept any timely submitted proposal, this RFP shall remain open indefinitely until the NCRS either withdraws the RFP or accepts a proposal and fulfills the purpose of the RFP in purchasing real property which will serve as the administrative offices of the NCRS.

The RFP will be posted on the NCRS’ website at <https://www.norfolkcountyretirement.org>.

Table of Contents

Introduction..... 3

Instructions to Bidders 4

Specifications of Desired Property 6

Submission Requirements..... 8

 RFP Communications. 10

Evaluation criteria..... 11

Evaluation and Selection Process... .. 12

Terms. 13

Attachments.....

 A – Non-Collusion Certificate 15

 B – Certificate of Tax Compliance....., 16

 C – Disclosure of Beneficial Interests 17

 D – Corporate Certificate of Vote (if necessary) 19

 E – Sample Purchase and Sale Agreement..... 20

 Exhibits 1-7..... 38 - 47

Exhibit B – Massachusetts General Laws Chapter 30B 48

Exhibit C – Massachusetts General Laws Chapter 32 § 23B..... 54

Exhibit D - Commonwealth of Massachusetts Regulations 840 CMR - Public Employee Retirement Administration Commission 59

Procurement Calendar

<u>Event</u>	<u>Date</u>	<u>Time</u>
RFP Released	May 12, 2023	N/A
Written Inquiries Due	May 26, 2023	12:00 P.M.
Proposals Due	June 16, 2023	12:00 P.M.
Opening of Proposals	June 19, 2023	12:00 P.M.

INTRODUCTION

The NCRS and its Board are seeking proposals from qualified property owners to purchase land and a building thereon with associated parking, within a specific geographic area in Norfolk County, to use for the administrative offices of the NCRS. The Board has determined that this purchase is subject to M.G.L. Chapter 30B, and Commonwealth of Massachusetts Regulations 840 CMR - Public Employee Retirement Administration Commission.

Notice of this RFP is published in The Central Register of the Commonwealth of Massachusetts; The Patriot Ledger, which is a daily morning newspaper published in Quincy, MA; and The Canton Citizen, which is a weekly newspaper published in Canton, MA. All publications are in general circulation sufficient to inform the people of Norfolk County. Additionally, this RFP is posted on the Board's website <https://www.norfolkcountyretirement.org>

The Board has not yet authorized the purchase of specific land or appropriated funds therefor. Any purchase and sales agreement entered into pursuant to this RFP, will be subject to the Board's authorization and appropriation at a duly noticed public meeting.

The successful bidder/property owner must be prepared to enter into a purchase and sale agreement within sixty (60) days from the selection of the successful bid substantially in the form of the Purchase and Sale Agreement ("P&S") attached hereto as Exhibit A and incorporated herein. The closing will occur at a mutually agreeable date for the bidder/property owner and the NCRS no later than one hundred twenty (120) days from the date that the parties enter into a P&S.

Any questions pertaining to this RFP are to be emailed directly to NCRS Compliance Officer Matthew L. Feeney, Esq. at mfeeney@norfolkcrs.com. **It is required that "RFP Question(s)" is in the subject line of the email.**

INSTRUCTIONS TO BIDDERS

Please read instructions before completing this questionnaire.

1. Questions or inquiries requesting additional information must be in writing and sent via email to mfeeney@norfolkcrs.com with the subject "RFP Question(s)" before Thursday, May 25, 2023, at 12:00 P.M..

No responses will be made to inquiries received after that date and time.

2. Proposals must be received by the NCRS at its office prior to 12:00 PM Eastern Standard Time on Friday, June 16, 2023 ("closing date").

Proposals or unsolicited amendments will not be accepted after the closing date and time.

3. Bidders mailing RFP response materials should allow adequate time to assure timely arrival. Bidders may only correct, modify, or withdraw their proposals prior to the deadline stated in paragraph no. 2 above. Correction or modification must be in writing and must be admitted and received in the same manner as the original proposal. Requests to correct, modify or withdraw proposals must be in writing, and in terms of correction and modification, a complete corrected or modified RFP response should be submitted.

4. All questions and all blank spaces in the RFP must be completed in precise detail. Blank or incomplete responses to applicable RFP questions may preclude the proposal from consideration.

5. All required RFP response proposal submissions should be sent by US mail and received no later than 12:00 P.M. Eastern Standard Time on Friday, June 16, 2023. Please mail to the address below:

Matthew L. Feeney, Esq.
Compliance Officer
Norfolk County Retirement Board
480 Neponset Street, Building #15
Canton, MA 02021

6. Additionally, please send via e-mail an electronic copy of your RFP response proposal (not to exceed 10 mb) to NCRS Compliance Officer Matthew L. Feeney, Esq. by email at mfeeney@norfolkcrs.com with E-mail Subject: "**NCRS Real Property RFP.**"

7. If deemed necessary by the Board, bidders may be selected for interview. Each bidder selected for an interview will be allotted sufficient time to orally present its proposal and to answer any questions that may be posed by the Board or person(s) appointed by the Board to interview bidders. The bidders will be evaluated on the basis of the criteria set forth in this RFP.

8. The Board reserves the right to make an award without interviews of any or all of the bidders. Therefore, the response proposals should be submitted initially on the most

favorable terms of both price and specification that the bidder can propose to the Board. The Board also reserves the right to reject, in its sole discretion, any and all proposals received, whether prior to or after any bidders' interviews. The Board shall have sole discretion in deciding which bidders, if any, will be considered and/or interviewed.

9. All bidders are hereby advised that any proposal selected shall be subject to (1) approval of the Board, per the specified evaluation criteria, including but not limited to, the best interests of the NCRS (2) a written contract and (3) approval of the engagement by PERAC. Failure to agree on mutually acceptable contract language for the P&S will void the award of the proposed engagement to the selected bidder. In that event, the NCRS and its Board may re-consider other bidder submissions properly and timely filed per this RFP.

10. The Board shall have sole discretion in determining whether the parties are unable to reach agreement on acceptable language of the written P&S.

11. All proposals must be signed by the owner of the property offered in the RFP Response Proposal. In the case of the hard copy response, it should be enclosed in an envelope that is sealed and plainly marked on the outside with the same name as the proposal "**Norfolk County Retirement System RFP for Purchase of Real Property**". A proposal must be signed as follows:

- If the bidder is an individual, by him/her personally, or
- If the bidder is a partnership, by the name of the partnership, followed by the signature of each general partner, or
- If the bidder is a real estate nominee trust, by the name of the trust, followed by the signature of the trustee of the trust; or
- If the bidder is a limited liability company, by the name of the limited liability company, followed by the signature of the managing member(s) of the limited liability company; or
- If the bidder is a corporation, by the president/vice-president and the treasurer/assistant treasurer or any other authorized officers, whose signature must be attested to by the clerk/secretary of the corporation and the corporate seal affixed (see Attachment E)

12. The Board reserves the right to waive certain requirements or other protections in the event that the Board deems it to be in its best interest and that of the NCRS.

13. The proposal shall contain a bidder certification that the RFP response proposal has been submitted in good faith and without collusion or fraud with any other person.

14. The Board reserves the right to waive any minor errors or informalities in an RFP response proposal.

15. With respect to the RFP, all answers should be in specific reference to the subject property.

16. All questions and all blank spaces must be completed in precise detail. Blank or incomplete responses to applicable questions may preclude the RFP response proposal

from Board consideration.

17. Please answer as “N/A,” should any question not be applicable.
18. Failure to submit required forms will result in the rejection of the RFP response proposal.
19. An RFP response proposal must include all of the following attachments:
 - a. Certificate of Non-Collusion (Attachment A) properly completed and executed.
 - b. Certificate of Tax Compliance (Attachment B)
 - c. Disclosure of Beneficial Interest Form (Attachment C) properly completed and executed.
 - d. Certificate of Vote (for corporate owned property only) (Attachment D)
 - e. Proposed Purchase and Sale Agreement (Attachment E)

Exhibits:

1. Description of Land
 2. List of Tangible Personalty Included in Sale (if applicable)
 3. Form of Deed
 4. Form of Bill of Sale
 5. Form and Assignment of Intangible Personal Property
 6. Form of Assignment and Assumption of Interest and Property Contracts
 7. List of Property Contracts
20. All terms of the RFP response proposals submitted in response to this RFP, including the price stated therein, must remain firm for one year (or 365 days) following the proposal opening date.
 21. The Board reserves the right to reject any and all RFP response proposals in its solediscretion.

SPECIFICATIONS OF DESIRED PROPERTY

The Board will consider the suitability of the proposed property, including but not limited to: geographic location which the Board deems desirable and most accessible by NCRB members, employees, staff and vendors/suppliers; factors relating to size of the property; site access for vehicles and pedestrians; availability of parking; environmental conditions, wetlands, grading, drainage, soil conditions, and other conditions of the property; security of the surrounding area; availability and proximity to, and adequacy of, public utilities; compatibility with existing landuses on surrounding parcels; characteristics of any

building(s) and other improvements on the property, including , but not limited to, the age of such building(s); cost of necessary renovations, if any, for the intended use; and the overall condition and habitability of the property.

At a minimum, the property must satisfy the following geographic scope and other property criteria:

- The property must be located entirely within Norfolk County;
- The property must be readily accessible to a major highway;
- The property must be located along the U.S. Interstate 95 between 23A/B and 13A/B (old Exit Numbers 11A/B and 7A/B) or along the U.S. Interstate 93 between 1A/B and 4A/B (old Exit Numbers 2A/B and 5A/B);
- The property must include a first-class building which will provide between 5,000 to 8,000 square feet of usable first class office space for the NCRS;
- The property must include adequate parking, including at least fifteen (15) parking spaces, with suitable spaces with handicapped access;
- The building, parking areas and sidewalks must comply with the access requirements of the Massachusetts Architectural Access Board and applicable federal requirements;
- The property must have adequate access from frontage abutting a public way, duly laid out or accepted as such by the municipality or other government entity, or include valid easement rights over private ways, no less than 50 feet wide, leading to a public way;
- The proposal must include a copy of the latest deed for the property and a site plan or survey of the property, if available;
- The property must comply with the zoning and building code requirements of the municipality in which the property is located;
- There are to be no restrictions in the deed already encumbering the property that will interfere with the intended use of the property; and
- If there are any easements, right-of-way privileges, restrictions or liens encumbering the property, they must be clearly stated on the Information Form or an attachment thereto.

SUBMISSION REQUIREMENTS

The submission must have one (1) original and one (1) electronic copy sent via email of the bidder's RFP response proposal. The original and attachments must be delivered in the same sealed package no later than June 16, 2023, at 12:00 P.M. Eastern Standard Time. The same deadline exists for the email. A separate Cost/Fee Proposal must be submitted under a separate cover in a separate sealed envelope and for the electronic submission, it must be submitted in a separate attachment clearly labeled.

Failure to meet this requirement may result in disqualification of the bidder. Responses and attachments received after this deadline date and time will not be evaluated. A facsimile response will not qualify as a "submission" for deadline purposes in advance of or in lieu of a hard paper copy submission. All responses as described above and attachments should be delivered to:

Matthew. L. Feeney, Esq.
Compliance Officer
Norfolk County Retirement
480 Neponset Street, Building #15
Canton, MA 02021

1. Proposals received by the Board later than the Submission Deadline will be deemed non-responsive and will be rejected.
2. All proposals will be date/time stamped as they are received and the NCRS' date/time stamp will be controlling. No proposals will be accepted after the time and date noted. Late delivery of materials due to any type of delivery system shall be cause for rejection.
3. Faxed proposals will be deemed non-responsive and will be rejected, regardless of the date/time received.
4. The Board will not accept any information or materials submitted after the Submission Deadline, unless said information or materials are provided in response to the Board's written request for such information or materials.
5. These requirements will be strictly enforced. Bidders are cautioned to hand deliver their proposals or to allow sufficient time for their proposals to be received by mail or other delivery service.
6. Prior to the submission deadline, Bidders may correct or modify or withdraw a proposal by written notice to the NCRS' Executive Director at the address specified above. After the opening of proposals, a bidder may not correct or modify the price or any other provisions of its proposal in a manner prejudicial to the interests of the NCRS, its Board, or fair competition, as determined by the Inspector General of the Commonwealth of Massachusetts. No bidder may withdraw his proposal for a period of one year (or 365

days) after the date and time set for the opening of the proposals.

7. All proposals shall be unconditional according to their terms.
8. The Board reserves the right to request additional information from any and all Bidders if it is deemed necessary in order to identify the most advantageous proposal in the best interests of the NCRS.
9. This RFP is issued pursuant to G.L. c. 30B, § 16. The Board is interested in securing the specified property at the lowest responsible price. However, the Board reserves the right to award the purchase to the bidder offering the most advantageous combination of building facility characteristics, location, and purchase price deemed to serve the NCRS' best interests and shall not be required to award the purchase to the bidder offering simply the lowest price. The Board reserves the right to negotiate the purchase price and other terms with the selected bidder in a manner not prejudicial to fair competition. Any award is subject to obtaining the proper zoning and regulatory approvals, to the extent any may be necessary to carry out the purposes of this RFP in the best interests of the NCRS. Any award is also subject to Board authorization and appropriation at a duly noticed public Board meeting.
10. The Board reserves the right to conduct site visits to verify the information provided in the RFP response proposals and to perform detailed evaluations of any property proposed prior to award. The bidder's failure to cooperate with the Board in terms of interviews, site visits and evaluations in this regard may result in rejection of the RFP response proposal.

RFP COMMUNICATIONS:

It is the sole responsibility of the bidder to ascertain the existence of any addenda and/or modifications disseminated by the NCRS or its Board, whether or not the same are mailed to, or received by, bidder. As this RFP has been published on the NCRS' website <https://www.norfolkcountyretirement.org> all bidders are responsible for checking the NCRS' website for any addenda and/or modifications that are subsequently made to this RFP or the attachments.

The NCRS and its Board accept no liability for, and will provide no accommodations to bidders, who fail to check for amendments and/or modifications to this RFP and subsequently submit inadequate or incorrect responses. Bidders may contact the Board's Executive Director in the event this RFP is incomplete or the bidder is having trouble obtaining any part of the RFP electronically through the Board's website <https://www.norfolkcountyretirement.org> including, and without limitation, the RFP, required forms and attachments.

Bidders with disabilities or hardships that seek reasonable accommodations, which may include the receipt of RFP information and/or addenda and/or modifications in an alternative format, must communicate such requests in writing and accommodation will be made by agreement.

All questions or inquiries concerning this RFP must be made in writing and sent by email

to the Board's Compliance Officer. All inquiries received by 12:00 P.M. on May 25, 2023, will be considered. All answers to questions/inquiries will be posted on the Board's website <https://www.norfolkcountyretirement.org>.

EVALUATION CRITERIA

Evaluation of proposals will be based upon information provided in the proposals, obtained from interviews, or on-site visits and from other generally available and verifiable information. The Board reserves the right to request clarification of proposal terms or additional information after the Submission Deadline.

Proposals will be evaluated based upon both minimum and comparative criteria. The Board will offer to purchase the property from the bidder who submits the most advantageous proposal based on consideration of specified minimum and comparative criteria deemed most advantageous and in the best interests of the NCRS.

Minimum Criteria: Each proposal must meet all of the following criteria in order to be considered for further evaluation:

1. Bidder must have good, clear record and marketable title and be able to transfer same to the Board.
2. Bidder's property must be located entirely within Norfolk County.
3. Bidder must submit all required forms properly and fully completed and executed.
4. Bidder must submit all required explanations and documentation.
5. Bidder must meet all the material and mandatory terms and conditions of the incorporated Purchase & Sale Agreement.

Proposals that do not meet the Minimum Criteria will be judged non-responsive and will not be reviewed further.

Comparative Criteria: The following Comparative Criteria will be applied to those RFP response proposals that meet the Minimum Criteria listed above.

Building

Highly Advantageous	NCRS will be the sole occupant of a headquarters-type first class office building, with adequate parking, convenient to highway access.
Advantageous	NCRS will be the sole occupant of a headquarters-type first class office building, which is not immediately accessible to a highway.
Not Advantageous	NCRS would not be the sole occupant, and would be required to assume the responsibility of Landlord to occupants of the building.

Size of building

Highly Advantageous	Square footage of at least 6,500, but not greater than 8,000
Advantageous	Square footage of at least 5,000, but not greater than 6,500
Not Advantageous	Square footage at less than 5,000 square feet

Right-Of-Ways, Easements, Restrictions

Highly Advantageous	There are no right-of-ways or easements either over or under the property, or restrictions affecting the use of the property for the NCRS' intended purpose.
Advantageous	There are right-of-ways or easements either over or under, or restrictions that affect the property, but that do not interfere unreasonably with the NCRS' intended use of the property.
Not Advantageous	There are right-of-ways or easements either over or under, or restrictions affecting the property, that materially affect the use of the property for the NCRS' intended use.

EVALUATION AND SELECTION PROCESS

The Board may conduct site visits of properties offered for sale pursuant to this RFP. The bidder agrees to provide access to the Board and its consultants, contractors, agents and representatives to the entire property during the site visit(s) and have someone present with knowledge of the site conditions to answer questions. The Board will consider information obtained from site visits in the selection process.

The Board will evaluate proposals in accordance with the evaluation criteria set forth in this RFP. The NCRS and its Board are the awarding authority, and will select the most advantageous proposal, taking into consideration the evaluation criteria above, the price and the best interests of the NCRS.

Any purchase and sales agreement entered into pursuant to this RFP will be subject to NCRS Board Meeting authorization and appropriation.

TERMS OF PURCHASE

The Purchase and Sale Agreement to be executed between the NCRS, through its Board, and the successful bidder shall be substantially in the form of the Purchase and Sale Agreement attached hereto as Exhibit A, and shall include, at a minimum, the following mandatory terms:

1. On reasonable notice, NCRS, its Board and its consultants, will be granted access to the property to examine the property, including, without limitation, conducting surveys, soil tests and environmental investigations, and inspections of the building and building systems existing structures. The seller shall grant reasonable access to NCRS, its Board and its

consultants, contractors, agents and representatives, to the proposed property for such inspections and investigations.

2. The property will be delivered vacant and free of all tenants, occupants and personal property, unless specifically agreed to by both parties in writing.
3. The Seller shall deliver a good and sufficient quitclaim deed of the property running to NCRS, which deed shall convey good, clear record and marketable title to the property, subject only to those easements, restrictions and encumbrances which are acceptable to NCRS and its Board, and do not interfere with the use of the property for general municipal purposes, including office use.
4. If the land is registered, the quitclaim deed must be in form sufficient to entitle NCRS to an Owner's Certificate of Title, and the property owner shall deliver at closing all documents necessary to enable NCRS to obtain a Certificate of Title and to satisfy all Land Court and registration requirements.
5. The physical and environmental condition of the property and the improvements therein shall be entirely acceptable to NCRS and its Board, in the Board's sole discretion, or the Board shall not be obligated to purchase the property.
6. The Seller shall provide sufficient authority documentation, in recordable form, including, without limitation, as applicable, legal existence and good standing certificates from the Secretary of State, complete incumbency certificates and trustee's certificates, valid current vote(s)/resolution(s), direction of partners, members or beneficiaries, and other documentation reasonably required by NCRS and its Board.
7. Taxes for the then current fiscal year shall be adjusted in accordance with G.L. c. 59, §72A. Any taxes paid by the seller prior to the closing shall not be refunded.
8. The closing must occur within one hundred twenty (120) days from the date the parties enter into the Purchase and Sale Agreement.
9. NCRS and its Board shall have no obligation to purchase the property, and the Purchase and Sales Agreement will become null and void if, by way of example, and not limitation:
 - The Board determines at any time prior to closing that the property and/or the improvements thereon are not suitable, for its specific needs.
 - The information contained in the proposal proves to be inaccurate.
 - It becomes unlawful for either party to execute the purchase and sale agreement or consummate the transaction.
 - NCRS and its Board fails to obtain approval and/or funding by an affirmative vote of the NCRS Board Meeting.
 - The Board finds undisclosed hazardous waste or hazardous materials on the property.
 - NCRS and its Board fails to comply with the provisions of G.L. c. 30B (the Uniform Procurement Act) for acquisition of real property.
 - The building on the property is damaged or destroyed by fire, vandalism or other

- casualty, or all or part of the property is taken by eminent domain by any entity.
- The Seller fails to waive relocation benefits under G.L. c.79A and 760 CMR 27.03 for itself and all other tenants or other occupants of the property.
 - NCRS and its Board fails to obtain the proper zoning and regulatory approvals to the extent necessary to use and operate the property for NCRS' intended purposes.

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PROPOSAL TO SELL REAL PROPERTY TO THE NORFOLK COUNTY RETIREMENT SYSTEM

ATTACHMENT A

CERTIFICATIONS

CERTIFICATE OF NON-COLLUSION

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

Signature: _____ Date: _____

Print Name & Title

Company Name

(Note: This form must be included in the proposal submission)

PROPOSAL TO SELL REAL PROPERTY TO THE NORFOLK COUNTY RETIREMENT SYSTEM

ATTACHMENT B

CERTIFICATIONS

CERTIFICATE OF TAX COMPLIANCE

Pursuant to Chapter 62C of the Massachusetts General Laws, Section 49A (b), I

_____, authorized signatory for _____
Name of individual *Name of owner*

Do hereby certify under the pains and penalties of perjury that said owner has complied with all laws of the Commonwealth of Massachusetts, relating to taxes, permit or other fees, reporting of employees and contractors, and withholding and remitting child support.

Signature

Date

(Note: This form must be included in the proposal submission)

PROPOSAL TO SELL REAL PROPERTY TO THE NORFOLK COUNTY RETIREMENT SYSTEM

ATTACHMENT C

DISCLOSURE OF BENEFICIAL INTERESTS IN REAL PROPERTY TRANSACTION

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

1. Public agency involved in this transaction: Norfolk County Retirement System
(Name of jurisdiction)

2. Complete legal description of the property:

3. Type of transaction: Sale

4. Seller(s):

Purchaser(s): Norfolk County Retirement Board

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

Name	Address
_____	_____
_____	_____
_____	_____
_____	_____

PROPOSAL TO SELL REAL PROPERTY TO NORFOLK COUNTY RETIREMENT SYSTEM

5. (Continued)

None of the persons listed in this section is an official elected to public office in the Commonwealth of Massachusetts or is an employee of the Division of Capital Asset Management and Maintenance, except as noted below:

Name	Title or position
_____	_____
_____	_____

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

The undersigned acknowledges that any changes or additions to item 4 of this form during the term of any lease or rental will require filing a new disclosure with the Division of Capital Asset Management and Maintenance within 30 days following the change or addition.

The undersigned swears under the pains and penalties of perjury that this form is complete and accurate in all respects.

Signature: _____

Printed name: _____

Title: _____

Date: _____

(Note: This form must be included in the proposal submission)

PROPOSAL TO SELL REAL PROPERTY TO THE NORFOLK COUNTY RETIREMENT SYSTEM (Corporate ownership only)

ATTACHMENT D

CERTIFICATE OF VOTE

At a duly authorized meeting, held on _____ the Board of Directors

of the _____ it was VOTED, THAT

Name

Title/Office

of _____ be, and hereby is, authorized to execute contracts and bonds in the name, and on behalf of, said _____, and affix its corporate seal hereto; and such execution of any contract or obligation in the name of _____ on its behalf by such officer under seal of _____, shall be valid and binding upon.

I hereby certify that I am the clerk of the above named _____ and that _____ is the duly elected officer as above of said _____, and that the above vote has not been amended or rescinded and remains in full force and effect as of the date of this contract.

(Clerk)

(Date)

(Note: This form must be included in the proposal submission)

ATTACHMENT E

PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT (“**Agreement**”) is made as of _____, 2023 (“**Effective Date**”) by and between _____ (“**Seller**”), and the **Norfolk County Retirement System** (“**Buyer**”).

1. *Purchase and Sale.* Subject to the terms and conditions set forth in this Agreement, Seller agrees to sell, transfer and convey to Buyer, and Buyer agrees to purchase and accept from Seller, the following real and personal property (collectively, the “**Property**”):

1.1 All that certain land located in _____, Massachusetts, more particularly described in Exhibit A hereto, together with all privileges, rights, easements and appurtenances belonging to such land, and all right, title and interest (if any) of Seller in and to any streets, alleys, passages, and other rights-of-way or appurtenances included in, adjacent to or used in connection with such land, and all right, title and interest (if any) of Seller in all mineral and development rights appurtenant to such land (the “**Land**”);

1.2 The _____ story building (the “**Building**”), known and numbered as _____ containing approximately _____ rentable square feet, together with all other improvements located on the Land (the Building and such improvements being hereinafter collectively referred to as the “**Improvements**,” and the Land and the Improvements being hereinafter collectively referred to as the “**Real Property**”);

1.3 All fixtures, equipment, furniture, furnishings, and appliances attached to the Improvements, or otherwise owned by Seller and located within the Real Property or used exclusively in connection with the Real Property, including without limitations the items listed on Exhibit B hereto (the “**Tangible Personalty**”);

1.4 All of Seller’s rights in all service, management and leasing contracts affecting the Land or Improvements (the “**Property Contracts**”), to the extent Seller is entitled to transfer the same to Buyer, that Buyer elects to assume or is deemed to have elected to assume pursuant to the terms of this Agreement; and

1.5 All of Seller’s right, title and interest, if any, in all intangible assets of any nature relating to the Land, the Improvements or the Tangible Personalty, including without limitation all of Seller’s right, title and interest in all (i) warranties and guaranties relating to the Improvements or Tangible Personalty, (ii) all licenses, permits, and approvals, and (iii) all plans and specifications, in each case to the extent that Seller may legally transfer the same (the “**Intangible Personalty**”).

2. *Purchase Price.* The purchase price for the Property (the “**Purchase Price**”) shall be _____ and 00/100 Dollars (\$_____.00), which, subject to the terms and conditions hereinafter set forth, shall be paid to Seller by Buyer as follows:

2.1 *Deposit.* Concurrently with the execution and delivery of this Agreement by Buyer, Buyer shall deliver to Buyer's attorneys, Murphy, Hesse, Toomey & Lehane LLP ("ESCROW AGENT"), in immediately available funds, to be held in escrow and delivered in accordance with this Agreement, a cash deposit in the amount of _____ and 00/100 Dollars (\$ _____ .00), (the "**Deposit**"). The Deposit shall be held and distributed as follows:

2.1.1 The Deposit shall be held by ESCROW AGENT in an interest bearing account approved in writing by Buyer. All interest earned on the Deposit shall be deemed to be part of the Deposit and shall accrue to the benefit of Buyer except to the extent the Deposit becomes payable to Seller pursuant to Paragraph 9.1, below, in which event the interest earned on the Deposit shall accrue to the benefit of the Seller.

2.1.2 If the Closing takes place in accordance with the terms and conditions of this Agreement, ESCROW AGENT shall deliver and pay the Deposit to Seller on the Closing Date, and the amount so delivered shall be credited to Buyer against the Purchase Price due Seller in accordance with the terms and conditions of this Agreement.

2.1.3 If this Agreement is terminated by Buyer in accordance with the terms and conditions of this Agreement prior to the expiration of the Inspection Period (defined below), then ESCROW AGENT shall promptly deliver the Deposit to Buyer.

2.1.4 If this Agreement is terminated by Buyer in accordance with the terms and conditions of this Agreement, then ESCROW AGENT shall deliver the Deposit to Buyer promptly in accordance with the provisions of this Agreement.

2.1.5 If the Closing does not take place under this Agreement by reason of the failure of either party to comply with its obligations hereunder, ESCROW AGENT shall promptly deliver the Deposit to the party entitled thereto in accordance with the provisions of this Agreement.

2.1.6 Except for a demand made by Buyer pursuant to a termination of this Agreement by Buyer prior to the expiration of the Inspection Period, upon receipt of a written demand from Seller or Buyer claiming the Deposit, ESCROW AGENT shall promptly forward written notice of ESCROW AGENT's receipt of such demand together with a copy thereof to the other party hereto. Unless such other party, within ten (10) days after actual receipt of such notice, notifies ESCROW AGENT in writing of any objection to such requested delivery of the Deposit, ESCROW AGENT shall deliver the Deposit to the party demanding the same and thereupon shall be released and discharged from any further duty or obligation hereunder by all parties hereto. Notwithstanding anything to the contrary contained herein, ESCROW AGENT shall not deliver the Deposit pursuant to any such demand for the same unless and until ESCROW AGENT has received confirmation that the party not making the demand for the Deposit has actually received notice of said demand and that the time for responding to said demand has passed.

2.2 *Payment at Closing.* At the consummation of the transaction contemplated hereby (the "**Closing**"), Buyer shall deliver to ESCROW AGENT cash in an amount equal to the Purchase Price less the Deposit. The Purchase Price, subject to adjustments and apportionments as set forth herein, shall be paid at Closing by wire transfer of immediately available federal

funds, transferred to the order or account of Seller or such other person as Seller may designate in writing, for receipt by the bank designated by Seller not later than 1 P.M., Eastern Daylight or Standard (as applicable) Time.

3. *Buyer's Due Diligence Inspection and Termination Rights; "As Is" Sale*

3.1 *Inspection of Property.* Buyer and its appointed agents or independent contractors shall, at all reasonable times prior to the Closing Date, have the privilege of going upon the Property to, at Buyer's sole cost and expense, inspect, examine, test, appraise, and survey the Property, including, but not limited to, investigations of the physical condition thereof and to determine the status of the Land and the Improvements with respect to geotechnical matters and Hazardous Materials (defined below) and compliance with applicable environmental laws; provided, however, that Buyer shall not perform any sampling or testing of environmental media at the Property until Seller has approved the scope of Buyer's sampling and testing. To this end, Buyer shall present to Seller a reasonably detailed description of the sampling and testing proposed to be performed which includes the sampling locations and analyses to be made, prepared by the engineering firm to perform such work (and, if requested by Seller, a copy of any Phase I Environment report previously obtained by Buyer), for Seller's review and approval. If Seller disapproves such testing, Buyer's sole remedy shall be to terminate this Agreement, in which event the Deposit shall be reimbursed to Buyer and neither party shall have any further obligations hereunder, except for those that expressly survive the termination of this Agreement. If Seller approves such testing, then Buyer shall be permitted to cause such sampling and testing to be performed, but only to the extent approved by Seller. Buyer shall, and does hereby covenant and agree to, repair any and all damage caused by the activities of Buyer or its agents on the Property and to indemnify, defend and hold Seller harmless from any actions, suits, liens, claims, damages, expenses, losses and liability arising out of any such entry by Buyer or its appointed agents or independent contractors or any acts performed in exercising Buyer's rights under this Paragraph 3.1 (including without limitation, any rights or claims of materialmen or mechanics to liens on the Property, but excluding matters merely discovered by, and not caused by, Buyer, its agents or contractors).

3.2 *Inspection of Documents.* The right of inspection described in Paragraph 3.1 above shall extend to, and include, the right to examine, and Seller agrees to make available at Seller's office, all of Seller's records with respect to the Property, including, without limitation, Seller's tenant files (including all delinquency reports and any correspondence to or from any tenants), the plans and specifications, the engineering reports, the feasibility studies, the licenses, the warranties, the rent roll for the Property, the Property Contracts, title documents, title insurance policies, surveys, and any information Seller may have regarding the zoning status of the Property. In furtherance of Seller's duties hereunder, Seller shall deliver to Buyer contemporaneously with execution of this Agreement copies of the following (the documents described below herein referred to as the "**Due Diligence Documents**"):

3.2.1 Existing building permits, permanent certificates of occupancy or equivalent, regarding the Improvements;

3.2.2 The most recent existing survey of the Property;

3.2.3 A copy of Seller's policy of title insurance on the Property and all title exception documents that are listed therein;

3.2.4 A copy of the most recent declaration or association fee bills regarding the Property;

3.2.5 A copy of the current year operating expense budget for the Property, and copies of final operating expense reports for the Property for each year of Seller's ownership;

3.2.6 Warranties, Property Contracts, maintenance agreements, equipment leases, utility agreements and other agreements relating to the operation of the Property;

3.2.7 Real estate tax bills with respect to the Property for the immediately prior and current tax fiscal years; 3.2.8 Existing reports and correspondence in Seller's possession relating to the environmental status of the Property and;

3.2.9 Plans and specifications for the Improvements.

3.3 *Termination.* The term "**Inspection Period**," as used herein, shall mean the period ending at 5:00 P.M. Eastern Daylight or Standard (as applicable) Time on the day sixty (60) days after the Effective Date. Buyer may terminate this Agreement in its sole discretion by giving written notice of such election to Seller prior to the end of the Inspection Period, in which event (i) the Deposit shall be returned promptly to Buyer, and (ii) except as expressly set forth herein, neither party shall have any further liability or obligation to the other hereunder. In the absence of such written notice, Buyer shall be deemed to have waived its right to terminate this Agreement under this Paragraph 3.3, and this Agreement shall continue in full force and effect.

3.4. *Title and Survey Matters.*

3.4.1 Buyer shall promptly at its sole cost and expense obtain a title commitment ("**Title Commitment**") from a nationally recognized title insurer (the "**Title Company**") and a survey ("**Survey**") of the Property. Buyer shall have until the end of the Inspection Period to give written notice to Seller of any objections with respect thereto ("**Buyer's Title Objection Notice**"), indicating in reasonable detail the nature and reasons for Buyer's objections and including with such notice a copy of the Title Commitment and Survey, together with copies of any documents containing matters objected to in such notice. Failure to give such notice shall constitute Buyer's approval of (i) all title and survey matters disclosed in the existing title policy, survey and other title materials, if any, with respect to the Property delivered by Seller to Buyer, and (ii) all matters set forth in the Title Commitment and the Survey.

3.4.2 Seller shall have the right, but not the obligation, to attempt to cure any objections set forth in Buyer's Title Objection Notice. Seller shall notify Buyer within five (5) business days after receipt of Buyer's Title Objection Notice ("**Seller's Title Objection Response Period**") whether Seller agrees to attempt to cure any objections set forth in Buyer's Title Objection Notice. If Seller so agrees to attempt to cure any objections, then Seller shall have a period of up to thirty (30) days after the end of the Inspection Period ("**Title Cure Period**") in order to effectuate such cure. If the Closing Date is scheduled to occur prior to the end of the Title Cure Period, then, upon written notice from Seller to Buyer delivered not less than three (3) business days prior to the then scheduled Closing Date, the Closing Date shall be extended until

a date not later than three (3) business days after the end of the Title Cure Period in order for Seller to continue to effectuate such cure.

3.4.3 If Seller fails to give notice to Buyer prior to the expiration of Seller's Title Objection Response Period that Seller will attempt to cure all objections set forth in Buyer's Title Objection Notice, Buyer may, within five (5) business days after the expiration of Seller's Title Objection Response Period, terminate this Agreement by written notice to Seller, in which event (i) the Deposit shall be returned promptly to Buyer, and (ii) except as expressly set forth herein, neither party shall have any further liability or obligation to the other hereunder. If Buyer does not so terminate this Agreement within said five (5) business days after the expiration of Seller's Title Objection Response Period, Buyer shall be deemed to have waived its objections set forth in Buyer's Title Objection Notice that Seller has not agreed in writing to attempt to cure, and to have agreed to accept title to the Property subject thereto, without reduction in the Purchase Price.

3.4.4 In the event Seller gives timely notice to Buyer that Seller will attempt to cure any objections set forth in Buyer's Title Objection Notice, and if this Agreement is not terminated pursuant to Paragraph 3.4.3 above, Seller shall use commercially reasonable efforts to cure such objections and deliver evidence of such cure satisfactory to the Title Company and Buyer within the Title Cure Period. If despite Seller's commercially reasonable efforts Seller fails to cure all such matters within the Title Cure Period, Buyer's sole right with respect thereto shall be to terminate this Agreement within two (2) business days after the expiration of the Title Cure Period, in which event (i) the Deposit shall be returned promptly to Buyer; and (ii) except as expressly set forth herein, neither party shall have any further liability or obligation to the other hereunder. If Buyer does not so terminate this Agreement, Buyer shall be deemed to have waived its objections and to have agreed to accept title to the Property subject thereto, without reduction in the Purchase Price.

3.4.5 Notwithstanding the foregoing, Seller agrees to cure at or prior to the Closing all Monetary Liens (hereinafter defined) at Seller's sole cost and expense. As used herein, "**Monetary Lien**" means any security deed, mortgage, lien, security interest, monetary judgment, past due taxes or assessments or similar monetary encumbrance upon the Property created by Seller or placed on the Property by Seller's actions or inaction. A Monetary Lien shall be deemed cured by Seller if such Monetary Lien is released, satisfied or canceled of record at or prior to the Closing at no additional cost to Buyer, provided, however, that as to any institutional mortgage, the lien of such mortgage shall be deemed satisfactorily released if written confirmation is received from the mortgagee stating the amount to be delivered at the Closing to discharge such mortgage, in form and substance satisfactory to the Title Company to remove such mortgage from the list of encumbrances in Buyer's title insurance policy upon payment of such amount to said mortgagee out of Seller's proceeds at the Closing.

3.4.6 If Buyer does not terminate this Agreement pursuant to this Paragraph 3.4, the following matters shall be deemed accepted by Buyer and shall be referred to herein as "Permitted Encumbrances":

3.4.6.1 All matters disclosed in the existing title policy, survey and other title materials, if any, delivered by Seller to Buyer and all matters disclosed in the Title Commitment and the Survey to which Buyer does not object or which Buyer is deemed to have accepted pursuant to the terms and conditions of this Paragraph 3.4, other than Monetary Liens;

3.4.6.2 Any liens for such taxes for the then current year as are not due and payable on the Closing Date, and any liens for municipal betterments assessed after the Effective Date; and

3.4.6.3 The provisions of any building, zoning, subdivision, and similar laws applicable to the Property.

4. *Seller's Covenants Regarding Operation of Property.* From and after the Effective Date until the Closing or earlier termination of this Agreement, Seller agrees as follows:

4.1 *Notice of Defaults.* Seller will promptly deliver to Buyer any written notice received by Seller relating to the occurrence of any default or alleged default by Seller under the Property Contracts, and any written notice delivered to either any tenant relating to a default or alleged default by such tenant under its Lease or to any party to a Property Contract relating to a default or alleged default by such party under such Property Contract.

4.2 *Further Encumbrances.* Seller will not grant or purport to create in favor of any third party any interest in the Property or any part thereof or further encumber the Property without the prior written approval of Buyer.

4.3 *Other Agreements; Property Contracts.* Seller will not enter into any maintenance, management, or other service contracts relating to the Property without the prior written approval of Buyer, which approval shall not be unreasonably withheld, conditioned or delayed prior to the end of the Inspection Period but which may be withheld in Buyer's sole and absolute discretion after the end of the Inspection Period. Seller will terminate as of the Closing the existing property management and leasing agreement for the Property and all other Property Contracts that Buyer does not elect to assume in writing prior to the end of the Inspection Period, provided however, that if Buyer fails to give any written notice to Seller as to which Property Contracts Buyer will assume, Buyer will be deemed to have elected to assume all of the Property Contracts except for the existing property management and leasing agreement.

4.5 *Insurance.* Seller will continue to maintain in full force and effect all insurance as presently carried by Seller, and, if not already maintained, shall cause the fire and extended coverage insurance relating to the Property to be maintained in an amount not less than full replacement cost of the Property.

4.6 *Violations of Law.* Seller will promptly notify Buyer in writing of any violation of any law, regulation, ordinance, order, or other requirement of any governmental authority having jurisdiction over or affecting the Property, or any part thereof, of which Seller receives written notice.

4.7 *Structural Modifications.* Seller will not permit any structural modifications or additions to the Property (except to the extent required under any Lease or by applicable law, as to which Seller shall give Buyer prior written notice), without the prior written consent of Buyer, which approval shall not be unreasonably withheld, conditioned or delayed prior to the end of the Inspection Period but which may be withheld in Buyer's sole and absolute discretion after the end of the Inspection Period.

4.8 *Property Agreement Obligations.* Seller shall continue to observe and perform all the obligations imposed upon Seller by virtue of Property Contracts.

4.9 *Operation of Property.* Seller shall continue to maintain, operate and manage the Property in the same manner that Seller has heretofore maintained and operated the Property.

5. *Casualty and Condemnation.*

5.1 *Casualty.* If prior to the Closing any portion of the Property (i) is damaged or destroyed by fire or other casualty, which damage either (X) is reasonably estimated to cost in excess of \$50,000 to repair, then Buyer shall have the right, by giving Seller notice within ten (10) days after receipt of notice from Seller of such occurrence (with the Closing Date to be postponed, if necessary, to give both parties the benefit of the full ten (10) day period) to elect to: (i) terminate this Agreement, in which case the Deposit shall be returned promptly; or (ii) close the sale contemplated herein. If Buyer does not have the right to terminate this Agreement or having such right elects or is deemed to have elected not to terminate this Agreement, then this Agreement shall remain in full force and effect, and the purchase contemplated herein shall be effected without reduction in the Purchase Price. In such event, Seller shall at the Closing assign, transfer and set over unto Buyer all of Seller's right, title and interest in and to any insurance proceeds paid or payable in connection with such damage or destruction, and Buyer shall receive a credit at Closing against the Purchase Price for the deductible amount of any such insurance.

5.2 *Condemnation.* If prior to the Closing any portion of the Property becomes subject to a bona fide threat of condemnation by a body having the power of eminent domain or condemnation, or sale in lieu thereof, which either (A) affects any portion of the Building, parking area or access driveways on the Property, (B) in Buyer's reasonable judgment adversely affects access to the Property, (C) is reasonably estimated to cost in excess of \$50,000 for restoration and repair of the remaining Property, then Buyer shall have the right, by giving Seller notice within ten (10) days after receipt of notice from Seller of such occurrence (with the Closing Date to be postponed, if necessary, to give both parties the benefit of the full ten (10) day period) to elect to: (i) terminate this Agreement, in which case the Deposit shall be returned promptly to Buyer and, except as expressly set forth herein, neither party shall have any further liability or obligation to the other hereunder; or (ii) close the sale contemplated herein. If Buyer does not have the right to terminate this Agreement or having such right elects or is deemed to have elected not to terminate this Agreement, then this Agreement shall remain in full force and effect and the purchase contemplated herein, less any portion of the Property taken by eminent domain or condemnation, shall be effected without reduction in the Purchase Price. In such

event, Seller shall at the Closing assign, transfer and set over unto Buyer all of Seller's right, title and interest in and to any awards paid or payable in connection with such taking.

6. *Conditions Precedent to Buyer's Obligations.*

6.1 Buyer's obligation to purchase the Property at the Closing hereunder is expressly conditioned on the satisfaction at or before the time of Closing hereunder, or at or before such earlier time as may be expressly stated below, of each of the following conditions (any one or more of which may be waived in writing in whole or in part by Buyer, at Buyer's option):

6.1.1. *Accuracy of Representations.* All of the representations and warranties of Seller contained in this Agreement shall have been true and correct in all material respects when made, and shall be true and correct in all material respects on the date of Closing with the same effect as if made on and as of such date.

6.1.2 *Performance.* Seller shall have performed, observed and complied with all material covenants, agreements and conditions required by this Agreement to be performed, observed and complied with on its part prior to or as of Closing hereunder.

6.1.3 *No Material Adverse Change.* There shall have been no material adverse change in the physical condition of the Property, or the laws, rules and regulations governing the use or development of the Property between the expiration of the Inspection Period and the Closing.

6.1.4 *Condition of Title.* No new encumbrances or exceptions to title have been recorded pertaining to the Property between the date of the Title Commitment and the Closing that have not been approved by Buyer or that are not removed by Seller or agreed to be removed by Seller prior to or contemporaneously with the Closing, and the Title Company is prepared to issue at the Closing an owner's policy of title insurance at commercially customary rates, subject only to the Permitted Encumbrances.

7. *Closing; Deliveries.*

7.1 *Time of Closing.* The Closing shall take place at 10 a.m. on _____ (the "**Closing Date**") (subject to extension as expressly set forth herein) at the offices of ESCROW AGENT, unless otherwise agreed to in writing by both Seller and Buyer. If any date on which the Closing would occur by operation of this Agreement is not a business day in Boston, Massachusetts, the Closing shall occur on the next business day. Each party shall have the option, exercisable by written notice to the other prior to three (3) business days before the Closing, to extend the Closing Date one time only for an additional thirty (30) days.

7.2 *Seller Deliveries.* At Closing, Seller shall deliver to Buyer, or to Buyer's nominee specified in a notice by Buyer to Seller given not less than three (3) business days prior to the Closing, the following items, and it shall be a condition to Buyer's obligation to close that Seller shall have delivered the same to Buyer or its nominee:

7.2.1 A Massachusetts Quitclaim Deed ("**Deed**") to the Real Property from Seller, duly executed and acknowledged by Seller in the form of Exhibit D, subject to the Permitted Encumbrances which shall be listed in Exhibit B of the Deed.

7.2.2 A Bill of Sale for the Tangible Personalty from Seller, in the form of Exhibit E, duly executed by Seller.

7.2.3 An Assignment of Intangible Personal Property from Seller, substantially in the form of Exhibit F, duly executed by Seller.

7.2.4 An Assignment and Assumption of [Leases and] Property Contracts, substantially in the form of Exhibit G, duly executed by Seller.

7.2.5 A certification by Seller that all representations and warranties made by Seller in Paragraph 13 of this Agreement are true and correct in all material respects on the date of Closing, except as may be set forth in such certificate.

7.2.7 Such affidavits or letters of indemnity as the title insurer shall require in order to issue, without extra charge, an owner's policy of title insurance free of any exceptions for unfiled mechanics' or materialmen's liens, or for rights of parties in possession [other than pursuant to the Leases.]

7.2.8 A Non-Foreign Affidavit as required by the Foreign Investors in Real Property Tax Act ("**FIRPTA**"), as amended, duly executed by Seller.

7.2.9 All architectural and engineering drawings and specifications, utilities layout plans, topographical plans and the like in Seller's possession and owned by Seller used in the construction, improvement, alteration or repair of the Land or the Improvements.

7.2.11 Originals or copies certified by Seller of all records, Property Contracts, and all other books, records and files maintained by Seller and Seller's property manager relating to the construction, leasing, operation and maintenance of the Property (including without limitation all operating manuals relating to the operation of the equipment and systems which are a part of the Property).

7.2.12 Keys (or, if applicable, security cards and/or security codes) to all doors in the Property and passwords to all computer systems included in the Property, labeled for identification.

7.2.13 All other instruments and documents reasonably required to effectuate this Agreement and the transactions contemplated thereby.

7.3 *Buyer Deliveries.* At Closing, Buyer shall deliver to Seller the following, and it shall be a condition to Seller's obligation to close that Buyer shall have delivered the same to Seller:

7.3.1 Funds by wire transfer in the amount required under Paragraph 2 hereof (subject to the adjustments provided for in this Agreement).

7.3.2 A certification by Buyer that all representations and warranties made by Buyer in Paragraph 13 of this Agreement are true and correct in all material respects on the date of Closing, except as may be set forth in such certificate.

7.3.3 The Assignment and Assumption of Property Contracts referred to in Paragraph 7.2.5, duly executed and acknowledged by Buyer.

7.3.4 All other instruments and documents reasonably required to effectuate this Agreement and the transactions contemplated thereby.

8. *Apportionments; Taxes; Expenses.*

8.1 *Apportionments.*

8.1.1. *Taxes and Operating Expenses.* All real estate taxes, charges and assessments affecting the Property not being paid directly by tenants (“**Taxes**”), and all operating expenses for the Property (other than utilities, which are addressed in Paragraph 8.1.4) (“**Operating Expenses**”) shall be prorated on a per diem basis as of the Closing Date. If any Taxes have not been finally assessed as of the Closing Date for the current fiscal year of the taxing authority, then the same shall be adjusted at Closing based upon the most recently issued bills therefor, and shall be readjusted when final bills are issued. If any Operating Expenses cannot conclusively be determined as of the date of Closing, then the same shall be adjusted at Closing based upon the most recently issued bills thus far and shall be readjusted within one hundred twenty (120) days after the Closing.

8.1.2. *Charges under Property Contracts.* The unpaid monetary obligations of Seller with respect to any of the Property Contracts not being terminated as of the Closing Date shall be prorated on a per diem basis as of the date of Closing.

8.1.3. *Utilities.* Utilities, including water, sewer, electric and gas, to the extent not paid directly by tenants, shall be prorated based upon the last reading of meters prior to the Closing. Seller shall obtain meter readings on the day before the Closing Date, and, if such readings are obtained, there shall be no proration of such items. Seller shall pay at Closing the bills therefor for the period ending on the day preceding the Closing Date, and Buyer shall pay the bills therefor for the period subsequent thereto. If the utility company will not issue separate bills, Buyer will receive a credit against the Purchase Price for Seller’s portion and will pay the entire bill prior to delinquency after Closing. If Seller has paid any utilities no more than thirty (30) days in advance in the ordinary course of business, then Buyer shall be charged its portion of such payment at Closing. Utility deposits shall not be subject to proration; rather, Seller shall be entitled to receive refunds of any deposits it has made, and Buyer shall be responsible for posting its own deposits.

8.2. *Expenses.* Each party will pay all its own expenses incurred in connection with this Agreement and the transactions contemplated hereby, including, without limitation, (1) all costs and expenses stated herein to be borne by a party, and (2) all of their respective accounting, legal and appraisal fees. Buyer, in addition to its other expenses, shall pay at Closing (1) all recording charges incident to the recording of the deed for the Real Property; and (2) the premium for Buyer’s title insurance policy. Seller, in addition to its other expenses, shall pay at Closing (1) all documentary stamps, excise taxes and real estate transfer taxes, and (2) all

recording charges incident to the recording of any instruments to discharge or remove encumbrances not approved (or deemed approved) by Buyer.

9. *Remedies.*

9.1. *Buyer Default.* In the event Buyer breaches or fails, without legal excuse, to complete the purchase of the Property or to perform its obligations under this Agreement, then, except as otherwise expressly set forth in this Agreement, Seller shall, as its sole remedy therefor, be entitled to receive the Deposit as liquidated damages (and not as a penalty) in lieu of, and as full compensation for, all other rights or claims of Seller against Buyer by reason of such default, upon receipt of which this Agreement shall terminate and the parties shall be relieved of all further obligations and liabilities hereunder.

9.2. *Seller Default.* If Seller fails to perform any of its obligations under this Agreement, then Buyer, as its sole remedy for such failure, may either: (i) terminate this Agreement by written notice to Seller given prior to or on the Closing Date whereupon ESCROW AGENT shall pay the Deposit to Buyer, and if, but only if, the closing of the purchase of the Property does not occur as a result of Seller's intentional and willful failure to close, then Buyer may seek to recover as damages the out-of-pocket expenses incurred by Buyer in finalizing this Agreement and in performing Buyer's due diligence with respect to the Property; or (ii) enforce specific performance of Seller's obligations under this Agreement; provided, however, that if Seller willfully and intentionally conveys the Property to a bona fide third-party buyer or encumbers the Property in favor of a bona fide third party in a manner the result of which is that specific performance is not an available remedy, then Buyer may seek to recover Buyer's actual damages arising therefrom.

10. *Possession.* Possession of the Property shall be surrendered to Buyer at Closing, subject to the Permitted Encumbrances.

11. *Notices.* All notices and other communications provided for herein shall be in writing and shall be sent to the address set forth below (or such other address as a party may hereafter designate for itself by notice to the other parties as required hereby) of the party for whom such notice or communication is intended:

If to Buyer:
Matthew L. Feeney, Esq.
Compliance Officer,
Norfolk County Retirement System
480 Neponset Street, Building #15
Canton, MA 02021

with a copy to:

Murphy, Hesse, Toomey & Lehane, LLP
Attorney Peter T. McNulty, Esq.
50 Braintree Hill Office Park
Suite 410
Braintree, MA 02184

If to Seller:

with copy to:

If to ESCROW AGENT, as escrow agent, to:

Any such notice or communication shall be sufficient if sent by registered or certified mail, return receipt requested, postage prepaid; by hand delivery; or by overnight courier service. Any such notice or communication shall be effective when delivery is received or refused.

12. *Brokers.* Buyer and Seller each represents to the other that it has not dealt with any broker or agent in connection with this transaction. Buyer shall be responsible for the payment of the Broker's fee pursuant to a separate agreement. Each party hereby indemnifies and holds harmless the other party from all loss, cost and expense (including reasonable attorneys' fees) arising out of a breach of its representation or undertaking set forth in this Paragraph 12. The provisions of this Paragraph 12 shall survive Closing or the termination of this Agreement.

13. *Representations and Warranties of Seller.*

13.1. Subject to all matters disclosed in any document delivered to Buyer by Seller or on any exhibit attached hereto, and subject to any information discovered by Buyer or other information disclosed to Buyer by Seller or any other person after the Effective Date and prior to the Closing, including, without limitation, any information contained in the Survey or the Title Commitment (all such matters being referred to herein as "**Exception Matters**"), Seller represents and warrants to Buyer as follows:

13.1.1. *Authority.* Seller is a Massachusetts corporation duly organized and validly existing under the laws of Massachusetts and has all requisite power and authority to enter into this Agreement and perform its obligations hereunder. The execution and delivery of this Agreement have been duly authorized.

13.1.2. *No Conflict.* The execution and delivery of this Agreement and the consummation of the transactions contemplated hereunder on the part of Seller do not and will not conflict with or result in the breach of any material terms or provisions of, or constitute a default under, or result in the creation or imposition of any lien, charge, or encumbrance upon any of the Property

or assets of the Seller by reason of the terms of any contract, mortgage, lien, lease, agreement, indenture, instrument or judgment to which Seller is a party or which is or purports to be binding upon Seller or which otherwise affects Seller, which will not be discharged, assumed or released at Closing. No action by any federal, state, municipal or other governmental department, commission, board, bureau or instrumentality is necessary to make this Agreement a valid instrument binding upon Seller in accordance with its terms.

13.1.3. *Bankruptcy.* Seller has not (i) commenced a voluntary case, or had entered against it a petition, for relief under any federal bankruptcy act or any similar petition, order or decree under any federal or state law or statute relative to bankruptcy, insolvency or other relief for debtors, or (ii) caused, suffered or consented to the appointment of a receiver, trustee, administrator, conservator, liquidator or similar official in any federal, state or foreign judicial or nonjudicial proceeding, to hold, administer and/or liquidate all or substantially all of its assets.

13.1.4. *No Condemnation.* There are no pending or, to Seller's knowledge, contemplated condemnation, eminent domain or similar proceedings with respect to all or any portion of the Real Property.

13.1.5. *Compliance.* The Property complies with all applicable federal, state, county or municipal laws, ordinances, orders, codes, regulations or requirements affecting the Real Property, including, without limitation, the regulations of the Architectural Access Board at 521 CRM 1.00 *et. seq.* and the Americans with Disabilities Act.

13.1.6. *Litigation.* There is no action, suit or proceeding pending or, to the best of Seller's actual knowledge, threatened against or affecting the Property, or arising out of the ownership, management or operation of the Property, this Agreement or the transactions contemplated hereby.

13.1.7. *Property Contracts.* The list of Property Contracts attached hereto as Exhibit J is a true and complete list of the Property Contracts affecting the Property and all amendments and modifications thereto. The copies of the Property Contracts to be delivered by Seller to Buyer pursuant hereto shall be complete and accurate copies of all of the Property Contracts affecting the Property, and there are no written or oral promises, agreements, amendments, addenda, modifications, supplements, understandings, or commitments between Seller and any other party to any of the Property Contracts of any nature whatsoever that are not included in such copies of the Property Contracts.

13.1.8. *Hazardous Materials.* Seller has delivered to Buyer true and complete copies of all reports, studies and assessments regarding environmental conditions relating to the Property in Seller's possession or control, and, to the best of Seller's knowledge, (i) the Property, or any part thereof, has never been used as a sanitary landfill or waste dump site, (ii) no underground tanks are present on the Property; (iii) there is no litigation with respect to the Property relating to environmental law violations; and (iv) no notice of violation or other written communication has been received by Seller from a government agency or any other person or entity alleging or suggesting an environmental law violation on the Property.

13.1.9. *Other Agreements.* Other than the Permitted Encumbrances, Property Contracts being assumed by Buyer, and any other existing agreement pertaining to the Property a copy of which shall be delivered by Seller to Buyer during Inspection Period, there are no other written agreements affecting the Property to which Seller is party that will be binding on Buyer. Seller has not entered into, and will not during the term of this Agreement enter into, any other agreement giving any other party a right to purchase the Property.

13.1.10. *FIRPTA.* Seller is not a “foreign person” as defined in Section 1445(f)(3) of the Internal Revenue Code.

13.2. *Survival of Seller’s Representations and Warranties.* The representations and warranties of Seller set forth in this Paragraph 13 shall survive Closing and shall not be merged with the execution and delivery of the Deed and other closing documents hereunder.

14. *Representations of Buyer.* Buyer represents and warrants that:

14.1. *Authority.* Buyer is a Massachusetts corporation, duly organized, validly existing and in good standing under the laws of Massachusetts and has all requisite power and authority to enter into this Agreement and to perform its obligations hereunder. The execution and delivery of this Agreement by Buyer has been duly authorized.

14.2. *No Conflict.* The execution and delivery of this Agreement and the consummation of the transactions contemplated hereunder on the part of Buyer does not and will not violate any applicable law, ordinance, statute, rule, regulation, order, decree or judgment, conflict with or result in the breach of any material terms or provisions of, or constitute a default under, or result in the creation or imposition of any lien, charge, or encumbrance upon any of the property or assets of the Buyer by reason of the terms of any contract, mortgage, lien, lease, agreement, indenture, instrument or judgment to which Buyer is a party or which is or purports to be binding upon Buyer or which otherwise affects Buyer, which will not be discharged, assumed or released at Closing. No action by any federal, state or municipal or other governmental department, commission, board, bureau or instrumentality is necessary to make this Agreement a valid instrument binding upon Buyer in accordance with its terms.

15. *Miscellaneous.*

15.1. *Governing Law; Bind and Inure.* This Agreement shall be governed by the law of Massachusetts and shall bind and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, successors, assigns and personal representatives.

15.2. *Recording.* This Agreement or any notice or memorandum hereof shall not be recorded in any public record.

15.3. *Time of the Essence.* Time is of the essence of this Agreement.

15.4. *Headings.* The headings preceding the text of the paragraphs and subparagraphs hereof are inserted solely for convenience of reference and shall not constitute a part of this Agreement, nor shall they affect its meaning, construction or effect.

15.5. *Counterparts.* This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

15.6. *Assignment.* Buyer may assign its rights under this Agreement.

15.7. *Exhibits.* All Exhibits which are referred to herein and which are attached hereto constitute a part of this Agreement.

15.8. *Survival.* Unless otherwise expressly stated in this Agreement, each of the warranties and representations of Seller and Buyer shall not survive the Closing and delivery of the Deed and other closing documents by Seller to Buyer, and shall be deemed to have merged therewith.

15.9. *Use of Proceeds to Clear Title.* To enable Seller to make conveyance as herein provided, Seller may, at the time of Closing, use the Purchase Price or any portion thereof to clear the title of any or all encumbrances or interests, provided that provision reasonably satisfactory to the Title Company and Buyer's attorney is made for prompt recording of all instruments so procured in accordance with conveyancing practice in the jurisdiction in which the Property is located.

15.10. *Submission not an Offer or Option.* The submission of this Agreement or a summary of some or all of its provisions for examination or negotiation by Buyer or Seller does not constitute an offer by Seller or Buyer to enter into an agreement to sell or purchase the Property, and neither party shall be bound to the other with respect to any such purchase and sale until a definitive agreement satisfactory to the Buyer and Seller in their sole discretion is executed and delivered by both Seller and Buyer.

15.11. *Entire Agreement; Amendments.* This Agreement and the Exhibits hereto set forth all of the promises, covenants, agreements, conditions and undertakings between the parties hereto with respect to the subject matter hereof, and supersede all prior and contemporaneous agreements and understandings, inducements or conditions, express or implied, oral or written, except as contained herein. This Agreement may not be changed orally but only by an agreement in writing, duly executed by or on behalf of the party or parties against whom enforcement of any waiver, change, modification, consent or discharge is sought.

16. *ESCROW AGENT as Escrow Agent.* ESCROW AGENT shall hold the Deposit as escrow agent in accordance with the terms and provisions of this Agreement, subject to the following:

16.1. *Obligations.* ESCROW AGENT undertakes to perform only such duties as are expressly set forth in this Agreement and no implied duties or obligations shall be read into this Agreement against ESCROW AGENT.

16.2. *Reliance.* ESCROW AGENT may act in reliance upon any writing or instrument or signature which it, in good faith, believes to be genuine, and any statement or assertion contained in such writing or instrument, and may assume that any person purporting to give any

writing, notice, advice, or instrument in connection with the provisions of this Agreement has been duly authorized to do so. ESCROW AGENT shall not be liable in any manner for the sufficiency or correctness as to form, manner and execution, or validity of any instrument deposited in escrow, nor as to the identity, authority, or right of any person executing the same.

16.3 *Escrow Provisions.* Unless ESCROW AGENT discharges any of its duties under this Agreement in a negligent manner or is guilty of willful misconduct with regard to its duties under this Agreement, Seller and Buyer shall indemnify ESCROW AGENT and hold it harmless from any and all claims, liabilities, losses, actions, suits or proceedings at law or in equity, or other expenses, fees, or charges of any character or nature, which it may incur or with which it may be threatened by reason of its acting as escrow agent under this Agreement; and in such connection Seller and Buyer shall indemnify ESCROW AGENT against any and all expenses including reasonable attorneys' fees and the cost of defending any action, suit or proceeding or resisting any claim in such capacity.

If any disputes shall arise as to the rights of the parties to the escrowed funds, or any interest earned thereon, ESCROW AGENT may (a) commence an interpleader or similar action permitted stakeholders in the courts of the Commonwealth of Massachusetts, and deposit the escrowed funds and the interest earned thereon into the court where such action has commenced, (b) whether or not such dispute involves litigation, retain the escrowed funds and the interest earned thereon pending either a settlement of the dispute or final determination of the rights of the respective parties to the escrowed funds and any interest earned thereon made by a court of competent jurisdiction. During the course of a dispute involving litigation, ESCROW AGENT may also deposit the escrowed funds and any interest earned thereon with the Clerk of the Court in which such litigation is pending and thereupon, as in action taken by ESCROW AGENT pursuant to clause (a) above, ESCROW AGENT shall stand fully relieved and discharged of any further liability or duty hereunder or under the Agreement.

Notwithstanding any provision of this Agreement, or ESCROW AGENT's position as escrowee, ESCROW AGENT shall at all times (including, without limitation, during and with respect to disputes between the parties whether or not involving litigation) be able to represent Buyer as its attorneys in connection with the transaction contemplated by this Agreement.

ESCROW AGENT shall have the right to resign at any time by giving fifteen (15) days notice to Seller and Buyer, and during such period, the parties shall designate the successor escrow agent hereunder. In the event of such resignation, ESCROW AGENT shall deliver the escrowed funds and any interest earned thereon it then holds hereunder to the successor escrow agent, or if no successor Escrow Agent has been so designated, the Escrow Agreement may commence an action, and pay the escrowed funds into the court in which such action has been commenced. ESCROW AGENT shall thereupon be released from all obligations and liabilities hereunder accruing after such delivery.

ESCROW AGENT shall not be liable for any action taken nor committed by it in good faith and believed by it to be duly authorized or to be within the rights or powers conferred upon it by this Agreement. In the absence of gross negligence or willful misconduct by ESCROW

AGENT, ESCROW AGENT shall not be responsible or liable for any payment described in this Agreement, for any delay in making any such payment, or for any act or omission, nor shall ESCROW AGENT be liable for reliance upon documents or other materials received by it and believed by it in good faith to be genuine.

ESCROW AGENT shall not be responsible for interest (other than that actually received and earned on the escrowed funds and not disbursed hereunder), or court costs or disbursements, and the total liability of ESCROW AGENT shall be solely for the amount of the escrowed funds.

16.4 *Disputes.* If the parties (including ESCROW AGENT) shall be in disagreement about the interpretation of this Agreement, or about their respective rights and obligations, or the propriety of any action contemplated by the ESCROW AGENT, or the application of the Deposit, ESCROW AGENT shall have the right to hold the Deposit until the receipt of written instructions from both Buyer and Seller or a final order of a court of competent jurisdiction. In addition, in any such event, ESCROW AGENT may, but shall not be required to, file an action in interpleader to resolve the disagreement. ESCROW AGENT shall be indemnified for all costs and reasonable attorneys' fees in its capacity as escrow agent hereunder in connection with any such interpleader action and shall be fully protected in suspending all or part of its activities under this Agreement until a final judgment in the interpleader action is received.

IN WITNESS WHEREOF, the parties have executed and delivered this Agreement as of the date first above written.

SELLER:

By: _____

Name:

BUYER:

NORFOLK COUNTY RETIREMENT BOARD

By: _____

We agree to act as Escrow Agent as provided above:

MURPHY, HESSE, TOOMEY & LEHANE LLP

By: _____

List of Exhibits

Exhibit 1	Description of the Land
Exhibit 2	List of Tangible Personalty
Exhibit 3	Form of Deed
Exhibit 4	Form of Bill of Sale
Exhibit 5	Form and Assignment of Intangible Personal Property
Exhibit 6	Form of Assignment and Assumption of Property Contracts
Exhibit 7	List of Property Contracts

EXHIBIT 1

Description of the Land

Response Must Include This Page and Follow This Page

EXHIBIT 2

List of Tangible Personalty

If applicable

(Response Must Include This Page and Follow This Page)

EXHIBIT 3

Form of Deed

(Response Must Include This Page and Follow This Page)

EXHIBIT 4

Form of Bill of Sale

BILL OF SALE

_____, a _____ (“Seller”), for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, hereby grants, bargains, sells, transfers and delivers to Norfolk County Retirement Board (“Buyer”), all of the fixtures, equipment and tangible personal property owned by the Seller and located on or used in connection with the real property described on Exhibit A (the “Real Property”) attached hereto, including, without limitation, those items listed on Exhibit B attached hereto, (collectively, the “Personal Property”) to have and to hold the Personal Property unto Buyer, its successors and assigns, forever.

Seller hereby represents and warrants to Buyer that Seller has the full right, power and authority to sell the Personal Property and to make and execute this Bill of Sale. Seller hereby agrees to warrant and defend the title to the Personal Property conveyed hereby to Buyer against the lawful claims and demands of all persons claiming by, through or under Seller. Except as set forth above, Seller grants, bargains, sells, transfers and delivers the Personal Property in its “AS IS” condition, WITH ALL FAULTS, IF ANY, and makes no representations or warranties, direct or indirect, oral or written, express or implied, as to title, encumbrances and liens, merchantability, condition or fitness for a particular purpose or any other warranty of any kind, all of which representations and warranties are expressly hereby disclaimed and denied.

Executed under seal this ____ day of _____ 2023.

Seller:

By: _____

EXHIBIT 5

Form of Assignment of Intangible Personal Property

ASSIGNMENT OF INTANGIBLE PERSONAL PROPERTY

DATE: _____, 2023

ASSIGNOR:

ASSIGNEE:

RECITALS:

A. Assignor presently owns the real property described in Exhibit “A” to this Assignment and the improvements and personal property located thereon (the “Property”).

B. Assignor and Assignee have entered into that certain Purchase and Sale Agreement dated as of _____, 2023 (the “Purchase Agreement”), wherein Assignor agreed to sell and Assignee agreed to buy the Property;

C. Assignor desires to sell the Property to Assignee, and, in connection therewith, Assignor desires to assign to Assignee and Assignee desires to acquire Assignor’s interest, if any, in and to the following described rights, interests and property inuring to the benefit of Assignor and relating to the Property.

FOR VALUABLE CONSIDERATION, the receipt and adequacy of which are hereby acknowledged, Assignor agrees as follows:

1. *Assignment.* Assignor assigns, transfers, sets over, and conveys to Assignee, to the extent the same are assignable, all of Assignor’s right, title, and interest, if any, in and to all intangible assets of any nature relating to the Property, including, without limitation, all of Assignor’s right, title and interest in all (i) warranties and/or guaranties, express or implied, from contractors, builders, manufacturers, and/or suppliers inuring to the benefit of Assignor and relating to the Property; (ii) any licenses, permits and approvals relating to the Property; and (iii) all plans and specifications, in each case to the extent that Assignor may legally transfer the same.

2. *Binding Effect.* This Assignment shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

3. *Construction; Definitions.* This Assignment shall be construed according to Massachusetts law. Capitalized terms used and not otherwise defined herein shall have the meanings given to such terms in the Purchase Agreement.

DATED as of the day and year first above written.

ASSIGNOR:

By: _____

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EXHIBIT 6

Form of Assignment and Assumption of Interest and Property Contracts

ASSIGNMENT AND ASSUMPTION OF INTEREST IN PROPERTY CONTRACTS

DATE: _____, 2023

ASSIGNOR:

ASSIGNEE:

RECITALS:

WHEREAS, Assignor and Assignee have entered into that certain Purchase and Sale Agreement dated as of _____, 2023 (the "Purchase Agreement"), wherein Assignor agreed to sell and Assignee agreed to buy that certain real property described on Exhibit "A" attached hereto and the improvements located thereon (the "Property");

WHEREAS, Assignee desires to assume and Assignor desires to assign to Assignee the Property Contracts currently in force with respect to the Property, which Property Contracts are more particularly described on Exhibit "B" attached hereto and incorporated herein by this reference (the "Property Contracts").

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Assignor and Assignee agree as follows:

1. *Assignment.* Assignor conveys and assigns to Assignee all of Assignor's right, title and interest in and to the Property Contracts and advance payments thereunder.
2. *Assumption.* Assignee assumes and agrees to be bound by all of Assignor's liabilities and obligations pursuant to the Property Contracts, if any, and agrees to perform and observe all of the covenants and conditions contained in the Property Contracts from and after the date hereof.
3. *Indemnification.* Assignee further covenants and agrees to indemnify and hold harmless Assignor for, from and against any actions, suits, proceedings or claims, and all costs and expenses, including, without limitation, reasonable attorneys' fees, incurred in connection therewith, based upon or arising out of any breach or alleged breach of any of the Leases or out of any other facts connected with the Property Contracts, occurring or alleged to have occurred from and after the date hereof. Assignor covenants and agrees to indemnify and hold harmless Assignee for, from and against any actions, suits, proceedings or claims, and all costs and expenses, including, without limitation, reasonable attorneys' fees, incurred in connection therewith, based upon or arising out of any breach or alleged breach of any of the Property Contracts or out of any other facts connected with any Property Contract assigned hereunder, occurring or alleged to have occurred before the date hereof.
4. *Binding Effect.* This Assignment shall inure to the benefit of and shall be binding upon the parties hereto and their respective successors and assigns.

5. *Construction; Definitions.* This Assignment shall be construed according to Massachusetts law. Capitalized terms used and not otherwise defined herein shall have the meanings given to such terms in the Purchase Agreement.

6. *Counterparts.* This Assignment may be executed in counterparts, which taken together shall constitute one original instrument.

DATED as of the day and year first above written.

ASSIGNOR:

By: _____

ASSIGNEE:

By: _____

Name:

EXHIBIT 7

List of Property Contracts

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CHAPTER 30B

MASSACHUSETTS GENERAL LAWS

PART I. ADMINISTRATION OF THE GOVERNMENT.

TITLE III. LAWS RELATING TO STATE OFFICERS.

CHAPTER 30B. UNIFORM PROCUREMENT ACT.

Chapter 30B: Section 1. Application of Chapter.

Section 1. (a) This chapter shall apply to every contract for the procurement of supplies, services or real property and for disposing of supplies or real property by a governmental body as defined herein.

(b) This chapter shall not apply to: (19) a contract for retirement board services; provided, however, that the procurements shall take place under section 23B of chapter 32;

Chapter 30B: Section 2. Definitions.

Section 2. As used in this chapter the following words shall, unless the context requires otherwise, have the following meanings:--

“Architect and engineer”, (i) a person performing professional services of an architectural or engineering nature, as defined by law, which are required to be performed or approved by a person licensed, registered or certified to provide such services as described herein; (ii) professional services of an architectural or engineering nature performed by contract that are associated with research, planning, development, design, investigations, inspections, tests, evaluations, consultations, program management, value engineering, construction, alteration, or repair of real property; and (iii) such other professional services of an architectural or engineering nature, or incidental services, which members of the architectural and engineering professions and individuals in their employ may logically or justifiably perform, including studies, investigations, surveying and mapping, soil tests, construction phase services, drawing reviews, evaluations, consultations, comprehensive planning, program management, conceptual designs, plans and specifications, soils engineering, cost estimates or programs; preparation of drawings, plans, or specifications, supervision or administration of a construction contract, construction management or scheduling, preparation of operation and maintenance manuals and other related services.

“Bid”, a written offer to provide a supply or service at a stated price submitted in response to an invitation for bids.

“Chief procurement officer”, the purchasing agent appointed pursuant to section one hundred and three of chapter forty-one, or as to any city or town which has not accepted said section, an individual duly appointed in a city having a city manager, by the city manager, in a town having a town manager, by the town manager, in any other town, by the selectmen, or, in any city or town otherwise providing by charter or local by-law for the appointment of a chief procurement officer, in accordance with such charter or local by-law, to procure all supplies and services for the city or town and every governmental body thereof; an individual duly appointed in a district by the prudential committee, if any, otherwise the commissioners to procure all supplies and services for the district; an individual duly appointed in a regional school district by the regional school district committee to procure all supplies and services for the regional school district; an individual duly appointed in a county having a county executive, by the county executive, or in any other county, by the commission, to procure all supplies and services for the county and every governmental body thereof; or an individual duly appointed by the governing board of an authority or other governmental body to procure supplies and services for the authority or governmental body.

“Contract”, all types of agreement for the procurement or disposal of supplies or services, regardless of what the parties may call the agreement.

“Contractor”, a person having a contract with the governmental body.

“Cooperative purchasing”, procurement conducted by, or on behalf of, more than 1 public procurement unit or by a public procurement unit with an external procurement activity.

“Electronic bidding”, the electronic solicitation and receipt of offers to contract for supplies and services; provided, however, that offers may be accepted and contracts may be entered into by use of electronic bidding.

“Employment agreement”, any agreement between a governmental body and an individual pursuant to which (1) the governmental body withholds or is required to withhold taxes on the individual's wages pursuant to the Internal Revenue Code or chapter sixty-two B; or (2) the governmental body and the individual stand under common law rules in the legal relationship of employer and employee.

“External procurement activity”, (a) a public agency not located in the commonwealth which would qualify as a public procurement unit; (b) buying by the United States government.

“Governmental body”, a city, town, district, regional school district, county, or agency, board, commission, authority, department or instrumentality of a city, town, district, regional school district or county.

“Grant agreement”, an agreement between a governmental body and an individual or nonprofit entity the purpose of which is to carry out a public purpose of support or stimulation instead of procuring supplies or services for the benefit or use of the governmental body.

“Invitation for bids”, the documents utilized for the soliciting of bids, including documents attached or incorporated by reference.

“Labor relations representative”, a person designated to represent a public employer and act in its interest in dealing with public employees pursuant to chapter one hundred and fifty E.

“Local public procurement unit”, a political subdivision or unit thereof which expends public funds for the procurement of supplies.

“Majority vote”, as to any action by or on behalf of a county or instrumentality of the county, a simple majority of the commission; a city, town, or district, a majority vote as defined in section one of chapter forty-four; a regional school district, an affirmative vote by two-thirds of the members of the regional district school committee; or a housing authority, a simple majority of its members.

“Minor informalities”, minor deviations, insignificant mistakes, and matters of form rather than

substance of the bid, proposal, or contract document which can be waived or corrected without prejudice to other offerors, potential offerors, or the governmental body.

“Person”, any natural person, business, partnership, corporation, union, committee, club, or other organization, entity or group of individuals.

“Procurement”, buying, purchasing, renting, leasing, or otherwise acquiring a supply or service, and all functions that pertain to the obtaining of a supply or service, including description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration.

“Procurement officer”, an individual duly authorized pursuant to law, charter, or local by-law to procure a supply or service for a governmental body or to dispose of a supply, including an individual duly delegated to take any action in connection with a procurement, and further including any member of a board, committee, commission, or other body who participates in a procurement.

“Proposal”, a written offer to provide a supply or service at a stated price submitted in response to a request for proposals.

“Public procurement unit”, a local public procurement unit or a state public procurement unit.

“Purchase description”, the words used in a solicitation to describe the supplies or services to be purchased, including specifications attached to or incorporated by reference into the solicitation.

“Related professionals”, professionals engaged in professional services, including land surveying, landscape architecture, environmental science, planning and licensed site professionals, which are required to be performed or approved by a person licensed, registered or certified to provide such services as described herein, including professional services performed by contract that are associated with research, planning, development, design, investigations, inspections, surveying and mapping, tests, evaluations, consultations, comprehensive planning, program management, value engineering, construction, alteration or repair of real property and such other professional services or incidental services which members of the related professions and individuals in their employ may logically or justifiably perform, including master plans, studies, surveys, soil tests, cost estimates or program, preparation of drawings, plans or specifications, supervision or administration of a construction contract, construction management or scheduling, conceptual designs, plans and specifications, construction phase services, soils engineering, drawing reviews, cost estimating, preparation of operation and maintenance manuals and other related services; provided, however, that nothing herein shall be construed to constitute regulation or oversight of any designated firms or identified professional services.

“Request for proposals”, the documents utilized for soliciting proposals, including documents attached or incorporated by reference.

“Reverse auction”, an internet-based process used to buy supplies and services whereby the sellers of the supplies or services being auctioned anonymously bid against each other until time expires and until the governmental body determines from which sellers it will buy based on the pricing obtained during the process.

“Responsible bidder or offeror”, a person who has the capability to perform fully the contract requirements, and the integrity and reliability which assures good faith performance.

“Responsive bidder or offeror”, a person who has submitted a bid or proposal which conforms in all respects to the invitation for bids or request for proposals.

“Services”, the furnishing of labor, time, or effort by a contractor, not involving the furnishing of a specific end product other than reports. This term shall not include employment agreements, collective bargaining agreements, or grant agreements.

“Sound business practices”, ensuring the receipt of favorable prices by periodically soliciting price lists or quotes.

“State public procurement unit”, the offices of the chief procurement officers and any other purchasing agency of the commonwealth or any other state.

“Supplies”, all property, other than real property, including equipment, materials, printing, and insurance and further including services incidental to the delivery, conveyance and installation of such property.

Chapter 30B: Section 9. Cancellation of invitation for bids; Rejection of bids or proposals

The procurement officer may cancel an invitation for bids, a request for proposals, or other solicitation, or may reject in whole or in part any and all bids or proposals when the procurement officer determines that cancellation or rejection serves the best interests of the governmental body. The procurement officer shall state in writing the reason for a cancellation or rejection.

Chapter 30B: section 12. Term of Contract; Information to be included in solicitation; Cancellation of contract

Section 12. (a) Unless otherwise provided by law and subject to paragraph (b), a governmental body may enter into a contract for any period of time which serves the best interests of the governmental body; provided, however, that the procurement officer shall include in the solicitation the term of the contract and conditions of renewal, extension or purchase, if any. The procurement officer shall not enter into a contract unless funds are available for the first fiscal year at the time of contracting. Payment and performance obligations for succeeding fiscal years shall depend on the availability and appropriation of funds.

(b) Unless authorized by majority vote, a procurement officer shall not award a contract for a term exceeding three years, including any renewal, extension, or option. Such authorization may apply to a single contract or to any number or types of contracts, and may specify a uniform limit or different limits on the duration of any such contracts.

(c) The invitation for bids, request for proposals, or other solicitation of any contract for a term exceeding one year, including a renewal, extension or option, shall state, in addition to the other information required by this chapter:

(1) the amount of supplies or services required for the proposed contract period, and whether such amount is the actual amount required or an estimate;

(2) that the bidder or offeror shall give a unit price for each supply or service, and that the unit price shall remain the same throughout the contract, except to the extent that the solicitation and resulting contract provides for price adjustments;

(3) that the procurement officer shall cancel the contract if funds are not appropriated or otherwise made available to support continuation of performance in any fiscal year succeeding the first year;

(4) whether the bidder or offeror shall submit prices for:

(i) the first fiscal year only;

(ii) the entire time of performance only; or

(iii) both the first fiscal year and the entire time of performance; and

(5) how the award will be determined, including, if the contractor submits prices for the first fiscal year and the entire time of performance, how the prices will be compared. When a contract is to contain an option for renewal, extension, or purchase, the solicitation shall include notice of the provision. The governmental body shall retain sole discretion in exercising the option, and no exercise of an option shall be subject to agreement or acceptance by the contractor.

- (d) When funds are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal year, the procurement officer shall cancel the contract.
- (e) The governmental body shall not exercise an option for renewal, extension or purchase unless the procurement officer, after reasonable investigation of costs and benefits, has determined in writing that the exercise of the option is more advantageous than alternate means of procuring comparable supplies or services.
- (f) Notwithstanding the provisions of paragraphs (a), (b), clause (3) of paragraph (c) and paragraph (d) and further notwithstanding any contrary provision of any law or the provisions of any charter, a city or town may, in a contract for the disposal of its garbage, refuse, and offal or treatment or disposal of sewage, septage or sludge, agree that said city or town shall not be exempt from liability on such contract; provided, however, that such disposal shall be in a sanitary manner approved by the department of environmental protection; provided further, that the contract, including any renewal, extension, or option, shall be for a period not exceeding twenty years; and provided, further, that such contract has been authorized by majority vote.

Chapter 30B. Section 16. Real Property; Disposition or Acquisition.

- (a) If a governmental body duly authorized by general or special law to engage in such transaction determines that it shall rent, convey, or otherwise dispose of real property, the governmental body shall declare the property available for disposition and shall specify the restrictions, if any, that it will place on the subsequent use of the property.
- (b) The governmental body shall determine the value of the property through procedures customarily accepted by the appraising profession as valid.
- (c) A governmental body shall solicit proposals prior to:
 - (1) acquiring by purchase or rental real property or an interest therein from any person at a cost exceeding \$35,000; or
 - (2) disposing of, by sale or rental to any person, real property or any interest therein, determined in accordance with paragraph (b) to exceed \$35,000 dollars in value.
- (d) The governmental body shall place an advertisement inviting the submission of proposals in a newspaper with a circulation in the locality sufficient to inform the people of the affected locality. The governmental body shall publish the advertisement at least once a week for two consecutive weeks. The last publication shall occur at least eight days preceding the day for opening proposals. The advertisement shall specify the geographical area, terms and requirements of the proposed transaction, and the time and place for the submission of proposals. In the case of the acquisition or disposition of more than twenty-five hundred square feet of real property, the governmental body shall also cause such advertisement to be published, at least thirty days before the opening of proposals, in the central register published by the state secretary pursuant to section twenty A of chapter nine.
- (e) The governmental body may shorten or waive the advertising requirement if:
 - (1) the governmental body determines that an emergency exists and the time required to comply with the requirements would endanger the health or safety of the people or their property; provided, however, that the governmental body shall state the reasons for declaring the emergency in the central register at the earliest opportunity; or
 - (2) in the case of a proposed acquisition, the governmental body determines in writing that advertising will not benefit the governmental body's interest because of the unique qualities or

location of the property needed. The determination shall specify the manner in which the property proposed for acquisition satisfies the unique requirements. The governmental body shall publish the determination and the reasons for the determination, along with the names of the parties having a beneficial interest in the property pursuant to section forty J of chapter seven, the location and size of the property, and the proposed purchase price or rental terms, in the central register not less than thirty days before the governmental body executes a binding agreement to acquire the property.

(f) Proposals shall be opened publicly at the time and place designated in the advertisement. The governmental body shall submit the name of the person selected as party to a real property transaction, and the amount of the transaction, to the state secretary for publication in the central register.

(g) If the governmental body decides to dispose of property at a price less than the value as determined pursuant to paragraph (b), the governmental body shall publish notice of its decision in the central register, explaining the reasons for its decision and disclosing the difference between such value and the price to be received.

(h) This section shall not apply to the rental of residential property to qualified tenants by a housing authority or a community development authority.

(i) Acquisitions or dispositions of real property or any interest therein pursuant to this section between governmental bodies and the federal government, the commonwealth or any of its political subdivisions or another state or political subdivision thereof shall be subject to subsections (a), (b) and (g).

EXHIBIT C

CHAPTER 32

MASSACHUSETTS GENERAL LAWS

GENERAL LAWS OF MASSACHUSETTS

PART I. ADMINISTRATION OF THE GOVERNMENT.

TITLE IV. CIVIL SERVICE, RETIREMENTS AND PENSIONS.

CHAPTER 32. RETIREMENTS SYSTEMS AND PENSIONS.

Chapter 32: Section 23B. Requirements applicable to retirement board contracts for the procurement of investment, actuarial, legal and accounting services.

Section 23b. (e) The retirement board or its procurement officer shall give public notice of the request for proposals and a reasonable time prior to the date for the opening of proposals. The notice shall:

(1) indicate where, when and for how long the request for proposal may be obtained;

(2) describe the service desired and reserve the right of the retirement board to reject any or all bids;

(3) remain posted, for at least 2 weeks, in a conspicuous place in or near the offices of the retirement board until the time specified in the request for proposals; and

(4) be published at least once, not less than 2 weeks prior to the time specified for the receipt of proposals, in a newspaper of general circulation within the area served by the retirement board and in the case of a procurement for investment, accounting, actuarial or legal services in a publication of interest to those engaged in providing such services.

The retirement board or its procurement officer shall also place the notice in a publication established by the state secretary for the advertisement of such procurements.

The retirement board or its procurement officer may distribute copies of the notice to prospective bidders and may compile and maintain lists of prospective bidders to which notices may be sent.

(f) The retirement board shall unconditionally accept a proposal without alteration or correction, except as provided in this section. A bidder may correct, modify or withdraw a proposal by written notice received in the office designated in the request for proposals prior to the time and date set for the proposal opening. After proposal opening, a bidder may not change the price or any other provision of the proposal in a manner prejudicial to the interests of the retirement board or fair competition. The retirement board shall waive minor informalities or allow the bidder to correct them. If a mistake and the intended proposal are clearly evident on the face of

the proposal document, the procurement officer shall correct the mistake to reflect the intended correct proposal and so notify the bidder in writing and the bidder may not withdraw the proposal. A bidder may withdraw a proposal if a mistake is clearly evident on the face of the proposal document but the intended correct proposal is not similarly evident.

(g) The retirement board shall solicit proposals through a request for proposals. The request for proposals shall include:

(1) the time and date for receipt of proposals, the address of the office to which the proposals are to be delivered and the maximum time for proposal acceptance by the retirement board;

(2) the purchase description and all evaluation criteria that may be utilized under subsection (h); and

(3) all contractual terms and conditions applicable to the procurement; provided, however, that the contract may incorporate by reference a plan submitted by the selected offeror for providing the required services.

The request for proposals may incorporate documents by reference; provided, however, that the request for proposals specifies where prospective offerors may obtain the documents. The retirement board or its procurement officer shall make copies of the request for proposals available to all persons on an equal basis.

(h) The retirement board or its procurement officer shall not open the proposals publicly, but shall open them in the presence of 1 or more witnesses at the time specified in the request for proposals. Notwithstanding section 7 of chapter 4, until the completion of the evaluations or until the time for acceptance specified in the request for proposals, whichever occurs earlier, the contents of the proposals shall remain confidential and shall not be disclosed to competing offerors. At the opening of proposals the retirement board or its procurement officer shall prepare a register of proposals which shall include the name of each offeror and the number of modifications, if any, received. The register of proposals shall be open for public inspection.

(i) The retirement board or its consultant retained under this chapter shall be responsible for the initial evaluation of the proposals. The retirement board or its consultant retained under this chapter shall prepare initial evaluations based solely on the criteria set forth in the request for proposals. The evaluations shall specify in writing:

(1) a rating of each proposal evaluation criteria as highly advantageous, advantageous, not advantageous or unacceptable, and the reasons for the rating;

(2) a composite rating for each proposal and the reasons for the rating; and

(3) revisions, if any, to each proposed plan for providing the required services which should be obtained by negotiation prior to awarding the contract to the offeror of the proposal.

If the initial evaluation is conducted by a consultant retained under this chapter the consultant shall review all initial evaluations with the retirement board and provide to each member of the retirement board the initial evaluation of each proposal.

(j) The retirement board shall determine the most advantageous proposal from a responsible and responsive offeror taking into consideration price and the evaluation criteria set forth in the request for proposals. The retirement board shall award the contract by written notice to the selected offeror within the time for acceptance specified in the request for proposals. The parties may extend the time for acceptance by mutual agreement. The retirement board may condition an award on successful negotiation of the revisions specified in the evaluation and shall explain in writing the reasons for omitting any revision from a plan incorporated by reference in the contract.

(k) (1) In the event of a competitive process to select an investment service provider the request for proposals shall include mandatory contractual terms and conditions to be incorporated into the contract including provisions:

- (a) stating that the contractor is a fiduciary with respect to the funds which the contractor invests on behalf of the retirement board;
- (b) stating that the contractor shall not be indemnified by the retirement board;
- (c) requiring the contractor to annually inform the commission and the board of any arrangements in oral or in writing, for compensation or other benefit received or expected to be received by the contractor or a related person from others in connection with the contractors services to the retirement board or any other client;
- (d) requiring the contractor to annually disclose to the commission and the retirement board compensation, in whatever form, paid or expected to be paid, directly or indirectly, by the contractor or a related person to others in relation to the contractors services to the retirement board or any other client; and
- (e) requiring the contractor to annually disclose to the commission and the retirement board in writing any conflict of interest the contractor may have that could reasonably be expected to impair the contractor's ability to render unbiased and objective services to the retirement board. Other mandatory contractual terms and conditions shall address investment objectives, brokerage practices, proxy voting and tender offer exercise procedures, terms of employment and termination provisions.

The retirement board shall make a preliminary determination of the most advantageous proposal from a responsible and responsive offeror taking into consideration price and the evaluation criteria set forth in the request for proposals.

The retirement board or its duly designated agent, subject to the approval of the retirement board, may negotiate all terms of the contract not deemed mandatory or non-negotiable with the offeror. If, after negotiation with the offeror, the retirement board, in consultation with its duly designated agent and its consultant retained under this chapter, determines that it is in the best interests of the retirement board to not award the contract to that offeror, the retirement board may determine the proposal which is the next most advantageous proposal from a responsible and responsive offeror taking into consideration price and the evaluation criteria set forth in the request for proposals and may negotiate all terms of the contract with the offeror.

The retirement board shall award the contract to the most advantageous proposal from a responsible and responsive offeror taking into consideration price, the evaluated criteria set forth in the request for proposals, and the terms of the negotiated contract. The retirement board shall award the contract by written notice to the selected offeror within the time for acceptance specified in the request for proposals. The time for acceptance may be extended for up to 45 days by mutual agreement between the retirement board and the responsible and responsive offeror offering the most advantageous proposal as determined by the retirement board.

On or before January 1 of each year the contractor shall file the disclosures required with the board and the commission. Failure to file disclosures or the filing of inaccurate disclosures shall subject the contractor to proceedings under section 21A.

(2) The retirement board may cancel a request for proposals or may reject in whole or in part any and all proposals when the retirement board determines that cancellation or rejection serves the best interests of the system. The retirement board shall state in writing the reason for a cancellation or rejection.

(3) A person submitting a proposal for the procurement or disposal of services to a retirement board shall certify in writing on the proposal as follows:

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

(Signature of individual submitting bid or proposal)

(Name of business)

(4) Each retirement board member shall certify to the commission in writing with respect to a procurement subject to this section, as follows:

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

(Signature of individual retirement board member)

(Name of retirement board)

(5) No person shall cause or conspire to cause the splitting or division of a request for proposals, proposal, solicitation or quotation for the purpose of evading a requirement of this section.

(6) Unless otherwise provided by law and subject to clause (i), a retirement board may enter into a contract for a period of time which serves the best interests of the retirement board; provided, however, that the retirement board shall include in the solicitation the term of the contract and conditions of renewal, extension or purchase, if any.

(i) A retirement board shall not award a contract for a term exceeding 7 years, including any renewal, extension or option; provided, however, that a retirement board may participate in a limited partnership, trust or other entity with a term for a period longer than 7 years as part of an investment of system assets.

When a contract is to contain an option for renewal, extension or purchase, the solicitation shall include notice of the provision. The retirement board shall retain sole discretion in exercising the option and no exercise of an option shall be subject to agreement or acceptance by the contractor.

(ii) The retirement board shall not exercise an option for renewal, extension or purchase unless the retirement board, after reasonable investigation of costs and benefits, has determined in writing that the exercise of the option is more advantageous than alternate means of procuring comparable services.

(7) All specifications shall be written in a manner which describes the requirements to be met without having the effect of exclusively requiring a proprietary service or procurement from a sole source.

(8) All contracts shall be in writing and the retirement board shall make no payment for a service rendered prior to the execution of the contract.

(i) A contract made in violation of this section shall not be valid and the retirement board shall make no payment under such contract. Minor informalities shall not require invalidation of a contract.

(ii) A person who causes or conspires with another to cause a contract to be solicited or awarded in violation this section shall forfeit and pay to the appropriate retirement board not more than \$2,000 for each violation. In addition, the person shall pay double the amount of damages sustained by the retirement board by reason of the violation, together with the costs of any action. If more than 1 person participates in the violation, the damages and costs may be

apportioned among them.

(iii) The commission or the retirement board may file a civil action in the superior court to enforce clause (ii).

EXHIBIT D

Commonwealth of Massachusetts Regulations

840 CMR - Public Employee Retirement

Administration Commission

COMMONWEALTH OF MASSACHUSETTS REGULATIONS

840 CMR - PUBLIC EMPLOYEE RETIREMENT ADMINISTRATION COMMISSION

840 CMR 5.00: RECORDS AND REPORTS

Section 5.01: General Provisions. 840 CMR 5.00 is the standard rule for records and reports which shall be required by the Public Employee Retirement Administration Commission. Except as otherwise provided by the Commission, or by supplementary rules of a particular retirement board approved by the Commission pursuant to 840 CMR 14.02, all records and reports shall be required as of the dates outlined in 840 CMR 5.00 and as outlined in M.G.L. c. 32.

REGULATORY AUTHORITY

840 CMR 5.00: M.G.L. c. 7, § 59; c. 32, §§ 6 and 21

840 CMR 14.00: APPLICABILITY OF COMMISSION'S RULES; SUPPLEMENTARY RULES

Section 14.01: Commission's Rules. Rules of the Public Employee Retirement Administration Commission shall apply to all retirement boards except as otherwise provided by the Commission or by supplementary rules of a particular retirement board approved by the Commission pursuant to 840 CMR 14.02.

REGULATORY AUTHORITY

840 CMR 14.00: M.G.L. c. 7, § 50; M.G.L. c. 32, §§ 6 and 21