

NOTICE

SALE OF REAL PROPERTY
TOWN OF TYNGSBOROUGH BOARD OF SELECTMEN

LOCATION: 5 INDUSTRIAL WAY
TYNGSBOROUGH, MASSACHUSETTS

REQUEST FOR PROPOSALS

Sealed proposals for the sale of Town real property situated at 5 Industrial Way, Tyngsborough, Massachusetts 01879 and shown on Assessors Map 21, Parcel 2D, will be received by the Town at the office of the Town Administrator, Town Hall, 25 Bryants Lane, Tyngsborough, MA 01879 up to April 18, 2016, at 11:00 a.m.; and at that time and place, the bids will be publicly opened and read aloud.

The specifications and agreement documents are available for examination at the above address, Monday through Thursday from 8:30 a.m. to 4:00 p.m. and on Friday from 8:30 a.m. to 12 noon, except for holidays. Such documents are available on the Town's website www.tyngsboroughma.gov.

Proposers requesting such documents by mail shall deliver a non-refundable check payable to the Town of Tyngsborough in the amount of \$15.00 for each set to cover the cost of handling and mailing. The Town will E-mail the documents at no cost by contacting Matt Hanson, mhanson@tyngsboroughma.gov.

The proposal and award are pursuant to M.G.L. c. 30B. The Town reserves the right, in its absolute and sole discretion, to waive any informality or to reject any or all proposals if deemed to be in its best interest.

CURT T. BELLAVANCE
TOWN ADMINISTRATOR
TYNGSBOROUGH, MASSACHUSETTS

TOWN OF TYNGSBOROUGH, MASSACHUSETTS
SALE OF REAL PROPERTY

REQUEST FOR PROPOSALS
PURSUANT TO M.G.L. C. 30B

LOCATION OF PROPERTY: 5 Industrial Way, Tyngsborough, Massachusetts

INSTRUCTIONS TO PROPOSERS AND GENERAL CONDITIONS

Article 1. Acceptance or Rejection of Proposals

- a. Town of Tyngsborough, Massachusetts (Town), acting through its Town Administrator, reserves the right in its absolute and sole discretion, to reject any or all proposals and to accept any proposal or waive any minor informality which it considers to serve the best interest of the Town.
- b. Any proposal which is not completed according to the prescribed form, is not properly signed, or is otherwise contrary to instruction may be rejected by the Town.
- c. More than one proposal from the same Proposer, whether or not the same or different names appear on the signature page, shall not be considered. Reasonable proof for believing that any Proposer is interested in more than one proposal shall cause the rejection of such proposals made by such Proposer directly or indirectly.
- d. Any or all proposals shall be rejected if there is reason to believe that collusion exists among the Proposers.

Article 2. Mailing or Delivery of Proposals

- a. Proposals which are mailed or delivered shall be addressed to Curt B. Bellavance, Town Administrator, Town Hall, 25 Bryants Lane, Tyngsborough, Massachusetts 01879.
- b. Regardless of the cause of delay, no proposals received by the Town after the terminal time shall be given any consideration. The Proposer is responsible for filing the proposal before [time] A.M./P.M., on [Month, Day, Year], the terminal time.

Article 3. Identification of Sealed Envelopes

- a. Proposals shall be placed in sealed envelopes that are marked appropriately on the outside with the name and address of the Proposer, the title of the proposal, and the scheduled date for the opening of the proposals. No responsibility will be attached to the Town for the premature opening of proposals that are not properly identified. After the terminal time, proposals become the property of the Town.

Article 4. Price Proposal Form

- a. Proposals shall be submitted on the Price Proposal Form prepared by the Town in order to avoid errors, misconceptions, or ambiguities.

Article 5. Price Proposal

- a. Proposals submitted on the Price Proposal Form shall remain firm for a period of 90 days after the time set for the opening of proposals. A proposal award will be made by the Town within 90 days of the proposal opening.
- b. The price proposal shall be written both in numbers and words.

Article 6. Signatures on the Price Proposal Form

- a. If a proposal is submitted by an individual, the full name and post office address of this person shall be designated.
- b. If a proposal is submitted by a firm or partnership, it shall be signed by a person having the legal authority to execute such a document on behalf of the Proposer. The person signing the Price Proposal Form shall indicate his or her title or position, in addition to the full name and address of the firm or partnership.
- c. If a Proposer is submitted by a corporation, it shall state the name and title of the official or officials of the corporation, by whom the Agreement can be legally signed, and be accompanied by a copy of the corporate vote granting such authority, certified by the clerk of the corporation.

Article 7. Modification of Proposal

- a. No modification of any proposal will be considered by the Town unless received by the Town prior to the terminal time.

Article 8. Withdrawal of Proposal

- a. Any proposal may be withdrawn on written request dispatched by a Proposer in time for delivery in the normal course of business prior to the terminal time.

Article 9. Subletting of Award

- a. No assignment of the Purchase and Sale Agreement shall be made without written consent of the Town.

Article 10. Breach of Agreement

- a. Where the successful Proposer fails to comply with these specifications and/or the Purchase and Sale Agreement, the Town reserves the right to terminate the Agreement and enter into other agreements to complete the sale; and the Town shall nevertheless have the right to retain the deposit as damages for breach of Agreement.

Article 11. Description of the Property

- a. Each Proposer shall carefully examine the information available and all conditions which may affect proper execution of the written Agreement. The purpose of this Request for Proposals is to provide the Town with the highest price for this property.
- b. The property is located at 5 Industrial Way, Tyngsborough, Massachusetts, Assessors Map 21, Parcel 2D, and contains approximately 3.11 acres of land. See Middlesex North Registry of Deeds, Plan Book 161, Page 4, being Lot 3.

Article 12. Proposer Responsibility

- a. Each Proposer shall indicate that the Proposer has carefully examined the specifications and that the Proposer proposes and agrees to enter into a written Purchase and Sale Agreement with the Town to purchase the property in accordance with these specifications.
- b. The successful Proposer shall be responsible for the preparation and filing of any documents required by the laws of the Commonwealth and federal government.

Article 13. Proposal Deposit

- a. Each Proposer shall include with its proposal a bank or cashier's check in the amount of ten percent (10%) of its proposal payable to the Town of Tyngsborough.

Article 14. Compliance With Other Laws and Regulations

- a. The successful Proposer must comply with all federal, state and local laws and regulations pertaining to the purchase of Town real property.

Article 15. Certification of Tax Compliance Pursuant to M.G.L. c. 62C, § 49A, and Certificate Good Faith and Non-Collusion.

- a. Each Proposer shall submit a Certification of Tax Compliance and a Certificate of Non-Collusion which shall be attached with the proposal.

Article 16. Basis for Determining Award

- a. Award shall be made to the eligible Proposer showing the highest price on its Price Proposal Form.

Article 17. Forms to be Attached and Submitted

- a. Price Proposal Form
- b. Certification Regarding Disclosure, Exhibit A
- c. Certification Regarding Fire Fraud, Exhibit B
- d. Acknowledgement of RFP Requirements, Exhibit C
- e. Release Regarding Hazardous Materials, Exhibit D

- f. Certificate of Non-Collusion, Exhibit E
- g. Certificate of Tax Compliance, Exhibit F
- h. Internal Revenue Service W-9 Form, Exhibit G

Article 18. Purchase and Sale Agreement

- a. The successful Proposer shall execute a Purchase and Sale Agreement with the Town within fourteen (14) days of notice by the Town of the approval to sell the property. The Town reserves the right to waive or extend this deadline. In the event that the successful Proposer fails, through no fault of the Town, to consummate the purchase, meet all requirements of the Request for Proposals, or enter into the attached sample Purchase and Sale Agreement (see Exhibit A, Sample Purchase and Sale Agreement) for the subject property, the Town will retain the proposal deposit as liquidated damages.
- b. The successful Proposer shall purchase the property within sixty (60) days of executing the Purchase and Sale Agreement, time is of the essence, except as provided in the below Article 19, paragraph c. The Town reserves the right to extend this deadline.

Article 19. Other Conditions

- a. The successful Proposer agrees to purchase the property “AS IS” except that the successful Proposer, at its expense, may conduct an M.G.L. c. 21E inspection.
- b. A review of the successful Proposer’s property tax history will be made by the Town; and if the successful Proposer is delinquent in the payment of taxes on any property in the Town, the subject property will not be sold unless the successful Proposer becomes current or is in a pre-existing repayment agreement with the Town Tax Collector’s Office. The successful Proposer shall also state whether he, she, or it ever has owned property on which the Town foreclosed and the circumstances leading to the foreclosure(s).
- c. The Town makes no representation of any kind whatsoever regarding the title to the property or as to any zoning issues or requirements. In the event a variance is required for any zoning frontage requirements and/or a special permit is required for the successful Proposer’s use, the Town will agree that the successful Proposer may petition the Zoning Board of Appeals, the Board of Selectmen, and/or the Planning Board, as the case may be, provided, however, that the successful Proposer files all necessary applications and documents with such Boards within sixty (60) days from the date of execution of the Purchase and Sale Agreement.

In the event the successful Proposer does not so file, such right shall be waived by the successful Proposer; and the successful Proposer shall purchase the property

within ninety (90) days of executing the Purchase and Sale Agreement.

In the event the successful Proposer does file for a variance and/or special permit, the successful Proposer shall use best efforts and diligently pursue the process for a variance and/or special permit, and if granted, shall purchase the property within one hundred eighty (180) days of the execution of the Purchase and Sale Agreement, time being of the essence. The Town reserves the right to waive or extend this deadline.

- d. Prospective Proposers who have any questions regarding the Request for Proposals may contact the Town Administrator's Office by telephone at (978) 649-2314.

CURT T. BELLAVANCE
TOWN ADMINISTRATOR
TYNGSBOROUGH, MASSACHUSETTS

TOWN OF TYNGSBOROUGH, MASSACHUSETTS

SALE OF REAL PROPERTY

Town Assessor's Map 21, Parcel 2D

Location: 5 Industrial Way

Tyngsborough

Price Proposal Form

The Undersigned declares that the Proposer has carefully examined the Request for Proposals for 5 Industrial Way, Tyngsborough, Massachusetts, owned by the Town of Tyngsborough, and submits this proposal.

Price Proposal Amount: _____ \$ _____
(Words) (Figures)

Name of Proposer: _____

Business Address of Proposer: _____

Telephone No. of Proposer: _____

The Undersigned acknowledges receipt of Addenda(s) numbered: _____

A bank or cashier's check in the amount of 10% of the price proposal shall be attached to the proposal.

Proposer agrees to enter into a Purchase and Sale Agreement in accordance with the specifications.

Signature and Printed Name of Individual Authorized to Submit Proposal Price:

Signature (Must be signed in ink.) Printed Name Date

EXHIBIT A
M.G.L. CHAPTER 7, SECTION 40J
CERTIFICATION REGARDING DISCLOSURE OF BENEFICIAL INTEREST
DISCLOSURE STATEMENT ACQUISITION OR DISPOSITION OF REAL PROPERTY

For acquisition or disposition of Real Property by _____ the undersigned states, for the purpose of disclosure pursuant to M.G.L. c. 7, § 40J, of a transaction relating to real property as follows:

Real Property Description: 5 Industrial Way, Tyngsborough, Massachusetts 01879, with approximately 3.11 acres of land, Assessors Map 21, Parcel 2D

Type of Transaction: Property Disposition

Seller: The Town of Tyngsborough

Buyer: _____

Names and Addresses: Names and addresses of all persons who have or will have a direct or indirect beneficial interest in the real property described above:

Name	Address
_____	_____
_____	_____
_____	_____

None of the above mentioned persons is an employee of the Division of Capital Asset Management or an official elected to public office in the Commonwealth except as listed below.

This section shall be signed by the individual(s) or organization(s) entering into this real property transaction with the public agency named above. If this form is signed on behalf of a corporation or other legal entity, it shall be signed by a duly authorized officer of that corporation or legal entity. The undersigned acknowledges that any changes or additions to items 3 and or 4 of this form during the term of lease or rental will require filing a new disclosure with the Division of Capital Asset Management and Maintenance within thirty (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: _____ Print Name: _____

Title: _____ Date: _____

M.G.L. Chapter 7, Section 40J. Disclosure statements of persons having beneficial interest in real property

Section 40J. No agreement to rent or to sell real property to or to rent or purchase real property from a public agency, and no renewal or extension of such agreement, shall be valid and no payment shall be made to the lessor or seller of such property unless a statement, signed, under the penalties of perjury, has been filed by the lessor, lessee, seller or purchaser, and in the case of a corporation by a duly authorized officer thereof giving the true names and addresses of all persons who have or will have a direct or indirect beneficial interest in said property with the commissioner of capital asset management and maintenance. The provisions of this section shall not apply to any stockholder of a corporation the stock of which is listed for sale to the general public with the Securities and Exchange Commission, if such stockholder holds less than ten per cent of the outstanding stock entitled to vote at the annual meeting of such corporation. In the case of an agreement to rent property from a public agency where the lessee's interest is held by the organization of unit owners of a leasehold condominium created under chapter one hundred and eighty-three A, and time-shares are created in the leasehold condominium under chapter one hundred and eighty-three B, the provisions of this section shall not apply to an owner of a time-share in the leasehold condominium who (i) acquires the time-share on or after a bona fide arms length transfer of such time-share made after the rental agreement with the public agency is executed and (ii) who holds less than three percent of the votes entitled to vote at the annual meeting of such organization of unit owners.

A disclosure statement shall also be made in writing, under penalty of perjury, during the term of a rental agreement in case of any change of interest in such property, as provided for above, within thirty days of such change.

Any official elected to public office in the commonwealth, or any employee of the division of capital asset management and maintenance disclosing beneficial interest in real property pursuant to this section, shall identify his position as part of the disclosure statement. The commissioner shall notify the state ethics commission of such names, and shall make copies of any and all disclosure statements received available to the state ethics commission upon request.

The commissioner shall keep a copy of each disclosure statement received available for public inspection during regular business hours.

EXHIBIT B
M.G.L. CHAPTER 60, SECTION 77B
CERTIFICATION REGARDING FIRE FRAUD

_____ certifies that he/she has never been convicted of a crime involving the willful and malicious setting of a fire or of a crime involving the aiding, counseling or procuring of a willful and malicious setting of a fire, or a crime involving the fraudulent filing of a claim for fire insurance; and is not delinquent in the payment of real estate taxes to the Town of Tyngsborough.

Executed under the pains and penalty of perjury on the _____ day of _____, 2016.

SIGNATURE

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

On this ____ day of _____, 2016, before me, the undersigned notary public, personally appeared _____, proved to me through satisfactory evidence of identification, which was photographic identification with signature issued by a federal or state governmental agency, (oath or affirmation of a credible witness,) (Personal knowledge of the undersigned,) to be the persons whose names are signed on the preceding or attached document, and acknowledged to me that they signed it as their free act and deed.

, Notary Public

My commission expires:

EXHIBIT E

CERTIFICATE OF NON-COLLUSION

The undersigned certifies under the 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 any natural person, business, partnership, corporation, union, committee, club, or other organization, entity, or group of individuals.

Signature of Individual Submitting the Proposal

EXHIBIT F
MASSACHUSETTS TAX COMPLIANCE STATEMENT

FROM: _____

FEDERAL ID OR SOCIAL SECURITY NUMBER: _____

I certify under the penalty of perjury that the above named organization or person, to the best of my knowledge, has filed all State tax returns and paid all State taxes required under law.

SIGNED THIS DATE: _____ BY _____

Name: _____

Title: _____

*Note: Your Federal Identification number will be furnished to the Commonwealth of Massachusetts - Department of Revenue to determine whether all tax filing and tax payment obligations have been met. Under M.G.L. c. 62C, § 49A, providers of goods or services who fail to correct a tax filing or tax payment delinquency will not have a Contract or other agreements issued, renewed or extended.

EXHIBIT H

SAMPLE PURCHASE AND SALE AGREEMENT

TOWN OF TYNGSBOROUGH, SELLER

AND

, BUYER

1. **DEFINITIONS:**

- a. BUYER: _____, or its nominee, of _____

- b. SELLER: The Town of Tyngsborough, a municipal corporation duly organized pursuant to the provisions of the Massachusetts General Laws, with a usual place of business at 25 Bryants Lane Tyngsborough, Massachusetts.

- c. PREMISES: The land at 5 Industrial Way, Tyngsborough, Middlesex County, Massachusetts, described in a deed recorded with the Middlesex North District of Deeds in Book _____, Page _____.

- d. CLOSING CONDITIONS: Those matters set forth in this Agreement, including but not limited to the following, failing any of which this Agreement shall become void:
 - (1) BUYER understands and agrees that the SELLER is selling and conveying the property in "as is" condition as of this date. The SELLER makes no representations or warranties of any sort regarding the condition of the property.

 - (2) A certified copy of the vote of the Tyngsborough Board of Selectmen authorizing the transfer will be provided by the SELLER at closing, to be recorded at BUYER's expense.

 - (3) The failure by the BUYER to comply with any provision or condition contained in the Request for Proposals and its response, including but not limited to the following requirements:
 - (a) CLOSING DATE: On or before _____, 2016.
Time is of the essence of this Agreement.

(b) CLOSING TIME: 10:00 A.M. on or before _____, 2016,
at the offices of SELLER's attorney.

2. PURCHASE PRICE: BUYER agrees to pay to SELLER the Purchase Price of _____ THOUSAND DOLLARS (\$00,000.00) by Treasurer's check, certified check, bank check, attorneys check or wire transfer for the Premises on the Closing Date.

3. DEPOSIT: A deposit of _____ DOLLARS (\$) is required to be made ~~hereunder~~ by BUYER upon execution of this Agreement by both parties, and will be held in escrow by the attorney for the SELLER. In the event that the BUYER, through no fault of the SELLER, fails to consummate the purchase of the subject property, the BUYER waives any claim for the return of the Proposal deposit.

4. TITLE STANDARD: The Premises are to be conveyed to BUYER by a good and sufficient Quitclaim Deed in fee simple running to the BUYER conveying clear record marketable title, free from encumbrances, excepting only the following:

- a. Applicable laws and regulations of any governmental authority in effect on the date of the Deed; and
- b. Any liens for municipal betterments assessed after the Closing Date.

The BUYER shall give SELLER written notice (the "Buyer's Title Notice") containing all of the BUYER's objections to the title not later than _____, 2016. Notwithstanding the above provisions, the BUYER shall be obligated to take title to the property subject to all liens, encumbrances and other matters of record with the exception only of (a) any matters of record specifically mentioned in the BUYER's Title Notice, and (b) any matters of record which arise after the date of the BUYER's Title Notice. If the BUYER does not give the BUYER's Title Notice by _____, 2016, then the BUYER shall have no right to raise any objections to the SELLER's title.

5. DELIVERY OF POSSESSION: Full possession of the Premises is to be delivered at the Closing Time on the Closing Date, free from tenants and occupants, the Premises then to be (i) in the same condition as exists as of this date; and (ii) not in violation of any of the provisions of Paragraph 4, **above**. SELLER shall allow BUYER access to the property prior to the closing for the purpose of assessing the premises in order to comply with the time frames referred to in paragraph _____ above upon notice to the SELLER twenty-four hours in advance. No construction or other work on the premises by BUYER will be allowed prior to closing. The BUYER agrees to indemnify and hold harmless the SELLER from any and all liability including personal injury or property damage arising out of BUYER'S exercise of the right of access.

6. CLOSING: The Closing shall occur at the Closing Time on the Closing Date, unless otherwise agreed by the parties in writing, provided that the Closing Conditions shall have occurred. Time is of the essence in this Agreement.

7. INABILITY OF SELLER TO PERFORM:
 - a. If SELLER shall be unable to give title or to make conveyance, or to deliver possession of the Premises, all as here stipulated, or if at the time of the delivery of the deed the premises do not conform with these provisions, then the SELLER shall use reasonable efforts to remove any defects in title, or to deliver possession as here provided, or to make the said premises conform to the provisions, as the case may be, in which event the SELLER shall give written notice to the BUYER at or before the time for performance, and thereupon the time for performance shall be extended for a period of thirty (30) days. The term "reasonable efforts" shall not require the SELLER to expend more than ONE THOUSAND DOLLARS (\$1,500.00).
 - b. If at the expiration of such extended time the SELLER shall have failed so to remove any defects in title or deliver possession, as the case may be, all as here agreed, then any payments made under this Agreement shall be refunded and all other obligations of the parties shall cease, and this Agreement shall be void without recourse to the parties.
 - c. The BUYER shall have the election, at either the original or any extended time for performance, to accept such title as the SELLER can deliver to the said premises in their then condition and to pay therefore the purchase price without deduction, in which case the SELLER shall convey such title.

8. FULL PERFORMANCE: The acceptance of the Deed by BUYER shall be deemed to be a full performance and discharge of every agreement and obligation here contained or expressed.

9. CONDITION OF PREMISES: The BUYER acknowledges that the SELLER has made no representations or warranties regarding the condition of the Premises and that the Premises are accepted in their "as is" condition. Buyer may, at its expense, conduct a Chapter 21E inspection within twenty (20) days of the date of this Agreement.

10. ADJUSTMENTS: Any water and sewer charges and real estate taxes shall be apportioned as of the Closing Date in accordance with M.G.L. chapter 44 section 63A, and other applicable statutes. SELLER shall comply with M.G.L. Chapter 7, Section 40J.

11. NOTICES: All notices required or permitted to be given hereunder shall be in writing and delivered by hand, mailed postage prepaid, by registered or certified mail, or transmitted via telefax provided a copy of the notice is sent by one of the other methods stated herein addressed in the case of SELLER to:

Curt T. Bellavance, Town Administrator
Town Hall
25 Bryants Lane
Tyngsborough, Massachusetts 01879

and in the case of the BUYER to:

12. EXECUTION: This Agreement has been executed by representatives of BUYER and SELLER, each in a representative capacity, and neither shall be personally liable for any obligation herein expressed or contained.
13. NON-ASSIGNABILITY: BUYER represents that it will accept title to the Premises in the name of the BUYER, or its nominee, and BUYER and SELLER warrant to each other that neither party will assign any of its rights nor obligations set forth in this Agreement to any other person or entity, without the written consent of the other.
14. ENTIRE AGREEMENT: This Agreement is to be construed as a Massachusetts contract, is to take effect as an instrument under seal, sets forth the entire agreement of the parties, expressly supersedes any previous oral or written statements with respect to the obligations of BUYER or SELLER here contained, and shall be binding upon and inure to the benefit of their respective successors and assigns. This Agreement may not be amended, canceled, modified or assigned except in a written instrument of like tenor executed by the Parties.
15. SIGN DOCUMENTS: At the closing, SELLER agrees to sign documents required of SELLER by BUYER'S mortgagee or its attorney provided the same are reasonable and customary.
16. MASSACHUSETTS CONVEYANCER'S CLAUSE: Any matter which is the subject of a title standard or practice standard of the Massachusetts Conveyancers Association at the time for delivery of the deed shall be governed by said standard to the extent the same is applicable.