

JAMES J. FIORENTINI
MAYOR



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August 21, 2012

City Council President John Michitson
And Members of the Haverhill City Council

RE: Winter St. School

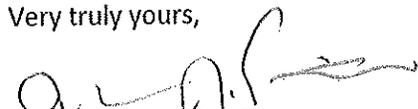
Mr. President and members of the City Council:

Before you is an order requesting City Council approval for a purchase and sale agreement with Planning Office for Urban Affairs, Inc./POUA Holdings LLC for the sale of the Winter Street School, 165 Winter Street. Previously, the City Council authorized me to negotiate this agreement based on Planning Office for Urban Affairs, Inc./POUA Holdings LLC's response to RFP#036.11.

The Planning Office for Urban Affairs, Inc./POUA Holdings LLC is proposing to rehabilitate the building and create 12 units of residential housing. The purchase price for the property is \$324,000. The closing will be 90 days after the buyer obtains all financing and approvals. If this takes more than 12 months, then the buyer will have an additional 3 month period to obtain financing and approvals by making a \$5,000 non-refundable deposit. Planning Office for Urban Affairs, Inc./POUA Holdings LLC has agreed to continue to reimburse the City for costs to insure the building up to \$9,000.

As you know, POUA successfully transformed the Hayes Building on Granite Street into a showcase development in our revitalized downtown. We have every reason to believe that their development of the Winter Street School will have the same positive effect on this property and the surrounding neighborhood. I ask for your support of this agreement.

Very truly yours,



James J. Fiorentini, Mayor

JJF/lk

Encl.

PURCHASE AND SALE CONTRACT

between

THE CITY OF HAVERHILL, MASSACHUSETTS

and

POUA HOLDINGS, LLC

165 WINTER STREET, HAVERHILL, MASSACHUSETTS

as of September ___, 2012

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Exhibit D	Form of FIRPTA Affidavit
Exhibit E	Seller Due Diligence Materials

PURCHASE AND SALE CONTRACT

THIS PURCHASE AND SALE CONTRACT (the "Contract") made as of this ___ day of August, 2012, by and between THE CITY OF HAVERHILL, a Massachusetts body politic, acting by and through its Mayor, having an address of 4 Summer Street, Haverhill, MA 01830 (hereinafter referred to as "Seller"), and POUA HOLDINGS, LLC, a Massachusetts limited liability company, having an address of 84 State Street, Suite 600, Boston, MA 02109 (hereinafter referred to as "Buyer").

WITNESSETH:

WHEREAS, Seller owns the Property (as hereinafter defined).

WHEREAS, Seller desires to sell and Buyer desires to purchase the Property on the terms and subject to the conditions set forth herein.

NOW THEREFORE, for the consideration hereinafter named, and for other good and valuable consideration, receipt of which is acknowledged hereby, the parties do hereby agree as follows:

ARTICLE 1. Description of Property: Seller agrees to sell and Buyer agrees to buy upon the terms and conditions hereinafter set forth all of the following:

(i) Certain premises located at 165 Winter Street, Haverhill, Massachusetts, as more particularly described in Exhibit A attached hereto and incorporated herein by reference, together with all right, title and interest of Seller in and to any land lying in the bed of any street (opened or proposed) adjacent to or abutting or adjoining such premises, together with all rights, privileges, rights of way and easements appurtenant to such premises, including, without limitation, any easements, rights of way or other interests in, on, or under any land, highway, alley, street or right of way abutting or adjoining such premises (all of the foregoing, the "Real Property"), (ii) all buildings and other improvements located thereon (the "Improvements", and, together with the Real Property, the "Premises"), (iii) all items of personal property owned by Seller and located on the Premises and used in connection with the ownership or operation of the Premises, including, without limitation, all furniture, fixtures, equipment, machines, apparatus, appliances, supplies and personal property of every nature and description and all replacements thereof (collectively, the "Personal Property"), and (iv) all of Seller's right, title and interest, if any, in and to all intangible property used in connection with the operation or maintenance of the Premises, including, without limitation, all licenses, permits and warranties. All items referred to in clauses (i)-(iv) are herein sometimes collectively referred to as the "Property".

ARTICLE 2. Purchase Price and Payment: (a) The total purchase price (the "Purchase Price") for the Property is Three Hundred Twenty-Four Thousand and 00/100

Dollars (\$324,000). The Purchase Price, less the Deposit, shall be payable at the Closing (as hereinafter defined) in lawful currency of the United States of America in immediately available funds by wire transfer to an account designated by Seller.

(b) As security for Buyer's performance hereunder, on August 15, 2011, Buyer delivered to Seller a deposit of Five Thousand Dollars (\$5,000) (the "Deposit"). The Deposit shall be non-refundable to Buyer upon the expiration of the Due Diligence Period. If the transaction contemplated herein is consummated in accordance with the terms and conditions of this Agreement, the Deposit shall be a credit against the Purchase Price to be paid by Buyer.

ARTICLE 3. Conveyance of Title: (a) At Closing, Seller shall convey and transfer to Buyer fee simple marketable title to the Premises by good and sufficient quitclaim deed (the "Deed"), subject only to the Permitted Exceptions (as hereinafter defined). Notwithstanding anything contained herein to the contrary, the Premises shall be conveyed subject to the following matters, which shall be deemed to be "Permitted Exceptions:"

- (a) the lien of all real estate taxes and assessments not yet due and payable as of the date of Closing, subject to adjustment as herein provided;
- (b) local, state and federal laws, ordinances or governmental regulations, including but not limited to, building and zoning laws, ordinances and regulations, now or hereafter in effect relating to the Property; and
- (c) the standard preprinted form exceptions set forth in an ALTA Owner's Policy of Title Insurance (the "Title Policy"), issued by a nationally recognized title company (the "Title Company").

Buyer shall have until ten (10) business days prior to the end of the Due Diligence Period to notify Seller, in writing, of such objections to title as Buyer may have. Any title matter to which Buyer does not so object by such time shall be deemed a Permitted Exception. In the event Buyer shall so notify Seller of any objection(s) to title, Seller may elect, but shall have no obligation, to cure such objection(s), other than any defects, objections or exceptions which comprise mortgages or liens voluntarily created by Seller, and which can be satisfied by payment of a liquidated amount, which Seller agrees that it shall either pay, discharge or comply with at or before the Closing or make arrangement with the Title Company to insure (at normal rates) without such objection as an exception in Buyer's Title Policy. In the event there are any objections which Seller is not obligated to cure, then within five (5) business days after receipt of Buyer's notice of objection(s), Seller shall notify Buyer in writing whether Seller elects to attempt to cure such objection(s). Failure of Seller to give such notice shall be deemed an election by Seller not to cure such objection(s). If Seller elects to attempt to cure any such matter, Seller shall use reasonable efforts to cure such objections. If Seller elects not to cure any objection(s) specified in Buyer's notice which Seller is not required hereby to cure, or if

Seller is unable to effect a cure prior to the Closing, Buyer shall have the following options to be given by written notice within five (5) business days of Seller's notice or deemed election: (i) to accept a conveyance of the Property subject to the Permitted Exceptions, specifically including any matter objected to by Buyer which Seller is unwilling or unable to cure (which such matter(s) shall thereafter be deemed to be a Permitted Exception), without reduction of the Purchase Price, or (ii) to terminate this Contract by sending written notice thereof to Seller, and upon delivery of such notice of termination, this Contract shall terminate and the Deposit shall be returned to Buyer, and thereafter neither party hereto shall have any further rights, obligations or liabilities hereunder.

In addition, Seller shall remove any encumbrances or exceptions to title which are created by, through or under Seller arising after the date hereof. If, notwithstanding Seller's reasonable diligent efforts, the title objections which Seller has agreed to cure are not cured prior to Closing, Buyer will have the option as its sole and exclusive remedies to (i) terminate this Agreement and receive a refund of the Deposit, or (ii) proceed to close without any reduction in the Purchase Price. If Buyer elects the latter, any uncured title objections shall be deemed Permitted Exceptions, provided that Seller shall remain obligated to cure any mortgages or liens voluntarily created by Seller as set forth above, and if Seller fails to cure such liens, Buyer shall have the right to cure such liens and any amounts required to be expended to do so shall be credited against the Purchase Price.

ARTICLE 4. Closing: (a) The closing of the transactions contemplated hereunder (the "Closing") shall take place at 10:00 A.M. at the offices of the Seller's counsel on the date (the "Closing Date") that is 90 days after Buyer obtains all Financing and Approvals (as defined below), provided that if the Financing and Approvals have not been obtained within 12 months after the end of the Due Diligence Period, Buyer may extend the date for obtaining the Financing and Approvals for one (1) additional three (3) month term by making a non-refundable \$5,000 payment to Seller.

(b) At the Closing, Seller shall deliver the following documents in the forms attached hereto or otherwise, reasonably satisfactory in form and substance to Seller and Buyer and their counsel, properly executed and acknowledged as required:

- (i) A Deed in the form of Exhibit B;
- (ii) A Bill of Sale in the form of Exhibit C;
- (iii) A certification of non-foreign status in the form attached hereto as Exhibit D and incorporated herein by reference;
- (vi) Evidence satisfactory to the Title Company that all necessary approvals and/or consents by the Seller have been delivered and such other evidence satisfactory to the Title Company of Seller's authority and the authority of the signatory on behalf of Seller to convey the Premises pursuant to this Contract;

- (v) Affidavits sufficient for the Title Company to delete any exceptions for parties in possession and mechanics' or materialmen's liens from the Title Policy;
- (vi) An original of a closing statement setting forth the Purchase Price, the closing adjustments and prorations and the application thereof at the Closing (the "Closing Statement").

(c) At the Closing, Buyer shall deliver, or cause to be delivered, the following payment and documents, reasonably satisfactory in form and substance to Seller and Seller's counsel properly executed and acknowledged as required:

- (i) The Deposit and the balance of the Purchase Price, as adjusted; and
- (ii) An original of the Closing Statement.

ARTICLE 5. Approvals and Conditions to Buyer's Obligations:

(a) The Buyer proposes to redevelop the Premises into 12 units of residential rental housing with amenities and common space (the "Proposed Development"). In connection with the Proposed Development, Seller acknowledges the Buyer intends to conduct an investigation of the Property, to determine, in its sole discretion, that the Property is suitable for the intended use including, without limitation, evaluating the physical and structural condition of, and economic prospects for, the Property; examining title to the Property; conducting an historic review and environmental and hazardous waste site assessment; and conducting other such analyses, tests and engineering studies as may be deemed necessary or desirable to determine the acceptability of the Property; and such other matters as the Buyer shall determine in its sole discretion. Within ten (10) business days of the date of this Contract, the Seller shall deliver to Buyer those materials listed on Exhibit E (the "Seller Due Diligence Materials") that are readily available to Seller. The Seller shall deliver the balance of the Seller Due Diligence Materials to Buyer within ten (10) business days thereafter or provide Buyer with a list of those Seller Due Diligence Materials that cannot be provided to Buyer.

Notwithstanding anything to the contrary contained in this Agreement, Seller acknowledges the Buyer shall have the right in its sole and absolute discretion, upon its disapproval of any of the information it receives during the Due Diligence Period (as defined below), to terminate this Agreement by written notice to Seller (the "Termination Notice") for any reason, delivered to Seller at any time within ninety (90) days from the date of this Agreement (the period through and including such date, the "Due Diligence Period"). If Buyer delivers the Termination Notice prior to the expiration of the Due Diligence Period, the provisions of this Agreement shall be deemed terminated and the Deposit shall be returned to Buyer forthwith and this Agreement shall become null and void and of no further force and effect. In such case, upon the return of the Deposit by Seller to Buyer, all obligations of the parties hereto under this Agreement shall be

terminated and the parties shall be without further recourse or remedy hereunder. If Buyer does not terminate this Agreement pursuant to the terms of this paragraph prior to expiration of the Due Diligence Period, Buyer's termination option hereunder shall be null and void and of no further force or effect.

(b) Seller shall make the Property available at reasonable times to Buyer and its agents, consultants and engineers for such inspections and tests as Buyer deems appropriate, including for Buyer's engineering inspection(s), hazardous materials inspections, site evaluations, and such other inspections and tests as Buyer deems appropriate. Buyer shall be responsible for the costs of any and all repairs and restoration of any damage to the Premises caused by any due diligence testing. Buyer hereby agrees to indemnify, defend, protect and hold Seller harmless from and against any and all loss, cost or damage to the Property arising out of actions taken by Buyer or its agents, engineers or consultants, which indemnity shall survive the Closing or earlier termination of this Contract. Buyer shall provide Seller with evidence of \$1,000,000 liability insurance naming Seller as an additional insured prior to entering the Premises. Seller shall be entitled to have a representative present during any visits or tests.

(c) The execution of Contract in form and substance satisfactory to both the Buyer and Seller, and subject to the approval of the Board of Trustees of the Planning Office for Urban Affairs, Inc. and the Haverhill City Council.

(e) Buyer intends to take some or all of the following actions in order to obtain the necessary financing and approvals for the Proposed Development (i) to obtain all final permits, approvals and third party actions necessary for Buyer's intended use to develop the Proposed Development including, without limitation, variances, special permits, and/or other approvals required under applicable zoning ordinances, subdivision, historic, environmental and other like permits and approvals which may be required, with all appeal periods from any such permit or approval having expired with no appeal taken (or if such an appeal has been taken, the appeal having been finally adjudicated or dismissed to Purchaser's satisfaction), (ii) to make arrangements for parking on a long-term basis in a manner acceptable to Buyer and its financing lenders and equity partners, and (iii) to obtain binding commitments for all financing for the acquisition and development of the Premises for its intended use (collectively, (i) - (iii) are the "Financing and Approvals"). Seller agrees to execute those instruments reasonably required by Buyer in connection with the above and otherwise to cooperate with Buyer in its permitting efforts, provided, however, Seller shall have no financial responsibility whatsoever with respect to any such proceedings.

ARTICLE 6. Conditions to Closing: Without limiting any other conditions to Buyer's obligations to close set forth in this Contract, the obligations of Buyer under this Contract are subject to the satisfaction at the time of Closing of each of the following conditions (any of which may be waived in whole or in part by Buyer at or prior to Closing):

- (i) All of the representations by Seller set forth in this Contract or any Exhibit attached hereto shall be true and correct in all material respects; and
- (ii) Seller shall have performed, observed, and complied in all material respects with all covenants and agreements required by this Contract to be performed by Seller at or prior to Closing.

If any condition set forth herein is not fully satisfied on or before the Closing Date, Seller may elect to attempt to satisfy any such unsatisfied condition, and if Seller so elects, Seller shall have until the date occurring thirty days after the Closing Date, in which to satisfy such condition, and the Closing Date shall be extended for such period. In the event Seller does not satisfy such unsatisfied condition, then, at Buyer's option, this Agreement shall be terminated and Seller shall remit to the Buyer the Deposit previously paid to Seller, and the obligations of the parties shall cease and the parties shall be without further recourse or remedy hereunder. Otherwise, Buyer may elect to waive such conditions and close.

ARTICLE 7. Default: (a) In the event Seller fails to fulfill any of its obligations hereunder and such failure continues for thirty (30) days after written notice from Buyer to Seller ("Seller Default"), Buyer shall have any one of the following rights and remedies:

- (i) Buyer shall have the right to terminate this Contract by notice to Seller, in which event the Deposit shall be paid to Buyer, and all obligations of the parties under this Contract shall terminate; or
- (ii) Buyer shall have the right to waive the breach or default and proceed to Closing in accordance with the provisions of this Contract without reduction of the Purchase Price; or
- (iii) Buyer may seek specific performance for Seller's failure to execute and deliver the documents necessary to convey the Property to Buyer.

(b) IN THE EVENT THE SALE OF THE PROPERTY IS NOT CONSUMMATED BECAUSE OF A DEFAULT UNDER THIS CONTRACT ON THE PART OF THE BUYER, BUYER AND SELLER AGREE THAT IT WOULD BE EXTREMELY DIFFICULT AND IMPRACTICAL TO DETERMINE THE AMOUNT AND EXTENT OF DETRIMENT TO SELLER. BUYER AND SELLER THEREFORE AGREE THAT, IF BUYER DEFAULTS HEREUNDER BUYER'S DEPOSIT (AND ALL ACCRUED INTEREST THEREON) IS A REASONABLE ESTIMATE OF SELLER'S DAMAGES AND THAT SELLER SHALL BE ENTITLED TO SAID SUM AS LIQUIDATED DAMAGES, WHICH SHALL BE SELLER'S SOLE AND EXCLUSIVE REMEDY, EITHER AT LAW OR IN EQUITY, AS A RESULT OF

SUCH DEFAULT. IN SUCH EVENT, THE ESCROW AGENT SHALL UPON WRITTEN DEMAND BY SELLER WITHOUT JOINDER OF BUYER, IMMEDIATELY DELIVER THE DEPOSIT (AND ALL ACCRUED INTEREST THEREON) TO SELLER. TO SIGNIFY THEIR AWARENESS AND AGREEMENT TO BE BOUND BY THE TERMS AND PROVISIONS OF THIS SECTION, BUYER AND SELLER HAVE SEPARATELY INITIALED THIS SECTION. NOTWITHSTANDING THE FOREGOING, NOTHING IN THIS SECTION 8(b) SHALL LIMIT ANY RECOVERY BY SELLER UNDER ANY INDENTITIES MADE BY BUYER HEREIN OR SELLER'S RIGHTS TO ANY ATTORNEYS' FEES OR COSTS RECOVERABLE BY SELLER HEREUNDER.

ARTICLE 8. Entire Agreement Herein: The parties understand and agree that their entire agreement is contained herein and that no warranties, guarantees, statements, or representations shall be valid or binding on a party unless set forth in this Contract. It is further understood and agreed that all prior understandings and agreements heretofore had between the parties, including, that certain offer letter dated October 12, 2011, are merged in this Contract which alone fully and completely expresses their agreement and that the same is entered into after full investigation, neither party relying on any statement or representation not embodied in this Contract. This Contract may be changed, modified, altered or terminated only by a written agreement signed by the parties hereto.

ARTICLE 9. Damage or Destruction; Condemnation: (a) Except as otherwise expressly provided in this Article 9, the risk of loss, damage or destruction to the Property by fire or other casualty or the taking of all or part of the Property by condemnation or eminent domain or by an agreement in lieu thereof until the Closing is assumed by Seller. Upon Closing, Buyer shall assume the risk of loss, damage or destruction to the Property by fire or other casualty or the taking of all or part of the Premises by condemnation or eminent domain or by an agreement in lieu thereof.

(b) In the event of partial damage or destruction of the Property of a type which can, under the circumstances, be expected in the reasonable judgment of Seller and Buyer to be restored or repaired at a cost of \$25,000 or less, then, this Contract shall be consummated on the Closing Date at the Purchase Price, and unless such damage has been repaired by Seller prior to Closing, Seller shall assign to Buyer the physical damage proceeds of any insurance policies payable to Seller, less any amounts expended by Seller for partial restoration and with a credit to Buyer for the amount of any deductible.

(c) In the event that the Property shall have been damaged by fire or casualty, the cost of repair or restoration of which would, in the reasonable judgment of Seller and Buyer, exceed the sum of \$25,000, then unless Seller has previously repaired or restored the Property to its former condition, at Buyer's election, Seller shall either (a) pay over or assign to Buyer, on delivery of the Deed all physical damage proceeds of any insurance policies payable to Seller, less any amounts reasonably expended by Seller for partial restoration, with a credit to Buyer for the amount of any deductible, or (b) direct Escrow Agent to return the Deposit to Buyer in which case all other obligations of the parties

hereto shall cease and this Contract shall terminate and be without further recourse or remedy to the parties hereto.

(d) If all or part of the Property is taken by condemnation, eminent domain or by agreement in lieu thereof, or any proceeding to acquire, take or condemn all or part of the Property is threatened or commenced, Buyer may either terminate this Contract (in which event Buyer shall be entitled to a return of the Deposit and accrued interest thereon, if any, and all other obligations of the parties hereto shall cease and this Contract shall terminate and be without further recourse or remedy to the parties hereto) or close title to the Property in accordance with the terms hereof, without reduction in the Purchase Price, together with an assignment of Seller's rights to any award paid or payable by or on behalf of the condemning authority. If Seller has received payments from the condemning authority and if Buyer elects to close title to the Property, Seller shall credit the amount of said payment against the Purchase Price at the Closing.

ARTICLE 10. Representations and Warranties of Seller: (a) In order to induce Buyer to enter into this Contract and to consummate the purchase of the Property, Seller hereby represents and warrants to Buyer as of the date of this Contract and as of the Closing Date (updated to reflect the then state of facts) as follows:

- (i) Seller is a _____. This Contract and all documents that are to be executed by Seller and delivered to Buyer at the Closing are, or at the time of Closing will be, duly authorized, executed and delivered by Seller, and all consents required by law have been or will have been obtained.
- (ii) To Seller's actual knowledge, Seller has not received any written notice from governmental authorities advising Seller of, the presence, now or in the past, on, under or affecting the Property of asbestos or hazardous material, waste or substances in violation of applicable law, which remains uncured. As used in this Contract, hazardous material, waste or substances means material, waste or substances which pose a serious hazard to human health and the use, generation, processing, storage, release, discharge and presence thereof is regulated by the Commonwealth of Massachusetts or the United States of America.
- (vi) To the Seller's actual knowledge, there is not now pending nor has there been threatened, any action, suit or proceeding against or affecting Seller or the Property before or by any federal or state court, commission, regulatory body, administrative agency or other governmental body, domestic or foreign, wherein an unfavorable ruling, decision or finding, upon consummation of the sale contemplated hereby to Buyer or otherwise, may reasonably be expected to have a material adverse effect on the business or

prospects of or on the condition or operations of the Property, or would interfere with Seller's ability to consummate the transactions by this Contract.

- (vii) Seller is not a "foreign person" as defined by the Internal Revenue Code ("IRC"), Section 1445. Seller will execute and deliver to Buyer at Closing an affidavit or certification in compliance with IRC Section 1445.

(b) Any representations and warranties made to the actual knowledge of Seller, such knowledge shall be deemed to be the current, conscious knowledge of _____, without imputation of knowledge or duty of investigation or inquiry. In addition, Seller shall not be liable to Buyer for any representation or warranty which is untrue at the time of Closing and with respect to which Buyer had knowledge thereof at that time. Furthermore, any claim for a breach of representation and warranty by Seller must be commenced within six (6) months after Closing or shall be forever barred and waived.

ARTICLE 11. Operations: (a) Between the date hereof and the Closing, Seller agrees hereby that it will maintain the Property in its customary manner. Until the Closing Date, Seller shall maintain insurance on the Premises as currently insured.

(b) Seller shall not remove any material item of the Personal Property from the Property unless the same is obsolete and is replaced by tangible personal property of equal or greater utility and value.

(c) Seller shall not without the prior written consent of Buyer, which consent shall not be unreasonably withheld, enter into any contract which could bind Buyer or the Property after the Closing unless the same may be canceled on thirty (30) days notice. Failure of Buyer to respond within three (3) business days of written request from Seller for consent shall be deemed consent by Buyer.

(d) Seller, upon receipt of notice thereof, will give Buyer prompt notice of the commencement prior to Closing of any litigation affecting the Property or any part thereof which would impair Seller's right to sell the Property or be binding upon Buyer.

ARTICLE 12. Apportionment of Taxes and Other Charges: (a) All normal and customarily proratable items, including without limitation, personal property taxes, and utility bills (except as hereinafter provided), shall be prorated as of the Closing Date, with the Seller being charged and credited for all of the same relating to the period up to the Closing Date and Buyer being charged and credited for all of the same relating to the period on and after the Closing Date. Real estate taxes and assessments shall be prorated based upon customary practices in the Commonwealth of Massachusetts. Final readings and final billings for utilities will be made if possible as of the Closing Date, in which event no proration shall be made at the Closing with respect to utility bills. Otherwise, a

proration shall be made based upon the parties' reasonable good faith estimate and a readjustment made within thirty (30) days after Closing. No proration will be made in relation to insurance premiums and the insurance policies will not be assigned to Buyer. The provisions of this Article 13 shall survive the Closing for a period of ninety (90) days at which time there will be a one time readjustment, if necessary.

(b) A detailed statement shall be prepared at the Closing setting forth the manner of computation of the aforesaid pro-ratio adjustments.

ARTICLE 13. Broker: Each party represents hereby to the other that neither party has dealt with any broker, consultant, finder or like agent with respect to the transactions contemplated by this Agreement, and that no other person or firm brought about the sale or is entitled to compensation in respect to it and no brokers have been involved in the sale. Any party breaching this warranty shall indemnify and hold harmless the nonbreaching party from any claims, losses, liabilities, damages or expenses including reasonable attorneys' fees arising out of any claim by other brokers, consultants, finders or like agents which are based upon alleged dealings with said party.. The provisions of this Article 13 shall survive Closing and the delivery of the Deed hereunder.

ARTICLE 14. Recording: It is agreed hereby that this Contract shall not be filed for recording with any other governmental body.

ARTICLE 15. Notices. Any notice, consent or approval required or permitted to be given under this Contract shall be in writing and shall be deemed to have been given upon (i) hand delivery, (ii) one business day after being deposited with Federal Express or another reliable overnight courier service for next day deliver, (iii) upon facsimile transmission (except that if the date of such transmission is not a business day, then such notice shall be deemed to be given on the first business day following such transmission), or (iv) two business days after being deposited in the United States mail, registered or certified mail, postage prepaid, return receipt required, and addressed as follows:

To Seller: Mayor of Haverhill
4 Summer Street
Haverhill, MA 01830

With a copy to: City of Haverhill
City Solicitor
4 Summer Street
Haverhill, MA 01830

To Buyer: Planning Office for Urban Affairs, Inc.
84 State Street, Suite 600
Boston, MA 02109
Attention: Lisa Alberghini

With a copy to: Planning Office for Urban Affairs, Inc.
84 State Street, Suite 600
Boston, MA 02109
Attention: William Grogan
General Counsel

or such other address as either party may from time to time specify in writing to the other.

ARTICLE 16. Captions: The captions in this Contract are inserted only for the purpose of convenient reference and in no way define, limit or prescribe the scope or intent of this Contract or any part hereof.

ARTICLE 17. Successors and Assigns: (a) This Contract shall be binding upon the parties hereto and their respective successors and assigns.

(b) Subject to Buyer's right to designate an affiliate or a nominee to take title to the Premises, Buyer may not assign this Contract nor any of the rights or benefits thereof, including, without limitation, the benefit of the representations and warranties contained in Article 10 hereof, to any third party without the written consent of Seller which may be given or withheld in Seller's sole discretion, and any such unauthorized attempted assignment shall be null and void.

ARTICLE 18. Closing Costs: Except as hereinafter specifically provided, Seller and Buyer shall allocate all closing costs between them in accordance with standard practice in The Commonwealth of Massachusetts. Each of Seller and Buyer shall be responsible for preparing such documents as it is obligated to deliver pursuant to this Contract hereof and for its own legal expenses. Seller and Buyer agree to allocate closing costs as follows:

- (a) Buyer's Title Policy expenses and premiums shall be paid by Buyer.
- (b) Survey expenses shall be paid by Buyer.
- (c) The cost of preparation and recordation of any releases and termination statements required to clear title to the Property shall be paid by Seller.
- (d) The cost of recordation of the Deed shall be paid by Buyer.

ARTICLE 19. Governing Law: The laws of The Commonwealth of Massachusetts shall govern the validity, construction, enforcement and interpretation of this Contract.

ARTICLE 20. Multiple Counterparts: This Contract may be executed in any number of identical counterparts. If so executed, each of such counterparts shall constitute this Contract. In proving this Contract, it shall not be necessary to produce or account for more than one such counterpart.

ARTICLE 21. Representations and Warranties of Buyer: Buyer hereby represents and warrants to Seller as of the date hereof and as of the Closing Date as follows:

(a) This Contract and all documents executed by Buyer that are to be delivered to Seller at the Closing are, or at the time of Closing will be, duly authorized, executed and delivered by Buyer. This Contract and such documents are, or at the Closing will be, legal, valid, and binding obligations of Buyer, and do not, and, at the time of Closing will not, violate any provisions of any applicable law, ordinance, statute, rule, regulation, agreement or judicial order to which Buyer is a party or to which it is subject.

(b) There are no proceedings pending or, to Buyer's knowledge, threatened against it in any court or before any governmental authority or any tribunal which, if adversely determined, would have a material adverse effect on its ability to purchase the Property or to carry out its obligations under this Contract.

(c) Buyer shall indemnify and defend Seller against and hold Seller harmless from any and all losses, costs, damages, liabilities and expenses (including, without limitation, reasonable counsel fees) arising out of any breach by Buyer of its representations and warranties hereunder.

ARTICLE 22. Post-Closing Obligations: After the Closing, Seller and Buyer shall cooperate with one another at reasonable times and on reasonable conditions and shall execute and deliver such instruments and documents as may be necessary in order fully to carry out the intent and purposes of the transactions contemplated hereby. Except for such instruments and documents as the parties were originally obligated to deliver by the terms of this Contract, such cooperation shall be without additional cost or liability. The provisions of this Article 23 shall survive the Closing

ARTICLE 23. WAIVER OF JURY TRIAL: EACH OF SELLER AND BUYER HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES THE RIGHT EITHER OR BOTH MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS CONTRACT OR ANY DOCUMENT CONTEMPLATED TO BE EXECUTED IN CONJUNCTION HERewith, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF EITHER PARTY.

ARTICLE 24. TIME OF THE ESSENCE. Time is of the essence of this Contract. As used in this Contract, the term "business day" shall mean any day other than a Saturday, Sunday or recognized federal holiday or a recognized state holiday of the Commonwealth of Massachusetts. If the last date for performance by either party under this Agreement occurs on a day which is not a business day, then the last date for such performance shall be extended to the next occurring business day.

ARTICLE 25. INSURANCE. Buyer shall reimburse Seller for Seller's annual cost to provide property and liability insurance for the Premises, such insurance coverage to be acceptable to Buyer and Seller, provided, however, that Buyer shall not be obligated to reimburse Seller more than \$9,000 for such insurance coverage. Buyer and Seller shall execute all reasonably required documents in order to effectuate the foregoing. ARTICLE 26. TAX CREDIT REPRESENTATIONS. Seller is not a related party, as described in Section 42 (d) (2) (D) (iii) of the Internal Revenue Code of 1986, as amended, to Buyer, and the Property has been owned by the Seller for 10 years or more.

ARTICLE 27. LEASE OF PARKING SPACES. Simultaneously with the Closing, Seller hereby agrees to enter into a lease with Buyer (the "Parking Space Lease"), upon the following terms and conditions, up to twelve (12) at grade parking spaces at the property on Locke Street in Haverhill, Massachusetts commonly known as the "Locke Street Parking Lot" and the right to use associated driveways and walkways: a) the Parking Space Lease shall have a term of up to 45 years; and b) the Buyer shall pay rent to Seller in the initial amount of \$25 per space per month.

[Signatures on next page.]

IN WITNESS WHEREOF, the parties hereto have executed this Contract as an instrument under seal as of the day and date first written above.

SELLER:

CITY OF HAVERHILL

By: _____
Name: _____
Title: Mayor

BUYER:

POUA HOLDINGS LLC

By: Planning Office for Urban Affairs, Inc.

By: _____
Name: Lisa B. Alberghini
Title: President
Hereunto duly authorized

EXHIBIT A

DESCRIPTION OF REAL PROPERTY

EXHIBIT B

FORM OF DEED

EXHIBIT C

BILL OF SALE

KNOW ALL MEN BY THESE PRESENTS, that THE CITY OF HAVERHILL, a Massachusetts body politic, acting by and through its Mayor (“Seller”), for and in consideration of the sum of ten dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, does hereby bargain, sell, grant, transfer, assign, and convey to POUA HOLDINGS, LLC, a Massachusetts limited liability company (“Buyer”), its successors and assigns, for its and their own use and benefit, forever, any and all personal property owned by Seller and now at, in or upon or used in connection with the premises known as 165 Winter Street in Haverhill, Massachusetts, and more particularly described in Exhibit A attached hereto (the “Premises”). Said personal property to include the following:

All items of personal property owned by Seller and located on the Premises or used in connection with the ownership or operation of the Premises, including, without limitation, all furniture, fixtures, equipment, machines, apparatus, appliances, supplies and personal property of every nature and description and all replacements thereof.

Seller makes no warranty, express or implied, as to the condition of the personal property or its merchantability or fitness for any particular purpose. By its acceptance of this Bill of Sale, Buyer acknowledges that it has fully inspected the personal property and Buyer accepts the same in its present use and “as is, where is condition”.

[Signature on next page.]

In Witness Whereof, Seller has executed this bill of sale, under seal, as of the ____ day of _____, 201__.

Witness:

SELLER:

CITY OF HAVERHILL

By: _____

Name: _____

Title: Mayor

EXHIBIT A

EXHIBIT D

CERTIFICATION OF NON-FOREIGN STATUS
ENTITY TRANSFEROR

Section 1445 of the Internal Revenue Code provides that a transferee of a U.S. real property interest must withhold tax if the transferor is a foreign person. For U.S. tax purposes (including section 1445), the owner of a disregarded entity (which has legal title to a U.S. real property interest under local law) will be the transferor of the property and not the disregarded entity. To inform the transferee that withholding of tax is not required upon the disposition of a U.S. real property interest by THE CITY OF HAVERHILL ("Transferor"), the undersigned hereby certifies the following on behalf of Transferor:

1. Transferor is not a foreign corporation, foreign partnership, foreign trust, or foreign estate (as those terms are defined in the Internal Revenue Code and Income Tax Regulations);
2. Transferor is not a disregarded entity as defined in §1.1445-2(b)(2)(iii);
3. Transferor's U.S. employer identification number is _____; and
4. Transferor's office address is 4 Summer Street, Haverhill, MA 01830.

Transferor understands that this certification may be disclosed to the Internal Revenue Service by transferee and that any false statement contained herein could be punished by fine, imprisonment or both.

Under penalties of perjury, I declare that I have examined this certification, and to the best of my knowledge and belief it is true, correct, and complete, and I further declare that I have authority to sign this document on behalf of Transferor.

Date: _____

CITY OF HAVERHILL

By: _____
Name: _____
Title: Mayor

EXHIBIT E

SELLER DUE DILIGENCE MATERIALS

1. Any current or past (within prior 24 months) notices of violations from any governmental agency.
2. Any claims from abutters, or others received within the last 5 years relating to the Seller's use of the Property, right to sell the Property, or any other similar matters.
3. Any environmental reports, soil tests, or similar reports prepared within the past 5 years.
4. A copy of the deed to Seller, and any other materials in Seller's possession related to title to the Property (including title reports, easements, title insurance policies or commitments).
5. Any surveys, plans, plats, site plans, or similar plans.
6. Copies of all current leases, license agreements, or any other agreements relating to any person's right to possession of the Property or any portion thereof.
7. Any document creating any restriction on future use of the Property.
8. Any management and service contracts, any and all agreements with vendors for services to the Property.
9. A list of all personal property included in or excluded from the sale.