

PURCHASE AND SALE AGREEMENT

THIS AGREEMENT is entered into by and between the **TOWN OF NORTH KINGSTOWN**, a Rhode Island municipal corporation with a mailing address of 100 Fairway Drive, North Kingstown, Rhode Island 02852 (the "Seller"), and **CHEF EVE CLULOW, LLC**, a Rhode Island limited liability company with a mailing address of 35 Weavers Road, North Kingstown, RI 02852, or nominee as specified in Section 20 of this Agreement (the "Buyer"). **THIS AGREEMENT IS SUBJECT TO APPROVAL BY NORTH KINGSTOWN VOTERS AT THE SPECIAL REFERENDUM ON APRIL 24TH, 2018**, as authorized by the Town Council on February 5th, 2018.

1. **Conveyance.** Seller promises to sell and convey to Buyer and Buyer agrees to purchase from Seller those certain premises with all buildings and improvements thereon located at 55 Brown Street, North Kingstown, Rhode Island as delineated on Exhibit A attached hereto (the "Premises") for development pursuant to the Brown Street Annex Building Development Proposal dated November 6, 2017 prepared by Buyer (the "Development Proposal"). The exact description of the Premises shall be delineated by a Class 1 Survey and associated subdivision plan prepared by the Seller and approved by the Buyer. The land area of the Premises shall not exceed 7,500 square feet.
2. **Date of Agreement.** The date of this Agreement shall be the later of (a) the date on which the Buyer signs this Agreement or (b) the date on which the Seller signs this Agreement as evidenced by the Buyer's and Seller's signatures as set forth below.
3. **Possession.** Seller agrees to deliver to Buyer on the Closing Date, as hereinafter defined, full possession of the Premises. Seller is selling and Buyer is purchasing the Premises in "AS IS" condition, that is, with all faults and defects and without offset therefore, without any warranty or representation whatsoever.
4. **Purchase Price.** The purchase price for the Premises (the "Purchase Price") is One Hundred Thousand (\$100,000.00) Dollars (subject to the adjustments and prorations described in Section 6) of which Buyer shall pay a deposit in the amount of Five Thousand (\$5,000.00) Dollars (the "Deposit") to be held by the Seller's Solicitor, Callaghan & Callaghan, 3 Brown Street, Wickford, RI 02852 (the "Escrow Agent") upon execution of this Agreement. The Escrow Agent shall hold the Deposit in escrow, in its client trust account, without interest, and apply it to the Purchase Price at the Closing, as hereinafter defined, or otherwise in accordance with the terms of this Agreement.
5. **Closing.**
 - (a) Seller shall deliver the deed to the Premises and Buyer shall pay the balance of the Purchase Price (subject to the adjustments and prorations described in Section 6) in immediately available funds (the "Closing") at a time and at a location in the State of Rhode Island to be designated by Seller, which Closing Date shall be within 60 days after Seller and Buyer have obtained all approvals

as itemized in Sections 8, 9 and 10 of this Agreement; provided, however, that Seller and Buyer shall have the right to designate another date/ time or place for the closing, upon mutual agreement in writing. (The date and time of the delivery of the deed by Seller to Buyer is referred to in this Agreement as the "Closing Date" and the transfer is referred to as the "Closing").

- (b) At the Closing, Seller shall execute and deliver to Buyer a good and sufficient warranty deed of Seller conveying to Buyer good, clear, and marketable title to the Premises subject to encumbrances of record which do not interfere with the operation of the Premises for Buyer's intended purposes. Upon the recording of the deed, the risk of loss of the Premises shall pass from Seller to Buyer.

6. **Closing Adjustments.** The following are to be apportioned at the Closing:

- (a) Because the municipality owns the Premises, there are no real estate taxes being assessed on the Premises at present. In the event that the tax assessor assesses real state taxes for the balance of the then tax year from the date of the Closing to December 31 of that year, Buyer will be responsible for payment of those taxes. Buyer shall be responsible for payment of all real estate taxes and assessments assessed in years subsequent to the Closing as referenced in Section 8(e).
- (b) At the Closing, Seller shall pay all water and sewer use charges for periods prior to the Closing Date.
- (c) At the Closing, Seller shall pay all electricity, gas, and other utility charges, if any, for periods prior to the Closing Date.
- (d) The provisions of this Section 6 shall in all respects survive the Closing.

7. **Seller's Representations.** Seller warrants and represents to Buyer as follows, such warranties and representations to be true and correct as of the date hereof and as of the Closing Date:

- (a) There are no actions, suits or proceedings pending or, to Seller's knowledge, threatened, against or affecting it which, if determined adversely to it, would adversely affect its ability to perform its obligations hereunder.
- (b) Seller has full right, power and authority and is duly authorized to enter into this Agreement, to perform each of the covenants on its part to be performed hereunder and to execute and deliver, and to perform its obligations under all documents required to be executed and delivered by it pursuant to this Agreement.

- (c) There are no pending, or to Seller's knowledge, threatened, judicial or administrative proceedings affecting or relating to the use, operation, occupancy, or ownership of the Premises. Seller shall indemnify and hold Buyer harmless from any such matters arising based on matters, which occurred before the Closing.
- (d) Seller has not granted any option or right of first refusal or first opportunity to any party to acquire any interest in the Premises.

8. **Seller's Obligations.**

- (a) Seller shall obtain voter approval for the sale of the Premises, said approval to be sought at a Special Election during the spring of 2018.
- (b) Seller shall, at its expense, obtain approval of a subdivision of the property to enable a sale of the Premises to the Buyer pursuant to the subdivision plan as referenced in Section 1.
- (c) Seller shall, at its expense, obtain a zone change of the Premises to "Wickford Village Center".
- (d) Seller shall, at its expense, obtain a Comprehensive Plan change, if necessary, of the Premises to "commercial".
- (e) Real estate taxes assessed against the Premises after the Closing shall be taxed on a phased basis in accordance with Town of North Kingstown Code of Ordinances, Article II, Section 19-40. This provision shall be applicable whether or not Section 19-40 is still in effect after the Closing.
- (f) Seller shall move to obtain the approvals itemized in subparagraphs (b), (c) and (d) above only after voter approval of the sale as described in paragraph (a) above.
- (g) The provisions of this Section 8 shall, in all respects, survive the Closing.

9. **Seller's Deliveries.** At the Closing, Seller shall deliver each of the following items and the Buyer's obligations shall be subject to the following:

- (a) A warranty deed to the Premises in form and substance acceptable to Buyer and Buyer's title insurance company, subject to no exceptions except those acceptable to Buyer.
- (b) All keys in Seller's possession or control to all locks on the Premises. Seller to allow Buyer access to building one day prior to closing to allow locks to be changed.

- (c) Such documents, if any, as may be required for Seller to comply with the non-resident withholding requirements of RIGL 44-30-71.3.
- (d) Such evidence or documents as may be reasonably required by Buyer's title insurance company relating to (i) mechanics' or materialmen's liens; (ii) parties in possession; or (iii) the status and capacity of Seller and the authority of the person or persons who are executing the various documents on behalf of Seller in connection with the sale of the Premises.
- (e) Seller agrees to exempt the Premises from any changes to use, occupancy or design requirements enacted after the date of this Agreement under the Wickford Design guidelines or similar ordinances that would prohibit the use and look of the building as provided in the Development Plan hereinafter referred to.
- (f) Closing is contingent upon all applicable bodies having issued a Class BV liquor license, and any other permits, variances, special use permits or other approvals necessary for Buyer to use the Premises for the purposes outlined in the Development Proposal. Such approvals may include a variance from setback requirements of the zoning ordinance necessary to comply with handicap access requirements and the construction of a deck on the easterly side of the existing structure. The Seller agrees to cooperate with the Buyer to ensure that no development shall occur on the library park to the south of the Premises, other than the addition of the vestibule and in such form as shall be approved by the Buyer.

10. **Buyer's Obligations.**

- (a) The Buyer accepts and will abide by a preservation easement/restrictive covenant protecting the exterior of the building (with the exception of work necessary for the addition of an ADA compliant elevator and stairwell, and replacement and addition of exterior decking on the east side of the building.), and preventing it from demolition. This easement will be incorporated by reference into the deed and duly recorded. The Buyer intends to provide a Letter of Intent including Preserve Rhode Island (PRI) as a third party easement holder for the purposes of monitoring and enforcing easement terms and conditions. The terms as specified above delineating the protection of the exterior of the building and prevention of demolition will be specified in the deed that is duly recorded regardless of the participation of PreserveRI as a third party easement protection entity and will survive the closing.
- (b) Buyer shall, at its expense, obtain such zoning relief as may be necessary to develop and operate the Premises as planned including, but not limited to, a special use permit for the proposed theatre, wedding venue, restaurant and bar.

- (c) Buyer/Premises shall be assessed two (2) commercial EDUs as sewer assessments (\$56,000+/- per EDU) payable pursuant to town requirements. Buyer shall also be responsible for the cost of installing grinder pump(s) and any other hook-up equipment.
 - (d) Buyer will provide a detailed parking plan with on-site and off-site details acceptable to the Seller.
 - (e) Buyer agrees, in perpetuity, that the premises may not be converted to a use which would exempt the Premises from assessment for real estate taxes by the Town of North Kingstown, unless agreed to by the Town.
 - (f) In the event that the Town of North Kingstown enacts Wickford Design Guidelines as a result of an on-going study, the Premises would be subject to those guidelines, so long as such guidelines previously referred to in Section 9(e) in no way restrict or require changes to the Development Proposal.
 - (g) Buyer shall develop the Premises in accordance with the uses delineated in the Development Plan. Any changes to those uses would require the approval(s) of the North Kingstown Town Council and its respective boards/agencies, which approvals(s) shall not be unreasonably withheld.
 - (h) The provisions of this Section 10 shall, in all respects, survive the Closing, and will be incorporated into the deed and duly recorded.
11. **Buyer's Deliveries.** At the Closing, Buyer shall deliver each of the following items:
- (a) Immediately available funds sufficient to pay the Purchase Price and Buyer's share of all closing expenses.
 - (b) Evidence or documents as may be reasonably required by Seller relating to the authority of the person or persons who are executing the various documents on behalf of Buyer in connection with the purchase of the Premises; and
 - (c) A Settlement Statement.
12. **Title Examination.** Buyer shall conduct a title examination of the Premises to determine the title of the Seller, all restrictions of record, easements and rights of way of record, and encumbrances of record. The title search shall be completed, and Seller informed of the results thereof, within 45 days of the Date of this Agreement. In the event that Buyer does not notify Seller of any defects in title within said 45 day period, Buyer shall have waived any defects of title reflected in the title examination and Buyer shall be required to proceed to Closing. Seller shall remedy any defect objected to by Buyer within 45 days of said notice or this Agreement shall be terminate and Buyer's deposit shall be returned. In the event said defects are capable of remedy and Seller fails to do

so, in addition to the deposit Seller shall reimburse Buyer for all expenses incurred in connection herewith, including any engineering work, sewer hookup and other items.

13. **Financing.** Buyer's obligation to purchase the Premises is conditional upon Buyer being able to obtain from an institutional lender a commitment for a \$1,300,000.00 construction loan (to be converted to a mortgage) and a commitment for a \$700,000.00 10 year term loan. In the event that Buyer has not notified Seller, in writing, within 90 days of voter approval of the sale, that Buyer has not been able to obtain such commitment(s), then it shall be presumed that Buyer has received such commitment(s) and Buyer shall be required to proceed to Closing with or without financing. The lenders, in their respective commitment letters, shall state that, in the event of foreclosure on this property, the Seller will have the Right of First Refusal to repurchase prior to any public sale.
14. **Right of First Refusal.** If, after Buyer has closed and purchased the Premises, Buyer shall receive a bona fide offer to purchase the Premises, and the offer of purchase is satisfactory to Buyer, Buyer shall not convey the Premises until Buyer shall have notified Seller in writing of such offer. Seller, within 45 days of receipt of such notice, shall notify Buyer in writing as to whether Seller desires to purchase the property at the amount of the bona fide offer and upon the other terms as contained in the bona fide offer. If Seller notifies Buyer of its desire to purchase the Premises, the Closing shall take place within 90 days of Seller's said notice to Buyer. If Seller elects not to purchase the Premises, Buyer shall be at liberty to sell the Premises for the bona fide offer and under no less restrictive terms and conditions. This Right of First Refusal will be recorded in the deed and survive the Closing.
15. **Seller's Option to Repurchase.** In the event that Buyer has not completed its renovations and obtained a Certificate of Occupancy for the Premises within (3) years of the date of the Closing and the Buyer has no bona fide offers to purchase the Premises, Seller shall have the option to repurchase the Premises for \$100,000 plus the cost of verified improvements made by the Buyer after the date of the closing, including, sewer hook-up fees, and that all outstanding mortgages and liens shall be satisfied prior to any payments to Buyer. Closing shall take place within 90 days of Seller's said notice to Buyer.
16. **Inability to Convey.** If Seller shall be unable to give title and to make conveyance as hereinbefore provided because of title defects, all obligations of either party hereto shall cease; provided, however, that Buyer, at Buyer's option, may waive any defects and take such title as Seller is able to convey, without warranty as to those defects and without reduction of the Purchase Price. If Buyer rejects said option, in addition to refunding the deposit Seller shall reimburse Buyer for all verified expenses incurred in connection herewith, including, any engineering work, sewer hook ups and other costs.

17. **Default.**
- (a) Upon default by Buyer, Seller shall have the right to retain the Deposit and, also, the right to pursue a claim against Buyer for specific performance.
 - (b) Upon default by Seller, Buyer shall have the right to the return of the Deposit and, also, the right to pursue a claim against Seller for specific performance.
18. **Brokerage.** Buyer warrants and represents to Seller and Seller warrants and represents to Buyer that each has not dealt with nor negotiated with any broker or finder or other person who can claim a commission, finder's fee or right of compensation in connection with, or for procuring, the transactions provided for herein. Buyer and Seller shall indemnify and hold the other harmless from and against any and all claims, demands or causes of action or other liability arising from or pertaining to any finder's fee, brokerage commission, fee, cost or other expense, which may be due any broker or person with whom such party has dealt. The representations, warranties and indemnity contained in this Section 13 shall survive the Closing.
19. **Casualty and Insurance.** Until the Closing, Seller shall maintain the fire, casualty, and extended coverage insurance on the Premises that is currently in place. In the event of any casualty, Seller shall pay over or assign to Buyer, upon payment of the Purchase Price, all sums recovered or recoverable on account of said insurance not in excess of the Purchase Price or Buyer, at Buyer's election exercised prior to the Closing Date, rather than accepting such payment or assignment, may terminate this Agreement, whereupon all obligations of the parties shall cease.. This Agreement is not assignable without the Seller's consent.
20. **Assignment.** This Agreement is not assignable without the Seller's consent, except to an LLC or other legal entity that is 100% owned by Evelyn K. Clulow.
21. **Notices.** In the event that notice is necessary or desirable under the provisions of this Agreement, it shall be deemed given when given by delivery to the person entitled thereto at the following address either (a) by hand or (b) by depositing the same with a nationally recognized overnight courier service, which provides confirmation of delivery. In all events, notice shall be deemed duly given upon receipt, if delivered by hand, and on the next business day, if deposited with a nationally recognized courier service.

Any notice provided to Seller shall be given to:

Town of North Kingstown
100 Fairway Drive
North Kingstown, Rhode Island 02852
Attention: A. Ralph Mollis, Town Manager

Any notice provided to Buyer shall be given to:

Chef Eve Clulow, LLC
35 Weavers Road
North Kingstown, RI 02852
Attn: Evelyn K. Clulow

Either party may, in writing, delivered as aforesaid to the other party, fix some other address to which written notice may be delivered.

22. **Miscellaneous.**

- (a) Time is of the essence with respect to each provision of this Agreement.
- (b) If either party institutes an action or proceeding against the other relating to the provisions of this Agreement or any default hereunder, the prevailing party to such action or proceeding, as determined by the court, shall be entitled to be reimbursed for the reasonable attorneys' fees, disbursements and litigation expenses incurred by it or him.
- (c) Neither this Agreement nor any of the provisions hereof shall be changed, waived, discharged or terminated, except by an instrument in writing signed by the party against whom enforcement of the change, waiver, discharge or termination is sought, and then only to the extent set forth in such instrument.
- (d) This Agreement is made and delivered in the State of Rhode Island, is designed and intended to be performed entirely in the State of Rhode Island, and shall be construed and enforced in accordance with the laws of the State of Rhode Island.
- (e) This Agreement embodies and constitutes the entire understanding between the parties with respect to the transaction contemplated herein, and all prior agreements, understandings, representations and statements, oral or written, are merged into this Agreement.

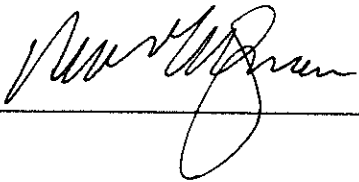
(Signature page follows)

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their authorized representatives who have hereunto set their respective hands as of the day and year first above written.

In the presence of:

Seller:

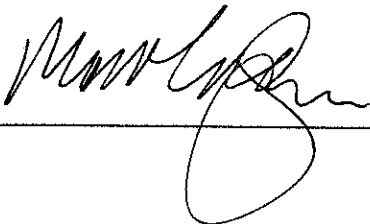
TOWN OF NORTH KINGSTOWN



By: A. Ralph Mollis 3-28-18
A. Ralph Mollis, Town Manager Date
Duly Authorized

Buyer:

CHEF EVE CLULOW, LLC

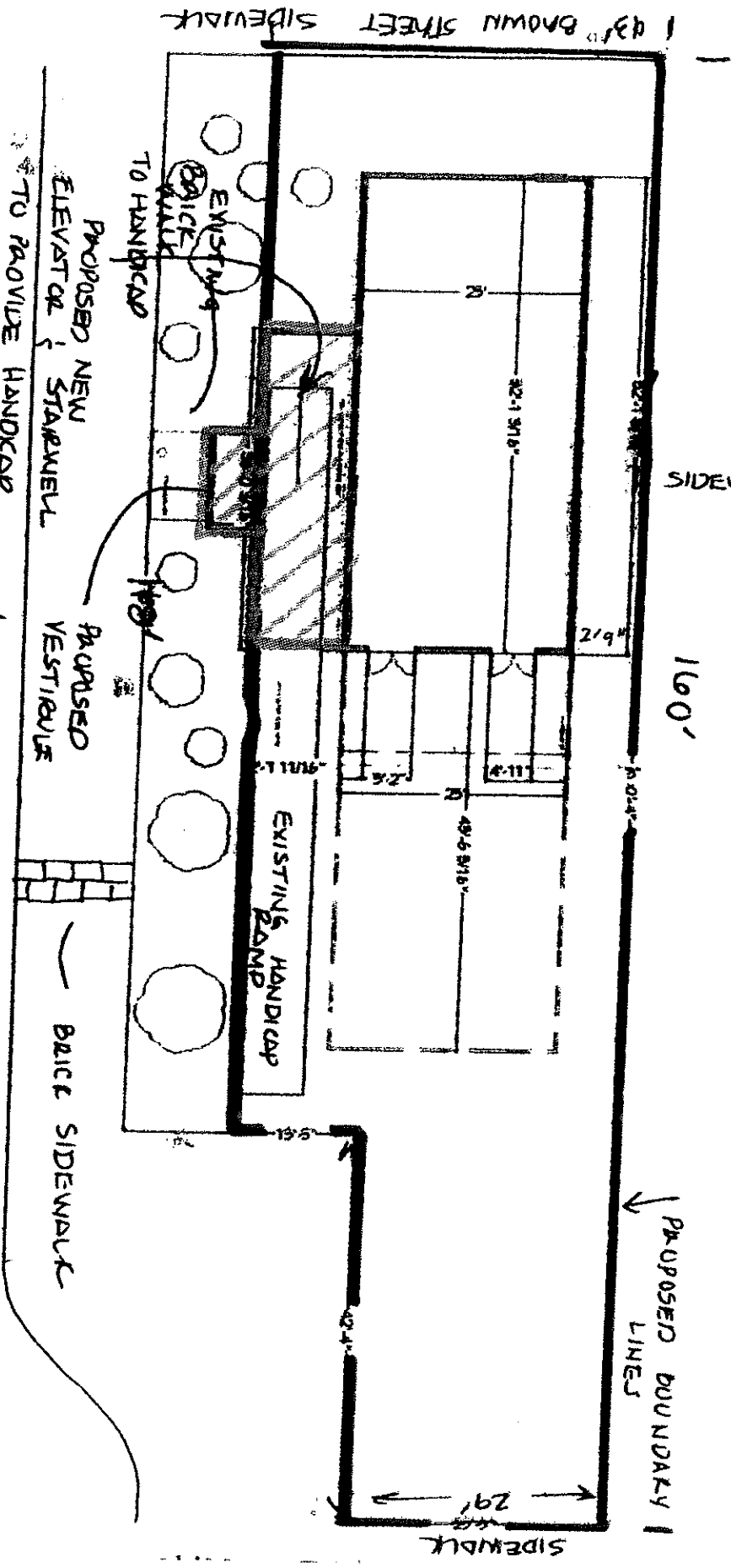


By: Evelyn K Clulow 3/28/18
Evelyn K. Clulow, Manager Date
Duly Authorized

EXHIBIT 'A'

RITE AID

AMNEV BUILDINGS



PROPOSED NEW ELEVATOR STAIRWELL TO PROVIDE HANDICAP ACCESS

PROPOSED BIKE VESTIBULE (THIS 5' X 10' STRUCTURE WILL EXTEND ONTO LIBRARY PARK)

TOTAL SQUARE FOOTAGE 7000'

PROPOSED BOUNDARY

SIDEWALK