

RECEIVED  
CITY CLERK'S OFFICE  
CITY OF MARLBOROUGH  
2012 OCT 25 P 12:39

1. Minutes of the City Council Meeting, October 15, 2012.
2. Communication from the Mayor re: MEDC funding.
3. Communication from the Mayor re: TIF Agreement-Quest Diagnostics.
4. Communication from the Mayor re: Cultural District Designation, Order No. 12-1005056B.
5. Communication from the Mayor re: School Department Supplemental Budget Request.
6. Communication from the Mayor re: Emergency Management Grant from the Massachusetts Emergency Management Agency awarded to the City in the amount of \$6,000.00 to replace radios and equipment in the Emergency Operations Center.
7. Communication from the Mayor re: Bigelow School Lease Agreement, Order No. 12-1005181.
8. Communication from the Mayor re: Reappointment of John Sahagian to the Zoning Board of Appeals for a period of five years expiring May 5, 2017 and Ralph Loftin as an alternate member for a term of two years expiring from date of City Council approval.
9. Communication from City Solicitor, Donald Rider, re: Special Permit, T-Mobile, 157 Union St., in proper legal form, Order No. 12-1005150B.
10. Communication from City Solicitor, Donald Rider, re: Special Permit, Sprint, 75 Donald Lynch Blvd., in proper legal form, Order No. 12-1005092C.
11. Communication from City Solicitor, Donald Rider, re: Special Permit, Sprint, 860 Boston Post Rd. East, in proper legal form, Order No. 12-1005093C.
12. Communication from City Solicitor, Donald Rider, re: Proposed License to Encroach onto Public Way, 61 Emmett St., X-11-1004017, X-03-9919A.
13. Communication from the City Clerk, Lisa Thomas, re: State Election Call.
14. Communication from Attorney Bergeron re; Notice of Representation (City Council Order No. 91-3822A), Breazzano Properties Corp.
15. Communication from Attorney Bergeron re: Request for Transfer of Real Estate referred to as Old Lakeside Ave.
16. Minutes, Planning Board, September 10, 2012.
17. Communication from Commerce Insurance on behalf of Edward McManus.
18. CLAIMS:
  - A. Sisters of St. Catherine, 197 Pleasant St., other
  - B. Joy Esper, 39 Parker Rd., Framingham, pothole or other road defect

REPORTS OF COMMITTEES:

UNFINISHED BUSINESS:

**From Finance Committee**

19. **Order No. 12-1005174 – Transfer \$42,576.00 to Fund Retirement of a Police Officer.** The Finance Committee reviewed the Mayor's letter dated September 20, 2012 requesting the transfer of \$42,576.00 from Fringes to Sick Leave Buy Back and Patrolmen accounts to cover the retirement of a Police Officer. **Recommendation of the Finance Committee is to approve the transfers 4-0.**

**From Personnel Committee**

20. **Order No. 12-1005134 - Appointment of Shawn McCarthy to the Planning Board, term to expire Feb. 6, 2017. Recommendation of the Personnel Committee is to approve the appointment of Shawn McCarthy to the Planning Board, term to expire Feb.6, 2017, 2-0.**
21. **Order No. 12-1005147 - Reappointments of Jim Confrey and Brenda Costa to Council on Aging for period of four years expiring May 2, 2016. Recommendation of the Personnel Committee is to approve the reappointments Jim Confrey and Brenda Costa to Council on Aging for period of four years expiring May 2, 2016, 2-0.**
22. **Order No. 12-1005133A - Appointment of Stephen Zepf to the Youth Commission, term to expire three years from the date of approval. Recommendation of the Personnel Committee is to approve the appointment of Stephen Zepf to the Youth Commission, term to expire three years from the date of approval, 2-0.**
23. **Order No. 12-1005165 - Reappointment of Sheila Brecken to the Council on Aging for a period of four years to expire on May 2, 2016. Recommendation of the Personnel Committee is to approve the appointment of Sheila Brecken to the Council on Aging for a period of four years to expire on May 2, 2016, 2-0.**

**From Operations and Oversight Committee**

24. **Order No. 12-1005181 - 25 Year Bigelow School Lease.** Mayor Vigeant and Public Facilities Director John Ghiloni appeared before the Committee.
  - A) **City Council must first accept the Bigelow School from the School Committee.** Mayor Vigeant explained that no promises were made to the School Committee as to the disposition or use of the building. **Recommendation of the Operations and Oversight Committee is to accept Bigelow School, 2-0.**
  - B) **25 Year lease of Bigelow School to the Assabet Collaborative.** The Committee shared several concerns, particularly about the long-term nature of the lease with a fixed escalator of only 2% and asked the Mayor and Mr. Ghiloni to revisit the issue and consider an escalator that might better keep up with the rate of inflation in the middle and outer years.

The Committee was in favor of the concept of the 25 year lease to the Assabet Collaborative; however, while the committee did not want to usurp the Mayor's authority to negotiate the lease, they did express a desire to have final approval on such an important item that would ultimately involve millions of dollars. The Committee agreed to refer the matter out of Committee without a recommendation awaiting final terms of the lease from the Mayor. This will not slow down the Mayor or Mr. Ghiloni, but will allow the Council to have final approval. **Recommendation of Operations and Oversight Committee is to refer to the City Council without recommendation, 2-0.**



25. **Order No.12-1005180 - Review of the new curbside trash pick-up program.** Commissioner LaFreniere, Assistant Commissioner Temple, and Mr. Lavery from Republic (city curbside vendor) were in attendance.

Commissioner LaFreniere presented an overview highlighting a generally successful transition. He is working on creating a city-run composting operation which will save more money by not having this processed through WeCare at great expense. Mr. Temple explained that the number of non-compliance notices is shrinking weekly as people gradually learn the rules of the new system. Thus far, with the program not fully rolled out to condominium complexes the DPW is reporting significant savings due to the drop in solid waste disposal costs. The cost savings were already reflected in the current budget. Further savings are anticipated in the future. Several Councilors believe that a better job of education needs to be done.

#### **From Wireless Communications Committee**

26. **Order No. 12-1005150A –**  
The Wireless Committee met on 10/9/2012 at 6:00 PM and took up Council Order No. 12-1005150A. The request by T-Mobile Northeast seeking permission to modify the Original Special Permit to allow the replacement of the existing six panel antennas currently located on the smokestack at 157 Union St. Removal of six (6) existing GSM TMA's (Tower Mounted Amplifiers), install hybrid cables and one (1) future site support cabinet. Solicitor Rider introduced changes which would streamline the application request and clarify that the proposal is a modification to the original Special Permit granted under the Order No. 01-9204 (Omnipoint Holdings, Inc., Division of Voicestream Wireless); nine (9) Conditions were discussed. Members Present: Councilors Clancy and Oram. It should be noted that Councilor Robey recused herself from the discussion. **Councilors Tunnera and Robey abstained. Recommendation of the Wireless Communications Committee is to Suspend the Rules and refer to City Solicitor to place in proper legal form, 2-0.**
27. **Order No. 12-1005092B –**  
The Wireless Committee met on 10/9/2012 at 6:45 PM and took up Council Order No. 12-1005092B. The request by Sprint PCS seeking permission to modify the Original Special Permit to allow the replacement of the existing (6) CDMA antenna with (3) Sprint Vision antenna and install (6) RRH antenna. Additionally the placement of (2) new BBU cabinets and replace (1) CDMA cabinet with (1) MMBTS cabinet. Replace the GPS antenna, and remove all existing coax cable and replace with (4) hyperflex cables. Solicitor Rider introduced changes which would streamline the application request and clarify that the proposal is a modification to the original Special Permit granted under the Order #97-7271, ten (10) Conditions were discussed. Members Present: Councilors Clancy and Robey. Councilor Oram absent. **Recommendation of the Wireless Communications Committee is to Suspend the Rules and refer to City Solicitor to place in proper legal form, 2-0.**

**28. Order No. 12-1005093B –**

The Wireless Committee met on 10/9/2012 at 6:45 PM and took up Council Order No. 12-1005093B. The request by Sprint PCS seeking permission to modify the Original Special Permit to allow the replacement of the existing (6) CDMA antenna with (3) Sprint Vision antenna and install (6) RRH antenna. Additionally the placement of (2) new BBU cabinets and replace (1) CDMA cabinet with (1) MMBTS cabinet, add one (1) Fiber Distribution Box and remove all existing coax cable and replace with (4) hyperflex cables. Solicitor Rider introduced changes which would streamline the application request and clarify that the proposal is a modification to the original Special Permit granted under the Order No. 05-100942A, thirteen (13) Conditions were discussed. Members Present: Councilors Clancy and Robey. Councilor Oram absent. **Recommendation of the Wireless Communications Committee is to Suspend the Rules and refer to City Solicitor to place in proper legal form, 2-0.**

**From City Council**

29. Communication from Attorney Beattie re: Public Acceptance of Dufrense Dr. **Recommendation of the City Council is to table until the October 29, 2012 City council meeting.**



**CITY OF MARLBOROUGH  
OFFICE OF CITY CLERK  
Lisa M. Thomas  
140 Main St.  
Marlborough, MA 01752  
(508) 460-3775 FAX (508) 460-3723**

**OCTOBER 15, 2012**

Regular meeting of the City Council held on Monday, OCTOBER 15, 2012 at 8:00 p.m. in City Council Chambers, City Hall. City Councilors present: Ossing, Pope, Oram, Robey, Delano, Jenkins, Elder, Tunnera, Seymour, and Landers. Absent: Clancy. Meeting adjourned at 9:42 PM.

ORDERED: That the Minutes of the City Council Meeting, SEPTEMBER 24, 2012, **FILE**; adopted.

ORDERED: That the **PUBLIC HEARING** On the Application for Special Permit from Attorney Mitrakas, on behalf of Logical Partners, LLC, to construct a three Townhouse Condominium Unit on Map 68, Lot 466, 126 Pleasant St. which includes a recent communication regarding an amendment, Order No. 12-1005151A, hearing recessed at 8:17 p.m.; adopted.

**Councilor Tunnera abstained**

City Clerk read into the record Certification by City Councilor Clancy, Required Under Chapter 79 of the Acts of 2006, for the Public Hearing, October 15, 2012 re: Application of Logical Partners, LLC for Special Permit at 126 Pleasant St.

ORDERED: That the **PUBLIC HEARING** On the Application from Attorney Gadbois to amend the Zoning Code of the City of Marlborough Chapter 650 by adding to Article VI, section 650-32 RESULTS WAY MIXED USE OVERLAY DISTRICT, Order No. 12-1005154, all were heard who wish to be heard, hearing recessed at 8:55 p.m.; adopted.

ORDERED: That the PDF spread sheets pertinent to the Police Department transfer request in the amount of \$75,985.00 which will move funds from Reserve for Salaries to various accounts to fund the Police Patrol Officers Association contract, refer to **FINANCE COMMITTEE**; adopted.

ORDERED: That the Assessor's Department transfer request in the amount of \$13,800.00 which moves funds from Principal Assessor to Professional & Technical Services to fund the contract associated with appraisal services, **APPROVED**; adopted.

**FROM:**

Acct. # 11410001-50160 \$13,800.00  
Principal Assessor

**TO:**

Acct. # 11410004-53180 \$13,800.00  
Professional & Technical Services

ORDERED: That the Appointment of Harald Scheid and Bradford Dunn of Regional Resource Group, Inc. to the position of Chief Assessor and Board of Assessor's respectively, which will allow the Board of Assessors to carry out their duties for the remainder of this calendar year, **APPROVED**; adopted.

ORDERED: That the Appointment of Ronald Saloman and Elizabeth Evangelous to the Board of Registrars, refer to **PERSONNEL COMMITTEE**; adopted.

ORDERED: That the City Council of the City of Marlborough, by two-thirds vote pursuant to Mass. Gen. Laws c. 40, § 15A, hereby transfers to the Department of Public Works of the City of Marlborough the care, custody, management, and control of Lot A, being a portion of land acquired by the City in 1953 for general purposes, located at 706 Hosmer Street at Memorial Beach, identified on Assessors Maps as Map 7, Parcel 49, and shown on an ANR Plan entitled "Approval-Not-Required, Plan of Land, World War II Memorial Beach, Hosmer Street, Marlborough, MA, Prepared For CDM Smith, Inc., Scale: 1"=50', Date: September 17, 2012," to be recorded in the South Middlesex District Registry of Deeds, **APPROVE**; adopted.

**Yea: 10- Nay: 0**

**Yea: Delano, Jenkins, Elder, Tunnera, Seymour, Landers, Ossing, Pope, Oram & Robey**

**Absent: Clancy**

ORDERED: That the Appointments of Councilors Clancy and Delano to the Municipal Aggregation Committee **FILE**; adopted.

ORDERED: That there being no objection thereto set **MONDAY, NOVEMBER 26, 2012**, as date for a **PUBLIC HEARING** for the Application for Special Permit from T-Mobile for minor upgrades to existing telecom site at 342 Lincoln St., refer to **WIRELESS COMMUNICATIONS COMMITTEE AND ADVERTISE**; adopted.

ORDERED: That the Agreement to Extend Time Limitations from Metro PCS, LLC, re: request to extend time limitations to install a wireless communication facility onto the existing building located at 98 Pleasant St. to December 20, 2012 until 12:59 PM, Order No. 12-1005112B, **APPROVED**; adopted.

ORDERED: That the Agreement to Extend Time Limitations from Cumberland Farms Inc. re: request to extend time limitations on application for Special Permit, 412 & 418 Maple St. and Walker St. to construct a convenience store with gasoline sales on the subject parcels to January 31, 2013 until 4:00 PM, Order No 12-1005081C, **APPROVED**; adopted.

ORDERED: That the Communication from Attorney Bergeron on behalf of Lazy Dog re: Withdrawal of Request for Pool Table License, Order No. 11/12-1002808B, **FILE**; adopted.

ORDERED: That the Communication from Executive Office of Energy and Environmental Affairs re: Environmental Notification Form (ENF) for the Sudbury St. Area Water and Sewer Project, **FILE**; adopted.

ORDERED: That the Minutes, Traffic Commission, June 26 & August 28, 2012, **FILE**; adopted.

ORDERED: That the Minutes, Council on Aging, September 11, 2012, **FILE**; adopted.

ORDERED: That the Notice of Massachusetts Torte Claim on behalf of James Coggins refer to **LEGAL DEPARTMENT**; adopted.

ORDERED: That the following **CLAIMS**, refer to the **LEGAL DEPARTMENT**; adopted.

A. Edward McManus, 44 Queen's View Rd, other

## Reports of Committees:

Councilor Ossing reported the following out of the Finance Committee:

**Order No. 12-1005174 – Transfer \$42,576.00 to Fund Retirement of a Police Officer.** The Finance Committee reviewed the Mayor's letter dated September 20, 2012 requesting the transfer of \$42,576.00 from Fringes to Sick Leave Buy Back and Patrolmen accounts to cover the retirement of a Police Officer. **Recommendation of the Finance Committee is to approve the transfers 4-0.**

Councilor Tunnera reported the following out of the Personnel Committee:

**Order No. 12-1005134 - Appointment of Shawn McCarthy to the Planning Board, term to expire Feb. 6, 2017. Recommendation of the Personnel Committee is to approve the appointment of Shawn McCarthy to the Planning Board, term to expire Feb.6, 2017, 2-0.**

**Order No. 12-1005147 - Reappointments of Jim Confrey and Brenda Costa to Council on Aging for period of four years expiring May 2, 2016. Recommendation of the Personnel Committee is to approve the reappointments Jim Confrey and Brenda Costa to Council on Aging for period of four years expiring May 2, 2016, 2-0.**

**Order No. 12-1005133A - Appointment of Stephen Zepf to the Youth Commission, term to expire three years from the date of approval. Recommendation of the Personnel Committee is to approve the appointment of Stephen Zepf to the Youth Commission, term to expire three years from the date of approval, 2-0.**

**Order No. 12-1005165 - Reappointment of Sheila Brecken to the Council on Aging for a period of four years to expire on May 2, 2016. Recommendation of the Personnel Committee is to approve the appointment of Sheila Brecken to the Council on Aging for a period of four years to expire on May 2, 2016, 2-0.**

Councilor Delano reported the following out of the Operations and Oversight Committee:

**Order No. 12-1005181 - 25 Year Bigelow School Lease.** Mayor Vigeant and Public Facilities Director John Ghiloni appeared before the Committee.

- A) **City Council must first accept the Bigelow School from the School Committee.** Mayor Vigeant explained that no promises were made to the School Committee as to the disposition or use of the building. **Recommendation of the Operations and Oversight Committee is to accept Bigelow School, 2-0.**
- B) **25 Year lease of Bigelow School to the Assabet Collaborative.** The Committee shared several concerns, particularly about the long-term nature of the lease with a fixed escalator of only 2% and asked the Mayor and Mr. Ghiloni to revisit the issue and consider an escalator that might better keep up with the rate of inflation in the middle and outer years.

The Committee was in favor of the concept of the 25 year lease to the Assabet Collaborative; however, while the committee did not want to usurp the Mayor's authority to negotiate the lease, they did express a desire to have final approval on such an important item that would ultimately involve millions of dollars. The Committee agreed to refer the matter out of Committee without a recommendation awaiting final terms of the lease from the Mayor. This will not slow down the Mayor or Mr. Ghiloni, but will allow the Council to have final approval. **Recommendation of Operations and Oversight Committee is to refer to the City Council without recommendation, 2-0.**

**Order No.12-1005180 - Review of the new curbside trash pick-up program.** Commissioner LaFreniere, Assistant Commissioner Temple, and Mr. Lavery from Republic (city curbside vendor) were in attendance.

Commissioner LaFreniere presented an overview highlighting a generally successful transition. He is working on creating a city-run composting operation which will save more money by not having this processed through WeCare at great expense. Mr. Temple explained that the number of non-compliance notices is shrinking weekly as people gradually learn the rules of the new system. Thus far, with the program not fully rolled out to condominium complexes the DPW is reporting significant savings due to the drop in solid waste disposal costs. The cost savings were already reflected in the current budget. Further savings are anticipated in the future. Several Councilors believe that a better job of education needs to be done.

Councilor Oram reported the following out of the Wireless Communication Committee:

**Order No. 12-1005150A –**

The Wireless Committee met on 10/9/2012 at 6:00 PM and took up Council Order No. 12-1005150A. The request by T-Mobile Northeast seeking permission to modify the Original Special Permit to allow the replacement of the existing six panel antennas currently located on the smokestack at 157 Union St. Removal of six (6) existing GSM TMA's (Tower Mounted Amplifiers), install hybrid cables and one (1) future site support cabinet. Solicitor Rider introduced changes which would streamline the application request and clarify that the proposal is a modification to the original Special Permit granted under the Order No. 01-9204 (Omnipoint Holdings, Inc., Division of Voicestream Wireless); nine (9) Conditions were discussed. Members Present: Councilors Clancy and Oram. It should be noted that Councilor Robey recused herself from the discussion. **Councilors Tunnera and Robey abstained. Recommendation of the Wireless Communication Committee is to Suspend the Rules and refer to City Solicitor to place in proper legal form, 2-0.**

Councilor Robey reported the following out of the Wireless Communications Committee:

**Order No. 12-1005092B –**

The Wireless Committee met on 10/9/2012 at 6:45 PM and took up Council Order No. 12-1005092B. The request by Sprint PCS seeking permission to modify the Original Special Permit to allow the replacement of the existing (6) CDMA antenna with (3) Sprint Vision antenna and install (6) RRH antenna. Additionally the placement of (2) new BBU cabinets and replace (1) CDMA cabinet with (1) MMBTS cabinet. Replace the GPS antenna, and remove all existing coax cable and replace with (4) hyperflex cables. Solicitor Rider introduced changes which would streamline the application request and clarify that the proposal is a modification to the original Special Permit granted under the Order #97-7271, ten (10) Conditions were discussed. Members Present: Councilors Clancy and Robey. Councilor Oram absent. **Recommendation of the Wireless Communications Committee is to Suspend the Rules and refer to City Solicitor to place in proper legal form, 2-0.**

**Order No. 12-1005093B –**

The Wireless Committee met on 10/9/2012 at 6:45 PM and took up Council Order No. 12-1005093B. The request by Sprint PCS seeking permission to modify the Original Special Permit to allow the replacement of the existing (6) CDMA antenna with (3) Sprint Vision antenna and install (6) RRH antenna. Additionally the placement of (2) new BBU cabinets and replace (1) CDMA cabinet with (1) MMBTS cabinet, add one (1) Fiber Distribution Box and remove all existing coax cable and replace with (4) hyperflex cables. Solicitor Rider introduced changes which would streamline the application request and clarify that the proposal is a modification to the original Special Permit granted under the Order No. 05-100942A, thirteen (13) Conditions were discussed. Members Present: Councilors Clancy and Robey. Councilor Oram absent. **Recommendation of the Wireless Communications Committee is to Suspend the Rules and refer to City Solicitor to place in proper legal form, 2-0.**

**Suspension of the rules requested – granted**

ORDERED:

**RESOLUTION:**

**WHEREAS**, on November 23, 1998, the City Council of the City of Marlborough (“the City”) adopted an order (Order No. 98-7900A) approving a Tax Increment Financing Agreement (“the TIF Agreement”) between the City and Ken’s Foods, Inc./MIP Realty Trust (“Ken’s Foods”); and

**WHEREAS**, the TIF Agreement between the City and Ken’s Foods recites that the Ken’s Foods facility at 1 D’Angelo Drive in Marlborough is located within the South-West Quadrate Economic Opportunity Area (“South-West Quadrate EOA”), and that that facility consists of Parcel 8 on Map 116 and Parcel 5 on Map 115 of the Marlborough Assessors’ Maps; and

**WHEREAS**, however, due to an apparent scrivener's error, the South-West Quadrangle EOA, approved by the City Council on August 26, 1996 (Order No. 96-6753) and later approved by the Massachusetts Economic Assistance Coordinating Council ("EACC") on October 30, 1996, in fact does not include either Parcel 8 on Map 116 or Parcel 5 on Map 115 of the Marlborough Assessors' Maps; and

**WHEREAS**, parcel 8 on map 116 and parcel 5 on map 115 of the Marlborough Assessors' Maps, among other parcels, had been included in an amendment to the Cedar Hill Economic Opportunity Area ("Cedar Hill EOA"), adopted by the City Council on August 28, 1995 (Order No. 95-5962A), later approved by the EACC on September 27, 1995; and

**WHEREAS**, Mass. Gen. Laws c. 23A, § 3E(4)(d) provides in relevant part that an EOA retains its designation as an economic opportunity area "for at least five years and not more than twenty years from the date it is so designated, as determined by the EACC;" and

**WHEREAS**, since the effective period for the Cedar Hill EOA was designated by the EACC on September 27, 1995 to be five years, the Cedar Hill EOA ceased to retain its designation as an economic opportunity area on September 27, 2000; and

**WHEREAS**, the TIF Agreement between the City and Ken's Foods calls for the tax exemptions recited therein to run through Fiscal Year 2014 (ending on June 30, 2014); and

**WHEREAS**, both the City and Ken's Foods desire that the TIF Agreement remain in full force and effect from September 27, 2000 through Fiscal Year 2014, including that Ken's Foods continue to receive, from September 27, 2000 through Fiscal Year 2014, the benefit of the tax exemptions contemplated by the TIF Agreement between the City and Ken's Foods; and

**WHEREAS**, since the effective period for the South-West Quadrangle EOA was designated by the EACC on October 30, 1996 to be twenty years, the South-West Quadrangle EOA will continue to retain its designation as an economic opportunity area until October 30, 2016;

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Marlborough that a petition be submitted by the City to the Massachusetts Economic Assistance Coordinating Council ("EACC"):

- a. to amend the Cedar Hill EOA so as to exclude Parcel 8 on Map 116 and Parcel 5 on Map 115 of the Marlborough Assessors' Maps, effective retroactive to the date of the EACC's approval of the Cedar Hill EOA on September 27, 1995; and
- b. to amend the South-West Quadrangle EOA so as to include Parcel 8 on Map 116 and Parcel 5 on Map 115 of the Marlborough Assessors' Maps, effective retroactive to the date of the EACC's approval of the South-West Quadrangle EOA on October 30, 1996; **APPROVED**; adopted.



**Suspension of Rules requested – granted**

ORDERED: The amended Ken's Food, TIF proposal, consisting of the following five documents, attached hereto, **APPROVED**; adopted

1. The TIF agreement, Order No. 12-1005182A-1
2. The TIF plan, Order No. 12-1005182A-2
3. The certified project application, Order No. 12-1005182A-3
4. The economic opportunity area application, Order No. 12-1005182A-4
5. The Council Resolution, 12-1005182A-5

**A roll call vote was taken for each of the documents noted above (except certified project application plan) as follows:**

**Order No. 12-1005182A-1**

**Yea: 10 - Nay: 0 – Absent: 1**

**Yea: Delano, Jenkins, Elder, Tunnera, Seymour, Landers, Ossing, Pope, Oram and Robey**

**Absent: Clancy**

**Order No. 12-1005182A-2**

**Yea: 10 - Nay: 0 – Absent: 1**

**Yea: Delano, Jenkins, Elder, Tunnera, Seymour, Landers, Ossing, Pope, Oram and Robey**

**Absent: Clancy**

**Order No. 12-1005182A-4**

**Yea: 10 - Nay: 0 – Absent: 1**

**Yea: Delano, Jenkins, Elder, Tunnera, Seymour, Landers, Ossing, Pope, Oram and Robey**

**Absent: Clancy**

**Order No. 12-1005182A-5**

**Yea: 10 - Nay: 0 – Absent: 1**

**Yea: Delano, Jenkins, Elder, Tunnera, Seymour, Landers, Ossing, Pope, Oram and Robey**

**Absent: Clancy**

**Suspension of Rules requested – granted**

ORDERED: Application for Special Permit from David Scarfo, agent for T-Mobile, for minor upgrades to existing wireless facility at 157 Union St., Order No. 12-1005150A, refer to **CITY SOLICITOR TO PLACE IN PROPER LEGAL FORM FOR THE OCTOBER 29, 2012 CITY COUNCIL MEETING**; adopted.  
**Councilors Seymour and Robey abstained**

**Suspension of Rules requested – granted**

ORDERED: Application for Special Permit from Sprint for modification of a wireless facility located at 75 Donald Lynch Blvd, Order No. 12-1005092B, refer to **CITY SOLICITOR TO PLACE IN PROPER LEGAL FORM FOR THE OCTOBER 29, 2012 CITY COUNCIL MEETING**; adopted.

**Suspension of Rules requested – granted**

ORDERED: Application for Special Permit from Sprint for modification of a wireless facility located at 860 Boston Post Rd, Order No. 12-1005093B, refer to **CITY SOLICITOR TO PLACE IN PROPER LEGAL FORM FOR THE OCTOBER 29, 2012 CITY COUNCIL MEETING**; adopted.

That the City Council of the City of Marlborough hereby accepts the provisions of M.G.L. c. 59, § 5N, which authorizes the City to establish a program for residents of the City of Marlborough and who are veterans as authorized by the US Congress to participate in a property tax abatement program in exchange for community service in accordance with the requirements put forth in the statute. AND, FURTHER, THAT the City Council of the City of Marlborough adopt provisions for the proper implementation of the program, refer to **LEGISLATIVE AND LEGAL AFFAIRS COMMITTEE**; adopted.

**Councilor Jenkins abstained**

ORDERED: That the Nonunion Employee Salary transfer request in the amount of \$49,856.35 to fund a 2% cost of living increase for nonunion employees except City Councilors which will be effective from 07/01/12, **APPROVED**; adopted.

AVAILABLE BALANCE	AMOUNT	FROM ACCOUNT			To Account			Salary Increase	Balance FY 13
		ORG	OBJECT	ACCOUNT DISCRIP	ORG CODE	OBJECT	ACCOUNT DISCRIP		
\$ 927,326.00	\$ 49,866.35	11990006	57820	Reserve Salaries	11210001	50010	MAYOR	1,573.62	68,089
						50321	EX AIDE	1,143.84	49,493
					11210002	50590	EX SECY	893.60	39,010
					11330001	50015	COMPTROLLER	1,874.68	81,116
					11330002	50588	PT Mail Clk	144.00	6,434
					11350001	50020	AUDITOR	1,492.46	64,577
					11410001	50160	ASSESSOR	1,380.38	68,220
					11440001	50042	COLLECTOR	1,492.46	63,935
					11110002	50350	CITY COU SECY	1,143.84	49,493
					11110003	51430	LONG	57.20	2,860
						51920	SICK LEAVE	44.00	2,200
					11510001	50030	SOLICITOR	1,971.22	85,293
						50172	ASST SOLICITOR	1,595.58	69,039
						50174	PROCURE. OFF.	1,215.68	52,601
						50175	PARALEGAL	813.92	35,217
					11520001	50530	PERS DIRECTOR	1,492.46	64,576
						50532	PER ASST.	980.76	42,435
					11520002	50401	PT SR CLK	425.64	17,814
					11550001	50014	Dir Info Sys	1,013.18	43,839
					11610001	50050	CITY CLK	1,492.78	64,592
					11610002	50290	ASST CITY CLK	1,110.94	55,546
					11920001	50291	DIRECTOR	877.46	37,967
					11920003	51430	LONG	88.76	13,298
						51920	SICK LEAVE	67.50	9,807
					12100001	50140	POLICE CHIEF	2,021.12	87,452
					12100003	51432	LONG	126.32	157,254
						51920	SICK LEAVE	77.74	155,829
						51440	EDUC	505.28	514,962
						51410	FIRST RESP	50.54	48,461
					12200001	50130	FIRE CHIEF	1,827.82	80,868
					12200003	51480	EMT	91.40	203,730
						51440	EDUC	182.78	311,890
						51226	FIRST RESP	36.56	34,750
						51430	Long	91.40	174,146
						51920	SLBB	128.20	180,009
					12410001	50090	BLDG INSP	1,641.64	73,326
						50109	ENVIR. OFFICER	1,372.14	59,371
					12910001	51210	Emg Mgt Dir	139.38	6,388
					14001001	50600	DPW COMM	2,207.86	95,532
						50630	ASST COMM	1,828.18	79,104
					14001003	51430	LONG	201.82	14,740
						51920	SICK LEAVE	155.24	11,502
					14001101	50640	ENGINEER	1,828.18	79,104
					14920001	50110	REC DIRECTOR	1,268.02	54,866
					15120001	50605	SAN/ADMIN	1,298.42	56,181
					15120001	50220	SEALER	255.56	11,057
						50390	NURSE	1,208.82	52,304
						50391	PT NURSE	562.12	23,978
					15120003	51430	LONG	61.46	5,297
						51920	SICK LEAVE	46.50	3,832
					15410001	50190	COA DIR	1,273.60	55,227
					15430001	50080	VET DIR	954.20	41,287
					16100001	50230	LIBRARY DIR	1,432.84	62,264
						50657	REF LIB	914.88	39,586
					16100003	51259	PT REF LIB	1,129.30	49,120
					16100003	51262	Lib Page	561.08	25,121
								49,866.35	
Reason :		To fund non union employees cost of living increase of 2%							

ORDERED: That the Retiring Employee transfer request in the amount of \$50,904.00 which will move funds from Fringes to Sick Leave and Longevity to fund the cost associated with the retirement of a member of the Marlborough Police Department, **APPROVED**; adopted.

FROM:

Acct. # 11990006-51500

\$50,904.00

Fringes

TO:

Acct. # 12100003-51920

\$48,816.00

Sick Leave

Acct. # 12100003-51342

\$2,088.00

Longevity

ORDERED: That the Application for Livery License, Marc Marlegni, d/b/a Toy Motorsports, LLC, 896 Boston Post Rd. East, **APPROVED**; adopted.

ORDERED: That the Application for Junk Dealer's License, Andrew Spaventa, d/b/a ecoATM, 601 Donald Lynch Blvd, **APPROVED**; adopted.

ORDERED: That the Communication from Attorney Beattie re: Public Acceptance of Dufrense Dr, **TABLED UNTIL THE OCTOBER 29, 2012 CITY COUNCIL MEETING.**; adopted.

ORDERED: That the Petition from NGrid to relocate existing P. 2, 25' in a NE direction from existing location and installation of a new anchor off of relocated P. 2 on Manning St., Order No. 12-1005121A, **APPROVED**; adopted.

ORDERED: There being no further business, the regular meeting of the City Council is herewith adjourned at 9:42 PM.



# City of Marlborough

RECEIVED  
CITY CLERK'S OFFICE  
CITY OF MARLBOROUGH

## Office of the Mayor

140 Main Street  
Marlborough, Massachusetts 01752  
Tel. (508) 460-3770 Facsimile (508) 460-3698 TDD (508) 460-3610  
[www.marlborough-ma.gov](http://www.marlborough-ma.gov)

*Arthur G. Vigeant*  
MAYOR

*Michael B. Berry*  
EXECUTIVE AIDE

*Patricia Bernard*  
EXECUTIVE SECRETARY

October 25, 2012

City Council President Patricia Pope  
Marlborough City Council  
140 Main Street  
Marlborough, MA 01752

### Re: MEDC Funding

Honorable President Pope and Councilors:

The Marlborough Economic Development Corporation (MEDC) has submitted to my office a budget request in the amount of \$277,099.00 that would fund their operations and special projects for the remainder of the fiscal year.

- 1) Transfer in the amount of \$277,099.00 from 27000099-42440 (Economic Development) to 11740006-53950 (MEDC Funding).

In my first year as Mayor, the MEDC has proven time and again their value to enhancing our commercial tax base, thereby allowing us to stabilize our residential tax rate. As tonight's agenda demonstrates, we have another new corporate neighbor to welcome to our city that will further this mission.

Whether it is the jobs fair, the revitalization of the downtown area, or the addition of companies like The TJX Companies, Inc. to Marlborough, the MEDC has been instrumental in moving our local economy forward and making it known to all that the City of Marlborough is open for business.

I look forward to enlisting your support for their request and will be happy to provide you any further information that you deem necessary.

Sincerely,

Arthur G. Vigeant  
Mayor

TRANSFER REQUEST

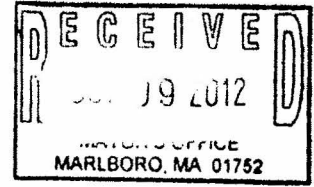
Mayor's Office

FISCAL YEAR: 2013

		FROM ACCOUNT:				TO ACCOUNT:			Available
Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Balance
<u>\$469,734.25</u>	<u>\$277,099.00</u>	<u>27000099 -</u>	<u>42440</u>	<u>Economic Development</u>	<u>\$277,099.00</u>	<u>11740006 -</u>	<u>53950</u>	<u>MEDC Funding</u>	<u>\$0</u>

Reason: To allow the MEDC to continue it's work in promoting the economic development of the City

Dept Head Signature: 



October 5, 2012

Honorable Arthur G. Vigeant, Mayor  
City Hall, 4<sup>th</sup> Floor  
140 Main Street  
Marlborough, MA 01752

RE: Transfer Request

Dear Mayor Vigeant:

I am writing seeking a transfer request.

On behalf of the Marlborough Economic Development Corporation (MEDC), I am herewith submitting this letter requesting a transfer of funds to the Marlborough Economic Development Corporation in the amount of \$277,099.00 to fund operations and special projects for FY'13 per the City Council's approval of May 21, 2012.

I would appreciate your approving this request as soon as possible and allowing MEDC an opportunity to update the City Council on the progress made thus far in implementing the City's Economic Development Master Plan.

Thank you for your kind attention to this matter.

Very truly yours,

Arthur P. Bergeron, Chairman

Attachments

Cc: Diane Smith, Marlborough City Auditor  
Tom Abel, Marlborough City Comptroller/Treasurer

Marlborough Economic Development Corporation

91 Main Street, Suite 204  
 Marlborough MA 01752  
 508-229-2010

# Invoice

Date	Invoice #
10/3/2012	6

<p>Bill To</p> <p>City of Marlborough                  Mayor, Arthur G. Vigeant                  City Hall, 4th Floor                  140 Main Street                  Marlborough, MA 01752</p>
---

Description	Terms	Due on receipt
	Rate	Amount
Funds for operations and special projects for the remainder of FY13, per the City Council's approval of May 21, 2012.	277,099.00	277,099.00
<p>AMOUNT <u>277,099.00</u></p> <p>ACCT # <u>1174 0006 53950</u></p> <p>VENDOR # <u>21154</u></p> <p>P.O. # _____</p> <p>APPROVED <u>[Signature]</u></p>		
<p>Make all checks payable to Marlborough Economic Development Corporation or MEDC                      Thank You</p>		<p><b>Total</b> \$277,099.00</p>





RECEIVED  
CITY OF MARLBOROUGH  
2012 OCT 25 AM 11:01

*City of Marlborough*  
*Office of the Mayor*

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Marlborough, Massachusetts 01752  
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*Arthur G. Vigeant*  
MAYOR

*Michael C. Berry*  
EXECUTIVE AIDE

*Patricia Bernard*  
EXECUTIVE SECRETARY

October 25, 2012

City Council President Patricia Pope  
Marlborough City Council  
140 Main Street  
Marlborough, MA 01752

**Re: TIF Agreement – Quest Diagnostics**

Honorable President Pope and Councilors:

It is with great pleasure that I submit to you a fifteen year Tax Increment Financing (TIF) proposal between the City of Marlborough and Quest Diagnostics, LLC (“Quest”). Quest has come to terms with Atlantic Management LLC to lease approximately 200,000 square feet of space at 200 Forest Street, the location commonly known as the “Hewlett Packard/HP Site.”

This proposal is a significant economic development coup for the City of Marlborough as it will bring an estimated 1,200 permanent, full-time jobs to a facility that has been largely vacant since 2008. A Fortune 500 company that does more than \$7 billion of business annually, Quest specializes in clinical diagnostic testing and technology.

I have enclosed for you a letter of intent from Quest as well as a draft TIF agreement outlining the specifics of the proposal. I want to thank Councilors Pope, Delano, and Jenkins for serving on the ad hoc TIF committee that vetted this proposal. I look forward to working with you to answer any questions you may have so that we may move this agreement forward.

Sincerely,

Arthur G. Vigeant  
Mayor

**RESOLUTION:**

**WHEREAS**, the City Council of the City of Marlborough strongly supports increased economic development to provide additional jobs for qualified residents of the City and the Marlborough-Framingham Regional Economic Target Area ("ETA"), to expand commercial and industrial activity within the City, and to promote and develop a healthy economy and stronger tax base; and

**WHEREAS**, the City of Marlborough is a part of the regional ETA; and

**WHEREAS**, the City Council of the City of Marlborough supports and endorses the economic development goals for the ETA; and

**WHEREAS**, the City Council of the City of Marlborough desires a beneficial economic use creating jobs for local residents, expanding business within the City, and developing a healthy economy and stronger tax base for Map 101, Parcel 2 on the Marlborough Assessor's Map; and

**WHEREAS**, the City Council of the City of Marlborough desires that the area be designated as the 200 Forest Street Economic Opportunity Area; and

**WHEREAS**, the City Council of the City of Marlborough finds that the 200 Forest Street Economic Opportunity Area meets the regulatory criteria defined as a "decadent area"; and

**WHEREAS**, the City Council of the City of Marlborough finds that the 200 Forest Street Economic Opportunity Area meets the local criteria and economic development goals set forth in the original Economic Target Area application; and

**WHEREAS**, the City Council of the City of Marlborough further supports and endorses the economic development goals contained in the 200 Forest Street Economic Opportunity Area application; and

**WHEREAS**, the City Council of the City of Marlborough intends to use tax increment financing or special tax assessment economic development tools created by the Massachusetts Economic Development Incentive Program based on the ability of the City of Marlborough, in accordance with needs and community benefits of a specific project, that are reasonably proportional to the economic development incentives from State and local government and the resulting economic development benefits;

**NOW THEREFORE, BE IT RESOLVED** by the City Council of the City of Marlborough that the following activities which are necessary to pursue a Certified Project designation within the 200 Forest Street Economic Opportunity Area in the City of Marlborough be authorized:

1. The City Council of the City of Marlborough hereby approves the 200 Forest Street Economic Opportunity Area ("EOA") and authorizes the submission of the 200 Forest Street EOA application (attached hereto as Exhibit 1) to the Massachusetts Economic Assistance Coordinating Council, said EOA to be comprised of Map 101, Parcel 2 on the Marlborough Assessor's Map; and

2. The City Council of the City of Marlborough hereby adopts the tax increment financing plan and authorizes the submission of a tax increment financing plan (attached hereto as Exhibit 2) to the Massachusetts Economic Assistance Coordinating Council; and
3. The City Council of the City of Marlborough agrees to authorize the use of tax increment financing and the submission of the tax increment financing agreement (attached hereto as Exhibit 3) to the Massachusetts Economic Assistance Coordinating Council; and
4. The City Council of the City of Marlborough hereby requests that the Massachusetts Economic Assistance Coordinating Council approve Quest Diagnostics LLC's designation as a certified project (local tax incentive only) (attached hereto as Exhibit 4); and further that:
  - (a) the project, as proposed, is consistent with and can reasonably be expected to benefit significantly from inclusion in the 200 Forest Street EOA;
  - (b) the project will not overburden the City of Marlborough's infrastructure and utilities servicing the 200 Forest Street EOA;
  - (c) the project as described in the proposal will have a reasonable chance of increasing employment opportunities for residents of the Marlborough-Framingham Regional EOA; and
  - (d) the City Council approves Quest Diagnostics LLC's request that the project be designated by the Massachusetts Economic Assistance Coordinating Council as a certified project (local tax incentive only) for fifteen (15) years.

Quest Diagnostics Incorporated

415 Massachusetts Avenue  
Cambridge, MA 02139-4102  
617.547.8900  
www.QuestDiagnostics.com



October 22, 2012

Honorable Arthur G. Vigeant  
Mayor of Marlborough  
Marlborough City Hall  
140 Main Street, 4th Floor  
Marlborough, MA 01752

**Subject: Quest Diagnostics LLC - Notice of Intent to Apply for Tax Increment Financing through the MA Economic Development Incentive Program**

Dear Mayor Vigeant:

As you know, Quest Diagnostics LLC ("Quest Diagnostics" or "the Company") is in the final stages of a site selection process to centralize its operations by creating a regional, state-of-the-art laboratory facility in the Northeast (the "Project").

During the past several months, Quest Diagnostics has met with you, representatives of your administration and the Marlborough Economic Development Corporation ("MEDC") to discuss the parameters of a Tax Increment Financing ("TIF") Agreement, should Quest Diagnostics decide to establish its regional laboratory facility in Marlborough, MA.

As a result of your leadership and Marlborough's clear support of the Project, we recently agreed to pursue local approval of a TIF Agreement with respect to the lease of property located at 200 Forest Street, the building formerly occupied by Hewlett-Packard that has been vacant for more than two years. The agreed upon parameters of the proposed TIF Agreement are as follows:

- 15-year TIF Agreement scheduled to commence on July 1, 2014 and ending on June 30, 2029;
- 15-year exemption schedule for real and personal property of 100%, 100%, 90%, 80%, 80%, 75%, 70%, 70%, 60%, 60%, 60%, 50%, 50%, 50% for each year respectively.

In addition to the local level TIF, Quest Diagnostics is also pursuing state level incentives through the Massachusetts Life Science Center. The local and state tax incentives will mitigate the generally higher costs of doing business in Massachusetts and position the company for future growth.

Thank you again for your support regarding the Company's pursuit of the TIF Agreement with the City of Marlborough. I, along with the rest of the Quest Diagnostics Team, look forward to working with you, your administration, the Marlborough City Council, and Marlborough Economic Development Corporation to finalize this proposed TIF Agreement.

Sincerely,

A handwritten signature in black ink, appearing to read "Timothy W. Anderson".

Timothy W. Anderson  
Managing Director

**TAX INCREMENT FINANCING AGREEMENT  
BETWEEN  
THE CITY OF MARLBOROUGH,  
QUEST DIAGNOSTICS LLC  
AND  
ATLANTIC-MARLBORO REALTY, LLC**

This **TAX INCREMENT FINANCING AGREEMENT** (the "**TIF Agreement**" or the "**Agreement**") is made by and between the City of Marlborough (the "**City**"), Quest Diagnostics LLC, and Atlantic-Marlboro Realty, LLC (the "**Owner**").

**WHEREAS**, the City is a Massachusetts municipal corporation acting through its City Council and Mayor, having its principal office located at City Hall, 140 Main Street, Marlborough, MA 01752; and

**WHEREAS**, Quest Diagnostics LLC is a domestic limited liability company having its principal U.S. headquarters located at 3 Giralda Farms in Madison, New Jersey 07940, is authorized to do business in Massachusetts, and for this Agreement includes Quest Diagnostics Incorporated, the parent corporation, and any affiliates, subsidiaries or entities that are controlled, managed or owned by, or under common control with, Quest Diagnostics Incorporated (collectively, the "**Company**"); and

**WHEREAS**, the Owner is the fee owner of the parcel of land located at 200 Forest Street, Marlborough, Massachusetts 01752, as further depicted on Marlborough City Assessor's Map 101, Parcel 2 (the "**Property**"); and

**WHEREAS**, the Company plans as follows:

- 1) to enter into an agreement with the Owner to lease approximately 200,000 square feet of space of the approximately 537,582 square foot building, located at 200 Forest Street, Marlborough, together with parking facilities and other improvements located thereon (hereinafter, the leased space is defined as the "**Project Area**"); and
- 2) to make improvements to the Project Area in furtherance of constructing a Central Northeast state-of-the-art laboratory facility; and

**WHEREAS**, the Project Area is to be located within the boundaries of the Marlborough-Framingham Regional Economic Target Area (ETA) (as that term is used in Massachusetts General Laws, Chapter 23A, Section 3D, and referred to below as the "**ETA**"); and

**WHEREAS**, the Project Area is located within the 200 Forest Street Economic Opportunity Area (EOA) (as that terms is used in Massachusetts General Law, Chapter 23A, Section 3E, and referred to below as the "**EOA**"); and

**WHEREAS**, the Company expects to have based out of the Project Area approximately 957 permanent, full-time jobs presently located throughout Massachusetts, and beginning on the effective date of this agreement, to create and, over the term of the TIF Agreement, to maintain

at the Project Area 246 new, permanent, full-time jobs open to qualified residents of Marlborough and the ETA; and

**WHEREAS**, the renovations to the Project Area are estimated to result in an initial capital investment for the Company of \$77.85 million (\$63.85 million taking into account an approximate \$14 million reimbursement from the Owner for tenant improvements) in combined soft, real property and personal property costs (the "Project"); and

**WHEREAS**, the Owner will make additional improvements to the Project Area in accordance with the terms of the lease agreement; and

**WHEREAS**, the parties to the Agreement are desirous of entering into a TIF Agreement which shall pertain solely to the Project Area and not to any other portion of the Property, and which shall be in accordance with the Massachusetts Economic Development Incentive Program (EDIP) and Chapter 23A of the Massachusetts General Laws; and

**WHEREAS**, the City strongly supports increased economic development to provide additional jobs for residents of Marlborough and the ETA, to expand business within the City, and to develop a healthy economy and stronger tax base; and

**WHEREAS**, the Project and its related job creation will further the economic development goals and criteria established for the ETA and EOA; and

**WHEREAS**, by letter dated October \_\_, 2012, the Mayor recommended the TIF Plan and the TIF Agreement to the Marlborough City Council;

**NOW, THEREFORE**, in consideration of the mutual promises of the parties contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and contingent upon receipt of authorization from the City Council and in accordance with applicable law, the parties hereby agree as follows:

**A. THE CITY'S OBLIGATIONS.**

1. The City Council approved the provisions of this TIF Agreement on \_\_\_\_\_, pursuant to the Resolution attached hereto. The City Council hereby authorizes the Mayor to execute this TIF Agreement on the City's behalf, and to monitor and enforce compliance by the Company and the Owner with this TIF Agreement's terms. The Mayor is authorized to act for and on behalf of the City in proceedings relating to the approval of this Agreement by the Massachusetts Economic Assistance Coordinating Council (the "EACC").
2. A Tax Increment Financing exemption (the "Exemption") for the Project Area is hereby granted to the Company and the Owner by the City in accordance with Chapter 23A, Section 3E; Chapter 40, Section 59; and Chapter 59, Section 5, Cl. Fifty-first, of the Massachusetts General Laws. The Exemption shall be for a period of fifteen (15) years (the "Exemption Term"), commencing on July 1, 2014 (the beginning of fiscal year 2015) and ending on June 30, 2029 (the end of fiscal year 2029). The Exemption shall pertain to real and personal property taxes, according to the following schedules:

**PROJECT AREA'S REAL PROPERTY TAX  
EXEMPTION SCHEDULE**

<b>REAL PROPERTY EXEMPTION</b>	
<b>Fiscal Year</b>	<b>Exemption Percentage</b>
2015	100%
2016	100%
2017	90%
2018	90%
2019	80%
2020	80%
2021	75%
2022	70%
2023	70%
2024	60%
2025	60%
2026	60%
2027	50%
2028	50%
2029	50%

**PROJECT AREA'S PERSONAL PROPERTY TAX  
EXEMPTION SCHEDULE**

<b>PERSONAL PROPERTY EXEMPTION</b>	
<b>Fiscal Year</b>	<b>Exemption Percentage</b>
2015	100%
2016	100%
2017	90%
2018	90%
2019	80%
2020	80%
2021	75%
2022	70%
2023	70%
2024	60%
2025	60%
2026	60%
2027	50%
2028	50%
2029	50%



3. The base valuation for the Project Area shall be the assessed valuation of the Project Area in the base year. The base year is the most recent fiscal year immediately preceding the fiscal year in which the property becomes eligible for the TIF exemption. As provided in 760 C.M.R. 22.05(4)(d), *see* 402 C.M.R. 2.22, the Project shall become eligible for the Exemption on the July 1st following the date on which the EACC approves the TIF Plan, which is expected to be December 19, 2012. However, and in order to accommodate the planned renovations to the Project Area, the commencement date for the TIF Agreement shall be delayed for twelve (12) months. Therefore, the exemption is expected to commence on July 1, 2014, which is the beginning of fiscal year 2015. Accordingly, the base year for this TIF Agreement will be fiscal year 2014. Consequently, the base valuation for the real property pertinent to the Project Area will be determined as of January 1, 2013.
4. The base valuation shall be adjusted annually by an adjustment factor, which reflects increased commercial and industrial property values within the community, as provided in Chapter 40, Section 59 of the Massachusetts General Laws and in 760 C.M.R. 22.05(4)(b), *see* 402 C.M.R. 2.22. This adjusted base valuation will remain fully taxable (i.e., the Tax Increment Financing Exemption shall not apply to or be calculated with respect to the adjusted base valuation and no portion of the adjusted base valuation shall be eligible for exemption from Chapter 59 property taxation) throughout the term of this TIF Agreement. Only the increased value or "increment" created by improvements will be the amount eligible for exemption from taxation.
5. The City acknowledges that Quest Diagnostics LLC has the right to transfer its leasehold interest in the Project Area during the Exemption Term to Quest Diagnostics Incorporated, the parent corporation or any affiliate, subsidiary or entity that is controlled, managed or owned by, or under common control with, Quest Diagnostics Incorporated. Prior to any transfer, however, Quest Diagnostics LLC shall notify the City in writing. If Quest Diagnostics LLC transfers its leasehold interest in the Project Area or any portion therein to an affiliate, subsidiary or entity that is not controlled, managed or owned by, or under common control with, Quest Diagnostics Incorporated, Quest Diagnostics LLC's rights hereunder shall not be transferable without the prior written consent of the City, which shall not be unreasonably withheld, conditioned or denied. If the City consents to the transfer to an affiliate, subsidiary or entity that is not controlled, managed or owned by, or under common control with, Quest Diagnostics Incorporated, the provisions under Paragraph 5 of Section B herein are not triggered. If the City does not consent to the transfer to an affiliate, subsidiary or entity that is not controlled, managed or owned by, or under common control with, Quest Diagnostics Incorporated, the City may then take action under Paragraph 5 of Section B herein, as well as action to nullify this TIF agreement and request decertification of the Project by the EACC.

**B. THE COMPANY'S OBLIGATIONS AND THE OWNER'S OBLIGATIONS.**

1. The City is granting the Tax Increment Financing Exemption for the Project Area in consideration of the following commitments:
  - (a) In anticipation of the receipt of the TIF benefits described in this Agreement, Quest Diagnostics LLC and the Owner will be executing, or have executed, a lease for the Project Area;



- (b) As part of leasing the Project Area, the Company agrees that it will make capital improvements which is currently estimated to be approximately \$77.85 million (\$63.85 million taking into account an approximate \$14 million reimbursement from the Owner for tenant improvements) in combined soft, real property and personal property costs, and that it will timely pay all municipal permit fees required in connection with such improvement and investment;
- (c) The Company and the Owner agree to timely pay all of the taxes owed to the City over the term of this TIF Agreement; and
- (d) The Company agrees to relocate to the Project Area approximately 957 permanent full-time jobs presently located throughout Massachusetts; and beginning on the effective date of the Agreement, to hire and, over the term of the Agreement, to maintain a minimum of 246 new permanent full-time employees (as "permanent full-time employee" is defined in 402 C.M.R. 2.03), to be employed at the Project Area and whose employment by the Company commences on or after the effective date of the Agreement ("New Permanent Full-Time Employees"). The following schedule details the Company's schedule of job creation:

<b>SCHEDULE OF JOB CREATION</b>	
<b>Fiscal Year(s)</b>	<b>Minimum Cumulative New Permanent Full-Time Employee Requirement</b>
2013 (as of 6/30/2013)	47
2014 (as of 6/30/2014)	82
2015 (as of 6/30/2015)	246
2016 - 2029	246

- (e) Such New Permanent Full-Time Employees shall be exclusive of the Company's approximately 957 permanent, full-time jobs presently located throughout Massachusetts and to be relocated to the Project Area. In meeting its cumulative New Permanent Full-Time Employee commitment above, and consistent with all federal, state and local laws and regulations, the Company agrees to use commercially reasonable efforts to make available application opportunities for the New Permanent Full-Time Employee positions to qualified residents of Marlborough and then the regional ETA. Determination of whether any individual is qualified for any specific job or position shall be in the Company's sole discretion, and nothing herein shall be deemed to create any obligation of the Company to hire any of said residents. The Company shall meet its obligation to make such application opportunities available to such residents if, in conjunction with the Mayor's office and the Marlborough Economic Development Corporation, the Company entities who will operate in the Project Area conduct a job fair in Marlborough for staffing its Project Area.
2. The Company shall submit annual written reports on job creation and maintenance at, job

relocation to, and new investments at, the Project Area to the City of Marlborough Board of Assessors and Mayor and to the EACC by the end of September of each year with respect to the immediately preceding fiscal year during which this TIF Agreement is in effect. Reports shall be submitted for fiscal year 2013 as per the Schedule of Job Creation above, and for every fiscal year thereafter falling within the term of this TIF Agreement; thus, the report for fiscal year 2013, ending on June 30, 2013, shall be submitted by the end of September 2013. In addition to information that may be required by the EACC pursuant to 402 C.M.R. 2.14, the annual report shall be comprised of the following information:

- (a) Employment levels at the Project Area at the beginning and end of the reporting period, with a designation of the number of employees that are net new employees as of the effective date of this Agreement and the number of employees that were employed by the Company in Massachusetts prior to the effective date of this Agreement;
- (b) The specific number of ETA and Marlborough residents respectively employed at the Project Area at the beginning and at the end of the reporting period;
- (c) An accounting of the commercially reasonable efforts made by the Company to make New Permanent Full-Time Employee positions available to qualified residents of Marlborough and then to the regional ETA;
- (d) A narrative of the reasonable efforts made by the Company to solicit Marlborough businesses, vendors and suppliers to participate in requests for quotations for goods and services to be purchased by the Company as part of the Project, including but not limited to the improvements to the Project Area, as well as the purchase of new machinery and equipment as part of the Project (collectively, "Engage Local Businesses");
- (e) The Company's financial contribution to the City (including property taxes, motor vehicle excise taxes, and water and sewer fees) for the fiscal year; and
- (f) A description of any private investment, including but not limited to donations and/or perpetual maintenance of land for recreational purposes, made by the Company for the benefit of the community during the reporting period.

During the term of this TIF Agreement, the Company and the Owner will also provide the City with any information related to the Project Area, and/or to the Company's and the Owner's improvements to the Project Area, which the parties mutually agree should be provided.

3. The Tax Increment Financing Exemption percentage applicable to the exemption schedules above will automatically be adjusted downward in any particular fiscal year that the Company does not meet its minimum cumulative New Permanent Full-Time Employee requirements described in the Schedule of Job Creation above. Under this Paragraph 3, the exemption percentage applicable to both of the exemption schedules above will be adjusted for the fiscal year beginning after the job requirement date, utilizing the following formula:

(Actual Cumulative New Permanent Full-Time Employee Level / Minimum Cumulative New Permanent Full-Time Employee Requirement) x Scheduled Exemption Percentage = Actual Exemption Percentage.

For example, if the actual cumulative New Permanent Full-Time Employee level at the

end of FY 2015 is 190 instead of 246, then the real property exemption percentage, as well as the personal property exemption percentage, otherwise applicable for FY 2016 would actually be  $(190/246) \times 100\%$ , or 77%.

The exemption percentages applicable to the exemption schedules above will, for later fiscal years, revert back to the original exemption schedules if the Company restores the job level based on the minimum cumulative New Permanent Full-Time Employee requirement for that later year. If the Company meets or exceeds its minimum cumulative New Permanent Full-Time Employee requirements, the exemption schedules will not be adjusted.

4. The Company will be in default of its respective obligations under this TIF Agreement if the City determines that the Company fails to meet or comply with any of the requirements specified in Paragraphs 1 or 2 of this Section B or Paragraph 5 or 6 of this Section B below, and the City further determines that such failure continues or remains uncured for sixty (60) days (or such longer time as the City may deem appropriate under the circumstances) after the date of written notice, provided by the City to the Company, explaining in reasonable detail the grounds for or nature of such failure. Upon the City's determination that any default by the Company has continued or remained uncured for such period after the date of such written notice, the City may take such action as it deems appropriate to enforce the Company's obligations under this TIF Agreement, including but not limited to a request that EACC revoke its certification of the Project for eligibility for a Tax Increment Financing Exemption; any such request would be in addition to the automatic downward adjustment of the exemption schedules, as described in Section B.3 above. Upon any such decertification, the City shall have the right, upon written notice to the Company, to terminate the Tax Incremental Financing Exemption benefits described in Paragraph 2 of Section A, commencing as of the fiscal year in which the City has determined the Company to be in default or, if such benefits have already been received by the Company for the fiscal year in which the City has determined the Company to be in default, commencing as of the fiscal year immediately following that fiscal year. Any notice required hereunder shall be sent, certified mail, return receipt requested, or delivered in hand, to the Company at the Project Area's address. Said notice shall be effective upon receipt.
5. Except as otherwise provided pursuant to Paragraph 5 of Section A above, if, at any time prior to the expiration of the term on this Agreement, the Company moves from, vacates, abandons, or otherwise fails to maintain operations in the Project Area, the City shall be entitled to be paid back forthwith by the Company a sum equal to a proportionate share of the amount of tax savings, both as to real property and personal property, that had been enjoyed by the Company under this Agreement in the fiscal year immediately prior to the fiscal year when the Company moves from, vacates, abandons, or otherwise fails to maintain operations at the Project Area, according to the following schedule:

**COMPANY'S PAY-BACK SCHEDULE**

FY that the Company Moves From, Vacates, Abandons, or Otherwise Fails to Maintain Operations at the Project Area	Percentage of Tax Savings from Prior Fiscal Year to be Paid Back to City
2015	n/a
2016	90%
2017	80%
2018	70%
2019	60%

2020	50%
2021	40%
2022	30%
2023	20%
2024	10%
2025- 2029	0%

Such pay-back amounts shall be paid back by the Company in full within thirty (30) days of a written demand by the City. If payment is not timely made, interest shall accrue at the rate of 1.5% per month until such time as full repayment has been made.

The City shall be given sixty (60) days' written notice prior to any Company announcement to the general public of a proposed move from, vacation of, abandonment of, or other failure to maintain operations at, the Project Area, unless such notice would be in violation of any law, regulation or contractual obligation of the Company. Said notice shall identify the prospective new owner, may include information about such prospective new owner which is not otherwise subject to a confidentiality agreement; and shall be given to: Mayor's Office and to the Board of Assessor's Office, City Hall, 140 Main Street, Marlborough, MA 01752. The City shall not, except as required by law, disclose any information provided by the Company regarding any proposed disposition of the Project Area or any portion thereof by the Company.

6. The Company entities in the Project Area shall use reasonable efforts to Engage Local Businesses to participate in requests for quotations for goods and services to be purchased by the Company as part of the Project, including but not limited to the improvements to the Project Area, as well as the purchase of new machinery and equipment as part of the Project. So long as the Company entities in the Project Area contact the Marlborough Economic Development Corporation at the beginning of the Project with a description of the qualifications of the local businesses, vendors and suppliers from whom, at that time, the Company is seeking requests for quotations, the Company shall be deemed to have made reasonable efforts to Engage Local Businesses under this Section 6. However, the extent to which the Company entities in the Project Area shall hire or purchase from local businesses, vendors and suppliers under this Section 6 shall be in Company's sole discretion, and nothing herein shall be deemed to require the Company to hire or purchase from local businesses, vendors and suppliers.

**C. OTHER CONSIDERATIONS.**

1. Pursuant to 760 C.M.R. 22.05(8)(d), *see* 402 C.M.R. 2.22, this Agreement shall be binding upon the Company and its successors and assigns, and upon the Owner and its successors and assigns, so long as the Project's certification has not been revoked by EACC.
2. This Agreement is subject to M.G.L. Chapter 23A, Sections 3A-3F inclusive; M.G.L. Chapter 40, Section 59; and M.G.L. Chapter 59, Section 5, Cl. Fifty-first.
3. The Owner shall pass along to the Company all real and personal property tax savings resulting from this Agreement.
4. Should any part, term or provision of this Agreement be determined by any court of competent jurisdiction to be illegal or invalid, the validity of the remaining parts, terms,

and provisions shall not be affected thereby and said illegal or invalid part, term of provision shall be deemed not to be a part of this Agreement.

5. The effective date of this Agreement shall be December 19, 2012, the (presumptive) date of the Economic Assistance Coordinating Council's approval of the TIF Plan.
6. All notices, reports or other communications required or permitted under this TIF Agreement must be in writing signed by a duly authorized representative of the City, Company, or Owner, or as the case may be, and shall be (i) hand delivered, (ii) delivered by a nationally recognized overnight delivery service, or (iii) mailed by certified or registered mail, return receipt requested, postage prepaid, to the parties at the following addresses or such other addresses as each may have specified to the other by such a notice:

CITY: Marlborough City Hall  
Attention: Mayor's Office  
140 Main Street  
Marlborough, MA 01752

COMPANY: Quest Diagnostics LLC  
Attention: Timothy W. Anderson, Managing Director  
415 Massachusetts Avenue  
Cambridge, MA 02139

cc: Quest Diagnostics Incorporated  
Corporate Real Estate and Facilities Department  
1201 S Collegeville Rd  
Collegeville, PA 19426  
Att: Director of Corporate Real Estate

cc: Quest Diagnostics Incorporated  
3 Giralda Farms  
Madison, NJ 07940  
Att: General Counsel

OWNER: Atlantic-Marlboro Realty, LLC  
Attention: Joe Zink, President  
205 Newbury Street  
Framingham MA 01701

WITNESSETH, the execution and delivery of this Agreement by the Company, the Owner and the City as an instrument under seal as of the date last written below by the signatories hereto.

AGREED TO:

**The Company: Quest Diagnostics LLC**

By: \_\_\_\_\_ Dated: \_\_\_\_\_, 2012  
[Name]  
[Title]  
Quest Diagnostics LLC

**COMMONWEALTH OF MASSACHUSETTS**

\_\_\_\_\_, ss.

On \_\_\_\_\_, 2012, before me, the undersigned notary public, personally appeared \_\_\_\_\_, as \_\_\_\_\_ of Quest Diagnostics LLC, and proved to me through satisfactory evidence of identification, which was \_\_\_\_\_, that he/she is the person whose name is signed on the preceding or attached document.

\_\_\_\_\_  
Notary Public  
Printed

Name: \_\_\_\_\_ My \_\_\_\_\_ Commission

Expires: \_\_\_\_\_

**The Owner: Atlantic-Marlboro Realty, LLC**

By: \_\_\_\_\_ Dated: \_\_\_\_\_, 2012  
[Name]  
[Title]  
Atlantic-Marlboro Realty, LLC

**COMMONWEALTH OF MASSACHUSETTS**

\_\_\_\_\_, ss.

On \_\_\_\_\_, 2012, before me, the undersigned notary public, personally appeared \_\_\_\_\_, as \_\_\_\_\_ of Atlantic-Marlboro Realty, LLC, and proved to me through satisfactory evidence of identification, which was \_\_\_\_\_, that he/she is the person whose name is signed on the preceding or attached document.

\_\_\_\_\_  
Notary Public  
Printed  
Name: \_\_\_\_\_ My Commission  
Expires: \_\_\_\_\_

**The City of Marlborough**

By: \_\_\_\_\_ Dated: \_\_\_\_\_ 2012  
Arthur G. Vigeant  
Mayor  
City of Marlborough

**COMMONWEALTH OF MASSACHUSETTS**

\_\_\_\_\_, ss.  
On \_\_\_\_\_, 2012, before me, the undersigned notary public,  
personally appeared \_\_\_\_\_, as Mayor of the City of  
Marlborough, and proved to me through satisfactory evidence of identification, which  
was \_\_\_\_\_, that he is the person whose name is signed on  
the preceding or attached document.

\_\_\_\_\_  
Notary Public  
Printed  
Name: \_\_\_\_\_ My Commission Expires: \_\_\_\_\_



**RESOLUTION:**

**WHEREAS**, the City Council of the City of Marlborough strongly supports increased economic development to provide additional jobs for qualified residents of the City and the Marlborough-Framingham Regional Economic Target Area ("ETA"), to expand commercial and industrial activity within the City, and to promote and develop a healthy economy and stronger tax base; and

**WHEREAS**, the City of Marlborough is a part of the regional ETA; and

**WHEREAS**, the City Council of the City of Marlborough supports and endorses the economic development goals for the ETA; and

**WHEREAS**, the City Council of the City of Marlborough desires a beneficial economic use creating jobs for local residents, expanding business within the City, and developing a healthy economy and stronger tax base for Map 101, Parcel 2 on the Marlborough Assessor's Map; and

**WHEREAS**, the City Council of the City of Marlborough desires that the area be designated as the 200 Forest Street Economic Opportunity Area; and

**WHEREAS**, the City Council of the City of Marlborough finds that the 200 Forest Street Economic Opportunity Area meets the regulatory criteria defined as a "decadent area"; and

**WHEREAS**, the City Council of the City of Marlborough finds that the 200 Forest Street Economic Opportunity Area meets the local criteria and economic development goals set forth in the original Economic Target Area application; and

**WHEREAS**, the City Council of the City of Marlborough further supports and endorses the economic development goals contained in the 200 Forest Street Economic Opportunity Area application; and

**WHEREAS**, the City Council of the City of Marlborough intends to use tax increment financing or special tax assessment economic development tools created by the Massachusetts Economic Development Incentive Program based on the ability of the City of Marlborough, in accordance with needs and community benefits of a specific project, that are reasonably proportional to the economic development incentives from State and local government and the resulting economic development benefits;

**NOW THEREFORE, BE IT RESOLVED** by the City Council of the City of Marlborough that the following activities which are necessary to pursue a Certified Project designation within the 200 Forest Street Economic Opportunity Area in the City of Marlborough be authorized:

1. The City Council of the City of Marlborough hereby approves the 200 Forest Street Economic Opportunity Area ("EOA") and authorizes the submission of the 200 Forest Street EOA application (attached hereto as Exhibit 1) to the Massachusetts Economic Assistance Coordinating Council, said EOA to be comprised of Map 101, Parcel 2 on the Marlborough Assessor's Map; and



2. The City Council of the City of Marlborough hereby adopts the tax increment financing plan and authorizes the submission of a tax increment financing plan (attached hereto as Exhibit 2) to the Massachusetts Economic Assistance Coordinating Council; and
3. The City Council of the City of Marlborough agrees to authorize the use of tax increment financing and the submission of the tax increment financing agreement (attached hereto as Exhibit 3) to the Massachusetts Economic Assistance Coordinating Council; and
4. The City Council of the City of Marlborough hereby requests that the Massachusetts Economic Assistance Coordinating Council approve Quest Diagnostics LLC's designation as a certified project (local tax incentive only) (attached hereto as Exhibit 4); and further, that:
  - (a) the project, as proposed, is consistent with and can reasonably be expected to benefit significantly from inclusion in the 200 Forest Street EOA;
  - (b) the project will not overburden the City of Marlborough's infrastructure and utilities servicing the 200 Forest Street EOA;
  - (c) the project as described in the proposal will have a reasonable chance of increasing employment opportunities for residents of the Marlborough-Framingham Regional EOA; and
  - (d) the City Council approves Quest Diagnostics LLC's request that the project be designated by the Massachusetts Economic Assistance Coordinating Council as a certified project (local tax incentive only) for fifteen (15) years.

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TAX INCREMENT  
FINANCING  
PLAN and ZONE  
City of Marlborough

**200 Forest Street**

October 2012

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### I. Location

#### A. Marlborough/Framingham Regional Economic Target Area (ETA)

The City of Marlborough proposes the establishment of the site-specific 200 Forest Street Economic Opportunity Area ("EOA") and a Tax Increment Financing Zone ("TIF Zone") within the Marlborough/Framingham Regional ETA. The EOA will consist of the parcel of land located at 200 Forest Street.

#### B. Municipality

City of Marlborough, County of Middlesex, Commonwealth of Massachusetts.

#### C. TIF Zone

##### 1. Location and Map

The TIF Zone is located at 200 Forest Street and is shown on the Map 101, Parcel 2 within the Marlborough City Assessor's map files. A map showing the location of the EOA and the TIF Zone is attached as Exhibit A.

##### 2. Legal Description

A legal description of the EOA and the corresponding TIF Zone is attached as Exhibit B.

##### 3. TIF Zone Issues

None.

##### 4. Property Owners within the proposed Zone

200 Forest Street is currently owned by Atlantic-Marlboro Realty, LLC (the "Owner"). Quest Diagnostics LLC, together with Quest Diagnostics Incorporated, the parent corporation, and any affiliates, subsidiaries or entities that are controlled, managed or owned by, or under common control with, Quest Diagnostics Incorporated (collectively, "Quest Diagnostics" or the "Company") has targeted 200 Forest Street for redevelopment.

### II. Duration of TIF Zone and Plan

The duration of the TIF Zone and Tax Increment Financing Plan ("TIF Plan") will be for a period of fifteen years (Fiscal Years 2015 through 2029). The TIF Plan and Agreement herein shall commence upon final approval of the TIF Plan by the Economic Assistance Coordinating Council ("EACC"). Quest Diagnostics' eligibility for the tax increment exemption under the proposed Tax Increment Financing Agreement would commence on the first day of July of 2014.

### III. TIF Zone and Economic Development

#### A. Continued Development Opportunity

Per its proposed local TIF Agreement with the City of Marlborough, Quest Diagnostics intends to make capital investments at 200 Forest Street estimated to be \$77.8 million (\$63.85 million taking into account an approximate \$14 million reimbursement from the Owner for tenant improvements). The Company also anticipates relocating approximately 957 full-time employees and creating approximately 246 new, permanent full-time

## DRAFT

positions at the location over the first 3 years of the proposed TIF Agreement.

### **B. Net Economic Benefit to the City of Marlborough**

The benefits of Quest Diagnostics' investments that will accrue to the City of Marlborough are considerable and include the following:

- Relocation of approximately 957 permanent full-time employees to Marlborough;
- Approximately 246 newly created full-time positions over the first 3 years of the proposed TIF Agreement;
- Significant new capital investment estimated to be \$77.85 million (\$63.85 million taking into account an approximate \$14 million reimbursement from the Owner for tenant improvements);
- Increase in commercial tax revenues/base; and
- Higher and better use of existing land and building located at 200 Forest Street that is currently vacant.

### **C.-D. Analysis of Proposed and Potential Land Uses and Zoning**

The 200 Forest Street site is located within the City of Marlborough's Industrial and Limited Industrial zoning districts that allow for commercial/industrial uses per the City's Zoning Ordinance. Quest Diagnostics' proposed investment and use of the land/property will conform to the intent of the zoning districts in which it is located.

## **IV. TIF Zone Project**

### **A. Private Projects.**

Quest Diagnostics is the world's leading provider of healthcare diagnostic testing, information and services. It is a Fortune 500 company that is headquartered in New Jersey. Quest Diagnostics operates a national network of laboratories in most major metropolitan areas as well as approximately 2,000 patient locations.

Quest Diagnostics is interested in establishing a central regional laboratory in a leased facility at 200 Forest Street, Marlborough. The proposed project is anticipated to create approximately 246 new, permanent, full-time jobs, and to relocate approximately 957 permanent, full-time jobs, for a projected total of 1,203 new, permanent, full-time jobs based out of Marlborough.

The proposed project will involve renovations to the existing leased building. The renovations are estimated to result in an initial capital investment for the Company of \$77.85 million (\$63.85 million taking into account an approximate \$14 million reimbursement from the Owner for tenant improvements) in combined soft, real property and personal property costs (the "Project"). The renovations are expected to begin in January of 2013 and scheduled to be completed by July of 2014.

Quest Diagnostics is the only project envisioned for the TIF Zone.

A Marlborough City Council Vote approving Forest Street EOA, 200 Forest Street TIF Plan & Zone, as certified by the Marlborough City Clerk, is provided as a part of Exhibit C, attached hereto.

### **B. Public Projects.**

No other projects, public or private, are anticipated for the TIF Zone.

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**V. Financing for planned TIF Project.**

**A. Anticipated Financing for the 200 Forest Street Project.**

Financing for the TIF Project will be self-financed from private sources.

**B. Anticipated Financing for Other Projects.**

No other projects, public or private, are anticipated for the TIF Zone.

**VI. Tax Increment Financing.**

A Marlborough City Council vote, as Certified by the Marlborough City Clerk approving the TIF Agreement, and which has been executed by the Marlborough Mayor, as directed by the Marlborough City Council, pursuant to M.G.L. 40 §59 and M.G.L. 59 §5, is provided in Exhibit C, attached hereto.

Please refer to TIF Agreement for exemption schedule.

**VII. Approval of the TIF Project.**

**A. Approval Process.**

All projects seeking EACC approval as an EDIP Certified Expansion Project, local execution of a TIF Agreement and local designation for a defined area as an EOA are forwarded to the Marlborough City Council upon recommendation from the Marlborough Economic Development Corporation and the Mayor along with other local stakeholders comprising an Ad-Hoc Advisory TIF Committee. The Marlborough City Council will then send the EOA application and proposed TIF Agreement to the City Council Finance Committee for consideration and a recommendation as to approval. Upon review and the approval recommendation by the Finance Committee, the Marlborough City Council then formally approves the TIF Agreement and EOA designation. Once the TIF Agreement is executed by the Mayor and the Project's signatory, the EOA application and TIF Agreement are forwarded to the EACC for approval and EDIP Certified Expansion Project certification.

**B. Person authorized to execute the TIF Agreement with Quest Diagnostics.**

The Mayor of the City of Marlborough is authorized to execute the TIF Agreement, as directed by the vote of the Marlborough City Council.

**C. Evidence of Local Approval.**

See Exhibit C: The Marlborough City Council Resolution dated \_\_\_\_\_

**D. EACC Approval.**

The request to the EACC for approval of the TIF Plan and Zone and EOA Application is provided as part of this document.

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**EXHIBIT A**

Map of 200 Forest Street, Marlborough, MA



## 200 Forest Street Map 101 Parcel 2

The City of Marlborough shall assume no liability for the use of this map nor any errors, omissions, or inaccuracies contained herein regardless of how caused. The City of Marlborough assumes no liability for any decision made or action taken or not taken by the user in reliance upon any information furnished hereunder.

City of Marlborough



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**EXHIBIT B**

Legal Description of 200 Forest Street, Marlborough, MA



A CERTAIN PARCEL OF LAND SITUATED ON THE SOUTHERLY SIDE OF FOREST STREET, WESTERLY SIDE OF INTERSTATE ROUTE 495 AND THE EASTERLY SIDE OF SIMARANO DRIVE IN THE CITY OF MARLBOROUGH, COUNTY OF MIDDLESEX, COMMONWEALTH OF MASSACHUSETTS, BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE SOUTHEASTERLY CORNER OF THE INTERSECTION OF SIMARANO DRIVE AND FOREST STREET, SAID POINT BEING THE NORTHWESTERLY CORNER OF HEREINAFTER DESCRIBED PARCEL; THENCE

- EASTERLY BY A CURVE TO THE RIGHT HAVING A RADIUS OF FIVE HUNDRED SEVENTY AND NO HUNDREDTHS FEET (570.00'), A DISTANCE OF ONE HUNDRED FIFTY AND THIRTY-NINE HUNDREDTHS FEET (150.39') TO A POINT; THENCE
- S 89° 18' 23" E A DISTANCE OF TWO HUNDRED SIX AND THIRTY-THREE HUNDREDTHS FEET (206.33') TO A POINT; THENCE
- EASTERLY BY A CURVE TO THE LEFT HAVING A RADIUS OF ONE THOUSAND THIRTY AND NO HUNDREDTHS FEET (1030.00'), A DISTANCE OF THREE HUNDRED FORTY-THREE AND FORTY-TWO HUNDREDTHS FEET (343.42') TO A POINT; THENCE
- N 71° 35' 25" E A DISTANCE OF FOUR HUNDRED FIFTY-SIX AND SIXTY-FOUR HUNDREDTHS FEET (456.64') TO A POINT; THENCE
- EASTERLY BY A CURVE TO THE RIGHT HAVING A RADIUS OF FIVE HUNDRED SEVENTY AND NO HUNDREDTHS FEET (570.00'), A DISTANCE OF TWO HUNDRED TEN AND EIGHTY-FOUR HUNDREDTHS FEET (210.84') TO A POINT; THENCE
- S 87° 13' 00" E A DISTANCE OF FOUR HUNDRED TWENTY-EIGHT AND NINETY-TWO HUNDREDTHS FEET (428.92') TO A POINT; THENCE
- EASTERLY BY A CURVE TO THE LEFT HAVING A RADIUS OF ONE THOUSAND THREE HUNDRED SIXTY-TWO AND NINETY-THREE HUNDREDTHS FEET (1362.93'), A DISTANCE OF FOUR HUNDRED ONE AND FIFTY HUNDREDTHS FEET (401.50') TO A POINT; THENCE
- N 75° 54' 18" E A DISTANCE OF THREE HUNDRED EIGHTY-EIGHT AND THIRTY-EIGHT HUNDREDTHS FEET (388.38') TO A POINT IN THE WESTERLY LINE OF INTERSTATE ROUTE 495, THE PREVIOUS EIGHT (8) COURSES BOUNDING ON THE SOUTHERLY LINE OF FOREST STREET; THENCE
- SOUTHERLY BY A CURVE TO THE LEFT HAVING A RADIUS OF TEN THOUSAND ONE HUNDRED FIFTY-TWO AND NO HUNDREDTHS FEET (10152.00'), A DISTANCE OF ONE THOUSAND SIXTY-SIX AND NINE HUNDREDTHS FEET (1066.09') BY THE WESTERLY LINE OF INTERSTATE ROUTE 495 TO A POINT; THENCE
- S 78° 36' 23" W A DISTANCE OF FIVE HUNDRED THIRTY-EIGHT AND TWENTY-FIVE

- HUNDREDTHS FEET (538.25') TO A POINT; THENCE
- S 27° 49' 51" W A DISTANCE OF ONE HUNDRED TWENTY-THREE AND THIRTY-SIX HUNDREDTHS FEET (123.36') TO A POINT; THENCE
- SOUTHERLY BY A CURVE TO THE LEFT HAVING A RADIUS OF ONE THOUSAND ONE HUNDRED AND NO HUNDREDTHS FEET (1100.00'), A DISTANCE OF THREE HUNDRED AND EIGHTY-SIX HUNDREDTHS FEET (300.86') TO A POINT; THENCE
- SOUTHEASTERLY BY A CURVE TO THE RIGHT HAVING A RADIUS OF TWO HUNDRED TWENTY-THREE AND NO HUNDREDTHS FEET (223.00'), A DISTANCE OF TWO HUNDRED TWENTY-SEVEN AND NINETY-SIX HUNDREDTHS FEET (227.96') TO A POINT; THENCE
- SOUTHERLY BY A CURVE TO THE RIGHT HAVING A RADIUS OF FOUR HUNDRED FIFTY AND NO HUNDREDTHS FEET (450.00'), A DISTANCE OF FOUR HUNDRED EIGHTY-ONE AND SIXTY-EIGHT HUNDREDTHS FEET (481.68') TO A POINT; THENCE
- S 42° 06' 53" W A DISTANCE OF ONE HUNDRED ELEVEN AND TWENTY-SIX HUNDREDTHS FEET (111.26') TO A POINT; THENCE
- SOUTHERLY BY A CURVE TO THE LEFT HAVING A RADIUS OF FIVE HUNDRED TEN AND NO HUNDREDTHS FEET (510.00'), A DISTANCE OF FIVE HUNDRED SEVENTEEN AND NINETY-TWO HUNDREDTHS FEET (517.92') TO A POINT; THENCE
- S 16° 04' 13" E A DISTANCE OF ONE HUNDRED FORTY-NINE AND NINETY-THREE HUNDREDTHS FEET (149.93') TO A POINT; THENCE
- S 65° 34' 06" W A DISTANCE OF ONE HUNDRED THIRTY-SEVEN AND FIFTY-THREE HUNDREDTHS FEET (137.53') TO A POINT IN THE EASTERLY LINE OF SIMARANO DRIVE; THENCE
- NORTHWESTERLY BY A CURVE TO THE LEFT HAVING A RADIUS OF FIVE HUNDRED THIRTY AND NO HUNDREDTHS FEET (530.00') A DISTANCE OF ONE HUNDRED SIXTY-EIGHT AND TWENTY-TWO HUNDREDTHS FEET (168.22') TO A POINT; THENCE
- N 53° 42' 50" W A DISTANCE OF ONE THOUSAND SIX HUNDRED EIGHTY-EIGHT AND NINETY HUNDREDTHS FEET (1688.90') TO A POINT; THENCE
- NORTHWESTERLY BY A CURVE TO THE RIGHT HAVING A RADIUS OF SIX HUNDRED FORTY-SEVEN AND NINETY HUNDREDTHS FEET (647.90'), A DISTANCE OF SIX HUNDRED FIFTY-THREE AND TWENTY-FIVE HUNDREDTHS FEET (653.25') TO A POINT; THENCE
- N 04° 03' 18" E A DISTANCE OF TWO HUNDRED THIRTY-FIVE AND NINETY-TWO HUNDREDTHS FEET (235.92') TO A POINT; THENCE

NORTHERLY BY A CURVE TO THE LEFT HAVING A RADIUS OF FOUR HUNDRED SEVENTY-SEVEN AND FORTY-NINE HUNDREDTHS FEET (477.49'), A DISTANCE OF ONE HUNDRED FORTY-EIGHT AND SEVENTY-EIGHT HUNDREDTHS FEET (148.78') TO A POINT; THENCE

N 13° 47' 53" W A DISTANCE OF FOUR HUNDRED FORTY-ONE AND TWENTY-THREE HUNDREDTHS FEET (441.23') TO A POINT; THENCE

NORTHEASTERLY BY A CURVE TO THE RIGHT HAVING A RADIUS OF FIFTY AND NO HUNDREDTHS FEET (50.00'), A DISTANCE OF SEVENTY-SEVEN AND NINETY-NINE HUNDREDTHS FEET (77.99') TO THE POINT OF BEGINNING. THE PREVIOUS SEVEN (7) COURSES BOUNDING ON THE SAID EASTERLY LINE OF SIMARANO DRIVE.

THE ABOVE DESCRIBED PARCEL OF LAND CONTAINS AN AREA OF 109.47 ACRES AND IS MORE PARTICULARLY SHOWN ON A PLAN ENTITLED "COMPILED PLAN OF LAND IN MARLBOROUGH, MASS. & SOUTHBOROUGH, MASS." DATED NOVEMBER 23, 1994; PREPARED BY THE BSC GROUP, INC AND RECORDED WITH MIDDLESEX SOUTH DISTRICT REGISTRY OF DEEDS AS PLAN NO. 1254 OF 1994.

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**EXHIBIT C**

The Marlborough City Council Resolution dated \_\_\_\_\_

**RESOLUTION:**

**WHEREAS**, the City Council of the City of Marlborough strongly supports increased economic development to provide additional jobs for qualified residents of the City and the Marlborough-Framingham Regional Economic Target Area ("ETA"), to expand commercial and industrial activity within the City, and to promote and develop a healthy economy and stronger tax base; and

**WHEREAS**, the City of Marlborough is a part of the regional ETA; and

**WHEREAS**, the City Council of the City of Marlborough supports and endorses the economic development goals for the ETA; and

**WHEREAS**, the City Council of the City of Marlborough desires a beneficial economic use creating jobs for local residents, expanding business within the City, and developing a healthy economy and stronger tax base for Map 101, Parcel 2 on the Marlborough Assessor's Map; and

**WHEREAS**, the City Council of the City of Marlborough desires that the area be designated as the 200 Forest Street Economic Opportunity Area; and

**WHEREAS**, the City Council of the City of Marlborough finds that the 200 Forest Street Economic Opportunity Area meets the regulatory criteria defined as a "decadent area"; and

**WHEREAS**, the City Council of the City of Marlborough finds that the 200 Forest Street Economic Opportunity Area meets the local criteria and economic development goals set forth in the original Economic Target Area application; and

**WHEREAS**, the City Council of the City of Marlborough further supports and endorses the economic development goals contained in the 200 Forest Street Economic Opportunity Area application; and

**WHEREAS**, the City Council of the City of Marlborough intends to use tax increment financing or special tax assessment economic development tools created by the Massachusetts Economic Development Incentive Program based on the ability of the City of Marlborough, in accordance with needs and community benefits of a specific project, that are reasonably proportional to the economic development incentives from State and local government and the resulting economic development benefits;

**NOW THEREFORE, BE IT RESOLVED** by the City Council of the City of Marlborough that the following activities which are necessary to pursue a Certified Project designation within the 200 Forest Street Economic Opportunity Area in the City of Marlborough be authorized:

1. The City Council of the City of Marlborough hereby approves the 200 Forest Street Economic Opportunity Area ("EOA") and authorizes the submission of the 200 Forest Street EOA application (attached hereto as Exhibit 1) to the Massachusetts Economic Assistance Coordinating Council, said EOA to be comprised of Map 101, Parcel 2 on the Marlborough Assessor's Map; and

2. The City Council of the City of Marlborough hereby adopts the tax increment financing plan and authorizes the submission of a tax increment financing plan (attached hereto as Exhibit 2) to the Massachusetts Economic Assistance Coordinating Council; and
3. The City Council of the City of Marlborough agrees to authorize the use of tax increment financing and the submission of the tax increment financing agreement (attached hereto as Exhibit 3) to the Massachusetts Economic Assistance Coordinating Council; and
4. The City Council of the City of Marlborough hereby requests that the Massachusetts Economic Assistance Coordinating Council approve Quest Diagnostics LLC's designation as a certified project (local tax incentive only) (attached hereto as Exhibit 4); and further, that:
  - (a) the project, as proposed, is consistent with and can reasonably be expected to benefit significantly from inclusion in the 200 Forest Street EOA;
  - (b) the project will not overburden the City of Marlborough's infrastructure and utilities servicing the 200 Forest Street EOA;
  - (c) the project as described in the proposal will have a reasonable chance of increasing employment opportunities for residents of the Marlborough-Framingham Regional EOA; and
  - (d) the City Council approves Quest Diagnostics LLC's request that the project be designated by the Massachusetts Economic Assistance Coordinating Council as a certified project (local tax incentive only) for fifteen (15) years.

**THE MASSACHUSETTS ECONOMIC DEVELOPMENT INCENTIVE PROGRAM**

APPLICATION FOR DESIGNATION AS A  
**SITE-SPECIFIC ECONOMIC OPPORTUNITY AREA**  
FOR

**200 Forest Street EOA**

Located at  
200 Forest Street  
Marlborough, MA 01752  
(Marlborough City Assessor's Map 101, Parcel 2)

WITHIN THE  
**Marlborough/Framingham Economic Target Area**

**The Massachusetts Economic Development Incentive Program**

**APPLICATION FOR DESIGNATION  
OF ECONOMIC OPPORTUNITY AREA(S)**

**PART A: Applicant Information**

**1. Please check one:**

This is an application for designation of a new EOA within a previously approved ETA.

This is a request to amend an EOA previously approved by the EACC.

**2. Community submitting this application:**

*Marlborough, Massachusetts*

**Name of proposed EOA(s):**

*200 Forest Street Economic Opportunity Area ("EOA")*

**PART B: MANDATORY REQUIREMENTS FOR THE PROPOSED EOA**

**1. Location of Proposed EOA(s):**

Provide a detailed map of each proposed EOA, indicating the existing streets, highways, waterways, natural boundaries, and other physical features, along with a legally binding written description of the EOA boundaries (with parcel numbers if appropriate). If the written description is longer than one paragraph, please submit on a 3 1/2" computer disk.

*The property is located at 200 Forest Street in Marlborough, Massachusetts and is listed in the Marlborough City Assessor's files as Map 101, Parcel 2. Please see the location map, attached as Exhibit A and the legal description attached as Exhibit B.*

**2. Description of EOA(s):**



Describe why each proposed EOA was chosen for designation. Include a brief, descriptive narrative of each area which helps to explain the particular situations, issues, or reasons why EOA designation is requested.

*The proposed EOA is zoned for commercial/industrial use and is the former location of Hewlett-Packard. The proposed EOA site meets the definition of a "Decadent Area" ("Exhibit D") due to recent, adverse and substantial changes to the area's business/economic conditions. Such adverse changes are evidenced by the condition of the building located at 200 Forest Street, which has been vacant for an extended period of time.*

*A site-specific EOA designation will help advance the City of Marlborough's efforts to market the current site to a new commercial end user. The 200 Forest EOA designation will serve to attract new jobs and capital investment to the site, strengthen Marlborough's commercial tax base, as well as encourage the highest and best use of a site that is now vacant.*

3. **Basis for EOA Designation:** Check the applicable category or categories (see definitions in attachment at back of application) for each proposed EOA:

The area proposed for designation as an EOA is a "blighted open area."

The area proposed for designation as an EOA is a "decadent area."

The area proposed for designation is a "substandard area."

The area proposed for designation as an EOA has experienced a plant closing or permanent layoffs resulting in a cumulative job loss of 2,000 or more full-time employees within the four years prior to the date of filing the application.

4. **Effective Time Period for EOA Designation:** How long do you propose to maintain the EOA designation? The EOA designation may remain in effect for a minimum of five (5) years to a maximum of twenty (20) years.

*The City of Marlborough proposes that the EOA designation remain in effect for twenty (20) years.*

5. **Local Criteria for Designation of EOAs:** Describe how each proposed EOA meets your criteria for designation of EOAs, as specified in your application for designation of the ETA.

- *EOAs must be locally designated with the approval of the Mayor and Marlborough City Council;*

- *EOAs must meet all requirements promulgated the Massachusetts Economic Assistance Coordinating Council ("EACC");*
- *EOA applications must also be submitted first to the appropriate MA Office of Business Development's (MOBD) Regional Director for review and then forwarded to the EACC for approval;*
- *EOA applications must identify one or more Regional Economic Development Goals and how the EOA will contribute to the achievement of that goal; and*
- *EOAs must be comprised of land that is appropriate for economic development.*

**6. Economic Development Goals:** Describe the economic development goals for each proposed EOA during the first five years of EOA designation.

*The City of Marlborough has previously adopted the following goal for the Marlborough/Framingham Regional ETA that is applicable to the planned redevelopment of the proposed EOA:*

- *Utilization of existing blighted/decadent commercial/industrial buildings or sites.*

*Quest Diagnostics LLC together with Quest Diagnostics Incorporated, the parent corporation, and any affiliates, subsidiaries or entities that are controlled, managed or owned by, or under common control with, Quest Diagnostics Incorporated (collectively, "Quest Diagnostics" or the "Company") has targeted the proposed EOA to create a central regional laboratory facility. The proposed EOA site is currently owned by Atlantic-Marlboro Realty, LLC (the "Owner"), is currently vacant and has been vacant for over two years.*

*Additionally, the economic development goals for the proposed EOA include:*

- 1. creating approximately 246 new jobs in the Marlborough/Framingham Regional ETA;*
- 2. basing approximately 957 permanent, full-time jobs presently located throughout Massachusetts to the Marlborough/Framingham Regional ETA;*
- 3. investing approximately \$77.85 (\$63.85 million taking into account an approximate \$14 million reimbursement from the Owner for tenant improvements) million in renovation, construction, fixtures, furniture, equipment and technology costs;*
- 4. increasing the City's commercial tax base;*
- 5. encouraging productivity in commercially zoned areas of the City; and*

6. *promoting the restoration and revitalization of a vacant site in the City of Marlborough.*

7. **Local Services:** Describe the manner and extent to which the municipality intends to provide for an increase in the efficiency of the delivery of local services within the proposed EOA(s) (i.e. streamlining permit application and approval procedures, increasing the level of services to meet new demand, changing management structure for service delivery).

*The City of Marlborough is a business-friendly community whose municipal officials are always willing to work with businesses to promote economic development and success. City officials help companies navigate the local permitting and zoning process and expedite these approvals whenever possible. The City of Marlborough implements an expedited review permit review process that is coordinated by the City's administrative Site Plan Review Committee, The City's Building Inspector, Fire and Police Chiefs, as well as other staff professionals, sit on the Site Plan Review Committee.*

*The proposed 200 Forest Street EOA is already adequately serviced by sewer, water, gas, electric, voice data and cable. At this time, no additional services are envisioned for the EOA.*

8. **Compliance with Community Reinvestment Act:** Include a copy of a municipal plan or policy, if any exists, which links the municipality's choice of banking institutions to the bank's compliance with the requirements of the Community Reinvestment Act.

*The City of Marlborough does not currently have a written policy linking its banking policies to a bank's compliance with the Community Reinvestment Act.*

9. **Project Approval:**

(a) Identify the municipal official or group/board which shall be authorized to review project proposals for and on behalf of the municipality.

*The Mayor and Marlborough Economic Development Corporation are authorized to review project proposals on behalf of the City of Marlborough. The Marlborough City Council is the legislative entity that ultimately approves all EOA Designations and Tax Increment Financing Agreements.*

(b) Indicate the standards and procedures for review of project proposals, including the application procedures, the timeframe for review and determination, and the criteria and process for approval of project proposals.

If you intend to use supplemental application material (i.e. municipal cover letter with instructions, job commitment signoff sheet, supplemental questions to be required by the municipality, etc.), it must be mentioned here and must be approved by the Economic Assistance Coordinating Council (EACC). Please attach (if appropriate).

*All projects seeking EACC approval as an EDIP Expansion Project, local execution of a TIF Agreement and local designation for a defined area as an EOA are forwarded to the Marlborough City Council upon recommendation from the Marlborough Economic Development Corporation and the Mayor along with other local stakeholders comprising of an Ad-Hoc Advisory TIF Committee. The Marlborough City Council will then send the EOA application and proposed TIF Agreement to the City Council Finance Committee for consideration and approval. Upon review and approval by the Finance Committee, the Marlborough City Council then formally approves the TIF Agreement and EOA Designation. Once the TIF Agreement is executed by the Mayor and the Project's signatory, the EOA application and TIF Agreement are forwarded to the EACC for approval and EDIP Expansion Project certification.*

**10. Intent of Businesses to Locate in EOA:**

Identify the names and nature of businesses, if any, that have indicated an intention to locate or expand in the proposed EOA(s). If possible, include letters of intent from the businesses, outlining the number of jobs that would likely be created and providing a timetable for development of the projects.

*As noted previously, Quest Diagnostics is interested in establishing a central regional laboratory at 200 Forest Street, Marlborough. The proposed project has the goal of creating approximately 246 new, permanent, full-time jobs, and relocating approximately 957 permanent, full-time jobs, for a projected total of 1,203 new, permanent, full-time jobs based out of Marlborough.*

*The proposed project will involve renovations to the existing building. The renovations are estimated to result in an initial capital investment for the Company of \$77.85 million (\$63.85 million taking into account an approximate \$14 million reimbursement from the Owner for tenant improvements) in combined soft, real property and personal property costs (the "Project"). The renovations are expected to begin in January of 2013 and scheduled to be completed by July of 2014.*

*See the 200 Forest Street TIF Plan and TIF Agreement for Quest Diagnostics.*

**PART C: SPECIAL REQUIREMENTS FOR LARGE MUNICIPALITIES**

This section must be completed by any municipality or member of a regional ETA with a population that exceeds fifty thousand (50,000) people. The population threshold should be calculated based on the most recent statistics available from the U.S. Bureau of the Census.

*This Section is not applicable to the City of Marlborough as, according to the US Census Bureau, the City's population was 39,499 in 2010.*

**PART D: COMMITMENT TO PROVIDE LOCAL PROPERTY TAX RELIEF**

The municipality completing this application must provide a binding written offer to provide either tax increment financing or a special tax assessment to each certified project located within the proposed EOA(s).

Please attach a copy of the municipality's binding written offer.

- In cities, this shall be in the form of a City Council Order of Resolution, along with a certified Vote by the City Clerk.
- In towns with Town Meeting form of government, this shall be in the form of a Town Meeting Motion, along with a Certified Vote by the Town Clerk.
- In towns with Town Council form of government, this shall be in the form of a Town Council Order or Resolution, along with a Certified Vote by the Town Clerk.

*Attached as Exhibit C is a certification of the \_\_\_\_\_, 2012 Marlborough City Council vote designating the 200 Forest Street EOA and a Tax Increment Financing Agreement by and between the City of Marlborough, Quest Diagnostics and the Owner.*

EXHIBITS

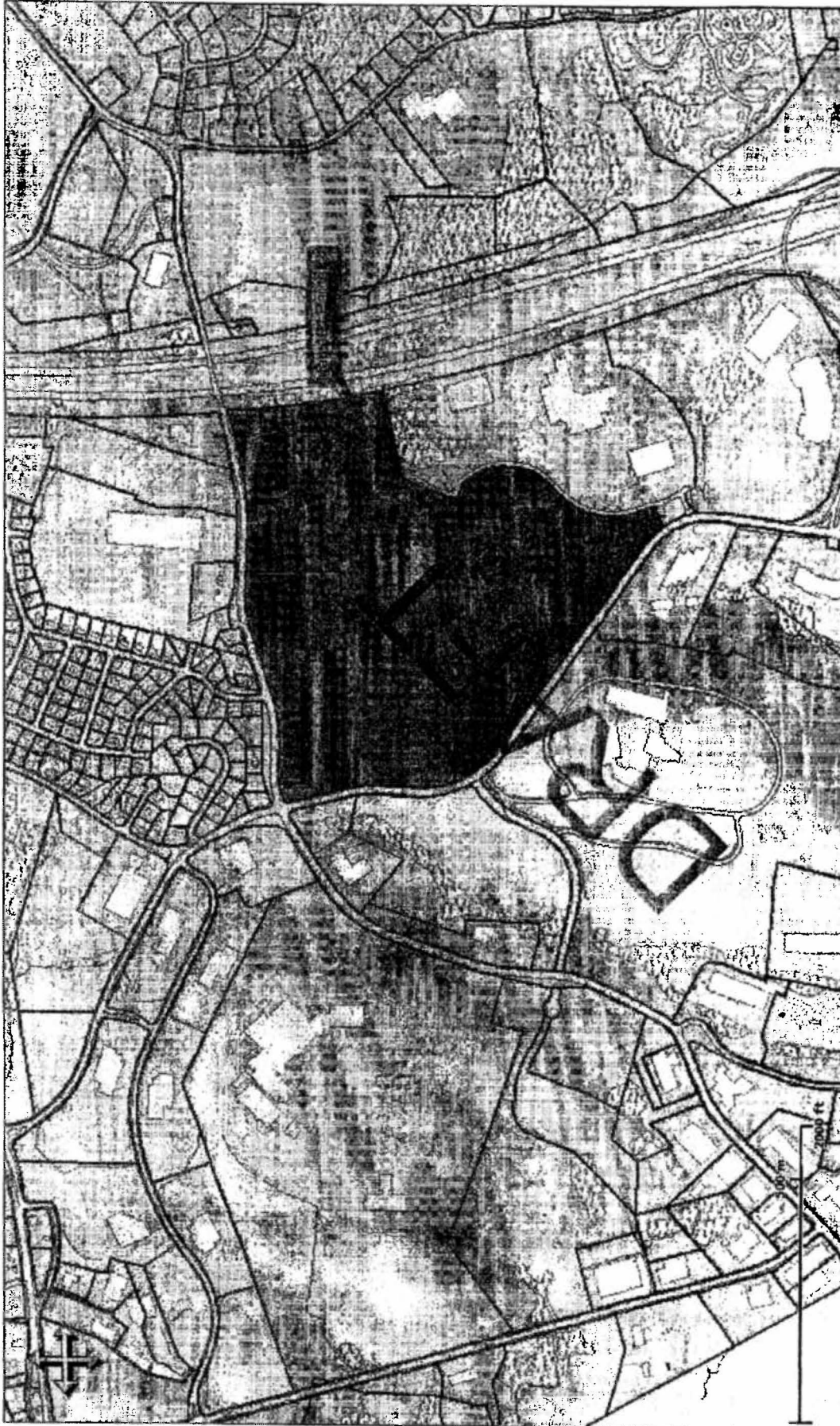
- Exhibit A: Map of Proposed 200 Forest Street EOA
- Exhibit B: Legal Description of 200 Forest Street EOA
- Exhibit C: Marlborough City Council Vote Approving the 200 Forest Street EOA
- Exhibit D: Definition of "Decadent Area" per MGL c. 121A, § 1 & 402 CMR 2.03

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EXHIBIT A

Map of Proposed 200 Forest Street EOA

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City of Marlborough



**200 Forest Street  
Map 101 Parcel 2**

The City of Marlborough shall assume no liability for the use of this map nor any errors, omissions, or inaccuracies contained herein regardless of how caused. The City of Marlborough assumes no liability for any decision made or action taken or not taken by the user in reliance upon any information furnished hereunder.

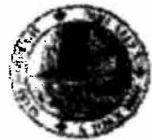




EXHIBIT B

Legal Description of 200 Forest Street EOA

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A CERTAIN PARCEL OF LAND SITUATED ON THE SOUTHERLY SIDE OF FOREST STREET, WESTERLY SIDE OF INTERSTATE ROUTE 495 AND THE EASTERLY SIDE OF SIMARANO DRIVE IN THE CITY OF MARLBOROUGH, COUNTY OF MIDDLESEX, COMMONWEALTH OF MASSACHUSETTS, BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE SOUTHEASTERLY CORNER OF THE INTERSECTION OF SIMARANO DRIVE AND FOREST STREET, SAID POINT BEING THE NORTHWESTERLY CORNER OF HEREINAFTER DESCRIBED PARCEL; THENCE

- EASTERLY BY A CURVE TO THE RIGHT HAVING A RADIUS OF FIVE HUNDRED SEVENTY AND NO HUNDREDTHS FEET (570.00'), A DISTANCE OF ONE HUNDRED FIFTY AND THIRTY-NINE HUNDREDTHS FEET (150.39') TO A POINT; THENCE
- S 89° 18' 23" E A DISTANCE OF TWO HUNDRED SIX AND THIRTY-THREE HUNDREDTHS FEET (206.33') TO A POINT; THENCE
- EASTERLY BY A CURVE TO THE LEFT HAVING A RADIUS OF ONE THOUSAND THIRTY AND NO HUNDREDTHS FEET (1030.00'), A DISTANCE OF THREE HUNDRED FORTY-THREE AND FORTY-TWO HUNDREDTHS FEET (343.42') TO A POINT; THENCE
- N 71° 35' 25" E A DISTANCE OF FOUR HUNDRED FIFTY-SIX AND SIXTY-FOUR HUNDREDTHS FEET (456.64') TO A POINT; THENCE
- EASTERLY BY A CURVE TO THE RIGHT HAVING A RADIUS OF FIVE HUNDRED SEVENTY AND NO HUNDREDTHS FEET (570.00'), A DISTANCE OF TWO HUNDRED TEN AND EIGHTY-FOUR HUNDREDTHS FEET (210.84') TO A POINT; THENCE
- S 87° 13' 00" E A DISTANCE OF FOUR HUNDRED TWENTY-EIGHT AND NINETY-TWO HUNDREDTHS FEET (428.92') TO A POINT; THENCE
- EASTERLY BY A CURVE TO THE LEFT HAVING A RADIUS OF ONE THOUSAND THREE HUNDRED SIXTY-TWO AND NINETY-THREE HUNDREDTHS FEET (1362.93'), A DISTANCE OF FOUR HUNDRED ONE AND FIFTY HUNDREDTHS FEET (401.50') TO A POINT; THENCE
- N 75° 54' 18" E A DISTANCE OF THREE HUNDRED EIGHTY-EIGHT AND THIRTY-EIGHT HUNDREDTHS FEET (388.38') TO A POINT IN THE WESTERLY LINE OF INTERSTATE ROUTE 495, THE PREVIOUS EIGHT (8) COURSES BOUNDING ON THE SOUTHERLY LINE OF FOREST STREET; THENCE
- SOUTHERLY BY A CURVE TO THE LEFT HAVING A RADIUS OF TEN THOUSAND ONE HUNDRED FIFTY-TWO AND NO HUNDREDTHS FEET (10152.00'), A DISTANCE OF ONE THOUSAND SIXTY-SIX AND NINE HUNDREDTHS FEET (1066.09') BY THE WESTERLY LINE OF INTERSTATE ROUTE 495 TO A POINT; THENCE
- S 78° 36' 23" W A DISTANCE OF FIVE HUNDRED THIRTY-EIGHT AND TWENTY-FIVE

- HUNDREDTHS FEET (538.25') TO A POINT; THENCE
- S 27° 49' 51" W A DISTANCE OF ONE HUNDRED TWENTY-THREE AND THIRTY-SIX HUNDREDTHS FEET (123.36') TO A POINT; THENCE
- SOUTHERLY BY A CURVE TO THE LEFT HAVING A RADIUS OF ONE THOUSAND ONE HUNDRED AND NO HUNDREDTHS FEET (1100.00'), A DISTANCE OF THREE HUNDRED AND EIGHTY-SIX HUNDREDTHS FEET (300.86') TO A POINT; THENCE
- SOUTHEASTERLY BY A CURVE TO THE RIGHT HAVING A RADIUS OF TWO HUNDRED TWENTY-THREE AND NO HUNDREDTHS FEET (223.00'), A DISTANCE OF TWO HUNDRED TWENTY-SEVEN AND NINETY-SIX HUNDREDTHS FEET (227.96') TO A POINT; THENCE
- SOUTHERLY BY A CURVE TO THE RIGHT HAVING A RADIUS OF FOUR HUNDRED FIFTY AND NO HUNDREDTHS FEET (450.00'), A DISTANCE OF FOUR HUNDRED EIGHTY-ONE AND SIXTY-EIGHT HUNDREDTHS FEET (481.68') TO A POINT; THENCE
- S 42° 06' 53" W A DISTANCE OF ONE HUNDRED ELEVEN AND TWENTY-SIX HUNDREDTHS FEET (111.26') TO A POINT; THENCE
- SOUTHERLY BY A CURVE TO THE LEFT HAVING A RADIUS OF FIVE HUNDRED TEN AND NO HUNDREDTHS FEET (510.00'), A DISTANCE OF FIVE HUNDRED SEVENTEEN AND NINETY-TWO HUNDREDTHS FEET (517.92') TO A POINT; THENCE
- S 16° 04' 13" E A DISTANCE OF ONE HUNDRED FORTY-NINE AND NINETY-THREE HUNDREDTHS FEET (149.93') TO A POINT; THENCE
- S 65° 34' 06" W A DISTANCE OF ONE HUNDRED THIRTY-SEVEN AND FIFTY-THREE HUNDREDTHS FEET (137.53') TO A POINT IN THE EASTERLY LINE OF SIMARANO DRIVE; THENCE
- NORTHWESTERLY BY A CURVE TO THE LEFT HAVING A RADIUS OF FIVE HUNDRED THIRTY AND NO HUNDREDTHS FEET (530.00') A DISTANCE OF ONE HUNDRED SIXTY-EIGHT AND TWENTY-TWO HUNDREDTHS FEET (168.22') TO A POINT; THENCE
- N 53° 42' 50" W A DISTANCE OF ONE THOUSAND SIX HUNDRED EIGHTY-EIGHT AND NINETY HUNDREDTHS FEET (1688.90') TO A POINT; THENCE
- NORTHWESTERLY BY A CURVE TO THE RIGHT HAVING A RADIUS OF SIX HUNDRED FORTY-SEVEN AND NINETY HUNDREDTHS FEET (647.90'), A DISTANCE OF SIX HUNDRED FIFTY-THREE AND TWENTY-FIVE HUNDREDTHS FEET (653.25') TO A POINT; THENCE
- N 04° 03' 18" E A DISTANCE OF TWO HUNDRED THIRTY-FIVE AND NINETY-TWO HUNDREDTHS FEET (235.92') TO A POINT; THENCE

NORTHERLY BY A CURVE TO THE LEFT HAVING A RADIUS OF FOUR HUNDRED SEVENTY-SEVEN AND FORTY-NINE HUNDREDTHS FEET (477.49'), A DISTANCE OF ONE HUNDRED FORTY-EIGHT AND SEVENTY-EIGHT HUNDREDTHS FEET (148.78') TO A POINT; THENCE

N 13° 47' 53" W A DISTANCE OF FOUR HUNDRED FORTY-ONE AND TWENTY-THREE HUNDREDTHS FEET (441.23') TO A POINT; THENCE

NORTHEASTERLY BY A CURVE TO THE RIGHT HAVING A RADIUS OF FIFTY AND NO HUNDREDTHS FEET (50.00'), A DISTANCE OF SEVENTY-SEVEN AND NINETY-NINE HUNDREDTHS FEET (77.99') TO THE POINT OF BEGINNING. THE PREVIOUS SEVEN (7) COURSES BOUNDING ON THE SAID EASTERLY LINE OF SIMARANO DRIVE.

THE ABOVE DESCRIBED PARCEL OF LAND CONTAINS AN AREA OF 109.47 ACRES AND IS MORE PARTICULARLY SHOWN ON A PLAN ENTITLED "COMPILED PLAN OF LAND IN MARLBOROUGH, MASS. & SOUTHBOROUGH, MASS." DATED NOVEMBER 23, 1994; PREPARED BY THE BSC GROUP, INC AND RECORDED WITH MIDDLESEX SOUTH DISTRICT REGISTRY OF DEEDS AS PLAN NO. 1254 OF 1994.

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EXHIBIT C

Marlborough City Council Vote Approving the 200 Forest Street EOA

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EXHIBIT D

Definition of "Decadent Area" pursuant to MGL c. 121A, § 1 & 402 CMR 2.03:

**Decadent Area:** an area which is detrimental to the safety, health, welfare or sound growth of a community because of the existence of buildings which are out of repair, physically deteriorated, unfit for human habitation, obsolete, or in need of major maintenance or repair, or because much of the real estate in recent years has been sold or taken for non-payment of taxes or upon foreclosure of mortgages; or because buildings have been torn down and not replaced and in which under existing conditions it is improbable that the buildings will be replaced; or because of a substantial change in business or economic conditions; or because of inadequate light, air, or open space; or because of excessive land coverage; or because diversity of ownership, irregular lot sizes, or obsolete street patterns makes it improbable that the area will be redeveloped by the ordinary operations of private enterprise; or by reason of any combination of the foregoing conditions.

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**Economic Assistance Coordinating Council  
LOCAL TAX INCENTIVE ONLY PROJECTS**

<b>1. APPLICANT(S) INFORMATION</b>			
<b>Business Names of Applicant(s):</b>		Quest Diagnostics LLC	
<b>Business Address of Applicants:</b>		3 Giralda Farms, Madison, New Jersey, 07940	
<b>FEIN #:</b>		16-1387862 (FEIN of Parent, Quest Diagnostics Incorporated, as Quest Diagnostics LLC is a disregarded entity for MA tax purposes)	
<b>Executive Officer:</b>		Robert F. O'Keefe, Vice President and Treasurer of Quest Diagnostics Incorporated	
<b>Contact Person (If different):</b>		Timothy W. Anderson Managing Director, Quest Diagnostics 415 Massachusetts Avenue Cambridge, MA 02139	
<b>Email:</b>	Timothy.W.Anderson@questdiagnostics.com		
<b>Phone:</b>	(617) 520-8101	<b>Fax:</b>	(617) 497-5508
<b>2. NATURE AND HISTORY OF THE APPLICANT BUSINESS</b>			
Please provide a general description of the applicant's business, history and reason for the project (for example, the company outgrew its existing space).			
<p>Quest Diagnostics Incorporated, doing business in Massachusetts through Quest Diagnostics LLC and other subsidiaries and affiliates, (hereinafter collectively referred to as "Quest" or "the Company") is the leading provider of diagnostic testing, information and services, which doctors and patients need to make better healthcare decisions. The Company is a pioneer in developing innovative diagnostic tests and advanced healthcare information technology solutions that help improve patient care.</p> <p>To best position the Company for future growth, Quest is contemplating merging its New England laboratory operations into one state-of-the-art facility. To that end, the Company is in the final stages of a site selection process. Quest is interested in pursuing a TIF Agreement for leased space in Marlborough located at 200 Forest Street, the building formerly occupied by Hewlett-Packard that has been vacant for more than two years.</p>			
<b>3. PROJECT and LOCAL TAX INCENTIVE INFORMATION</b>			
<b>Project Name:</b>		Quest Diagnostics Northeast Regional Laboratory Facility	
<b>Economic Opportunity Area and Project Address:</b>		200 Forest Street EOA 200 Forest Street, Marlborough, MA	
<b>Municipality:</b>		Marlborough, MA	
<b>Local Tax Incentive: Please identify whether Tax Increment Financing or Special Tax Assessment Agreement, the duration of the incentive and percentage exemption (for example, 5 Year TIF (50-40-30-20-10):</b>			
15 Years <input checked="" type="checkbox"/> TIF <input type="checkbox"/> STA Exemption Schedule: 100%, 100%, 90%, 90%, 80%, 80%, 75%, 70%, 70%, 60%, 60%, 60%, 50%, 50%, 50%.			

Base Taxable Value of Property:	TBD
Projected total value of local real estate tax exemption:	TBD
Projected total value of local personal property tax exemption:	TBD
Start of TIF / STA:	July 1, 2014 (FY 2015)
If applicable, has the building been 75% vacant for 24 months or more?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
Project Job Creation (Full Time, Permanent):	246
Project Job Retention (Full Time, Permanent):	957
Project Investment:	\$77.85 million (\$63.85 million taking into account an approximate \$14 million reimbursement from the Owner for tenant improvements)
As a result of the project, will there be any consolidation, relocation or closing of Massachusetts' facilities? If yes, please explain.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Quest is planning to consolidate operations by creating a central laboratory facility in Marlborough.
Will the project facility be owned or leased by the applicant? If leased, please identify property owner and confirm that property tax savings will be provided to the EDIP applicant.	Owned <input type="checkbox"/> Leased <input checked="" type="checkbox"/> Property Owner: Atlantic-Marlboro Realty, LLC All local property tax savings provided to EDIP applicant business <input checked="" type="checkbox"/>
<b>4. NATURE AND PURPOSE OF PROPOSED PROJECT</b>	
Please provide a summary description of the applicant's project including (a) detail and the proposed timeline of a purchase / lease and / or construction and occupation, (b) equipment purchases, (c) skills needed for new employees and hiring methods. Please explain why local incentives are necessary for the project to move forward.	
<p>Quest is planning to establish a central state-of-the-art laboratory facility in the Northeast. To that end, the Company is interested in entering into an agreement to lease approximately 200,000 square feet of space of the approximately 537,582 square foot building located at 200 Forest Street in Marlborough, MA together with parking facilities and other improvements located thereon.</p> <p>The Company plans to make capital investments estimated to be \$77.8 million (\$63.85 million taking into account an approximate \$14 million reimbursement from the owner for tenant improvements). Quest also anticipates relocating 957 full-time employees and creating 246 new, permanent full-time positions at the location over the first 3 years of the proposed TIF Agreement.</p> <p>The proposed EOA is zoned for commercial/industrial use and is the former location of Hewlett-Packard. The proposed EOA site meets the definition of a "Decadent Area" due to the area's business/economic conditions. Such adverse changes are evidenced by the building located at 200 Forest Street having been vacant for an extended period of time, by the physical deteriorated condition of the building, and by the overgrown parking lot.</p>	



A Site Specific EOA designation will help advance the City of Marlborough efforts to market the current site to a new commercial end user. The 200 Forest EOA designation will serve to attract new jobs and capital investment to the site, strengthen Marlborough's commercial tax base, as well as to encourage the highest and best use of a site that is now vacant.

**5. MUNICIPAL INFORMATION**

Municipal Contact:	Tim Cummings		
Municipal Address:	91 Main Street, Suite 204, Marlborough, MA 01752		
Municipal Email:	tcummings@marlboroughedc.com		
Municipal Phone:	508-229-2010	Municipal Fax:	

**6. LOCAL APPROVAL and CERTIFICATE OF GOOD STANDING**

Date Municipality Approved Local Tax Incentive:	
Approving Authority:	Marlborough City Council
Attach Municipal Vote Approving Incentive:	<input type="checkbox"/>
Attach TIF/STA Agreement	<input checked="" type="checkbox"/>
<p>Certificate of Good Standing - Provide proof of good tax standing in the Commonwealth of Massachusetts via a Massachusetts Department of Revenue Certificate of Good Standing for each of the businesses intending to take advantage of tax incentives. To obtain a Certificate of Good Standing go to <a href="https://wfb.dor.state.ma.us/webfile/Certificate/Public/WebForms/Welcome.asp">https://wfb.dor.state.ma.us/webfile/Certificate/Public/WebForms/Welcome.asp</a></p>	Attached <input checked="" type="checkbox"/>

<b>PART II. LABOR AFFIRMATION</b>	
<b>Part A:</b>	
<input checked="" type="checkbox"/>	As an applicant requesting Certified Project approval, <u>Quest Diagnostics LLC and its affiliates</u> , affirms (check box) that this business will not unlawfully misclassify workers as self-employed or as independent contractors, and certifies compliance with applicable state and federal employment laws and regulations, including but not limited to minimum wages, unemployment insurance, workers' compensation, child labor, and the Massachusetts Health Care Reform Law, Chapter 58 of the Acts of 2006, as amended.
<input checked="" type="checkbox"/>	As an applicant requesting Certified Project approval, <u>Quest Diagnostics LLC and its affiliates</u> , affirms (check box) that this business will not knowingly employ developers, subcontractors, or other third parties that unlawfully misclassify workers as self-employed or as independent contractors, or that fail to comply with applicable state and federal employment laws and regulations, including but not limited to minimum wages, unemployment insurance, workers' compensation, child labor, and the Massachusetts Health Care Reform Law, Chapter 58 of the Acts of 2006, as amended.
<b>Part B: Within the past five years, has the applicant or any of its officers, directors, employees, agents, or subcontractors of which the applicant has knowledge, been the subject of (if yes, please provide details):</b>	
(a) an indictment, judgment, conviction, or grant of immunity, including pending actions, for any business-related conduct constituting a crime under state or federal law;	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Details: Quest Diagnostics Incorporated & subsidiaries is a large corporation in a highly regulated industry. See 10-K for information about matters related to the company.
(b) a government suspension or debarment, rejection of any bid or disapproval of any proposed contract subcontract, including pending actions, for lack of responsibility, denial or revocation of prequalification or a voluntary exclusion agreement; or	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Details:
(c) any governmental determination of a violation of any public works law or regulation, or labor law or regulation or	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Details:

any OSHA violation deemed "serious or willful?"	
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*I/We\_ (names and titles) of the applicant business applying for approval of tax incentives from the Commonwealth of Massachusetts, Economic Assistance Coordinating Council hereby certify that I/we have been authorized to file this application and to provide the information within and accompanying this application and that the information provided herein is true and complete and that it reflects the applicant's intentions for investment and job creation. I/we understand that the information provided with this application will be relied upon by the Commonwealth in deciding whether to approve tax incentives and that the Commonwealth reserves the right to take action against the applicant or any other beneficiary of the tax incentives if the Commonwealth discovers that the applicant intentionally provided misleading, inaccurate, or false information. I/we make this certification under the pains and penalties of perjury.*

**AND Certification as to accuracy and Public Records Law acknowledgement:**

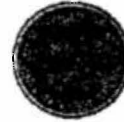
*The signatories hereby certify that the answers in this application and the documents submitted in support thereof are accurate and complete representations of the applicant. They also hereby acknowledge that, under the Public Records law of the Commonwealth of Massachusetts, this application and all documents submitted in support thereof are public records under the provisions of Massachusetts G. L., Ch. 4, sec. 7 (26).*

Name	Title	Date

DRAFT



MASSACHUSETTS DEPT. OF REVENUE  
PO BOX 7066  
BOSTON, MA 02204



AMY A. PITTER, COMMISSIONER  
ROBERT P. O'NEILL, BUREAU CHIEF



QUEST DIAGNOSTICS INC  
1280 WALL ST W FL 4  
LYNDHURST NJ 07071-3683

2430

Notice 80619  
T/P ID 161 387 862  
Date 8/23/12  
Bureau CERTIFICATE

OP

**CERTIFICATE OF GOOD STANDING AND/OR TAX COMPLIANCE**

The Commissioner of Revenue certifies as of the above date, that the above named individual or entity is in compliance with its tax obligations payable under M.G.L. c. 62C including corporation excise, sales and use taxes, sales tax on meals, sales and use tax on Boats/RV, withholding taxes, room occupancy excise and personal income taxes, with the following exceptions.

This Certificate certifies that individual taxpayers are in compliance with income tax obligations and any sales and use taxes, sales tax on meals, withholding taxes, and/or room occupancy taxes related to a sole proprietorship. Persons deemed responsible for the payment of these taxes on behalf of a corporation, partnership or other business entity may not use our automated process to obtain a Certificate.

This Certificate does not certify that the entity is standing as to taxes such as unemployment insurance administered by agencies other than the Department of Revenue, or taxes under any other provisions of law. Taxpayers required to collect or remit the following taxes must submit a separate request to certify compliance: Alcoholic Beverage Excise, Cigarette Excise, International Fuels Tax Agreement, Smokeless Tobacco or Ferry Embarkation.

THIS IS NOT A WAIVER OF LIEN ISSUED UNDER GENERAL LAWS, CHAPTER 62C, SECTION 52.

Very truly yours,

Robert O'Neill, Bureau Chief



MASSACHUSETTS DEPT. OF REVENUE  
PO BOX 7088  
BOSTON, MA 02204



AMY A. PITTER, COMMISSIONER  
ROBERT P. O'NEILL, BUREAU CHIEF



ATHENA DIAGNOSTICS INC  
1290 WALL ST W  
LYNDHURST NJ 07071-3603

243C

Notice 80619  
T/P ID 311 805 826  
Date 9/19/12  
Bureau CERTIFICATE

OP

**CERTIFICATE OF GOOD STANDING AND/OR TAX COMPLIANCE**

The Commissioner of Revenue certifies as of the above date, that the above named individual or entity is in compliance with its tax obligations payable under M.G.L. c. 62C, including corporation excise, sales and use taxes, sales tax on meals, sales and use tax on Boats/RV, withholding taxes, room occupancy excise and personal income taxes, with the following exceptions.

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THIS IS NOT A WAIVER OF LIEN ISSUED UNDER GENERAL LAWS, CHAPTER 62C, SECTION 52.

Very truly yours,

Robert O'Neill, Bureau Chief



# City of Marlborough

RECEIVED  
CITY CLERK'S OFFICE  
CITY OF MARLBOROUGH

## Office of the Mayor

2012 OCT 25 A 11: 51

140 Main Street

Marlborough, Massachusetts 01752

Tel. (508) 460-3770 Facsimile (508) 460-3698 TDD (508) 460-3610

[www.marlborough-ma.gov](http://www.marlborough-ma.gov)

*Arthur G. Vigeant*  
MAYOR

*Michael C. Berry*  
EXECUTIVE AIDE

*Patricia Bernard*  
EXECUTIVE SECRETARY

October 25, 2012

City Council President Patricia Pope  
Marlborough City Council  
140 Main Street  
Marlborough, MA 01752

### **Re: Cultural District Designation**

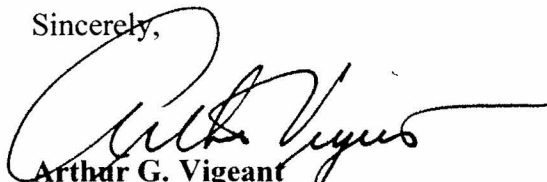
Honorable President Pope and Councilors:

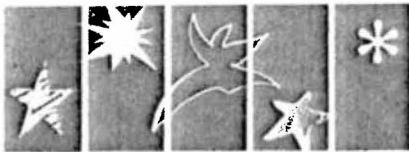
I am pleased to inform you that the downtown area in the City of Marlborough has officially earned designation by the Massachusetts Cultural Council as a cultural district. Officially known as the "Marlborough Downtown Village Cultural District," this designation marks an important step in the city's ability to promote tourism, economic development, and address the revitalization of pedestrian friendly areas.

Enclosed for your edification is the official letter to the city from the Mass. Cultural Council.

I want to give special thanks the Marlborough Economic Development Corporation and Mary Scott of the Marlborough Downtown Village and Main Street Cafe for their hard work in leading this effort and putting Marlborough in a position for success.

Sincerely,

  
Arthur G. Vigeant  
Mayor



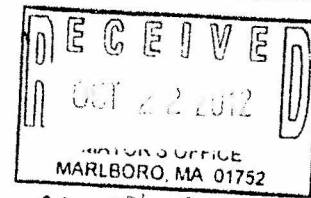
MASSACHUSETTS CULTURAL COUNCIL

10 St. James Avenue  
Boston, MA 02116-3803  
617.727.3668  
800.232.0960 Toll Free  
617.338.9153 TTY  
617.727.0044 Fax  
mcc@art.state.ma.us E-mail  
www.massculturalcouncil.org Web

Arthur Vigeant, Mayor  
City of Marlborough  
City Hall  
140 Main Street  
Marlborough, MA 01752-3810

October 12, 2012

Dear Mayor Vigeant,



cc: City Council  
# Clerk - Agenda

We are writing to officially confirm state designation of the Marlborough Downtown Village Cultural District by the Massachusetts Cultural Council on October 12, 2012. You are one of the first 14 municipalities to have achieved a cultural district designation, and we applaud your commitment to developing a cultural economic development agenda for your community.

Your cultural district designation will be in effect for 5 years and renewed upon successful compliance with annual reporting requirements and a recommitment by the municipality. A report will be required at the end of the first 12 months of your designation and yearly thereafter. We will send you the report paperwork well in advance of the first yearly report due date, which is October 11, 2013.

Enclosed with this letter is a copy of your cultural district map. The boundaries of your map represent your cultural district as approved by the Massachusetts Cultural Council. Changes to the district boundaries must be negotiated with the Massachusetts Cultural Council.

This fall we are arranging a convening of the newly designated districts on Wednesday, November 7. This informal meeting is designed to cover topics of mutual interest including evaluation requirements, marketing, and governance. We will be sending more information about the convening in the next two weeks.

For your information, we are delighted to report that the Massachusetts Office of Travel and Tourism, one of the state agencies partnering with the MCC on the Cultural Districts Initiative, has developed a webpage specifically for designated districts. The link is: <http://www.massvacation.com/culturaldistricts/>. You can expect information about your cultural district to be available soon.

Lastly, we will contact you within the next few weeks with more information regarding your participation in the Cultural District signage program.

Congratulations to all the people involved in the effort of achieving the designation. We look forward to working with you in the years ahead.

Sincerely,

Anita Walker  
Executive Director

CC: Tim Cummings, Director of Operations, Marlborough Economic Development Corporation;  
Mary Scott, Marlborough Downtown Village Association







City of Marlborough



## Cultural District Draft Map 10-3-12

The City of Marlborough shall assume no liability for the use of this map nor any errors, omissions, or inaccuracies contained herein regardless of how caused. The City of Marlborough assumes no liability for any decision made or action taken or not taken by the user in reliance upon any information furnished hereunder.





# City of Marlborough

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CITY OF MARLBOROUGH

## Office of the Mayor

2012 OCT 25 A 11:51

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*Arthur G. Vigeant*  
MAYOR

*Michael C. Berry*  
EXECUTIVE AIDE

*Patricia Bernard*  
EXECUTIVE SECRETARY

October 25, 2012

City Council President Patricia Pope  
Marlborough City Council  
140 Main Street  
Marlborough, MA 01752

### **Re: School Department Supplemental Budget Request**

Honorable President Pope and Councilors:

After a thorough district-wide review of the school department budget, Superintendent Steve Dlott brought before the Marlborough School Committee a request to seek \$2,581,967.00 million in additional funding for FY13. Enclosed is the Superintendent's request and relevant backup information which outlines the proposed allocation and reason for this funding request.

This is not a request that the Superintendent, School Committee, or I take lightly. During the Finance Committee budget hearings this past spring I had significant reservations and questions about the budget that was presented at the time and acted accordingly to reduce their budget request. Working with Superintendent Dlott and new School Business Manager Susan Bottan, the budget has been thoroughly vetted and scrutinized so that we can confidently and precisely address the needs of our schools and ensure that our tax dollars are being put to their best use.

The Marlborough Public Schools are continuing to move forward in a positive direction. Most recently, Massachusetts Secretary of Education Paul Reville toured our district's STEM classes and was effusive in his praise for the dedication and ingenuity shown by both students and teachers. In addition, our Advanced Placement (AP) courses continue to show strong enrollment and students continue to meet and exceed expectations on their AP exams. Both the STEM and AP programs are just two of many success stories in our school system that will be further bolstered by this supplemental budget request.

Enclosed in this correspondence is an order which will outline the School Department's budget request. The school administration and I look forward to answering any questions you may have as we move forward in this process.

Sincerely,

**Arthur G. Vigeant**  
Mayor



CITY OF MARLBOROUGH  
*IN CITY COUNCIL*

FISCAL YEAR 2013 SUPPLEMENTARY BUDGET

REASON FOR PROPOSED EXPENDITURES

TO FUND SCHOOL DEPARTMENT FY13 BUDGETARY LINE ITEMS

ORDERED:

That the following sum, designated as City appropriations, is hereby appropriated as a supplementary budget in the City of Marlborough: \$2,581,967.00 / two million, five hundred eighty-one thousand, nine hundred and sixty seven dollars.

This sum is to be placed into the budgetary line item as defined below:

<b>Account Number</b>	<b>Description</b>	<b>Amount</b>
	Marlborough Public Schools	\$2,581,967.00
Total		\$2,581,967.00



# Marlborough Public Schools

---

District Education Center

Stephen Dlott • Interim Superintendent  
17 Washington Street, Marlborough, MA 01752  
Phone (508) 460-3509 • [sdlott@mps-edu.org](mailto:sdlott@mps-edu.org)

October 25, 2012

Patricia Pope  
President, Marlborough City Council  
140 Main Street  
Marlborough, MA 01752

Dear President Pope:

I am requesting City Council approval of a supplementary budget of **\$2,581, 967** to be added to the existing FY13 budget of **\$50,852,532**. This would bring the total budget for FY13 to **\$53,434,499**. This supplementary budget was approved by the School Committee on October 23 by a vote of six to zero.

The reason for this request is that the current budget is underfunded. To make this request more transparent and understandable, I have broken the request into five components which are included as an attachment. For a more complete description, the presentation that was made to School Committee on October 23 as well as all appendices are posted on the Marlborough Public Schools Web site, [www.mps-edu.org](http://www.mps-edu.org). I have also included a summary of offsets which had been requested by a member of City Council as well as answers to questions posed to me already by members of the Council.

This new budget will allow the school system to move forward in a positive manner to ensure that we meet the needs of all students and move forward with our strategic plan, *Believe 2016*. I look forward to meeting with you and the members of the City Council to discuss this proposal.

Sincerely,

Stephen Dlott  
Interim Superintendent

/ps

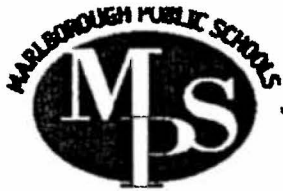
**Marlborough Public Schools**  
**Summary of Additions & Reductions to FY 2013 Appropriated Budget**

	APPROPRIATED FY 2013 Budget	SUPERINTENDENT'S RECOMMENDED SUPPLEMENTAL INCREASE <i>October 2012</i>		
Appropriated FY 2013 Budget	\$ 50,852,532	\$ 53,434,499	5.1%	
			<b>Base Budget or One Time Cost</b>	<b>One Time Cost Amount</b>
<b>CONTRACT NEGOTIATIONS</b>				
New contracts	\$	809,385	base	
Contractual and legal obligations	\$	489,148	*one time	\$ 297,822
<b>Sub-total</b>	<b>\$</b>	<b>1,298,533</b>		<b>297,822</b>
Budgeted Salary Reserve	\$	100,000	base	
<b>Total</b>	<b>\$</b>	<b>1,198,533</b>		<b>297,822</b>
<b>TEACHING &amp; LEARNING</b>				
Curriculum resource materials	\$	324,000	base	
4th grade instrumental music	\$	134,590	base	
Substitute Teachers	\$	60,000	base	
Teacher evaluation tools	\$	16,000	one time	16,000
PSAT exams	\$	4,000	base	
Instructional and general supplies	\$	77,500	base	
Title 1 accounting adjustment	\$	64,905	one time	64,905
<b>Total</b>	<b>\$</b>	<b>680,995</b>		<b>80,905</b>
<b>OUT OF DISTRICT PLACEMENTS</b>				
Legal Mandates	\$	973,054	base	
<b>Total</b>	<b>\$</b>	<b>973,054</b>		
<b>BUILDING SPECIAL EDUCATION CAPACITY</b>				
Sped audit	\$	18,000	one time	18,000
Special Education consultants	\$	81,750	base	
Increase in ABA hours and professional development	\$	174,176	base	
<b>Total</b>	<b>\$</b>	<b>273,926</b>		<b>18,000</b>
<b>SALARY SAVINGS</b>				
Reassignments and differentials	\$	(544,541)		
<b>Total Supplemental Increase</b>	<b>\$</b>	<b>2,581,967</b>		<b>396,727</b>

\*Contractual and Legal Obligations base and one time costs are detailed on the "Contractual Obligations" spreadsheet in this workbook.

Summary of Budget Offset Account  
as of 6/8/12

		2013	Revised	
		Budget	2013	Change
		Budget	Budget	
49999999	79999			
Baalance at 7/1/11				
Circuit Beaker				
	Circuit Breaker Total	(2,562,500.00)	(2,562,500.00)	-
Grants				
Grant 3380	Sped IDEA	(1,000,000.00)	(1,000,000.00)	-
Grant 3386	Kindergarten Enhancement	(110,000.00)	(110,000.00)	-
Grant 3389	Teacher Quality	(125,000.00)	(125,000.00)	-
Grant 3382	SPED Early Childhood	(56,000.00)	(56,000.00)	-
	Title 1	(170,000.00)	(300,000.00)	(130,000.00)
	Grant Totals	(1,461,000.00)	(1,591,000.00)	(130,000.00)
Revolving Accounts				
6.08.12	SPED Tuition Reimbursement			
6.08.12	Kindergarten Tuition	(250,000.00)	(275,000.00)	(25,000.00)
	Early Childhood Center ECC	(140,000.00)	(140,000.00)	-
	Rental Revolving	(201,000.00)	(201,000.00)	-
	Cafeteria	(50,000.00)	(129,000.00)	(79,000.00)
	Athletic Gate Receipts	(70,000.00)	(70,000.00)	-
	Student Activity Fees	(40,000.00)	(40,000.00)	-
	Revolving Totals	(751,000.00)	(855,000.00)	(104,000.00)
	Medicaid Reimbursement		(350,000.00)	(350,000.00)
	Cable Trust	(56,000.00)	(72,000.00)	(16,000.00)
Total		(4,830,500.00)	(5,430,500.00)	(600,000.00)



---

17 Washington Street, Marlborough, MA 01752  
Phone 508-460-3554 ~ Fax 508- 508-485-1142

October 25, 2012

To: Dr. Stephen Dlott, Superintendent of Schools  
From: Susan Bottan, Business Manager  
Subject: Additional Information for City Council

Please find to follow additional information requested by City Council:

1. Daily pay for a teacher substitute is \$80. Daily pay for an appointed long-term teacher substitute is \$140.
2. Hourly wages for behavioral technicians is \$17.00 for ABA Techs, \$25 for Lead Techs, and \$42 for Board Certified (BCBA) Techs.
3. A summary of Revolving Accounts as reported in MUNIS as of October 24, 2012 is attached for reference.

Marlborough Public Schools  
 Summary of SRF/Revolving Accounts for FY 2013  
 as of 10.24.12

Run Date : 10.24.12 16.03

SRF School Revolving - Fund 260

Account	Name	Original Appropriation	Transfers/ Adjustments	Revised Budget	Expenditures Ytd	Encumbrances	Available Budget
3401	Athletics/Gate Receipts	2,874.91	9,130.00	12,004.91	-	-	12,004.91
3414	Student Activity/Athletic Fee	1,219.00	24,650.00	25,869.00	-	-	25,869.00
	Sub Total	4,093.91	33,780.00	37,873.91	-	-	37,873.91
3402	Custodial Outside Detail	245.00	25,677.50	25,922.50	14,274.58	-	11,647.92
	School Rental	117,421.64	112,421.27	229,842.91	4,376.90	1,328.85	224,137.16
	Sub Total	117,666.64	138,098.77	255,765.41	18,651.48	1,328.85	235,785.08
3404	Preschool	12,450.00	43,883.60	56,333.60	-	-	56,333.60
3405	Tuition - Kindergarten Tuition	58,515.00	50,256.00	108,771.00	-	-	108,771.00
3405	Tuition - SPED Reimbursement	-	-	-	-	-	-
3406	Elementary Alliance	23,205.51	13,850.00	37,055.51	6,138.95	-	30,916.56
3407	ESL/ Adult	1,068.10	220.00	1,288.10	-	220.00	1,068.10
3408	Enrichment Gifted & Talented	50.00	-	50.00	-	-	50.00
3409	Music	496.45	-	496.45	-	-	496.45
3415	Summer Program Revolving	584.14	-	584.14	-	-	584.14
3416	Psat/Sat Revolving	1,335.70	-	1,335.70	188.13	-	1,147.57
	Totals	219,465.45	280,088.37	499,553.82	24,978.56	1,548.85	473,026.41

Cafeteria Revolving Fund 220

3601 Food Service 176,258.23 383,886.02 560,144.25 323,669.82 733,950.53 (497,476.10)

3411 Circuit Breaker Fund 290

Circuit Breaker 118,816.00 67,082.00 185,898.00 - 185,898.00

Total 118,816.00 67,082.00 185,898.00 - 185,898.00





*City of Marlborough*  
*Office of the Mayor*

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CITY OF MARLBOROUGH  
2012 OCT 25 A 11:51

140 Main Street  
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Tel. (508) 460-3770 Facsimile (508) 460-3698 TDD (508) 460-3610  
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*Arthur G. Vigeant*  
MAYOR

*Michael C. Berry*  
EXECUTIVE AIDE

*Patricia Bernard*  
EXECUTIVE SECRETARY

October 25, 2012

City Council President Patricia Pope  
Marlborough City Council  
140 Main Street  
Marlborough, MA 01752

**Re: Grant Acceptance**

Honorable President Pope and Councilors:

The Massachusetts Emergency Management Agency is just now releasing the Emergency Management Performance Grant (EMPG) from federal fiscal year 2010. The City of Marlborough was awarded a grant in the amount of \$9,000.00 to replace radios and equipment in the Emergency Operations Center.

I have enclosed for you the relevant backup information from Emergency Management Director Don Cusson. Please do not hesitate to let me know if you have any questions.

Sincerely,

**Arthur G. Vigeant**  
Mayor



*City of Marlborough*  
*Emergency Management*

696 CONCORD ROAD

MARLBOROUGH, MASSACHUSETTS 01752-5617

TEL. (508) 481-1933 ■ FACSIMILE (508) 460-3795 ■ TDD (508) 460-3610

CELL (508) 726-1088 ■ PAGER (978) 803-2061

*Don Cusson*  
EMERGENCY MANAGEMENT  
DIRECTOR  
dcusson@marlborough-ma.gov

**Mayor, Arthur G. Vigeant**  
140 Main St. City Hall  
Marlborough, MA 01752

**October 21, 2012**

**Honorable Mayor Vigeant;**

**Enclosed is a copy of an EMPG 2010 Grant needed to go to the Council for adoption. As you can see it is 2009 funds that are just being available to the communities. Which must be spent by 12/30/2012 \$9,000.00**

**These are funds that must be used for the replacement of old obsolete equipment. The equipment purchase to support the program must be purchased from an Authorized Equipment list provided by FEMA.**

**As you can see this would require Council approval as soon as possible as the time is short to expend these funds and have equipment installed.**

**Thank you very much and if there are any questions please call or email at any time.**

**Respectfully,**

*Donald E. Cusson*  
**Donald E. Cusson**

0  
**NOTICE OF GRANT AWARD**

DEPARTMENT: Emergency Management DATE: 10/21/2012

PERSON RESPONSIBLE FOR GRANT EXPENDITURE: Donald E. Cusson

NAME OF GRANT: EMPG Grant 2010

GRANTOR: Massachusetts Emergency Management Agency

GRANT AMOUNT: \$9,000.00

GRANT PERIOD: 9/1/2012-----12/30/2012

SCOPE OF GRANT/ Replace radios and equipment in the (EOC) Emergency Operations Center

ITEMS FUNDED Replace radios and equipment in the EOC) Reuimbersment

IS A POSITION BEING CREATED: NO

IF YES: CAN FRINGE BENEFITS BE PAID FROM GRANT? \_\_\_\_\_

ARE MATCHING CITY FUNDS REQUIRED? NO

IF MATCHING IS NON-MONETARY (MAN HOURS, ETC.) PLEASE SPECIFY:  
\_\_\_\_\_  
\_\_\_\_\_

IF MATCHING IS MONETARY PLEASE GIVE ACCOUNT NUMBER AND DESCRIPTION OF CITY FUNDS TO BE USED:  
\_\_\_\_\_  
\_\_\_\_\_

ANY OTHER EXPOSURE TO CITY?  
\_\_\_\_\_

IS THERE A DEADLINE FOR CITY COUNCIL APPROVAL: \_\_\_\_\_  
Yes ASAP as the funds must be depleted by 12/30/2012

**DEPARTMENT HEAD MUST SUBMIT THIS FORM, A COPY OF THE GRANT APPROVAL, AND A COVER LETTER TO THE MAYOR'S OFFICE REQUESTING THAT THIS BE SUBMITTED TO CITY COUNCIL FOR APPROVAL OF DEPARTMENT TO EXPEND THE FUNDS RECEIVED FOR THE PURPOSE OF THE GRANT**

# COMMONWEALTH OF MASSACHUSETTS ~ STANDARD CONTRACT FORM



This form is jointly issued and published by the Executive Office for Administration and Finance (ANF), the Office of the Comptroller (CTR) and the Operational Services Division (OSD) as the default contract for all Commonwealth Departments when another form is not prescribed by regulation or policy. Any changes to the official printed language of this form shall be void. Additional non-conflicting terms may be added by Attachment. Contractors may not require any additional agreements, engagement letters, contract forms or other additional terms as part of this Contract without prior Department approval. Click on hyperlinks for definitions, instructions and legal requirements that are incorporated by reference into this Contract. An electronic copy of this form is available at [www.mass.gov/osc](http://www.mass.gov/osc) under [Guidance For Vendors - Forms](#) or [www.mass.gov/osd](http://www.mass.gov/osd) under [OSD Forms](#).

<b>CONTRACTOR LEGAL NAME:</b> CITY OF MARLBOROUGH (and d/b/a):		<b>COMMONWEALTH DEPARTMENT NAME:</b> MASS EMERGENCY MANAGEMENT AGENCY MMARS Department Code: CDA, EMERGENCY MANAGEMENT AGENCY	
Legal Address: (W-9, W-4,T&C): 140 MAIN ST MARLBOROUGH 01752		Business Mailing Address: 400 WORCESTER RD FRAMINGHAM MA 01702	
Contract Manager: Don Cusson		Billing Address (if different):	
E-Mail: <a href="mailto:dcusson@marlborough.ma.gov">dcusson@marlborough.ma.gov</a>		Contract Manager: JEFF TIMPERI	
Phone:	Fax:	E-Mail: <a href="mailto:JEFF.TIMPERI@STATE.MA.US">JEFF.TIMPERI@STATE.MA.US</a>	
Contractor Vendor Code: VC6000192111		Phone: 508.820.2019	Fax:
Vendor Code Address ID (e.g. "AD001"): AD_001 (Note: The Address ID must be set up for EFT payments.)		MMARS Doc ID(s): FY13EMPG1000000MARLB	
		RFR/Procurement or Other ID Number: 2010 EMPG	
<input checked="" type="checkbox"/> <b>NEW CONTRACT</b>		<input type="checkbox"/> <b>CONTRACT AMENDMENT</b>	
<b>PROCUREMENT OR EXCEPTION TYPE: (Check one option only)</b> <input type="checkbox"/> Statewide Contract (OSD or an OSD-designated Department) <input type="checkbox"/> Collective Purchase (Attach OSD approval, scope, budget) <input checked="" type="checkbox"/> Department Procurement (Includes State or Federal grants 815 CMR 2.00) (Attach RFR and Response or other procurement supporting documentation) <input type="checkbox"/> Emergency Contract (Attach justification for emergency, scope, budget) <input type="checkbox"/> Contract Employee (Attach Employment Status Form, scope, budget) <input type="checkbox"/> Legislative/Legal or Other: (Attach authorizing language/justification, scope and budget)		Enter Current Contract End Date <b>Prior</b> to Amendment: _____, 20____. Enter Amendment Amount: \$ _____ (or "no change") <b>AMENDMENT TYPE: (Check one option only. Attach details of Amendment changes.)</b> <input type="checkbox"/> Amendment to Scope or Budget (Attach updated scope and budget) <input type="checkbox"/> Interim Contract (Attach justification for Interim Contract and updated scope/budget) <input type="checkbox"/> Contract Employee (Attach any updates to scope or budget) <input type="checkbox"/> Legislative/Legal or Other: (Attach authorizing language/justification and updated scope and budget)	
The following COMMONWEALTH TERMS AND CONDITIONS (T&C) has been executed, filed with CTR and is incorporated by reference into this Contract.			
<input checked="" type="checkbox"/> Commonwealth Terms and Conditions <input type="checkbox"/> Commonwealth Terms and Conditions For Human and Social Services			
<b>COMPENSATION: (Check ONE option):</b> The Department certifies that payments for authorized performance accepted in accordance with the terms of this Contract will be supported in the state accounting system by sufficient appropriations or other non-appropriated funds, subject to intercept for Commonwealth owed debts under 815 CMR 9.00. <input type="checkbox"/> Rate Contract (No Maximum Obligation. Attach details of all rates, units, calculations, conditions or terms and any changes if rates or terms are being amended.) <input checked="" type="checkbox"/> Maximum Obligation Contract Enter Total Maximum Obligation for total duration of this Contract (or new Total if Contract is being amended). \$ 9,000.00			
<b>PROMPT PAYMENT DISCOUNTS (PPD):</b> Commonwealth payments are issued through EFT 45 days from invoice receipt. Contractors requesting accelerated payments must identify a PPD as follows: Payment issued within 10 days ___% PPD; Payment issued within 15 days ___% PPD; Payment issued within 20 days ___% PPD; Payment issued within 30 days ___% PPD. If PPD percentages are left blank, identify reason: ___agree to standard 45 day cycle ___ statutory/legal or Ready Payments (G.L.c. 29, § 23A); <input checked="" type="checkbox"/> only initial payment (subsequent payments scheduled to support standard EFT 45 day payment cycle. See Prompt Pay Discounts Policy.)			
<b>BRIEF DESCRIPTION OF CONTRACT PERFORMANCE or REASON FOR AMENDMENT:</b> (Enter the Contract title, purpose, fiscal year(s) and a detailed description of the scope of performance or what is being amended for a Contract Amendment. Attach all supporting documentation and justifications.) Funding for this grant is provided through the FFY2010 Emergency Management Performance Grant, the catalog of Federal Domestic Assistance (CFDA) number is 97.042. The community intends to conduct antenna repair/install work.			
<b>ANTICIPATED START DATE:</b> (Complete ONE option only) The Department and Contractor certify for this Contract, or Contract Amendment, that Contract obligations:			
<input checked="" type="checkbox"/> 1. may be incurred as of the <u>Effective Date</u> (latest signature date below) and <u>no</u> obligations have been incurred <u>prior</u> to the <u>Effective Date</u> . <input type="checkbox"/> 2. may be incurred as of _____, 20____, a date <u>LATER</u> than the <u>Effective Date</u> below and <u>no</u> obligations have been incurred <u>prior</u> to the <u>Effective Date</u> . <input type="checkbox"/> 3. were incurred as of, a date <u>PRIOR</u> to the <u>Effective Date</u> below, and the parties agree that payments for any obligations incurred prior to the <u>Effective Date</u> are authorized to be made either as settlement payments or as authorized reimbursement payments, and that the details and circumstances of all obligations under this Contract are attached and incorporated into this Contract. Acceptance of payments forever releases the Commonwealth from further claims related to these obligations.			
<b>CONTRACT END DATE:</b> Contract performance shall terminate as of <u>December 31, 2012</u> , with no new obligations being incurred after this date unless the Contract is properly amended, provided that the terms of this Contract and performance expectations and obligations shall survive its termination for the purpose of resolving any claim or dispute, for completing any negotiated terms and warranties, to allow any close out or transition performance, reporting, invoking or final payments, or during any lapse between amendments.			
<b>CERTIFICATIONS:</b> Notwithstanding verbal or other representations by the parties, the "Effective Date" of this Contract or Amendment shall be the latest date that this Contract or Amendment has been executed by an authorized signatory of the Contractor, the Department, or a later Contract or Amendment Start Date specified above, subject to any required approvals. The Contractor makes all certifications required under the attached <u>Contractor Certifications</u> (Incorporated by reference if not attached hereto) under the pains and penalties of perjury, agrees to provide any required documentation upon request to support compliance, and agrees that all terms governing performance of this Contract and doing business in Massachusetts are attached or incorporated by reference herein according to the following hierarchy of document precedence, the applicable <u>Commonwealth Terms and Conditions</u> , this Standard Contract Form including the <u>instructions and Contractor Certifications</u> , the Request for Response (RFR) or other solicitation, the Contractor's Response, and additional negotiated terms, provided that additional negotiated terms will take precedence over the relevant terms in the RFR and the Contractor's Response only if made using the process outlined in <u>801 CMR 27.07</u> , incorporated herein, provided that any amended RFR or Response terms result in best value, lower costs, or a more cost effective Contract.			
<b>AUTHORIZING SIGNATURE FOR THE CONTRACTOR:</b> X: <u>[Signature]</u> Date: <u>9/13/14</u> (Signature and Date Must Be Handwritten At Time of Signature) Print Name: <u>Arthur Vigeant</u> Print Title: <u>Mayor</u>		<b>AUTHORIZING SIGNATURE FOR THE COMMONWEALTH:</b> X: <u>[Signature]</u> Date: <u>9/13/14</u> (Signature and Date Must Be Handwritten At Time of Signature) Print Name: <u>David Mahr</u> Print Title: <u>Chief Financial Officer</u>	



THE COMMONWEALTH OF MASSACHUSETTS  
EXECUTIVE OFFICE OF PUBLIC SAFETY AND SECURITY



MASSACHUSETTS EMERGENCY MANAGEMENT AGENCY

400 Worcester Road Framingham, MA 01702-5399

Tel: 508-820-2000 Fax: 508-820-2030

Website: [www.mass.gov/mema](http://www.mass.gov/mema)

Deval L. Patrick  
Governor

Kurt N. Schwartz  
Director

Timothy P. Murray  
Lieutenant Governor

Mary Elizabeth Heffernan  
Secretary

**Federal Fiscal Year (FFY) 2010  
US DHS/FEMA Emergency Management Performance Grant (EMPG)  
Application for Grant Funding (AGF)**

**Overview**

Through this AGF, the Massachusetts Emergency Management Agency (MEMA) will be accepting applications from municipalities and Federally-recognized Tribes with local emergency management departments for FFY 2010 EMPG Funding.

MEMA plans to, via this grant process, make available approximately \$1.8M to eligible entities.

This document provides a brief overview of the FFY 2010 EMPG and specific guidance for entities applying for funds. The information included here does not provide complete details of the EMPG, its allowable and unallowable activities, equipment or costs. The applicant is responsible for ensuring that its proposed project fully complies with the federal and State guidance for the EMPG. Links to the federal guidelines for this program and other pertinent documents that must be consulted when preparing the application are found within this document.

MEMA will conduct 5 general informational sessions regarding this AGF. Attendance at these sessions is optional. The same information will be presented at each session. The sessions will be held on:

March 1, 2012 at 10AM and 6PM	MEMA Region III - 1002 Suffield Street, Agawam, MA 01001
March 6, 2012 at 10:00AM	MEMA Region II - 12-I Rear, Admin. Road, Bridgewater, MA 02324
March 8, 2012 at 1:00PM	MEMA Region I - 365 East Street, Tewksbury, MA 01876
March 15, 2012 at 10:00 AM	MEMA Region IV - 37 Carter Street, Leominster, MA 01453

**Submission Process**

**Completed applications – using the Template found on pgs 3-12 - must be received no later than 3/23/12.**

**Completed applications must be emailed to your respective MEMA Regional Contact (see below) with a cc to Jeffrey.Trask@state.ma.us.**

**MEMA Region I: Michael Main, Mikael.Main@state.ma.us , 978-328-1500**

**MEMA Region II: James Mannion, james.a. mannion@state.ma.us , 508-427-0400**

**MEMA Region III: Bruce Augusti, bruce.augusti@state.ma.us , 413-750-1400**

**MEMA Region IV: Jeff Zukowski, jeffrey.zukowski@state.ma.us , 413-750-1400**

**Late applications will not be accepted; hand-written applications will not be accepted.**

## Application for Grant Funding Template

**Please use this Template. Please provide response to each section (as applicable) in the appropriate spaces below. If the proposal contains an interoperable communications component, then the entire Template must be completed.**

Applications should be based on an identified gap, and not at the prompting of a vendor that stands to benefit from the awarding of a grant.

### **1. Entity submitting this Application for Grant Funding**

Community: City of Marlborough EMA \_\_\_\_\_

Point of Contact Name: Donald E. Cusson \_\_\_\_\_

Address: \_\_\_\_\_ 696 Concord Road \_\_\_\_\_

\_\_\_\_ Marlborough, MA. 01752-5617 \_\_\_\_\_

Office Telephone: \_\_\_\_ 508-481-1933

Fax: \_\_\_\_\_ 508-460-3795 \_\_\_\_\_

24 hr Telephone: \_\_\_\_ 508-485-2323 \_\_\_\_\_

Email Address: dcusson@marlborough-ma.gov \_\_\_\_\_

### **2. Project Period**

Estimated begin/start date (**Month/Date/Year**): 4/23/2012 \_\_\_\_\_

For planning purposes only, you may use a planned start date of 4/23/12.

Estimated end date (**Month/Date/Year**): \_\_\_\_ 9/30/2012 \_\_\_\_\_

**All Projects must be completed by 9/30/12**

**If your proposed project will extend beyond 6/30/12, two (state fiscal year) Budgets must be submitted (see #7 Budget Detail).**

**One budget would be for activities from Projected Start Date to 6/30/12; the second Budget would be for activities from 7/1/12 to 9/30/12.**

### **3. Project Summary**

Using the format below, please provide below a clear and comprehensive summary (**1 ½ pages Maximum**) that includes response to the following:

- the proposed project;
- why this is needed, and how this need was identified;
- if applicable, the usage plan for equipment;
- expected outcomes; and
- how outcomes may be measured.

**IMPORTANT: All costs must be allowable under the FFY 2010 EMPG grant program. Please refer to pgs 13-14 ('Allowable Costs' and 'Unallowable Costs') of this AGF for detail on what is/is not allowable.**

The City of Marlborough would like to use these EMPG funds to upgrade our communication in our EOC and at shelter locations as well as, if needed at the scene of an incident. We would like to purchase and mirror the MEMA radio between the EOC and Headquarters and Region 1. Also I would like to purchase 4 antennas to connect to the four EMD sites to give us better coverage. Also in need and would like to purchase two large flat screens TV for the news and weather during an incident. Also to watch the news to see what is happening.

The need was identified during the snowstorm in October and also the Irene storm. The EOC had no way of getting the weather and to see what was happening in other areas of the state.



**4. Funding Amount**

Amount of EMPG funding: \$9,000.00\_\_\_\_\_

All eligible entities will receive, under separate cover, their proposed funding award amount. If you have not received this, please contact your respective MEMA Regional Office. Please enter this proposed funding amount below. **Your budget must equal your proposed funding amount.**

**5. Match**

Applicants **must** provide a 100% (dollar-for-dollar) cash or in-kind match. Please provide below:

Match amount: \$\_\_\_\_\_9,000.00\_\_\_\_\_

Type of match: \_\_\_cash \_\_X\_\_in-kind

Specific match source: \_\_\_\_\_Budget for equipment  
\_\_\_\_\_

The City of Marlborough Emergency Management has an operating budget of \$31,000.00 this would more than cover the match needed.

The match must be available during your Project Period.

## **6. Interoperable Communications Investment Proposal (ICIP)**

**If your Project has an interoperable communications component, please complete the following table on pgs 7-9:**

**If your Project does NOT have an interoperable communications component, you do NOT have to complete the following table on pgs 7-9.**

### **ICIP Overview**

Interoperable communications projects improve the sharing of electronic information (voice, data, images, video), via radio, internet, microwave, computers, fiber optics. Interoperable Communications projects may include the purchase or modifications of radios, transmission towers and other communications related equipment. Interoperability projects may also include efforts related to communications training and exercises, education and outreach, programming radios, development of Standard Operating Procedures.

When completing the ICIP table, applicants should provide a clear description of the 'Interoperability Problem'. **As an example:**

**Problem:** Although Mutual Aid Agreements are in place between the applicant and its four neighboring towns for public safety support during emergencies, the towns have no common radio frequencies or Standard Operating Procedures so, radio communications cannot occur amongst the disparate radios during an emergency.

**Background Information / Investment Description:** It was learned during a multiple alarm chemical fire that responders from the five mutual aid towns were unable to communicate directly with each other effectively. Subsequently, a consultant was hired to develop an interoperable communications plan that assessed the communications gaps and recommended solutions. This project seeks to implement the plan by replacing 30 incompatible portable radios, reprogramming all remaining (220 portable and 15 fixed) radios, conducting 3 training classes for the use of the equipment and the Standard Operating Procedures and conducting 1 table top exercise that will include all 5 towns that are included in the Mutual Aid Agreements.

## Interoperable Communications Investment Proposal

Please complete all sections except for the shaded areas.

Shaded areas will be completed by the SIEC and the Statewide Interoperability Coordinator (SWIC).

<b>Date Received by the SWIC:</b>		<b>Control #</b>		<b>Proposed Federal Funding Source:</b> Empg 2010	<b>Proposed Federal Funding Amount:</b> \$9,000.00
<b>Committee Referred to:</b>			<b>Committee Chairperson:</b>		
<b>Investment Name:</b> Radio and EOC upgrade		<b>Applicant Organization:</b> City of Marlborough EMA		<b>Applicant Signature:</b>	
<b>Investment Summary</b>	Replace old radios (15-20 years old) also purchase two new MEMA VHF for the alternate EOC and shelter with antennas.				
<b>Statewide Communications Plan (SCIP) Goals addressed by this investment (please circle all that apply)</b>			<input type="radio"/> Governance <input type="radio"/> SOP technology		<input type="radio"/> Training & Exercise usage
<b>Planning Funds</b> 4/23/2012 7/1/2012	<b>Planning Funds</b> 6/30/2012 9/30/2012	<b>Is an Environmental &amp; Historic Preservation (EHP) review required for this project?</b> NO			
<b>Applicant Contact Name:</b> Donald E. Cusson	<b>Phone:</b> 508-726-1088	<b>Email:</b> dcusson@marlborough-ma.gov		<b>Address:</b> 696 Concord Road, Marlborough, MA. 01752	
<b>Review Status</b>				<b>SIEC Member Signature</b>	<b>Date</b>
Assigned to Committee					
Estimated Review Date					
Committee Recommendation to the Executive Management Committee		Approval	Denial	Amend	
Executive Management Committee Recommendation		Approval	Denial	Amend	
SIEC Recommendation		Approval	Denial	Amend	
Applicant notified of Recommendation					

**Communications Interoperability Problem Description-** During recent events Marlborough EOC was not able to communicate with Headquarters from the police or dispatch.

**Background Information / Detailed Investment Description-**With the purchase of these radios we will be able to communicate directly, and these will be narrow band capability.

**Expected Outcomes-**

Describe the communications interoperability gaps that will be addressed  
This will involve all areas, PD< FD< EMS<DPW and Board of Health.

<b>SCIP Goal-</b>	<b>Goal</b>	<b>Describe support</b>
Identify each SCIP goal that this investment will support and describe how that support will be accomplished.	Governance	
	SOP	Radios will be used at all emergency activations
	Technology	All radios will be narrowband compliant
See Appendix "B" for a listing of SCIP goals.	Training & Exercise	
	Usage	Radios will be used at all emergency activation
<b>Ownership-</b> Identify the proposed owners of all assets procured with this investment (add additional lines as needed)	<b>Organization</b>	
	Marlborough EMA	Radios
	Marlborough EMAC	Flat screen TV
<b>Usage Plan-</b> Describe the usage plan for the equipment / project	All radios will be used on a day to day basis, as well as during an emergency activation.  They will be housed with the City of Marlborough EMA for deployment as needed.	

<b>Disciplines-</b> <ul style="list-style-type: none"> <li>Identify each responder discipline that will enhance its communications interoperability from this investment</li> <li>Describe the interoperability enhancement</li> </ul>		
	<b>Discipline</b>	<b>Enhancement</b>
	LE	Will be able to communicate with all others
	EM	Will be able to communicate with all others
	FP	Will be able to communicate with all others
	PD	Will be able to communicate with all others
	EMA	Will be able to communicate with all others
Please use the following abbreviations to represent the corresponding discipline:	LE - Law Enforcement; EMS - Emergency Medical Services; EMA - Emergency Management Agency; FS - Fire Service; HZ - HAZMAT; PW - Public Works; PH - Public Health; GA - Governmental Administrative; PSC - Public Safety Communications; HC - Health Care; O-Other	
<b>Multi-Jurisdictional Interoperability-</b> All investments must provide interoperability between two or more jurisdictions. Identify each jurisdiction that will achieve interoperability from this investment.	Marlborough Police Marlborough Emergency Management Massachusetts Emergency Management Marlborough EOC	

**7. Budget Detail**

The Budget must align with your Project Summary and equal your proposed funding amount. All costs must be identified below. Insert additional rows if needed. For equipment, list the EMPG Authorized Equipment List ([www.rkb.us](http://www.rkb.us)) Reference number.

Applicants may include up to, but no more than, three (3) % of their request for 'Management and Administration' (M&A) costs. M&A activities are those defined as directly relating to the management and administration of EMPG funds, such as financial management and monitoring. Applicants are reminded to be mindful of supplanting and/or dual compensation.

**If your proposed project will extend beyond 6/30/12, two (state fiscal year) Budgets must be submitted.**

**One budget would be for activities from Projected Start Date to 6/30/12; the second Budget would be for activities from 7/1/12 to 9/30/12.**

**\*\* Budget from Projected Start Date to 6/30/12: \*\***

Cost Category (Planning, Equipment, Training, Exercises, M&A)	Description	AEL #	Quantity	Unit Cost	Total
				\$	\$
				\$	\$
				\$	\$
ALL EQUIPMENT WILL BE FINALIZED RESEARCH FOR PURCHASE IN THE NEXT FISCAL YEAR				\$	\$
				\$	\$
				\$	\$
				\$	\$
				\$	\$
				\$	\$
				\$	\$
				\$	\$
				\$	\$
			<b>GRAND TOTAL</b>		\$000000000000

**\*\* Budget from 7/1/12 to 9/30/12 (only if project time needed) \*\***

Cost Category (Planning, Equipment, Training, Exercises, M&A)	Description	AEL #	Quantity	Unit Cost	Total
Equipment	Sony 40" TV/ internet	04MD-03-DISP	2	\$1,110.00	\$2,220.00
Equipment	Motorola Radios CDM-1250 136-174	06CP-01-PORT	2	\$ 990.00	\$1,980.00
Equipment	Motorola Radio XPR 4550 136-174 NB	06CP-01-PORT	1	\$ 839.00	\$ 839.00
Equipment	ICOM IC-208H	06CP-01-PORT	3	\$ 398.00	\$ 1,194.00
Equipment	Coax- LMR-400	06CP-03-NRSC	1K	0.99	\$ 990.00
Equipment	Antenna: Diamond X-50A	06CP-03-TOWR	4	\$ 99.50	\$ 398.00
Equipment	TV Stands	21GN-00-OCEQ	2	\$ 175.00	\$ 350.00
Installation	Radio/TV Equipment	21GN-00-INST	40+ HOURS	\$ 25.73	\$ 1,029.00
				\$	\$
				\$	\$
				\$	\$
				\$	\$
<b>GRAND TOTAL</b>					<b>\$ 9,000.00</b>

### 8. Milestones

Please list below no less than three (3) but no more than five (5) milestones for this project. Milestones shall directly relate to the Project Summary. Milestones shall have an estimated start/end date (in MM/YYYY format) and be listed sequentially. For planning purposes only, please use a projected start date of 4/23/12. **All Projects must be completed by 9/30/12.**

Milestone	Tasks/Activities	Start Date	Completion Date
1	<i>Get prices from vendor</i>	4/23/12	6/10/12
2	Purchase equipment Radios, TV, Antennas	7/1/12	9/30/12

Milestone	Tasks/Activities	Start Date	Completion Date
3	Install new equipment	7/20/12	9/30/12
4			
5			

**9. EHP Review**

Is a formal Environmental & Historic Preservation (EHP) review required for this project? If yes, please note here reasons why.

If no, please provide a brief reason why a formal review is not required.

Please refer to FEMA Informational Bulletins #271 and #345 for further detail.

If EHP review is required, MEMA will work with successful applicants to develop their 'EHP Screening Memo'. This Memo does not need to be submitted with the application.

**No, an EHP is not required because there will be no construction or altering of any building or ground.**



## General Guidance for Applicants

**Applicants do not need to provide response to this section.**

### **1) Non-Supplanting**

Federal grant funds must supplement state or local initiatives and **shall not replace (or supplant)** funding appropriated from State and local governments with their Federal grant funding.

### **2) Specificity**

Specificity in your 'Project Summary'. To the extent applicable -- follow the 'Who, What, When, Where, Why, and How' approach.

*Who (specifically) is benefiting from this proposal, and who is implementing?*

*What (specifically) is being proposed? (Define the project and its scope)*

*When will the project(s) begin and end?*

*Where will any equipment be housed?*

*Why is this project important? How was this determined?*

*How will the project be implemented?*

Please note that these questions above are provided as a guide. For instance, a proposal stating "two generators will be procured" does not provide enough detail.

### **3) Budget Section: All costs must be allowable under the EMPG**

Allowable cost information may be found in the FFY 2010 EMPG grant guidance and/or Authorized Equipment List.

The FFY 2010 EMPG Guidance may be found on FEMA's website here:  
[http://www.fema.gov/pdf/government/grant/2010/fy10\\_empg\\_kit.pdf](http://www.fema.gov/pdf/government/grant/2010/fy10_empg_kit.pdf)

The Authorized Equipment List may be found on-line here:  
<https://www.rkb.us/mel.cfm?subtypeid=549>

Important: all equipment must be allowable under the EMPG; applicants should ensure that the AEL number provided is specific to the EMPG grant.

For instance, if two generators are to be procured, this section would provide the total estimated costs. Further, the information provided here must align with your Project Summary Section.

#### **4) Grammar Counts**

We are requesting concise proposals that provide adequate detail and are written clearly so the review team can provide appropriate review. Hand-written applications will not be accepted.

#### **5) Allowable Costs**

For further detail on allowable costs, please refer to the FFY 2010 EMPG Guidance. In general, EMPG funds may be spent in the following areas:

- Planning
- Organizational
- Equipment
- Training
- Exercises
- Construction/Renovation (Note: this is limited to the principal EOC and will always require an EHP review prior to activity)

#### **6) Unallowable Costs**

For further detail on unallowable costs, please refer to the FFY 2010 EMPG guidance. In general, EMPG funds will not support the following:

- Weapons and ammunition
- Hiring of first responders
- Supplanting

Applicants with questions may contact their respective MEMA Regional Office and/or MEMA Local Coordinator. Applicants may also contact Jeffrey Trask at 508.820.2053 or via email at [Jeffrey.Trask@state.ma.us](mailto:Jeffrey.Trask@state.ma.us).



*City of Marlborough*  
*Office of the Mayor*

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2012 OCT 25 A 11:52

140 Main Street

Marlborough, Massachusetts 01752

Tel. (508) 460-3770 Facsimile (508) 460-3698 TDD (508) 460-3610

[www.marlborough-ma.gov](http://www.marlborough-ma.gov)

*Arthur G. Vigeant*  
MAYOR

*Michael C. Berry*  
EXECUTIVE AIDE

*Patricia Bernard*  
EXECUTIVE SECRETARY

October 25, 2012

City Council President Patricia Pope  
Marlborough City Council  
140 Main Street  
Marlborough, MA 01752

**Re: Bigelow School Lease Agreement**

Honorable President Pope and Councilors:

I am seeking your approval to sign the final lease agreement for the use of the Bigelow School for a period of 25 years as negotiated by the City of Marlborough and the Assabet Valley Collaborative ("AVC"). This agreement was reached after several meetings as well as the input gained from the Operations and Oversight Committee hearing several weeks ago.

This agreement is a fair deal for both the City as well as the Collaborative and gives certainty to both sides as to the future of the Ward Park area. I anticipate coming back to you with a proposal in the near future that will outline some potential uses for the revenue that will be gained from this lease agreement.

Please do not hesitate to let me know if you have any questions.

Sincerely,

**Arthur G. Vigeant**  
Mayor

## LEASE

THIS INDENTURE OF LEASE, made as of this \_\_\_ day of \_\_\_\_\_, 2012 by and between THE CITY OF MARLBOROUGH, MASSACHUSETTS ("LESSOR" or "City"), a Massachusetts Municipal Corporation, having a mailing address of City Hall, 140 Main Street, Marlborough, MA 01752 and the ASSABET VALLEY COLLABORATIVE, having a mailing address of 57 Orchard Street, Marlborough, MA 01752, an educational collaborative of the Commonwealth of Massachusetts ("LESSEE") (collectively, the "parties").

WHEREAS, LESSOR is the owner of a certain parcel of real property identified as Map 81, Parcel 190A in the records of the Board of Assessors of the City of Marlborough with a building thereon known as the Bigelow School, 57 Orchard Street, Marlborough, Massachusetts, which building consists of approximately 34,0000 square feet (hereinafter the "Premises"), and,

WHEREAS, LESSEE is an educational collaborative of the Commonwealth of Massachusetts organized by its member school districts for the purpose of providing educational programs and services, and LESSEE wishes to use the Premises for those purposes; and

WHEREAS, LESSOR and LESSEE desire to enter into this Lease for the Premises and LESSOR desires to impose certain restrictions on the LESSEE's use of the Premises;

NOW THEREFORE, in consideration of the mutual covenants contained herein and for other good and valuable consideration, the receipt whereof is hereby acknowledged, the parties hereto agree as follows:

1. TERM: The LESSEE shall have and to hold the Premises for an original term commencing on July 1, 2013 ("Commencement Date") and expiring at midnight on the date which occurs twenty five (25) years from the Commencement Date, June 30, 2038.

2. RENT: LESSEE shall pay to LESSOR, for the lease of the Premises, annual rent at the rate of \$140,000.00 payable in twelve (12) equal monthly installments in advance on the first day of each calendar month occurring during the term of this Lease, commencing on or before the Commencement Date, and thereafter, on the anniversary of the Commencement Date the annual lease escalator of two percent (2%) shall be applied to the rent of the previous year, *as for example, the rent for years 1 through 3 shall be as follows:*

Year 1 Rent = \$140,000

Year 2 Rent = \$140,000 + (\$140,000 x 2%) = \$142,800

Year 3 Rent = \$142,800 + (\$142,800 x 2%) = \$145,656

3. UTILITIES: LESSEE will pay for electricity, heat, trash and/or recycling collection services. LESSOR shall not have any obligation to provide any other utilities or equipment other than the utilities and equipment within the Premises as of the commencement date of this Lease. In the event LESSEE requires additional utilities or equipment the installation and maintenance thereof shall be the LESSEE'S sole obligation, provided that such installation shall be subject to the written consent of the LESSOR which shall not be unreasonably withheld.

4. USE: The LESSEE shall use the Premises for its educational programs and services and for its administrative and business offices, and the LESSEE acknowledges that no trade or occupation (except pre-vocational and vocational training as part of its educational programs and services) shall be conducted on the Premises except that allowed by this Lease, and that the Premises shall not be used in a manner to create a private or public nuisance nor trespass nor in any manner to negate the insurance or increase the rate of insurance on the premiums. LESSEE shall have access to the Premises 24 hours per day, 7 days per week, 365 days per year for the term of the Lease.

5. ACCESS TO DISABLED PERSONS: LESSEE agrees to comply with any and all state and/or federal laws and regulations regarding access for the disabled that apply to the LESSEE, and to pay for any costs related thereto. If the LESSOR is required to comply with any such law or regulation, the cost of such compliance shall be borne by the LESSEE.

6. FIRE: The LESSEE shall not permit any use of the Premises which may, in the judgment of the Fire Chief, void any insurance in the Building of which the Premises are a part, or on the contents of said Building, or which shall be contrary to any law or regulation from time to time established by the New England Fire Insurance Rating Association, or any similar body succeeding to its powers. The LESSEE shall on demand reimburse the LESSOR, and all other tenants, if any, all extra insurance premiums caused by the LESSEE'S use of the premises.

7. MAINTENANCE AND REPAIR: The LESSEE agrees to maintain the Premises in good condition, damage by fire and other casualty only excluded, and, whenever necessary, to replace plate glass and other glass therein. The parties agree:

(a.) The LESSEE shall be responsible for custodial service, maintenance in compliance with all applicable laws, regulations and building codes, cleaning, replacement of lights, repair of damage, prompt removal of snow and ice from the sidewalks bordering upon the Premises, and general housekeeping within the Premises.

(b.) The LESSEE shall not permit the Premises to be over loaded, damaged, stripped, or defaced, nor suffer any waste.

(c.) The LESSEE shall obtain written consent of LESSOR before erecting any signs on the Premises.

(d.) The LESSEE agrees to maintain the heating system, roof, and the basic structure of the Premises.

(e.) The LESSOR shall not have any responsibility for any repairs, replacements, or maintenance of the Premises or for its being in compliance with law. Notwithstanding the foregoing sentence, the LESSOR shall be responsible for any repairs and/or replacements for damaged water and/or sewer lines from the building out to the street and beyond. LESSEE acknowledges that it is leasing the Premises in "As Is Condition," and that the LESSOR makes no warranties or representations as to condition, construction, fitness for habitation, conformance to applicable state or local building and sanitary codes, or whether it is subject to any environmental conditions which may or may not be in compliance with any applicable laws, policies or regulations.

8. ALTERATIONS AND IMPROVEMENTS: The LESSEE shall be responsible for alterations and capital improvements to the Premises during the term of the Lease, which alterations and capital improvements shall be at LESSEE'S sole expense and shall not violate any Certificate of Occupancy, void any insurance, or cause structural injury. LESSEE shall not permit any mechanics'

liens or similar liens, to remain upon the Premises for labor and material furnished to the LESSEE in connection with work of any character performed or claimed to have been performed at the direction of LESSEE and shall cause any such lien to be released of record forthwith without cost to LESSOR. All alterations and capital improvements shall be approved in writing by the LESSOR prior to LESSEE's undertaking such alterations or capital improvements.

9. ASSIGNMENT AND SUBLETTING: The LESSEE may assign or sublet the whole or any part of the Premises for educational programs and services and/or for recreational purposes with the LESSOR'S prior written consent. Notwithstanding such consent, LESSEE shall remain liable for payment of all rent and for the full performance of the covenants and conditions of this Lease.

10. LESSOR'S ACCESS: The LESSOR, or agents of the LESSOR may, at all times enter the Premises.

11. PARKING: The LESSEE shall be entitled to use the LESSOR'S parking lot which is located across from the Premises for staff, student, parent and visitor parking. LESSOR remains responsible for plowing the public lot in accordance with priorities given to Marlborough Public School and municipal lots to ensure safe access to school during inclement weather. Repair to lot and parking lines for vehicles to be maintained by LESSOR.

12. INDEMNIFICATION AND LIABILITY: The LESSEE shall, to the maximum extent permitted by law, indemnify and save harmless the LESSOR, its officers, agents, employees and volunteers from and against any and all damage and liabilities, actions, suits, proceedings, claims, demands, losses, costs and expenses (including reasonable attorneys' fees) that may arise out of or in connection with LESSEE's Lease or use of the Premises, for any damage to its real or personal property that occurs in conjunction with the Lease or use of the Premises by LESSEE, unless the damage is caused by the LESSOR's gross negligence and/or intentional act and/or willful misconduct. This indemnification includes all loss occasioned by the use or escape of water by the bursting of pipes within the building on the premises, as well as from any claim resulting from the non-removal of snow and ice from the roof of the building or from sidewalks bordering the Premises, unless such loss is caused by the neglect of the LESSOR. The removal of snow and ice from sidewalks bordering upon the leased Premises shall be at the LESSEE's responsibility.

13. LIABILITY INSURANCE: The LESSEE shall procure and maintain with respect to the Premises a comprehensive general liability public liability insurance, including fire damage liability coverage and property damage, in the amount of \$1,000,000 per occurrence, \$3,000,000 per aggregate with a responsible company qualified to do business in Massachusetts and in good standing therein insuring the LESSOR as well and LESSEE against injury to persons or damage to property as provided. The LESSEE shall deposit with the LESSOR certificates for such insurance at or prior to the commencement of the Term of this Lease, and thereafter within thirty (30) days prior to the expiration of any such policies which shall not be cancelled without at least ten (10) days prior written notice to each insured within. Certificates of Insurance to name the City of Marlborough as an additional insured as the City's interest appears to the leased Premises. The LESSEE shall also procure and maintain additional insurance as follows:

Business Automobile Liability coverage naming the City of Marlborough as an additional insured, including coverage for owned, hired or borrowed autos: \$1,000,000 C.S.L. for automobiles used in connection with this lease.

Umbrella or Excess Liability coverage following form of underlying General and Automobile Liability coverage: \$1,000,000 C.S.L.

Workers' Compensation coverage (per Massachusetts Law) and Employer's Liability coverage: coverage A at statutory limits and coverage B as limits of \$100,000/\$500,000/\$100,000.

The parties agree that the limits of insurance required stated herein are subject to review and modification by LESSOR as provided in paragraph 21 of this Lease.

14. FIRE CASUALTY: Should a substantial portion of the Premises be substantially damaged by fire or other casualty, the LESSOR may elect to terminate this Lease. When such fire or casualty renders the Premises substantially unsuitable for the intended use by the LESSEE a just and proportionate abatement of rent shall be made, if damage or destruction is not due to the fault of the LESSEE, and the LESSEE may elect to terminate this Lease if:

(a.) The LESSOR fails to give written notice within thirty (30) days of its intention to restore Premises; or,

(b.) The LESSOR fails to restore the Premises to a condition substantially suitable for the LESSEE'S intended use within ninety (90) days of said fire or casualty.

15. DEFAULT AND BANKRUPTCY: In the event that:

(a.) The LESSEE shall default in the payment of any installment of the rent or other sum herein specified and such default shall continue for ten (10) days, after written notice thereof; or,

(b.) The LESSEE shall default in the observance or performance of any other of its covenants, agreements or obligations hereunder and such default shall not be corrected within ten (10) days after written notice thereof; or,

(c.) The LESSEE shall be declared bankrupt or insolvent and the LESSEE'S property is made available for the benefit of creditors, the LESSEE fails to continue its business as a going concern or LESSEE vacates or abandons the Premises, the LESSOR shall have the right thereafter, while such default continues, to re-enter and take complete possession of the Premises to declare the term of this Lease ended, and remove the LESSEE'S effects, without prejudice to any remedies which might be otherwise used for arrears of rent or other default.

The LESSEE shall indemnify the LESSOR against all loss of rent and other payments, which the LESSOR may incur by reason of such termination during the residue of the term.

If the LESSEE shall default, after reasonable notice thereof, in the observance or performance of any conditions or covenants on LESSEE'S part to be observed or performed under or by virtue of any provision in any article of this Lease, the LESSOR, without being under any obligation to do so and without thereby waiving such default, may remedy such a default for the account at the expense of the LESSEE.

If the LESSOR makes any expenditures or incurs any obligations for payment of money in connection therewith, including but not limited to, reasonable attorney's fees in instituting, prosecuting or defending any action or proceeding, such sums paid or obligations insured with interest at the rate of 12% per annum and costs, shall be paid to the LESSOR by the LESSEE as additional rent.

16. NOTICE AND LEASE PAYMENTS: Any notices from LESSEE to LESSOR shall be sent or delivered to the LESSOR, and all lease payments from LESSEE to LESSOR shall be paid and sent or delivered to the LESSOR, to the following address:

City of Marlborough  
Public Facilities Department  
Attn: Public Facilities Director  
85 Sawin Street  
Marlborough, MA. 01752

Any notices from LESSOR to LESSEE relating to the Leased Premises or occupancy thereof shall be deemed served if left at the Premises addressed to the LESSEE or if mailed to the Premises by registered or certified mail, return receipt requested, addressed to the LESSEE.

17. RIGHT OF FIRST REFUSAL. So long as this Lease is in full force and effect and LESSEE is not in any default for which LESSOR would be entitled to terminate this Lease, the LESSOR agrees that prior to June 30, 2038, LESSOR will not sell all or any portion of the Premises unless (a.) LESSOR has received a bona fide offer to purchase the Premises; (b.) LESSOR has given written notice (which shall be deemed to be duly given when mailed as provided in this Lease) stating the name and address of the offeror and the terms and conditions of said bona fide offer and the encumbrances subject to which the Premises, or any part thereof, are to be conveyed and containing an offer by LESSOR to sell the same to LESSEE on the same terms and conditions as said bona fide offer; and (c) LESSEE has not, within ten (10) days after the giving of such notice, mailed or otherwise given LESSOR WRITTEN NOTICE THAT LESSEE elects to purchase the same in accordance with said offer. In the event that LESSEE so elects to purchase, the Premises or such part thereof shall be conveyed by a good and sufficient Quitclaim Deed conveying a good and clear record and marketable title thereto, free from all encumbrances except as stated in said bona fide offer and such deed shall be delivered and consideration paid on the forty fifth (45<sup>th</sup>) day or next business day after the date of the giving of such notice of election to purchase. In the event that LESSEE shall not give such notice of election to purchase within the time above specified, or in the event LESSEE shall, after giving such notice, fail to complete such purchase as hereinabove provided, then LESSOR shall be free thereafter to sell and convey the Premises or such part thereof covered by the offer to the offeror named in LESSOR's notice at a price not lower than that specified therein. The provisions hereof shall not be construed to apply to bona fide mortgages to recognized lending institutions of the Premises, or any part thereof, or sales or any part thereof, or sales or other proceedings for the foreclosure thereof; or to easements to any municipality or utility company required for the installation and/or maintenance of drainage, sewage, electric, gas, water and electric lines and appurtenance to and from the Premises.

If LESSOR shall make and record with said Deeds an affidavit stating that (1) a certain conveyance by it is made pursuant to a bona fide offer to purchase; (2) LESSOR has given notice to LESSEE in connection with such conveyance as required by the provisions of this paragraph; (3) LESSOR has not received written notice of election to purchase given by LESSEE in accordance with the provisions of this paragraph, or that LESSEE who has given notice of election to purchase has failed to complete the same in accordance with said provisions, as the case may be; and (4) such conveyance is made to the person named in such notice at a price not lower than therein stated; then such affidavit shall be conclusive evidence of compliance with the requirements of this paragraph



with respect to such conveyance in favor of the grantee therein and all persons claiming by, through or under such grantee.

18. HOLDING OVER: If LESSEE remains in possession of the Premises after the expiration of the term hereof, with LESSOR'S acquiescence and without any express agreement of the parties, LESSEE shall be a tenant at will at the rental rate which is in effect at the end of the Lease, subject to the annual lease escalator of 2% under the same terms as provided in paragraph 2 hereof, and there shall be no renewal of this Lease by operation of law. If LESSEE remains in possession of the Premises after the expiration of the term hereof, without LESSOR'S acquiescence, then LESSEE shall be a tenant at sufferance and commencing on the date following the date of such expiration the monthly rental payable under paragraph 2 hereof shall, for each month or fraction thereof during which LESSEE remains in possession be twice the monthly rental otherwise payable under paragraph 2 hereof, and such monthly rental amount shall also be subject to the annual lease escalator of 2% as provided in paragraph 2 hereof.

19. SURRENDER: The LESSEE shall, at least five (5) business days after the expiration or other termination of this Lease, remove all LESSEE'S goods and effects from the Premises. This shall include, without hereby limiting the generality of the foregoing, all signs and lettering affixed or painted by the LESSEE, either inside or outside the Premises. LESSEE shall deliver to the LESSOR the Premises and all keys, locks, thereto, and other fixtures connected therewith and all alterations and additions made to or upon the Premises, in good condition, damage by fire or other casualty only excepted.

20. TAXES: Pursuant to §2B of c. 59 of the Massachusetts General Laws, LESSEE will be responsible for payment of taxes assessed under this section if the leased Premises or a portion thereof are used in connection with a business for profit or Leased and occupied for other than a public purpose.

21. AMENDMENTS: This Lease contains the entire agreement between the parties, and all negotiations, considerations, representations and understandings between the LESSOR and the LESSEE are incorporated herein and may be modified or altered only by agreement in writing between the LESSOR and the LESSEE.

22. CONFLICT OF INTEREST: LESSEE covenants that it has taken no action in connection with this Lease which would be in violation of the provisions of M.G.L. c. 286A, the Conflict of Interest statute, and that in the event the LESSOR determines that any such violation has occurred the LESSOR may terminate this Lease immediately with notice after the fact to the LESSEE.

23. PARAGRAPH HEADINGS: The paragraph headings throughout this Lease are for convenience only, and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation or construction of meaning of the provisions of this Lease.

24. INVALIDITY OF PARTICULAR PROVISIONS: If any term or provision of this Lease or the application thereof to any person or circumstance shall to any extent be invalid or unenforceable, the remainder of this Lease, or the application of such term or provision to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each term and provision of this Lease shall be valid and shall be enforceable to the fullest extent permitted by law so long as paragraph 4 is unaffected thereby.

25. RECORDING: The parties agree that this Lease shall be recorded with the Middlesex South Registry of Deeds, as required by M.G.L. c. 183, §4, by the LESSEE at its expense.

26. WAIVER: No failure by LESSOR or LESSEE to insist upon the strict performance of any provision, condition or agreement contained in this Lease to be performed by the other shall ever be deemed to be a waiver of such provision as to any subsequent event constituting nonperformance or observance by such party.

27. FORCE MAJEURE: Except with respect to the payment of monetary sums due from one party to the other, each party to this Lease shall be excused from performance of its other obligations hereunder for such period of time that such party is prevented from performing the same for causes beyond its reasonable control, such as acts of God, strikes, and the like (but financial inability shall never be deemed to be a cause beyond the reasonable control of such party), provided: (i) the party so delayed shall promptly notify the other of the reason for any such delay; and (ii) the party thus delayed shall complete performance of such obligations within a reasonable period of time after the cessation of the cause of such delay and with all due diligence.

28. LESSOR'S RIGHT TO CURE. If LESSEE shall default in the performance or observance of any agreement, condition or other provision in this Lease contained on its part to be performed or observed and shall not cure such default within thirty days after notice in writing from LESSOR specifying the default (or, in the event such default shall require more than thirty (30) days to be cured, if the LESSEE shall not, within said period, commence to cure such default and thereafter, with due diligence, prosecute the curing of such default to completion, LESSOR may, at its option, without waiving any claim for breach of agreement, at any time thereafter, cure such default for the account of LESSEE, and LESSEE shall reimburse LESSOR for any amount paid and any expense of contractual liability so incurred, including reasonable attorneys' fees.

29. DISCLOSURE OF BENEFICIAL INTEREST: By entering into this Lease, the LESSOR hereby certifies that, pursuant to M.G.L. c. 7, §40J, it shall make any required disclosure of beneficial interest in real property.

30. SUCCESSION. The provisions of this Lease shall be binding on and enforceable by the parties and their respective heirs, devisees, personal representatives, successors and assigns, as appropriate. In the event that the LESSOR sells the premises, the LESSOR shall ensure that the successor owner assumes all obligations of the Lease as set forth herein.

31. GOVERNING LAWS: This Lease shall be governed exclusively by the provisions herein and by the laws of the commonwealth of Massachusetts, as the same may from time to time exist.

IN WITNESS THEREOF, the said parties hereunto set their hands and seals on the date first written above.

Signed this \_\_\_\_\_ day of \_\_\_\_\_ 2012.

FOR THE LESSEE  
Assabet Valley Collaborative  
By Its Executive Director:

\_\_\_\_\_  
Cathy Cummins

FOR THE LESSOR:  
City of Marlborough  
By its Mayor:

\_\_\_\_\_  
Arthur G. Vigeant

DEPARTMENT HEAD  
By its Director of Public Facilities:

\_\_\_\_\_  
John L. Ghiloni

CITY AUDITOR:

\_\_\_\_\_  
Diane Smith

COMPTROLLER:

\_\_\_\_\_  
Thomas J. Abel

CHIEF PROCUREMENT OFFICER:

\_\_\_\_\_  
Beverly J. Sleeper, MCPPO

APPROVED AS TO FORM:

\_\_\_\_\_  
 Donald V. Rider, Jr., City Solicitor OR  
 Cynthia Panagore Griffin, Asst. Solicitor

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss

On this \_\_\_ day of \_\_\_\_\_, 2012, before me, the undersigned notary public, personally appeared Arthur G. Vigeant, Mayor of the City of Marlborough, Massachusetts as aforesaid, known to me personally to be the person whose name is signed on the preceding document, and acknowledged to me that \_\_\_ signed it voluntarily on behalf of the City of Marlborough, Massachusetts, in his official capacity and not as an individual, for its stated purpose.

\_\_\_\_\_  
Notary Public:  
My Commission Expires:

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss

On this \_\_\_\_\_ day of \_\_\_\_\_, 2012, before me, the undersigned notary public, personally appeared Cathy Cummins, Executive Director, Assabet Valley Collaborative s aforesaid, known to me personally to be the person whose name is signed on the preceding document, and acknowledged to me that he signed it voluntarily on behalf of Christopher House of Marlborough Limited Partnership for its stated purpose.

\_\_\_\_\_  
Notary Public:  
My Commission Expires:

**CERTIFICATE OF VOTE**

\_\_\_\_\_, 201\_\_.

At a duly authorized meeting of the Board of Directors of the: Assabet Valley Collaborative held on \_\_\_\_\_ (Date) at which all the Directors were present or waived notice, it was VOTED that, Cathy Cummins, Executive Director of the Assabet Valley Collaborative be and hereby is authorized to execute leases and contract in the name and behalf of said Assabet Valley Collaborative, and affix its corporate seal thereto, and such execution of any lease or contract or in the Assabet Valley Collaborative's name on its behalf by such Executive Director of this the Assabet Valley Collaborative, shall be valid and binding upon the Assabet Valley Collaborative.

I hereby certify that I am the Clerk of the Assabet Valley Collaborative that Cathy Cummins, is the duly elected Executive Director of said Assabet Valley Collaborative, 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.

A true copy of the record,

ATTEST \_\_\_\_\_  
Clerk  
Place of Business \_\_\_\_\_

**COMMONWEALTH OF MASSACHUSETTS**

Middlesex, ss

On this \_\_\_\_ day of 201\_\_, before me, the undersigned Notary Public, personally appeared

\_\_\_\_\_, duly designated by the board of directors and proved to me, through satisfactory evidence of identification, which was \_\_\_\_\_, that s/he is the person whose name is signed on the foregoing documents, and acknowledged to me that s/he signed it voluntarily for its stated purpose and that it was her/his free act and deed.

\_\_\_\_\_  
Notary Public  
My Commission Expires:



# City of Marlborough

RECEIVED  
CITY CLERK'S OFFICE  
CITY OF MARLBOROUGH

## Office of the Mayor

140 Main Street  
Marlborough, Massachusetts 01752  
Tel. (508) 460-3770 Facsimile (508) 460-3698 TDD (508) 460-3610  
[www.marlborough-ma.gov](http://www.marlborough-ma.gov)

*Arthur G. Vigeant*  
MAYOR

*Michael C. Berry*  
EXECUTIVE AIDE

*Patricia Bernard*  
EXECUTIVE SECRETARY

October 25, 2012

City Council President Patricia Pope  
Marlborough City Council  
140 Main Street  
Marlborough, MA 01752

### **Re: Zoning Board of Appeals Appointments**

Honorable President Pope and Councilors:

I am pleased to submit to you the names of Mr. John Sahagian and Mr. Ralph Loftin for appointment to the Zoning Board of Appeals. Mr. Sahagian is a reappointment for a term of five years to expire on 5/5/2017.

Mr. Loftin is one of the many residents that my staff and I have met with over the past several months who responded to my outreach efforts to bring new people and new perspectives to our boards and committees. Mr. Loftin's thoughtful demeanor, education, and extensive private sector experience will be a great addition to the Zoning Board of Appeals. He will be appointed as an Alternate Member for a term of two years, expiring from the date of Council approval.

Thank you in advance for your consideration and please do not hesitate to let me know if you have any questions.

Sincerely,

**Arthur G. Vigeant**  
Mayor



# City of Marlborough Legal Department

140 MAIN STREET

MARLBOROUGH, MASSACHUSETTS 01752

TEL. (508) 460-3771 FACSIMILE (508) 460-3698 TDD (508) 460-3610

LEGAL@MARLBOROUGH-MA.GOV

RECEIVED  
CITY CLERK'S OFFICE  
CITY OF MARLBOROUGH  
2012 OCT 25 11:35  
DONALD V. RIDER, JR.  
CITY SOLICITOR  
CYNTHIA M. PANAGORE GRIFFIN  
ASSISTANT CITY SOLICITOR  
BEVERLY J. SLEEPER  
CHIEF PROCUREMENT OFFICER  
ELLEN M. STAVROPOULOS  
PARALEGAL

October 25, 2012

Patricia Pope  
President  
Marlborough City Council

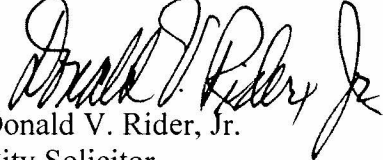
RE: Order No. 12-1005150B  
Application to Modify Special Permit  
T-Mobile Northeast LLC  
157 Union Street

Dear President Pope and Members:

Pursuant to Chapter 650-59C(13) of the Marlborough Zoning Ordinance, I provide this letter as to the legal form of the City Council's proposed decision on the application submitted by T-Mobile Northeast LLC to modify its existing special permit at 157 Union Street. The application is to allow the replacement of six (6) panel antennas currently located on the smokestack next to Marlborough Hospital. T-Mobile also seeks to remove six (6) existing GSM TMA's (Tower Mounted Amplifiers) and remove coax cables, and install hybrid cables and one (1) future site support cabinet within T-Mobile's existing lease area.

I have enclosed a copy of the proposed decision. I certify that that decision is in proper legal form.

Very truly yours,

  
Donald V. Rider, Jr.  
City Solicitor

Enclosure

cc: David J. Scarfo, Tower Resource Management, agent for T-Mobile

**DECISION ON AN APPLICATION TO MODIFY  
SPECIAL PERMIT**

**T-MOBILE NORTHEAST LLC (OMNIPOINT HOLDINGS, INC.)**

**CITY COUNCIL ORDER NO. 12-1005150C**

Re: 157 Union Street

The City Council of the City of Marlborough hereby GRANTS the application to modify Special Permit No. 01-9204C, submitted by T-Mobile Northeast LLC, having a usual place of business at 15 Commerce Way, Suite B, Norton, MA 02766 as provided in this Decision and subject to the following Findings of Fact and Conditions.

EVIDENCE

1. The Applicant is T-Mobile Northeast LLC (Omnipoint Holdings, Inc.), with its principal office located at 12920 SE 38<sup>th</sup> Street, Bellevue, WA 98006 (hereinafter, “the Applicant”).
2. On October 22, 2001, the City Council granted to Omnipoint Holdings, Inc., Division of VoiceStream Wireless, Inc., a special permit to locate and operate a wireless communications facility at the existing building located at 157 Union Street, Marlborough, MA (hereinafter, “the Original Special Permit”). In 2006, Omnipoint Holdings, Inc. converted into a limited liability company named T-Mobile Northeast LLC. The Original Special Permit is recorded at the Middlesex South District Registry of Deeds in Book 34097, Page 279. The site is more particularly identified on the Assessor’s Map of the City of Marlborough as Map 43, Lot 56 (hereinafter, “the Site”). The owner of record for the Site is Marlborough Hospital.
3. Through its Application for a Special Permit to Modify an Existing Wireless Communication Facility (hereinafter, “the Application”), the Applicant seeks permission to allow the replacement of six (6) panel antennas currently located on the smokestack next to Marlborough Hospital. Applicant also seeks to remove six (6) existing GSM TMA’s (Tower Mounted Amplifiers) and remove coax cables, and install hybrid cables and one (1) future site support cabinet within the Applicant’s existing lease area (hereinafter, “the Proposed WCF Project”), all substantially as depicted on a set of plans entitled “Site Name: BS489/Marlboro Hospital, 157 Union Street, Marlborough, MA 01752, Middlesex County, Site Number: 4BS0489B” by Advance Engineering Group, P.C. dated 6/29/12 and last revised 7/31/12, a copy of which was provided in the Special Permit Application (hereinafter, “the Plans”).
4. The Applicant is a lessee of the Site’s owner for purposes of the Application.



5. The Proposed WCF Project is located in the Residential (A-3) Zoning District. Wireless communication devices are allowed by grant of special permit in the Residential (A-3) Zoning District.
6. The modification of the Original Special Permit is being sought pursuant to Article VI, Section 650-25 and Article VIII, Section 650-59 of the Zoning Code of the City of Marlborough.
7. Pursuant to the Rules and Regulations of Application for Special Permit ("Rules and Regulations"), the Building Inspector, on behalf of the City Planner, certified that the Special Permit application materials are complete and conform to said Rules and Regulations and that the Plans conform in all respects to the City Code.
8. The Applicant has complied with all of the applicable rules of the Rules and Regulations.
9. The City of Marlborough City Council held a public hearing on the Proposed WCF Project on September 24, 2012, for which proper notice had been published and for which proper notice had been given to all parties entitled to notice under the law.
10. The Applicant presented oral testimony and demonstrative evidence at the public hearing, demonstrating that the Proposed WCF Project meets all the applicable Special Permit criteria of Article VI, Section 650-25 and Article VIII, Section 650-59.
11. The Applicant provided further oral testimony and demonstrative evidence to the City Council's Wireless Communications Committee regarding the Proposed WCF Project's compliance with the applicable Special Permit criteria.
12. The Council, in reviewing the Application, considered the Review Standards and Development Requirements, as enumerated in Article VI, Section 650-25 and Article VIII, Section 650-59 of the City of Marlborough Zoning Ordinance, applicable to the Proposed WCF Project.

**BASED UPON THE ABOVE, THE MARLBOROUGH CITY  
COUNCIL MAKES THE FOLLOWING FINDINGS OF FACT  
AND TAKES THE FOLLOWING ACTIONS**

- A) The Applicant has complied with all the Rules and Regulations promulgated by the Marlborough City Council pertaining to the said Application for a Special Permit.
- B) The Site is an appropriate location for the Proposed WCF Project and the Proposed WCF Project is in harmony with the general purpose and intent of the Zoning Ordinance of the City of Marlborough when subject to the appropriate terms and conditions of this approval.
- C) The Applicant has complied with the applicable Review Standards and Development Requirements pertaining to Wireless Communications Devices, enumerated

in Article VI, Section 650-25 and Article VIII, Section 650-59 of the City of Marlborough Zoning Ordinance, by siting, designing and screening its Proposed WCF Project to minimize adverse impact on the abutting neighborhood and on nearby residential properties.

D) The Council, pursuant to its authority under M.G.L. Chapter 40A and the City of Marlborough Zoning Ordinances, **GRANTS** the Applicant a modification of the Original Special Permit (hereinafter, "Modified Special Permit"), **SUBJECT TO THE FOLLOWING CONDITIONS NUMBERED 1 THROUGH 9:**

- 1) The Proposed WCF Project shall be constructed, maintained and operated according to the specifications, terms and conditions of the Application, as amended during the application/hearing process, and in compliance with the conditions of the grant of this Modified Special Permit, as well as with the conditions set forth in Chapter 650-25F of the Marlborough Zoning Ordinance.
- 2) All plans, photo renderings, site evaluations, briefs and other documentation provided by Applicant as part of the Application, as amended, are herein incorporated and become a part of this Modified Special Permit and become conditions and requirements of the same, unless otherwise altered by the City Council.
- 3) Applicant shall comply with all rules, regulations, ordinances and statutes of the City of Marlborough, the Commonwealth of Massachusetts and the Federal Government as they may apply to the construction, maintenance and operation of the Applicant's WCF.
- 4) The issuance of this Modified Special Permit may be further subject to Site Plan Review. Any additional changes, alterations, modifications or amendments as required by Site Plan Review shall be further conditions attached to this Modified Special Permit.
- 5) Applicant shall minimize the visual impacts of the Proposed WCF Project by screening and/or color coordination as may be depicted on the Plans and other demonstrative evidence submitted as part of the Application.
- 6) Failure to pay in a timely manner the annual sum of One Thousand Five Hundred (\$1,500.00) dollars to the City of Marlborough Open Space Account #100-2410-44515, as conditioned in the Original Special Permit, shall constitute a violation of the Modified Special Permit. Applicant shall pay an additional sum of \$500 per quarter or portion thereof after the payment due date that the Applicant has failed to make payment.
- 7) Applicant shall not utilize a permanent electrical generator, of any type, in connection with the operation of the Proposed WCF Project. Applicant shall be

permitted to use a temporary electrical generator in connection with the operation of the Proposed WCF Project only in cases of power outages to the Proposed WCF Project and for purposes of routine testing and maintenance. The temporary generator shall be operated in a safe manner and the noise produced by the temporary generator shall conform to the City's noise ordinance set forth in Chapter 431 of the City Code. Batteries used in operation of the facility shall be disposed of off-site at the expense of the Applicant. If any liquid or hazardous material is used by Applicant in conjunction with the temporary generator, Applicant must employ a secondary containment system.

- 8) As soon as practicable but in any event within one (1) month after the date when a certificate of use and occupancy has been issued to the Applicant by the City of Marlborough's Building Inspector for the Proposed WCF Project, Applicant shall submit a written report to the City Council; provided, however, that if the Proposed WCF Project has not yet become operational within the one-month period after said issuance date, then the Applicant must immediately provide the City Council with written notification as to the date when the Proposed WCF Project does become operational and, further, must submit said written report within one (1) month after said operational date. The written report to the City Council shall i) provide measurements as to the actual output of radio frequency energy emitted by the Proposed WCF Project; ii) shall include a professional opinion by a qualified third party certifying that the Proposed WCF Project fully complies with all applicable health and safety standards; and iii) shall provide measurements of the actual output of the total radio frequency energy being emitted by all Wireless Communications Facilities (as defined in Section 650-25 of the Marlborough Zoning Ordinance) then located at the Site. The Applicant agrees to operate its Proposed WCF Project in compliance with all applicable health and safety standards. In the event that there are any changes in or upgrades to the Proposed WCF Project that may increase the actual output of radio frequency energy emitted by the Proposed WCF Project, the Applicant shall submit a letter to the City Council as soon as practicable but in any event within one (1) month after the date of completion of those changes or upgrades. The letter shall i) state what the changes or upgrades are; ii) shall provide measurements specifying how the actual output of radio frequency energy emitted by the Proposed WCF Project has been increased; iii) shall provide measurements of the actual output of all radio frequency energy being emitted by all hereinbefore-defined Wireless Communications Facilities then located at the Site; and iv) shall include a professional opinion by a qualified third party certifying that the Applicant's changes or upgrades have not caused the total radio frequency energy being emitted by all hereinbefore-defined Wireless Communications Facilities then located at the Site to exceed any applicable health and safety standards.
- 9) In accordance with the provisions of M.G.L. c. 40A, § 11, the Applicant at its expense shall record this Modified Special Permit in the Middlesex South District Registry of Deeds after the City Clerk has certified that the twenty-day period for

appealing this Modified Special Permit has elapsed with no appeal having been filed, and before the Applicant has applied to the Building Inspector for a building permit concerning the Proposed WCF Project. Applicant shall provide a copy of the recorded Modified Special Permit to the Building Inspector's office when the Applicant applies for the building permit, as well as a copy to the City Council's office and to the City Solicitor's office.



**City of Marlborough  
Legal Department**

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CITY CLERK'S OFFICE  
CITY OF MARLBOROUGH  
2012 OCT 25 11:55  
**DONALD V. RIDER, JR.**  
CITY SOLICITOR  
**CYNTHIA M. PANAGORE GRIFFIN**  
ASSISTANT CITY SOLICITOR  
**BEVERLY J. SLEEPER**  
CHIEF PROCUREMENT OFFICER  
**ELLEN M. STAVROPOULOS**  
PARALEGAL

October 25, 2012

Patricia Pope  
President  
Marlborough City Council

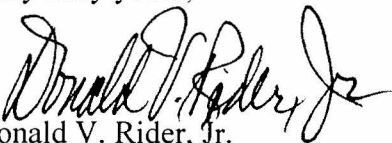
RE: Order No. 12-1005092C  
Application to Modify Special Permit  
Sprint  
75 Donald Lynch Boulevard

Dear President Pope and Members:

Pursuant to Chapter 650-59C(13) of the Marlborough Zoning Ordinance, I provide this letter as to the legal form of the City Council's proposed decision on the application submitted by Sprint to modify its existing special permit at 75 Donald Lynch Boulevard. The application is to replace six (6) of the currently installed CDMA antenna with three (3) Sprint Vision antennas onto an existing wireless communication facility; add six (6) remote radio heads onto an existing wireless communication facility; replace one (1) GPS mounted to the tower; replace two (2) cabinets with two (2) BBU cabinets, and install one (1) MM-BTS equipment cabinet and install a fiber distribution box within the existing lease area; and remove all existing CDMA coax cables and replace with four (4) hybrid cables connecting the antennae to the existing equipment.

I have enclosed a copy of the proposed decision. I certify that that decision is in proper legal form.

Very truly yours,

  
Donald V. Rider, Jr.  
City Solicitor

Enclosure

cc: Rossella Mercuri, Esquire

**DECISION ON AN APPLICATION TO MODIFY  
SPECIAL PERMIT**

**SPRINT**

**CITY COUNCIL ORDER NO. 12-1005092D**

Re: 75 Donald Lynch Blvd.

The City Council of the City of Marlborough hereby GRANTS the application to modify Special Permit No. 97-7271B, submitted by Sprint, having a usual place of business at 1 International Blvd., Suite 800, Mahwah, NJ, as provided in this Decision and subject to the following Findings of Fact and Conditions.

EVIDENCE

1. The Applicant is Sprint (hereinafter, “the Applicant”).
2. On December 8, 1997, by Order No. 97-7271B, the City Council granted to Sprint Spectrum L.P. d/b/a Sprint PCS, a special permit to install nine (9) antenna and three (3) ancillary equipment cabinets at the base of the AT&T monopole of the property located at 75 Donald Lynch Boulevard, Marlborough, MA (hereinafter, “the Original Special Permit”). The Original Special Permit is recorded at the Middlesex South District Registry of Deeds in Book 28034, Page 518. The site is more particularly identified on the Assessor’s Map of the City of Marlborough as Map 13, Parcel 2 (hereinafter, “the Site”). The owner of record for the Site is the Albert D. Bombard, with ATT Tower being the owner of the monopole.
3. Through its Application for Modification of Special Permit for a Wireless Communication Facility (hereinafter, “the Application”), as amended by the Applicant at the Marlborough City Council’s September 10, 2012 public hearing, the Applicant seeks permission to replace six (6) of the currently installed CDMA antenna with three (3) Sprint Vision antennas onto an existing wireless communication facility; add six (6) remote radio heads onto an existing wireless communication facility; replace one (1) GPS mounted to the tower; replace two (2) cabinets with two (2) BBU cabinets, and install one (1) MM-BTS equipment cabinet and install a fiber distribution box within the existing lease area; and remove all existing CDMA coax cables and replace with four (4) hybrid cables connecting the antennae to the existing equipment (hereinafter “Proposed WCF Project”), all substantially as depicted on a set of plans entitled “Sprint Vision, Site Number: BS03XC502, Site Name: AT&T Marlborough, Site Address: 75 Donald Lynch Blvd., Marlborough, MA 01752” by Atlantis Group, dated 5/16/2012, a copy of which was provided in the Special Permit Application (hereinafter, “the Plans”).
4. The Applicant is a lessee of the Site’s owner for purposes of the Application.
5. The proposed WCF is located in the Limited Industrial Zoning District. Wireless communication devices in the Limited Industrial Zoning District are allowed by grant of special permit.

6. The modification of the Original Special Permit is being sought pursuant to Article VI, Section 650-25 and Article VIII, Section 650-59 of the Zoning Code of the City of Marlborough.
7. Pursuant to the Rules and Regulations of Application for Special Permit ("Rules and Regulations"), the Building Inspector, on behalf of the City Planner, certified that the Special Permit application materials are complete and conform to said Rules and Regulations and that the Plans conform in all respects to the City Code.
8. The Applicant has complied with all of the applicable Rules of the Rules and Regulations.
9. The City of Marlborough City Council opened a public hearing on the Proposed WCF Project on September 10, 2012, for which proper notice had been published and for which proper notice had been given to all parties entitled to notice under the law.
10. The Applicant presented oral testimony and demonstrative evidence at the public hearing, demonstrating that the Proposed WCF Project meets all the applicable Special Permit criteria of Article VI, Section 650-25 and Article VIII, Section 650-59.
11. The Applicant provided further oral testimony and demonstrative evidence to the City Council's Wireless Communications Committee regarding the Proposed WCF Project's compliance with the applicable Special Permit criteria.
12. The Council, in reviewing the Application, considered the Review Standards and Development Requirements, as enumerated in Article VI, Section 650-25 and Article VIII, Section 650-59 of the City of Marlborough Zoning Ordinance, applicable to the Proposed WCF Project.

**BASED UPON THE ABOVE, THE MARLBOROUGH CITY  
COUNCIL MAKES THE FOLLOWING FINDINGS OF FACT  
AND TAKES THE FOLLOWING ACTIONS**

- A) The Applicant has complied with all the Rules and Regulations promulgated by the Marlborough City Council pertaining to the said Application for a Special Permit.
- B) The Site is an appropriate location for the Proposed WCF Project and the Proposed WCF Project is in harmony with the general purpose and intent of the Zoning Ordinance of the City of Marlborough when subject to the appropriate terms and conditions of this approval.
- C) The Applicant has complied with the applicable Review Standards and Development Requirements pertaining to Wireless Communications Devices, enumerated in Article VI, Section 650-25 and Article VIII, Section 650-59 of the City of Marlborough Zoning Ordinance, by siting, designing and screening its Proposed WCF Project to minimize adverse impact on the abutting neighborhood and on nearby residential properties.

D) The Council, pursuant to its authority under M.G.L. Chapter 40A and the City of Marlborough Zoning Ordinances, **GRANTS** the Applicant a modification of the Original Special Permit (hereinafter, "Modified Special Permit"), **SUBJECT TO THE FOLLOWING CONDITIONS NUMBERED 1 THROUGH 10:**

1. Applicant agrees to comply with all rules, regulations, ordinances and statutes of the City of Marlborough, the Commonwealth of Massachusetts, and the federal government as they may apply to the construction, maintenance and operation of Applicant's Proposed WCF Project.
2. The Proposed WCF Project shall be constructed, maintained and operated according to the specifications, terms and conditions of the Application, as amended during the application/hearing process, and in compliance with the conditions of the grant of this Modified Special Permit as well as with the conditions set forth in Chapter 650-25F of the Marlborough Zoning Ordinance. All plans and photo renderings which have been filed by Applicant are hereby incorporated and become part of this Modified Special Permit.
3. The issuance of this Modified Special Permit is further subject to Site Plan Review, in accordance with the City of Marlborough's ordinance, prior to the issuance of the actual building permit. Any additional changes, alterations, modifications or amendments as required by Site Plan Review shall be further conditions attached to this Modified Special Permit and no occupancy permit shall be issued until all conditions are complied with by Applicant.
4. All conditions set forth in the Original Special Permit are applicable to this Modified Special Permit.
5. Failure to pay in a timely manner the annual sum of One Thousand Five Hundred (\$1,500.00) dollars to the City of Marlborough Open Space Account #100-2410-44515 shall constitute a violation of the Modified Special Permit, and the Applicant shall pay an additional sum of \$500 per quarter or portion thereof after the payment due date that the Applicant has failed to make payment.
6. Applicant shall provide landscaping around the equipment cabinets at the Site to adequately shield them from view.
7. Applicant shall maintain and keep the Site in good repair, neat, clean and free from all debris.
8. Applicant shall not utilize a permanent electrical generator, of any type, in connection with the operation of the Proposed WCF Project. Applicant shall be permitted to use a temporary electrical generator in connection with the operation of the Proposed WCF Project only in cases of power outages to the Proposed WCF Project and for purposes of routine testing and maintenance. The temporary generator shall be operated in a safe manner and the noise produced by the temporary generator shall conform to the City's noise ordinance set forth in Chapter 431 of the City Code. Batteries used in operation of the facility shall be disposed of off-site at the expense of the Applicant. If any liquid or hazardous material is used by Applicant in



conjunction with the temporary generator, Applicant must employ a secondary containment system.

9. As soon as practicable but in any event within one (1) month after the date when a certificate of use and occupancy has been issued to the Applicant by the City of Marlborough's Building Inspector for the Proposed WCF Project, Applicant shall submit a written report to the City Council; provided, however, that if the Proposed WCF Project has not yet become operational within the one-month period after said issuance date, then the Applicant must immediately provide the City Council with written notification as to the date when the Proposed WCF Project does become operational and, further, must submit said written report within one (1) month after said operational date. The written report to the City Council shall i) provide measurements as to the actual output of radio frequency energy emitted by the Proposed WCF Project; ii) shall include a professional opinion by a qualified third party certifying that the Proposed WCF Project fully complies with all applicable health and safety standards; and iii) shall provide measurements of the actual output of the total radio frequency energy being emitted by all Wireless Communications Facilities (as defined in Section 650-25 of the Marlborough Zoning Ordinance) then located at the Site. The Applicant agrees to operate its Proposed WCF Project in compliance with all applicable health and safety standards. In the event that there are any changes in or upgrades to the Proposed WCF Project that may increase the actual output of radio frequency energy emitted by the Proposed WCF Project, the Applicant shall submit a letter to the City Council as soon as practicable but in any event within one (1) month after the date of completion of those changes or upgrades. The letter shall i) state what the changes or upgrades are; ii) shall provide measurements specifying how the actual output of radio frequency energy emitted by the Proposed WCF Project has been increased; iii) shall provide measurements of the actual output of all radio frequency energy being emitted by all hereinbefore-defined Wireless Communications Facilities then located at the Site; and iv) shall include a professional opinion by a qualified third party certifying that the Applicant's changes or upgrades have not caused the total radio frequency energy being emitted by all hereinbefore-defined Wireless Communications Facilities then located at the Site to exceed any applicable health and safety standards.

10. In accordance with the provisions of M.G.L. c. 40A, § 11, the Applicant at its expense shall record this Modified Special Permit in the Middlesex South District Registry of Deeds after the City Clerk has certified that the twenty-day period for appealing this Modified Special Permit has elapsed with no appeal having been filed, and before the Applicant has applied to the Building Inspector for a building permit concerning the Proposed WCF Project. Applicant shall provide a copy of the recorded Modified Special Permit to the Building Inspector's office when the Applicant applies for the building permit, as well as a copy to the City Council's office and to the City Solicitor's office.



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# City of Marlborough Legal Department

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2012 OCT 25 A 11:30

DONALD V. RIDER, JR.  
CITY SOLICITOR

CYNTHIA M. PANAGORE GRIFFIN  
ASSISTANT CITY SOLICITOR

BEVERLY J. SLEEPER  
CHIEF PROCUREMENT OFFICER

ELLEN M. STAVROPOULOS  
PARALEGAL

October 25, 2012

Patricia Pope  
President  
Marlborough City Council

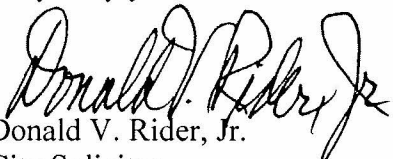
RE: Order No. 12-1005093C  
Application to Modify Special Permit  
Sprint  
860 Boston Post Road East

Dear President Pope and Members:

Pursuant to Chapter 650-59C(13) of the Marlborough Zoning Ordinance, I provide this letter as to the legal form of the City Council's proposed decision on the application submitted by Sprint to modify its existing special permit at 860 Boston Post Road East. The application is to replace six (6) of the currently installed CDMA antenna with three (3) Sprint Vision antennas onto an existing wireless communication facility; add six (6) remote radio heads onto an existing wireless communication facility; replace one (1) GPS mounted to the tower; replace one (1) CDMA cabinet with two (2) BBU cabinets, and install one (1) MM-BTS equipment cabinet and install a fiber distribution box within the existing lease area; and remove all existing CDMA coax cables and replace with four (4) hybrid cables connecting the antennae to the existing equipment.

I have enclosed a copy of the proposed decision. I certify that that decision is in proper legal form.

Very truly yours,

  
Donald V. Rider, Jr.  
City Solicitor

Enclosure

cc: Rossella Mercuri, Esquire

**DECISION ON AN APPLICATION TO MODIFY  
SPECIAL PERMIT**

**SPRINT**

**CITY COUNCIL ORDER NO. 12-1005093D**

Re: 860 Boston Post Road

The City Council of the City of Marlborough hereby GRANTS the application to modify Special Permit No. 05-100942A, submitted by Sprint, having a usual place of business at 1 International Blvd., Suite 800, Mahwah, NJ, as provided in this Decision and subject to the following Findings of Fact and Conditions.

EVIDENCE

1. The Applicant is Sprint (hereinafter, "Applicant").
2. On December 19, 2005, by Order No. 05-100942A, the City Council granted to Sprint Spectrum LP, A Delaware Limited Partnership, a special permit to construct and operate a 15' monopole extension to the then-previously approved 120' wireless tower, and to install on that extension up to twelve (12) panel antennas and associated equipment in a fenced compound area, on the property located at 860 Boston Post Road, Marlborough, MA (hereinafter, "the Original Special Permit"). The Original Special Permit is being recorded herewith at the Middlesex South District Registry of Deeds. The site is more particularly identified on the Assessor's Map of the City of Marlborough as Map 61, Parcel 16 (hereinafter, "the Site"). The owner of record for the Site is the City of Marlborough.
3. Through its Application for Modification of Special Permit for a Wireless Communication Facility (hereinafter, "the Application"), as amended by the Applicant at the Marlborough City Council's September 10, 2012 public hearing, the Applicant seeks permission to replace six (6) of the currently installed CDMA antenna with three (3) Sprint Vision antennas onto an existing wireless communication facility; add six (6) remote radio heads onto an existing wireless communication facility; replace one (1) GPS mounted to the tower; replace one (1) CDMA cabinet with two (2) BBU cabinets, and install one (1) MM-BTS equipment cabinet and install a fiber distribution box within the existing lease area; and remove all existing CDMA coax cables and replace with four (4) hybrid cables connecting the antennae to the existing equipment (hereinafter "Proposed WCF Project"), all substantially as depicted on a set of plans entitled "Sprint Vision, Site Number: BS54XC929, Site Name: Verizon/Easterly Treatment Plant, Site Address: 860 Boston Post Road, Marlborough, MA 01752" by Salient Architects, LLC, dated 9/22/11, a copy of which was provided in the Special Permit Application (hereinafter, "the Plans").
4. The Applicant is a lessee of Verizon Wireless for purposes of the Application.

5. The Proposed WCF Project is located in part in the Rural Residential Zoning District, and in part in the Business Zoning District. Wireless communication devices are allowed by grant of special permit in both Zoning Districts.
6. The modification of the Original Special Permit is being sought pursuant to Article VI, Section 650-25 and Article VIII, Section 650-59 of the Zoning Code of the City of Marlborough.
7. Pursuant to the Rules and Regulations of Application for Special Permit ("Rules and Regulations"), the Building Inspector, on behalf of the City Planner, certified that the Special Permit application materials are complete and conform to said Rules and Regulations and that the Plans conform in all respects to the City Code.
8. The Applicant has complied with all of the applicable Rules of the Rules and Regulations.
9. The City of Marlborough City Council opened a public hearing on the Proposed WCF Project on September 10, 2012, for which proper notice had been published and for which proper notice had been given to all parties entitled to notice under the law.
10. The Applicant presented oral testimony and demonstrative evidence at the public hearing, demonstrating that the Proposed WCF Project meets all the applicable Special Permit criteria of Article VI, Section 650-25 and Article VIII, Section 650-59.
11. The Applicant provided further oral testimony and demonstrative evidence to the City Council's Wireless Communications Committee regarding the Proposed WCF Project's compliance with the applicable Special Permit criteria.
12. The Council, in reviewing the Application, considered the Review Standards and Development Requirements, as enumerated in Article VI, Section 650-25 and Article VIII, Section 650-59 of the City of Marlborough Zoning Ordinance, applicable to the Proposed WCF Project.

**BASED UPON THE ABOVE, THE MARLBOROUGH CITY  
COUNCIL MAKES THE FOLLOWING FINDINGS OF FACT  
AND TAKES THE FOLLOWING ACTIONS**

- A) The Applicant has complied with all the Rules and Regulations promulgated by the Marlborough City Council pertaining to the said Application for a Special Permit.
- B) The Site is an appropriate location for the Proposed WCF Project and the Proposed WCF Project is in harmony with the general purpose and intent of the Zoning Ordinance of the City of Marlborough when subject to the appropriate terms and conditions of this approval.
- C) The Applicant has complied with the applicable Review Standards and Development Requirements pertaining to Wireless Communications Devices, enumerated in Article VI,

Section 650-25 and Article VIII, Section 650-59 of the City of Marlborough Zoning Ordinance, by siting, designing and screening its Proposed WCF Project to minimize adverse impact on the abutting neighborhood and on nearby residential properties.

D) The Council, pursuant to its authority under M.G.L. Chapter 40A and the City of Marlborough Zoning Ordinances, **GRANTS** the Applicant a modification of the Original Special Permit (hereinafter, "Modified Special Permit"), **SUBJECT TO THE FOLLOWING CONDITIONS NUMBERED 1 THROUGH 13:**

1. Applicant agrees to comply with all rules, regulations, ordinances and statutes of the City of Marlborough, the Commonwealth of Massachusetts, and the federal government as they may apply to the construction, maintenance and operation of Applicant's Proposed WCF Project.
2. The Proposed WCF Project shall be constructed, maintained and operated according to the specifications, terms and conditions of the Application, as amended during the application/hearing process, and in compliance with the conditions of the grant of this Modified Special Permit as well as with the conditions set forth in Chapter 650-25F of the Marlborough Zoning Ordinance. All plans and photo renderings which have been filed by Applicant are hereby incorporated and become part of this Modified Special Permit.
3. The issuance of this Modified Special Permit is further subject to Site Plan Review, in accordance with the City of Marlborough's ordinance, prior to the issuance of the actual building permit. Any additional changes, alterations, modifications or amendments as required by Site Plan Review shall be further conditions attached to this Modified Special Permit and no occupancy permit shall be issued until all conditions are complied with by Applicant.
4. All conditions set forth in the Original Special Permit are applicable to this Modified Special Permit.
5. Failure to pay in a timely manner the annual sum of One Thousand Five Hundred (\$1,500.00) dollars to the City of Marlborough Open Space Account #100-2410-44515 shall constitute a violation of the Modified Special Permit, and the Applicant shall pay an additional sum of \$500 per quarter or portion thereof after the payment due date that the Applicant has failed to make payment.
6. No installation work shall be performed by Applicant or its contractors without the supervision of an appropriate individual designated by the Commissioner of the City of Marlborough's Department of Public Works. Additionally, the MDPW will conduct a final inspection of the installation work within fifteen (15) days of completion of the installation.
7. Pursuant to Chapter 650-25F of the Marlborough Zoning Ordinance, Applicant shall indemnify the City of Marlborough regarding the installation, maintenance and operation of Applicant's equipment at the Site, and Applicant shall provide the City's Legal Department with a certificate of liability insurance naming the City as an additional insured.

8. Applicant shall provide landscaping around the equipment cabinets at the Site to adequately shield them from view.
9. Applicant shall not install any asphalt on the Site or the adjacent City-owned premises.
10. Applicant shall maintain and keep the Site in good repair, neat, clean and free from all debris.
11. Applicant shall not utilize a permanent electrical generator, of any type, in connection with the operation of the Proposed WCF Project. Applicant shall be permitted to use a temporary electrical generator in connection with the operation of the Proposed WCF Project only in cases of power outages to the Proposed WCF Project and for purposes of routine testing and maintenance. The temporary generator shall be operated in a safe manner and the noise produced by the temporary generator shall conform to the City's noise ordinance set forth in Chapter 431 of the City Code. Batteries used in operation of the facility shall be disposed of off-site at the expense of the Applicant. If any liquid or hazardous material is used by Applicant in conjunction with the temporary generator, Applicant must employ a secondary containment system.
12. As soon as practicable but in any event within one (1) month after the date when a certificate of use and occupancy has been issued to the Applicant by the City of Marlborough's Building Inspector for the Proposed WCF Project, Applicant shall submit a written report to the City Council; provided, however, that if the Proposed WCF Project has not yet become operational within the one-month period after said issuance date, then the Applicant must immediately provide the City Council with written notification as to the date when the Proposed WCF Project does become operational and, further, must submit said written report within one (1) month after said operational date. The written report to the City Council shall i) provide measurements as to the actual output of radio frequency energy emitted by the Proposed WCF Project; ii) shall include a professional opinion by a qualified third party certifying that the Proposed WCF Project fully complies with all applicable health and safety standards; and iii) shall provide measurements of the actual output of the total radio frequency energy being emitted by all Wireless Communications Facilities (as defined in Section 650-25 of the Marlborough Zoning Ordinance) then located at the Site. The Applicant agrees to operate its Proposed WCF Project in compliance with all applicable health and safety standards. In the event that there are any changes in or upgrades to the Proposed WCF Project that may increase the actual output of radio frequency energy emitted by the Proposed WCF Project, the Applicant shall submit a letter to the City Council as soon as practicable but in any event within one (1) month after the date of completion of those changes or upgrades. The letter shall i) state what the changes or upgrades are; ii) shall provide measurements specifying how the actual output of radio frequency energy emitted by the Proposed WCF Project has been increased; iii) shall provide measurements of the actual output of all radio frequency energy being emitted by all hereinbefore-defined Wireless Communications Facilities then located at the Site; and iv) shall include a professional opinion by a qualified third party certifying that the Applicant's changes or upgrades have not caused the total radio frequency energy being emitted by all hereinbefore-defined Wireless Communications Facilities then located at the Site to exceed any applicable health and safety standards.

13. In accordance with the provisions of M.G.L. c. 40A, § 11, the Applicant at its expense shall record both the Original Special Permit, as well as this Modified Special Permit, in the Middlesex South District Registry of Deeds after the City Clerk has certified that the twenty-day period for appealing this Modified Special Permit has elapsed with no appeal having been filed, and before the Applicant has applied to the Building Inspector for a building permit concerning the Proposed WCF Project. Applicant shall provide a copy of both the recorded Original Special Permit as well as the recorded Modified Special Permit to the Building Inspector's office when the Applicant applies for the building permit, as well as a copy of both special permits to the City Council's office and to the City Solicitor's office.



City of Marlborough

Legal Department

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**DONALD V. RIDER, JR.**  
CITY SOLICITOR

**CYNTHIA M. PANAGORE GRIFFIN**  
ASSISTANT CITY SOLICITOR

**BEVERLY J. SLEEPER**  
CHIEF PROCUREMENT OFFICER

**ELLEN M. STAVROPOULOS**  
PARALEGAL

October 25, 2012

Patricia Pope  
President  
Marlborough City Council

RE: 61 Emmett Street  
Proposed License to Encroach onto Public Way

Dear President Pope and Members:

The Marlborough Community Development Authority is in the process of conveying the property located at 61 Emmett Street to a new owner. The retaining wall built to the northwest of the driveway to 61 Emmett encroaches very slightly onto the public right of way layout. Accordingly, enclosed for your consideration is a proposed license to encroach, along with the as-built plan it references.

Note that the proposed license to encroach expressly takes into account an existing temporary license, granted by the City Council in December 2011 to the record owners of 56 Emmett Street, to park during the 2011-12 winter parking ban at or near the same portion of Emmett Street being encroached on by the retaining wall at issue. The latter license to park may possibly come up for renewal with the Council this December.

By enclosed letter, counsel for the CDA indicates his approval, along with that of the buyer's attorney, as to the legal form of the proposed license to encroach. That letter also requests that the proposed license to encroach be advanced to the Council in time for the scheduled closing in November. Accordingly, it is respectfully requested that the Council take action on this matter no later than its November 5, 2012 meeting, so that the closing may timely proceed.

Thank you for your attention to this matter.

Very truly yours,

Donald V. Rider, Jr.  
City Solicitor

Enclosures

cc: Aldo A. Cipriano, Esquire



ORDERED:

That the record owner (“the Licensee”) of 61 Emmett Street, Marlborough, Massachusetts, identified as Map 81, Parcel 126 of the Marlborough Assessors Maps, is hereby granted by the City of Marlborough (“the Licensor”) a license (“the License”) to encroach on and occupy a portion of the right of way layout for Emmett Street located to the northwest of the driveway to said 61 Emmett Street (“the Affected Portion of the Emmett Street ROW”), as shown on a plan entitled, “As Built Site Plan, 61 Emmett Street, Marlborough, MA, Scale 1"=20', Date: August 15, 2012, Addit.: August 22, 2012” (“the Plan”), for the sole purpose of extending a concrete block retaining wall into the said right of way. No changes to the surface conditions and use of the Affected Portion of the Emmett Street ROW, other than those shown as existing on the Plan, shall be made by the Licensee unless previously approved through formal site plan approval and written authorization from the Commissioner of Public Works.

This License is subject to all other uses which the Licensor may from time to time make of the Affected Portion of the Emmett Street ROW, including but not limited to a temporary one-year license granted by the Marlborough City Council (Order No. 11-1004017, X-0309919A) on December 19, 2011, subject to further Council approval one year from said date, to the record owners of 56 Emmett Street for the sole purpose of parking at or near the Affected Portion of the Emmett Street ROW, as shown on a plan entitled, “Plan of Land in Marlborough, Massachusetts, to be Licensed to Richard F. and Jane A. Sullivan, for Parking, #56 Emmett Street, Prepared by: City of Marlborough Department of Public Works, Engineering Division (BWT), Scale: 1” = 20’, January 2002.”

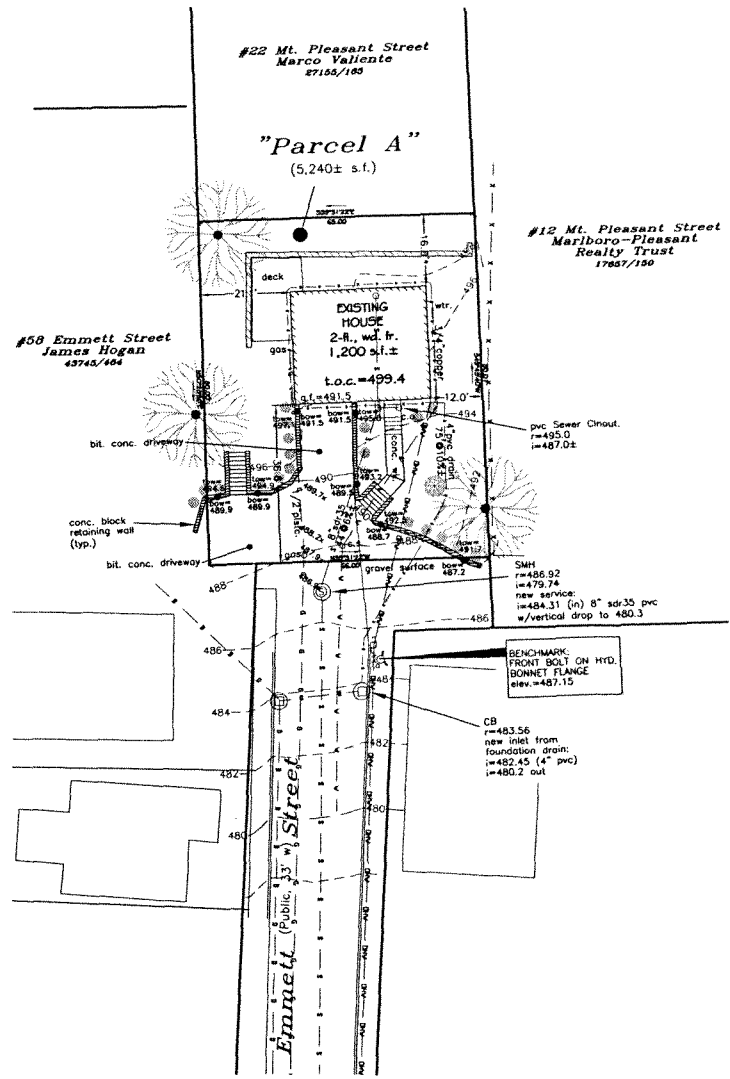
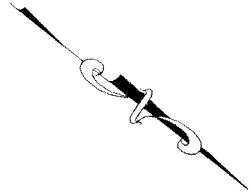
This License is further subject to Mass. Gen. Laws c. 86, § 3.

The Licensee, its successors and assigns hereby agree to indemnify and hold harmless the Licensor, including its officers, employees and agents, from any damage that may be caused by the Licensor, including its officers, employees and agents, to said retaining wall insofar as it encroaches on and occupies the Affected Portion of the Emmett Street ROW; as well as from any damage or injury to property or person that may arise in connection with the said retaining wall’s encroachment on and occupation of the Affected Portion of the Emmett Street ROW.

ADOPTED  
In City Council  
Order No 12-  
Adopted

Approved by Mayor  
Arthur G. Vigeant  
Date:

A TRUE COPY  
ATTEST:



**LEGEND**

- 000--- DENOTES EXISTING CONTOUR
- 000.0 DENOTES EXISTING ELEVATION
- D--- DENOTES DRAIN LINE
- S--- DENOTES SEWER LINE
- V--- DENOTES WATER LINE
- G--- DENOTES GAS LINE
- OH--- DENOTES OVERHEAD ELECTRIC LINE
- o C.S. DENOTES SEWER CLEANOUT
- o C.S. DENOTES WATER CURB STOP
- o DENOTES EXISTING TREE/SHRUB
- DENOTES EXISTING RETAINING WALL
- X--- DENOTES EXISTING FENCE

**MARLBOROUGH ASSESSORS REFERENCE:**

MAP 81 PARCEL 126  
 DEED REFERENCE:  
 WORD BOOK 49153 PAGE 261

**NOTES**

- 1.) REFER TO APPROVED SITE PLAN BY TLS&EC, DATED JUNE 28, 2012 (REV. THROUGH JULY 19, 2012).
- 2.) AS-BUILT TOPOGRAPHIC DATA BASED ON SURVEY BY TLS&EC, AUGUST, 2012. ELEVATIONS BASED ON NGVD 1929 DATUM.

**ZONING TABLE**

ZONING DISTRICT:	RES. C	RES. C	PROPOSED	AS-BUILT
REQUIREMENTS - REQUIRED:				
AREA:	10,000 S.F.	3,200 S.F.	3,200 S.F.	3,200 S.F.
FRONTAGE:	80 FEET	83 FEET	83 FEET	83 FEET
FRONT YARD:	20 FEET	31.3 FEET	40.2 FEET	80 FEET
REAR YARD:	25 FEET	7.6 FEET	13.8 FEET	38.8 FEET
SIDE YARD:	10 FEET	14.1 FEET	11.0 FEET	16.8 FEET
LOT COVERAGE:	30 % MAX.	28 %	40 %	35 %

**WATER METER:**

#90447339

I HEREBY CERTIFY THAT THE STRUCTURES SHOWN ON THIS PLAN ARE NOT LOCATED WITHIN THE FLOOD HAZARD AREA AS SHOWN ON THE FEMA FLOOD HAZARD BOUNDARY MAP FOR THIS CITY.

I CERTIFY THAT THE STRUCTURE SHOWN ON THIS PLAN IS LOCATED AS SHOWN, AND THAT, AT THE TIME OF CONSTRUCTION, COMPLIES WITH ZONING LAWS OF THE CITY OF MARLBOROUGH, EXCEPT AS NOTED.

THOMAS P. DIPERSIO, Sr.  
 REGISTERED PROF. LAND SURVEYOR  
 LICENSE #29864

DATE

**AS BUILT SITE PLAN  
 61 EMMETT STREET  
 MARLBOROUGH, MA**

SCALE: 1" = 20' DATE: AUGUST 15, 2012  
 ADDI.: AUGUST 22, 2012

Prepared for:  
**MARLBOROUGH COMMUNITY  
 DEVELOPMENT AUTHORITY  
 140 MAIN STREET  
 MARLBOROUGH, MA 01752**

Owned by:  
**MARLBOROUGH COMMUNITY  
 DEVELOPMENT AUTHORITY  
 140 MAIN STREET  
 MARLBOROUGH, MA 01752**

**THOMAS LAND SURVEYORS**

& Engineering Consultants, Inc.  
 Land Surveyors, Civil & Environmental Engineers, Planning Consultants  
 288 WASHINGTON STREET  
 MARLBOROUGH, MA 01748  
 PHONE: (978) 863-2000

**ALDO A. CIPRIANO**  
ATTORNEY AND COUNSELLOR AT LAW

*Sent Via Email Only*

October 25, 2012

Donald V. Rider, Esq.  
City Solicitor  
City of Marlborough  
City Hall, 4<sup>th</sup> Floor  
140 Main Street  
Marlborough, MA 01752

277 MAIN STREET  
VICTORIA BUILDING  
SECOND LEVEL • ATRIUM SUITE  
MARLBOROUGH, MASSACHUSETTS 01752  
TEL. (508) 485-7245  
FAX (508) 485-2304

*Re: 61 Emmett Street, Retaining Wall Issue, Public Way Encroachment*

Dear Mr. Solicitor,


We acknowledge receipt of your correspondence of October 24, 2012, together with proposed City Council Order amending an existing municipal License for the Emmett Street public road layout area. We find it to be in proper legal form and have advanced the documents to buyer's counsel, who has no known objection to the format.

However, in turn, she needs to send it to bank counsel for Citizen's Bank for his ultimate approval, relative to the loan. We would respectfully request this matter be advanced for City Council consideration, commencing on October 29<sup>th</sup>, so that we can meet the timetable for closing, which, apparently, will be later in November.

If we learn of any suggested changes from bank counsel, we will so inform you promptly.

Thank you for your continued professional assistance in this regard.

Very truly yours,

  
Aldo A. Cipriano, Esq.  
General Counsel

AAC/lc

cc: Marlborough Community Development Authority



CITY OF MARLBOROUGH  
OFFICE OF CITY CLERK

That the City Clerk be and is herewith directed to have proper notices issued notifying the VOTERS of the City of Marlborough that the **STATE ELECTION** will be held in the polling locations as noted below on **NOVEMBER 6, 2012** as follows: Electors of President and Vice President, Senator in Congress, Representative in Congress, Councillor, Senator in General Court, Representative in General Court, (Thirteen and Fourth Middlesex District) Clerk of Courts, Register of Deeds and Sheriff.

THE POLLS WILL OPEN AT 7:00 A.M. AND WILL CLOSE AT 8:00 P.M.

POLLING LOCATIONS ARE AS FOLLOWS:

WARD ONE: Prec. 1 and 2	Francis J. Kane School, 520 Farm Rd.
WARD TWO: Prec. 1 and 2	Francis J. Kane School, 520 Farm Rd.
WARD THREE: Prec. 1	Masonic Hall, 8 Newton St. (corner of Main/Newton Sts.), rear
WARD THREE: Prec. 2	Raymond J. Richer School, 80 Foley Rd., Cafetrium
WARD FOUR: Prec. 1 and 2	Boys & Girls Club, 169 Pleasant St.
WARD FIVE: Prec. 1	Senior Center, 250 Main St.
WARD FIVE: Prec. 2	Masonic Hall, 8 Newton St. (corner of Main/Newton Sts.), rear
WARD SIX: Prec. 1 and 2	1LT Charles W. Whitcomb School, 25 Union St., Library
WARD SEVEN: Prec. 1 and 2	Hildreth School Gymnasium, 85 Sawin St.

---

# MIRICK O'CONNELL

---

A T T O R N E Y S   A T   L A W

RECEIVED  
CITY CLERK'S OFFICE  
CITY OF MARLBOROUGH

2012 OCT 25 A 9:53

**Arthur P. Bergeron**  
Mirick O'Connell  
100 Front Street  
Worcester, MA 01608-1477  
abergeron@mirickoconnell.com  
t 508.929.1652  
f 508.463.1385

October 25, 2012

**HAND DELIVERED**

Lisa M. Thomas, City Clerk  
City of Marlborough  
140 Main Street  
Marlborough, MA 01752

Re: Notice of Representation (City Council Order No. 91-3822A), Breazzano  
Properties Corp.

Dear Ms. Thomas:

I am employed as an attorney with the law firm of Mirick, O'Connell, DeMallie & Lougee, LLP (the "Firm"). The Firm serves as outside legal counsel for the City of Marlborough for labor services.

Outside legal counsel has been designated by the City Council as special municipal employees. The City Council requires that all such employees file a disclosure with the City Clerk's office when they are representing a non-City of Marlborough client before a City board, commission, department, etc.

I hereby provide notice that I will be the attorney representing Breazzano Properties Corp. in a matter involving the City Council and the Urban Affairs Subcommittee relative to certain property on Lakeside Avenue.

Very truly yours,



Arthur P. Bergeron

APB/alm

---

# MIRICK O'CONNELL

---

ATTORNEYS AT LAW

RECEIVED  
CITY CLERK'S OFFICE  
CITY OF MARLBOROUGH

2012 OCT 25 A 9:43

**Arthur P. Bergeron**  
Mirick O'Connell  
100 Front Street  
Worcester, MA 01608-1477  
abergeron@mirickoconnell.com  
t 508.929.1652  
f 508.463.1385

October 25, 2012

## **HAND DELIVERED**

Councilor Patricia Pope, President  
Marlborough City Council  
City Hall  
Marlborough, MA 01752

Re: Request for Transfer of Real Estate

Dear Councilor Pope:

My client, Breazzano Properties Corp., hereby requests that the City Council authorize the transfer to it of the property described in a plan entitled Discontinuance Plan of Land in Marlborough, MA, prepared for: David Breazzano, dated October 7, 2005, last revised April 20, 2006, Scale: 1"=30'" prepared by Bruce Saluk and Associates, Inc. The land in question, containing 8,816 sq. ft., consists of that portion of what is often referred to as Old Lakeside Avenue that currently bisects other land of my client, land on which are located both Allora Restaurant and Weichert Realtors. You and several councilors, who were there at the time, may recall that my client made a similar request in 2006, at which time the City Council voted to discontinue that portion of Old Lakeside Ave., but decided not to actually convey the property to my client until a determination had been made that the Commonwealth of Massachusetts no longer had any legal interest in the property. That decision was made upon the advice of City Solicitor Don Rider expressed in a letter to you, in your role as Chairman of the Urban Affairs Committee, dated June 30, 2006. A copy of that letter is attached as Attachment #1. Because of the active advocacy efforts of Representative Steve Levy, the Highway Division of the Massachusetts Department of Transportation completed a MEMO (see copy, Attachment #2) determining that:

1. When the Commonwealth discontinued its use of this and all the other land constituting Old Lakeside Ave., the land reverted to the County Commissioners of Middlesex County.
2. When Middlesex County was dissolved, that interested reverted to the City of Marlborough.

Now that these title issues have been resolved, my client requests that the City Council:

**MIRICK O'CONNELL**

Councilor Patricia Pope, President  
October 25, 2012  
Page 2

1. Determine, pursuant to Mass. General Laws Chapter 30B § 16(a) that disposition is appropriate.
2. Determine, pursuant to Chapter 30B § 16(b) that the value of the land is less than \$25,000. An appraisal done for my client back in 2006, before the real estate collapse in this area, determined that the property was worth only \$7,935.
3. Pursuant to General Laws Chapter 40 § 15, authorize the Mayor to convey to my client the property described in the above-mentioned plan for such price, and subject to such conditions, as it deems appropriate.

Thank you for your prompt attention to this matter. I think it is in the interest of all parties to have the matter be resolved before January 1, 2013, after which my client will be assessed and pay taxes on this parcel.

Very truly yours,



Arthur P. Bergeron

APB/alm

ATT #1



# City of Marlborough Office of the City Solicitor

140 MAIN STREET  
MARLBOROUGH, MASSACHUSETTS 01752  
TEL. (508) 460-3771 ■ FACSIMILE (508) 460-3698 ■ TDD (508)  
460-3610  
legal@marlborough-ma.gov

Donald V. Rider, Jr.  
CITY SOLICITOR

Ronald G. Guest  
LEGAL ADMINISTRATOR

Beverly J. Sleeper  
PARALEGAL

June 20, 2006

Patricia Pope  
Chairman  
Urban Affairs Committee  
Marlborough City Council

RE: Old Lakeside Avenue

Dear Chairman Pope:

Breazzano Properties Corp. ("Breazzano") has petitioned the City Council to discontinue the portion of Old Lakeside Avenue (i.e., a portion of Parcel 80-40A) that fronts Breazzano's properties at 127 Lakeside Avenue (formerly, Rocco's) and at 109 (aka 139) Lakeside Avenue. As part of its discontinuance petition, Breazzano adds language in which the City Council would accept a deed back from Breazzano for a municipal utility easement. Thus, a vote to discontinue would both a) discontinue the City's easement to pass and re-pass, as well as b) accept the municipal utility easement. I will refer to this vote as step 1.

Then, as part of the overall process being proposed by Breazzano, Breazzano would next seek:

2) to have the City petition the Legislature to deed to the City any and all right, title and interest which the Commonwealth may still have in the entire portion of Route 20 discontinued in 1972 (i.e., from Breazzano's properties all the way to the east past McKinnon's property), not just the portion that fronts Breazzano's properties; and

3) to have the City deed to Breazzano any and all right, title and interest which the City (now including the Commonwealth) may still have in the portion of the discontinued Route 20 that fronts Breazzano's properties.

Breazzano's idea behind steps 2 and 3 is that it is theoretically possible that either the Commonwealth or the City still has a fee interest in the land that fronts Breazzano's properties; that any such



fee interest held by the Commonwealth would not have been affected by the 1972 discontinuance of the Commonwealth's easement interest in Old Lakeside Avenue; that, likewise, any such fee interest held by the City would not have been affected by the would-be discontinuance now before the Council; and that therefore steps 2 and 3 are desirable so that Breazzano will definitively be the sole fee owner of the properties.

Massachusetts law is clear that, while it is theoretically possible that "[t]he fee of the land may be taken by [the] public authority or it may be in someone other than the abutter," that situation "is unusual." Opinion of the Justices, 297 Mass. 559, 562 (1937) (emphasis supplied). "Abutting owners ordinarily hold the title to the fee to the center of the public way, subject only to the easement of travelers to pass and repass." Id. (emphasis supplied). See Nylander v. Potter, 423 Mass. 158, 161 (1996) ("When the town of Warwick discontinued Bachellor Road as a town road, the landowners abutting the road had full ownership in the roadbed.")

Given that Massachusetts law thus indicates the likelihood that Breazzano owns the fee interest in the land at issue, it is entirely possible that Breazzano might be content with the vote to discontinue in step 1 -- that is, that Breazzano might never seek to pursue steps 2 and 3. From the City's perspective, the problem with doing only step 1 would be that the City would have no opportunity to place conditions on Breazzano's properties, as the statute governing a vote to discontinue, Mass. Gen. Laws c. 82, § 21, does not appear to give municipalities the power to conditionalize discontinuances. In short, if the Council were to vote to discontinue and accept the municipal utility deed, that vote might be the last say the City would have on the matter.

Accordingly, to the extent the Council may wish to place conditions on Breazzano's properties, I would suggest for your Committee's consideration that the steps above be re-arranged, by having step 2 (Commonwealth deeds to City) come first. Then the City would be in a position to deed to Breazzano all of the City (now including the Commonwealth)'s right, title and interest in the properties, including the easement to pass and re-pass which Breazzano currently petitions to be discontinued, as well as any fee interest that the City or the Commonwealth may have in the properties. With such a deed, the City would then be in a position to place whatever conditions on the properties as might be deemed appropriate by the Council.

Very truly yours,

Donald V. Rider, Jr.  
City Solicitor

ATT #2

---

MASSDOT - HIGHWAY DIVISION  
DISTRICT # 3 - RIGHT OF WAY BUREAU  
INTEROFFICE MEMORANDUM

---

**TO:** ANN SULLIVAN  
**FROM:** NICHOLAS J. CARDELLICCHIO  
**SUBJECT:** LAKESIDE AVENUE, MARLBOROUGH, MA  
**DATE:** 10/14/2012  
**CC:** BARRY LORION, GARY WARREN, RUSSELL MCGILVRAY

---

**ISSUE**

On February 9, 2012 the District received an inquiry from Representative Steven Levy regarding the process for the disposition of several parcels along the north side of Route 20 abutting property owned by the proprietors of the Allora Restaurant in Marlborough, Massachusetts. The Representative believes that the parcels are still under the ownership of MassDOT. Specifically, Representative Levy, wanted these parcels, either by our procedures for the disposition of surplus land or via special legislation to the present owners of the restaurant.

**QUESTION**

Does MassDOT own the subject parcels in question and if so MassDOT would be agreeable to disposing the parcels to a private entity?

**ANSWER**

Upon review of several documents on file within MassDOT, District # 3, Middlesex South Registry of Deeds and the State Archives it has been determined that the MassDOT does not own the subject parcels in Marlborough, Massachusetts.

First, in accordance with the provision of Massachusetts General Laws, Chapter 81, on January 27, 1931, the Commonwealth of Massachusetts acting by and through its Department of Public Works altered the location of a State Highway (Boston Post Road) in the City of Marlborough, Massachusetts. In an Order of Discontinuance, Layout Number 6003, dated January 5, 1972 the Massachusetts Department of Public Works found it desirable to discontinue a portion of said State Highway (See Middlesex South Registry of Deeds, Book 12102, Page 68, Plan 171 of 1972 recorded on February 25, 1972). In addition to the foregoing, Page 4 of said Discontinuance, the Middlesex County Commissioners on January 18, 1972 approves said discontinuance and their concurrence with the Department of Public Works. Thereby transferring title to said parcels to the Middlesex County Commissioners. (Attachment 1)

Second, a review of the Minutes and Votes of the Middlesex County Commissioners for 1972 on file at the Massachusetts State Archives confirms the following: 1) On January 14, 1972 the County Commissioners received a letter from the Massachusetts Department of Public Works an order and plan for the discontinuance for a portion of Route # 20 (Boston Post Road) in Marlborough,

Massachusetts, Layout Number 6003. 2) On February 29, 1972, the County Commissioners received a Certified copy of the Order of Discontinuance and Plan for a filing with the Clerk of the Courts on the discontinuance of a portion of Route # 20 (Boston Post Road) in Marlborough, Massachusetts. (Attachment 2 & 3)

Third, Section 567 of Chapter 151, Acts and Resolves of 1996 amends Massachusetts General Laws, Chapter 34B and Chapter 82 concerning the abolishment of certain County Governments specifically in this case Middlesex County. Section 6 of Chapter 34B transfers all right, title and interest in real property associated with county roads situated with the boundaries of any abolished county that has not successor of government to the respective city or town in which the roads lie. (Attachment 4)

Fourth, on June 5, 2000, the City Council for the City of Marlborough voted to convey a certain parcel of land, being a portion of Map 80, Parcel 40A, identified as Parcel C containing 7,717 S.F. and Parcel D containing 3,904 S.F. for a combined total of 11,621 S.F. to GNS Realty Trust, Gerald Seymour, Trustee for \$9,600.00 with conditions. Said adopted by the City Council on June 5, 2000 and Approved by then Mayor William J. Mauro, Jr. on June 12, 2000. (Attachment 5)

Fifth, On January 18, 2001, the City of Marlborough, in consideration of \$9,600.00 granted to Gerald Seymour, Trustee of GNS Realty Trust, (under a Declaration of Trust dated August 23, 1993, and recorded in the Middlesex South Registry of Deeds in Book 23617, Page 17), a portion of Map 80, Parcel 40A on Lakeside Avenue, Marlborough, Massachusetts, said deed being recorded in the Middlesex South Registry of Deeds in Book 32791, Page 468 on May 2, 2001. (Attachment 6)

Based upon the foregoing, based upon the Discontinuance of Route # 20 (Boston Post Road), Chapter 151, Section 567 of the Acts of 1996, the City of Marlborough was the owner of the subject parcels of land and had the authority to convey said parcels.

*City of Marlborough*  
RECEIVED  
CITY CLERK'S OFFICE  
*Commonwealth of Massachusetts*

2012 OCT 23 A 9 39



September 10, 2012  
7:00 PM

**PLANNING BOARD**

Barbara L. Fenby, Chair  
Colleen M. Hughes, Clerk  
Philip J. Hodge  
Edward F. Coveney  
Clyde L. Johnson  
Sean N. Fay

Carrie Lizotte, Board Secretary

Phone: (508) 460-3769

Fax: (508) 460-3736

Email: CLizotte@marlborough-ma.gov

The Planning Board for the City of Marlborough met on Monday, August 27, 2012 in Memorial Hall, 3<sup>rd</sup> Floor, City Hall 140 Main Street, Marlborough, MA 01752. Members present: Barbara Fenby, Colleen Hughes, Sean Fay, Edward Coveney and Clyde Johnson. Also present: City Engineer Thomas Cullen.

**MINUTES**

*August 27, 2012*

On a motion by Mr. Fay, seconded by Mr. Coveney it was duly voted:

To table the minutes until the next meeting.

**CHAIRS BUSINESS**

*City Council Correspondence*  
*Special Permit Application*

The City Council will be holding a special permit hearing to construct a three townhouse condominium project on Monday, October 15, 2012.

On a motion by Ms. Hughes, seconded by Mr. Coveney, it was duly voted:

To accept and file correspondence.

*Amendment to the Zoning Code*

Attorney Gadbois is petitioning the City to change to the Zoning Code of the City of Marlborough Chapter 650 by adding Article VI section to become 650-32 RESULTS WAY MIXED USE OVERLAY DISTRICT.

On a motion by Mr. Johnson, seconded by Ms. Hughes, it was duly voted:

To accept and file correspondence and to set a public hearing date of October 15, 2012 at 7:00 pm.

***40B Project, Ames Street***

The Planning Board has been asked to review the proposal. The Planning Board would like to invite the developer to come in and discuss the project at their next meeting.

**APPROVAL NOT REQUIRED PLAN**

***Slocumb Lane***

***Decision***

The City Engineer has reviewed the ANR plan known as "Slocumb Lane" and is in the position to give a favorable recommendation to endorse the plan.

On a motion by Mr. Johnson, seconded by Mr. Coveney it was duly voted:

To accept and file correspondence.

On a motion by Mr. Fay, seconded by Mr. Coveney it was duly voted:

To accept and endorse a plan of land believed to be Approval Not Required of "Plan of Land" owned by Slocumb Realty, LLC, 120 Quarry Drive, 2<sup>nd</sup> Floor, Milford, MA 01757. Name of Engineer: Guerriere & Hanlon, Inc. PO Box 235, Milford, MA 01757. Deed of property recorded in Worcester District Registry of Deeds Book 43031Page 384, Land Court Book 1285 Page 161.

**PUBLIC HEARING**

**SUBDIVISION PROGRESS REPORTS**

***City Engineer Update***

Mr. Cullen gave a status update on the Mauro Farm Subdivision stating they have installed some of the granite curbing and sidewalks. He also informed the Board that the City Solicitor is in discussions with Urban Affairs regarding the Indian Hill access path.

## ***Blackhorse Farms***

### *Lighting*

Donald Seaburg with Benchmark Engineering sent the correspondence that they sent to National Grid for the lighting connections for Slocumb Lane.

On a motion by Mr. Johnson, seconded by Mr. Coveney it was duly voted:

To accept and file correspondence.

### *Extension*

Mr. Fay stated that he believes that the developer has shown enough good faith to justify the Board taking a vote to extend the subdivision as long as they continue on this path and adhere to the conditions stated in the extension vote. Mr. Fay said he would consider making a motion to extend the approval until the end of December 2013 to allow the developer complete the subdivision and to work with the Board. The Chair polled the members and they were all in agreement that the developer showed good faith by doing some of the work that was discussed at the last meeting. Chairperson Fenby stated that since it is early fall, and the construction season is almost over, that granting an 18 month extension would not be out of the ordinary, however there is work that is still achievable during this construction season.

City Councilor Joseph Delano stated that the Board should consider only granting a 3 month extension because of the terrible record the developer has and prior instances of disregard for the neighborhood. Mr. Fay responded stating that as a condition of the extension, the Board is imposing strict guidelines that must be met on an ongoing basis, and that if the Developer does not fulfill its obligations, that the Board will consider taking action as an enforcement action at that time. Mr. Fay stated that developer is aware that the subdivision needs to be treated as a neighborhood with the street being kept open and that lighting be installed to address problems that are the developer's responsibility to monitor.

On a motion by Mr. Fay, seconded by Mr. Coveney, it was duly voted to grant the subdivision extension until December 31, 2013 on the following conditions and conditioned upon the developer complying with the following:

1. That the developer follow through with the NGRID application and provide proof of payment when National Grid responds with a payment figure for the required lighting;
2. That the developer complete all required plantings by the end of November 2012;
3. That the developer seed lots and level lots where possible by October 15, 2012, and maintain the property in the Spring and Summer of 2013;
4. That the developer install all required granite curbing by end of November 2012;
5. That the developer gravel set of all sidewalks by end of November 2012;

6. That the developer conduct no blasting on the site for the remainder of this year unless the blasting is required to install foundations for new homes in the subdivision; and,
7. That the developer move existing loose rock to the base of the "cliffs" to make the site more stable;

### ***Country Club Estates***

The Board discussed the bond release with the City Solicitor who gave a brief overview of the complete file. When the subdivision was accepted in June of 2006, there was discussion at that time regarding a new bond in the amount of \$300,000 in place of the existing \$246,000 that was left in the subdivision bond. The developer never followed through with the replacement bond.

He also stated that in 2010, Attorney Bergeron came to the Planning Board with an agreement for the taking required by the approved plan. This agreement provided for a partial release of the bond as certain benchmarks were met by the developer.

Mr. Fay stated he had three main concerns: whether the City had adequate access to the land surrounding the roadway should repairs become necessary or if future improvements became necessary, whether the existing water and sewer lines were within the land the City had legal access to, and the areas where the existing roadway encroached on land not owned by the city.

The developer's attorney, Brian Falk, stated there was no pressing case on why the bond should remain. Mr. Fay explained that the Board needed more time to look at the history of the subdivision, what votes were taken, what representations were made by the developer's representatives, and the reason why certain actions were taken, before reaching a conclusion.

Mr. Falk then discussed a letter that was sent to a representative for the developer, from former City Engineer Arsenault, asking about the takings at that time. That letter was not found in the City's files, was copied and passed to the chair.

The Board discussed the possibility of whether an easement takings alone could address the Board's concerns.

The Board further discussed keeping the subdivision listed under unfinished business on their agenda until a solution is agreed upon by both parties. Mrs. Lizotte will be reviewing the files to prepare a timeline to distribute to all parties.

### **PENDING SUBDIVISION PLANS: Updates and Discussion**

### **PRELIMINARY/ OPEN SPACE SUBDIVISION SUBMITTALS**

### **DEFINITIVE SUBDIVISION SUBMISSIONS**

## **SIGNS**

### ***Correspondence from Code Enforcement Trombettas***

The Code Enforcement Officer sent correspondence to the owners regarding the illegal use of signage at this site and asking for them to review the illegal signage. Some of the Board members noted some of the signage has been removed; however they are still out of compliance. The Board agreed that while some signage was removed, maybe a letter asking them to appear to discuss them to consider redoing their main sign to allow equal signage for all businesses in that complex.

### ***Collection Boxes***

Chairperson Fenby will talk to Ms. Wilderman regarding an update.

## **UNFINISHED BUISNESS**

### **Master Calendar**

## **INFORMAL DISCUSSION**

## **COMMUNICATIONS/CORRESPONDENCE**

On a motion by Ms. Hughes, seconded by Mr. Coveney, it was duly voted:

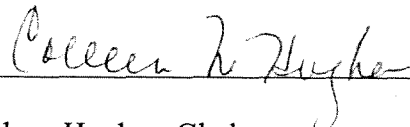
To accept all of the items listed under communications and/or correspondence.

On a motion by Mr. Johnson, seconded by Ms. Hughes was duly voted:

To adjourn at 8:30 p.m.

**A TRUE COPY**

ATTEST:

  
\_\_\_\_\_  
Colleen Hughes, Clerk



RECEIVED  
CITY CLERK'S OFFICE  
CITY OF MARLBOROUGH

October 22, 2012

2012 OCT 24 A 9:52

**PRELIMINARY NOTICE**

City of Marlborough  
Office of the City Clerk  
City Hall  
140 Main Street, 1<sup>st</sup> Floor  
Marlborough, MA 01752

RE:                    Insured: Edward C Mcmanus  
                              File #: CKAW88/XKCJ64  
                              Date of Loss: 10/8/2012  
                              Responsible Party: City of Marlborough  
                              Reimbursement Due: \$PENDING  
                              Property Damage: \$PENDING  
                              PIP Medical/Wage: \$N/A

Dear Sir or Madam:

Please accept this letter of presentment as required by M.G.L. c. 258. Our investigation reveals that the City of Marlborough is responsible for damages sustained by our insured. City Water Meter attached to our insured's home failed and caused significant water damage to their finished basement.

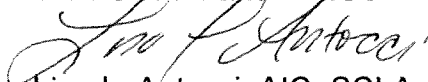
Supporting papers to follow.

If you have any questions, please call me at 1-800-221-1605, ext. 15645.

Thank you.

Sincerely,

THE COMMERCE INSURANCE COMPANY



Lisa L. Antocci, AIC, SCLA  
Claim Coordinator, Subrogation

CERTIFIED MAIL

MIAA C# M12 GL72033      Attn: Andria Cirignano

**The Commerce Insurance Company | Citation Insurance Company**

11 Gore Road, Webster MA 01570 | 800-221-1605 | [www.commerceinsurance.com](http://www.commerceinsurance.com)

