

**TOWN OF CONCORD
SELECT BOARD MEETING
MARCH 7, 2022 | 6:30 PM
TOWN HOUSE
22 MONUMENT SQUARE**

MEETING IN SELECT BOARDROOM AND VIA ZOOM
<https://us02web.zoom.us/j/84092395810?pwd=TnMyWmprWHBlaz09>

[1CczdQM0EvWVVFz09](https://us02web.zoom.us/j/84092395810?pwd=TnMyWmprWHBlaz09)
Meeting ID: 840 9239 5810
Passcode: 865209

AGENDA

| # | Time* | Agenda Item |
|-----|--------|---|
| 1. | 6:30pm | Call to Order |
| 2. | | Consent Agenda <ul style="list-style-type: none"> • Town Accountant Warrant: January 27, February 3, February 15, February 17, February 24 & March 3, 2022 • One Day Liquor licenses: <ol style="list-style-type: none"> 1. Umbrella Arts Center, Katie Cimet, March 22, 2022, 7-9:30pm 2. Umbrella Arts Center, Katie Cimet, April 2, 2022, 6:30-11pm • Gift Acceptance <ul style="list-style-type: none"> ○ \$1000 donation from Avidia Bank to the Concord Fire Department ○ \$1500 donation from Middlesex Bank to the Concord Fire Department ○ The Friends of Sleepy Hollow 20th anniversary gifting proposals for gate & bollards |
| 3. | | Town Manager's Report |
| 4. | | Chair's Remarks |
| 5. | 6:40pm | Hutchins Farm Land Transfer |
| 6. | 6:50pm | Review Proposed Guidelines of the Concord Municipal Affordable Housing (CMAHT) |
| 7. | 7:15pm | Discussions with Jason Bulger: Broadband Reorganization 5G |
| 8. | 8:00pm | Letter to Fish & Game re: Trout re-stocking in White Pond |
| 9. | | Update on Keyes Road cell tower |
| 10. | | Beede Center parking |
| 11. | 8:30pm | Take Position on Town Meeting Articles -- 3, 4, 5, 6, 7, 11, 12, 13, 14, 16, 23, 27, 28, 36, 37, 38, 48 and 49 |
| 12. | | Committee Nominations: Keith Bergman, 56 White Avenue, Metropolitan Area Planning Council (MAPC), Town Representative |

| | | |
|-----|-----|--|
| 13. | | Committee Appointments: 1) Theo Kindermans, 252 Fairhaven Road, ZBA, term expiring April 30, 2025 2) Ravi Faiia, 169 Plainfield Road, ZBA, for an associate term expiring April 30, 2025 |
| 14. | 9pm | Liaison Reports |
| 15. | | Miscellaneous Correspondence |
| 16. | | Public Comment |
| 17. | | Adjourn |

**Times are approximate and subject to change*

| |
|--|
| Current Board and Committee Vacancies |
| Concord 2025 Executive Committee |
| Concord Local Cultural Council |
| Conservation Restriction Stewardship Committee |
| Council on Aging |
| Cultural Council |
| Historic Districts Commission |
| Natural Resources Commission |
| Personnel Board |
| Planning Board |
| Public Ceremonies and Celebrations Committee |
| Tax Fairness Committee |
| Trustees of Donations |
| West Concord Advisory Committee |
| Zoning Board of Appeals |



OLD NORTH BRIDGE

**TOWN OF CONCORD
FIRE DEPARTMENT**

209 WALDEN STREET
CONCORD, MASSACHUSETTS 01742
EMERGENCY DIAL 911
TEL: (978) 318-3488 · FAX: (978) 369-6697
www.concordma.gov/fire

To: Kerry Lafleur, Interim Town Manager

From: Thomas Judge, Fire Chief *TMJ*

Subject: Gift - Avidia

Date: February 28, 2022

Kerry,

I am requesting that the Select Board accept a \$1,000 gift on behalf of the Fire Department from Avidia Bank toward the purchase of a battery powered ventilation fan. Please see the attached letter from Avidia Bank.

Thank you for your consideration.



42 Main Street | p: 800-508-2265
Hudson, MA 01749 | f: 978-562-1476

February 10, 2022

To Whom It May Concern,

Enclosed you will a check made payable to Concord Fire Department in the amount of \$1,000 in support of purchasing the battery operated ventilation fan.

All of us at Avidia Bank are pleased to be able to support this effort and to help whenever we can. On behalf of everyone at the Bank, we wish you much success.

Best Regards,

A handwritten signature in blue ink that reads "Danielle Avery".

Danielle Avery
Assistant Vice President
Human Resources



OLD NORTH BRIDGE

TOWN OF CONCORD FIRE DEPARTMENT

209 WALDEN STREET
CONCORD, MASSACHUSETTS 01742
EMERGENCY DIAL 911
TEL: (978) 318-3488 • FAX: (978) 369-6697
www.concordma.gov/fire

To: Kerry Lafleur, Interim Town Manager

From: Thomas Judge, Fire Chief *TMJ*

Subject: Gift - Middlesex Bank

Date: February 28, 2022

Kerry,

I am requesting that the Select Board accept a \$1,500 gift on behalf of the Fire Department from Middlesex Bank toward the purchase of equipment. Please see the attached letter from Middlesex Bank.

Thank you for your consideration.



Michael Kuza
Senior Vice President

February 24, 2022

Concord Fire Department
Attn: Todd Niemi
209 Walden Street
Concord, MA 01742

Dear Mr. Niemi:

Attached, please find Middlesex Savings Bank's contribution of \$1,500.00, proceeds of which will be used to support the purchase of equipment for the Concord Fire Department. We at the Bank feel it is important to support the community that we serve. Our contribution to your organization is just one method by which we do this.

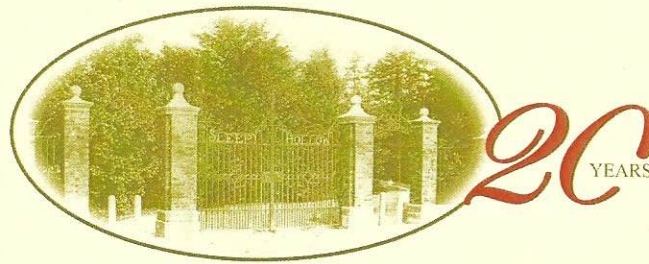
On behalf of the entire staff at the Bank, I thank you for thinking of Middlesex Savings Bank and wish you continued success in your fund-raising efforts.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Kuza", written over a horizontal line.

Michael Kuza
Senior Vice President

IRS regulations, effective January 1, 1994, require the substantiation of charitable contributions. In keeping with these regulations, please sign the enclosed IRS form and return in the postage paid envelope provided.



The Friends of Sleepy Hollow Cemetery, Inc.

9 February 2022

Ms. Kerry Lafleur
Interim Town Manager
Town of Concord

Dear Kerry, with Greetings,

On behalf of my colleagues on the Board of Directors and myself, I write to offer to the Town of Concord two permanent giftings from The Friends of Sleepy Hollow Cemetery, Inc. We proudly do so in joyous celebration of our 20th Anniversary this year of service.

Specifically, they are:

-replacement of the current bollards in front of the Melvin Memorial, "Mourning Victory," in the Cemetery.

-production and installation of lettering "Sleepy Hollow" on the stable portion of the gates at the entry to The Knoll of Sleepy Hollow Cemetery.

Details:

-The current plastic bollards, while positioned to prevent any vehicle from careering toward the Monument, are opinioned to be of not the best quality. With that, the replacement ones that we are offering to purchase and to have installed are designed to strengthen that intent.

At the meeting of the Cemetery Committee on 2 February 2022, a rich discussion was held about this gift with the members of that Committee and with several of us from the Board of The Friends.

The Cemetery Committee was in agreement about our donation. This consensus was supported by the Director of Highways and Grounds.

BOARD OF DIRECTORS

Kevin Thomas Plodzik, Ed.D.
President

Susan Dee
Vice-President

Nancy Reilly
Secretary

George Tisdale, CPA
Treasurer

Bobbi Benson

James Fannin

Rick Frese

John Gardella

Gina Nason

Paul Ressler

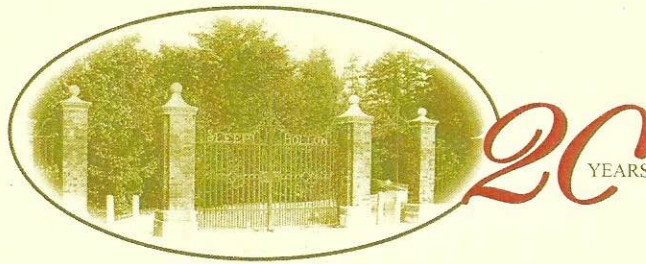
Sylvie Sawyer

Andrea Solomon

Priscilla White Sturges

James Tenner

Rebecca Purcell
Cemetery Committee
Liaison



The Friends of Sleepy Hollow Cemetery, Inc.

The Friends have appropriated funding for the purchase and installation of the bollards not to exceed \$ 12,000.

The 7-page PDF attached to the cover email contains visuals.

-Our thinking behind the addition of "Sleepy Hollow" to the gates at The Knoll is to replicate the lettering that once graced the Prichard Gate to the Cemetery. That signage is no longer there. By our gift we intend to honor that historical significance by relating it to The Knoll as well as to provide another demarcation of The Knoll as a part of Sleepy Hollow.

At the meeting of the Cemetery Committee on 2 February 2021, a full discussion was held about this donation with the members of that Committee and with several of us from the Board of The Friends. Again, the Cemetery Committee was in support of our gift. Their consensus was supported by the Director of Highways and Grounds.

Formal assent by the Committee for both giftings is on their agenda for the meeting of 2 March 2022. Upon that occurring, I will notify you.

The 8-page PDF attached to the cover email gives visuals in further description of the gifting.

The Friends have appropriated funding for the skilled manufacture and installation of the lettering not to exceed \$ 15,000.

At the suggestion of a member of the Cemetery Committee The Friends begin now the necessary process for the acceptance of both gifts by the Town. Hence, this correspondence.

Please be comfortable in contacting me if any further information is needed as expectantly the process moves to the Select Board.

With the gratitude of our entire Board for your attention to this matter. I am,

Sincerely and cordially,

Kevin Thomas Plodzik
Kevin Thomas Plodzik, Ed.D., Board President

Cc: Mr. Christopher Carmody, Mr. Leo Carroll, Mr. Aaron Miklosko

BOARD OF DIRECTORS

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President

Susan Dee
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James Fannin

Rick Frese

John Gardella

Gina Nason

Paul Ressler

Sylvie Sawyer

Andrea Solomon

Priscilla White Sturges

James Tenner

Rebecca Purcell
*Cemetery Committee
Liaison*



The Friends of Sleepy Hollow Cemetery, Inc.

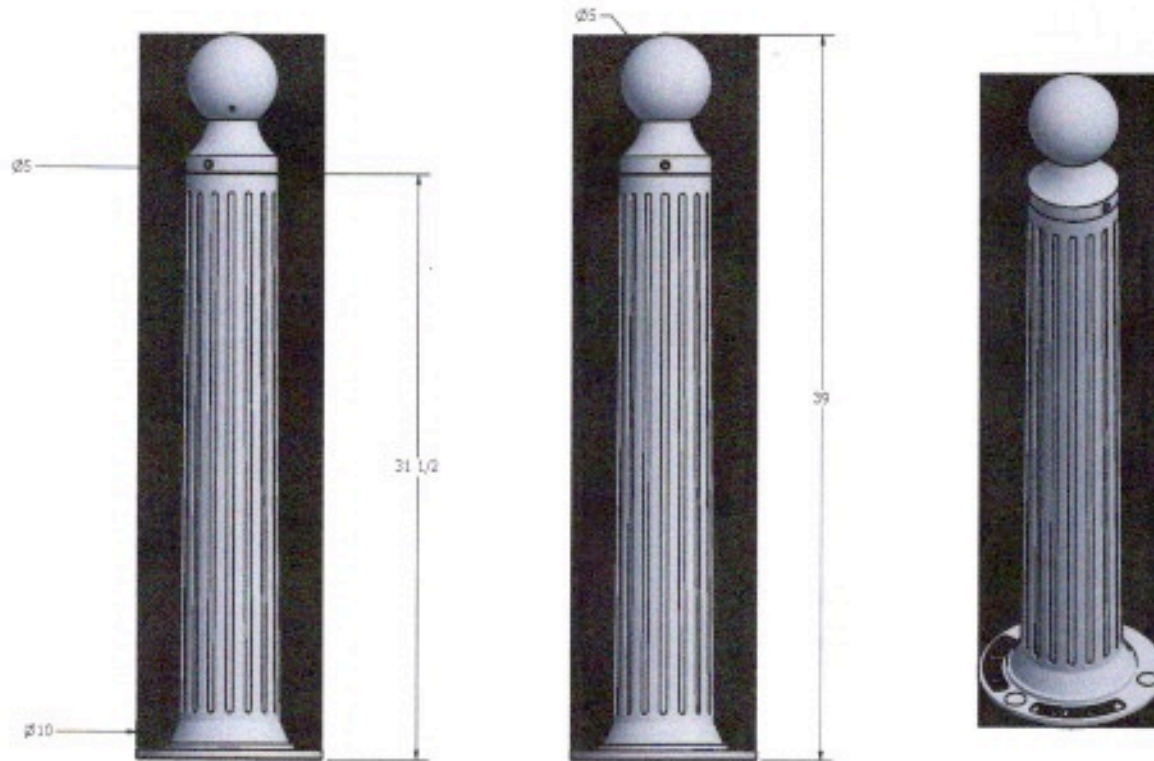
BOLLARDS AT THE MELVIN MEMORIAL:
PURCHASE PROPOSAL

FEBRUARY 2, 2022

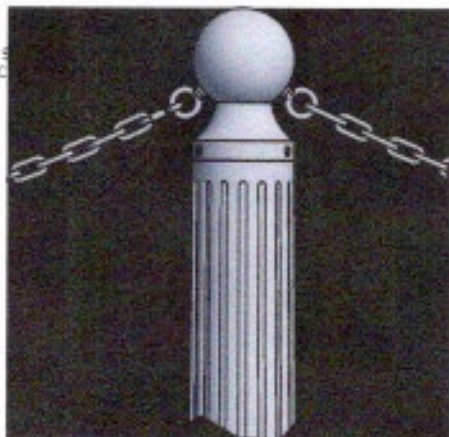
EXISTING BOLLARDS AT THE MELVIN MEMORIAL (*Plastic*)



PROPOSED BOLLARDS / VENDOR: RELIANCE FOUNDRY



Installation S
with 5/16" C



Bollard Chain Eye 3/8"
(Powder Coated)



Quick Link Connector 5/16"
(Powder Coated)



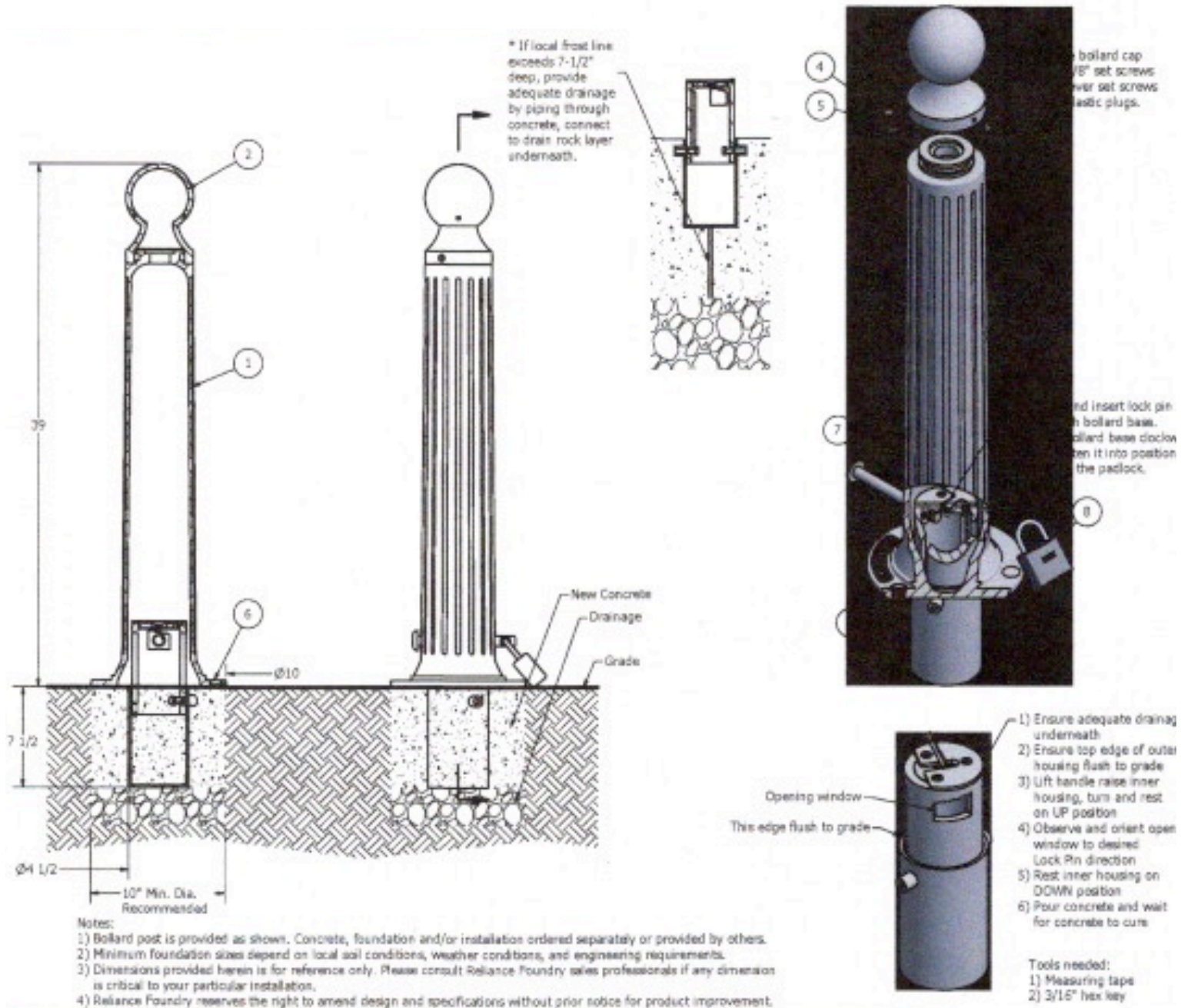
Bollard Chain 5/16"
(Powder Coated)

Optional Accessories:

- Chain Eye
- Quick link
- Chain (5/16")
- Padlock, Brass (1 3/4")
- Padlock, Stainless Steel (2")

See Reliance Foundry's optional accessories at:
www.reliance-foundry.com/bollard/accessories-bollards

PROPOSED BOLLARDS INSTALLATION



BOLLARD QUOTE#1: ALUMINUM

RELIANCE FOUNDRY
SINCE 1925

Toll Free: 1-877-789-3245
Fax: 604-590-8875

Phone: 604-547-0460
Email: info@reliance-foundry.com

#207 - 6450 148th Street, Surrey, British Columbia, Canada V3S-7G7
www.reliance-foundry.com

Quote Prepared For:

Friends of Sleepy Hollow (non profit organization)
3 Winter Street
Acton MA 01720
United States

Shipping Destination: Delivery: Commercial

Friends of Sleepy Hollow (non profit organization)
3 Winter Street
Acton MA 01720
United States

Date: 12/15/2021
Quote Expires: 1/14/2022
Quote Number: 212596

Prepared by: Alicia Kiefluk
Phone: 604-592-4331
Email: alicia@reliance-foundry.com
Terms: TBA
Currency: U.S. Dollar

Customer Quote Reference: 3-4 Weeks
Lead Time Estimate: 5-7 Business Days
Transit Time Estimate: DDP Delivered Duty Paid
Incoterms 2010: Ship Via: Prepaid

| Quan | Item | Price | Tax Code | Amount |
|------|--|----------|----------|------------|
| 6 | R-7530-AL-RE-RA Architectural Removable Bollard, Round Top, Model No. R-7530-A. With or without chain eyes 30" high c/w 10" dia base. Material: Cast Aluminum Powder Coated Options: Powder Coating - Stock: Statuary Bronze, PFJ 407 A5 Material: Cast Aluminum Country of Origin: China | \$541.00 | | \$3,246.00 |
| 6 | Mounting Kit: Removable Retractable for New Concrete Hardware for Retractable Removable Bollard Mounting Option **Padlock is NOT supplied, but is available for an additional \$15.00 for Solid Brass**(keyed alike) Kit Includes: Removable Mount & Pin Installation Instructions | | | \$1,110.00 |
| 12 | ards : Chain Eye - Custom Powder Coated Custom Powder Coated Architectural Bollard Chain Eye. Material: Steel. Options: Powder Coating - Stock: Statuary Bronze, PFJ 407 A5 Material: Steel Country of Origin: China | \$2.45 | | \$29.40 |
| 12 | ards : Chain Link Quick - Custom Powder Coated Chain | \$2.45 | | \$29.40 |

QUOTATION #212596

1 of 4

RELIANCE FOUNDRY
SINCE 1925

Toll Free: 1-877-789-3245
Fax: 604-590-8875

Phone: 604-547-0460
Email: info@reliance-foundry.com

#207 - 6450 148th Street, Surrey, British Columbia, Canada V3S-7G7
www.reliance-foundry.com

| Quan | Item | Price | Tax Code | Amount |
|--|--|----------|----------|------------|
| 30 | Custom Powder Coated Architectural Bollard Chain Connecting Link, Material: Electro Galvanized Steel Options: Powder Coating - Stock: Statuary Bronze, PFJ 407 A5 Material: Steel - Plated Country of Origin: China ards : Chain - Custom Powder Coated Custom Powder Coated Architectural Bollard Chain, 5/16", Steel Electro Galvanized Options: Powder Coating - Stock: Statuary Bronze, PFJ 407 A5 Material: Steel - Plated Country of Origin: China | \$4.00 | | \$120.00 |
| Subtotal Subject to USTR Tariffs | | | | \$4,534.80 |
| Office of the United States Representative (USTR) tariffs are subject to change at short notice | | | | |
| USTR 2019 Fall Tariff 35% | | | | \$1,587.18 |
| Oct 1, 2019 Office of the United States Trade Representative (USTR) tariff @ 30% | | | | |
| Note: This tariff increase to 35% could be a short-term negotiations ploy, and may be rescinded at any time. | | | | |
| 1 | Cartage & Freight Cartage & freight charges for standard commercial delivery. (See terms attached) | \$368.00 | | \$368.00 |
| | | | | PST \$0.00 |
| Total | | | | \$6,489.98 |

VISA   Credit Card Authorization Form

QUOTATION #212596

2 of 4

BOLLARD QUOTE#2: IRON



Toll Free: 1-877-789-3245
 Fax: 604-590-8875
 Phone: 604-547-0460
 Email: info@reliance-foundry.com
 #207 - 6450 148th Street, Surrey, British Columbia, Canada V3S-7G7
 www.reliance-foundry.com

| Quote Prepared For: | | |
|--|---------------|--------------|
| Friends of Sleepy Hollow (non profit organization) 3 Winter Street Acton MA 01720 United States | | |
| Date | Quote Expires | Quote Number |
| 12/15/2021 | 1/14/2022 | 212596 |

| Shipping Destination: | Delivery: Commercial |
|--|----------------------|
| Friends of Sleepy Hollow (non profit organization) 3 Winter Street Acton MA 01720 United States | |

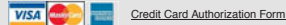
| Prepared by | Phone | Email | Terms | Currency |
|--------------------------|--------------------|-----------------------------|-------------------------|-------------|
| Alicia Kiefiuk | 604-592-4331 | alicia@reliance-foundry.com | TBA | U.S. Dollar |
| Customer Quote Reference | Lead Time Estimate | Transit Time Estimate | Incoterms 2010 | Ship Via |
| Rev 1 | 1-2 Weeks | 5-7 Business Days | DDP Delivered Duty Paid | Prepaid |

| Quan | Item | Price | Tax Code | Amount |
|------|---|----------|----------|------------|
| 6 | R-7530-RE-RA Architectural Removable Bollard, Round Top, Model No. R-7530 With or without chain eyes 39" high c/w 10" dia base. Material: ASTM A536, Grade 65-45-12 Ductile Iron Powder Coated Options: Powder Coating - Stock: Statuary Bronze, PFJ 407 A5 Material: Ductile Iron ASTM A536 Grade 65-45-12 Country of Origin: China | \$519.00 | | \$3,114.00 |
| 6 | Mounting Kit: Removable Retractable for New Concrete Hardware for Retractable Removable Bollard Mounting Option **Padlock is NOT supplied, but is available for an additional \$15.00 for Solid Brass**(keyed alike) Kit Includes: Removable Mount & Pin Installation Instructions | | | \$1,110.00 |
| 12 | ards : Chain Eye - Custom Powder Coated Custom Powder Coated Architectural Bollard Chain Eye, Material: Steel. Options: Powder Coating - Stock: Statuary Bronze, PFJ 407 A5 Material: Steel Country of Origin: China | \$2.45 | | \$29.40 |
| 12 | ards : Chain Link Quick - Custom Powder Coated Chain | \$2.45 | | \$29.40 |



Toll Free: 1-877-789-3245
 Fax: 604-590-8875
 Phone: 604-547-0460
 Email: info@reliance-foundry.com
 #207 - 6450 148th Street, Surrey, British Columbia, Canada V3S-7G7
 www.reliance-foundry.com

| Quan | Item | Price | Tax Code | Amount |
|------|---|----------|--------------|------------|
| 30 | Custom Powder Coated Architectural Bollard Chain Connecting Link, Material: Electro Galvanized Steel Options: Powder Coating - Stock: Statuary Bronze, PFJ 407 A5 Material: Steel - Plated Country of Origin: China ards : Chain - Custom Powder Coated | \$4.00 | | \$120.00 |
| | Custom Powder Coated Architectural Bollard Chain, 5/16", Steel Electro Galvanized Options: Powder Coating - Stock: Statuary Bronze, PFJ 407 A5 Material: Steel - Plated Country of Origin: China Subtotal Subject to USTR Tariffs | | | \$4,402.80 |
| | Office of the United States Representative (USTR) tariffs are subject to change at short notice USTR 2019 Tariff 25% | 25% | | \$1,100.70 |
| | May 10, 2019 Office of the United States Trade Representative (USTR) tariff @ 25% Note: This tariff increase to 25% is understood to be temporary and may be rescinded at any time. | | | |
| 1 | Cartage & Freight Cartage & freight charges for standard commercial delivery. (See terms attached) | \$432.00 | | \$432.00 |
| | | | PST | \$0.00 |
| | | | Total | \$5,935.50 |



INSTALLATION QUOTE

EINSTEIN'S
SOLUTIONS
11 Summit Street
Fitchburg, MA 01420
(978) 342-5007 Fax (978)

Proposal

Estimate # 3411

Date

12/6/2021

Customer

Friends of Sleepy Hollow
c/o Sylvia Sawyer
P.O. Box 313
Concord, MA 01742-0313

~Due to market volatility of materials, quote remains valid for 5 days.

| | |
|--------------|-------|
| Customer PO# | Terms |
| | |

| Description | Qty | Rate | Total |
|--|-----|--------|----------|
| Sleepy Hollow Cemetery - Install Six (6) Bollards at Melvin Memorial | | | |
| Laborer | 3 | 598.00 | 1,794.00 |
| Working Foreman | 3 | 782.00 | 2,346.00 |
| Concrete, Crushed Stone and Drainage Tube | 1 | 283.36 | 283.36 |
| Asphalt Breaker / Demo Saw | 1 | 143.75 | 143.75 |
| Disposal | 1 | 115.00 | 115.00 |
| General Liability Insurance | 1 | 67.89 | 67.89 |

All material is guaranteed to be as specified. All work to be done in a workman line manner according to standard practices. Any alteration or deviation from above specifications involving extra cost will be executed only upon written orders and will result in an extra charge over and above estimate. Any unpaid balance will be subject to a finance charge of 2% per month. Purchaser agrees to pay all costs of collection including attorney fees. All credit card purchases are subject to a 3% service charge.

Total \$4,750.00

Signature _____



The Friends of Sleepy Hollow Cemetery, Inc.

GIFT TO THE TOWN IN RECOGNITION OF OUR 20TH ANNIVERSARY:
PROPOSAL

FEBRUARY 2, 2022

ORIGINAL PRICHARD GATE - 1870



EXISTING KNOLL GATE



PROPOSED ADDITION LOCATION



PROPOSED ADDITIONS TO EXISTING KNOLL GATE



PROPOSED ADDITIONS TO EXISTING KNOLL GATE



PROPOSED ADDITIONS TO EXISTING KNOLL GATE





The Friends of Sleepy Hollow Cemetery, Inc.

THANK YOU

HUTCHINS LAND CO. LLC
754 MONUMENT STREET
CONCORD, MASSACHUSETTS 01742

January 31, 2022

Select Board
Town of Concord
22 Monument Square
Concord, Massachusetts 01742

Natural Resources Commission
Town of Concord
141 Keyes Road
Concord, Massachusetts 01742

Board of Assessors
Town of Concord
24 Court Lane
Concord, Massachusetts 01742

Planning Board
Town of Concord
141 Keyes Road
Concord, Massachusetts 01742

Re: Notice of Intention to Transfer Real Property / MGL Chapter 61A & ROFR dated
June 1, 1995

Ladies And Gentlemen:

This letter is delivered by Hutchins Land Co. LLC (“HLC”) as a notice of intention to transfer certain real property and related requests pursuant to Massachusetts General Laws Chapter 61A (“Chapter 61A”), Sections 12 and 14, and as notice of a proposed transfer of land subject to a Right of First Refusal For Purchase of Real Estate” dated June 1, 1995 and recorded at Book 25666, Page 566 of the Middlesex South District Registry of Deeds (the “Registry”).

HLC owns real property known as “Hutchins Farm” and numbered 754 Monument Street, Concord, Massachusetts. The farm consists of approximately 67 acres, with active cultivation and structures housing a farm stand, offices and other facilities. The farm is assessed as agricultural or horticultural land under Chapter 61A and is subject to multiple Agricultural Preservation Restrictions (the “APRs”) that run to the benefit of the Commonwealth of Massachusetts acting by and through the Commissioner of the Department of Agricultural Resources and the Town of Concord.

The APRs were imposed on the farm in multiple stages beginning in 1991 and extending through 1995. Boundary lines were erroneously described in the last Agricultural Preservation Restriction recorded on September 19, 1995 with the Middlesex County Southern District Registry of Deeds (the "Registry") in Book 25666, Page 557. At the time that APR was adopted, the land located where outbuildings or structures used by an abutting property was inadvertently included as part of the land made subject to the APR; those outbuildings were not used in the operations of the farm. More detailed plans based on additional survey work have been prepared and HLC has been advised that the Commissioner of the Department of Agricultural Resources will sign a Confirmatory APR to correct the description of the property subject to the existing APR to exclude "Parcel AA" on the attached plan (recorded as Plan #444 of 2019 in the Registry (the "2019 ANR Plan")) and to include "Parcel BB" shown on the 2019 ANR Plan. The owner of the abutting property (806 Monument Street, now owned by Oaktree Homestead LLC ("Oaktree")) has already transferred a portion of the original "806 Monument Street Parcel" shown as Parcel BB on the attached plan to Hutchins Land Co. LLC, so that the area subject to the modified APR will remain substantially the same. The parties to those two deeds have agreed between themselves to make those transfers for no consideration.

Because Parcel AA (more particularly described on Exhibit A attached) is currently subject to Chapter 61A, this letter is notice to the Selectboard of the Town of Concord, as well as the Board of Assessors, the Planning Board and the Natural Resources Commission, of the intention of the current owner, Hutchins Land Co LLC, to transfer Parcel AA to Oaktree for no consideration. Once that parcel is owned by Oaktree, it will no longer be in agricultural or horticultural use, so the transfer could result in a "change of use" under Chapter 61A.

Further, as noted above, the "Right of First Refusal For Purchase of Real Estate" dated June 1, 1995 referenced above (the "Right of First Refusal") requires the Owner to notify the Natural Resources Commission of a "bona fide offer to purchase said land." This is intended to notify the Natural Resources Commission of the proposed transfer, although without suggesting that the transfer of Parcel AA will be made in response to a "bona fide offer." Following receipt of such a notice, the Right of First Refusal sets forth a process pursuant to which the Natural Resources Commission makes a "written determination of whether it intends to recommend to the Town Meeting that the Town should purchase said land...." For the reasons set forth herein, HLC requests that the Natural Resources Commission determine it will not recommend the purchase of Parcel AA. HLC is willing to amend the Right of First Refusal to exclude Parcel AA and include Parcel BB.

HLC is requesting that the Select Board, Board of Assessors, Natural Resources Commission and Planning Board take such action as is necessary to waive the right of first refusal under Section 14 of Chapter 61A, waive the right of first refusal held by the Town under the separate Right of First Refusal referenced above or otherwise consent to the proposed transfer of Parcel AA, in order facilitate the proposed correction of the APRs and implementation of

the parcel transfers described herein. This request is made only in connection with the proposed transfer of Parcel AA, and is not intended to seek or request that the Town waive any such rights with respect to further transfers.

HLC is also requesting that the Select Board of the Town of Concord approve the document delivered with the Notice entitled "Commonwealth of Massachusetts Confirmatory Agricultural Preservation Restriction" and indicate such approval on those copies. The members of "Board of Selectmen" (as it was then known) of the Town were signatories to original Agricultural Preservation Restrictions implemented with respect to Hutchins Farm.

Thank you for your time. Our attorney, Dennis Crimmins, is willing to answer any questions on this matter. His contact information and mine are on the attached addendum. Dennis has prepared a proposed form of waiver which is also attached to this letter.


In the envelope addressed to the Select Board with this request we are enclosing 3 copies of the document entitled "Confirmatory Agricultural Restriction" in the form agreed upon by HLC and the staff off the Commissioner of the Department of Agricultural Resources, each signed and notarized for Hutchins Land Co. LLC. Each of the other Town departments, boards or offices (the Natural Resources Commission, the Board of Assessors, the Planning Board and the Town Clerk) are receiving photocopies of that document.

Town of Concord
January 31, 2022
Page 4

Thank you for your consideration of this request.

Very truly yours,

Hutchins Land Co. LLC

By: 
Gordon H. Bemis, Manager

cc: Town Clerk, Town of Concord

HUTCHINS LAND CO. LLC
754 MONUMENT STREET
CONCORD, MASSACHUSETTS 01742

Addendum

Contact Information:

Hutchins Land Co. LLC
Gordon Bemis
754 Monument Street
Concord, Massachusetts 01742
Email: Gordon@hutchinsfarm.com
Phone: 508-314-5841

Dennis P. Crimmins
Dennis P. Crimmins, P.C.
3 Village Green North, #311
PMB B4
Plymouth, Massachusetts 02360
Email: dcrimmins@dcrimmins.com
Phone: 617 932 7785

EXHIBIT A

That certain parcel of land shown as PARCEL AA on a "PLAN OF LAND IN CONCORD, MASS. OWNED BY HUTCHINS REALTY TRUST, THE OAK TREE HOMESTEAD LLC, 820 MONUMENT STREET NOMINEE TRUST & HUTCHINS LAND CO. LLC" dated January 14, 2019, by Perley Engineering LLC, recorded as Plan #444 of 2019 in the Middlesex South District Registry of Deeds (the "Registry"), which Parcel AA contains, according to such plan, 3,534 +/- square feet.

**NOTICE OF NON-EXERCISE
PURSUANT TO M.G.L. CHAPTER 61A
And
WAIVER OF RIGHT OF FIRST REFUSAL**

Hutchins Land Co. LLC (“HLC”) owns certain real property in Concord, Massachusetts that is subject to Massachusetts General Laws, Chapter 61A and classified as land in agricultural and horticultural use.

The Town of Concord, acting by and through its Select Board and its Natural Resources Commission, on _____, 2022, received a notice from HLC (the “Notice”) relating to real property identified as “Parcel AA,” then a portion of property numbered 754 Monument Street, Concord, Massachusetts more particularly described on Exhibit A attached hereto (“Parcel AA”), proposed to be conveyed to Oak Tree Homestead LLC for nominal consideration.

Pursuant to M.G.L. Chapter 61A, Section 14 (“Section 14”), the Town has elected not to exercise the option to purchase Parcel AA under Section 14 and has further elected not to assign its right to exercise the option to a third party.

The Notice also advised the Town of the potential applicability of the transfer of Parcel AA of the terms of a Right of First Refusal For Purchase of Real Estate,” dated June 1, 1995 and recorded at Book 25666, Page 566 of the Middlesex County South District Registry of Deeds. This instrument confirms to the current owner, Hutchins Land Co. LLC, and the prospective acquirer of Parcel AA, Oaktree Homestead LLC, that in connection with the proposed transfer of Parcel AA, the Natural Resources Commission will **not** recommend to Town Meeting the purchase of Parcel AA.

The foregoing waiver or determination shall apply only to the transfer identified in the Notice; any subsequent sale or conveyance of interests in the property subject to General Laws, Chapter 61A or the Right of First Refusal shall be subject to the terms set forth therein.

Witness the execution of this instrument under seal as of this ___ day of _____, 2022.

Town of Concord Select Board

By: _____

By: _____

By: _____

By: _____

By: _____

COMMONWEALTH OF MASSACHUSETTS
MIDDLESEX COUNTY

On this ___ day of _____, 2022, before me, the undersigned notary public,
personally appeared _____:

- personally known to me, or
- provided to me through satisfactory evidence of identification, which was
 - a _____ driver's license
 - (other) _____

to be the persons whose names are signed on the preceding or attached instrument, and
acknowledged to me that he/she signed the same voluntarily, as a member of the Select Board of
the Town of Concord, Massachusetts, for the uses and purposes set forth therein.

(official signature and seal of notary)
My Commission expires: _____

Witness the execution of this instrument under seal as of this _____ day of _____, 2022.

Town of Concord Natural Resources Commission

By: _____

By: _____

By: _____

By: _____

By: _____

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

On this _____ day of _____, 2022 before me, the undersigned notary public, personally appeared _____ proved to me through satisfactory evidence of identification, which was driver's license or other state or federal governmental document bearing a photographic image, oath or affirmation of a credible witness known to me who knows the above signatory, or my own personal knowledge of the identity of the signatory, to be the person whose name is signed on the foregoing document, and he/she acknowledged that he/she signed it voluntarily for its stated purpose, as the duly authorized members of the Town of Concord Natural Resources Commission.

Notary Public: _____

My commission expires: _____

EXHIBIT A

EXHIBIT A

That certain parcel of land shown as PARCEL AA on a "PLAN OF LAND IN CONCORD, MASS. OWNED BY HUTCHINS REALTY TRUST, THE OAK TREE HOMESTEAD LLC, 820 MONUMENT STREET NOMINEE TRUST & HUTCHINS LAND CO. LLC" dated January 14, 2019, by Perley Engineering LLC, recorded as Plan #444 of 2019 in the Middlesex South District Registry of Deeds (the "Registry"), which Parcel AA contains, according to such plan, 3,534 +/- square feet.

COMMONWEALTH OF MASSACHUSETTS
CONFIRMATORY
AGRICULTURAL PRESERVATION RESTRICTION

This **Confirmatory Agricultural Preservation Restriction** ("Confirmatory APR") is given to correct and confirm the boundary lines of the Agricultural Preservation Restriction, as more fully described in Exhibit A, which is attached hereto and incorporated herein by reference. Said boundary lines were erroneously described in the Agricultural Preservation Restriction recorded on September 19, 1995 with the Middlesex County Southern District Registry of Deeds (the "Registry") in **Book 25666, Page 557**, granted by John G. Bemis and Gordon Bemis, as Trustees (the "Trustees") of Hutchins Realty Trust u/d/t dated December 26, 1979, which declaration of trust was recorded in the Registry in Book 13870, Page 202, to the Commonwealth of Massachusetts and the Town of Concord on property located on Monument Ave in Concord, Massachusetts ("Original Restriction"). The Trustees conveyed their interest in the land described in the Original Restriction and other land owned by the Trustees to Hutchins Land Co. LLC, a limited liability company organized in Delaware, by deed dated January 11, 2011, recorded on March 4, 2011 in the Registry and recorded in Book 56560, Page 211. Hutchins Land Co. LLC, as successor in interest to the Trustees of Hutchins Realty Trust, the Commonwealth of Massachusetts and the Town of Concord agree that the boundary lines were intended to be as described in this Confirmatory APR and not as described in the Original Restriction. We further note that the Commissioner of Food and Agriculture is now known as Commissioner of the Department of Agricultural Resources and that M.G.L. c. 132A, Sections 11A through 11D have been repealed and effectively replaced with M.G.L. c. 20, Section 23. All other terms and conditions of the Original Restriction shall remain unchanged, unless stated herein.

1. HUTCHINS LAND CO. LLC, as successor to The Trustees (the "Grantor"), for consideration of Two Hundred Thousand Dollars (\$200,000.00) previously paid, the receipt and sufficiency of which is hereby acknowledged, grant to the Town of Concord, Massachusetts, acting through its Natural Resources Commission, its successors and assigns (the "Municipal Grantee"), and to the Commonwealth of Massachusetts acting through the Commissioner of the Department of Agricultural Resources (the "Commissioner") with an address at 251 Causeway Street, Suite 500, Boston, Massachusetts its successors and assigns (the "State Grantee") (from time to time, the Municipal Grantee and the State Grantee may be collectively referred to as the "Grantees"), an Agricultural Preservation Restriction (the "Restriction") in perpetuity on the parcel of land located in the Town of Concord and described in Exhibit "A" attached hereto and

incorporated herein by reference (the "Premises") in accordance with the following terms and conditions:

A. Restrictions Imposed by Grantor: The Grantor covenants for itself, its heirs, devisees, legal representatives, successors and assigns, that the Premises will at all times be held, used and conveyed subject to, and not used in violation of, the following restrictions as said restrictions may be limited or affected by the provisions of Section B below:

(1) No building, residential dwelling, tennis court, artificial swimming pool, asphalt driveway, road, parking lot, mobile home, utility pole, tower, conduit or line or other temporary or permanent structure or improvement requiring construction shall be constructed, placed or permitted to remain on the Premises, except structures existing on the Premises at the time of the execution of this Restriction.

(2) No loam, peat, gravel, soil, sand, rock or other mineral resource, or natural deposit shall be excavated, dredged, or removed from the Premises unless approved by the Grantees under Section C below.

(3) A. No soil, refuse, trash, vehicle bodies or parts, rubbish, debris, junk, or waste (other than low level radioactive waste or hazardous waste to the limited extent provided in subsection B, below) shall be placed, stored, dumped, or allowed to remain on the Premises except in connection with the agricultural use of the Premises.

B. No low level radioactive or hazardous waste or other hazardous substance or material shall be placed, stored, dumped, or allowed to remain on the Premises contrary to applicable law.

(4) No use shall be made of the Premises, and no activity thereon shall be permitted which is or may be inconsistent with the intent of this grant, i.e., the perpetual protection and preservation of agricultural lands. No activity, including but not limited to drainage or flood control activities, shall be carried on which is detrimental to the actual or potential agricultural use of the Premises, or detrimental to water conservation, soil conservation, or to good agricultural and/or forestry management practices or which is otherwise wasteful of the natural resources of the Commonwealth of Massachusetts.

(5) The Premises shall be conveyed as a unit, whether or not said Premises are comprised, as of the date of this Restriction, of more than one separate legal parcel. No subdivision or division of the Premises or any portion thereof into two or more lots, whether new or existing as of the date of this Restriction, shall be permitted except that, in accordance with the procedures set forth under Section C herein, the Grantees may in their discretion approve such division of land as they deem necessary to further the purposes of this Restriction and General Laws Chapter 184 and 132A. No use or development of the Premises other than for agricultural purposes shall be permitted except that in accordance with the procedures set forth under Section C herein the Grantees may in their discretion approve the construction and/or placement of one or more dwelling unit(s) on the Premises.

B. Rights Retained by Grantor: Notwithstanding any provision of this instrument to the contrary, the Grantor hereby reserves to and for itself, its heirs, devisees, legal representatives, successors and assigns, all other customary rights and privileges of ownership including the right to privacy and to carry out regular agricultural practices, and the right to conduct or permit the following activities on the Premises:

- (1) The maintenance and use for agricultural and passive recreational purposes (i.e., recreational purposes not involving the use of motorized vehicles) of existing trails and farm and wood roads on the Premises, substantially in their present condition or as reasonably necessary for such uses thereof or hereinafter permitted.
- (2) The construction or placing of buildings or structures for agricultural purposes only, including buildings for related retail sales, structures for housing agricultural employees (including sanitary disposal systems for such housing) or other agriculturally related purposes, all subject to the prior written approval of the Grantees as provided in Section C hereof.
- (3) The installation, maintenance, repair, replacement, removal and relocation of utility facilities and services over the Premises for the purpose of providing utility services to the Premises and any other land of the Grantor shown on the plan entitled "PLAN OF LAND IN CONCORD, MASS. OWNED BY HUTCHINS REALTY TRUST," dated November 25, 1988, by David W. Perley, Civil Engineers, recorded as Plan # 1404 of 1989 in Middlesex South Registry of Deeds Plan Record Book 20287 Page 63 (the "Plan"), and the right to grant easements over the Premises for such utility purposes in accordance with the provisions of Massachusetts General Laws, Chapter 184, Section 32, provided, however, that the Grantor may not install, maintain, repair, replace, remove or relocate sanitary disposal systems on the Premises or grant easements over the Premises for sanitary disposal systems, except as provided in Section B(2) above.

C. Procedure Applicable to Securing Approvals from Municipal Grantee: The parties hereby covenant and agree for themselves and their heirs, devisees, legal representatives, successors and assigns, that prior to the construction of any building or structure provided for in Section B (2), and for all other approvals required from the Grantees relative to this Restriction, the following procedure shall be followed:

- (1) The Grantor shall notify the Grantees, in writing, of any intended use or intent to engage in any activity if such use or activity (including construction) requires approval hereunder, and shall submit to the Grantees plans and such other information as such Grantee requires to reasonably determine that the use, activity, structure or building is consistent with the purpose of this Restriction. The owner shall not apply for other applicable permits required by local law prior to securing approval under this section,
- (2) The Grantees shall grant such approval, with or without conditions, only upon finding that (a) the proposed use, activity, structure or building is authorized by

this Restriction and General Laws Chapter 184 and 132A, and (b) that said use, activity, structure or building shall not defeat or derogate from the intent of this Restriction to provide for the perpetual protection and preservation of agricultural lands. If, based on said findings, the Municipal Grantee shall approve, or approve with conditions, said request, it shall issue a recommendation so stating to the Commissioner who shall not unreasonably withhold or delay his consent to such approval whereupon the Grantees shall issue a certificate of approval in recordable form. If either of the Grantees is unable to make the findings necessary for approval it shall state in writing its reason therefor to the Grantor.,

- (2) The Grantees reserve the right to inspect any approved use, activity, structure or building for conformity with the Certificate of Approval. In the case of a building or structure, upon its satisfactory completion in accordance with said approval, the Grantees shall issue to the Grantor a Certificate of Completion in recordable form, which when duly recorded shall be binding on all the Grantees.

2. Authority for Restriction; Purposes Thereof: The foregoing Restriction is authorized by Massachusetts General Laws Chapter 184, Sections 31 through 33, and Chapter 20, Section 23, and otherwise by law, and is intended to insure the perpetual protection and preservation of agricultural lands.

3. Administration and Enforcement of Restriction; Merger with Restrictions Previously Granted: This Restriction shall be jointly administered on behalf of the Grantees by the Natural Resources Commission or other body duly authorized by the Municipal Grantee and by the Commissioner. The Restriction shall be enforced by the Grantees as they in their sole discretion may decide. Nothing herein shall impose upon the Grantees any duty to maintain or require that the Premises be maintained in any particular state or condition, notwithstanding the Grantees' acceptance hereof. The foregoing Restriction shall be deemed to be merged with certain other restrictions previously granted by the Grantor to the Grantees with respect to certain land shown on the Plan, such that the Premises granted hereby shall be deemed to include and incorporate the following:

- A. the parcel shown on the Plan as "Area 10", conveyed to the Grantees by instrument recorded on April 23, 1991, with said Deeds in Book 21112, Page 529;
- B. the parcel shown on the Plan as "Area 9", conveyed to the Grantees by instrument recorded on April 16, 1992, with said Deeds in Book 21949, Page 254;
- C. the parcel shown on the Plan as "Area 8", conveyed to the Grantees by instrument recorded on September 14, 1993, with said Deeds in Book 23651, Page 10;
- D. the parcel shown on the Plan as "Area 7", conveyed to the Grantees by instrument recorded on December 20, 1994, with said Deeds in Book 25070, Page 312;

and such that said Premises, including the parcels described in subparagraphs 3A, 3B, 3C and 3D above, shall be deemed to be a single unit, and all such Restrictions shall be administered as if they constituted a single Restriction.

4. Limitation on Right to Enter Premises: The Restriction hereby conveyed does not grant to the Grantees, to the public, or to any other person any right to enter upon the Premises, except that the Grantor hereby grants to the Grantees and their successors and assigns the right to enter the Premises in a reasonable manner and at reasonable times, for the purpose of inspecting the Premises to determine compliance herewith, of enforcing this Restriction, or of taking any and all actions with respect to the Premises as may be necessary or appropriate with or without order of court, to remedy or abate any violation hereof. The rights hereby granted shall be in addition to, and not in limitation of, any other rights and remedies available to the Grantees for enforcement of this Restriction.

5. Limitations on Assignment of Restriction: The Restriction hereby imposed is in gross and is not for the benefit of or appurtenant to any particular land. The Restriction shall only be assignable by the Grantees subject to the following terms and conditions:

- A. The assignee must be a governmental or non-governmental non-profit organization whose purposes include conservation of natural areas and which is a "qualified organization" within the meaning of section 170(h)(3) of the Internal Revenue Code of 1986, as amended from time to time (the "Code"), or the corresponding provision of any subsequent tax statute;
- B. Except as may be permitted by federal tax regulation in connection with a change of conditions, the Grantees shall not assign the Restriction, whether or not for consideration, unless as a condition of said assignment the Grantees require that the Restriction continue to be enforced, to the end that the conservation purposes which the Restriction was originally intended to advance will continue to be carried out.

6. Restriction Binding on Future Owners: The burden of this Restriction hereby imposed shall run with the Premises and shall be binding upon all future owners of any interest therein.

7. Restriction a Property Right: Grantor and Grantees hereby agree: (i) that the Restriction is a property right which, upon execution and delivery of this instrument, will immediately vest in the Grantees with a fair market value equal to the proportionate value that the Restriction at the time of the grant thereof bears to the value of the Premises as a whole at that time; (ii) that the proportionate value of said property right shall remain constant regardless of the value of the Premises in the future; and (iii) if there is a sale, exchange or involuntary conversion of the Premises after an extinguishment of the Restriction as permitted by federal tax regulations, the Grantees shall be entitled to a portion of the proceeds at least equal to that proportionate value of the Restriction (unless state law provides that the Grantor is entitled to the full proceeds from the conversion without regard to the terms of the Restriction).

8. Interpretation of Restriction: If any section or provision of the Restriction shall be held to be unenforceable by any court of competent jurisdiction, the Restriction shall be construed as though such section had not been included in it. If any section or provision of the Restriction shall be subject to two constructions, one of which would render such section or provision valid and the other of which would render such section or provision invalid, then such section or provision shall be given the construction that would render it valid. If any section or provision of the Restriction is ambiguous, it shall be interpreted in accordance with the policy and provisions expressed in the General Laws, Chapter 184, Sections 31 through 33 and General Laws, Chapter 20, Section 23 and the regulations promulgated in accordance with said Sections.

9. Restriction Intended to be a "Qualified Conservation Contribution": The parties intend that the Restriction shall be a "qualified conservation contribution" within the meaning of section 170(h) of the Code and the regulations thereunder. To this end, notwithstanding any provisions herein to the contrary, all questions concerning the Restriction, or the administration thereof shall be resolved so as to effectuate the aforesaid intention of the parties.

This instrument is not a deed. It does not purport to transfer a fee interest to the Grantees. No Massachusetts deed excise tax stamps are affixed hereto as none are required by General Laws Chapter 64D, Section 1 as amended.

WITNESS the execution hereof under seal this 26 day of August, 2021.

GRANTOR:
HUTCHINS LAND CO. LLC

By: 

Name: Gordon H. Bemis

Title: Manager

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss

August 26, 2021

On this 26th day of August, 2021, before me, the undersigned Notary Public, personally appeared the above-named, Gordon H. Bemis,

Name:

Gordon H. Bemis

Evidence of Identification:

Drivers license

and proved to me through satisfactory evidence of identification as noted above, to be the person whose name is signed on this document and acknowledged to me that he signed it voluntarily for its stated purpose as Manager of Hutchins Land Co. LLC.



CHERYL ANN MASSON
Notary Public
Commonwealth of Massachusetts
My Commission Expires
June 30, 2028

A large, cursive handwritten signature of Cheryl Ann Masson, written in black ink over a horizontal line.

Notary Public

My Commission Expires:

6/30/2028

APPROVAL OF THE COMMONWEALTH OF MASSACHUSETTS

The undersigned John Lebeaux, Commissioner of the Department of Agricultural Resources of the Commonwealth of Massachusetts hereby certifies that the foregoing Confirmatory Agricultural Preservation Restriction with Option to Purchase at Agricultural Value granted Hutchins Realty Trust to the Commonwealth of Massachusetts with respect to the Premises located Concord, Middlesex County, Massachusetts and more particularly described in Exhibit A attached hereto, has been approved in the public interest pursuant to General Laws, Chapter 184, Sections 32 through 33, as amended and Chapter 20, Sections 23 through 26, as amended.

COMMONWEALTH OF MASSACHUSETTS

By: _____

John Lebeaux, Commissioner

Department of Agricultural Resources

GRANTEE

COMMONWEALTH OF MASSACHUSETTS

, ss

, 20__

On this _____ day of _____, 20__, before me, the undersigned Notary Public, personally appeared the above-named John Lebeaux who proved to me through satisfactory evidence of identification, namely personal knowledge, to be the person whose name is signed on this approval document and acknowledged to me that he signed it voluntarily for its stated purpose as Commissioner of the Department of Agricultural Resources, as the voluntary act of said Commonwealth.

; Notary Public

My Commission Expires:

EXHIBIT A

AREA 6 as shown on a "PLAN OF LAND IN CONCORD, MASS. OWNED BY HUTCHINS REALTY TRUST," dated November 25, 1988, by David W. Perley, Civil Engineers, recorded as Plan #1404 of 1989 in the Middlesex South Registry of Deeds (the "Registry") Plan Record Book 20287, Page 63.

BUT EXCLUDING

PARCEL AA as shown on a "PLAN OF LAND IN CONCORD, MASS. OWNED BY HUTCHINS REALTY TRUST, THE OAK TREE HOMESTEAD LLC, 820 MONMUEMENT STREET NOMINEE TRUST & HUTCHINS LAND CO. LLC" dated January 14, 2019, by Perley Engineering LLC, recorded as Plan #444 of 2019 in the Middlesex South Registry of Deeds,

AND INCLUDING

PARCEL BB as shown on a "PLAN OF LAND IN CONCORD, MASS. OWNED BY HUTCHINS REALTY TRUST, THE OAK TREE HOMESTEAD LLC, 820 MONUMENT STREET NOMINEE TRUST & HUTCHINS LAND CO. LLC" dated January 14, 2019, by Perley Engineering LLC, recorded as Plan #444 of 2019 in the Middlesex South Registry of Deeds.

For title of Hutchins Land Co. LLC to AREA 6, as described in the first paragraph of this Exhibit A, see the deed of John G. Bemis and Gordon Bemis, as Trustees (the "Trustees") of Hutchins Realty Trust, u/d/t dated December 26, 1979, which declaration of trust was recorded in the Registry in Book 13870, Page 202, and which deed was dated January 11, 2011 and recorded on March 4, 2011 in the Registry in Book 56560, Page 211. For the title of Hutchins Land Co. LLC to Parcel BB described above, see the deed of Oak Tree Homestead LLC dated August 23, 2021, recorded in the Registry in Book 78663, Page 266.



TOWN OF CONCORD

Planning Board

141 Keyes Road - Concord, MA - 01742

Phone: 978-318-3290

MEMORANDUM

To: Select Board
Kerry Lafleur, Interim Town Manager

From: Planning Board
Elizabeth Hughes, Town Planner

Re: **MGL Ch. 61A, Notice of Intent to Transfer Real Property, 754 & 806 Monument Street (Assessor Parcel #1364-1-1 & 1365-1-4)**

Date: February 18, 2022

As required by MGL Ch. 61A, at the February 15th meeting, the Planning Board discussed the Notice of Intent to Transfer Real Property at 754 & 806 Monument Street (Assessor Parcel #1364-1-1 & 1365-1-4; Hutchins Farm).

Between 1989 and 1995, Hutchins Farm worked with the Town and the State to place six Agricultural Preservation Restrictions over 67 acres at Hutchins Farm, forever preserving this land for agricultural purposes. One of the boundary lines erroneously included a residential shed within the APR boundary, which is not a permitted use of the APR land.

To correct the delineation, Parcel AA (3,534 SF) will be transferred out of the APR, and Parcel BB (3,956 SF) will be transferred into the APR. Because Parcel AA is currently subject to Chapter 61A, the Select Board must waive its right of first refusal to acquire the parcel, considering recommendations from the Board of Assessors, Natural Resources Commission, and Planning Board.

The Planning Board unanimously voted to recommend the Select Board not exercise the right of first refusal because this land swap is solely to correct a prior boundary mistake and is part of the Hutchins Farm landscape.

Please contact the Town Planner if you have any questions or need anything further.



TOWN OF CONCORD
DIVISION OF NATURAL RESOURCES
141 KEYES ROAD, CONCORD, MASSACHUSETTS 01742
TEL. (978) 318-3285 FAX (978) 318-3291

Delia R.J. Kaye
Natural Resources Director

February 18, 2022

Terri Ackerman, Chair
Concord Select Board
22 Monument Square
Concord, MA 01742

RE: Recommendation to the Select Board, M.G.L. Ch. 61A, Notice of Intent to Transfer Real Property, 754 Monument Street, Hutchins Land Co., LLC

Recommend Approval of Confirmatory Agricultural Preservation Restriction, and Recommendation of Confirmatory APR Approval to the Select Board, 754 Monument Street, Hutchins Land Co., LLC

Dear Ms. Ackerman:

Between 1989 and 1995, Hutchins Farm worked with the town and the state to place six Agricultural Preservation Restrictions over 67 acres at Hutchins Farm, forever preserving this land for agricultural purposes. Six APRs were created over time so that the \$900,000 in town funds to acquire the APRs could be spaced out over time. The state and the town co-hold the APRs.

One of the boundary lines erroneously included a residential shed within the APR boundary, which is not a permitted use of the APR land. In order to correct this error, Parcel AA (3,534 SF) will be transferred out of the APR, and Parcel BB (3,956 SF) will be transferred into the APR.

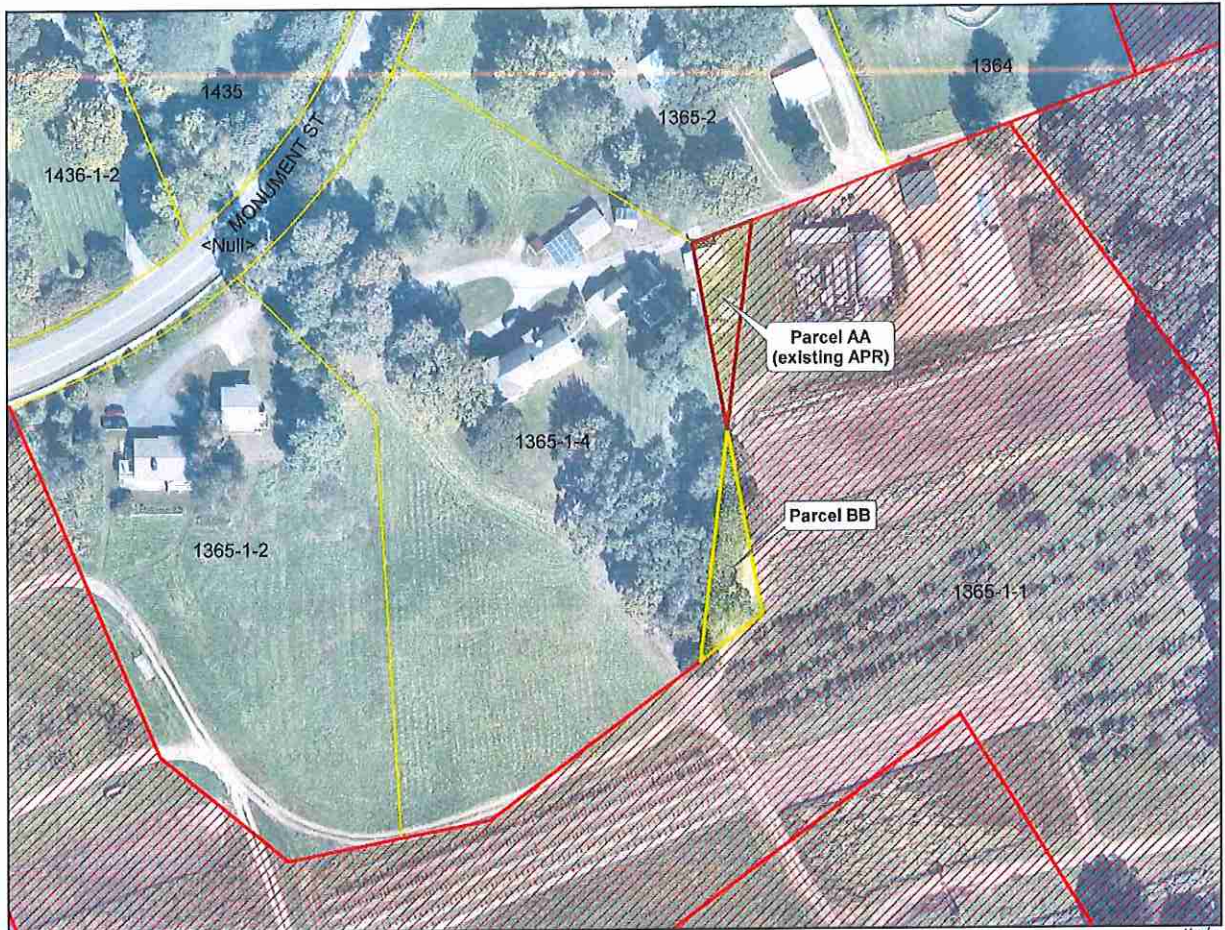
At its February 16, 2022 meeting, by unanimous vote, the NRC recommended that the Select Board not exercise its right of first refusal to purchase the property because the land swap is solely to correct a boundary error. Further, the NRC voted unanimously to accept the Confirmatory APR, and recommend approval by the Select Board.

Thank you for placing this on the Select Board's March 7, 2022 agenda.

Sincerely,

Delia Kaye
Natural Resources Director

cc: Kerry Lafleur, Interim Town Manager
Dennis Crimmins, dcrimmins@dcrimmins.com
Natural Resources Commission



2/15/2022

Alvord

Concord Municipal Affordable Housing Trust (CMAHT)

Interim Guidelines for Use of Funds

Adopted by the Concord Municipal Affordable Housing Trust on February 24, 2022, subject to approval of the Select Board pursuant to CMAHT Bylaw Section 6, Item 18.

Background

To provide dedicated long-term funding sources for affordable housing in the Town of Concord, Annual Town Meeting (ATM) in 2019 authorized filing of home rule petitions for a real estate transfer fee and a building permit surcharge. In recommending these actions, the Affordable Housing Funding Committee estimated they might yield \$2.76 million per year for affordable housing programs. After approval by Town Meeting, home rule petitions were duly filed with the state legislature, but still remain pending at this date. A state-wide bill enabling any municipality to adopt a transfer fee for affordable housing is also currently pending in the legislature.

To hold and manage these and other affordable housing funds, 2020 Town Meeting adopted a Concord Municipal Affordable Housing Trust (CMAHT) Bylaw, with the purpose of the Trust being “to provide for the preservation and creation of affordable housing in the Town of Concord for the benefit of low and moderate income households and for the funding of community housing, as defined in Massachusetts General Laws c. 44B (the ‘Community Preservation Act’).”

The CMAHT Bylaw took effect in 2021 and established a Board of Trustees appointed by the Select Board. With the Trust in place, the Town can act on affordable housing opportunities on short notice and outside the annual cycle of budgets and town meetings. Section 6, Item 18 of the CMAHT Bylaw requires the Trustees to “develop policy goals and statements, consistent with the Town’s adopted housing goals, and subject to approval by the Select Board, to serve as guidelines for the Trust.”

For the 2020, 2021 and 2022 fiscal years, Town Meeting approved annual appropriations of \$500,000 for affordable housing, the balance of which has now been deposited in the Trust by the Select Board. For FY 2023, the CMAHT Trustees have requested that the Select Board continue this current funding level for the Trust, drawing such funds from Federal American Recovery Act of 2021 (ARPA) Coronavirus State and Local Fiscal Recovery Funds (SLFRF) funds or from Town appropriation, such appropriation to be voted on at the ATM 2022 in May.

Purpose of This Document

The ATM in 2020 adopted the Concord Municipal Affordable Housing Trust Bylaw with the expectation that CMAHT would hold funds acquired by the Town for affordable housing and make expenditures from this fund. This document is intended to provide interim guidelines for expenditure of CMAHT funds at the current funding level.

This document sets forth the guidelines, including qualifying projects and selection criteria, to be used by the Trust, once approved by the Select Board. These interim guidelines are intended to serve until such time as reliable annual funding sources for the Trust (real estate transfer fee and/or building permit surcharge) have received final approvals and the annual flow of funds into the Trust can be anticipated with some certainty.

The following interim guidelines are suggested for current use. Modification of the guidelines may occur when one or more of the documents referred to below is updated, superseded or amended, particularly when the housing needs of the Town are further defined or modified by the Housing Production Plan anticipated to be updated and approved in late 2022 or early 2023.

Policy Goals

In the interim period prior to creation of a new Housing Production Plan and prior to final approval of one or more additional affordable housing funding mechanisms within the control of the Town of Concord, use of Funds in the CMAHT will be opportunistic but should reflect:

- Housing plan element goals (Section 4.3) of *Envision Concord: Bridge to 2030*
- Goals in the *2015 Concord Housing Production Plan*
- *Community Preservation Committee Funding Priorities and Project Application Guidelines*.

Qualifying Projects

CMAHT funds may be expended in furtherance of Town Policy Goals and the enumerated **Selection Criteria** below on any of the following types of projects, provided that the resulting housing units shall be affordable at 150% of Areawide Median Income (AMI), or less, and the use complies with the applicable legislation/regulation underlying the funding source. See Reference Document below, identifying low and moderate household income limits (% of AMI) by program and funding source.

Projects qualifying for CMAHT funding include:

- Purchase of land on which affordable housing can be built, provided that if the CMAHT is the purchaser of the land prior approval of the Select Board is also required
- Development, legal or other soft costs required to seed or determine the feasibility, scope and cost of proposed new affordable housing projects
- Purchase (and required renovation) of existing homes, through collaboration with public, non-profit, or private partners, so that such units may be retained in, or added to, the stock of affordable homes in Concord
- Subsidies and/or funds for renovation required to prevent a home from being sold out of the Subsidized Housing Inventory (SHI) stock, provided that enforceable income restrictions shall govern future *sale*

- Capital expenditures in excess of normally programmed maintenance, upkeep and systems replacement which are required to maintain the structural integrity and safety of a home/unit currently on the SHI list.
- Subsidies to developers to increase the number of affordable units, or lower the level of qualifying household income, within a new Planned Residential Development. Such subsidies would only be for the increase in affordability beyond the requirements imposed by zoning approval and would be subject to continuing affordability restrictions.

Selection Criteria

The CMAHT was created to enable the Town to aggregate affordable housing funds and take advantage of affordable housing opportunities without waiting on the Town’s annual budget process and Town Meeting. At this time, priority will be given to expenditures for the purchase of land or housing units, construction or renovation of existing housing units (as described in the Qualifying Projects section) or the subsidy of privately owned units to affordable levels. Projects will be ranked more favorably if they meet one or more of the following criteria:

- Will increase the supply of units qualifying as “affordable” under State Comprehensive Permit Law M.G.L. Chapter 40B Subsidized Housing Inventory
- Subject to the requirements of other project funding sources, maximizes the portion of units available to Concord residents or employees
- Will increase the inventory of land on which affordable units can be built
- Will prevent the loss (due to market sale or structural deterioration) of existing units which are currently affordable, provided that continuing affordability restrictions will be placed on the property
- Will make Concord a more inclusive community
- For Planned Residential Developments (PRD) and other multi-unit projects, effectively integrates affordable units into the design without differentiation of such units
- Will minimize the total cost to the Town per unit for maintaining or adding units to the affordable housing stock
- Will leverage other funds for affordable housing from sources such as the Community Preservation Act, Federal and State affordable housing programs, in-lieu of or other payments from private sector developers, and/or private donations
- Meets Concord’s sustainability and energy efficiency goals.

Reference Document:

Low and Moderate Income Limits (% of Areawide Median Income) by Program/Funding Source

| <i>Program/Funding Source</i> | <i>Low Income</i> | <i>Moderate Income</i> | <i>Note/Reference</i> |
|--|-------------------|---|---|
| Municipal Affordable Housing Trust statute – per Massachusetts Housing Partnership’s 2018 MAHT Guidebook | See Note | See Note | MHP 2018 MAHT Guidebook p. 27: “The trust statute [M.G.L. C.44, s.55C] does not include definitions for key terms such as . . . ‘low- and moderate-income.’ A trust can consult existing programs and statutes in the state to adopt definitions for terms. . . . Each funding source has restrictions and requirements for uses of funds. Certain programs and projects may not be eligible under all funding programs. It will be particularly important to secure funds from sources that will enable the housing trust to accomplish its priority initiatives. Once funds are secured, particularly if secured from multiple sources, the board of trustees will need an accounting system that tracks revenue by original funding source.” |
| Community Preservation Act (CPA) community housing | 80% of AMI | 100% of AMI | As defined in M.G.L. C.44B, s.2 |
| Comprehensive Permit Law M.G.L. C.40B, ss.20-23 Subsidized Housing Inventory (SHI) | 80% of AMI | See Note | See DHCD regulations . If ownership units, SHI counts only those for HH incomes at/below 80% of AMI; if rental units, SHI can count all rental units in a project if at least 25% of the total number are at/below 80% of AMI; otherwise, only those at/below 80% of AMI are counted. |
| Massachusetts Affordable Housing Trust administered by MassHousing | | 110% of AMI | Funding threshold criteria include: “Affordability of all AHTF units to households earning no more than 110% of area median income.” |
| Concord Zoning Bylaw Section 10, Planned Residential Development (PRD) | | “Starter-priced housing” <110%; “moderate-priced housing” <150% | “10.2.3.2 Affordable dwelling units are those units made available for sale, lease or rent at below market rates based on the following: (a) Starter-priced housing: Dwelling units set aside for sale, lease or rental to households with incomes of less than one hundred ten (110) percent [of AMI] . . . (b) Moderate-priced housing: . . . incomes of less than one hundred and fifty (150) percent [of AMI]” |

| <i>Program/Funding Source</i> | <i>Low Income</i> | <i>Moderate Income</i> | <i>Note/Reference</i> |
|--|----------------------------------|------------------------|--|
| American Recovery Act of 2021 (ARPA) Coronavirus State and Local Fiscal Recovery Funds (SLFRF). See US Treasury SLFLF Final Rule , pp. 102-110. | Rental: 60-80% Ownership: 80% | To be determined | SLFLF Final Rule p. 106: "Treasury will presume that any projects that would be eligible for funding under either the National Housing Trust Fund (HTF) or the Home Investment Partnerships Program (HOME) are eligible uses of SLFRF funds." HOME : For rental housing, at least 90% of HHs w/income below 60% of AMI; remainder below 80% of AMI. For homeownership, all below 80% of AMI. <i>Note</i> : Both HTF and HOME programs can be used to fund site acquisition and improvement, among other activities. |
| <i>Proposed home rule petition: S.2437</i> - An Act establishing a real estate transfer fee upon the transfer of property in the town of Concord | See Note above | See Note above | Bill provides in proposed Section 4 that, "All fees received pursuant to this act shall be deposited in the Concord Affordable Housing Trust Fund established pursuant to section 55C of chapter 44 of the General Laws ." |
| <i>Proposed home rule petition: S.2438</i> - An Act establishing a building permit surcharge in the town of Concord | | 120% of AMI | Bill provides in proposed Section 3 that, "For the purposes of this act, 'affordable housing' shall mean as defined under section 1 of chapter 60 of the General Laws " —i.e., below 120% of AMI |
| Proposed statewide bill. S.868, H.1377 , An Act empowering cities and towns to support affordable housing with a fee on certain real estate transactions | | 175% of AMI | Bill's definitions include: "Affordable Housing Purposes" as "uses allowed by the municipal or state affordable housing trust fund into which funds are deposited, or, if the funds are deposited into a community preservation act fund, the housing uses allowed thereunder." and "Affordable Housing Restriction" of 30+ years "limited to use as a residence occupied by a low or moderate income household which earns less than a specified income level, the upper limit of which may not exceed 175 per cent of the median income for a household in that city or town; provided, however that moneys derived from a transfer fee implemented pursuant to this section and deposited into a state or municipal Affordable Housing Trust Fund or Community Preservation Fund, may be subject to the lower income restrictions that govern said Fund. . . ." |

Please see the attached materials:

- FCC Fact Sheet on Section 6490 explaining the impact of the declaratory ruling and its impact on state and local government review on modifications to existing wireless structures
- KP Law (formerly known as Kopelman and Paige, P.C.) eUpdate on the new FCC rule regarding small wireless facilities
- Department of Telecommunications and Cable (state agency) department notice on questions to ask stakeholders for wireless installations
- Town of Burlington's Small Cell Wireless Installations
- Town of Burlington's Application for Small Cell Wireless Installations
- Mass. DCR's application for Small Cell License
- Mass. DCR's application instructions for Small Cell License
- City of Medford's Interim Policy for Small Cell Wireless Installations

For my presentation, I will:

- Give an update on the Broadband and IT divisions
- Discuss the adoption of a Small Cell Wireless Installation Policy

Jason

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FCC FACT SHEET*

State/Local Approval of Wireless Equipment Modifications Under Section 6409(a)
Declaratory Ruling and Notice of Proposed Rulemaking –WT Docket No. 19-250 and RM-11849

Background: Congress enacted section 6409(a) of the Spectrum Act of 2012 to streamline State and local government review of requests to modify existing wireless structures, and the Commission adopted rules in 2014 to implement section 6409(a). With this *Declaratory Ruling and Notice of Proposed Rulemaking*, the Commission would clarify its rules implementing section 6409(a) and seek comment on rule changes to accelerate the deployment of communications infrastructure. These clarifications and potential rule changes would address the critical need to upgrade existing sites for 5G networks, particularly in rural areas.

What the Declaratory Ruling Would Do:

- Clarify that, under section 1.6100(c)(2) of our rules, the 60-day shot clock to review and approve a modification under section 6409(a) commences when: (1) the applicant takes the first procedural step that the local jurisdiction requires as part of its applicable regulatory review process; and (2) the applicant submits documentation showing that the modification qualifies for streamlined review.
- Clarify the definition of “substantial change” in section 1.6100(b)(7) of our rules as follows:
 - The phrase “with separation from the nearest existing antenna not to exceed twenty feet,” in the context of permissible tower height increases from adding an antenna, is measured from the top of an existing antenna to the bottom of a proposed new antenna;
 - The term “equipment cabinets” does not include relatively small electronic components if they are not used as physical containers for smaller devices, and the maximum number of additional equipment cabinets is measured for each separate eligible facilities request;
 - The term “concealment element” must be part of a stealth-designed facility that the locality approved in its prior review; to “defeat” concealment, a modification must cause a reasonable person to conclude that the structure’s intended stealth design is no longer effective; and
 - The phrase “conditions associated with the siting approval” may include conditions that require a feature to minimize the visual impact of a wireless facility, as long as there is express evidence that the feature was required as part of the prior siting approval, and as long as the conditions do not prevent otherwise permissible modifications to the physical dimensions of the structure.
- Clarify that an environmental assessment is not required under section 1.1307(a)(4) when the FCC, an applicant, and other affected parties have entered into a memorandum of agreement to mitigate effects on historic properties.

What the NPRM Would Do:

- Seek comment on changes to our rules regarding excavation or deployment outside the boundaries of an existing tower site, including the definition of the boundaries of a tower site, which would affect whether certain modifications of existing structures qualify for streamlined section 6409(a) review.

* This document is being released as part of a “permit-but-disclose” proceeding. Any presentations or views on the subject expressed to the Commission or its staff, including by email, must be filed in WT Docket No. 19-250, which may be accessed via the Electronic Comment Filing System (<https://www.fcc.gov/ecfs/>). Before filing, participants should familiarize themselves with the Commission’s *ex parte* rules, including the general prohibition on presentations (written and oral) on matters listed on the Sunshine Agenda, which is typically released a week prior to the Commission’s meeting. See 47 CFR § 1.1200 et seq.

New Federal Communications Commission Rule Regarding Small Wireless Facilities (5G Technology)

Prepared for the Massachusetts Municipal Association Meeting, January 2020

In order to facilitate the rollout of 5G technology, the Federal Communications Commission (“FCC”) has issued a new rule: Declaratory Ruling and Third Report and Order in Docket No. 18-133 (“New FCC Rule”) pertaining to the local regulation of Small Wireless Facilities. The New FCC Rule contains specific requirements relating to municipal regulation of Small Wireless Facilities on municipally-owned or controlled property, such as public rights of way (“ROW”), light poles, traffic lights, utility poles, and similar property suitable for hosting Small Wireless Facilities. The New FCC Rule interprets Sections 253 and 332 of the Federal Telecommunications Act of 1996, U.S. Code, Title 47 (“TCA”) so as to provide a consistent national policy framework for the deployment of 5G technology.

The New FCC Rule is available at: <https://docs.fcc.gov/public/attachments/FCC-18-133A1.pdf>

I. Small Wireless Facilities Covered By the New FCC Rule

The New FCC Rule only applies to “Small Wireless Facilities,” which meet the following conditions:

- (1) The facilities—
 - (i) are mounted on structures 50 feet or less in height including their antennas as defined in section 1.1320(d), or
 - (ii) are mounted on structures no more than 10 percent taller than other adjacent structures, or
 - (iii) do not extend existing structures on which they are located to a height of more than 50 feet or by more than 10 percent, whichever is greater;
- (2) Each antenna associated with the deployment, excluding associated antenna equipment (as defined in the definition of antenna in 47 CFR § 1.1320(d)), is no more than three cubic feet in volume;
- (3) All other wireless equipment associated with the structure, including the wireless equipment associated with the antenna and any pre-existing associated equipment on the structure, is no more than 28 cubic feet in volume;
- (4) The facilities do not require antenna structure registration under part 17 of this chapter;
- (5) The facilities are not located on Tribal lands, as defined under 36 CFR 800.16(x); and
- (6) The facilities do not result in human exposure to radiofrequency radiation in excess of the applicable safety standards specified in 47 CFR § 1.1307(b).

II. FCC Limitations Imposed on the Local Control of Small Wireless Facilities

1. Fees

The New FCC Rule requires that municipal fees assessed for Small Wireless Facilities must constitute a reasonable approximation of the local government's objectively reasonable costs and be non-discriminatory—meaning they are

THE LEADER IN PUBLIC SECTOR LAW

no higher than the fees charged to similarly-situated competitors in similar situations. This requirement applies to all fees charged an applicant seeking approval to install a Small Wireless Facility, including application or permit fees (siting applications, building permits, electrical permits, and excavation permits), ROW access fees, and fees for the use of government property in the ROW.

The New FCC Rule establishes a “safe harbor” of presumptively reasonable fee amounts, including the following:

- **\$500 Non-Recurring Fee** – applies to a single up-front application that includes up to five Small Wireless Facilities, with an additional \$100 for each Small Wireless Facility beyond five;
- **\$1,000 Non-Recurring Fees** – applies to applications for new pole (*i.e.*, not a collocation) intended to support one or more Small Wireless Facilities
- **\$270 Annual Recurring Fee (per Small Wireless Facility)** – applies to annual licensing fee for right-of-way access or attachment to municipally-owned structures.

State and local governments may charge fees in excess of those that are presumptively reasonable, provided the state or local government’s actual, objectively reasonable costs are higher. The New FCC Rule cautions that not all fees incurred by state and local governments will be considered objectively reasonable and that “any unreasonably high costs, such as excessive charges by third party contractors or consultants, may not be passed on through fees even though they are an actual ‘cost’ to the government.”

2. Permitting Shot Clocks

The New FCC Rule requires local governments to act expeditiously in on siting applications. Accordingly, the following shot clocks have been imposed for local permitting decisions:

- **60-day Shot Clock** – applies to permitting of Small Wireless Facility on an existing structure.
- **90-day Shot Clock** – applies to permitting of a Small Wireless Facility using a new structure.

Shot clock deadlines begin to run upon the filing of an application and can be extended by mutual agreement. If a municipality finds that an application is incomplete, it may freeze the shot clock by providing written notice to the applicant of the specific details that render the application incomplete.

A failure by a municipality to timely act on an application will not result in a constructive approval of the application, but will be considered a presumptive prohibition of the provision of personal wireless services in the event an applicant files suit against the municipality alleging violation of the TCA. Municipalities will be provided an opportunity in such an action to rebut that presumption and show that the failure to act was reasonable under the circumstances.

The New FCC Rule anticipates that Small Wireless Facility applications will be filed in batches, and the same shot clock applies to a batch of applications as would apply to a single application. If a batch includes applications for both collocated and new construction facilities, the 90-day shot clock will apply to all applications in the batch.

3. Aesthetic, Undergrounding and Minimum Spacing Regulations

The New FCC Rule provides that municipalities may exercise local oversight of issues relating to aesthetics, undergrounding and minimum spacing requirements of Small Wireless Facilities, provided those requirements are

“reasonable in that they are technically feasible and reasonably directed to avoiding or remedying the intangible public harm of unsightly or out-of-character deployments.”

Municipally-imposed requirements may not be more burdensome than those applied to similar infrastructure deployments and “must be objective - *i.e.*, they must incorporate clearly-defined and ascertainable standards, applied in a principled manner - and must be published in advance.” The New FCC Rule suggests April 15, 2019 as a reasonable time period in which municipalities could implement Small Wireless Facility regulatory controls. However, nothing in the New FCC Rule limits the ability of municipalities to implement local regulations after that date.

III. Recommended Municipal Action

Most municipalities already have an established practice of regulating Small Wireless Facilities through the Grant of Location/Pole Attachment provisions of G.L. c.166, §22 as it pertains to the locating of poles and attachment of wireless telecommunications facilities to existing structures located within the public ROW. In addition, many municipalities routinely require a license or lease agreement when authorizing the attachment of wireless telecommunications equipment on municipally-owned infrastructure or municipally-owned property not within the ROW. Nothing in the New FCC Rule preempts the ability of municipalities to continue authorizing Small Wireless Facilities in this manner.

It is recommended that municipalities review their existing procedures under G.L. c.166, §22 with regard to the permitting of Small Wireless Facilities to ensure that municipal fee structures and permitting timelines are consistent with the New FCC Rule. Municipalities may also consider adopting and publishing local regulations and policies in connection with G.L. c.166, §22 Grant of Location approvals and developing standard licensing agreements and procedures to address areas of local concern, such as aesthetics, undergrounding and minimum spacing requirements. Absent a written, published regulation or policy applied in a non-discriminatory manner, municipalities may be limited in the types of issues that may be addressed in the context of the G.L. c.166, §22 Grant of Location review or through local licensing agreements.

Municipalities must remain cognizant in their permitting processes of Small Wireless Facilities that outright denials of applications for Small Wireless Facilities, will, in most instances, be susceptible to legal challenge in Federal Court and may be preempted by the TCA.

If you have questions regarding the New FCC Rule, or require assistance in the drafting of regulations or local policies regarding aesthetic, undergrounding and minimum spacing requirements, please contact Attorney Katherine Laughman (klaughman@k-plaw.com) or Attorney Mark Reich (mreich@k-plaw.com)

Disclaimer: This information is provided as a service by KP Law, P.C. This information is general in nature and does not, and is not intended to, constitute legal advice. Neither the provision nor receipt of this information creates an attorney-client relationship with KP Law, P.C. Whether to take any action based upon the information contained herein should be determined only after consultation with legal counsel.



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EDWARD A. PALLESCHI
UNDERSECRETARY

KAREN CHARLES PETERSON
COMMISSIONER

Department Notice

Updated April 2019

The Department of Telecommunications and Cable has received several inquiries about wireless broadband infrastructure deployment on publicly owned or controlled property. The Department offers the following questions for stakeholders' consideration.*

What is the proposed installation – Which rules apply?

- Is the proposed installation a new structure or new equipment on an existing structure?
 - If a new structure, will other utilities or wireless carriers be able to attach to the new structure?
 - If on an existing third-party-owned structure (*e.g.*, utility pole), has the third party authorized the new installation?
- Can the new equipment be placed on some other structure (*e.g.*, streetlight pole, traffic light pole, municipally-owned building or other structure)?
- Is the proposed installation in the right-of-way?
 - How is “right-of-way” defined in the municipality?
- How big is the proposed installation (height, width, weight)?
 - Does the installation qualify as a “small wireless facility” under federal rules?

What type of accessory equipment will be needed?

- Where will this accessory equipment be located?
- How will this new infrastructure be powered? Will generators or back-up power be required?
- Will this infrastructure require a physical connection to backhaul?
- How much space will this accessory equipment occupy?

What costs does the proposed installation involve?

- What are the costs of managing the right-of-way?

* Please note that under the Federal Communications Commission's interpretation of federal law, not all of these factors may be relevant to or considered for all attachments.

- What are the costs of filing and reviewing an application?
- Are these costs documented?

Other considerations

- What aesthetic requirements apply to the proposed installation?
 - Are the requirements reasonable? Objective? Nondiscriminatory? Published in advance?
- Is the proposed installation safe, both on its own and, if applicable, as placed on the existing structure?
- What review timeframe(s) (*i.e.*, “shot clocks”) apply to the installation application?
 - Is the installation application complete upon filing?
 - What other approvals are required for the installation (*e.g.*, environmental, building permits, etc.)?
- Who stands to benefit from the installation?
- Do any zoning ordinances apply to the installation?
- Are there current or planned utility undergrounding requirements?
- If the new federal rules apply to the proposed installation, what happens if the Federal Communications Commission’s Order adopting the rules is overturned on appeal?

Town of Burlington Policy
Applications for Small Cell Wireless Installations

The Town of Burlington ("Town") by and through its Board of Selectmen hereby adopts this policy ("Policy") concerning Applications for Small Cell Wireless installations within the public right of way of the Town or located on Town- owned property.

1. Application Process.

- a. Applications shall be submitted to the Board of Selectmen through the Office of the Town Administrator accompanied by the application fee of \$500 per application, payable to the Town of Burlington. The \$500 fee will cover up to 5 locations. Each application for more than 5 installations is subject to a separate fee of \$100 per installation.
- b. Ten (10) hard copies and 1 (one) electronic copy of the application must be submitted. Applications may be hand-delivered during normal Town Hall office hours or mailed. If mailed, the date of receipt shall be the date from which the time standards are measured.
- c. The applicant must also pay for and publish and mail legal notices of the public hearing to local newspapers and abutters, as applicable. The applicant is responsible for obtaining the abutters list for each pole location within the application. The applicant must provide proof of mailing and publication to the Town Administrator.
- d. No application will be accepted for review until all items listed in 2, below, have been submitted, as well as all fees and the abutters list paid for.
- e. Upon receipt, the Office of the Town Administrator shall date and time stamp the Application as received.
- f. The Town Engineer or his designee shall make a determination as to completeness of the application and notify the Applicant, in writing, within 10 days, if the application is incomplete. If the Applicant is notified that the application is incomplete, the application is deemed rejected and must be resubmitted.
- g. The Office of the Town Administrator shall also circulate a copy of the application to the following departments for comment and review: Building; Engineering; Planning; Health; Police; Fire; Conservation Commission; and, any other department the Town Administrator, in his or her sole discretion, determines.
- h. Written comments from the departments shall be submitted to the Office of the Town Administrator within 20 days of circulation of the application.
- i. Once the application is deemed complete, and all comments have been received, the Board of Selectmen will schedule and hold a public hearing to consider the application, such that a determination may be made on any application for an installation on an existing structure within the time period required by law.
- j. Any material changes to an application, as determined by the Town in its sole discretion, shall constitute a new application for the purposes of the time standards. Where a changed or new application is submitted, the prior application shall be deemed withdrawn.
- k. Upon completion of the hearing, the Board of Selectmen may grant, grant with conditions, or deny the application, based on inadequate capacity of the pole or

mounting structure, safety concerns, reliability concerns, or failure to meet applicable engineering or design standards.

1. Any approval granted to an applicant shall be only for the specific applicant and application. Any change in the name/carrier or sistered service provided by another carrier or small cell wireless location will require a new application and approval from the Town.

2. Content of Applications. Applications shall include the following information:

- a. Applicant's name, address, telephone number and email address.
- b. Names, addresses, telephone numbers, and email addresses of anyone acting on behalf of the Applicant with respect to the application.
- c. Detailed drawings, with wet stamp/wet signature, and descriptions of the equipment to be installed, whether mounted on poles or on the ground, or otherwise, including:
 - ii. Type of equipment
 - ii. Specifications of equipment (including but not limited to dimensions and weight of each piece of equipment and of all equipment)
 - iii. Dimension of each piece of equipment and total dimension of all equipment
 - iv. Costs of all equipment and installation
 - v. Equipment mount type and material
 - vi. Power source or sources for equipment, including necessary wires, cables, and conduit
 - vii. Expected life of equipment
 - viii. Coverage area of equipment, including:
 1. Amount of antennas
 2. Antenna model
 3. Antenna length
 4. Remote radio units (RRU) count and power
 5. Antenna height
 6. Typical coverage area radius
 - ix. Call capacity of equipment, including:
 1. Total RRUs
 2. Max bandwidth per RRU
 3. Multiple input, multiple output (MIMO) per RRU
 4. Backhaul rate per RRU
 - x. Hardening, including:
 1. If there is battery backup
 2. If there is generator backup
 3. If there are multiple fiber paths to switch
 - xi. Frequency of equipment proposed to be installed.
- d. Photos, renderings, and elevation of equipment proposed to be installed.
- e. Detailed map with locations of the poles or other structure on which equipment is to

be located, including specific pole identification number, if applicable, and the areas it will service. The data must be supplied in a format that can be uploaded as a data layer to the Town's GIS map.

f. Detailed map showing existing and proposed small cell installations within 500 feet of the Application site.

g. Certification by a registered professional engineer that the pole/or location will safely support the proposed equipment.

h. Written consent from the pole, structure, or facility owner to the installation.

i. Affidavit from a Radio Frequency Engineer outlining the network/network service requirements in Burlington and how the installations address that need in Burlington. Such affidavit should characterize the current level of coverage and how the desired installations will change the current level of coverage, through or with coverage maps, including current and proposed coverage, including a breakdown of "excellent" "good" and "poor" reception areas, as set forth in section 8.4.5 of the Burlington Wireless Communication and Facilities provisions of the Burlington Zoning Bylaw.

j. Insurance certificate evidencing workers' compensation coverage, and comprehensive general liability coverage for the installation.

k. Description as to why the desired location is superior to other similar locations, from a community perspective, including:

i. Visual aspects

ii. Proximity to residential structures

l. Description of efforts to co-locate the equipment on existing structures, poles, or towers which currently exist or are under construction. A good faith effort to co-locate is required and evidence of such efforts must be included within the application.

m. An Affidavit from the applicant which certifies that it will maintain the installations in good repair and according to FCC standards, and will remove any installation not in such good repair, or not in use, within 60 days of being no longer in good repair or no longer in use.

n. Completed cover sheet on Town form, using extra sheets as necessary to provide all information.

o. Surety bond on which the Town is obligee, in an amount equal to the cost of installation, to ensure removal of equipment.

3. Annual Re-Certification and Affidavit.

a. Each year on July 1 the party responsible for the equipment maintenance shall submit an affidavit which shall list, by location, all small cell wireless installations it maintains within the Town of Burlington by location, and shall certify: (1) each such installation that remains in use; (2) that such in use installations remain covered by insurance as required by MassDOT; and (3) each such installation which is no longer in use.

b. The party responsible for the equipment maintenance shall pay an annual re-certification fee of \$100 per installation which remains in use.

c. Any small cell wireless installation which is no longer in use shall be removed by

the party responsible for its maintenance within 60 days of receipt of the annual re-certification affidavit, at that party's expense.

d. Any small cell wireless installation which is not removed within 60 days after being listed as no longer in use in the annual re-certification affidavit shall be subject to a fine of \$100/day against the party responsible for the equipment's maintenance until such installation is removed.

e. Where such annual re-certification has not been timely submitted, or equipment no longer in use has not been removed within the required 60-day period, no further applications for small cell wireless installations will be accepted by the Town until such time as the annual re-certification has been submitted and all fees and fines paid.

4. Prohibitions.

a. No small cell wireless installations shall be installed on double poles.

b. No small cell wireless installation shall be installed on poles which are not ADA compliant.

c. No small cell wireless installations shall remain within the Town right of way or on Town property which has not been certified as in use in the annual recertification affidavit.

d. No small cell wireless installation equipment shall be replaced or altered without a re-application, hearing, and approval from the Board of Selectmen unless the equipment is no longer properly functioning, and it is being replaced with the same or substantially similar equipment.

e. No application may seek approval of more than five (5) proposed facilities.

f. No applicant or closely held applicant may file more than two (2) applications within 60 days of another.

g. No emailed applications shall be accepted for filing.

h. No equipment may be used that is manufactured by a company whose equipment is banned from use by any branch or department of the U.S. government.

**Town of Burlington
Applications for Small Cell Wireless Installations
Cover Sheet**

Applicant's use of this cover sheet is mandatory. It is meant to provide a framework to ensure compliance with the Town of Burlington's Policy for Applications for Small Cell Wireless Installations.

Total number of Small Wireless Facilities being requested on this application _____ (Per town policy, no application may exceed 5 proposed facilities)

Total number of applications filed by the applicant or closely held applicant in the last 60 days (Per town policy, no application will be accepted if more than 2 applications have been filed in that time period)

Date and Time stamped on each application

\$500 made out to the Town of Burlington for up to five locations for initial application review
\$100 for each additional location

All applications shall number each page with easily identifiable identifier numbers unique to each application

Specify whether the application is under the FCC Declaratory Ruling and Third Report and Order, §6409/Wireless Siting Order, or neither: _____

a. If §6409 application, submit documentation to establish the basis for that conclusion

Specify which shot clock (60-90-150 day) applies and the basis for that conclusion:

10 day receipt date _____

Applications complete, including receipt of all permits or notification that a permit was not needed except for a building permit from other town boards and commissions applicable to the proposed locations and facilities? Yes No

Checklist of prior reviewing departments (insert Y, N, or N/A)

_____ Police
_____ Fire
_____ Board of Health
_____ Conservation Commission
_____ Planning

- _____ Engineering
- _____ Building
- _____ Other (specify)

a. Submit a copy of all such received permits or verification that no permit is needed

If no, which applications are incomplete (any incomplete applications will be rejected)

a. Identify how each application is incomplete

Date and time of re-submission _____

Public Hearing Notice published in a newspaper of general circulation and mailed to abutters within 300 feet of the proposed locations by applicant using notice provided by Town. The applicant must obtain the certified abutter's list from the Assessor's Office.

Public Hearing fee is paid for by applicant.

Ten (10) hard copies of the application are required

One (1) electronic copy to Selectmenstaff@burlington.org sent on _____

Applicant's name _____

Address _____

Telephone number _____

Email address. _____

Names, addresses, telephone numbers, and email addresses of anyone acting on behalf of the Applicant with respect to the application.

Ensure that wet stamps/wet signatures of professional designers are on all drawings

Include detailed drawings and descriptions of the equipment to be installed, whether mounted on poles or on the ground, or otherwise, including:

Description of type of equipment

Specifications of equipment

Dimension of each piece of equipment and total dimensions of all equipment

Costs of all equipment and installation

Total weight at each location

How will equipment be mounted and what type of material will be used to mount equipment

All power sources for equipment (comment on necessary wires, cables, and conduit)

Expected life of equipment

Coverage area of equipment on the location

Amount of antennas

Antenna model

Antenna length remote radio units (RRU) count and power

Antenna height

Typical coverage area radius

Call capacity of equipment, including:

Total RRUs

Max bandwidth per RRU

Multiple input, multiple output (MIMO) per RRU

Backhaul rate per RRU

Hardening, including:

Is there battery backup

Is there generator backup

Will there be multiple fiber paths to switch

Frequency of equipment proposed to be installed.

Photos, rendering and elevation of equipment proposed to be installed:

Include detailed map with locations of the poles or other facility on which equipment is to be located, including specific pole identification number, if applicable, and the areas it will service. Location details must be provided to be compatible as an additional data layer to the Town's GIS map

Include detailed map showing existing and proposed small cell installations within 500 feet of the Application site.

Include certification by a registered professional engineer that the pole/or location will safely support the proposed equipment.

Include written consent from the pole, structure, or facility owner to the installation.

Include an affidavit from a Radio Frequency Engineer outlining the network/network service requirements in Burlington and how the installations address that need in Burlington. Such affidavit should characterize the current level of coverage and how the desired installations will change the current level of coverage, through or with coverage maps, including current and proposed coverage, including a breakdown of "excellent" "good" and "poor" reception areas, as set forth in section 8.4.5 of the Burlington Wireless Communication and Facilities provisions of the Burlington Zoning Bylaw.

Include insurance certificate evidencing workers' compensation and comprehensive general liability coverage for the installation.

Include a description as to why the desired location is superior to other similar locations, from a community perspective, including:

Visual aspects

Proximity to residential structures

Include a description of efforts to co-locate the equipment on existing structures, poles, or towers which currently exist or are under construction. A good faith effort to co-locate is required and evidence of such efforts must be included within the application.

Include a narrative of how design requirements have been met.

Include an affidavit from the applicant which certifies that it will maintain the installations in good repair and according to FCC standards, and will remove any installation not in such good repair, or not in use, within 60 days of being no longer in good repair or no longer in use.

Include surety bond on which the Town is obligee, in an amount equal to the cost of installation, to ensure removal of equipment.

Annual Re-Certification and Affidavit.

- Each year on July 1 the party responsible for the equipment maintenance shall submit an affidavit which shall list, by location, all small cell wireless installations it maintains within the Town of Burlington by location, and shall certify: (1) each such installation that remains in use; (2) that such in use installations remain covered by insurance as required by MassDOT; and (3) each such installation which is no longer in use.
- The party responsible for the equipment maintenance shall pay an annual re-certification fee of \$100 per installation which remains in use.
- Any small cell wireless installation which is no longer in use shall be removed by the owner within 60 days of receipt of the annual re-certification affidavit, at that party's expense.
- Any small cell wireless installation which is not removed within 60 days after being listed as no longer in use in the annual re-certification affidavit shall be subject to a fine of \$100/day against the party responsible for the equipment's maintenance until such installation is removed.
- Where such annual re-certification has not been timely submitted, or equipment no longer in use has not been removed within the required 60-day period, no further applications for small cell wireless installations will be accepted by the Town until such time as the annual re-certification has been submitted and all fees and fines paid.

Agree to annual re-certification and affidavit and payment as shown above.

Conditions/Prohibitions.

- No small cell wireless installations shall be installed on double poles.
- No small cell wireless installation shall be installed on poles which are not ADA compliant.

- No small cell wireless installations shall remain within the Town right of way or on Town property which has not been certified as in use in the annual re-certification affidavit.
- No small cell wireless installation equipment shall be replaced or altered without a re-application, hearing, and approval from the Board of Selectmen unless the equipment is no longer properly functioning, and it is being replaced with the same or substantially similar equipment.

Agree to Conditions/Prohibitions as set forth in town bylaws and policies.

As submitted by,

**COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF CONSERVATION AND RECREATION**

SMALL CELL LICENSE APPLICATION

For new requests starting January 2019

This Small Cell License Application (Application) is subject to the regulations at 302 CMR 19.00 for installation of Small Wireless Facilities within DCR Rights of Way. All capitalized defined terms are set forth in the regulations. See The DCR Small Cell License Application Instructions for further detail. If this Application is approved, the Licensee will be required to execute a Form Small Cell License Agreement.

Please complete this Application and send it along with the required information and the applicable fee to:

DEPARTMENT OF CONSERVATION AND RECREATION
DCR.SmallCell@mass.gov

**APPLICANT, PROPOSED LICENSEE (EQUIPMENT OWNER/OPERATOR), AND INSTALLER
INFORMATION**

Proposed Licensee (Equipment Owner/Operator)

1. Legal Name d/b/a

Contact Information (include name, title, mailing address, e-mail address, and telephone numbers)

2. Authorized Signatory (ies) (who will sign the license on behalf of the equipment owner/operator?) contact Information (include name, title, mailing address, e-mail address, and telephone numbers):

3. Proposed Licensee (Equipment Owner/Operator) Billing Department contact Information (include name, title, mailing address, e-mail address, and telephone numbers):

4. Proposed Licensee (Equipment Owner/Operator Legal Notice recipient(s) contact

information (include name, title, mailing address, e-mail address, and telephone numbers):

5. Proposed Licensee's Equipment, Location or System Manager (day-to-day contact after install?) contact information (include name, title, mailing address, e-mail address, and telephone numbers):

Applicant (if different from the Equipment Owner/Operator/ Licensee)

6. Legal Name of Applicant and Contact Information (name, title, mailing address, e-mail address, and telephone numbers)
7. Affiliation with equipment owner/operator consultant site acquisition company
 counsel/attorney other: _____
8. Will there be other entities such as maintenance companies, consultants, affiliates, who will control or have access to the owner/operator equipment? Yes No
If yes, name such entities:

Installer/Contractor and Subcontractor(s) Information

9. Name and Title and Contact Information (name, title, mailing address, e-mail address, and telephone numbers)
10. Name and Title and Contact Information (name, title, mailing address, e-mail address, and telephone numbers)
11. Equipment Owner/ Operator on-site representative, if any, and Contact Information (name, title, mailing address, e-mail address, and telephone numbers)

LOCATION, STRUCTURE AND EQUIPMENT INFORMATION

Right-of-Way Information

12. Name /City /Town:

13. Longitude/Latitude (use only Google Maps coordinates):
14. What else is in the Right-of-Way? (Attach information).
15. Will the Small Cell or Structure be located in an area subject to Massachusetts Endangered Species Act or Natural Heritage and Endangered Species Protection?
 Yes No
16. Will the Small Cell or Structure be located in an area subject the Massachusetts Wetlands Protection Act?
 Yes No
17. Will the Small Cell or Structure be located in, on, or within twenty feet (20') of a Structure or Location that is listed in the Inventory of the Archeologic and Historic Assets of the Commonwealth?
 Yes No

Structure Information

18. Will this be use of an:
 Existing Structure(s), i.e., no new excavation, no disturbance of existing concrete; use of an existing pole, use of existing conduit, existing cabinets and/or in-ground handholds; or
 New Structure(s), i.e., new excavation, new concrete, new pole, new cabinets or in-ground handholds, new conduit installed.
19. Is the Structure owned by DCR? Yes No
If not, who is the Structure owner/operator?
Please attach proof of collocation or attachment approval.
20. Does the Structure owner/operator have a valid permit, license from, or other agreement with DCR allowing placement of the existing Structure?
 Yes No If so, please attach a copy.

Proposed Equipment Information

- 21. Proposed Equipment Detail – Attach or include all required information.
- 22. What is on the existing Structure now (i.e., other users equipment, cameras, signage, shields, banner holders, etc.) - – Attach or include all required information
- 23. Can the existing or new Structure support the proposed equipment? Please attach an appropriate up-to-date structural analysis.
- 24. Is there existing conduit that is intact or will new conduit be required?
 Yes No
 For both old and new conduit, please attach conduit ground plan with length, width and status information.

- 25. Will there be new cabinets, in ground handholds, etc. required?
 Yes No
 Please attach any reports or drawings showing Subsurface Utility Engineering reviews.

Construction and Location Rehabilitation

- 26. What is the proposed construction timeline? – Please attach a construction timeline with weekly or monthly intervals.
- 27. Traffic Management Plan (TMP). Please submit information concerning the type of traffic management plan to be employed for the type of work taking place.

OTHER APPROVALS AND PERMITTING

- 28. Please list all such other certificates, permits, licenses and approvals that will be sought including agency or entity, type of approval required and sought, dates filed, and status. In some cases DCR must sign off on the application as property owner. Applications requiring such sign off shall be provided with this License Application and will be returned to the Applicant within the review period.

| Agency | Type of Approval required and sought | Date filed Copy of application sent to DCR | Status |
|-----------------|--------------------------------------|---|--------|
| <i>MHC</i> | <i>Determination letter</i> | | |
| <i>Dig Safe</i> | <i>Number</i> | | |
| | | | |

FEES

Application Fees (non-refundable):

- i. For a License Application seeking to install up to five (5) Small Cells on existing

Structures in DCR Rights-of-Way (no new excavation, no new pole, no new in ground conduit cabinet or in ground cabinet or handhold) the fee is \$500;

- ii. For a License Application seeking install more than five (5) Small Cells on existing Structures in DCR Rights-of-Way the fee is \$500 for the first 5 Small Cells plus \$100 for each additional Small Cell;
- iii. For a License Application seeking to install a new Structure the fee is \$1,000.

Annual Fee:

- I. Licensee shall pay \$270 annually to DCR for each Small Cell on DCR owned Structures.
- II. Licensee shall pay \$100 annually to DCR for each Small Cell on non-DCR owned Structures.

Checks shall be made payable to the “Commonwealth of Massachusetts” for the appropriate fee and must accompany this Application. Fees are non-refundable. Electronic payments for annual license fees may be arranged.

**COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF CONSERVATION AND RECREATION**

SMALL CELL LICENSE APPLICATION INSTRUCTIONS

GENERAL INSTRUCTIONS

Small Cell Licenses are subject to the regulations set forth at 302 CMR 19.00 for installation of Small Wireless Facilities within DCR Rights of Way.

- Complete the application fully. Please provide all information electronically or via a clean disc or drive.
- Original signature pages will be exchanged. DCR must receive the final executed signature page from Licensee prior to the commencement of installation work.
- **All questions concerning the Application or License shall be directed to: DCR.SmallCell@mass.gov. Please do not contact other DCR staff unless specifically directed to do so.**
- Prior to filing this Application:
 - *Applicants may conduct a site visit with notice to DCR 10 days prior to such visit.*

Radio Frequency (RF) studies or Subsurface Utility Engineering (SUE) reviews should occur prior to filing an application with DCR. If there is no excavation contemplated, there will be no fee or additional permitting (Construction Access) required. Applicant will be responsible for arranging any necessary details. If excavation is required a DCR Construction And Access Permit and additional environmental insurance may be required depending on the extent and location of the proposed excavation. Marking, tagging the ground, equipment, poles or trees with paint or other markers is prohibited.
 - Applicants should request and obtain any existing condition information from DCR prior to submitting this Application. Note DCR plans and files may not be available and are likely to show historic as opposed to current conditions.
 - Applicants should apply for and obtain all other non-DCR certificates approvals, permits, etc., from MHC, MassDEP, Local authorities, etc., prior to, or simultaneous with submitting this Application where possible.

SPECIFIC INSTRUCTIONS

Applicant, Proposed Licensee (Equipment Owner/Operator), and Installer Information

All contact information must be fully filled out where ever it is different.

Lines 1-6: Proposed Licensee must be the person or entity responsible for the final installed small cell and funding the construction NOT an agent.

Line 8: Any other entity that will control the small cell must be named. No post award transfers or assignments will be authorized without prior written approval.

Lines 9-10: This information will be contained in the final License. If the installer/contractor/subcontractor changes prior to actual installation, DCR must be informed.

Location, Structure and Equipment information

Line 13: Applicant shall use Google Maps (not Google Earth) longitude and latitude coordinates.

Line 14: Please include enough information about the existing Right-of-Way. Include Full color pictures from various angles, existing schematic/plans showing all measurements of the existing conditions (structures and surrounding area); current maps showing all approaches (roadways, sidewalks, grass ways) leading up to the proposed location; any current numbering or labeling information, etc. Please provide accurate depictions or actual examples of current similar installations with measurements of the proposed small cell installation. Please include electrical plan, conduit length and lie, etc. Note that final As-Builts shall be provided to DCR after the install is complete and by the time the location goes “live”.

Lines 15-17: Applicant is responsible for ascertaining whether a proposed location is subject to the indicated or any other Acts. Applicant is responsible for obtaining and providing accurate information about the proposed location, applying for any necessary approvals, and showing such approvals from applicable authorities under these Acts to DCR prior to making this application to DCR. If signatures by DCR as landowner are required in advance, applicant must submit those applications to DCR.

Line 17: is the area, location or structure listed in the Inventory of the Archeologic and Historic Assets of the Commonwealth (check Massachusetts Historical Commission database at: <http://mhc-macris.net/>)

Lines 18-20: Applicant is responsible for obtaining this information prior to application in order to provide the information to DCR with the application.

Line 18: Applicant must obtain an appropriate up-to-date structural analysis which uses accurate geographic, ground conditions, and elevation information for all calculations. The structural analysis must consider and show not only the applicant’s proposed equipment, but all other equipment currently existing on the structure and include that information in all drawings, specifications and modification plans. A copy of the final structural analysis and any plans shall be stamped by an engineer qualified and currently registered for such work and shall be provided to DCR for review.

Lines 21-25:

Line 21: Please provide information about all proposed equipment in detail including: schematics, cut sheets, manufacturer info, product id, size, weight, conduit information (course of conduit, diameter size and length in feet, start to end, wire and fiber info), power draw and sourcing (meters, locations), handholds and cabinet information (size, style, placement), lighting, finish, color, etc. Please also include proposed finished details.

Line 22: Please attach pictures of existing conditions which show the proposed structure and area on all sides; maps showing roadways and sidewalks leading up to site, location numbering information, etc. Please provide proposed depictions of the Right-of-Way after installation of the proposed Small Cell or Structure.

Line 23: The structural analysis shall use accurate geographic information, ground conditions, and elevation information for the proposed location. The structural analysis must consider and show not only the applicants proposed equipment, but all other equipment currently existing or proposed in the Right of Way or on the existing or proposed Structure and include that information in all drawings, specification and modification plans. A copy of the final structural analysis and any plans shall be stamped by a licensed professional engineer.

Lines 24-25: Where applicable, a Dig Safe number must be provided if the work will commence within thirty (30) days of execution of this license. A Dig Safe number must be obtained by calling:

1-888-DIG-SAFE (1-888-344-7233; www.digsafe.com).

If construction within the DCR Right of Way does not commence within the period allowed by Dig Safe, a

new number must be obtained prior to beginning of construction. See M.G.L. c. 82, §40, *et seq.* and 220 CMR 99.00.

Lines 26-27: Attach your proposed construction timeline considering public use patterns. Where DCR or other authorized lessees, licensees, applicants, etc., have active projects, events or operations, DCR will not issue a small cell license without further review and planning with such other entities.

Line 27: Applicants should consult the guidelines at <https://www.mass.gov/lists/design-guides-and-manuals>. A traffic management plan for motor vehicles, pedestrians, and bicycles in accordance with the most recent MUTCD and any other applicable guidelines or requirements must be provided when a traffic management plan is recommended or required. Applicants should submit a full size (24"x36") set of plan(s) certified by a Traffic Engineer or Traffic Control Technician. Applicant should account for and consider:

1. Detours for motor vehicles, pedestrians, bicycles, small motorized conveyances (wheelchairs, scooters), etc.
2. Logistics and effects on: procurement, maintenance, transportation, etc.
3. Items of concern – i.e. schools, playgrounds, handicap children, elderly housing, etc.
4. Proposed signage, if any.
5. Major events or construction projects planned or occurring near any proposed location.

CITY OF MEDFORD
INTERIM POLICY FOR
SMALL CELL WIRELESS INSTALLATIONS

[Amended: 8/28/2019]

Whereas, On September 27, 2018 the Federal Communications Commission (FCC) issued a Declaratory Ruling with the intent to streamline the installation of Fourth Generation (4G) and Fifth Generation (5G) “small cell wireless” communication system infrastructure; and

Whereas, The regulations, which significantly limit the ability of cities and towns to regulate “small cell wireless” infrastructures, took effect on January 14, 2019; and

Whereas, if a town or municipality fails to publish aesthetic standards and requirements pertaining to “small cell wireless” infrastructures by way of an ordinance or apolicy by April 14, 2019 it may not be able to impose certain restrictions, including but not limited to aesthetic requirements on “small cell wireless” infrastructures; and

Whereas, it is the intent of the Mayor of the City of Medford to propose an ordinance to the City Council of the City of Medford with the objective of striking a balance between preserving and protecting the character of the City through careful design, siting, and camouflaging techniques to blend these “small cell wireless” infrastructures “into their surrounding environment and provide other reasonable conditions on their placement and use, while concurrently enhancing the ability of small cell wireless facilities carriers to deploy small cell wireless facilities and wireless support structures in the City effectively and efficiently so that residents, businesses, and visitors benefit from enhanced wireless service; and

Whereas, as a result of various legal and legislative challenges to Declaratory Ruling, the status of the Declaratory Ruling has been uncertain for much of the time subsequent to its passage, the there is insufficient time to propose, discern and adopt an ordinance by April 14, 2019; and

Now Therefore, the Mayor of the City of Medford does hereby adopt and implement the following interim policy and guidelines.

1. Application Process

- a. Applications for approval of a “small cell wireless” infrastructure shall be submitted to the Ad Hoc Small Cell Committee through the Mayor’s Office

accompanied by the application fee of \$500 per application, payable to the City of Medford. The \$500 fee will cover up to 5 locations. Each application for more than 5 installations is subject to a separate fee of \$100 per installation. During this interim period at the end that no more than 3 applications may be submitted by an applicant per month.

- b. The applicant must pay for legal notices of the public hearing to local newspapers and abutters, as applicable. The applicant is responsible for obtaining the abutters list within 300 feet of each pole location within the application. Notice shall also be given generally to the abutters by way of a telephone call or a text message that uses a computerized autodialer to deliver a pre-recorded message or its equivalent no less than 14 days prior to the hearing on the petition for a Special Permit setting forth the date, time and place of the hearing.
- c. Twelve (12) hard copies of the application and one (1) electronic copy of the application must be submitted to the Mayor's Office. No application will be accepted for review until all items listed in 2, below, have been submitted, as well as all fees and costs are paid.
- d. Upon receipt, the Mayor's Office shall: (1) date and time stamp the Application as received; and (2) make a determination as to completeness of the application and notify the Applicant, in writing within 10 days, if the application is incomplete. If the Applicant is notified that the application is incomplete, the time periods set forth in the Policy shall be tolled until such time as a complete application has been submitted.
- e. The Mayor's Office shall also circulate a copy of the application to the following departments for comment and review: Building Commissioner; City Engineer; Director of the Office of Community Development; Director of the Board of Health and any other department that the Mayor, in her sole discretion, determines .
- f. Written comments from the persons set forth in paragraph 1(e) shall be submitted to the Mayor's Office within 20 days of circulation of the application.
- g. Once the application is deemed complete, and all comments have been received, the Ad Hoc Small Cell Committee will schedule and hold a public hearing to consider the application, such that a determination may be made on any application for an installation on an existing structure within 60 days of receipt of the application, and on a new structure, within 90 days of receipt of the application.
- h. Any material changes to an application, as determined by the City Engineer, in his sole discretion, shall constitute a new application for the purposes of the time

standards. Where a changed or new application is submitted, the prior application shall be deemed withdrawn.

- i. Upon completion of the hearing, the Ad Hoc Small Cell Committee may grant, grant with conditions, or deny the application, based on inadequate capacity of the pole or mounting structure, safety concerns, reliability concerns, failure to meet applicable engineering standards, size and visibility of the equipment being installed, as well as the construction and placement of structures, the effect of the installation on the primary use of the pole, residential concerns, and aesthetic considerations.
- j. The City of Medford is particularly sensitive to the visual impacts of “small cell wireless” infrastructures. Therefore it shall implement and impose, on an interim basis, reasonable aesthetic standards pertaining to the size of the antenna, the equipment box, and/or related cabling; placement of equipment on support structures; establishing flush-mounting requirements and spacing requirements; and aesthetic measures such as paint matching or design matching for small wireless facilities in specific areas, camouflage and other concealment methods; and for residential areas, guidelines on structure heights and lengths, and minimum setback rules from dwellings, parks, or playgrounds or similar recreational areas.

AESTHETIC REQUIREMENTS ANTENNAS

Each “small cell wireless” infrastructures antenna shall be located entirely within a shroud or canister type enclosure.

Each antenna must be able to fit within an enclosure of no more than three (3) cubic feet in volume and all other wireless equipment associated with the wireless facility is cumulatively no more than 28 cubic feet in volume. The following types of ancillary equipment are not included in the calculation of equipment volume: electric meter, concealment elements, telecommunications demarcation box, grounding equipment, power transfer switch, cut-off switch, vertical cable runs for the connection of power and other services.

All antenna enclosures shall either be mounted to the top of the wireless support structure pole and aligned with the centerline of the wireless support structure, or mounted to the side of the wireless support structure such that the vertical centerline of the antenna enclosure shall be parallel with the wireless support structure with the height of the side mounted antenna being at a location on the wireless support structure noted in the application and approved by the City, but at least 10 feet above ground level at its lowest point. Tree “topping” or the improper pruning of trees is prohibited. Any proposed pruning or removal of trees, shrubs or other landscaping already existing in any street, road, way or right of way must be noted in the application and must be approved by the City.

CABLES AND WIRES

All cables, wires and connectors related to the small wireless facility must be fully concealed on the wireless support structure and shall match the color of the wireless support structure. There shall be no external cables and wires related to the small wireless facility hanging off or otherwise exposed on the wireless support structure.

COLORS

All colors shall match the background of any wireless support structure that the facilities are located upon, including equipment cabinets. Notwithstanding the foregoing, in the case of existing wood utility poles, finishes of conduit shall be zinc, aluminum or stainless steel, or colored to match those metal finishes, and equipment cabinets shall be the color of brushed aluminum.

EQUIPMENT ENCLOSURES/CONCEALMENT

Equipment enclosures, including electric meters, shall be as small as possible, but in no event larger than 28 cubic feet in volume. Ground-mounted equipment shall incorporate concealment elements into the proposed design matching color and materials of the wireless support structure, unless other materials or colors are approved by the City. Concealment may include, but shall not be limited to, landscaping, strategic placement in less obtrusive locations and placement within existing or replacement street furniture.

Radio equipment shall be fully enclosed within an equipment cabinet or concealed within the antenna shroud enclosure matching the color and materials of the wireless support structure, unless other materials or colors are approved by the City.

Landscaping concealing equipment enclosures shall be planted in such quantity and size such that 100% screening is achieved within two years of installation.

SIGNAGE/LOGOS/LIGHTS/DECALS/COOLING FANS

Signage: The small cell wireless facility permittee shall post its name, location identifying information, and emergency telephone number in an area on the cabinet of the small wireless facility that is visible to the public. Signage required under this section shall not exceed 4 inches by 6 inches, unless otherwise required by law (e.g. radio-frequency (RF) ground notification signs) or the City. If no cabinet exists, the signage shall be placed at the base of the pole.

Lights: New small cell wireless facilities and wireless support structures shall not be illuminated, except in accord with state or federal regulations, or unless illumination is integral to the camouflaging strategy such as design intended to look like a street light pole.

Logos/Decals: The small cell wireless facility operator/permittee shall remove or paint

over unnecessary equipment manufacturer decals. The color shall match or shall be as approved by the City. Small wireless facilities and wireless support structures shall not include advertisements and may only display information required by a federal, state or local agency. The small wireless facility operator/permittee shall utilize the smallest and lowest visibility RF warning sticker required by government or electric utility regulations. Placement of the RF sticker shall be as close to the antenna as possible.

Cooling Fans: In residential areas, the small cell wireless facility operator/permittee shall use a passive cooling system. In the event that a fan is needed, the small cell wireless facility operator/permittee shall use a cooling fan with a low noise profile.

- k. Any approval granted to an applicant shall be only for the specific applicant and application. Any change in the name/carrier or sistered service provided by another carrier or small sell wireless location will require a new application and approval from the City. The renting, leasing, subletting or assigning by the applicant is prohibited.
 - l. Only one small cell wireless facility shall be eligible to be approved on a poles and support structures. The City of Medford is desirous of reserving space on poles and support structures for future use by government or other public sector entities for public safety purposes and to allow for more prudent planning for future needs.
 - m. The City of Medford reserves the right to charge higher fees from wireless providers on the basis of higher costs incurred. To that end it shall conduct regular and methodical cost studies for small cell deployments to both adjust fee calculations and to disclose the reasons for any fee/cost adjustments to wireless providers.
2. Content of Applications. Applications shall include the following information:
- a. Applicant's name, address, telephone number and email address.
 - b. Names, addresses, telephone numbers, and email addresses of anyone acting on behalf of the Applicant with respect to the application.
 - c. Detailed drawings and descriptions of the equipment to be installed, whether mounted on poles or on the ground, or otherwise, including:
 - i. Type of equipment
 - ii. Specifications of equipment (including but not limited to dimensions and weight)
 - iii. Equipment mount type and material

- iv. Power source or sources for equipment, including necessary wires, cables and conduit
 - v. Expected life of equipment
 - vi. Coverage area of equipment, including:
 - 1. Amount of antennas
 - 2. Antenna model
 - 3. Antenna length
 - 4. RRU count and power
 - 5. Antenna height
 - 6. Typical coverage of area radius
 - vii. Call capacity of equipment, including:
 - 1. Total RRUs
 - 2. Max bandwidth per RRU
 - 3. MIMO per RRU
 - 4. Backhaul rate of RRU
 - viii. Hardening, including:
 - 1. If there is battery backup
 - 2. If there is generator backup
 - 3. If there are multiple fiber paths to switch
 - ix. Rendering and elevation of equipment.
 - x. Specifications and details regarding trench requirements; including:
 - 1. width and depth of trench,
 - 2. back fill material, and
 - 3. surface restoration.
 - xi. For all applications to locate small wireless facilities, the applicant shall provide photo simulations from at least two reasonable line-of-site locations near the proposed project site. The photo simulations must be taken from the viewpoints of the greatest pedestrian or vehicular traffic.
- d. Detailed map with locations of the poles or other facility on which equipment is to be located, including specific pole identification number, if applicable, and the areas it will service.
 - e. Detailed map showing existing and proposed small cell installations within 500 feet of the Application site.
 - f. Certification by a registered professional engineer that the pole/or location will safely support the proposed equipment.
 - g. Written consent of the pole or facility owner to the installation.
 - h. Affidavit of a Radio Frequency Engineer or Radio Frequency Safety Officer with Massachusetts experience that demonstrates that the resulting radio frequency

emission levels from equipment installation at the proposed location(s) comply with the Federal Communication Commission's radio frequency (RF) emissions regulations as well as any Commonwealth of Massachusetts health and safety standards at the street level and at the nearest occupied building.

- i. Insurance Certificate in an amount as required by the City of Medford.

- j. Description as to why the desired location is superior to other similar locations from a community perspective, including:
 - i. Visual aspects
 - ii. Proximity to residential dwellings, schools, parks or playgrounds.

- k. Description of efforts to co-locate the equipment on existing structures, poles or towers which currently exist or are under construction. A good faith effort to co-locate is required and evidence of such efforts must be included within the application.

- l. An Affidavit from the applicant which certifies that it will maintain the installations in good repair and according to FCC standards, and remove any installation not in such good repair, or not in use, within 30 days of being no longer in good repair or no longer in use.

- m. A written analysis indicating that the installation and location of the equipment will not interfere with the operation of the existing pole or its primary uses.

- n. A written analysis indicating how the installation of new equipment on existing poles will effect the integrity of the pole for public safety concerns.

- o. A written plan indicating the protocol for turning off wireless facilities when utility workers are present on poles, in order to limit their exposure to radio frequency emissions. The plan should also include a description of any warning signs that will be posted to alert utility workers to radio frequency exposure.

- p. A written plan indicating the response protocol to be implemented in the event that the equipment is damaged by a weather related event or due to an accident.

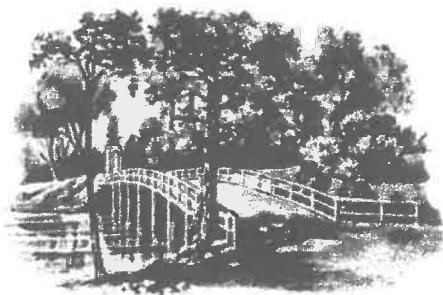
3. Annual Re-Certification of Affidavit

- a. Each year, no later than July 1, the equipment owner shall submit an affidavit which shall list by location, all small cell wireless installations it owns within the City of Medford by location and shall certify: (1) each such installation that remains in use; (2) that such in use installations remain covered by insurance; and (3) each such installation which is no longer in use.

- b. The equipment owner shall pay an annual recertification fee of \$270 per installation which remains in use.
- c. Any small cell wireless installation which is no longer in use shall be removed by the owner within 30 days of receipt of the annual recertification affidavit at the owner's expense.
- d. Any small cell wireless installation which is not removed within 30 days after being listed as no longer in use in the annual recertification affidavit shall be subject to a fine of \$100/day until such installation is removed.
- e. Where such annual recertification has not been timely submitted, or equipment no longer in use has not been removed within the required 30 day period, no further applications for small cell wireless installations will be accepted by the City until such time as the annual recertification has been submitted and all fees and fines paid.
- f. If a pole on which a small cell wireless installation has been placed is to be taken down, it shall be replaced, if at all, within 30 days.

4. Prohibitions

- a. No small cell wireless installations shall be installed on double poles.
- b. No small cell wireless installations shall be installed on poles that do not meet sidewalk clearance requirements and standards. This includes horizontal and vertical clearances for pedestrian passage. Applicable requirements and standards may include, but are not limited to, ADA and MUTCD.
- c. No small cell wireless installations shall remain within the City right of way or on City property which has not been certified as in use in the annual recertification affidavit.
- d. No small cell wireless installation shall be installed on government-owned assets such as traffic lights, street lights and roadway infrastructure.
- e. No small cell wireless installation equipment shall be replaced or altered without a reapplication, hearing, and approval from the [Ad Hoc Small Cell Committee] unless the equipment is no longer properly functioning, and it is being replaced with the same or substantially similar equipment.



OLD NORTH BRIDGE

TOWN OF CONCORD

SELECT BOARD'S OFFICE
22 MONUMENT SQUARE – P.O. BOX 535
CONCORD, MASSACHUSETTS 01742

TELEPHONE (978) 318-3001
FAX (978) 318-3002

March 7, 2022

Mr. John Sheedy
Fisheries Manager
Massachusetts Division of Fisheries and Wildlife
85 Fitchburg Road
Ayer, MA 01432

RE: White Pond Concord MA Spring Rainbow Trout Stocking

Dear Mr. Sheedy,

We are following up on a letter sent by Senator Mike Barrett in December 2021. We would like to again request that the rainbow trout not be stocked in White Pond this coming March/April 2022 based on the information below.

As you may know, White Pond was closed most of summer 2021 due to severe cyanobacteria blooms. We have been conducting literature searches that support ways to reduce the algal blooms. Cited below are two publications that are pertinent to the subject of trout stocking at White Pond.

The first article (Herrera Environmental 2021) was published after your response to the town. This study examined the effect of rainbow trout stocking on lakes in the state. Key findings of this study include:

- Liberty Lake exhibits standard trophic interactions with increased trout stocking decreasing zooplankton abundance and increasing phytoplankton biovolume.
- Stocking of legal-sized trout reduce zooplankton more than stocking of trout fry.
- Total phosphorus increases with trout stocking, possibly due to phosphorus in trout excretion or in increased phytoplankton biovolume.

They conclude that "...the analysis results indicate that algae blooms or cyanotoxin production may be significantly affected by trout stocking in some lakes."

The second publication by Buddy et al. (2005) shows that larger trout are zooplanktivores. In your October 7, 2020 response to Michael Lawson (attached), you state that the stocked trout are "...12-14" and sometimes larger" and "...are not planktivores." Buddy et al. (2005) show that trout in their

study within this size range are in fact zooplanktivores. Herrera Environmental (2021) also state that “legal-sized trout” reduce zooplankton.

While we could not find any literature showing regional studies in Massachusetts of trout diet or potential for a trophic cascade effect, these studies above suggest a concern for continued release of rainbow trout into White Pond. If you know of studies that indicate differently, we would welcome this information as we try to understand ways to improve the health of the pond. What is clear is that research into this topic needs to be conducted at White Pond to better understand the relationship between rainbow trout stocking and cyanobacteria levels.

We had a successful pilot test of a remediation method to remove the harmful algal blooms in August 2021. We plan on utilizing this device in summer 2022 in tandem with comprehensive water testing. We will learn more about the inputs to the cyanobacteria problems and will be able to document this in more detail in summer 2022.

What we do know is that heavy planktivory is occurring in White Pond as evidenced by the lack of zooplankton community from our weekly water sampling surveys. Numbers of zooplankton have been significantly reduced. These zooplankton help keep the harmful bacteria in check.

In summary, while we conduct our testing and studies, we are asking the Department of Fish & Game to cease rainbow trout stocking this spring until we can gather data and better understand the nature of the algal blooms.

Sincerely,

Terri Ackerman, Chair
Select Board
Town of Concord

cc: Senator Michael Barrett

Enclosure



MASSWILDLIFE

DIVISION OF FISHERIES & WILDLIFE

1 Rabbit Hill Road, Westborough, MA 01581
p: (508) 389-6300 | f: (508) 389-7890
MASS.GOV/MASSWILDLIFE

October 7, 2020

Michael Lawson, Chair, Concord Select Board
Town House, Box 535
Concord, MA, 01732

Re: Fall Trout Stocking in White Pond

Dear Mr. Lawson,

This letter is in response to your correspondence of August 21, 2020 regarding the stocking of trout in White Pond in Concord. We at MassWildlife recognize the difficulty in managing such fantastic resources and applaud your efforts to examine potential sources of nutrient loading to White Pond.

I would like to address two specific concerns that you have about fall trout stocking at the pond. First, you are concerned about the estimated 2% contribution of rainbow trout to the phosphorous loading and second you are concerned that Rainbow trout are eating zooplankton. In your letter you mention that both factors contribute to the potential for harmful algal blooms (HAB's).

First, the assumption that 2% of the phosphorous, based on a placeholder of 10kg of trout left uncaught by anglers, is not intended in the watershed management plan to be anything other than a placeholder. White Pond, as I assume you are aware, is an excellent fishery (for more than just trout) and the recreational value of the lake is very high. While it is possible that some trout remain from year to year and contribute phosphorous, they are still less of an issue, according to the watershed assessment, than horses, dogs, swimmers, and all other sources of phosphorous to this Great Pond and highly regarded Commonwealth resource.

Second, you are concerned that Rainbow Trout are resulting in cascading trophic interactions that could, in turn, result in increases in HAB's. In fact, we stock large rainbow trout (12-14" and sometimes larger) which are not planktivores, but rather insectivores or piscivores. Because of their trophic status, they are removing planktivores, not zooplankton. The presence of Rainbow Trout, if anything, reduces the likelihood of HAB's, but since their density is rather low, the benefit is probably minimal.

MASSWILDLIFE

Again, while we strongly support the efforts of municipalities to control sources of nutrients to lakes and ponds in Massachusetts, we note that the Town's watershed assessment indicates that the trout stocked in White Pond do not contribute significantly to phosphorous loading.

Sincerely,



Todd Richards

Assistant Director of Fisheries

Massachusetts Division of Fisheries & Wildlife

email: Todd.Richards@mass.gov

mass.gov/masswildlife | facebook.com/masswildlife

cc.

Patricia Huckery, Northeast District Supervisor

Jonathan Regosin, Deputy Director

MASSWILDLIFE

Memo

TO: Terri Ackerman, Selectboard Chair
Kerry LeFleur, Interim Town Manager

FROM: Kate Hodges, Deputy Town Manager

DATE: February 8, 2022

Re: Beede Center Parking Lot - Parking Restriction Needed

Over the past several years, the Beede Center has seen a dramatic increase in illegal/unpermitted parking by students of Concord-Carlisle High School. Dozens of students access the parking lot daily to either avoid purchasing a pass to park for the designated school lots or to avoid having to make other arrangements for their vehicles during the school day. My team and I have worked with the Superintendent's office and the High School Administration to try to workshop ideas to stop this destructive behavior. Our efforts, to date, have been ineffective.

Thus far, our efforts have included:

- Partnering with high school leadership to regularly communicate the rules and access regulations for the Beede parking lot;
- Working with Police Department to issue warnings to cars that are accessing the lot without permission;
- Soliciting different vendors regarding ideas on how to upgrade to the gate system; and
- Asking members of the Beede staff to monitor the lot themselves and tasking them with placing letters cars that have violated our polities to 'remind' owners of the rules.

Unfortunately, our efforts have had little to no impact on the student's behaviors. While some of the above measures have had moderate success, most of these efforts require unsustainable staffing models or have costs too burdensome for Beede's already tight bottom line. The ongoing behaviors of the student community had had a direct and negative impact to the paying members of the Beede Swim and Fitness Center. Many have told staff that their difficulty in finding spaces to park, or their inability to find spaces at all, have made them question *why* they should continue paying for a membership at all. In several cases, members have also expressed deep concerns regarding the reckless driving habits of many of the students in and around the Beede lot.

The Concord Police is currently unable to issue violation tickets (meaning, with fees) to those who are using Beede's lot inappropriately because the land belongs to the Town and, therefore, falls under Concord's local parking by-laws, specifically schedule I-A 'Parking Restrictions in Parking Lots'. It is with this in mind that we ask the Select Board to vote to approve a formal parking restriction for the Beede Swim and Fitness Center parking lot which allows parking for Beede customers, staff and certain school department vehicles only. The school vehicle would be 'as agreed-upon by the Town' since the Drivers' Education Vehicles park at Beede. Should the Selectboard approve this restriction, Town staff and will work with the Police and Public Works team to install signage alerting people to these changes.

It is no secret that the operation of Beede Center can be challenging; it is difficult for any municipality to operate a large-scale swim and fitness center. The parking situation has become both unmanageable and unacceptable. The added frustration this has given our membership only works to undermine the benefits of Beede and hurts the efforts of our staff and volunteers. We would appreciate the Board's support of our proposed parking restriction as Town Staff continue to work tirelessly to maintain easy access to Beede for the paying members of our community and surrounding towns. Thank you for your consideration.

From: Wendy McNally <wmcnally17@gmail.com>
Sent: Thursday, February 10, 2022 11:26 AM
To: Kate Hodges
Subject: Beede Center Parking Issues

Dear Kate,

Thank you for enlightening me about the proposal you have created along with your plans to go before the Select Board concerning parking issues at the Beede Center.

I would like to share with you my personal experiences, as a longtime water cardio class participant, and now a full member, at the Beede.

I have attended water cardio classes for many years, two times a week, at the Beede Center. I love these classes and the instructors.

These classes have a set start time of 10 am.

In recent months, parking, upon arrival to the lot before class, has become increasingly more difficult and I often find myself parking further down the lot, closer to the Driver's Ed class vehicles. There are just not that many people in the Beede Center when I get in there. Why so many cars?

On January 6th and January 8th, upon leaving the Beede after class, around 11:20, I witnessed many students going to their vehicles, crossing from the high school. Many of the vehicles were Jeep Wranglers with team stickers from CC.

The students cross from the high school, run to their vehicles and take off at a very quick pace out of the lot. Walking to you car at that time can be dangerous, as they are all pulling out almost simultaneously.

This past Tuesday, February 8th, 2022, was no exception. The lot was the most filled I have ever seen it, and I circled in and out a couple of times only to find a spot, and it was the furthest away from the Beede that I have ever parked. I saw other class attendees doing the same thing, and we were scrambling to get into the building, change and get to class.

The frustration was obvious among people going in and one classmate stopped and talked to Cathy, who works there, about why the gates don't work, only to be told they are in need of a significant upgrade.

I mentioned the parking to Nathalie at the desk upon check in.

I ended up being slightly late to class, and decided to forgo it and go talk to Andy Dutton, in person, about the situation in the lot.

He mentioned to me that the Town of Concord owns the lot, the police cannot ticket or tow, and the Beede personnel that have spoken to the CCHS students as they enter about not parking there, as it is for Beede members, only to get a really rude response from the students.

It seems like the Beede Center's hands are tied here.

The part about the Town owning the parking lot was a surprise to me. I came home and reached out to the Town for verification.

As a parent of two CCHS graduates, (2013 and 2017), we paid for parking stickers at both the old high school and the new. When the school was under construction, my son, who was a junior at the time was told to park on Laurel Street.

Robyn LaFrance

From: Wendy McNally <wmcnally17@gmail.com>
Sent: Thursday, February 10, 2022 11:26 AM
To: Kate Hodges
Subject: Picture to supplement my email

January 6 th I believe



Sent from my iPhone

Robyn LaFrance

From: Robyn LaFrance <rlafra@comcast.net>
Sent: Tuesday, February 15, 2022 9:33 AM
To: Robyn LaFrance
Subject: Fwd: Beede parking

Follow Up Flag: Follow up
Flag Status: Flagged

Begin forwarded message:

From: Kate Hodges <khodges@concordma.gov>
Date: February 15, 2022 at 9:27:38 AM EST
To: thornton ash <thorntonash@comcast.net>
Cc: Kerry Lafleur <klafleur@concordma.gov>, Robyn LaFrance <rlafra@comcast.net>
Subject: RE: Beede parking

Thank you for the email. The Select Board will be taking up a parking restriction proposal at their 3/7 meeting which I am hopeful will alleviate some of this in the Beede lot.

Kate Hodges, ICMA-CM
Deputy Town Manager
Town of Concord, Massachusetts
www.concordma.gov

-----Original Message-----

From: thornton ash <thorntonash@comcast.net>
Sent: Tuesday, February 15, 2022 9:09 AM
To: Kate Hodges <khodges@concordma.gov>
Subject: Beede parking

[You don't often get email from thorntonash@comcast.net. Learn why this is important at <http://aka.ms/LearnAboutSenderIdentification>.]

I have stopped in at the police station twice over the past several years to report dangerous driving by students. I have almost been hit broadside twice!

Also, the visibility at the east end exit is extremely poor and given how fast many drive on the access road it is very dangers exiting, especially when cars come from the right. The no parking zone is not nearly large enough and the kids tend to park in them.

Thornton Ash
163 Nowell Farme RD
Carlisle