



**Town of West Newbury
Board of Selectmen
Monday, October 5, 2020 @ 6:00pm**
381 Main Street, Town Office Building
www.wnewbury.org

RECEIVED
TOWN CLERK
WEST NEWBURY, MA
2020 OCT - 1 PM 3:41

AGENDA

Executive Session: 6:00pm by remote participation

- ❖ MGL Ch. 30A §21(a) 3: To discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigating position of the public body and the chair so declares (*lease terms for Page School; requests for rent waiver/reductions due to COVID-19: The Children's Castle, The Learning Tree; Dispatch Union Contract; Police Union Contract*);
- ❖ MGL Ch. 30A §21(a) 2: To conduct strategy sessions in preparation for negotiations with nonunion personnel or to conduct collective bargaining sessions or contract negotiations with nonunion personnel (*Town Manager contract; Finance Department staffing*);
- ❖ MGL Ch. 30A §21(a) 6: To consider the purchase, exchange, lease or value of real property if the chair declares that an open meeting may have a detrimental effect on the negotiating position of the public body (*31 Dole Place*).

Note: A Town Manager memo in Item C also addresses topics listed as agenda items E, F, G, H, I and J

Open Session: 7:00pm by remote participation (see below)

Announcements:

- This meeting is being broadcast on local cable TV and recorded for rebroadcast on the local cable channels and on the internet. Meeting also accessible by remote participation; instructions below.
- Fall Special Town Meeting – Saturday, October 17, 2020 at 10am, Bandstand/Bachelor Street fields
- West Newbury Board of Health – COVID-19 Update #13 – posted to Town website
- West Newbury / Red Cross Blood Drive, Wednesday, October 14, 8am – 1pm, Town Offices Annex
- Newburyport Fall Hydrant Flushing underway; West Newbury Hydrant Flushing coming soon
- Call for volunteers: seeking members for Finance Committee, ZBA (Associate Member), etc.
- Reminder to subscribe for emailed Town news/announcements at <https://www.wnewbury.org/subscribe>

Regular Business

- A. Request for appointment of Celeste Edwards to Council on Aging; and Historical Commission
- B. Updates regarding coronavirus pandemic, including recent and proposed legislation and Executive Orders regarding COVID-19, and recent Halloween guidelines issued by the Commonwealth
- C. Request for authorization to submit ADA assessment grant – *Sam Joslin, Building Inspector*
- D. Review of Finance Committee booklet for Special Town Meeting
- E. Review of draft Special Town Meeting motions

Town Manager Updates

- F. Update on site testing at Coffin Street site; correspondence with developer, Conservation, MassDEP
- G. CARES Act quarterly report submitted 9/25/20; recent guidelines for next CARES Act expense projection filing due October 30, 2020; next cost reporting report due on November 13th; and October 15th deadline for submittal of FEMA filing for costs incurred through September 15, 2020
- H. Update on contract status with architect/designer for Preservation and Restoration of the Soldiers & Sailors Memorial Building
- I. Recent damage to Animal Control Officer vehicle; pending insurance claim
- J. Preparation for FY20 Audit
- K. Follow up meeting assignments; and placing items for future agendas

Addendum to Meeting Notice regarding Remote Participation

Pursuant to Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, §18, and the Governor's March 23, 2020 Order imposing strict limitations on the number of people that may gather in one place, this meeting of the West Newbury Board of Selectmen will be conducted via remote participation to the greatest extent possible.

Specific information and the general guidelines for remote participation by members of the public and/or parties with a right and/or requirement to attend this meeting can be found on the Town of West Newbury website, at www.wnewbury.org. For this meeting, members of the public who wish to listen to the meeting may do so in the following manner:

Zoom Meeting

Phone: (646) 558 8656

Meeting ID: 993 9005 5073

Passcode: 662996

Join at <https://zoom.us/j/99390055073?pwd=bVFXcDIVN0x6UnZ1UzRuWi9mZmh4UT09>

No in-person attendance of members of the public will be permitted, but every effort will be made to ensure that the public can adequately access the proceedings in real time, via technological means. In the event that we are unable to do so, despite best efforts, we will post on the West Newbury website an audio or video recording, transcript, or other comprehensive record of proceedings as soon as practicable after the meeting.



TOWN OF WEST NEWBURY

BOARD OF HEALTH

TOWN OFFICE BUILDING
381 MAIN STREET, WEST NEWBURY, MA 01985

PHONE 978-363-1100
FAX: 978-363-1119

West Newbury Board of Health – COVID-19 Update #13

DATE: October 1, 2020
TOWN: West Newbury
CONTACT: Paul Sevigny, Health Agent

Office: 978-363-1100, x119
Cell: 978-833-7458
Email: psevigny@wnewbury.org

Since the Board of Health's last update on August 19th, four additional residents have tested positive for COVID-19. This brings our total confirmed cases to 18 in West Newbury. One of these individuals have completed their isolation protocol and have recovered from their illness. The other three are being supported, monitored, and interviewed for contact tracing to identify additional potentially infected individuals by West Newbury's Public Health Nurse according to MDPH guidelines.

Gathering Order #46 is still in effect. This order reduced the individuals allowed in a gathering to 50, as well as extended the order to include private property. The full order can be viewed at <https://www.mass.gov/doc/revised-gatherings-order-august-7-2020/download>. This past Tuesday, the Governor announced that effective on October 5th, the State will progress into Step II of Phase III for lower risk communities. The press release can be viewed at www.mass.gov/news/baker-polito-administration-announces-transition-to-step-ii-of-phase-iii-for-lower-risk. Even though West Newbury is defined as a low risk community, the new announcement does not have a direct impact on the community. Individuals may see some of these changes as they visit some of the larger communities.

As we all try to get back to some type of normalcy by going out to restaurants, getting back to in-person learning at school or watching our children play sports, we all need to remember that the virus is still very much alive & active throughout our region. We need to continue practicing social distancing, wearing face coverings, washing hands frequently, cover cough & sneezes, clean & sanitize frequently and monitor our health daily. At any time, we could be infected and have no symptoms while we are actively infecting others. If you're sick, STAY HOME. The current travel ban Order #45 can be viewed at <https://www.mass.gov/doc/july-24-2020-travel-order-pdf/download>.

The Board of Health is involved with weekly discussions with the school district to stay ahead of any potential COVID problems within the school community. We would like to thank all of our residents for their continued support, respect, and consideration of others as we all work to decrease the spread of this virus.

If you think you have been exposed to COVID-19, or if you develop a fever and respiratory symptoms such as a cough or difficulty breathing, call your healthcare provider immediately.

IF THERE IS AN EMERGENCY CALL 911 IMMEDIATELY

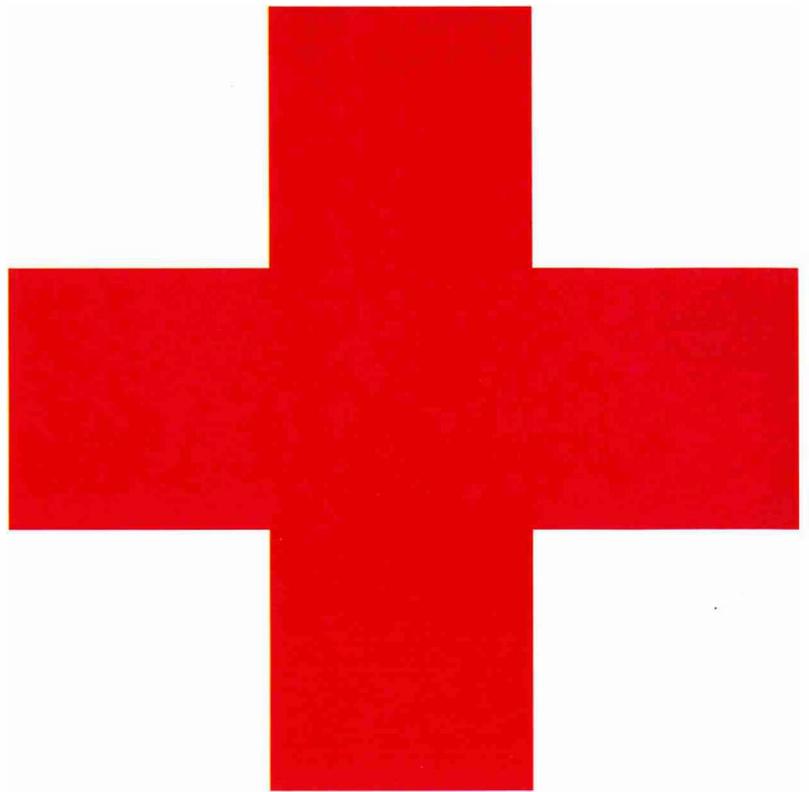
For more information, the following websites can be reviewed. MA Department of Public Health (DPH) website at: www.mass.gov/info-details/covid-19-updates-and-information.

& the Center for Disease Control and Prevention (CDC) website at:
www.cdc.gov/coronavirus/2019-ncov.

Give blood.

Every 2 seconds someone
in the U.S. needs blood.

American Red Cross



Town of West Newbury Community Blood Drive

Town Office Building Annex
381 Main Street
West Newbury, MA 01985

**Wednesday, October 14, 2020
8:00 a.m. to 1:00 p.m.**

Please call 1-800-RED CROSS (1-800-733-2767) or visit RedCrossBlood.org to
schedule an appointment.



Scan to be directed to
RapidPass®



Scan to schedule
an appointment.



CITY OF NEWBURYPORT

DONNA D. HOLADAY, MAYOR

NEWBURYPORT DEPARTMENT OF PUBLIC SERVICES
WATER DIVISION

BOARD OF WATER AND SEWER COMMISSIONERS

FALL HYDRANT FLUSHING

BEGINNING: MONDAY, SEPTEMBER 28, 2020

The Town of West Newbury purchases approximately fifty percent of its water from the City of Newburyport, therefore, when they are flushing hydrants in Newburyport it effects the water quality in Newburyport and West Newbury. Newburyport will be flushing hydrants through the month of October.

West Newbury will begin its hydrant flushing on October 10th and it should be completed by October 23rd. Another flushing notice will be posted on the web site with the West Newbury flushing schedule at a later date.

The Water Division of the Newburyport Department of Public Services will begin flushing the city's water system on Monday, September 28th and will continue through the month of October. The work will begin in the west end of the city and proceed eastward across the entire system. Flushing will take place between the hours of 8:00 a.m. and 2:00 p.m.

Night flushing of the large mains will take place from 8:00 p.m. until 1:00 a.m.

Schedules for specific areas will be listed on the City's website at www.cityofnewburyport.com

Low water pressure, discolored/milky water, air in pipes and at times, no water, may be experienced during flushing. When flushing is completed in your area, or at the end of each day, running your cold-water faucet should alleviate this problem.

Residents are advised to check the City's website at www.cityofnewburyport.com for daily street location updates or call the DPS Water/Sewer Business Office at (978) 465-4420. Office hours are: Monday-Friday 8:00 a.m. - 4:00 p.m.

Celeste Edwards



Interested in: **A**
COA
Historical Comm
Historical District

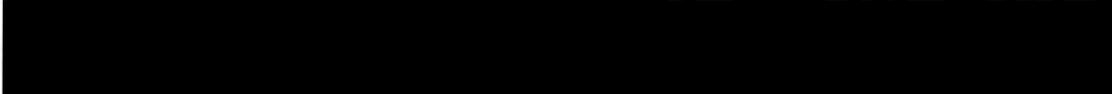


TOWN OF WEST NEWBURY APPLICATION FOR APPOINTMENT

The Town appreciates your interest in serving. Please complete this form and return to: Board of Selectmen, 381 Main Street, West Newbury, MA 01985 or e-mail to: selectmen@wnewbury.org
For additional information please call 978-363-1100, ext. 115.

Name: **Celeste Edwards**

Address:  **MA 01985**

e-mail: 

Mobile phone:  Home phone: _____

Board(s) or committee(s) you are interested in volunteering on:
Historical Soc. SRS Center

Current or past committees served on: **Masters in Design -
Part of Antique Homes, Senior SRS.**

Relevant skills, expertise and education:
**Historic Restoration
Disabled. Hope to help Dev. SRS**

All board or committee vacancies will be filled by citizens deemed most qualified to serve in a particular capacity. I also understand that in the event that I am appointed to a position, my activities will be governed by the Massachusetts Conflict of Interest Law, Open Meeting Law, Public Records Law, the Bylaws of The Town of West Newbury and all other applicable federal, state and local laws or regulations.

Signature: **C Edwards**

Date: **9/7/00**

Town Manager

From: OConnor, Ron (DPH) [REDACTED]
Sent: Tuesday, September 29, 2020 2:50 PM
To: OConnor, Ron (DPH)
Subject: Baker-Polito Administration Announces Transition to Step II of Phase III for Lower Risk Communities Effective October 5th

CHARLIE BAKER
Governor



KARYN POLITO
Lt. Governor

**FOR IMMEDIATE RELEASE:
September 29, 2020**

CONTACT

Sarah Finlaw

sarah.finlaw@state.ma.us



Baker-Polito Administration Announces Transition to Step II of Phase III for Lower Risk Communities Effective October 5th

BOSTON – The Baker-Polito Administration today announced that effective Monday, October 5th, lower risk communities will be permitted to move into Step II of Phase III of the Commonwealth’s reopening plan. All other communities will remain in Phase III, Step I. Governor Charlie Baker also issued a revised gatherings order. Industry specific guidance and protocols for a range of Phase I, II, and III businesses will also be updated.

Phase III, Step II:

On May 18, the Baker-Polito Administration released a four-phased plan to reopen the economy based on sustained improvements in public health data.

Last month, the Administration began releasing data on the average daily COVID cases per 100,000 residents, average percent positivity, and total case counts, for all 351 Massachusetts cities and towns.

Lower risk communities are defined as cities and towns that have not been a “red” community in any of the last three weekly Department of Public Health (DPH) weekly reports.

Effective October 5, a limited number of sectors will be eligible to reopen, with restrictions, in Step II of Phase III for lower risk communities only:

- Indoor performance venues will be permitted to open with 50% capacity with a maximum of 250 people.
- Outdoor performance venue capacity will increase to 50% with a max of 250 people.

- For arcades and indoor and outdoor recreation businesses, additional Step II activities like trampolines, obstacle courses, roller rinks and laser tag will also be permitted to open and capacity will increase to 50%.
- Fitting rooms will be permitted to open in all types of retail stores.
- Gyms, museums, libraries and driving and flight schools will also be permitted to increase their capacity to 50%.

Revised Gatherings Order:

- The limit for indoor gatherings remains at a maximum of 25 people for all communities.
- Outdoor gatherings at private residences and in private backyards will remain at a maximum of 50 people for all communities.
- Outdoor gatherings at event venues and in public settings will have a limit of 50 people in Step I communities, and a limit of 100 people in lower risk, Step II communities.

###

Coronavirus Update

Stay informed about COVID-19: Latest on cases, guidance, regulations *Sep. 29th, 2020, 9:00 am* [Read more](#) 

Travel Order: Requirements for individuals entering Massachusetts *Aug. 1st, 2020, 12:00 am* [Read more](#) 

Reopening Massachusetts: Learn more about the phased approach *Aug. 7th, 2020, 12:00 pm* [Read more](#) 



PRESS RELEASE

Baker-Polito Administration Announces Transition to Step II of Phase III for Lower Risk Communities Effective October 5th

FOR IMMEDIATE RELEASE:

9/29/2020

Office of Governor Charlie Baker and Lt. Governor
Karyn Polito

Governor's Press Office

Department of Public Health

Executive Office of Health and Human Services

Executive Office of Housing and Economic
Development

MEDIA CONTACT

Sarah Finlaw, Press Secretary, Governor's Office

Phone

(617) 725-4025 (tel:6177254025)

Online

[gov.press@state.ma.u](mailto:gov.press@state.ma.us)

S (<mailto:gov.press@state.ma.us>)



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Read more: [Governor's COVID-19 Order](#)

[#51 \(/doc/governors-covid-19-order-51/download\)](#)

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- Outdoor gatherings at event venues and in public settings will have a limit of 50 people in Step I communities, and a limit of 100 people in lower risk, Step II communities.

Read more: [Governor's COVID-19 Order](#)

[#52 \(/doc/governors-covid-19-order-52/download\)](#)

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Media Contact

Sarah Finlaw, Press Secretary, Governor's Office

Phone

(617) 725-4025 (tel:6177254025)



OFFICE OF THE GOVERNOR
COMMONWEALTH OF MASSACHUSETTS
STATE HOUSE • BOSTON, MA 02133
(617) 725-4000

CHARLES D. BAKER
GOVERNOR

KARYN E. POLITO
LIEUTENANT GOVERNOR

**ORDER FURTHER ADVANCING PHASE III RE-OPENINGS IN MUNICIPALITIES
WITH REDUCED INCIDENCE OF COVID-19 INFECTION**

COVID-19 Order No. 51

WHEREAS, on March 10, 2020, I, Charles D. Baker, Governor of the Commonwealth of Massachusetts, acting pursuant to the powers provided by Chapter 639 of the Acts of 1950 and Section 2A of Chapter 17 of the General Laws, declared that there now exists in the Commonwealth of Massachusetts a state of emergency due to the outbreak of the 2019 novel Coronavirus (“COVID-19”);

WHEREAS, on March 11, 2020, the COVID-19 outbreak was characterized as a pandemic by the World Health Organization;

WHEREAS, the Federal Centers for Disease Control and Prevention (“CDC”) have advised that COVID-19 is spread mainly by person-to-person contact and that the best means of slowing the spread of the virus is through practicing social distancing and by minimizing personal contact with large groups and with environments where this potentially deadly virus may be transmitted including, in particular, spaces that present enhanced risks because of the large number of persons present or passing through the area who may spread the virus through respiratory activity or surface contacts;

WHEREAS, on March 23, 2020, in order to restrict all non-essential person-to-person contact, non-essential movement outside the home, and reduce opportunities for spreading the COVID-19 virus within the Commonwealth, I issued COVID-19 Order No. 13, which temporarily closed the brick-and-mortar premises of businesses and organizations that do not provide COVID-19 Essential Services;

WHEREAS, in response to gradual improvements in the public health data, on May 18, 2020, June 6, 2020, and July 2, 2020, I issued COVID-19 Orders No. 33, 37, and 43, respectively, which designated certain businesses and other organizations as Phase I, II, III, or IV enterprises and initiated a progressive, phased plan for re-opening workplaces and other facilities across the Commonwealth;

WHEREAS, the CDC, the Department of Public Health, and other public health authorities continue to improve their understanding of how COVID-19 is spread, where the risk of spread is greatest, and how best to mitigate the risk of transmission, which permits periodic adjustments to safety measures addressing commercial, recreational, and social activities;

WHEREAS, a sustained trend of improvement in public health data for the Commonwealth has supported a continuing, carefully phased relaxation of restrictions on businesses and other organizations, provided that such adjustments can only be maintained or expanded on the basis of continuing positive trends in the public health data;

WHEREAS, public health data measuring the incidence of COVID-19 can be monitored at the level of the individual municipality, and this permits a targeted relaxation of restrictions on businesses and other organizations operating in municipalities that demonstrate a lower incidence rate of infection over a sustained period; and

WHEREAS, sections 7, 8, and 8A of Chapter 639 of the Acts of 1950 authorize the Governor, during the effective period of a declared emergency, to exercise any and all authority over persons and property necessary or expedient for meeting the state of emergency, including but not limited to authority over assemblages in order to protect the health and safety of persons, transportation and travel by any means or mode, regulating the sale of articles of food and household articles, variance of the terms and conditions of licenses and permits issued by the Commonwealth or any of its agencies or political subdivisions, and policing, protection, and preservation of public and private property;

NOW, THEREFORE, I hereby Order the following:

1. Advancement of Lower Risk Communities to Phase III, Step 2

Effective October 5, 2020, municipalities that qualify as “Lower Risk Communities” based on metrics reported by the Department of Public Health (“DPH”) and as described below shall advance to Step 2 of Phase III of the Commonwealth’s phased Re-Opening Plan. Municipalities that do not qualify as Lower Risk Communities shall not advance to Step 2 of Phase III.

For the purposes of this Order, a “Lower Risk Community” shall mean a community that, as of the date of the most recent weekly COVID-19 Public Health Report published by DPH, has had an average daily incidence rate of 8 or fewer cases per 100,000 residents as recorded in each of the 3 most recent 14-day measurement periods (the “Lower Risk metric”).

Within Lower Risk Communities, upon the commencement of Step 2 of Phase III:

- a. Businesses and other organizations identified as Phase III, Step 2 enterprises in Schedule A attached hereto may open their brick-and-mortar premises to workers, customers, and the public;
- b. Phase I, II, and III enterprises, as identified in Schedule A, may begin operating pursuant to revised Sector-Specific COVID-19 workplace safety rules, issued under the authority of COVID-19 Orders No. 33, 37, and 43, that may provide for increased capacity and other adjustments to safety protocols upon the commencement of Step 2 of Phase III; and
- c. Revised capacity allowances for gatherings shall apply pursuant to COVID-19 Order No. 52, of even date with this Order, or pursuant to any later Order further adjusting capacity allowances for gatherings.

A municipality that does not qualify as a Lower Risk Community shall subsequently qualify as a Lower Risk Community and shall advance to Step 2 of Phase III upon the publication by DPH of a weekly COVID-19 Public Health Report documenting that the municipality meets the Lower Risk metric specified above.

2. Requirement of Continuing Lower Risk Status

A municipality that qualifies as a Lower Risk Community, either on October 5, 2020 or subsequently, shall cease to qualify as a Lower Risk Community if at any time in a weekly report published by DPH the municipality has had an average daily incidence rate of more than 8 cases per 100,000 residents as recorded in each of the 3 most recent 14-day measurement periods.

Within a municipality that ceases to qualify as a Lower Risk Community, rules and allowances applicable to Step 1 of Phase III shall apply. Accordingly:

- a. Businesses and other organizations identified as Phase III, Step 2 enterprises in Schedule A attached hereto must immediately close their brick-and-mortar premises to workers, customers, and the public;
- b. Phase I, II, and III enterprises, as identified in Schedule A, may not operate pursuant to revised Sector-Specific COVID-19 workplace safety rules providing for increased capacity and other adjustments applicable to enterprises operating under Step 2 of Phase III; and
- d. Reduced capacity allowances for gatherings shall apply pursuant to COVID-19 Order No. 52, of even date with this Order, or pursuant to any later Order further adjusting capacity allowances for gatherings.

3. COVID-19 Workplace Safety Rules for Step 2 of Phase III

The Director of the Department of Labor Standards shall issue, subject to my approval (i) Sector-Specific COVID-19 workplace safety rules, as that term is defined in Section 4 of COVID-19 Order No. 43, applicable to Step 2 enterprises permitted to open their brick-and-

mortar premises to workers, customers, and the public as provided in Section 2 of this Order; and (ii) revised Sector-Specific COVID-19 workplace safety rules that may provide for increased capacity and other adjustments for Phase I, III, and III enterprises also as provided in Section 2 of this Order.

The provisions of Sections 4 and 5 of COVID-19 Order No. 43 (and Section 4 of COVID-19 Order No. 37 as incorporated in COVID-19 Order No. 43), which set requirements for compliance with generally applicable and Sector-Specific COVID-19 safety rules and mechanisms for enforcement for all Phase III enterprises shall apply to Step 2 enterprises authorized to open their premises pursuant to this Order. Any penalty issued in an enforcement action shall be administered as provided in COVID-19 Order No. 48.

This Order is effective immediately and shall remain in effect until rescinded or until the state of emergency is ended, whichever occurs first.

Given in Boston at 12:46 AM/PM this
29th day of September, two thousand and
twenty



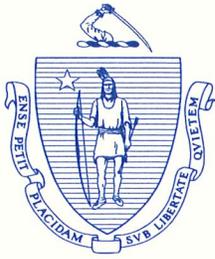
CHARLES D. BAKER
GOVERNOR
Commonwealth of Massachusetts

Schedule A
to COVID-19 Order No. 51 issued September 29, 2020

	<p>All Phase I, II, III, and IV enterprises are required to comply with general and, where applicable, sector-specific COVID-19 workplace safety rules administered by DPL, DPH, EEA, and local boards of health. Workplace safety rules include a variety of mandatory context-specific COVID-19 safety measures such as occupancy limitations, operational modifications, social distancing rules, and specialized cleaning requirements.</p>
Phase I	<p>As specified in COVID-19 Order No. 33:</p> <ul style="list-style-type: none"> • Businesses and other organizations providing products and services identified as “COVID-19 Essential Services” in COVID-19 Order No. 13 • Manufacturing • Construction • Places of Worship • Firearms retailers and shooting ranges • General Use Offices • Car Washes • Hair Salons and Barber Shops • Pet Groomers • Drive-In Movie Theaters • Laboratories • Certain Outdoor Recreational Facilities and Activities as specified in <u>Exhibit 1</u> to COVID-19 Order No. 33
Phase II	<p>As specified in COVID-19 Order No. 37 and including specifically:</p> <ul style="list-style-type: none"> • Retail Stores including stores in enclosed shopping malls • Restaurants providing seated food service prepared on-site and under retail food permits issued by municipal authorities pursuant to 105 CMR 590.000, including beer gardens/wineries/distilleries meeting these criteria <ul style="list-style-type: none"> ○ <u>Step 1</u>: outdoor table service ○ <u>Step 2</u>: indoor table service • Hotels, motels, inns, and other short-term lodgings (no events, functions, or meetings) • Limited organized youth and adult amateur sports activities and programs—no contact and no games or scrimmages, and indoor facilities limited to youth programs • Professional sports practice and training programs--no inter-team games and no admission for the public • Personal Services provided at a fixed place of business or at a client location <ul style="list-style-type: none"> ○ <u>Step 1</u>: Services involving no close personal contact (photography, window washers, individual tutoring, home cleaning, etc.) ○ <u>Step 2</u>: Services involving close personal contact (massage, nail salons, personal training for individuals or no more than 2 persons from same household, etc.) • Non-athletic instructional classes in arts/education/life skills for youths under 18 years of age in groups of fewer than 10 • Driving schools and flight schools • Outdoor historical spaces—no functions or gatherings and no guided tours • Funeral homes—increased capacity to permit 40% occupancy for one service at a time within the facility • Warehouses and distribution centers • Golf facilities including outdoor driving ranges • Other outdoor recreational facilities <ul style="list-style-type: none"> ○ pools, playgrounds and spray decks

	<ul style="list-style-type: none"> ○ mini golf, go karts, batting cages, climbing walls, ropes courses ● Post-Secondary/Higher Ed/Vocational-Tech/Trade/Occupational Schools <ul style="list-style-type: none"> ○ for the limited purposes of permitting students to complete a degree, program, or prerequisite for employment, or other similar requirement for completion, for summer youth programming including athletic facilities, and any necessary supporting services ● Day Camps including sports and arts camps ● Public libraries
Phase III	<p><u>Step 1</u></p> <ul style="list-style-type: none"> ● Post-Secondary/Higher Ed/Vocational-Tech/Trade/Occupational Schools—general operations ● Casino gaming floors ● Horse racing tracks and simulcast facilities ● Indoor recreational and athletic facilities for general use (not limited to youth programs) ● Fitness centers and health clubs including <ul style="list-style-type: none"> ○ cardio/weight rooms/locker rooms/inside facilities ○ fitness studios (yoga, barre, cross-fit, spin classes, general fitness studios) ○ indoor common areas ○ indoor swimming pools ○ indoor racquet courts and gymnasiums ○ locker rooms ○ excluding saunas, hot-tubs, steam rooms ● Museums ● Indoor historic spaces/sites ● Aquariums ● Outdoor theatres and other outdoor performance venues not designated as Phase IV enterprises ● Movie theatres ● Sightseeing and other organized tours (bus tours, duck tours, harbor cruises, whale watching) ● Motion picture, television, and video streaming production ● Fishing and hunting tournaments and other amateur or professional derbies ● Outdoor event spaces used for gatherings and celebrations including those in parks, reservations, and other outdoor spaces not designated as Phase IV enterprises ● Indoor event spaces such as meeting rooms, ballrooms, and private party rooms--only when used for functions or events permitted under Sector-Specific Rules for Indoor and Outdoor Events ● Indoor non-athletic instructional classes in arts/education/life skills for persons 18 years or older ● Indoor recreational activities with low potential for contact: batting cages, driving ranges, go karts, bowling alleys, rock-climbing walls ● Indoor and outdoor gaming arcades and associated gaming devices <p><u>Step 2</u></p> <ul style="list-style-type: none"> ● Indoor performance venues used for live performances such as concert halls, theaters, and other indoor performance spaces not designated as Phase IV enterprises ● Indoor recreational activities with greater potential for contact: laser tag, roller skating, trampolines, obstacle courses
Phase IV	<ul style="list-style-type: none"> ● Amusement parks, theme parks, indoor or outdoor water parks and indoor or outdoor ball pits ● Saunas, hot-tubs, steam rooms at fitness centers, health clubs, and other facilities ● Bars, dance clubs, and nightclubs—venues offering entertainment, beverages, or

	<p>dancing and not providing seated food service prepared on-site and under retail food permits issued by municipal authorities pursuant to 105 CMR 590.000</p> <ul style="list-style-type: none">• Beer gardens/breweries/wineries/distilleries not providing seated food service prepared on-site and under retail food permits issued by municipal authorities pursuant to 105 CMR 590.000• Large capacity venues used for group or spectator sports, entertainment, business, and cultural events including<ul style="list-style-type: none">○ Stadiums, arenas, and ballparks○ Dance floors○ Exhibition and convention halls• Street festivals and parades and agricultural festivals• Road races and other large, outdoor organized amateur or professional group athletic events• Overnight camps (Summer 2021) <p>This listing is subject to amendment.</p>
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CHARLES D. BAKER
GOVERNOR

KARYN E. POLITO
LIEUTENANT GOVERNOR

**PHASE III, STEP 2 ORDER REGULATING GATHERINGS
IN THE COMMONWEALTH**

COVID-19 Order No. 52

WHEREAS, on March 10, 2020, I, Charles D. Baker, Governor of the Commonwealth of Massachusetts, acting pursuant to the powers provided by Chapter 639 of the Acts of 1950 and Section 2A of Chapter 17 of the General Laws, declared that there now exists in the Commonwealth of Massachusetts a state of emergency due to the outbreak of the 2019 novel Coronavirus (“COVID-19”);

WHEREAS, on March 11, 2020, the COVID-19 outbreak was characterized as a pandemic by the World Health Organization;

WHEREAS, the Federal Centers for Disease Control and Prevention (“CDC”) have advised that COVID-19 is spread mainly by person-to-person contact and that the best means of slowing the spread of the virus is through practicing social distancing and by minimizing personal contact with large groups and with environments where this potentially deadly virus may be transmitted including, in particular, spaces that present enhanced risks because of the large number of persons present or passing through the area who may spread the virus through respiratory activity or surface contacts;

WHEREAS, the CDC has issued guidance for large gatherings and community events recognizing that gatherings can significantly contribute to the spread of COVID-19 and introduce the virus to new communities;

WHEREAS, that CDC guidance states that, while virtual-only activities are the safest, the risks associated with in-person events can be reduced if they are held outdoors, remain small, and participants maintain 6 feet of distance and wear face coverings;

WHEREAS, on March 23, 2020, in order to restrict all non-essential person-to-person contact, non-essential movement outside the home, and reduce opportunities for spreading the

COVID-19 virus within the Commonwealth, I issued COVID-19 Order No. 13, which temporarily closed the brick-and-mortar premises of businesses and organizations that do not provide COVID-19 Essential Services and prohibited gatherings of more than 10 people;

WHEREAS, in response to gradual improvements in the public health data, on May 18, 2020, June 6, 2020, and July 2, 2020, I issued COVID-19 Orders No. 33, 37, and 43, respectively, which designated certain businesses and other organizations as Phase I, II, III, or IV enterprises and initiated a progressive, phased plan for re-opening workplaces and other facilities across the Commonwealth;

WHEREAS, again in response to sustained improvements in the public health data at the time, on July 2, 2020, I issued COVID-19 Order No. 44, which rescinded the 10 person limitation on gatherings and set a maximum gatherings limitation of 25 persons for indoor gatherings and 100 persons for outdoor gatherings, subject to certain exceptions and sector-specific allowances;

WHEREAS, due to reports of non-compliance with the gatherings limitations, on August 7, 2020, I issued COVID-19 Order No. 46, which reduced the limitation on outdoor gatherings to 50 persons and instituted a requirement that attendees at gatherings with more than 10 people wear face coverings;

WHEREAS, the CDC, the Department of Public Health, and other public health authorities continue to improve their understanding of how COVID-19 is spread, where the risk of spread is greatest, and how best to mitigate the risk of transmission, which permits periodic adjustments to safety measures;

WHEREAS, as stated in COVID-19 Order No. 51, effective the same day as this Order, public health data measuring the incidence of COVID-19 can be monitored at the level of the individual municipality, and this permits a targeted relaxation of restrictions on outdoor gatherings in municipalities that demonstrate a measurably lower incidence rate of infection over a sustained period;

WHEREAS, compliance with safety protocols can be effectively overseen and monitored by public health authorities when gatherings are conducted at outdoor event venues and public settings, which permits the adoption of higher capacity limitations in such venues; and

WHEREAS, sections 7, 8, and 8A of Chapter 639 of the Acts of 1950 authorize the Governor, during the effective period of a declared emergency, to exercise any and all authority over persons and property necessary or expedient for meeting a state of emergency, including but

not limited to authority over assemblages in order to protect the health and safety of persons, transportation and travel by any means or mode, and policing, protection, and preservation of public and private property;

NOW, THEREFORE, I hereby Order the following:

1. *Entities Subject to Sector-Specific Rules:* With the exception of events and gatherings subject to the Indoor and Outdoor Events Guidance issued by the Department of Labor Standards, any Phase I, II, or III enterprise shall not be subject to the limitations in Section 3 of this Order if the enterprise is operating in compliance with applicable sector-specific COVID-19 safety rules and any applicable capacity limitations issued under the authority of an executive order.

All indoor and outdoor events shall be required to comply with both the limitations and requirements in Section 3 of this Order and the sector-specific safety rules for Indoor and Outdoor Events, except if the gathering or event is exempt pursuant to Section 2.

2. *Gatherings for Political Expression and Religious Activities.* Gatherings for religious activities shall not be subject to the limitations in Section 3 of this Order; provided, however, that such gatherings shall follow the COVID-19 safety rules and capacity limitations set forth in the Places of Worship sector-specific rules. Outdoor gatherings for the purpose of political expression shall also not be subject to the limitations of Section 3. Indoor gatherings for the purposes of political expression shall follow the indoor capacity limitations of Section 3.
3. *Otherwise Applicable Indoor and Outdoor Gathering Limits and Requirements:* The following limitations apply to indoor and outdoor gatherings not exempted by Sections 1 or 2, including, without limitation, all social, community, civic, public, and leisure events, as well as conferences, conventions, fundraisers, and other similar events or assemblies. Workers and staff shall not count towards the capacity limitations set forth in this Section.
 - a. *Required Social Distancing:* In addition to the capacity restrictions specified below, all participants in indoor and outdoor gatherings, including gatherings at private residences, must maintain at least 6 feet of physical distance from every other participant in the gathering except where participants are members of the same household. A gathering shall violate this provision where, no matter the number of participants present, conditions or activities at the gathering are such that it is not reasonably possible for all participants to maintain this degree of separation.
 - b. *All Indoor Gatherings:* Indoor gatherings are limited to 25 persons in a single enclosed, indoor space.

- c. *Outdoor Gatherings at Private Residences and Other Spaces:* Outdoor gatherings at private residences and in private backyards and at any other venue or location not included in subsection (d) are limited to a maximum of 50 people.
 - d. *Outdoor Gatherings at Event Venues and in Public Settings:* The capacity limitations in this subsection shall apply to outdoor gatherings held in settings open to the public and at event venues, clubs, parks, and other outdoor venues or spaces, public or private, that are regularly used or available for gatherings through lease, license, permit, contract, reservation, or similar arrangement.
 - i. In Lower Risk Communities, as defined in COVID-19 Order No. 51, gatherings at event venues and in public settings, as defined above, are limited to a maximum of 100 persons in a single venue or space.
 - ii. In communities that do not qualify as Lower Risk Communities, gatherings at event venues and in public settings, as defined above, are limited to a maximum of 50 persons in a single venue or space.
 - e. *Notification to Local Boards of Health:* For outdoor gatherings where more than 50 attendees are anticipated, the operator of the event venue shall provide notice to the Local Board of Health in the municipality where the gathering is located at least 1 week before the event is scheduled, or otherwise as soon as possible where 1 week notice is not practicable due to the nature of the event (e.g., memorial services). For events held in public places like parks, the event organizer shall be responsible for providing notice. The notification shall include, at minimum, the location and time of the planned event, the name and contact information of the event organizer, the number of anticipated attendees, and any other information reasonably requested by the Local Board of Health.
4. *Face Coverings:* For gatherings of more than 10 people, all persons over the age of 5 must wear a face covering when they attend indoor and outdoor gatherings where participants other than those in the same household will be in attendance, unless they are prevented from wearing a face covering by a medical or disabling condition. This restriction applies to gatherings in all venues and locations.
5. *Legal Exceptions:* This Order shall not apply to any of the following businesses, organizations, workplaces, or facilities:
- a. Any municipal legislative body, the General Court, or the Judiciary
 - b. Federal governmental entities
 - c. Any health care facility or licensed health care provider

- d. Any of the following workplaces or facilities with specialized functions and populations:
- Polling places
 - Public and private elementary and secondary (K-12) schools
 - Residential and day schools for special needs students
 - Licensed, approved, or exempt child care programs and emergency residential programs operating under emergency authorization
 - Facilities operated by the Department of Correction or any Sheriff
 - Facilities operated, contracted, or licensed by the Department of Youth Services, Department of Mental Health, Department of Public Health, or the Department of Developmental Services
 - Facilities and programs that provide safe spaces for the unstably housed such as homeless and domestic violence shelters
 - and any other facility or workplace that the Commissioner of Public Health may exempt in writing from the terms of this Order

6. *Enforcement.* The Department of Public Health, local boards of health and their authorized agents pursuant to G. L. c. 111, § 30, and State and municipal police are authorized to enforce this Order. Violation of the terms of this Order may result in a civil fine of up to \$500 per violation as provided in St. 1950, c. 639, § 8, provided that the fine shall be administered in the manner provided for the non-criminal disposition of violations of municipal by-law, ordinance, rule, or regulation pursuant to G. L. c. 40, § 21D. This Order may also be enforced by injunction. A motion for an injunction to enforce this Order may be filed in the district court or any other court of competent jurisdiction for the municipality in which the violation has been charged. The Alcoholic Beverages Control Commission or a local licensing authority may, after notice to the licensee and a reasonable opportunity to be heard, suspend, revoke, or cancel a license for the sale or service of alcoholic beverages or take other appropriate enforcement action upon satisfactory proof that the licensee has violated or permitted a violation of this Order.

If any provision of this Order or the application thereof to any person, entity, or circumstance is determined to be invalid by a court of competent jurisdiction, such judgment shall not affect or impair the validity of the other provisions of this Order or its application to other persons, entities, and circumstances.

The Third Revised Order Regulating Gatherings Throughout the Commonwealth (COVID-19 Order No. 46) is hereby rescinded effective 12:01 am on October 5, 2020.

This Order shall be effective 12:01 am on October 5, 2020 and shall remain in effect until rescinded or until the state of emergency is ended, whichever occurs first.

Given in Boston at 12:46 AM/PM this
29th day of September, two thousand and
twenty



CHARLES D. BAKER
GOVERNOR
Commonwealth of Massachusetts

Town Manager

From: Paul Sevigny
Sent: Monday, September 28, 2020 7:43 AM
To: Town Manager
Cc: David Archibald
Subject: RE: Halloween Guidance and Restaurant, Retail, and Indoor and Outdoor Events Workplace Safety Standards

Yes. At this time, trick or treating is a go. Our BOH group is working on a list of do's & don'ts for trick or treating. I will share once it is finalized. We still have 4 plus weeks until the big night, hopefully our numbers don't increase.

From: Town Manager <townmanager@wnewbury.org>
Sent: Friday, September 25, 2020 12:36 PM
To: Paul Sevigny <psevigny@wnewbury.org>
Cc: David Archibald <darchibald@wnewbury.org>
Subject: RE: Halloween Guidance and Restaurant, Retail, and Indoor and Outdoor Events Workplace Safety Standards

Hi Paul – if I'm reading the Halloween guidance correctly sounds like it's "a go" for trick-or-treating. In light of the guidance we'll probably see more mummies and ninjas this year than vampires and princesses. Let me know if you think BOH review/action is needed before we share this info in a public BOS mtg. As you know, though it's a month+ off, it's front-of-mind for a bunch of families (and kids). Thanks

Angus Jennings, Town Manager
Town of West Newbury
Town Office Building
381 Main Street
West Newbury, MA 01985
(978) 363-1100 x111
townmanager@wnewbury.org

From: OConnor, Ron (DPH) <ron.oconnor@mass.gov>
Sent: Friday, September 25, 2020 12:30 PM
To: OConnor, Ron (DPH) <ron.oconnor@state.ma.us>
Subject: Halloween Guidance and Restaurant, Retail, and Indoor and Outdoor Events Workplace Safety Standards

Dear Local Public Health Colleagues,

An update as a follow-up to this morning's local public health conference call will be sent later this afternoon.

Here are a couple of items of immediate interest:

[Halloween Guidance During COVID-19](#) has been posted. It includes a link to CDC guidance.

Updated Sector-Specific Workplace Safety Standards (These are the same links that were sent on Wednesday; sharing in case you missed them.)

[Restaurants Safety Standards and Checklist](#) web page for current standards and other information
[Download Restaurant Safety Standards](#) (effective Monday, September 28th)

[Retail Safety Standards and Checklist](#) web page for current standards and other information
[Download Retail Safety Standards](#) (effective Monday, September 28th)

[Indoor and Outdoor Events Standards and Checklist](#) web page for current standards and other information
[Download Indoor and Outdoor Events Safety Standards](#) (effective Monday, September 28th)

Thank you for all you have done and continue to do to keep people safe and save lives.

Jana Ferguson
Assistant Commissioner
Massachusetts Department of Public Health
Jana.ferguson@mass.gov

Ron O'Connor, MPH
Director, Office of Local and Regional Health
Phone: 617.938.4437
ron.oconnor@mass.gov

COVID-19 Information for Local Boards of Health - <https://www.mass.gov/info-details/covid-19-information-for-local-boards-of-health>

24/7 DPH Epi Line for COVID-19 Case Support

COVID-19 web site: www.mass.gov/covid19

DPH Website: www.mass.gov/dph

Twitter: www.Twitter.com/MassDPH

Coronavirus Update

Stay informed about COVID-19: Latest on cases, guidance, regulations *Sep. 27th, 2020, 4:00 pm* [Read more](#) 

Travel Order: Requirements for individuals entering Massachusetts *Aug. 1st, 2020, 12:00 am* [Read more](#) 

Reopening Massachusetts: Learn more about the phased approach *Aug. 7th, 2020, 12:00 pm* [Read more](#) 



NEWS

Halloween During COVID-19

9/24/2020

Department of Public Health

Tips for a Safe and Healthy Halloween

As a reminder, the following COVID-19 prevention and mitigation standards apply to all activities in Massachusetts, including Halloween activities. Residents should adhere to each of the following:

- Wear a face mask or face covering. For more information on face masks and face coverings, please see the state's [Mask Up MA \(/news/mask-up-ma\)](#) webpage.
- Observe good hand hygiene, including hand washing and use of alcohol-based sanitizers with at least 60% alcohol. Carry hand sanitizer and use it often, especially after coming into contact with frequently touched surfaces and before eating candy.
- Refrain from touching your face.
- Stay home and refrain from Halloween activities, including handing out Halloween treats, if:
 - you feel unwell;
 - you have tested positive for COVID-19;
 - you have been exposed to someone with COVID-19; or
 - you have traveled to or from a state that is not classified as lower risk within the last 14 days. For more information on lower risk states, please see the state's COVID-19 [Travel Order \(/info-details/covid-19-travel-order\)](#) webpage.
- Maintain social distancing of at least 6 feet of physical distance from all other participants who are not members of the same household.

Halloween Activities

Residents and communities should follow the [Halloween activity guidance released by the Centers for Disease Control and Prevention](#)

[n \(https://www.cdc.gov/coronavirus/2019-ncov/daily-life-coping/holidays.html\)](https://www.cdc.gov/coronavirus/2019-ncov/daily-life-coping/holidays.html) to understand alternative ways to participate in Halloween that may limit the risk of exposure to COVID-19. As a reminder, any Halloween activities are subject to the current [gathering size limits](#) (</doc/revised-gatherings-order-august-7-2020/download>) as well as applicable [sector-specific workplace safety standards](#) (</resource/reopening-sector-specific-protocols-and-best-practices>).



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**Department of Public
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DPH promotes the health and well-being of all residents by

Coronavirus Disease 2019 (COVID-19)

MENU >



Holiday Celebrations

Updated Sept. 21, 2020

[Print](#)



Halloween



Día de los Muertos



Thanksgiving

As many people in the United States begin to plan for fall and winter holiday celebrations, CDC offers the following considerations to help protect individuals, their families, friends, and communities from COVID-19. These considerations are meant to supplement—**not replace**—any [state](#), [local](#), [territorial](#), or [tribal](#) health and safety laws, rules, and regulations with which holiday gatherings must comply. When planning to host a holiday celebration, you should assess current COVID-19 levels in your community to determine whether to postpone, cancel, or limit the number of attendees.

Virus spread risk at holiday celebrations

Celebrating virtually or with members of your own household pose low risk for spread. In-person gatherings pose varying levels of risk. Event organizers and attendees should consider the risk of virus spread based on event size and use of mitigation strategies, as outlined in the [Considerations for Events and Gatherings](#). There are several factors that contribute to the risk of getting infected or infecting others with the virus that causes COVID-19 at a holiday celebration. In combination, these factors will create various amounts of risk, so it is important to consider them individually and together:

- **Community levels of COVID-19** – Higher levels of COVID-19 cases and community spread in the gathering location, as well as where attendees are coming from, increase the risk of infection and spread among attendees. Family and friends should consider the number and rate of COVID-19 cases in their community and in the community where they plan to celebrate when considering whether to host or attend a holiday celebration. Information on the number of cases in an area can be found on the area's [health department](#) website.

- **The location of the gathering** – Indoor gatherings generally pose more risk than outdoor gatherings. Indoor gatherings with poor ventilation pose more risk than those with good ventilation, such as those with open windows or doors.
- **The duration of the gathering** – Gatherings that last longer pose more risk than shorter gatherings.
- **The number of people at the gathering** – Gatherings with more people pose more risk than gatherings with fewer people. CDC does not have a limit or recommend a specific number of attendees for gatherings. The size of a holiday gathering should be determined based on the ability to reduce or limit contact between attendees, the risk of spread between attendees, and [state, local, territorial, or tribal](#) health and safety laws, rules, and regulations.
- **The locations attendees are traveling from** – Gatherings with attendees who are traveling from different places pose a higher risk than gatherings with attendees who live in the same area. Higher levels of COVID-19 cases and community spread in the gathering location, or where attendees are coming from, increase the risk of infection and spread among attendees.
- **The behaviors of attendees prior to the gathering** – Gatherings with attendees who are not adhering to social distancing (staying at least 6 feet apart), mask wearing, hand washing, and other prevention behaviors pose more risk than gatherings with attendees who are engaging in these preventative behaviors.
- **The behaviors of attendees during the gathering** – Gatherings with more preventive measures, such as mask wearing, social distancing, and hand washing, in place pose less risk than gatherings where fewer or no preventive measures are being implemented.

People who should not attend in-person holiday celebrations

People with or exposed to COVID-19

Do not host or participate in any in-person festivities, if you or anyone in your household

- Has been diagnosed with COVID-19 and has [not met the criteria for when it is safe to be around others](#)
- Has [symptoms of COVID-19](#)
- Is waiting for COVID-19 [viral test](#) results
- May have been [exposed to someone with COVID-19 in the last 14 days](#)
- Is at increased risk of severe illness from COVID-19

People at increased risk for severe illness

If you are at [increased risk of severe illness](#) from COVID-19, or live or work with someone at increased risk of severe illness, you should

- Avoid in-person gatherings with people who do not live in your household.
- Avoid larger gatherings and consider attending activities that pose lower risk (as described throughout this page) if you decide to attend an in-person gathering with people who do not live in your household.

General considerations for fall and winter holidays

[Fall and winter celebrations](#), such as Rosh Hashanah, Yom Kippur, Halloween, Día de los Muertos, Navratri, Diwali, Thanksgiving, Día de la Virgen de Guadalupe, Hanukah, Kwanzaa, Christmas, and New Year's, typically include large gatherings of families and friends, crowded parties, and travel that may put people at increased risk for COVID-19.

Before you celebrate

Hosting a holiday gathering

If you will be hosting a celebration, follow [CDC tips for hosting gatherings](#). Below are some additional considerations for hosting a holiday celebration:

- Host outdoor activities rather than indoor activities as much as possible. If hosting an outdoor event is not possible, and you choose to host an indoor event, avoid crowded, poorly ventilated, or fully enclosed indoor spaces.
 - Increase ventilation by opening windows and doors to the extent that is safe and feasible based on the weather.
- Host activities with only people from your local area as much as possible.
- Limit numbers of attendees as much as possible.
- Provide updated information to your guests about any COVID-19 safety guidelines and steps in place to prevent the spread of the virus.
- Provide or encourage attendees to bring supplies to help you and others stay healthy. For example, extra [masks](#) (do not share or swap with others), hand sanitizer that contains at least 60% alcohol, and tissues.
- If you are planning in-person holiday gatherings with people outside of your household, consider asking all guests to strictly avoid contact with people outside of their households for 14 days before the gathering.

Attending a holiday gathering

If you will be attending a celebration that someone else is hosting, follow [CDC Considerations for attending an event or gathering](#). Below are some additional considerations for attending an in-person holiday gathering:

- Outdoor activities are safer than indoor activities. If participating in an outdoor event is not possible, and you choose to attend an indoor event, avoid crowded, poorly ventilated, and fully enclosed indoor spaces. Increase ventilation by opening windows and doors to the extent that is safe and feasible based on the weather.
- Check with the event host, organizer, or event venue for updated information about any COVID-19 safety guidelines and if they [have steps in place](#) to prevent the spread of the virus.
- Bring supplies to help you and others stay healthy. For example, bring extra [masks](#) (do not share or swap with others), hand sanitizer that contains at least 60% alcohol, and tissues.
- If you are planning to attend in-person holiday gatherings with people outside of your household, consider strictly avoiding contact with people outside of your household for 14 days before the gathering.

Holiday travel

Traveling increases the chance of getting and spreading COVID-19. Staying home is the best way to protect yourself and others. Use information from the following webpages to decide whether to go on holiday travel:

- [Travel During the COVID-19 Pandemic](#)
- [Know Your Travel Risk](#)
- [Know When to Delay Your Travel to Avoid Spreading COVID-19](#)

If you decide to travel, follow these safety measures during your trip to [protect yourself and others](#) from COVID-19:

- Wear a [mask](#) to keep your nose and mouth covered when in public places.
- Avoid close contact by [staying at least 6 feet apart](#) (about 2 arms' length) from anyone who is not from your household.

- [Wash your hands](#) often with soap and water for at least 20 seconds or use hand sanitizer (with at least 60% alcohol).
- Avoid contact with anyone who is sick.
- Avoid touching your eyes, nose, and mouth.

Get your flu vaccine

Gatherings can contribute to the spread of other infectious diseases. Getting a [flu vaccine](#) is an essential part of protecting your health and your family's health this season. September and October are good times to get vaccinated. However, flu vaccines are still useful any time during the flu season and can often be accessed into January or later.

During the celebration

Follow these tips to reduce your risk of being exposed to, getting, or spreading COVID-19 during the celebration:

Social distance and limit close contact

- [Maintain a distance](#) of at least 6 feet or more from people you don't live with. Be particularly mindful in areas where it may be harder to keep this distance, such as restrooms and eating areas.
- Avoid using restroom facilities at high traffic times, such as at the end of a public event.
- Avoid busy eating areas, such as restaurants during high volume mealtimes, if you plan to [eat out at a restaurant](#).
- Minimize gestures that promote close contact. For example, do not shake hands, elbow bump, or give hugs. Instead wave and verbally greet others.

Wear masks

- Wear a [mask](#) at all times when around people who don't live in your household to reduce the risk of spreading the virus.
- Avoid singing, chanting, or shouting, especially when not wearing a mask and within 6 feet of others.

Do not use costume masks in place of cloth masks

- Do not use a costume mask (such as for Halloween) as a substitute for a cloth [mask](#) unless it is made of two or more layers of breathable fabric that covers your mouth and nose and doesn't leave gaps around your face.
- Do not wear a costume mask over a cloth mask because it can be dangerous if the costume mask makes it hard to breathe. Instead, consider using a Halloween-themed cloth mask.

Limit contact with commonly touched surfaces or shared items

- [Clean and disinfect](#) commonly touched surfaces and any shared items between use when feasible. Use [EPA-approved disinfectants](#) [↗](#).
- Use touchless garbage cans if available. Use gloves when removing garbage bags or handling and disposing of trash. [Wash hands](#) after removing gloves.

Wash hands

- [Wash your hands](#) often with soap and water for at least 20 seconds, especially after you have been in a public place, or after blowing your nose, coughing, or sneezing. If soap and water are not readily available, use a hand sanitizer that contains at least 60% alcohol. Cover all surfaces of your hands and rub them together until they feel dry.

Keep safe around food and drinks

Currently, there is no evidence to suggest that handling food or eating is associated with directly spreading COVID-19. It is possible that a person can get COVID-19 by touching a surface or object, including food, food packaging, or utensils that have the virus on it and then touching their own mouth, nose, or possibly their eyes. However, this is not thought to be the main way that the virus is spread. Remember, it is always important to follow good hygiene to reduce the risk of illness from common foodborne germs.

- Make sure everyone washes their hands with soap and water for 20 seconds before and after preparing, serving, and eating food. Use hand sanitizer with at least 60% alcohol if soap and water are not available.
- Instead of potluck-style gatherings, encourage guests to bring food and drinks for themselves and for members of their own household only.
- Limit people going in and out of the areas where food is being prepared or handled, such as in the kitchen or around the grill, if possible.
- Wear a [mask](#) while preparing or serving food to others who don't live in your household.
- If serving any food, consider having one person serve all the food so that multiple people are not handling the serving utensils.
- Use single-use options or identify one person to serve sharable items, like salad dressings, food containers, plates and utensils, and condiments.
- Avoid any self-serve food or drink options, such as buffets or buffet-style potlucks, salad bars, and condiment or drink stations. Use grab-and-go meal options, if available.
- If you choose to use any items that are reusable (e.g., seating covers, tablecloths, linen napkins), wash [and disinfect](#) them after the event.
- Look for healthy food and beverage options, such as fruits and vegetables, lean proteins, whole grains, and low or no-calorie beverages, at holiday gatherings to help maintain good health.

After the celebration

If you participated in [higher risk activities](#) or think that you may have been exposed during your celebration, take extra precautions (in addition the ones listed above) for 14 days after the event to protect others:

- [Stay home](#) as much as possible.
- Avoid being around people at [increased risk for severe illness from COVID-19](#).
- Consider getting [tested](#) for COVID-19.

If you develop [symptoms consistent with COVID-19](#), such as fever, cough, or shortness of breath, or if you [test positive for COVID-19](#), immediately contact the host and others that attended the event or celebration that you attended. They may need to inform other attendees about their possible exposure to the virus. Contact your health care provider and follow the CDC-recommended steps for [what to do if you become sick](#), and follow the [public health recommendations for community-related exposure](#).

If you are waiting for your COVID-19 test results, stay home until you have a result, and [follow](#)  [CDC's guidance](#)  to help stop the spread of COVID-19.

If you have been diagnosed with COVID-19, a [public health worker may contact you](#) to check on your health and ask you who you have been in contact with and where you've spent time in order to identify and provide support to people (contacts) who may have been infected. Your information will be confidential. Learn more about [what to expect with contact tracing](#) .

If you are notified that you were a close contact of someone who tested positive for COVID-19

- [Stay home for 14 days](#) from the last time you had contact with that person.
- Monitor for [symptoms](#) of coronavirus.
- [Get information](#) about COVID-19 testing [if you feel sick](#).

Fall holiday celebrations

[Rosh Hashanah, Yom Kippur, Halloween, Día de Los Muertos, Navratri, Diwali, and Thanksgiving](#) will likely need to be different this fall to prevent the spread of the virus that causes COVID-19. Avoid activities that are higher risk for spread. Consider fun alternatives that pose lower risk of spreading the virus that causes COVID-19.

Halloween

Many traditional Halloween activities can be high-risk for spreading viruses. There are several safer, alternative ways to participate in Halloween. If you may have COVID-19 or you may have been exposed to someone with COVID-19, you should not participate in in-person Halloween festivities and should not give out candy to trick-or-treaters.

Lower risk activities

These lower risk activities can be safe alternatives:

- Carving or decorating pumpkins with members of your household and displaying them
- Carving or decorating pumpkins outside, at a safe distance, with neighbors or friends
- Decorating your house, apartment, or living space
- Doing a Halloween scavenger hunt where children are given lists of Halloween-themed things to look for while they walk outdoors from house to house admiring Halloween decorations at a distance
- Having a virtual Halloween costume contest
- Having a Halloween movie night with people you live with
- Having a scavenger hunt-style trick-or-treat search with your household members in or around your home rather than going house to house

Moderate risk activities

- Participating in one-way trick-or-treating where individually wrapped goodie bags are lined up for families to grab and go while continuing to social distance (such as at the end of a driveway or at the edge of a yard)
 - If you are preparing goodie bags, [wash your hands](#) with soap and water for at least 20 second before and after preparing the bags.
- Having a small group, outdoor, open-air costume parade where people are distanced more than 6 feet apart
- Attending a costume party held outdoors where protective masks are used and people can remain more than 6 feet apart

- A costume mask (such as for Halloween) is not a substitute for a cloth mask. A costume mask should not be used unless it is made of two or more layers of breathable fabric that covers the mouth and nose and doesn't leave gaps around the face.
- Do not wear a costume mask over a protective cloth mask because it can be dangerous if the costume mask makes it hard to breathe. Instead, consider using a Halloween-themed cloth mask.
- Going to an open-air, one-way, walk-through haunted forest where appropriate mask use is enforced, and people can remain more than 6 feet apart
 - If screaming will likely occur, greater distancing is advised. The greater the distance, the lower the risk of spreading a respiratory virus.
- Visiting pumpkin patches or orchards where people use hand sanitizer before touching pumpkins or picking apples, wearing masks is encouraged or enforced, and people are able to maintain social distancing
- Having an outdoor Halloween movie night with local family friends with people spaced at least 6 feet apart
 - If screaming will likely occur, greater distancing is advised. The greater the distance, the lower the risk of spreading a respiratory virus.
 - Lower your risk by following CDC's recommendations on [hosting gatherings or cook-outs](#).

Higher risk activities

Avoid these higher risk activities to help prevent the spread of the virus that causes COVID-19:

- Participating in traditional trick-or-treating where treats are handed to children who go door to door
- Having trunk-or-treat where treats are handed out from trunks of cars lined up in large parking lots
- Attending crowded costume parties held indoors
- Going to an indoor haunted house where people may be crowded together and screaming
- Going on hayrides or tractor rides with people who are not in your household
- Using [alcohol or drugs](#), which can cloud judgement and increase risky behaviors
- Traveling to a [rural](#) fall festival that is not in your community if you live in an area with community spread of COVID-19

Día de los Muertos

Many traditional activities can put you at higher risk for exposure to COVID-19. There are several safer, alternative ways to celebrate Día de los Muertos. If you may have COVID-19 or you may have been exposed to someone with COVID-19, you should not participate in in-person Día de los Muertos festivities.

Lower risk activities

These lower risk activities can be safe alternatives:

- Preparing traditional family recipes for family and neighbors, especially those at [higher risk of severe illness from COVID-19](#), and delivering them in a way that doesn't involve contact with others
- Playing music in your home that your deceased loved ones enjoyed
- Making and decorating masks or making an altar for the deceased
- Setting out pillows and blankets in your home for the deceased
- Joining a virtual get-together celebration

Moderate risk activities

- Having a small group outdoor, open-air parade where people are distanced more than 6 feet apart
- Visiting and decorating graves of loved ones with household members only and keeping more than 6 feet away from others who may be in the area
- Hosting or attending a small dinner with local family and friends outdoors where people are distanced more than 6 feet apart
 - Lower your risk by following CDC's recommendations on [hosting gatherings or cook-outs](#).

Higher risk activities

Avoid these higher risk activities to help prevent the spread of the virus that causes COVID-19:

- Attending large indoor celebrations with singing or chanting
- Participating in crowded indoor gatherings or events
- Having a large dinner party with people from different households coming from different geographic locations
- Using alcohol or drugs, which can cloud judgement and increase risky behaviors

Thanksgiving

Thanksgiving is a time when many families travel long distances to celebrate together. [Travel](#) increases the chance of getting and spreading the virus that causes COVID-19. Staying home is the best way to protect yourself and others. If you must travel, be informed of the [risks involved](#).

Lower risk activities

- Having a small [dinner](#) with only people who live in your household
- Preparing traditional family recipes for family and neighbors, especially those at higher risk of severe illness from COVID-19, and delivering them in a way that doesn't involve contact with others
- Having a virtual dinner and sharing recipes with friends and family
- Shopping online rather than in person on the day after Thanksgiving or the next Monday
- Watching sports events, parades, and movies from home

Moderate risk activities

- Having a small outdoor [dinner](#) with family and friends who live in your community
 - Lower your risk by following CDC's recommendations on [hosting gatherings or cook-outs](#).
- Visiting pumpkin patches or orchards where people use hand sanitizer before touching pumpkins or picking apples, wearing masks is encouraged or enforced, and people are able to maintain social distancing
- Attending a small outdoor sports events with safety precautions in place

Higher risk activities

Avoid these higher risk activities to help prevent the spread of the virus that causes COVID-19:

- Going shopping in crowded stores just before, on, or after Thanksgiving
- Participating or being a spectator at a crowded race
- Attending crowded parades
- Using [alcohol or drugs](#), which can cloud judgement and increase risky behaviors
- Attending large indoor gatherings with people from outside of your household

More Information

[Stress and Coping](#)

[Travel During the COVID-19 Pandemic](#)

[Know Your Travel Risk](#)

[Know When to Delay Your Travel to Avoid Spreading COVID-19](#)

Last Updated Sept. 21, 2020

Content source: [National Center for Immunization and Respiratory Diseases \(NCIRD\), Division of Viral Diseases](#)



Town of West Newbury

381 Main Street

West Newbury, Massachusetts 01985

Angus Jennings, Town Manager

978-363-1100, Ext. 111 Fax 978-363-1826

townmanager@wnewbury.org

TO: Board of Selectmen
FROM: Angus Jennings, Town Manager
DATE: October 2, 2020
RE: Open Session discussion items for meeting on 10/5/20

ADA Grant

- Sam Joslin will request Board authorization to apply for this grant, which he recently administered on behalf of the Town of Groveland. I have discussed with Sam our serious workload issues, and that applying for this at this time could send mixed signals since we are trying to limit new initiatives to focus on the great many issues already “on the table.” However, Sam makes several points that are persuasive:
 - o Conducting an ADA evaluation is a required prerequisite to apply for an ADA improvements grant. That grant is expected to be made available next fall, and if successful could secure substantial financial support for ADA improvements. If we postpone conducting the evaluation, we postpone eligibility to potentially secure a larger amount of funds in the future.
 - o Sam would administer the grant. While there is some Finance Department workload for all grants, his office would lead the effort and limit the time impact on my office.
 - o Even without conducting an evaluation, we know there are opportunities to improve accessibility of Town facilities and programs. Until we complete a thorough evaluation, non-accessibility projects will continue to be closer to the front of the line when prioritizing Town-wide capital needs and facilities improvements.
 - o Both my office and Sam’s have expended substantial time in the past year working to build understanding of ADA (and AAB) requirements among other Town entities such as the Planning Board and Open Space Committee. This grant could help to build shared understanding of these requirements so we can move forward collectively to meet these requirements, and ideally overcome some issues that have at times become contentious.

STM Motions

- At this time I have not received draft STM motions. I’ll work with Mike on Monday with the goal of having drafts for Board discussion that evening.
- On a related note, we’re working with KC to finalize a Town-wide letter to send out regarding STM. This will need to be finalized early next week to allow time for printing, folding, taping and mailing. Any help will be welcome as, just with the last mailing, this is expected to be a strain on staff resources. A decision will also need to be made regarding whether to again hold a pre-Town Meeting online informational session. If so, this will need to be scheduled, promoted and held.

Coffin Street Site

- Correspondence enclosed re the site testing that began this week. We believe that the testing is permissible without local permitting, but have recommended that the developer seek a Request for Determination of Applicability; and have repeatedly request that the Conservation Agent be provided access to the site to witness the work. In discussions with the developer's attorney, it is clear that the Conservation Commission's decision to indefinitely postpone action on the pending Abbreviated Notice of Resource Area Delineation (ANRAD) due to COVID-19 has become a real sore spot for the developer. I had spoken with Chairman Fusco over the summer and advised at that time that the Commission has discretion to delay its action, but that if the time comes that the Town's interests would be served by establishing the resource area boundaries, at that time the Commission should proceed. I spoke again with Dawne earlier today, and advised her that I believe that time has come. In order for the Town to effectively protect these wetland resources, it will be important for the Commission to determine the resource area delineation, and the ANRAD is the vehicle to do so. Concurrently (by coincidence), the developer's attorney sent the enclosed letter earlier today, also petitioning for Commission action on this pending application.

CARES Act

- We successfully submitted our first CARES Act quarterly report last week, and now are focused on meeting the next deadline to provide a certified estimate of known/projected eligible costs through December 30, 2020 (due on 10/30). The second quarterly report will be due a short time after that, on 11/13. All of this is proceeding in conjunction with preparations to file for FEMA reimbursement. Late last week, MEMA announced that the deadline to file with FEMA is 10/15 so, even though we began this process with the EMA Director over the summer, we are now on a short deadline to get this done. As you might imagine, there is a lot of interplay between the CARES and FEMA filings, so this is expected to take substantial staff time in the next 2 weeks.

Soldiers & Sailors Building Contract

- Atty. Reich conferred with Mike McCarron this week and provided a draft contract on Friday afternoon, reflecting Mike's input from a call yesterday. I'm hoping that Mike and Atty. Reich can finalize this contract on Monday so it can be sent to Spencer, Sullivan & Vogt. However, there do appear to be some complex issues that could take time to resolve.

ACO Vehicle

- The ACO vehicle was damaged in a September 12th single-vehicle accident. The appraiser declared the vehicle a total loss. My office and Chief Durand have been working with insurance to decide the best approach to replacing the vehicle, but have not yet received the amount of settlement so this decision is pending. We also need to take into account the Fuel Efficient Vehicle Policy adopted pursuant to the Green Communities Act. In the meantime, we have secured a rental vehicle to allow the ACO function to continue in the interim; insurance will pick up this cost for up to 30 days.

FY20 Audit

- The Auditor is scheduled to be here the week of October 19th. The Finance Department is hard at work closing out FY20 books in preparation for this visit. This has been an extraordinarily time-intensive process due to the software/chart of accounts conversion, FY20 staff turnover, impacts of COVID-19 (both increasing workload and reducing available staff time), and continuing problems with “baseline” functions such as bank reconciliations. We’re making every effort to close out FY20 more successfully than FY19, which was a very difficult audit due to in large part to the former Town Accountant’s departure the week preceding audit, but despite these efforts often feel that we’re “running in quicksand” due to the myriad FY20 problems, while keeping up with the current day-to-day workload. These challenges really cannot be overstated at this point.
- At this time we have not yet closed out the FY19 Audit (management letter; the books have been closed since last fall), so will be working toward getting this done also. This has been an off-and-on focus since early February, but has continually been pushed aside due to other demands.

Town Manager

From: Dougan, Jeff (OHA) [REDACTED]
Sent: Wednesday, September 30, 2020 12:31 PM
To: Dougan, Jeff (OHA); Bryan, Karl (OHA)
Subject: MOD's Municipal Americans with Disabilities Act (ADA) Improvement Grant Program- FY21 Cycle - Final Reminder

Importance: High

Dear Interested Applicant:

This email is being sent to you as a reminder that the FY21 Cycle of the Municipal ADA Improvement Grant Program application and selection process opened on August 10, 2020 and will close on **October 9, 2020**. Please see the original email below that was sent on August 7, 2020 for complete details of the grant program.

Thank you for your interest in improving access for individuals with disabilities. We look forward to working with you. **Please share this with your department heads.**

Sincerely,
Jeffrey L. Dougan
Assistant Director for Community Services

Massachusetts Office on Disability
One Ashburton Place, Room 1305
Boston, MA 02108
Phone: 617-979-7316
Fax: 617-727-0965
www.mass.gov/mod

Sent from my cellphone. Please excuse any typo's.

CONFIDENTIALITY NOTICE: This email, including any attachments, contains information which may be confidential or privileged. The information is intended to be for the use of the individual or entity named above. If you are not the intended recipient, be aware that any disclosure, copying, distribution, or use of the contents of this information is prohibited. If you have received this email in error, please notify the sender immediately and destroy all electronic and hard copies of the communication, including attachments.

Dear Applicant:

The Massachusetts Office on Disability (MOD), is pleased to announce the [Municipal Americans with Disabilities Act \(ADA\) Improvement Grant Program](#) application and selection process for FY21. Eligible applicants include any Massachusetts city or town, (hereinafter referred to as "Applicants.")

These grants will support capital improvements specifically dedicated to improving programmatic access and/or removing barriers encountered by persons with disabilities in Applicant facilities throughout the Commonwealth.

Project Grants of up to \$250,000 will be awarded to successful Applicants to remove barriers and create and improve accessible features and programmatic access for persons with disabilities throughout the Commonwealth.

Planning Grants will also be awarded to assist a community in creating or updating a Self-Evaluation or Transition Plan required under Title II of the ADA.

Examples include but are not limited to increasing both physical access and programmatic access through the addition of features such as: ramps, elevators, power lifts and Limited Use/Limited Application (LULAs), signage, communication access devices, curb cuts and/or any other features that are designed to improve architectural access and/or programmatic access. Grants will be awarded on a competitive basis to projects that demonstrate real and tangible positive impacts to persons with disabilities.

In order to determine an accurate cost estimate for applications, we encourage applicants to reach out to qualified consultants to obtain an RFP. This will not only assist applying communities in outlining total cost for their project or planning grants but it will also assist the Application and Selection Committee in selecting a diverse and wider pool of awardees.

Municipalities that have selected the “[Public Accessibility Best Practice](#)” option (related to the development of a Self-Evaluation and Transition Plan) of the [Community Compact Cabinet](#) (CCC) will receive additional points to their initial application score. Every City or Town in the Commonwealth is eligible to apply. Furthermore, project grant applicants that link their projects to specific areas of concern outlined in their Transition Plans will receive additional points to their initial application score.

Application Process and Deadlines; FY21 Application period is from **August 10, 2020 through October 9, 2020**. All FY21 grants must be submitted using the online application portal. For grant related instructions and the online application portal, please visit our website at <https://www.mass.gov/mod/adagrant>.

Please read through the “[Learn about the Municipal Americans with Disabilities Act \(ADA\) Improvement Grant Program](#)” web page carefully as some sections of the Grant Application have been amended from previous years. For example, the MOD is no longer requiring applicants to pledge matching funds as part of their applications.

Thank you for your interest in improving access for persons with disabilities. We look forward to working with you. **Please share this with your department heads.**

Sincerely,



Jeffrey L. Dougan

Assistant Director for Community Services

Email: jeff.dougan@mass.gov

Karl Bryan

Grant Compliance Coordinator

Email: Karl.Bryan@mass.gov

Massachusetts Office on Disability
One Ashburton Place, Room 1305
Boston, MA 02108
Phone: 617-727-7440
www.mass.gov/mod

Town Manager

From: Building Inspector
Sent: Wednesday, September 30, 2020 4:55 PM
To: Town Manager
Subject: Re: ADA grant

The draft is fine, I don't see any major changes if they ok it.

Sam

Sent from my iPad

On Sep 30, 2020, at 4:43 PM, Town Manager <townmanager@wnewbury.org> wrote:

For Monday's (10/5) BOS mtg packet, should I include the draft grant application sent below or is there an updated draft? Thanks

Angus Jennings, Town Manager
Town of West Newbury
Town Office Building
381 Main Street
West Newbury, MA 01985
(978) 363-1100 x111
townmanager@wnewbury.org

From: Building Inspector <building.inspector@wnewbury.org>
Sent: Monday, September 14, 2020 12:14 PM
To: Town Manager <townmanager@wnewbury.org>
Subject: RE: ADA grant

Attached is a rough, rough draft for the application to get the state to come in and develop a comprehensive evaluation of Town facilities. Getting it on this year would be great so we can apply for improvement grants next year but if not possible I understand. Let me know if you want to move forward or table until 2021.

Thank you.

Sam Joslin
Building Commissioner
Town of West Newbury
381 Main Street
West Newbury, MA 01985
(978) 363-1100 x122

From: Town Manager <townmanager@wnewbury.org>
Sent: Monday, September 14, 2020 11:53 AM

To: Building Inspector <building.inspector@wnewbury.org>

Cc: DPW Director <dpwdirector@wnewbury.org>

Subject: RE: ADA grant

Responses below:

From: Building Inspector <building.inspector@wnewbury.org>

Sent: Monday, September 14, 2020 10:16 AM

To: Town Manager <townmanager@wnewbury.org>

Subject: ADA grant

Morning, had a few questions that relate to the ADA grant application:

What is the estimated cost of the Page playground renovation?

Total project cost up to \$462,857 based on est. breakdown on page 6 [here](#). Actual cost will depend on vendor selection and agreed scope. Procurement/contracting now expected to take place over fall/winter in hopes of breaking ground next spring.

Is West Newbury a Community Compact Cabinet (CCC) member?

Yes.

Do we have any line items that could be used for matching funds for ADA improvements and if so is there an estimated amount?

Is the scope you have in mind the evaluation of public facilities you discussed at last week's BOS mtg? Would this include evaluation of rec areas and nature trails? We should try to get support from Open Space Comm and Parks & Rec Commission. We don't have any budgeted matching funds per se, and I don't think there's any meaningful amount we could allocate from existing operating budgets, since the relevant budget lines (town bldg. improvements, BOS prof/tech services) are heavily subscribed already.

As you may know the BOS need to approve submittal of grant applications (policy [here](#), #11). Not sure if there will be enough info to seek BOS approval on 9/21 or if this should be on their following mtg. They may end up having to meet on 9/28 due to Town Mtg issues. They do not need to approve the final grant application itself, but do need to be on board with the objectives of the grant, any matching funds, and the anticipated staff time commitment needed to administer the grant. We have a very full plate right now so I'm not sure they'll agree whether we should pursue this this year or wait for next year's cycle.

The matching funds aren't make or break if there isn't anything.

Thank you.

Sam Joslin
Building Commissioner
Town of West Newbury
381 Main Street
West Newbury, MA 01985
(978) 363-1100 x122



Town of West Newbury

Town Office Building - 381 Main Street
West Newbury, Massachusetts 01985
Phone 978-363-1100 ext. 122

SECTION 1. Requestor Information

Applicant: Town of West Newbury

Grant Type: Planning Grant

Contact Full Name: Sam Joslin

Contact Phone: 978-363-1100 Ext. 122

Contact Email: Building.Inspector@WNewbury.org

Contact Address: 381 Main Street, West Newbury, MA 01985

Responsible Employee
Full Name: Sam Joslin

Phone: 978-363-1100 Ext. 122

Email: Building.Inspector@WNewbury.org

Address: 381 Main Street, West Newbury, MA 01985

SECTION 2. Qualifications

Responsible Employee	Yes
Posting of Non-Discrimination	Yes
Grievance Procedure	Yes
Transition Plan	N/A
Duly Established COD	N/A
Member of Community Compact	Yes
Matching Funds	No

SECTION 3. Planning Grant

Grant Type: Transition Plan and Self-Evaluation Plan

Grant Amount: \$10,000

Grant Scope: The Town of West Newbury currently does not have a self-evaluation and transition plan for our Town-owned buildings, facilities or for recreational and conservation properties. We are currently constructing a new \$156 million dollar regional middle/high school that will be fully compliant and are working on other improvements such as a new fully compliant playground at our elementary school with a budget of up to \$462,000. Despite these significant improvements the Town is still struggling to make the needed improvements as the majority of our buildings and facilities are older and the improvements needed are extensive. The Town is applying for funds to complete a comprehensive evaluation and transition plan for all Town-owned facilities and recreational areas. If awarded a grant, the written transition plan will be incorporated into future capital needs and improvements.

Renovation/Construction history of applicant: West Newbury is a small residential community in northeastern Massachusetts with an estimated population of 4691 (2018). The Town is governed by Town Meeting and utilizes a Town Manager form of government with a three-member Board of Selectmen. Historically, the town has struggled to make the needed improvements for accessibility due to financial constraints of being a small residential community with a very limited commercial base.

History of Applicant's prior planning efforts related to disabilities or access, if any: As stated above, financial limitations have held back needed improvements. Despite the financial difficulties of being a small town, over the last 20 years we have managed to build a public safety complex and renovate Town Hall to meet accessibility requirements. We are currently in process of designing and allocating funding to renovate our playground at the Page School as indicated above. West Newbury also has an extensive trail system that is being reviewed for accessibility compliance and a plan for improvements and future trail compliance is being discussed.

Additional Planning Information (relevant to the Applicant's request or need for planning monies under this project.): The Town is looking to develop a comprehensive site evaluation and transition plan for all town-owned facilities and recreational areas that can be incorporated into future capital planning efforts. This plan will also include a review of our policies in relation to the obligations under state and federal laws regarding disability discrimination. The Town will conduct the survey of town-owned facilities, utilizing the ADA checklist, and identify the architectural barriers at each site. Estimated staff time is approximately 40 hours of in-kind services.

SECTION 3.2 Impact Information

U.S. Census microdata or other projection that provides estimates of the number of persons with disabilities residing in the applicant municipality, district or region, if any:

West Newbury's estimated disability rate (xx percent of total non-institutionalized population) is comparable to the region (11 percent), county (12 percent) and state (12 percent). The estimated

percentage of children under 18 years with a disability in West Newbury (xx percent) is higher than the region (5 percent), county (6 percent), and state (5 percent). The estimated percentage of adults age 18-64 years with a disability (xx percent) in West Newbury is equal to the estimated percent of population in this age cohort in the region, county, and state. West Newbury's estimated disability rate is xx percent for persons 65 years and over, whereas about 33 percent of the region, county, and state population in this age cohort have disabilities. Source: 2011-2015 ACS Estimates, Table S1810.

Applicant's planning grant team and contact information, including any persons with disabilities involved in the application process:

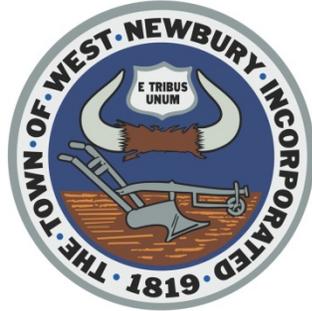
Sam Joslin – ADA Coordinator building.inspector@wnewbury.org
Angus Jennings – Town Manager townmanager@wnewbury.org

Applicant's history with state's Architectural Access Board, if any:

As the Building Commissioner/ADA Coordinator for the Town of West Newbury, Sam Joslin frequently utilizes the staff at the AAB in an effort to better understand and enforce regulations pertaining to persons with disabilities and the requirement for accessible standards.

Applicant's history of interactions with any state and/or federal agencies with regards to accessibility related issues:

N/A

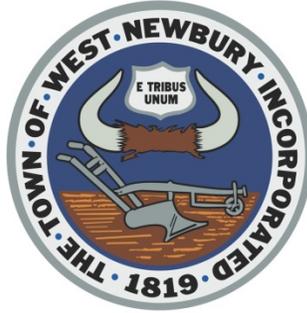


Town of West Newbury, Massachusetts

Special Town Meeting

October 17, 2020, 10:00 a.m.

Town Annex, 379 Main Street, Outside



October 17, 2020

Dear Fellow Residents of West Newbury:

We have prepared this booklet to assist you in making informed decisions on this meeting's warrant articles. The Finance Committee has reviewed each proposed article, and herein reports to you on our recommendations.

The Selectmen and Finance Committee continue to approach the Fall Special Town Meeting's agenda with the intent to use this time for articles of a more urgent nature. The Committee's preference is to retain the Spring Annual Town Meeting as the forum to bring forward articles that surface through normal Town operations.

Participation at the Special Town Meeting is always important. Voters will have the opportunity to decide on appropriating Town funds toward a variety of projects, such as: allocating funds from the School Stabilization account and the excess overlay to reduce the fiscal year tax rate. These measures will act to reduce the tax impact associated with the Pentucket High/Middle School building project. Voters will also consider the purchase of a new dump truck. This purchase had previously been on the warrant at the Annual Town Meeting, but was not considered because of a recommendation from the Board of Selectmen to take no action. Voters will also have the chance to weigh in on a number of budget amendments to the budget that was approved at our last town meeting. The Planning Board has also prepared an article for your consideration.

We encourage all West Newbury residents to get involved and to participate on Town committees. The Finance Committee meets Tuesday evenings at 7:00 p.m. at the 1910 Building, or as posted on our web page: www.wnewbury.org/finance-committee. We encourage you to review our website, which includes various documents, such as Finance Committee Town Meeting booklets and meeting minutes, as well as an email link to communicate with the Committee.

"You can disagree without being disagreeable."
-Ruth Bader Ginsburg

Gary L. Roberts, Jr., Chairman

The West Newbury Finance Committee

Gary L. Roberts, Jr., chair
Jessica Knezek, vice chair
Nathan Kelly, secretary

Joseph Heyman
Jim Sperelakis
Angus G. Jennings, ex officio

Reading votes for town meeting warrant articles.

Votes for town meeting warrant articles follow the format of **(Yay:Nay:Abstention)** for the given article. For example:

Selectmen Recommendation: **Approve: 2:1:0**

This would read that two selectmen approved the article, one disapproved, no abstentions.

FinCom Recommendation: **Disapprove: 2:3:1**

This would read that two FinCom members approved the article, three disapproved, one abstention.

WHAT TO EXPECT AT TOWN MEETING DURING A PANDEMIC

Dear West Newbury Voters:

Our fall special town meeting comes at a very difficult time because of the ongoing COVID-19 pandemic. This section is intended to share some information about the preliminary plans for the Saturday, October 17 Special Town Meeting.

Please know that the primary concern of all town officials is to conduct the meeting in a way that protects the health and safety of everyone, while at the same time upholding our town meeting traditions and standards of participatory democracy. Following is a summary of some of the measures to help conduct town meeting safely and efficiently.

Meeting Venue: The risk of contagion is much lower if we meet outside. So, we'll hold town meeting in the area of the Bandstand located behind the 1910 Building and Annex.

Social Distancing: Voter check-in will be closely monitored and we will assign seating in accordance with CDC social distancing guidelines.

Face Coverings: Members must wear face coverings over both their nose and mouth; the Town will provide face coverings for those who do not have them and anyone who does not wear a mask for personal medical reasons will be assigned to sit in a designated location. Such attendees will be afforded full access to the proceedings.

Microphone Cleaning and Disinfecting: Appropriate cleaning supplies will be available to sanitize the microphones used by those who chose to debate.

Main Motion: A designated speaker will read the main motions under the articles. Then we will move to debate.

Meeting Efficiency: A number of steps will be taken to help facilitate a quick, efficient, and orderly meeting.

Rain Date: The rain date for the fall town meeting is Sunday, October 18 at 10 a.m. in the posted location. The decision on whether to postpone will likely need to be made the day of the meeting. If a postponement is needed due to weather, we will post notice on the Town of West Newbury website (www.wnewbury.org) and via reverse 911, email, social media, and the press.

Finally, the Governor has signed emergency legislation authorizing the Moderator, after consulting public health officials and the Board of Selectmen, to recess the meeting for up to 30 days, and to do so repeatedly. The Moderator will be monitoring the situation with the Commonwealth and Town officials and, if necessary, will reschedule the meeting and post public notice.

September 30, 2020

**TOWN OF WEST NEWBURY
COMMONWEALTH OF MASSACHUSETTS
WARRANT - SPECIAL TOWN MEETING
SATURDAY, October 17, 2020, @10:00 a.m.**

Essex, ss.

To any of the Constables of the Town of West Newbury:

In the name of the Commonwealth, you are hereby required to notify and warn all the inhabitants of the Town of West Newbury, who are qualified to vote in the elections and Town affairs to meet outdoors behind the Town Annex (near the Bandstand), 379 Main Street, at 10:00 a.m. on Saturday, October 17, 2020 to act upon or take any other action relative to all of the following Articles.

GENERAL GOVERNMENT MATTERS

ARTICLE 1. To hear and act upon the reports of Town officers and committees. *By request of the Board of Selectmen.*

APPROPRIATIONS

ARTICLE 2. To see if the Town will vote to transfer the sum of \$80,953 from the School Stabilization Fund to offset the property tax impact of a Prop. 2½ override and pay the Town share of debt service associated with the building of the new Middle/High School. *By request of the Board of Selectmen.*

FinCom Recommendation:
Selectmen Recommendation:

Approve: 4-0-1
Approve: 3-0-0

FinCom Rationale: *Since FY2017, the Town has voted to transfer funds into the School Stabilization Fund in anticipation of a major building project. At the April 2019 Annual Town Meeting, the Town voted overwhelmingly to support the appropriation and borrowing by the Pentucket Regional School District for the purpose of the construction of a new Middle and High School project.*

At the June 2020 Annual Town Meeting, the Town voted down a proposal by the Board of Selectmen to significantly increase the amount transferred out of the School Stabilization Fund (from \$247,647 to \$652,340). Their position was that many in our community have been financially impacted by Covid-19 and that it would be helpful to fully offset the impending FY2021 tax increase from the new school. The Finance Committee disagreed with this approach and recommended that the original transfer plan remain in place due to the likely longer-term economic impact of Covid-19. The voters agreed, and the transfer amount was kept at \$247,647.

This fall, the Board of Selectmen are again recommending an increase in the transfer, this time by an additional \$80,953, for a total of \$328,600. This amount represents the same amount the Town is transferring into the School Stabilization Fund for FY2021. Because this amount would not exceed what we are transferring into the fund, and because it would help to slightly offset the tax burden during a difficult economic climate, the Finance Committee supports this increased transfer.

Funding Source: *School Stabilization Fund*

Sunset Date: *N/A*

ARTICLE 3. To see if the Town will vote to amend Line Items:

- 3 – Town Manager Expenses;
- 6 – Finance Department Salary & Wages;
- 7 – Special Counsel Legal Fees & Expenses;
- 9 – Board of Registrars Salary & Wages;
- 15 – Police Cruiser;
- 23 – Pentucket Capital Assessment;
- 24 – Whittier Minimum Contribution;
- 24 – Whittier Other Assessments;
- 26 – DPW Town Buildings Improvements;
- 26 – DPW Highway, Sidewalk & Trees;
- 32 – Recreation Expenses;
- 39 – Unemployment Insurance; and
- 40 – Employees’ Health Insurance,

as set forth in the Fiscal Year 2021 Town Omnibus Budget adopted under the Motion for Article 3 of the Annual Town Meeting on June 27, 2020 and vote to raise and appropriate a sum or sums of money as may be necessary to defray the expenses of the Town for Fiscal Year 2021. *By request of the Board of Selectmen.*

FinCom Recommendation:

Approve: 5-0-0

Selectmen Recommendation:

Approve: 3-0-0

FinCom Rationale: *This article contains a series of budget adjustments of both decreases and increases. Ultimately, the effect of these budget adjustments is a net decrease of \$234,460. Decreases include the Pentucket Capital Assessment, Whittier, and Health Insurance lines.*

Increases include the Town Manager, Finance Department, Special Counsel, Town Clerk, Police Department, Department of Public Works, Recreation, and Unemployment Insurance lines. These increased expenses relate specifically to: updating personnel policies; continued implementation of new software; CARES/FEMA documentation and reporting; implementation of audit recommendations; continuity in the Assessing Department; anticipated increased outside counsel needs; election expenses (fully reimbursable); discontinued police cruiser model forcing alternate purchase; high hazard tree removal; Main Street flower baskets; EV charging station warranty; portable restroom budgeting shortfall; and increased unemployment filings. The details can be seen in Appendix A.

Having discussed all of the changes with the Town Manager, we firmly believe that the requests are prudent and appropriate. We are pleased to see a net decrease of \$234,460. These changes associated with increases will improve services, and lead to better business practices within the Town.

Funding Source: *Raise and Appropriate*

Sunset Date: *End of FY2021*

ARTICLE 4. To see if the town will vote to transfer from available funds the sum of \$220,000.00 to reduce the current year tax rate. *By request of the Board of Selectmen.*

FinCom Recommendation:

Approve: 5-0-0

Selectmen Recommendation:

Approve: 3-0-0

FinCom Rationale: *Overlay is an account used to fund anticipated tax abatements and exemptions. Surplus overlay is determined, certified, and transferred to surplus by a vote of the assessors. The legislative body may appropriate overlay surplus for any lawful*

purpose by the end of the fiscal year. The Board of Selectmen requested using \$220,000 from this funding source as a means to reduce the FY2021 tax rate. The Finance Committee supports this article, particularly due to the funding source, as a means to help give some relief to the taxpayers in light of the ongoing Covid-19 pandemic.

Funding Source: Overlay Surplus

Sunset Date: End of FY2021

ARTICLE 5. To see if the Town will vote to appropriate, in anticipation of Water Department revenue, the sum of \$14,920 for Insurances. *By request of the Board of Water Commissioners.*

FinCom Recommendation:

Approve: 5-0-0

Selectmen Recommendation:

Approve: 3-0-0

FinCom Rationale: *The Water Department had some employee turnover recently, and is in the process of hiring a new licensed operator. This funding request is a contingency, and will be spent, if needed, upon the hiring of a new employee. The \$14,920 is the maximum possible difference between the previous employee's benefits and a new employee utilizing the cost of the maximum employee health insurance benefit. These funds must be in place in case that does occur.*

Funding Source: FY2021 Water Enterprise Fund

Sunset Date: End of FY2021

ARTICLE 6. To see if the Town will transfer from available funds the sum of \$240,000 to purchase a new dump truck, with plow and spreader to replace a 2008 International dump truck with same or comparable equipment, and to dispose of the existing dump truck in accordance with Town policy for disposition of surplus property. *By request of the Board of Selectmen.*

FinCom Recommendation:

Approve: 5-0-0

Selectmen Recommendation:

Approve: 3-0-0

FinCom Rationale: *The Finance Committee voted unanimously in support of this Article. The purchase of a new dump truck and accompanying plow and salter/spreader is important to the efficient operation of the Department of Public Works plowing and sanding operations. The new vehicle is expected to have a useful life of twelve years. The existing 2008 dump truck it replaces has provided more than twelve years of service, and due to high mileage and greater than 4,400 service hours, shows major rusting, structural wear, and is in need of replacement. Maintenance costs on this vehicle have increased with age. If the truck were to suffer a significant breakdown that could not be repaired, the Town would suffer a 25% loss of capacity and response time during a major winter storm. This purchase is one that all residents will benefit from approving.*

Funding Source: Capital Stabilization Fund

Sunset Date: End of FY2023

ARTICLE 7. To see if the Town will vote to extend the sunset clause for the purchase of a new Fire Department Rescue Vehicle, as adopted under the Motion for Article 18 of the Annual Town Meeting on April 29, 2019, for a period of one year until June 30, 2022. *By request of the Fire Chief.*

FinCom Recommendation:

Approve: 5-0-0

Selectmen Recommendation:

Approve: 3-0-0

FinCom Rationale: *The original article was to see if the Town would raise and appropriate and/or transfer from available funds the sum of \$230,000 to purchase a Fire Department Rescue Vehicle. The Finance Committee unanimously supports this article because it*

simply extends a sunset date on funds that were already appropriated through an article that was overwhelmingly approved eighteen months ago at the 2019 Annual Town Meeting. No additional funds are required. Covid-19 had a negative impact on the process of purchasing this vehicle at the planned time, which is why the extended sunset date is necessary.

Funding Source: None

Sunset Date: End of FY 2022

BYLAWS - OTHERS

ARTICLE 8. To see if the Town will vote to amend Section 5.A.2.c. of the West Newbury Zoning Bylaw regarding accessory uses permitted in the Residence A, B, & C Districts, including the keeping of pets and animals for use of the resident premises, and professional home office and customary home occupations.

And further to amend Section 5.A.3. of the West Newbury Zoning Bylaw regarding uses permitted in the Residence A, B & C Districts with a Special Permit, which would modernize terms for old age homes and bring this section into compliance with M.G.L. Ch. 40A, Section 3.

And further to amend regulations for “Congregate Housing” in Sections 2 and 5.A.3.i. of the West Newbury Zoning Bylaw, which would clarify provisions and eliminate unnecessary restrictions.

And further to amend Section 5.B.1.e.i of the West Newbury Zoning Bylaw, regarding outdoor business-related storage and display as an accessory use permitted in the Business District subject to a site plan approved by the Planning Board.

And further to amend Section 5.B.2. of the West Newbury Zoning Bylaw, regarding uses permitted in the Business District upon a special permit granted by the Planning Board, which would bring this section into compliance with M.G.L. Ch. 40B, Section 3 and clarify provisions related to residential units located in the same buildings as commercial enterprises.

And further to amend Sections 2, 5.A.2.c.iii., 5.A.3.d., and 5.B.2.d. of the West Newbury Zoning Bylaw, which would consolidate and clarify terms used to describe properties having rooms for rent, and define the terms of stay for long-term and short-term rental properties.

By request of the Planning Board.

Note: A detailed statement of the Planning Board’s intent for each of the proposed Zoning Bylaw amendments, along with the specific proposed language proposed for amendment, is included in Appendix B.

FinCom Recommendation:

No Vote

Selectmen Recommendation:

Approve 3-0-0

Planning Board Recommendation:

Approve 5-0-0

APPENDIX A
Article #3
PROPOSED AMENDMENTS TO FY21 OMNIBUS BUDGET

Budget Section	Budget Line	Approved Budget	Proposed Increase (Decrease)
3 Town Manager	Expenses	\$295,057	\$15,000
6 Finance Department	Salary & Wages	\$179,619	\$45,000
7 Special Counsel	Legal Fees and Expenses	\$12,500	\$10,000
9 Board of Registrars	Salary & Wages	\$6,500	\$2,000
15 Police Department	Police Cruiser	\$36,000	\$4,000
23 Education - Pentucket	Pentucket Capital Assessment	\$710,567	(-\$328,600)
24 Education – Whittier	Whittier Minimum Contribution	\$151,344	(-\$5,082)
24 Education – Whittier	Whittier Other Assessments	\$24,248	(-\$1,678)
26 DPW	Town Bldg Improvements	\$51,000	\$9,980
26 DPW	Highway, Sidewalk & Trees	\$142,262	\$2,900
26 DPW	Highway, Sidewalk & Trees	\$142,262	\$50,000
32 Recreation	Recreation Expenses	\$5,500	\$17,220
39 Unemployment Compensation	Unemployment Insurance	\$1	\$7,500
40 Employees’ Health Insurance	Group Insurance	\$479,745	(-\$63,000)
Combined Net Effect of Proposed FY21 Budget Amendments:			(-\$234,760)

Summary table with rationale / notes enclosed.

APPENDIX A (cont'd)			
Article #3			
PROPOSED AMENDMENTS TO FY21 OMNIBUS BUDGET			
<u>Topic</u>	<u>Budget Section:</u>	<u>Amount</u>	<u>Notes</u>
Town Manager expenses	3 - Town Manager	\$ 15,000	<i>Updates to Personnel Policies & Administration. (Cost may be offset by FY21 Community Compact Municipal Best Practices grant).</i>
Finance Dept staffing	6 - Finance Department	\$ 45,000	<i>Cont'd implementation of new software; CARES/FEMA documentation & reporting; implementation of audit recommendations. Also includes contingency funding for continuity of operations in Assessing Dept, if needed. Costs associated with COVID-19 may be reimbursed through CARES Act and/or FEMA.</i>
Outside Counsel operating budget	7 - Special Counsel	\$ 10,000	<i>Outside Counsel: incl. labor, land use.</i>
2020 Election salaries & expenses	9 - Board of Registrars	\$ 2,000	<i>Proposed to add to FY21 Board of Registrars operating budget to support additional staffing necessary due to early voting and voting by mail. Costs reimbursable by Commonwealth.</i>
Increase funding for Police Cruiser purchase	15 - Police Department	\$ 4,000	<i>Hybrid vehicle used for budgeting no longer commercially available. Pursuit-rated hybrid Ford Explorer costs more. Funding would be supplemented by recent award of Green Communities grant (\$5k for hybrid police vehicle purchase) and funds from Police Cruiser revolving fund.</i>
Reduce operating budget funding for Middle/High School by amount funded from School Stabilization	23 Education - Pentucket	\$ (328,600)	<i>Per MassDOR, with prop 2 1/2 debt exclusion, amount authorized from School Stabilization Fund need not also be carried in operating budget</i> <i>Based on updated (reduced) West Newbury assessment voted by Whittier School Committee on 9/9/20</i>
Reduce operating budget for Whittier Tech	24 Education - Whittier	\$ (5,082)	
Reduce operating budget for Whittier Tech	24 Education - Whittier	\$ (1,678)	

<u>Topic</u>	<u>Budget Section:</u>	<u>Amount</u>	<u>Notes</u>
Warranty for new electric vehicle charging stations at Town Offices and Page School	26 DPW Town Building Improvements	\$ 9,980	Proposed amount (to be added to FY21 DPW Town Bldg operating expenses) based on 5-yr Assured warranty plan.
Main Street flower baskets	26 - DPW Highway, Sidewalk & Trees	\$ 2,900	Proposed for addition to FY21 DPW operating budget. Expected to be recurring expense to offset costs of installation and maintenance (including watering) of hanging flower baskets on Main Street.
High Hazard Tree Removal (Cont. Year 1 of 5-year program)	26 - DPW Highway, Sidewalk & Trees	\$ 50,000	Proposed for addition to FY21 DPW hwy, sidewalk & trees budget.
Portable restroom budgeting shortfall	32 Recreation Expenses	\$ 17,220	Increased costs for portable toilets at athletic fields, and reduced revenues into Parks & Rec Revolving Fund (which was source of expense in prior years). Costs resulting from COVID-19 (enhanced cleaning protocols) may be reimbursed by CARES Act and/or FEMA.
Unemployment Expenses	39 - Unemployment Compensation	\$ 7,500	Increased frequency of Dept. of Unemp. Assistance filings since COVID-19 offset. No funds due, but recommend funding for amts that may come due in FY21
Reduce funding for health insurance; updated budgeting	40 - Employees' Health Insurance	\$ (63,000)	Approved budget carries full share (not just Town share) for some employees
Net effect of Proposed Article 3 on Approved FY21 Omnibus Budget:		\$ (234,760)	
<i>Source: Angus Jennings, Town Manager</i>			

APPENDIX B
Article #8
ZONING BYLAW

ARTICLE 8. Proposed amendments to the West Newbury Zoning Bylaw.

Proposed deletions are ~~struck through~~ Proposed additions are double-underlined

To amend the West Newbury Zoning Bylaw Section 5 as set forth below:

SECTION 5. USE REGULATIONS

5.A.2. Permitted uses in the Residence A, B and C Districts in addition to uses permitted in all districts (Section 4.).

c. Accessory Use, including the following:

ii) Keeping of pets and animals for use of the resident of premises, provided that:

e) ~~Animals shall be cared for in accord with all rules and regulations that the Board of Health may from time to time promulgate pertaining to the keeping of animals, following a posted public hearing.~~

Planning Board intent: This is regulated by the Board of Health.

iii) Boarding house ~~or rooming house for not more than four (4) persons, provided that the house is also occupied as a private residence.~~

Planning Board intent: A boarding house and a rooming house are the same, as defined in the Zoning Bylaw. The definition of rooming house is proposed to be deleted, as noted below. This is the only instance in the Zoning Bylaw where a boarding house is allowed, therefore the occupancy requirements should more appropriately appear in the definition for "boarding house".

iv) Professional home office or customary home occupation, provided that:

g) The Business shall not generate traffic that is inconsistent with the traffic associated with a residential use, either in quantity or type, and all parking required to service the occupation is provided off-street, and not within a required front yard.

Planning Board intent: Change in description clarifies that the section refers to a professional home office, not a professional office as the principal use. Addition of sub-item "g" establishes parking guidelines for professional home offices and customary home occupations.

5.A.3. Uses Permitted in Residence A, B, and C Districts with a Special Permit

Uses permitted in the Residence A, B and C Districts on a special permit granted by the Planning Board, subject to appropriate conditions where such are deemed necessary to protect the neighborhood or the Town, in accord with the provisions of Section 8.

d. Restaurant or ~~inn~~ Hotel

Planning Board intent: A Hotel and an Inn are the same, as defined in the Zoning Bylaw. Further, the definition of Inn is proposed to be deleted, as noted above.

h. Nursing homes, ~~convalescent homes, old age homes, sanitariums,~~ rehabilitation facilities, hospitals.

Planning Board intent: The proposal would modernize these terms.

i. Congregate housing for the elderly and persons with disabilities, and shared elderly housing ~~providing provided~~ that, in addition to the requirements of Section 6.A, the lot shall contain at least 150% of the required lot area of the District in which it is located.

~~i) In addition to the requirements of Section 6.A, the lot shall contain at least one-half (1/2) again the required lot area for the District in which it is located.~~

Planning Board intent: Adds persons with disabilities to be in line with the State's definition of Congregate Housing. Clarifies the confusing lot area requirement.

~~ii) There shall be no more than twelve (12) persons per unit and no more than two (2) persons per bedroom.~~

Planning Board intent: This provision unnecessarily restricts a project. Persons per unit and per bedroom are regulated by other authorities (Commonwealth, Board of Health).

~~iii) All required licenses and permits from the Commonwealth and the Board of Health have been obtained.~~

Planning Board intent: Requirements of these authorities stand in and of themselves.

~~iv) The use is served by municipal water.~~

Planning Board intent: This provision unnecessarily restricts a project. Other authorities (Water Department, Board of Health, DEP) regulate access to drinking water.

~~v) Off-street parking is provided in the side or rear yards.~~

~~vi) Off-street loading, if any, is in the rear of the structure.~~

Planning Board intent: These provisions unnecessarily restrict a project.

- j. ~~Non-profit schools, kindergartens, nursery schools, children centers, For-profit arts, crafts and dramatic schools, dancing and music schools.~~

Planning Board intent: The provisions regarding non-profit schools, kindergartens, nursery schools and child centers are in violation MGL Ch. 40A, s.3. Clarifies that the other schools mentioned are for profit, so as not to be in violation of said law.

5.B.1. In a Business District the following uses are permitted subject to a site plan approved by the Planning Board in accord with Section 8.B.

e. Accessory buildings and uses provided that:

- i) Outdoor ~~business-related~~ storage and display ~~that is located~~ ~~conducted~~ in the rear and/or side yard, ~~and such storage or display is shall be~~ screened from view of ~~abutting residential~~ dwellings in ~~abutting Residence A, B or C Districts~~ with shrubs or a fence of at least four (4) feet in height.

Planning Board intent: Clarifies that this regulation applies to business related storage only. Further, the regulation currently only requires screening for dwellings in abutting residential districts, whereas any abutting residential dwelling should be screened from outdoor business-related storage and display, regardless of Zoning District

5.B.2. In a Business District the following uses are permitted upon a special permit granted by the Planning Board.

d. ~~Motels and~~ Hotels

Planning Board intent: A Hotel and a Motel are the same, as defined in the Zoning Bylaw. Further, the definition of Motel is proposed to be deleted, as noted below.

- e. ~~Child Care Center. A child care facility for more than six children may be permitted in the Business District by a special permit from the Planning Board, provided that the lot area used for facilities at least 60,000 square feet, that the facility provides service for no more than twenty (20) children, and that a safe and fenced yard/outdoor play area is provided having at least 10,000 square feet.~~

Planning Board intent: The existing subsection "e." is in violation of MGL Ch. 40A, s.3.

- f. ~~e.~~ Residential units located in the same buildings as commercial enterprises, ~~provided that they be in compliance with other local regulations, including Board of Health.~~ Visual elements, density, and parking shall be part of the special permit review by the Planning Board.

Planning Board intent: Other local regulations such as those of the Board of Health stand in and of themselves. This revision also clarifies that the Planning Board, and not another entity, is the Special Permit Granting Authority reviewing “visual elements, density and parking”.

And to further amend the West Newbury Zoning Bylaw Section 2 as set forth below:

SECTION 2. DEFINITIONS

Bed and Breakfast. A house, or portion thereof, where up to four lodging rooms, with meals, are provided providing that the maximum duration of any tenant shall be less than 14 consecutive nights ~~not exceed 15 days~~. The operator shall live on the premises, or in an adjacent premises immediately abutting the residence with the bed and breakfast facility.

Short Term Paying Guest. A person who rents a room in a hotel or bed & breakfast for less than 14 consecutive nights.

Planning Board intent for proposed change to “Bed and Breakfast” definition and proposed new defined term “Short Term Paying Guest”: Properties having rooms for rent are differentiated in the Zoning Bylaw by the duration of stay. However, the actual number of days in the stay are not well defined. Hotels (Including Inns, Motels, Tourist Homes and Lodging Houses) are intended for temporary occupancy, though the duration of stay is not stated. Bed and Breakfast rooms have a maximum occupancy duration of 15 days. Boarding Houses (Including Rooming Houses) are not open to short term paying guests, which presumes guests are staying for an extended period of time. The Town’s “Short Term Rentals Bylaw” (Chapter XXXIX) requires that short term paying guests stay for a duration of less than 14 consecutive nights. This proposal seeks to define the length of stay using terms consistent with the “Short Term Rentals” Bylaw.

Boarding House. A building or premises, other than a hotel, ~~inn, motel, tourist house or lodging house, or bed & breakfast,~~ for not more than four (4) persons, provided that the principal use is as a private residence, where rooms are let and where meals may be regularly served by prearrangement for compensation; not open to ~~transient guests; in contrast to hotels, restaurants, and tourists homes,~~ open to ~~transients~~ short term paying guests.

Planning Board intent: Clarifies that the boarding house is only allowed by right in a residential district as an accessory use and that the primary use must be a dwelling. Added the definition content from Section 5.A.2.c.iii regarding number of persons. Stating that a Boarding House is not a hotel, restaurant, or tourist home two times is redundant and not necessary.

Congregate Housing. A ~~nonprofit~~ group living arrangement for elderly persons and persons with disabilities who cannot easily maintain their own housing, financially or otherwise, but who do not need nursing home care. The persons living together may care for themselves or may have some support services.

Planning Board intent: Limiting the development group to non-profit charitable organizations is overly restrictive and might prevent projects that could be beneficial to the Town. The proposal adds persons with disabilities to be in line with the Commonwealth's definition of Congregate Housing.

~~Hotel, (Inn, Motel, Tourist Home or Lodging House).~~ A building, or portion thereof, or a group of buildings on a single lot, intended to be used for the temporary occupancy of three (3) or more ~~persons~~ short term paying guests who are lodged, with or without meals, and in which major provision for cooking may be made in a central kitchen but may not be in the individual rooms or suites.

Planning Board intent: Each of these terms (Inn, Motel, Tourist Home, Lodging House) are defined in Section 2. as "Hotel". They are one and the same in the Zoning Bylaw. These terms create unnecessary confusion. One common term, "Hotel" should be used. Also, the duration of stay is clarified by adding the term "short term paying guest".

~~Inn.~~ See Hotel

~~Lodging House.~~ See Hotel

~~Motel.~~ See Hotel

~~Tourist Home.~~ See Hotel

Planning Board intent: Each of these terms are defined in Section 2. as "Hotel", as noted above.

~~Rooming House.~~ See Boarding House

Planning Board intent: The definition of "Rooming House" in Section 2. is "Boarding House", therefore use of the term is unnecessary.

Or to take any action relative thereto.

SPECIAL TOWN MEETING IMPACTS ON TOWN ACCOUNTS

Balances Report		Estimated				
		Town Capital Stabilization	Pension Stabilization	School Stabilization	Town Free Cash	Water Stabilization
7/1/2020		1,739,407	236,992	1,731,014	1,339,711	15,359
10/2020 STM		Art #				
From School Stabilization Fund	2			(80,953)		
DPW dump truck	5	(240,000)				
Balances after STM		1,499,407	236,992	1,650,061	1,339,711	15,359

Note: Free Cash amount not updated to reflect FY20 year-end turnbacks, etc., pending Audit and MDOR certification.

Finance department projects Free Cash amount will be substantially greater than amount shown.

Source: Angus Jennings, Town Manager, 9/28/20

Town Manager

From: Town Manager
Sent: Thursday, October 1, 2020 11:12 AM
To: 'Howard Chip Hall'; 'Melissa Robbins'
Cc: Conservation; Michael McCarron; 'Matty'
Subject: RE: Activity at Coffin Street site: request for access

Please provide us the contact at MassDEP who witnessed (or is witnessing) the work; and whether they are actively observing the work or whether this was just on Tuesday. In addition, the Town requests access so the work can be observed to determine whether local a request for determination of applicability may be required.

Angus Jennings, Town Manager
Town of West Newbury
Town Office Building
381 Main Street
West Newbury, MA 01985
(978) 363-1100 x111
townmanager@wnewbury.org

From: Howard Chip Hall [REDACTED]
Sent: Thursday, October 1, 2020 11:07 AM
To: Town Manager <townmanager@wnewbury.org>; 'Melissa Robbins' [REDACTED]
Cc: Conservation <conservation@wnewbury.org>; Michael McCarron <mmccarron@wnewbury.org>; 'Matty' [REDACTED]
Subject: RE: Activity at Coffin Street site: request for access

We are not working in their resource area.

Regards,

Howard "Chip" Hall
Cottage Advisors M/ME LLC
Building Communities one Cottage at a time.



From: Town Manager <townmanager@wnewbury.org>
Sent: Thursday, October 1, 2020 11:02 AM
To: Melissa Robbins [REDACTED]; Chip Hall [REDACTED]

Cc: Conservation <conservation@wnewbury.org>; Michael McCarron <mmccarron@wnewbury.org>; Matty [REDACTED]

Subject: RE: Activity at Coffin Street site: request for access

Importance: High

The Conservation Agent is reviewing the drawing you submitted. We also request that he be granted access to observe the work on site. Please advise, thanks.

Angus Jennings, Town Manager
Town of West Newbury
Town Office Building
381 Main Street
West Newbury, MA 01985
(978) 363-1100 x111
townmanager@wnewbury.org

From: Melissa Robbins [REDACTED]

Sent: Wednesday, September 30, 2020 11:16 AM

To: Town Manager <townmanager@wnewbury.org>; Chip Hall [REDACTED]

Cc: Conservation <conservation@wnewbury.org>; Michael McCarron <mmccarron@wnewbury.org>; Matty [REDACTED]

Subject: RE: Activity at Coffin Street site: request for access

Angus, attached is the soil testing location plan for "Rolling Hills".

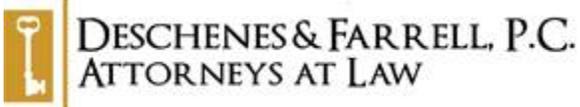
Testing is being done for the suitability of a leaching facility. Landtech is doing deep observation holes and perk test (TH200 series). Northeast geoscience is doing monitoring wells (MW series) and a piezometer (Pz). All work is outside the 100' wetland buffer with the exception of the piezometer. This will be set by hand without the use of any heavy equipment.

Work was witnessed yesterday by representatives of MassDEP in conformance with State Regulations.

Please let me know if you have any other questions.

-Melissa

Melissa E. Robbins, Esq.



Deschenes & Farrell, P.C.
515 Groton Road, Suite 204
Westford, MA 01886
Phone: 978-496-1177 x 105
Fax 978-577-6462 or 978-577-6638
[REDACTED]

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you have received this communication in error, please notify Deschenes & Farrell, P.C. at (978) 496-1177 or by return e-mail to [REDACTED], and purge the communication immediately without making any copy or distribution.

ALERT - WARNING — FRAUDULENT FUNDING INSTRUCTIONS

Email hacking and fraud are on the rise to fraudulently misdirect funds. Please call MY OFFICE immediately using contact information found from an independent source, such as the sales contract or internet, to verify any funding instructions received. We are not responsible for any wires sent by you to an incorrect bank account.

“Like” us on Facebook to receive legal updates:

<https://www.facebook.com/pages/Deschenes-Farrell-PC/119613508052307>

From: Town Manager <townmanager@wnewbury.org>
Sent: Tuesday, September 29, 2020 3:44 PM
To: Melissa Robbins [REDACTED]; Chip Hall [REDACTED]
Cc: Conservation <conservation@wnewbury.org>; Michael McCarron <mmccarron@wnewbury.org>
Subject: RE: Activity at Coffin Street site: request for access

That’s helpful, thanks

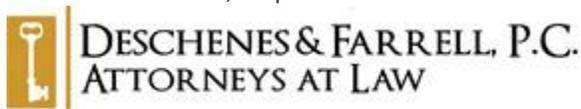
Angus Jennings, Town Manager
Town of West Newbury
Town Office Building
381 Main Street
West Newbury, MA 01985
(978) 363-1100 x111
townmanager@wnewbury.org

From: Melissa Robbins [REDACTED]
Sent: Tuesday, September 29, 2020 3:44 PM
To: Town Manager <townmanager@wnewbury.org>; Chip Hall [REDACTED]
Cc: Conservation <conservation@wnewbury.org>; Michael McCarron <mmccarron@wnewbury.org>
Subject: RE: Activity at Coffin Street site: request for access

Hi Angus, I am having my engineer send me the plan that shows where the testing is taking place on site. I should have it to you by tomorrow so the Town (and the Conservation Agent) can see where the testing is located.

-Melissa

Melissa E. Robbins, Esq.



Deschenes & Farrell, P.C.
515 Groton Road, Suite 204
Westford, MA 01886
Phone: 978-496-1177 x 105
Fax 978-577-6462 or 978-577-6638
[REDACTED]

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ALERT - WARNING — FRAUDULENT FUNDING INSTRUCTIONS

Email hacking and fraud are on the rise to fraudulently misdirect funds. Please call MY OFFICE immediately using contact information found from an independent source, such as the sales contract or internet, to verify any funding instructions received. We are not responsible for any wires sent by you to an incorrect bank account.

“Like” us on Facebook to receive legal updates:

<https://www.facebook.com/pages/Deschenes-Farrell-PC/119613508052307>

From: Town Manager <townmanager@wnewbury.org>

Sent: Tuesday, September 29, 2020 10:51 AM

To: Chip Hall [REDACTED]; Melissa Robbins [REDACTED]

Cc: Conservation <conservation@wnewbury.org>; Michael McCarron <mmccarron@wnewbury.org>

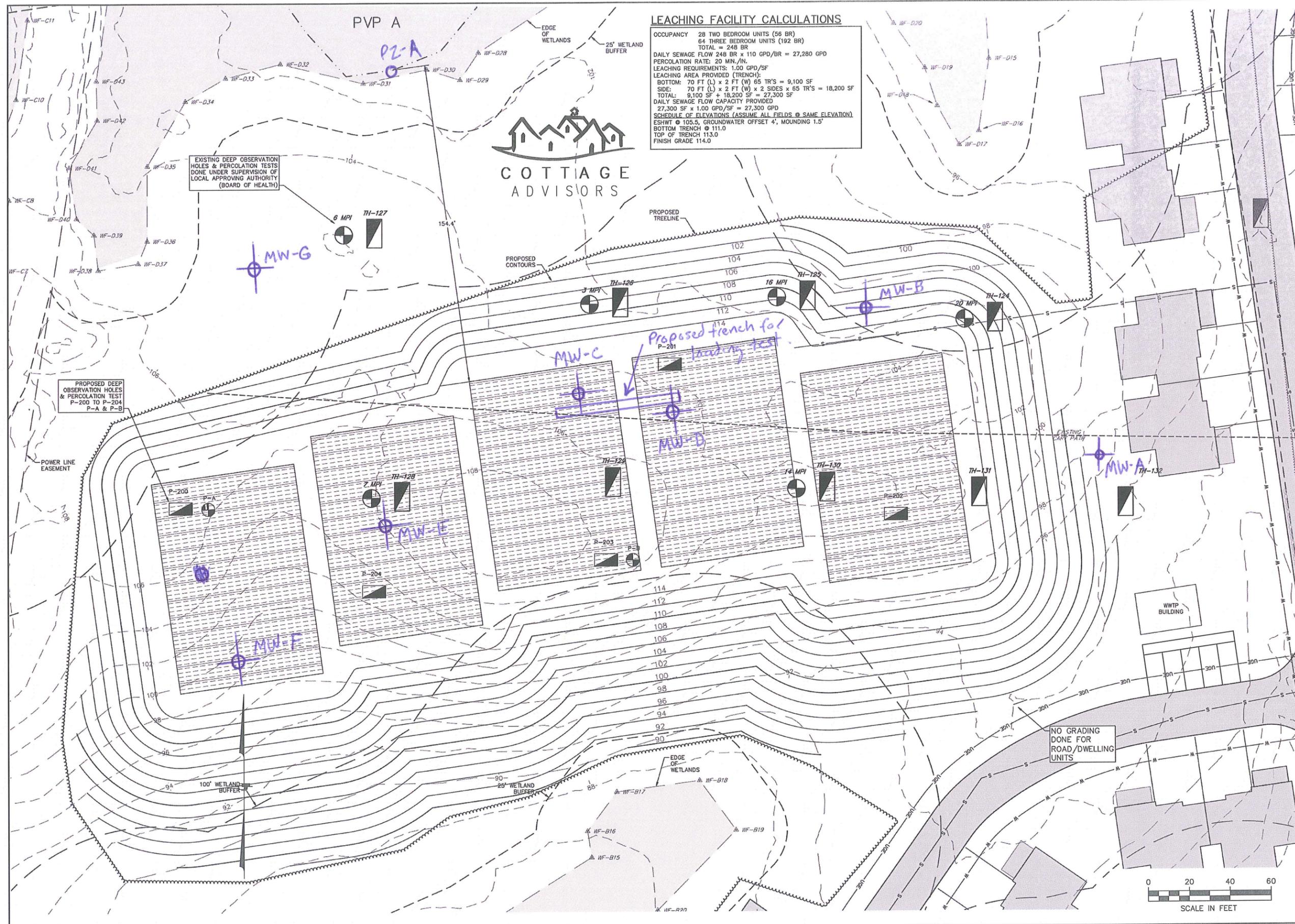
Subject: Activity at Coffin Street site: request for access

Chip,

We have had a number of public inquiries in the past day re the equipment moved onto site and re whatever work or testing may be underway or planned. It would help put to rest any unfounded concerns if our Conservation Agent would be authorized to access the site, and be shown what is planned, where and when. Please advise.

Thanks,
Angus

Angus Jennings, Town Manager
Town of West Newbury
Town Office Building
381 Main Street
West Newbury, MA 01985
(978) 363-1100 x111
townmanager@wnewbury.org



LEACHING FACILITY CALCULATIONS

OCCUPANCY 28 TWO BEDROOM UNITS (56 BR)
 64 THREE BEDROOM UNITS (192 BR)
 TOTAL = 248 BR

DAILY SEWAGE FLOW 248 BR x 110 GPD/BR = 27,280 GPD
 PERCOLATION RATE: 20 MIN./IN.
 LEACHING REQUIREMENTS: 1.00 GPD/SF
 LEACHING AREA PROVIDED (TRENCH):
 BOTTOM: 70 FT (L) x 2 FT (W) 65 TR'S = 9,100 SF
 SIDE: 70 FT (L) x 2 FT (W) x 2 SIDES x 65 TR'S = 18,200 SF
 TOTAL: 9,100 SF + 18,200 SF = 27,300 SF
 DAILY SEWAGE FLOW CAPACITY PROVIDED
 27,300 SF x 1.00 GPD/SF = 27,300 GPD

SCHEDULE OF ELEVATIONS (ASSUME ALL FIELDS @ SAME ELEVATION)
 ESHWT @ 105.5, GROUNDWATER OFFSET 4', MOUNDING 1.5'
 BOTTOM TRENCH @ 111.0
 TOP OF TRENCH 113.0
 FINISH GRADE 114.0

EXISTING DEEP OBSERVATION HOLES & PERCOLATION TESTS DONE UNDER SUPERVISION OF LOCAL APPROVING AUTHORITY (BOARD OF HEALTH)

PROPOSED DEEP OBSERVATION HOLES & PERCOLATION TEST P-200 TO P-204 P-A & P-B

Proposed trench for leaching test

NO GRADING DONE FOR ROAD/DWELLING UNITS

DATE	REVISION	MAW	BY
8/20/20	REVISED LAYOUT		

PREPARED FOR:
 COTTAGE ADVISORS MA, LLC
 25 STOKES AVENUE, SUITE 319
 NEWBURGH, MA 01856

DESIGN MAW
 DRAFT MAS
 CHECK CML

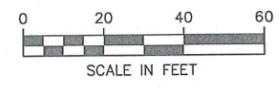
EXHIBIT PLAN - TEST PIT LOCATIONS
 THE COTTAGES AT ROLLING HILLS
 COFFIN STREET & MAIN STREET
 WEST NEWBURY
 MASSACHUSETTS

SCALE: 1" = 20'

AUGUST 11, 2020

LandTech
 CONSULTANTS
 Engineering/Design/Construction
 51 Westford, MA 01886
 Ph: (978) 682-6100 - landtechinc.com

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JOB NO. 19-284	DWG. NO. EXHIBIT	SHEET 1 OF 1
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DESCHENES & FARRELL, P.C.

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Westford, MA 01886
Telephone: (978) 496-1177
Facsimile: (978) 577-6462

Douglas C. Deschenes
Kathryn Lorah Farrell
*Melissa E. Robbins**

**Admitted in MA and NH*

October 2, 2020

West Newbury Conservation Commission
381 Main Street
West Newbury, MA 01985

RE: Resource Area Delineation (“ANRAD”)—Cottage Advisors

Dear Bert and Members of the Commission,

As you know this past March, we filed an Abbreviated Notice of Resource Area Delineation (ANRAD) for the property off of Coffin Street and Main Street on behalf of Cottage Advisors MA, LLC. At the time, the Commission posted a legal notice, which we paid for, and cashed our checks for the appropriate filing fees. DEP also assigned a file number. We also properly notified abutters of the scheduled hearing. The Commission then decided to delay the opening of the hearing in conformance with Chapter 53 of the Acts of 2020; “An Act to Address Challenges Faced by Municipalities and State Authorities Resulting from COVID-19” which provides for suspension of certain statutory deadlines relating to land use permitting during the state of emergency, plus 45 days. Under that regulation the Commission may postpone hearings during the state of emergency *but is not obliged to* (Emphasis added). Note, the regulation does not remove the obligation of the Commission to initiate review of materials filed and conduct appropriate field reviews.

The time of year for reviewing and establishing the location of resource areas through the ANRAD process is quickly ending, as review of these areas during the winter months is not advised by DEP. In the handbook, "Delineating Bordering Vegetated Wetlands Under the Massachusetts Wetlands Protection Act", (Department of Environmental Protection, Division of Wetlands and Waterways, 1995) the Department details how to conduct, prepare for, and review boundary delineations for Bordering Vegetated Wetlands. The manual, in discussing review of delineations states:

“For these reasons, DEP recommends that BVW delineations be avoided if possible when deep snow cover or “deep freeze” conditions exist. It is best for applicants and conservation commissions to agree upon a reasonable time period for continuing the

RDA or NOI processes in order to conduct or review the boundary delineation when frozen or snow covered conditions are likely to change. Because winter delineations are more difficult to do, disagreements - and subsequent appeals - may arise. Avoiding lengthy appeals and disagreements will benefit all parties involved." ("Delineating Bordering Vegetated Wetlands Under the Massachusetts Wetlands Protection Act", Department of Environmental Protection, Division of Wetlands and Waterways, 1995, DEP Policy 95-1).

The conditions are now ideal for doing the field work associated with the ANRAD. If the orders referenced above are lifted during the winter months, it would make it difficult to review the ANRAD in conformance with the DEP's policy referenced above which could prohibit the review of this ANRAD until spring of next year.

Although the Applicant understands the rights of the Commission due to the Pandemic, given that the Town of West Newbury Conservation Commission is holding other public hearings, on matters unrelated to affordable housing being developed pursuant to Massachusetts General Laws Chapter 40B, it is our position that the Commission must treat this application the same as the others and open this hearing now as well. We note that, based on the DEP database, the Commission has received 8 filings and issued three of those decisions after our filing and during the pandemic. We would request that the Commission reconsider moving forward on the Applicant's ANRAD application.

Thank you for your consideration.

Very Truly Yours,



Melissa E. Robbins

Town Manager

From: DLS Alerts <dls_alerts@dor.state.ma.us>
Sent: Friday, October 2, 2020 11:58 AM
To: Town Manager
Subject: DLS Alert: Round 2 of CARES Act Coronavirus Relief Fund – Municipal Program



Round 2 of CARES Act Coronavirus Relief Fund – Municipal Program

The Commonwealth's Executive Office for Administration and Finance and Division of Local Services are pleased to release [guidance](#) for Round 2 of the CARES Act Coronavirus Relief Fund – Municipal Program. As you may know, Round 1 of this program distributed nearly \$100 million to cities and towns to address unexpected costs related to the COVID-19 pandemic.

For more information, please refer to the program materials posted on the Division of Local Services COVID-19 website, including information about the [CARES Act Coronavirus Relief Fund – Municipal Program](#), the program's [FAQ document](#), and the [new contact form](#) to submit questions about the program. Please note that the DLS e-mail used for all program inquiries previously (LocalGovCaresAct@dor.state.ma.us) has been discontinued. Please use the new contact form for all questions.

You are receiving this message through the [Massachusetts Department of Revenue's Division of Local Services](#) DLS Alerts system. These periodic notices include our City & Town e-newsletter, IGRs, Bulletins, Cherry Sheets and other municipal finance-related information. To unsubscribe to DLS Alerts and the City & Town e-newsletter, please email dls_alerts@dor.state.ma.us.

This email was sent to townmanager@wnewbury.org

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Massachusetts Department of Revenue - Division of Local Services · 100 Cambridge Street · Boston, MA 02114 · USA



MICHAEL
HEFFERNAN
SECRETARY

Commonwealth of Massachusetts

EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE

STATE HOUSE, ROOM 373
BOSTON, MASSACHUSETTS 02133
TELEPHONE (617) 727-2040
WWW.MASS.GOV/ANF

TO: Chief Executives of Massachusetts Cities and Towns
FR: Michael J. Heffernan, Secretary of Administration and Finance
RE: CARES Act Coronavirus Relief Fund – Municipal Program Round 2
DT: September 30, 2020

On May 14, 2020, the Commonwealth of Massachusetts announced the CARES Act Coronavirus Relief Fund – Municipal Program (CvRF-MP) to provide up to approximately \$502 million for municipalities to address unanticipated costs incurred as a result of the public health emergency caused by COVID-19. In Round 1, 258 municipalities received nearly \$100 million in payments through CvRF-MP. This memorandum provides guidance for Round 2 of the CvRF-MP and offers further instruction on various aspects of the program.

Key elements of this guidance include:

- In Round 2, municipalities may apply for their **Remaining Eligible Amount**, which is calculated as their Total Eligible Amount minus their Round 1 distribution plus other adjustments as described in the Round 2 special instructions below.
- Municipalities may apply for Round 2 of the CvRF-MP beginning on **October 1, 2020**. The deadline for applications is **October 30, 2020**, and the application form is provided in this Excel workbook template ([CvRF-MP Application Template](#)).
- A few key changes from Round 1:
 - Please note that in Round 2, **applying for cashflow support is no longer a permissible request**. A&F expects municipalities to seek funds only for eligible uses as specified in Attachment A.
 - Municipalities may have received one or more **earmarks** in recent state legislation. This guidance includes information about how to access these funds through CvRF-MP.
 - The **Potential Municipal Uses document (Attachment A) has been updated** with four additional categories to better capture eligible uses.

Background

On March 27, 2020, the President of the United States signed into law the federal Coronavirus Aid, Relief, and Economic Security Act (the “CARES Act”). In conjunction with three other pieces of federal legislation adopted to address the COVID-19 pandemic, the CARES Act created or expanded over 100 federal funding opportunities for state and local governments.

Most notably, the CARES Act created the federal Coronavirus Relief Fund (“CvRF”) administered by the US Department of the Treasury (hereafter, “the Treasury” or “Treasury”) with oversight provided by the US Treasury Office of Inspector General (“Treasury OIG”). The federal CvRF included \$150 billion for state and local governments allocated on a per capita basis. The Commonwealth of Massachusetts (the “Commonwealth”) received approximately \$2.67 billion, with approximately \$121 million provided directly to the City of Boston, and approximately \$91 million provided directly to Plymouth County. These funds have been critical to mitigating the state’s costs of the COVID-19 response and have in part made it possible to sustain local aid funding commitments despite severe fiscal pressures.

The Commonwealth created a state-level CvRF to receive and distribute funds from the federal CvRF. Up to \$502 million of the CvRF is available to municipalities (excluding Boston and municipalities in Plymouth County) through CvRF-MP to address unanticipated expenses incurred in response to the public health emergency caused by COVID-19. Other CARES Act funds provided to local officials include \$202 million in School Reopening Grants, \$193 million to schools through the Elementary and Secondary School Emergency Relief Fund, \$32 million to the Remote Learning Technology Essentials grant program, and other grants. The CvRF-MP dollars are available to cities and towns as advance lump sum payments provided over two rounds and allocated on a per capita basis in a similar fashion as the federal distribution of CvRF dollars.

The CvRF-MP is administered by the Commonwealth's Executive Office for Administration and Finance (hereafter, “A&F”) Federal Funds Office (FFO) in partnership with the Department of Revenue’s Division of Local Services (DLS). Round 1 of the CvRF-MP opened on May 15, 2020 and closed on June 12, 2020. The program distributed nearly \$100 million to 258 cities and towns, or approximately 25 percent of the total eligible amount for those communities.

The City of Boston and Plymouth County are administering their own CvRF allocations. Interested parties should contact city or county officials for more information about accessing CvRF resources.

CvRF-MP Round 2 Overview

Eligible Uses of the CARES Act Coronavirus Relief Fund

The CARES Act CvRF provides resources for municipalities to address unexpected costs associated with the COVID-19 pandemic. The Fund is subject to at least three major conditions. These include:

1. “Necessary expenditures incurred due to the public health emergency with respect to ... COVID-19”
2. Expenses must be unbudgeted as of March 27, 2020
3. Expenses must be incurred between March 1, 2020 and December 30, 2020

Further, while the CvRF is available to address unexpected costs caused by COVID-19, the fund is prohibited from being used to address revenue shortfalls because of COVID-19.

For a list of expense categories that A&F anticipates municipalities may incur, see the attached list of potential uses ([Attachment A](#)). If a municipality contemplates the use of funds outside the potential uses described in Attachment A, please contact the A&F FFO to determine the eligibility of this use by submitting a question using the web form:

https://massgov.formstack.com/forms/municipal_covid_spending_questions.

The list of potential municipal uses (Attachment A) has been revised for Round 2. A&F has added several categories of eligible uses, including:

- Social distancing measures in public buildings – plexiglass barriers, stanchions, small building modifications
- Legal fees – must be related to COVID-19
- Unemployment claims – must be related to COVID-19
- Election expenses – costs beyond the budgeted amount to hold elections

Note that the deadline for CvRF-MP spending is December 30, 2020. Further, Treasury has clarified that to comply with this rule, goods must be delivered and used or services rendered by December 30, 2020 to be an eligible use.

The eligible uses described in Attachment A are as currently described in federal law and relevant guidance from the Treasury. If these uses are modified by future federal actions, A&F will update this guidance accordingly.

Certification to Participate in CvRF-MP

Municipalities are responsible for ensuring the eligibility of all uses of funds provided through the CvRF-MP. A&F requires municipal chief executives to complete and submit the CvRF-MP Certification form ([Attachment B](#)).

For administrative convenience, the Certification form is included in the Excel-based application workbook for Round 2. The Certification in the Excel template updates automatically based on the application data. Municipalities are strongly encouraged to use the Certification form generated in the application workbook, print the document, sign it, and then scan and upload the file with the application form submission. Alternatively, users may print the Certification form attached to this guidance ([Attachment B](#)) and submit with the application using a similar procedure.

This document attests that a municipality will comply with all relevant rules and regulations associated with the CARES Act CvRF, including but not limited to:

- Eligible uses
- Application for reimbursement through the FEMA PA
- Quarterly reports on CvRF-supported spending as required by A&F
- Acknowledges that the municipality is obligated to return the balance of unspent funds as directed by A&F; and
- If the Treasury determines that the municipality did not comply with all relevant rules and regulations, the Commonwealth will recover such funds through an assessment or deduction from the municipality's periodic unrestricted local aid distribution.

Total Eligible Amount and Remaining Eligible Amount

As described above, the Commonwealth made up to approximately \$502 million available to municipalities through the CvRF-MP. These funds were allocated on a per capita basis. This allocation made a Total Eligible Amount available to municipalities (excluding Boston and municipalities in Plymouth County). Please see the Total Eligible Amounts Round 1 and 2 document ([Attachment C](#)) for the Total Eligible Amount for each municipality. Municipalities can apply for up to the Total Eligible Amount over the course of Round 1 and Round 2.

In Round 2, municipalities can apply for the **Remaining Eligible Amount**, which is calculated as the Total Eligible Amount minus the Round 1 distribution plus other adjustments as described in the CvRF-MP Round 2 Special Instructions section of this guidance (see *Cashflow Requests* below).

Note that municipalities that received their entire Total Eligible Amount in Round 1 have a Remaining Eligible Amount of \$0 and are not eligible to receive funds in Round 2. Although a municipality may have a Remaining Eligible Amount of \$0, they are still required to complete an application form for CvRF-MP Round 2 in order to allocate their Round 1 cashflow requests to an appropriate Attachment A category (See *Cashflow Requests* below).

Municipalities that did not participate in Round 1 have a Remaining Eligible Amount equal to the Total Eligible Amount and can apply for up to this entire amount in Round 2.

CvRF-MP is an advance lump sum payment program. Municipalities shall apply for a payment to address estimated or incurred eligible expenses between March 1, 2020 and December 30, 2020 that have not already been covered by other sources including but not limited to CvRF-MP Round 1 and FEMA reimbursements. Municipalities are strongly encouraged to apply for sufficient funds to address expenses through December 30, 2020. The municipality must receive a beneficial use of the good or service by December 30, 2020 to be an eligible use.

Application Process and Amendments

Municipalities may apply for Round 2 of the CvRF-MP beginning on October 1, 2020. The deadline for applications is **October 30, 2020**.

For CvRF-MP Round 2, the application form is provided in this Excel workbook template ([CvRF-MP Application Template](#)). Please review the instructions contained in the Excel workbook template to complete the application form.

Once the application is complete, a municipality may submit the Excel workbook using this website: https://massgov.formstack.com/forms/crf_mp_round_2_application_submission.

A&F will review applications on a rolling basis. Applicants can amend submissions by re-submitting the Excel workbook template if A&F has not yet reviewed the most recent submission. A&F will only review the most recent application form; however, once applications have been reviewed by A&F, further amendments will not be considered.

Special Instructions for CvRF-MP Round 2 Applications

Earmarks

On July 24, 2020, Chapter 124 of the Acts of 2020 (hereafter, the “COVID supplemental appropriations law” or the “COVID supp”) was signed into law. This statute appropriated funds to support COVID-related costs for state agencies and municipalities. Expressly, the law requires the Secretary of Administration and Finance to identify federal funding sources to address these

costs. Further, the COVID supp includes numerous earmarks for specific purposes, many of which have either already been addressed prior to the law's enactment or are eligible uses of federal funds already available to municipalities, including through CvRF-MP.

Municipalities identified in such earmarks may request funds as described in the COVID supplemental appropriations law by allocating incurred or expected expenses to the specified purposes from their existing Total Eligible Amount. Alternatively, a municipality may choose to forego the earmark and retain the ability to expend CvRF-MP funds on any eligible use. The earmarks do not change a municipality's Total Eligible Amount.

Example: A municipality known as the town of “Yourtown” has an earmark in the COVID supp for \$10,000 for personal protective equipment (PPE). Yourtown may have already accessed CvRF-MP for these funds; if not, it can request these funds through CvRF-MP Round 2. As with all earmarks, requesting earmarks is at the discretion of the earmark recipient, and Yourtown is free to forego the request.

The CvRF-MP Round 2 Application Form includes additional guidance on this element of the program.

Cashflow Requests

Given concerns about the ability of municipalities to access credit markets, in Round 1 of the CvRF-MP, A&F explicitly allowed cities and towns to use CvRF-MP as a liquidity facility to support municipal cashflow. Fortunately, municipal credit markets have continued to function throughout the public health emergency period.

Please note that in Round 2, applying for cashflow support is no longer a permissible request. A&F expects municipalities to seek funds only for eligible uses as specified in Attachment A.

Further, municipalities that received funds to support municipal cashflow in Round 1 are required to reallocate those funds to eligible uses as specified in Attachment A as part of the Round 2 application process. The CvRF-MP Round 2 Application Form includes additional guidance on this element of the program.

Other Requests

During CvRF-MP Round 1, municipalities could request funds to support uses not specified in Attachment A by using the “Other Request” field. In CvRF-MP Round 2, the “Other Request” field is again available to applicants.

Please note, however, that given the need to verify the eligibility of the requests included in this field, use of “Other Requests” necessarily slows the application review and approval process.

Further, federal law requires municipalities to receive the benefits of expenses supported by the CvRF by December 30, 2020. A&F strongly recommends that municipalities limit the use of the “Other Requests” field to facilitate the timely review and approval of CvRF-MP applications.

CvRF-MP Parameters

Prohibited Uses

The guidance issued by the Treasury provides that all of the Commonwealth's expenditures from the Fund—whether spent on Commonwealth expenses or distributed to cities and towns to address local costs—are subject to the Single Audit Act, 31 U.S.C. §§ 7501-7507, and related provisions of the Uniform Guidance, including those regarding the monitoring and management of subrecipients, 2 C.F.R. §§ 220.330-200.332.

Documenting that costs were for eligible uses is essential to managing compliance risk and to minimizing the possibility that the costs are deemed ineligible, thereby requiring the state to return funds to the federal government. Accordingly, to facilitate state compliance with these requirements, the guidance expressly allows states to impose restrictions and requirements on transfers of funds to local governments.

It is within this discretionary framework and mindful of the significant audit and compliance risk that A&F established specific, permitted uses for which cities and towns could request funds and instructed municipalities to contact A&F if they contemplated requesting funds for any other purpose (recommended before submitting using the “Other Requests” field discussed above).

These prohibited expenses include, but are not limited to, the following:

- Municipal business assistance programs
- Vehicle purchases
- New building construction
- Most purchases that would be otherwise purchased through the issuance of municipal bonds

FEMA Public Assistance Program (FEMA PA) Reimbursements

Per guidance from the Treasury and FEMA, state and local governments can use the CvRF as the non-FEMA cost share for the FEMA PA. The non-FEMA cost share (typically 25 percent of the total costs eligible for reimbursement through FEMA PA) enables state and local governments to maximize the value of the CvRF and effectively reach full reimbursement (100 percent of total FEMA eligible costs) by combining the two programs. A&F continues to expect that municipalities will pursue reimbursement through FEMA PA for all eligible costs.

In recent weeks, FEMA issued new guidance on the eligibility of certain COVID-19 expenses incurred *on or after September 15, 2020*. In short, state and local governments may discover that certain COVID-19 expenses indicated to be eligible under previous FEMA guidance are no longer eligible for FEMA PA reimbursement under this new policy. Most notably, PPE procured for use by public employees other than first responders (e.g., teachers or municipal administrative staff) may not be considered eligible for reimbursement if costs were incurred *on or after September 15, 2020*. Similarly, cleaning and sanitation costs for public buildings not used for direct responses to COVID-19 may not be eligible for FEMA PA reimbursement under this policy. To clearly delineate costs between those subject to previous guidance and those impacted by the new policy, MEMA now recommends that applicants divide their costs into those incurred before September 15, 2020 and those incurred on or after September 15, 2020.

Given the significant uncertainty around FEMA PA reimbursements and the potential for further eligibility revisions, A&F is not modifying the approach to assumed FEMA reimbursement categories at this time. Once there is greater clarity as to the federal approach, A&F will revise the CvRF-MP program accordingly. To the extent that changing guidelines leave municipalities with unreimbursed costs, municipalities will be able to receive support for these costs during the Reconciliation round (See *Reconciliation round* below).

Transfers to Other Government Entities

Municipalities are the only entity eligible to receive funds under CvRF-MP. Per the program FAQs ([updated September 30](#)), however, municipalities are allowed, but not required, to make further grants to political subdivisions (e.g. regional school districts, independent districts, or other public entities).

If a municipality chooses to transfer CvRF monies to a political subdivision, A&F requires that municipalities provide funds as a reimbursement for incurred expenses, collect a certification modeled on Attachment B that commits the recipient to compliance with all aspects of CvRF-MP, and retain all documentation related to the reimbursement in anticipation of future federal audits. Further, such documentation should be retained to be provided to the Commonwealth upon request to properly substantiate all claims for payment and expenditures made under the grant.

Note that municipalities that transfer funds to other public entities remain liable to the Commonwealth for the eligibility of all expenses incurred by the political subdivision. If a political subdivision expends funds for ineligible uses, the Commonwealth will claw back such funds from the municipality through an assessment on the municipality's local aid payments.

Flexibility for Municipalities with Disproportionate Impact from COVID-19

A&F remains cognizant of the disproportionate impact of COVID-19 on certain municipalities in Massachusetts. If such a municipality has a concern or need that cannot be addressed within the existing parameters of CvRF-MP, please contact A&F for further consideration using this web form: https://massgov.formstack.com/forms/municipal_covid_spending_questions.

Reporting Requirements & Documentation Collection Procedures

To comply with all relevant federal and state laws and regulations, A&F has established a quarterly reporting process. Municipalities receiving funds through the CvRF-MP are required to adhere to all elements of the reporting requirements described in the relevant guidance.

At this time, A&F is in the process of establishing procedures to collect documentation associated with expenditures supported through CvRF-MP. Municipalities should anticipate further guidance related to documentation collection and retention in the coming weeks.

“Phase 4.0”

Warning About Still-Evolving Federal Guidance and the Possibility of Further Legislative Action

Federal policymakers continue to deliberate the elements of so-called “Phase 4.0” legislation that may have a material impact on the laws and regulations governing the Coronavirus Relief Fund. Proposed changes include modifications to the eligible uses of the Coronavirus Relief Fund, changes to the amount of money available to state and local governments, amendments to the statutory deadlines on use of funds, and other relevant items.

If further federal action modifies the parameters of the Coronavirus Relief Fund, A&F will review CvRF-MP and make modifications as necessary to comply with all federal and state laws and regulations.

Ending CvRF-MP

Reconciliation Period

The Commonwealth will open a reconciliation period beginning on or about December 1, 2020. During this period, CvRF-MP will change from an advance lump sum payment program to a reimbursement program for municipalities with a Remaining Eligible Amount after Round 2. A&F will issue further guidance for the CvRF-MP reconciliation period in November 2020.

Returning Unspent Funds to the Commonwealth

A&F expects that municipalities with an unspent balance from the CvRF-MP will return this money to the Commonwealth in January 2021. Municipalities should anticipate further guidance related to this matter in December 2020. The Commonwealth reserves the right to recover such funds through an assessment or deduction on local aid payments to municipalities that fail to return an unspent balance in a timely manner.

Contact A&F

Please submit CvRF-MP questions using this web form:

https://massgov.formstack.com/forms/municipal_covid_spending_questions

Attachments

Attachment A: [Potential Municipal Uses](#)

Attachment B: [Certification Form](#)

Attachment C: [Total Eligible Amount by Municipality](#)

Attachment D: [Excel Spreadsheet Application Form](#)

[Remainder of the page intentionally left blank.]

Attachment A – Potential Municipal Uses

Municipalities shall apply for a payment to address estimated or incurred eligible expenses between March 1, 2020 and December 30, 2020 that have not already been covered by other sources including but not limited to CvRF-MP Round 1 and FEMA reimbursements.

Municipalities are strongly encouraged to apply for sufficient funds to address expenses through December 30, 2020. The municipality must receive a beneficial use of the good or service by December 30, 2020 to be an eligible use.

- Core municipal services, in a declared state of emergency
 - First responder costs, including:
 - Direct staffing costs – Overtime, additional hires, and/or backfilling staff who test positive
 - Quarantine/isolation costs for first responders who may be infected and should not put household members at risk – or who should be kept apart from potentially infected household members
 - Including hotel/motel space, sanitization of first responder vehicles, etc.
 - Temporary staff to backfill sick or quarantined municipal employees including:
 - City/town management
 - Phone/administrative support
 - Janitorial
 - Police, fire, EMT
 - Trash collection
 - Other
 - Staff for compliance and reporting associated with this funding
 - Accelerated telework capacity – infrastructure, subscriptions for meeting services, hardware (laptops)
 - Hiring and training, including training for employees and contractors hired for COVID-19 response
 - PPE, including first responders, grocery store employees, gas station attendants and others who interact with public
 - Sanitation and Refuse Collection
 - Food inspection
 - Cleaning/disinfection of public buildings
 - Municipal buildings, including fire stations
 - Public housing
 - Specialized cleaning equipment
 - Air filtration / HVAC
 - Social distancing measures in public buildings – plexiglass barriers, stanchions, small building modifications
 - School distance learning, to the extent not funded from other sources, including
 - Planning and development, including IT costs

- Incremental costs of special education services required under individual education plans (IEPs) in a remote, distance, or alternative location
 - Food for families that rely on food through the school system
- Costs of debt financing related to COVID-19 investments – short-term borrowing and construction carrying costs
- Health insurance claims costs in excess of reasonably budgeted claims costs, and directly related to COVID-19 medical costs
- Legal fees – must be related to COVID-19
- Unemployment claims – must be related to COVID-19
- Election expenses – costs beyond the budgeted amount to hold elections
- Expanded public health mission
 - Boards of health staffing needs – to the extent not addressed with public health funding
 - Use of public spaces/ building as field hospitals
 - Shelter for those who are homeless or otherwise have nowhere they can go without significant risk to themselves or other household members, and are at high risk of or recovering from COVID-19
 - Food banks / food pantries – need tied to COVID-19
 - Travel expenses – for distribution of resources
 - Transporting residents to COVID-19 medical and testing appointments
 - Signage and communication including translation services
 - Educational materials related to COVID-19
 - Testing for COVID-19
- Services and supports to residents in their homes
 - Grocery and/or meals delivery – modeled on COA activities
 - Expanded participation
 - Replacement of meals delivery volunteer staff (often retirees)
 - Wellness check-ins with vulnerable elders
 - Short-term rental or mortgage support
 - Prescription drug delivery

[Remainder of the page intentionally left blank.]

Attachment B - CERTIFICATION

I, **[Insert name of signatory]**, am the chief executive of **[insert name of municipality]**, and I certify that:

1. I have the authority on behalf of **[insert name of municipality]** to request payment from the Commonwealth of Massachusetts. At this time, I am requesting payment in the amount of **[\$X – reflecting current estimate of eligible costs]** for costs from March 1, 2020 to December 30, 2020 in connection with section 601 of the Social Security Act, as added by section 5001 of the Coronavirus Aid, Relief, and Economic Security Act, Pub. L. No. 116-136, div. A, Title V (Mar. 27, 2020) (“section 601”).
2. I understand that the Commonwealth will rely on this certification as a material representation in making a payment to **[insert name of municipality]**.
3. As required by federal law, **[Insert name of municipality]**'s proposed uses of the funds provided as payment in response to this request will be used only to cover those costs that-
 - a. are necessary expenditures incurred due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19);
 - b. were not accounted for in the budget most recently approved as of March 27, 2020, for **[insert name of municipality]**; and
 - c. were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020.
4. I will report quarterly on incurred expenses in a form prescribed by the Secretary of Administration and Finance, and will cooperate with the Executive Office for Administration and Finance in creating and retaining appropriate documentation to demonstrate that the proposed uses meet the requirements of section 601.
5. I will coordinate with the Executive Office for Administration and Finance in optimizing federal funds from section 601 and other potentially available federal sources. In particular, I will prioritize and coordinate application for FEMA reimbursement where available.
6. To the extent actual expenditures are less than the amount requested per item 1 above, I agree to return the balance of unspent funds to the Commonwealth. If the United States Department of the Treasury recoups funds from the Commonwealth based on a determination they were used by **[insert name of municipality]** in a manner not in compliance with section 601, I agree that the Commonwealth may recover funds from the city or town through an assessment or deduction from the city or town’s periodic unrestricted local aid distribution.

By: _____ Signature: _____

Title: _____ Date: _____

CvRF-MP Round 2 Funding Application – Instructions for Municipalities

Date: September 30, 2020

1. Download the Excel spreadsheet “CvRF-MP Round 2 Application Template” attached to this email. This is the application template.
 - a. If you are unable to download the email attachment for any reason, you can also download the spreadsheet here: <https://www.mass.gov/doc/cvrf-mp-application-template-0>
2. Complete the application template – see the instructions on the “1. Start Here” tab.
3. Print, sign and date the Certification B form. This can be done one of two ways:
 - a. Recommended: print the certification form on the tab “5. Certification – Attach B” of the application template. This form will automatically populate the information from your application. Print the tab, sign and date, and scan a copy for submission. You must save the scanned copy as a pdf.
 - b. Alternative: fill in the attached “[Attachment B – Certification](#)” Word document. Please ensure that your total request matches the amount on your application template. Then print the document, sign and date, and scan a copy for submission. You must save the scanned copy as a pdf.
4. Submit the template:
 - a. Go to the submission form:
[https://massgov.formstack.com/forms/crf mp round 2 application submission](https://massgov.formstack.com/forms/crf_mp_round_2_application_submission)
 - b. Enter the password: Gwskd59q
 - c. Complete the required fields for municipality (select from drop-down list) and contact information.
 - d. Upload your completed Excel spreadsheet.
 - e. Upload your signed Certification B pdf.
 - f. Click “Submit Form”.

For questions about this application process, submit a question through our [web form](#).

FREQUENTLY ASKED QUESTIONS

Version Date: September 30, 2020

Note: The September 30, 2020 version of this document replaces the July 27, 2020 version. Updates or clarifications to answers from the July 27 version are noted. If you have additional questions related to the CARES Act Coronavirus Relief Fund – Municipal Program, please submit questions to:

https://massgov.formstack.com/forms/municipal_covid_spending_questions.

- 1. Should all municipalities apply for reimbursement through FEMA for FEMA-eligible expenses even though those costs could be paid from the CARES Act Coronavirus Relief Fund - Municipal Program?**

Yes. Municipalities should seek FEMA reimbursements for allowable expenses in order to maximize the amount of revenue available to pay for the budgetary impacts of coronavirus.

- 2. Can municipalities use CARES Act Coronavirus Relief Fund - Municipal Program dollars as the 25 percent match for FEMA-eligible expenses?**

Yes. The [US Department of the Treasury](#) and [FEMA](#) confirm that the CARES Act Coronavirus Relief Fund - Municipal Program can be used to pay for the FEMA cost share requirement.

- 3. Can CARES Act Coronavirus Relief Fund - Municipal Program dollars be used to offset the revenue lost due to the COVID-19 outbreak?**

No, fund payments may not be used for government revenue replacement. In order to be eligible for CARES Act Coronavirus Relief Fund - Municipal Program dollars, uses must be necessary expenditures incurred due to the public health emergency with respect to COVID19, not budgeted as of March 27, 2020, and incurred between March 1, 2020 and December 30, 2020.

- 4. How do I know whether to apply for the CARES Act Coronavirus Relief Fund - Municipal Program or other COVID-related federal grants?**

The CARES Act, as well as other federal legislation related to COVID-19, contained numerous grant opportunities for states, some of which will flow through to municipalities. You should pursue those opportunities to free up CARES Act Coronavirus Relief Fund - Municipal Program resources for costs that are ineligible from any other grant. Please note that in Round 2, applying for cashflow support is no longer a permissible request. A&F expects municipalities to seek funds only for eligible uses as specified in [Attachment A](#).

Note: This answer was updated in the September 30, 2020 version of this document.

- 5. How do I access CARES Act Elementary and Secondary Education Emergency Relief (ESSER) Funds for my community?**

Municipalities should pursue federal funding through the CARES Act Elementary and Secondary Education Emergency Relief (ESSER) Funds for education-related COVID-19 costs. The Department of Elementary and Secondary Education (DESE) is coordinating that grant program. Please visit <http://www.doe.mass.edu/grants/2021/113/> for more information.

6. How can I determine whether my costs are eligible for FEMA reimbursement?

The Massachusetts Emergency Management Agency (MEMA) can assist you with the FEMA application process, including guidance about eligible expenses. Refer to the materials on their website for municipal applicants <https://www.mass.gov/doc/municipal-applicant-briefing-presentation-04-23-20/download>.

Please note that the Massachusetts Emergency Management Agency has set a deadline of Thursday, October 15 for the submission of projects for actual costs incurred prior to September 15th. Projects submitted after this date are still eligible and may still be reimbursed, however, top priority will be given to pushing these projects through the FEMA system as quickly as possible and MEMA resources will be directed towards this goal. Post-September 15 projects and those submitted after the October 9th deadline will be prioritized under subsequent FEMA submission waves.

Note: This answer was updated in the September 30, 2020 version of this document.

7. If I choose not to apply for CARES Act Coronavirus Relief Fund - Municipal Program resources in Round 1, will I still be eligible for Round 2?

Yes. Communities do not forego eligibility for Round 2 if they choose not to request funds in Round 1. Further, the municipality's Total Eligible Amount (see [Attachment C](#)) does not change if they did not apply in Round 1.

8. My municipality is in Plymouth County. How do I access CARES Act Coronavirus Relief Fund - Municipal Program dollars?

Municipalities located in Plymouth County should contact county officials for information about accessing the CARES Act Coronavirus Relief Fund.

Eligible Uses

9. Can CARES Act Coronavirus Relief Fund - Municipal Program dollars be used to make certain changes to office space, such as plexiglass barriers and other sanitation items (e.g. hand sanitizer)?

Yes. Eligible uses of the CARES Act Coronavirus Relief Fund - Municipal Program dollars include social distancing measures, sanitation items, disinfection equipment, and air filtration. Note that these uses are subject to the restrictions that apply to all CARES Act Coronavirus Relief Fund - Municipal Program expenditures (costs must be incurred or anticipated as a result of COVID-19, must have been unbudgeted as of March 27, 2020, and be incurred between March 1, 2020 and December 30, 2020).

Note: This answer was updated in the September 30, 2020 version of this document.

10. Can CARES Act Coronavirus Relief Fund - Municipal Program dollars be used to make major capital upgrades, such as purchasing new vehicles?

No. CARES Act Coronavirus Relief Fund - Municipal Program dollars must support necessary expenditures incurred due to the public health emergency with respect to COVID-19. Funds may not be used for major capital projects that substantially change buildings or vehicles. However, funds may be used for smaller office modification projects capped at a total cost of \$150,000 for all modification projects pursued by a municipality to ensure social distancing, such as a small wall or new entrance to any office, to the extent they are necessary as a result of the public health emergency caused by COVID19, unbudgeted as of March 27, 2020, and the costs incurred between March 1, 2020 and December 30, 2020.

11. Are payroll costs of municipal employees who have been working beyond their regular duties in response to the public health emergency caused by COVID-19 an eligible use of the CARES Act Coronavirus Relief Fund - Municipal Program?

Costs must be unbudgeted as of March 27, 2020. Therefore, costs of salaried employees whose work has expanded is not an eligible cost of CARES Act Coronavirus Relief Fund - Municipal Program funds, unless the employee's work assignment has fundamentally changed. Additional labor costs including extended hours of hourly workers are an allowable use, provided the additional time need was caused by COVID-19 and can be documented.

12. Can CARES Act Coronavirus Relief Fund - Municipal Program dollars be used to pay for additional costs associated with holding elections?

Yes. Note the normal restrictions that apply to all CARES Act Coronavirus Relief Fund - Municipal Program expenditures (costs must be incurred or anticipated as a result of COVID-19, must have been unbudgeted as of March 27, 2020, and be incurred between March 1, 2020 and December 30, 2020).

13. Can CARES Act Coronavirus Relief Fund - Municipal Program dollars be used to pay for unemployment insurance costs incurred by the recipient as an employer?

Yes. Note the normal restrictions that apply to all CARES Act Coronavirus Relief Fund - Municipal Program expenditures (costs must be incurred or anticipated as a result of COVID-19, must have been unbudgeted as of March 27, 2020, and be incurred between March 1, 2020 and December 30, 2020).

14. Are unused accrued compensation liabilities an eligible use of the CARES Act Coronavirus Relief Fund - Municipal Program?

No. To be an eligible use of the CARES Act Coronavirus Relief Fund - Municipal Program, expenses must be incurred during the period beginning March 1, 2020 and December 30, 2020. Accrued liabilities are not an expense during the incident period.

15. Are business assistance programs an eligible use of the CARES Act Coronavirus Relief Fund - Municipal Program? The U.S. Treasury guidance says that such programs are eligible.

No. The guidance issued by the U.S. Treasury also provides that all of the Commonwealth's expenditures from the Fund—whether spent on Commonwealth expenses or distributed to cities and towns to address local costs—are subject to the Single Audit Act, 31 U.S.C. §§ 7501-7507, and related provisions of the Uniform Guidance, including those regarding the monitoring and management of subrecipients, 2 C.F.R. §§ 220.330-200.332.

Documenting that costs were for eligible uses is essential to managing compliance risk and to minimizing the possibility that the costs are deemed ineligible, thereby requiring the state to return funds to the federal government. Accordingly, in order to facilitate state compliance with these requirements, the guidance expressly allows states to impose restrictions and requirements on transfers of funds to local governments.

It is within this discretionary framework and mindful of the significant audit and compliance risk facing the Commonwealth that the Executive Office for Administration and Finance ("A&F") established specific, permitted uses for which cities and towns could request funds and instructed municipalities to contact the Division of Local Services if they contemplated requesting funds for any other purpose. Municipal small business assistance programs are not among the list of permitted purposes.

Municipalities are highly encouraged to explore several small business assistance programs offered by the SBA by visiting: <https://www.sba.gov/funding-programs/loans/coronavirus-relief-options>.

16. Are COVID-related costs incurred by schools eligible uses of the CARES Act Coronavirus Relief Fund - Municipal Program?

Yes, in the case of costs that are included in [Attachment A](#) as allowable uses, such as PPE, or school learning costs, to the extent not funded from other sources. Costs must be otherwise eligible (unbudgeted as of March 27, incurred between March 1 and December 20).

Please note that the Department of Elementary and Secondary Education (DESE) published guidance for school districts to pursue CARES Act Coronavirus Relief Fund dollars directly from the Commonwealth. Please see this website for more information: <http://www.doe.mass.edu/grants/2021/102/>. We urge you to pursue these opportunities to maximize the amount of funding available to you. If these resources are insufficient to meet the need, the CARES Act Coronavirus Relief Fund - Municipal Program (CRF-MP) can be used to support these costs. In that event, the school districts receiving funding from the municipality would be the sub-grantee, and the municipality as the grantor would be responsible for enforcing federal reporting requirements and compliance standards.

Note: This answer was updated in the September 30, 2020 version of this document.

17. Is the provision of COVID safety protocols, supplies, or expenses for public building projects currently under construction, including school projects funded by MSBA, an eligible use of the CARES Act Coronavirus Relief Fund - Municipal Program?

Yes, these funds can be used for additional costs of construction sites. Any such expenses must be unbudgeted as of March 27, 2020 and incurred between March 1, 2020 and December 30, 2020. Significant capital investments, such as changes to the design of a school project, are not an eligible use of the CARES Act Municipal Coronavirus Relief Fund.

18. Can entities other than municipalities, such as regional school districts, apply for CARES Act Coronavirus Relief Fund – Municipal Program funds?

No. Municipalities are the only entities eligible to receive CARES Act Coronavirus Relief Fund - Municipal Program allocations.

19. Can CARES Act Coronavirus Relief Fund – Municipal Program dollars be used to purchase ambulances? The U.S. Treasury guidance says that “[e]mergency medical response expenses, including emergency medical transportation, related to COVID-19” are eligible expenditures.

No, in virtually all contexts, ambulances are major capital upgrades that are not necessary expenditures incurred due to the public health emergency with respect to COVID-19. The cost of ambulance trips incurred by a municipality may be an allowable expense, to the extent that ambulance trips related to COVID-19 can be separated out from ambulance trips unrelated to COVID-19.

20. An independent public entity (e.g., regional school district, independent service district) serving my municipality incurred or expects to incur costs that are eligible uses of the CARES Act Coronavirus Relief Fund. How can my municipality transfer funds to this entity in order to address these expenses?

Municipalities are the only entity eligible to receive funds from the Commonwealth through the CARES Act Coronavirus Relief Fund – Municipal Program. However, municipalities are allowed, but not required, to transfer funds to political subdivisions. If municipalities choose to transfer funds to subrecipients, A&F recommends providing such transfers as reimbursements for eligible uses articulated in the Potential Municipal Uses document ([Attachment A](#)) of the program guidance. Municipalities are required adapt the Certification form ([Attachment B](#)) as appropriate and get the Certification signed by the Chief Executive for the subrecipient. Municipalities are further required to collect and retain all relevant documentation to demonstrate the eligibility of the expense. As A&F promulgates reporting requirements, municipalities with subrecipients will be required to collect and convey all such information to the Commonwealth.

Alternatively, if the eligible uses may be procured and distributed from a central point in the normal course of business, such as purchasing Personal Protective Equipment (PPE), these goods can be acquired by the municipality and distributed on the basis of need to independent public entities directly.

21. Can CARES Act Coronavirus Relief Fund – Municipal Program dollars be used for costs related to food insecurity?

The following food-related categories are eligible expenses: COVID-related expansion of food banks; food pantries; grocery or meal delivery; and food for families that rely on food through the school system. Note the normal restrictions that apply to all CARES Act Coronavirus Relief Fund - Municipal Program expenditures (costs must be incurred or anticipated as a result of COVID-19, must have been unbudgeted as of March 27, 2020, and be incurred between March 1, 2020 and December 30, 2020).

Note: This answer was added in the September 30, 2020 version of this document.

22. Can CARES Act Coronavirus Relief Fund – Municipal Program dollars be used to pay for unexpected library expenses?

Unanticipated library expenses due to the COVID-19 pandemic are eligible expenses. Please note that there may be additional CARES Act funds available through the Board of Library Commissioners for the needs of libraries. Note the normal restrictions that apply to all CARES Act Coronavirus Relief Fund - Municipal Program expenditures (costs must be incurred or anticipated as a result of COVID-19, must have been unbudgeted as of March 27, 2020, and be incurred between March 1, 2020 and December 30, 2020). In your Round 2 application, please categorize this request as an “Other Request” and provide detail to support that the expense meets these restrictions.

Note: This answer was added in the September 30, 2020 version of this document.

23. Can CARES Act Coronavirus Relief Fund – Municipal Program dollars be used to pay for unexpected town meeting expenses?

Unexpected town meeting expenses due to the COVID-19 pandemic are eligible expenses. Note the normal restrictions that apply to all CARES Act Coronavirus Relief – Municipal Program expenditures (costs must be incurred or anticipated as a result of COVID-19, must have been unbudgeted as of March 27, 2020, and be incurred between March 1, 2020 and December 30, 2020). In your Round 2 application, please categorize this request as an “Other Request” and provide detail to support that the expense meets these restrictions.

Note: This answer was added in the September 30, 2020 version of this document.

24. Can CARES Act Coronavirus Relief Fund – Municipal Program dollars be used to pay for software systems that support a conversion to a paperless work environment?

Conversion projects to paperless work environments require further analysis under federal guidance. Please submit a memo to A&F (Brendan.Sweeney@mass.gov) outlining your decision-making process on the necessity of this project. Please include an explanation or documentation of the following:

- Whether this project was budgeted prior to March 27, 2020;
- Whether your municipality contemplated and/or completed efforts to digitize records prior to March 27, 2020;
- Your municipality's current teleworking policy including the percentage of employees who currently telework or alternatively the percentage of employee time spent teleworking;
- What beneficial outcomes you expect your municipality to achieve by completing this project;
- The date you expect the project to be completed.

Note: This answer was added in the September 30, 2020 version of this document.

25. Can CARES Act Coronavirus Relief Fund – Municipal Program dollars be used to pay for increased flu-related costs?

Increased flu-related costs, over and above your community's total flu-related costs from this past year, are eligible expenses. However, you must be able to document that the increased costs are incurred due to COVID.

Note: This answer was added in the September 30, 2020 version of this document.

Process

26. Can my municipality apply for eligible expenditures that were incurred in FY20 in Round 2?

Yes. In addition to estimating incurred or anticipated expenses for FY21, eligible expenditures incurred in FY20 are permissible for reimbursement in Round 2. Please consult DLS Bulletin 2020-07 for more information on how to account for CARES Act Coronavirus Relief Fund - Municipal Program dollars.

Note: This answer was updated in the September 30, 2020 version of this document.

27. When will the application process open for Round 2?

Municipalities may apply for Round 2 of the CvRF-MP beginning on **October 1, 2020**. The deadline for applications is **October 30, 2020**, and the application form is provided in this Excel workbook template ([CvRF-MP Application Template](#)).

Note: This answer was updated in the September 30, 2020 version of this document.

28. What are the reporting requirements for the CARES Act Coronavirus Relief Fund – Municipal Program?

To comply with all relevant federal and state laws and regulations, A&F has established a quarterly reporting process. Municipalities receiving funds through the CvRF-MP are required to adhere to all elements of the reporting requirements described in the relevant guidance. The next deadline for quarterly reporting has been extended to November 13, 2020. Further guidance is forthcoming.

At this time, A&F is in the process of establishing procedures to collect documentation associated with expenditures supported through CvRF-MP. Municipalities should anticipate further guidance related to documentation collection and retention in the coming weeks.

Note: This answer was added in the September 30, 2020 version of this document.



THE COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF PUBLIC SAFETY AND SECURITY



MASSACHUSETTS EMERGENCY MANAGEMENT AGENCY

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Charles D. Baker
Governor

Samantha C. Phillips
Director

Karyn E. Polito
Lieutenant Governor

Thomas A. Turco, III
Secretary

September 24, 2020

To: FEMA Public Assistance Applicants

From: Thad J. Leugemors, MEMA Assistant Director for Mitigation and Recovery

Re: Pre-September 15 COVID Emergency Response Cost Submission Deadline

Dear Applicant,

As you know, on March 27, 2020, the Commonwealth of Massachusetts received a major disaster declaration for actions taken in response to the transmission and spread of COVID-19. This major disaster declaration authorized the FEMA Public Assistance program to reimburse eligible applicants for costs related to Emergency Protective Measures (Category B). As of this date, there are 543 local, state, and PNP agencies approved for Public Assistance, however, only 210 projects have been entered into the system.

In addition, as you likely are aware by now, on September 1st FEMA issued *Coronavirus (COVID-19) Pandemic: Work Eligible for Public Assistance (Interim) FP 104-009-19* (attached). This policy tightens and or reduces eligibility for COVID related costs incurred after September 15th, but also calls into question costs incurred prior to that date. The policy is also “Interim” meaning there may be further clarifications and restrictions imposed in the coming months.

This disaster has been unprecedented, and unfortunately, so has the shifting FEMA eligibility guidance. It is for this reason that MEMA has developed a strategy to prioritize the submission of projects that include Category B costs incurred up to September 14th. There are three reasons for this strategy. The first is the desire to reimburse applicants as quickly as possible. The second is that FEMA cannot site the policy as a reason for denial for any costs incurred prior to the September 15th effective date. The final reason is, as stated earlier, the FEMA policy is Interim and submitting projects prior to any further policy shifts is a prudent tactic.

In conclusion, for the reasons stated above it is imperative that projects for costs incurred prior to September 15th be submitted as quickly as possible. To these ends, we have set a deadline of **Thursday October 15th** for the submission of projects for actual costs incurred. Projects submitted after this date are still eligible and may still be reimbursed, however, top priority will be given to pushing these projects through the FEMA system as quickly as possible and MEMA resources will be directed towards this goal. Post-September 15 projects and those submitted after the October 15th deadline will be prioritized under subsequent FEMA submission waves.

The number one goal of the MEMA Recovery Section is to maximize your reimbursements as quickly as possible. Please help us in this effort by submitting your pre-September 15 projects as quickly as possible. If you have any questions, please reach out to your MEMA Recovery point of contact.

Region I
P.O. Box 116
365 East Street
Tewksbury, MA 01876
Tel: 978-328-1500 Fax: 978-851-8218

Region II
P.O. Box 54
12 Administration Road
Bridgewater, MA 02324-0054
Tel: 508-427-0400 Fax: 508-697-8869

Region III / IV
1002 Suffield Street
Agawam, MA 01001
Tel: 413-750-1400 Fax: 413-821-1599



Coronavirus (COVID-19) Pandemic: Work Eligible for Public Assistance (Interim)

FEMA Policy FP 104-009-19

BACKGROUND

Under the President Donald J. Trump's March 13, 2020, Coronavirus (COVID-19) emergency declaration¹ and subsequent major disaster declarations for COVID-19, state, local, tribal, and territorial (SLTT) government entities and certain private nonprofit (PNP) organizations are eligible to apply for assistance under the FEMA Public Assistance (PA) Program.²

PURPOSE

This interim policy defines the framework, policy details, and requirements for determining the eligibility of work and costs under the PA Program to ensure consistent and appropriate implementation across all COVID-19 emergency and major disaster declarations. Except where specifically stated otherwise in this policy and other disaster specific COVID-19 policies, assistance is subject to PA Program requirements as defined in Version 3.1 of the *Public Assistance Program and Policy Guide (PAPPG)*.³

This interim policy supersedes the FEMA Fact Sheet dated March 19, 2020: *Coronavirus (COVID-19) Pandemic: Eligible Emergency Protective Measures*, for work performed on or after September 15, 2020. This interim policy will be updated or revised as required by changes in the status of the COVID-19 pandemic.

PRINCIPLES

- A. FEMA remains committed to providing support to meet emergency needs during the COVID-19 pandemic, specifically those critical actions that are necessary to save lives and protect public health and safety.
- B. FEMA will implement this policy and any assistance provided in a consistent manner through informed decision making and review of an applicant's supporting documentation.
- C. FEMA will engage with interagency partners, including the U.S. Department of Health and Human Services (HHS) Office of the Assistant Secretary for Preparedness and Response (ASPR), the Centers for Disease Control and Prevention (CDC), the Centers for Medicare and Medicaid Services (CMS), and the Health Resources and Services Administration (HRSA); the U.S. Department of Agriculture (USDA), and the U.S. Department of Housing

¹ <http://www.fema.gov/news-release/2020/03/13/covid-19-emergency-declaration>.

² See <https://www.fema.gov/assistance/public/program-overview> for more information.

³ Version 3.1 of the PAPPG is applicable to all COVID-19 declarations and is available on the FEMA website at www.fema.gov/sites/default/files/2020-03/public-assistance-program-and-policy-guide_v3.1_4-26-2018.pdf.



and Urban Development (HUD) among others, to ensure any assistance is provided in a coordinated manner without duplicating assistance.

REQUIREMENTS

A. APPLICABILITY

Outcome: To define the declarations, eligible applicants, and work to which this interim policy applies.

1. This policy applies to:
 - a. All Presidential emergency and major disaster declarations under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. § 5121 *et seq.* (the Stafford Act), as amended, issued for the COVID-19 pandemic.
 - b. This policy does not apply to any other emergency or major disaster declaration
 - c. Eligible PA applicants under the COVID-19 emergency declaration or any subsequent COVID-19 major disaster declaration.⁴
 - d. Work performed on or after September 15, 2020. Prior to this date, policies in place when the work was completed apply.

B. GENERAL ELIGIBILITY CONSIDERATIONS FOR COVID-19

Outcome: To define the overarching framework for all eligible work related to COVID-19 declarations.

1. Legal Responsibility:
 - a. To be eligible for PA, an item of work must be the legal responsibility of an eligible applicant.⁵ Measures to protect life, public health, and safety are generally the responsibility of SLTT governments.
 - b. Legally responsible SLTT governments may enter into formal agreements or contracts with private organizations, including PNP organizations, when necessary to carry out eligible emergency protective measures in response to the COVID-19 pandemic. In these cases, PA funding is provided to the legally responsible government entity, which would then pay the private entity for the provision of services under the formal agreement or contract.
 - c. In limited circumstances, essential components of a facility are urgently needed to save lives or protect health and safety, such as an emergency department of a PNP hospital. In these cases, PNPs that own or operate an eligible facility and perform eligible work, such as providing emergency, medical or custodial care services, may be eligible for reimbursement of costs as a PA applicant. For these PNP facilities and for COVID-19 declarations only, FEMA is waiving the primary use and primary ownership policies normally applicable to PNP

⁴ See *Coronavirus (COVID-19) Pandemic: Private Nonprofit Organizations* (April 2, 2020), www.fema.gov/fact-sheet/coronavirus-covid-19-pandemic-private-nonprofit-organizations, for more information on PNP applicant eligibility.

⁵ 44 C.F.R. § 206.223(a)(3).



entities that own or operate mixed-use facilities.⁶

2. To be eligible, claimed costs must be necessary in order to respond to the COVID-19 pandemic and be reasonable pursuant to federal regulations and federal cost principles. A cost is considered reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost.⁷ All costs are subject to standard PA program eligibility and other federal requirements.⁸

C. WORK ELIGIBILITY

Outcome: To establish parameters for eligible work for COVID-19 declarations.

1. In accordance with sections 403 and 502 of the Stafford Act, emergency protective measures necessary to save lives and protect public health and safety, may be reimbursed under the PA program.
2. All work must be required as a direct result of the emergency or major disaster in accordance with 44 C.F.R. § 206.223(a)(1).
3. Only work associated with the performance of emergency protective measures specifically listed in this policy is eligible for PA in COVID-19-declared events.
4. FEMA may provide assistance only for the following emergency protective measures in response to COVID-19 declared events⁹:
 - a. Medical care, in accordance with COVID-19 specific policy or subsequent updates.¹⁰
 - b. Purchase and distribution of food, in accordance with COVID-19 specific policy or subsequent updates.¹¹
 - c. Non-congregate medical sheltering, in accordance with COVID-19 specific policy or subsequent updates.¹²
 - d. Operation of Emergency Operations Centers to direct and coordinate resources and response activities for COVID-19 declarations.¹³

⁶ See PAPPG V3.1 (2018), at page 16.

⁷ 2 CFR § 200.404.

⁸ See PAPPG V3.1 (2018), 2 CFR Part 200, and <https://www.fema.gov/grants/procurement> for additional guidance.

⁹ See www.fema.gov/media-collection/public-assistance-disaster-specific-guidance-covid-19-declarations for all COVID-19 related PA policies and other guidance.

¹⁰ Stafford Act, Section 403(a)(3)(B). For COVID-19 specific policy, see *Coronavirus (COVID-19) Pandemic: Medical Care Costs Eligible for Public Assistance (Interim)*, FEMA Policy FP 104-010-04 (May 9, 2020) and *Coronavirus (COVID-19) Pandemic: Alternate Care Site (ACS) "Warm Sites" Fact Sheet* (May 12, 2020).

¹¹ Stafford Act, Section 403(a)(3)(b). For COVID-19 specific policy, see *Coronavirus (COVID-19) Pandemic: Purchase and Distribution of Food Eligible for Public Assistance*, FEMA Policy FP 104-010-03 (April 11, 2020).

¹² See *Public Assistance: Non-Congregate Sheltering Delegation of Authority Fact Sheet* (March 19, 2020), and *Coronavirus (COVID-19) Pandemic: Non-Congregate Sheltering Frequently Asked Questions* (March 31, 2020).

¹³ PAPPG, V3.1 (2018), at page 62.



- e. Communications to disseminate public information regarding health and safety measures and provide warnings about risks and hazards.¹⁴
 - f. Mass casualty management, including storage of human remains and mass mortuary services, as necessary to manage fatalities caused by COVID-19.¹⁵
 - g. Purchase and distribution of Personal Protective Equipment (PPE)¹⁶ that is directly related to the performance of otherwise eligible emergency work,¹⁷ or is provided to healthcare workers, patients with confirmed or suspected COVID-19 infection, and first responders.¹⁸
 - i. Funding for stockpiling a supply of eligible PPE is limited to a supply that is projected for up to 60 days from date of purchase.
 - ii. Funding for storing eligible PPE is limited to what is necessary to store a projected 60-day PPE supply.
5. FEMA may provide assistance for the following activities in response to COVID-19-declared events only when necessary to perform otherwise eligible emergency work listed in C.4:
- a. Purchase and distribution of face masks,¹⁹ including cloth facial coverings, provided to persons conducting eligible emergency work and/or in facilities where eligible emergency work is performed.
 - b. Temperature scanning, including purchase and distribution of hand-held temperature measuring devices and associated supplies, in facilities where eligible emergency work is performed.
 - c. Disinfection, in accordance with CDC guidance,²⁰ in facilities where eligible emergency work is performed, including purchase and provision of necessary supplies and equipment, and in excess of current operating costs.
 - d. Acquisition and installation of temporary physical barriers, such as plexiglass barriers, in facilities where eligible emergency work is conducted.

¹⁴ Stafford Act, Section 403(a)(3)(F) and (G), and PAPPG V3.1 (2018), at page 58.

¹⁵ See PAPPG V3.1 (2018), at page 58. For information on COVID-19-related fatality management see <https://asprtracie.hhs.gov/technical-resources/129/covid-19-fatality-management-resources/99>.

¹⁶ For this policy, PPE is defined to include items such as N95 and other filtering respirators, surgical masks, gloves, protective eyewear, face shields, and protective clothing (e.g., gowns).

¹⁷ PAPPG V3.1 (2018), at pages 21 and 63.

¹⁸ See www.fema.gov/fact-sheet/addressing-ppe-needs-non-healthcare-setting, <https://www.cdc.gov/coronavirus/2019-ncov/hcp/using-ppe.html>, <https://www.cdc.gov/coronavirus/2019-ncov/community/organizations/firefighter-EMS.html>, and <https://www.cdc.gov/coronavirus/2019-ncov/community/guidance-law-enforcement.html>. For this policy, the definition of first responder includes: emergency public safety, fire, law enforcement, emergency response, emergency medical, and related personnel that may interact with individuals infected with, or suspected to be infected with, COVID-19.

¹⁹ For this policy, face masks, such as cloth face coverings, that are not regulated by the U.S. Food and Drug Administration (FDA) are not considered PPE. Per FDA guidance, these face masks are not PPE, but may be used to prevent or slow the spread of COVID-19. See <https://www.fda.gov/medical-devices/personal-protective-equipment-infection-control/n95-respirators-surgical-masks-and-face-masks> and <https://www.fda.gov/medical-devices/emergency-situations-medical-devices/faqs-emergency-use-authorization-face-masks-non-surgical>.

²⁰ Work should be consistent with current PAPPG and public health guidance as it relates to disinfection recommendations. CDC provides disinfection guidance online at <https://www.cdc.gov/coronavirus/2019-ncov/community/clean-disinfect/index.html>.



- e. Law enforcement and security.
- f. Training and technical assistance specific to the declared event.
- g. Reimbursement for force account overtime costs, costs related to hiring temporary employees, and contract labor costs associated with performance of eligible emergency protective measures.²¹
- h. Movement of equipment and supplies, including transportation and storage.
- i. Other work and costs delineated within COVID-19 policies referenced in C.4.

D. COORDINATION OF FUNDING

Outcome: To provide information on coordinating PA and other sources of federal funding.

1. Congress to date has authorized over \$3 trillion to multiple federal agencies to address the effects of the COVID-19 pandemic.
 - a. FEMA is closely coordinating with other federal agencies about the eligible uses of various COVID-19 funding resources and will continue to provide guidance to eligible applicants about where they can seek funding²².
 - b. A list of federal funding for COVID-19 is available at: <https://www.usa.gov/coronavirus>. General information about available federal funding needs may be found at www.grants.gov.
2. FEMA may provide PA funding to applicants for eligible work under the COVID-19 declarations that may also be eligible for funding under another federal agency's authorities.
 - a. Potential PA applicants may have the flexibility to determine which source of funding to use for their costs, subject to the purpose and eligibility requirements of each of the federal programs and funding sources.
 - b. If an eligible applicant applies for PA funding and then determines it will instead seek funding from another federal agency, the applicant should notify FEMA as soon as possible.
 - i. If FEMA has not awarded PA funding, the applicant should withdraw or amend their PA project application.
 - ii. If FEMA has already awarded PA funding, the applicant should request an updated version to their project worksheet to amend their PA project.
 - c. PA funding should not be considered funding of last resort. It is advisable that PA funding is considered concurrently with other federal agency programs and sources.
3. For certain types of work that may be eligible for funding under another agency's authorities, FEMA, in coordination with other federal agencies and after close examination of available CARES Act funding, has determined that it will not provide reimbursement through the PA program.

²¹ See PAPPG V3.1 (2018) at pages 23-26 for more on FEMA's labor policies.

²² FEMA has posted a [COVID-19 Resource Summary Report](#) that is a list of resources provided by the federal government since the start of the response to COVID-19. This list is provided as a point of reference and partners should directly consult with each agency to verify the applicability of a specific program.



- a. For example, COVID-19 contact tracing may be an emergency protective measure otherwise eligible for PA funding. However, in coordination with other federal agencies, FEMA has determined that PA is not the appropriate source of funding for COVID-19 contact tracing and there are other more appropriate sources of funding.²³
4. Section 312 of the Stafford Act prohibits all federal agencies from duplicating benefits for disaster relief.
- a. Multiple agencies having authority to expend funds for the same purpose is not, by itself, a duplication of benefits under Section 312.²⁴ However, all federal agencies are prohibited by Section 312 from paying applicants for the same work twice.
 - b. Recipients and subrecipients are ultimately responsible for ensuring that they do not receive payment for the same item of work twice. FEMA applicants must certify in the PA application process that assistance is not being duplicated.

E. TIME LIMITATIONS

Outcome: To provide time limitations for the completion of eligible work.

- 1. For all COVID-19 declarations, FEMA has extended the deadline in accordance with regulatory timeframes for emergency work at 44 C.F.R. § 206.204(d) beyond six months of the date of the declaration and will make notification 30 days prior to establishment of the deadline.

Keith Turi
Assistant Administrator, Recovery Directorate

September 1, 2020
Date

²³ See the CDC Epidemiology and Laboratory Capacity for Prevention and Control of Emerging Infectious Disease (ELC) at <https://www.cdc.gov/ncezid/dpei/epidemiology-laboratory-capacity.html>.

²⁴ See FEMA Fact Sheet *Coronavirus Disease 2019 (COVID-19) Public Health Emergency: Coordinating Public Assistance and Other Sources of Federal Funding* (July 1, 2020) at <https://www.fema.gov/media-collection/public-assistance-disaster-specific-guidance-covid-19-declarations> for more information.

ADDITIONAL INFORMATION

REVIEW CYCLE

FEMA Policy #104-009-19, *Coronavirus (COVID-19) Pandemic: Work Eligible for Public Assistance* (Interim), will be reviewed and evaluated regularly throughout the duration of the COVID-19 pandemic. The Assistant Administrator for the Recovery Directorate is responsible for authorizing any changes or updates. This policy will sunset with the closure of the national emergency declaration for COVID-19 and any subsequent major disaster declarations for COVID-19.

AUTHORITIES and REFERENCES

Authorities

- Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. § 5121-5207, as amended
- Title 44 of the Code of Federal Regulations, Part 206, Subpart H
- Title 2 of the Code of Federal Regulations, Part 200

References

- *Public Assistance Program and Policy Guide*, Version 3.1

DEFINITIONS

To establish consistent terminology for purposes of implementing this policy, the following definitions are provided below. These definitions are specific to this policy and **may differ from definitions prescribed for the same or similar terms in other policies.**

1. **Personal Protective Equipment (PPE):** PPE refers to items such as N95 and other filtering respirators, surgical masks, gloves, protective eyewear, face shields, and protective clothing (e.g., gowns).
2. **First Responder:** First responder refers to emergency public safety, fire, law enforcement, emergency response, emergency medical, and related personnel that may interact with individuals infected with, or suspected to be infected with, COVID-19.

MONITORING AND EVALUATION

FEMA will closely monitor the implementation of this policy through close coordination with regional and field staff, as appropriate, as well as interagency partners and SLTT stakeholders.

QUESTIONS

Applicants should direct questions to their respective FEMA regional office.

Town Manager

From: Michael McCarron
Sent: Thursday, October 1, 2020 4:27 PM
To: Town Manager
Subject: Contract Soldiers and sailors

Went over the contract with Mark Reich and he is incorporating my comments and getting back to me, we should have a contract ready to go on Monday.

Michael P. McCarron
Town Clerk
Town of West Newbury
381 Main Street
West Newbury, MA 01985
Tel 978-363-1100 ext 110

Town Manager

From: Mark R. Reich [REDACTED]
Sent: Friday, October 2, 2020 3:00 PM
To: Michael McCarron
Cc: Town Manager; Jonathan Silverstein
Subject: RE: Designer contract, Soldiers & Sailors Memorial Building (a/k/a "Carr Post")
Attachments: KP-#733358-v2-WNBY_Spencer_Sullivan_&_Vogt_Draft_Contract.doc

Mike –

I made some revisions to the design contract based upon our discussion, including requirements for electronic copies of all documents produced. I have highlighted in yellow my changes.

We will likely need revised attachments for this contract as the existing Attachment A does not have a clear timeline. Attachment B would detail the fee proposal.

Please let me know if you have any questions or comments.

Thanks, and have a good weekend.

Mark

Mark R. Reich, Esq.

KP | LAW#

[101 Arch Street, 12th Floor](#)

[Boston, MA 02110](#)

[O: \(617\) 556 0007](tel:(617)5560007)

[F: \(617\) 654 1735](tel:(617)6541735)

www.k-plaw.com

This message and the documents attached to it, if any, are intended only for the use of the addressee and may contain information that is PRIVILEGED and CONFIDENTIAL and/or may contain ATTORNEY WORK PRODUCT. If you are not the intended recipient, you are hereby notified that any dissemination of this communication is strictly prohibited. If you have received this communication in error, please delete all electronic copies of this message and attachments thereto, if any, and destroy any hard copies you may have created and notify me immediately.

From: Michael McCarron <mmccarron@wnewbury.org>
Sent: Wednesday, September 30, 2020 5:45 PM
To: Mark R. Reich [REDACTED]
Subject: RE: Designer contract, Soldiers & Sailors Memorial Building (a/k/a "Carr Post")

If you need to reach me directly, my cell is [REDACTED] but I should be available all afternoon after 1

Michael P. McCarron
Town Clerk
Town of West Newbury
381 Main Street
West Newbury, MA 01985
Tel 978-363-1100 ext 110

**AGREEMENT
TOWN OF WEST NEWBURY, MA
CONTRACT FOR DESIGNER SERVICES**

**PROJECT TITLE: Carr Post (Soldiers Sailors Memorial)
Comprehensive Rehabilitation**

PROJECT TYPE: Type 2 Public Building Design and Construction

This AGREEMENT is made under seal the ___ day of _____ in the year Two Thousand and Twenty, between the Town of West Newbury, Massachusetts, by its Board of Selectmen, the AWARDING AUTHORITY, and Spencer, Sullivan & Vogt, with an address of 1 Thompson Square, Suite 504, Charlestown, Massachusetts, acting as PROJECT ARCHITECT or PROJECT ENGINEER (the DESIGNER).

The scope of services and projected Project timeline is set forth in Attachment A.

ARTICLE 1: DEFINITION OF TERMS

- 1.1 GENERAL LAWS -- the General Laws of the Commonwealth of Massachusetts as amended, including any rules, regulations and administrative procedures implementing said laws.
- 1.2 DESIGNER -- the individual or firm performing professional services under this AGREEMENT.
- 1.3 PRINCIPALS -- the registered professional Architects or Engineers listed in ARTICLE 16.
- 1.4 NOTICE TO PROCEED -- written communication from the Awarding Authority, constituting an essential condition of this AGREEMENT, authorizing the Designer to perform services for the project phase to which such Notice shall relate. The Notice to Proceed shall include the basis for compensation, the fixed limit construction cost, if any, and may include the time of submittal. Subsequent written communications amending the Notice to proceed are required to change either a submittal date or the fixed limit construction cost. Proceeding with various phases of contract work is contingent upon the Awarding Authority or its designees' satisfaction with and acceptance of services performed for each phase.
- 1.5 SUBMITTAL DATES -- those dates referred to in the Notice to Proceed or any subsequent amendment thereto.

- 1.6 CONSTRUCTION CONTRACT -- contract for construction of a whole or part of the project, including all change orders.
- 1.7 TOTAL CONSTRUCTION COST -- the sum of the actual construction contract award price and each authorized change order revising the construction contract award price. The construction contract award price shall be the same as the construction price of the lowest responsible and eligible bidder.
- 1.8 AWARDDING AUTHORITY -- The board, commission, agency or department of the Town having authority to award design and construction contracts in connection with the Project.
- 1.9 PROJECT -- the building project for which designer services have been procured under this AGREEMENT, and which is identified on Page 1 (Project Title).

ARTICLE 2: CONSULTANTS, SUBCONTRACTING, SUCCESSORS AND ASSIGNS

- 2.1 The Designer shall not employ additional consultants not named in the proposal(s) nor sublet, assign or transfer any part of his services or obligations under this AGREEMENT without the prior approval and written consent of the Awarding Authority. The Awarding Authority shall not unreasonably withhold such approval. Written consent shall not in any way relieve the Designer from his responsibility for the professional and technical accuracy and the coordination of all data, designs, drawings, specifications, estimates and other work or materials furnished.
- 2.2 Except as otherwise provided in this AGREEMENT or authorized by the Awarding Authority, the Designer shall employ within the basic fee for this project the following consultants where their specific services are required: Architect, Structural Engineer, Civil Engineer, Sanitary Engineer, Mechanical Engineer, Landscape Architect, Cost Estimator, and Electrical Engineer, and any other consultant specifically listed in the proposal. Consultants must be registered in their respective disciplines if registration is required under the applicable General Laws.
- 2.3 When the Designer receives payment from the Awarding Authority, the Designer shall promptly make payment to each consultant whose work was included in the work for which payment was made by the Town. The Awarding Authority shall have the contractual right, but not the obligation, to require corrective measures necessary for the best interests of the Town.

ARTICLE 3: SURVEYS, BORINGS, TESTS, LABORATORIES, PHOTOGRAPHS

- 3.1 The Awarding Authority shall furnish to the Designer available surveys of the project building site, showing the grades and lines of streets, pavements and adjoining properties; the rights, restrictions, easements, boundaries and controls of the site; reports from any borings, test pits, chemical, mechanical or other tests, any photographs and information as to water, sewer, electricity, steam, gas, telephone and other services.
- 3.2 The Awarding Authority does not guarantee the accuracy of information furnished and the Designer must satisfy himself as to the correctness of data, except in instances where written exception to the contrary is specifically indicated by the Awarding Authority. If the above data are not available or they are in the opinion of the Designer insufficient, the Designer, upon request, may be given authorization to obtain the services of a consultant or perform the work with his own employees. In no case shall the Designer commence such work without prior written authorization of the Awarding Authority.
- 3.3 During the construction phase of this contract, the Designer may retain the services of a photographer, a qualified testing laboratory, and special field inspectors when required by the project, subject to the prior approval of the Awarding Authority or its designee.
- 3.4 If a consultant's services estimated to cost more than \$25,000 are required, including the services of a qualified testing laboratory functioning under the jurisdiction of both a Massachusetts registered Engineer and licensed inspectors, a detailed description of the proposed services shall be prepared by the Designer and approved by the Awarding Authority. Consultant fee proposals shall be received by the Designer and accompanied with recommendations of approval submitted to the Awarding Authority before any work is authorized. Such consultants shall carry adequate Liability Insurance. When a consultant's services are estimated to cost \$25,000 or less, the Designer shall use established standard rates for such services.
- 3.5 Drawings and/or specifications needed to obtain survey or subsoil information, and any other soils engineering shall be prepared by the Designer as part of the basic fee. The Designer shall then analyze and evaluate such surveys and tests and make his design conform to the results of such evaluation.

- 3.6 The Awarding Authority will compensate and reimburse the Designer as provided in ARTICLE 9 for the cost of consultant services performed under this Article. For responsibility, coordination inspection, analysis and evaluation of consultant services retained under this ARTICLE, the Designer shall similarly be compensated as provided by ARTICLE 9.

ARTICLE 4: COMPLIANCE WITH LAWS

- 4.1 The Designer shall perform the work required under this AGREEMENT in conformity with all requirements and standards of the Awarding Authority, all applicable laws, statutes, ordinances, by-laws, codes, rules and regulations, and executive orders of the Commonwealth and its political subdivisions, and the Federal Government. The Construction Documents shall comply with all applicable laws, statutes, ordinances, by-laws, codes, rules and regulations, and executive orders. The Designer, including all approved consultants and subcontractors, shall comply with all applicable provisions of the rules and regulations of the President's Committee on Equal Employment Opportunity and Procedures promulgated by the Governor of Massachusetts or his designees, insuring equal opportunity for employees and minority and women-owned business enterprises.

ARTICLE 5: PROFESSIONAL RESPONSIBILITY

- 5.1 The Designer shall be responsible for the professional and technical accuracy and the coordination of all designs, drawings, specifications, estimates and other work furnished by him or his consultants and subcontractors. The Designer shall staff his office with sufficient personnel to complete the services required under this contract in a prompt and continuous manner, and shall meet the approval schedule and submittal dates established during the course of this AGREEMENT.

The Designer shall commence work under this AGREEMENT upon written notice to proceed issued by the Awarding Authority in conformance with the provisions of Section 1.4 of this AGREEMENT. The Designer shall complete the services required under this AGREEMENT in a prompt and continuous manner, and to meet such time limits as are established during the course of the AGREEMENT and stated in each Notice to Proceed. If the completion of the scope of work is delayed through no fault of the Designer, the time limit may be extended upon written approval of the Awarding Authority.

- 5.2 The Designer shall furnish appropriate competent professional services for each of the phases to the point where detail checking and reviewing by the Awarding Authority will not be necessary. Any changes, corrections, additions or deletions made by the Awarding Authority shall be incorporated in the design of the Project unless detailed objections thereto are received from the Designer and approved by the Awarding Authority.
- 5.3 The designer shall thoroughly acquaint his employees and consultants with all provisions of the General Laws governing the conduct of public construction projects, including but not limited to M.G.L. c.149, and c.30, and in particular, M.G.L. c.30, §39M, wherein the description of material specifications and proprietary items in construction bid documents is governed.
- 5.4 Neither the Awarding Authority's review, approval or acceptance of, nor payment for any of the services furnished shall be construed to operate as a waiver of any rights under the AGREEMENT or any cause of action arising out of the performance of the AGREEMENT.

ARTICLE 6: DESIGNER SERVICES

6.1 TYPE 2 CONTRACTS -- DESIGN AND CONSTRUCTION

1. Phase 1. - Schematics

Consistent with preliminary design schematics prepared by the Designer prior to the effective date of this Agreement, upon receipt of a Notice to Proceed from the Awarding Authority the Designer shall prepare and submit to the Awarding Authority completed single line schematic drawings including floor plans, elevations and space criteria to establish basic design ideas and respective cost estimates as set forth in the scope of services included as Attachment A, said scope of services to include a projected Project timeline. The Designer shall submit to the Awarding Authority for approval six (6) hard copies and an electronic copy of said schematic plans, outline specifications and cost estimates, on or before the date or time for submission specified in the Notice to Proceed or any supplement thereto, unless the Designer shall have obtained from the Awarding Authority an extension of time in writing.

Estimated construction cost and fee as set forth in the original Notice to Proceed will not be changed by the Awarding Authority without the agreement of the Designer.

2. Phase 2. - Design Development

Upon receipt of a Notice to Proceed the Designer shall prepare from the approved Phase 1 documents complete design development documents consisting of plans, outline specifications, and cost estimates and other documents to fix and describe the size and character of the project as to architectural, structural, mechanical, and electrical systems, materials, and such other elements as may be appropriate to enable the Awarding Authority to study and understand the progress and development of the Project. Such plans outline specifications and cost estimate shall be subject to the written approval of the Awarding Authority. The Designer shall submit to the Awarding Authority for approval six (6) hard copies **and an electronic copy** of said design development documents on or before the date or time for submission specified in the Notice to Proceed or any supplement thereto, unless the Designer shall have obtained from the Awarding Authority an extension of time in writing.

3. Phase 3. - Construction Documents

Upon receipt of a Notice to Proceed from the Awarding Authority for Phase 3 of the Project, the Designer shall meet as necessary with the Awarding Authority, and shall prepare and submit to the Awarding Authority on or before the date or time specified in the Notice to Proceed or any supplement thereto, complete working plans and specifications in sufficient detail to permit firm bids in open competition for construction of the project, and a detailed cost estimate. Said plans and specifications shall be based on the design development, outline specifications and construction cost estimate approved in Phase 2 of the Project, the Notice to Proceed with Phase 3, or any subsequent modification thereto. The detailed estimate of the cost of the Project shall include quantities of all materials and unit prices of labor and materials as well as cost estimates for each item of work. Such working plans and specifications and cost estimates shall be subject to the written approval of the Awarding Authority. The Designer shall furnish to the Awarding Authority for approval six (6) sets **and an electronic copy** of the said plans, specifications and construction cost estimates.

Following the approval of the plans, specifications and construction cost estimates, the Designer shall incorporate all changes required by the Awarding Authority in the working drawings and specifications and shall prepare and transmit to the Awarding

Authority one hard **copy and an electronic copy** of Construction Contract Documents for approval.

Phase 4. - Bidding Phase

Upon written approval of Construction Contract Documents, and a Notice to Proceed, the Designer shall prepare the final Construction Contract Documents, including advertisements for receipt of proposals for construction contractors, shall assist in distributing the bidding documents to prospective bidders, and shall prepare and transmit all addenda. The Designer shall assist the Awarding Authority in pre-qualifying bidders, shall conduct a pre-bid conference with potential bidders, shall assist in obtaining bids, shall conduct a qualification review of the low bidder and transmit his recommendations as to the award of the construction contract to the Awarding Authority, and shall prepare all notices required to be published in the Central Register. All services shall be in accordance with the requirements of the General Laws relating to public construction projects.

If the bid of the lowest responsible and eligible bidder exceeds the Fixed Limit of Construction Cost, if any, the Awarding Authority shall have the option to (a) give written approval of an increase in such Fixed Limit, (b) re-bid the Contract within a reasonable period of time, or (c) instruct the Designer in writing to provide such revised Construction Contract Documents as the Awarding Authority may require to bring the cost within the Fixed Limit. In the case of (c), the Designer may in connection with such revisions make reasonable adjustments in the scope of the Construction Contract or quality of the work allowed therein subject to the written approval of the Awarding Authority, which approval shall not be unreasonably withheld. The Designer shall not be entitled to any additional compensation for such services.

The Designer shall review all construction bids for the purpose of advising the Owner on whether the bids are based upon the payment of the prevailing wage rates established for the project by the Massachusetts Department of Labor and Workforce Development. The Designer shall inform the Owner of any bid which, because of its amount, does not realistically appear to contemplate the actual payment of said prevailing wage rates to laborers to be employed on the project.

5. Phase 5 - Designer's Services During Construction

Upon the award of the construction contract the Designer and his consultants shall, for the purpose of protecting the Awarding Authority against defects and deficiencies in the work of the Project: (1) be charged with general administration of the construction contract, including review and processing of the General Contractor's applications for payment and change order proposals; preparation of a monetized "punch list" of remaining work following substantial completion of the project work, and subsequent inspection to determine completion of such punch list work; review and processing of the General Contractor's final completion and close out documentation and assistance to the Awarding Authority in the close out process; (2) work cooperatively and in coordination with a clerk of the works or project manager as may be designated in writing by the Awarding Authority; (3) furnish the General Contractor with information for establishing lines and grades and such large scale drawings and full sized detailed drawings as the Awarding Authority may require; (4) promptly check and approve samples, schedules, shop drawings and other submissions by the General Contractor; (5) make twice-weekly visits to the site of the Project; (6) conduct semi-final and final inspections of the construction project and report the results of such inspections in writing to the Awarding Authority; (7) require each consultant employed in accordance with ARTICLE 2 above to make visits when necessary, and more often if requested by the Awarding Authority, for the same purposes during the progress of that portion of the said construction to which the consultant's services relate and to report in writing thereon to the Designer; (8) report to the Awarding Authority weekly in writing on the progress of construction including whether or not the contractor is keeping record drawings; (9) recommend rejection of all project work observed by the Designer which fails to conform to the Contract Documents; (10) decide all questions regarding interpretation of or compliance with the Contract Documents, except as the Awarding Authority may in writing otherwise determine; (11) review and act on all requests for changes in plans, specifications, work, or contracts for the Project; and (12) upon written instructions from the Awarding Authority, furnish working plans and specifications for any such change.

The Designer shall be familiar with the provisions of the General Laws for payment to contractors and shall submit to the Awarding Authority all requisitions for payment submitted by the general contractor. With respect to each such requisition, he or she shall certify to the best of the Designer's knowledge that the percentage of work included in the requisition is accurate and the work performed conforms to the contract documents. In the event the Designer does not approve the requisition exactly as submitted by

the General Contractor, said Designer shall forward it for payment to the Awarding Authority dated but unsigned with an accompanying letter of explanation setting forth objections and recommended changes. The Designer shall coordinate the required weekly visit to the construction site in such a manner to be able to return to his office with the contractor's payment bearing the Designer's approval or letter of exceptions. Timely payments of general contractors is required by General Laws Chapter 30, section 39K; therefore, the Designer shall establish office procedures assuring either immediate mail or messenger delivery of the requisition for payment to the Awarding Authority, and shall process requisition for payment within forty-eight hours of receipt.

The Designer's responsibility to provide basic services for the construction phase under this agreement commences with the award of the contract for construction and terminates upon the issuance to the Awarding Authority of the final certificate of payment and the Awarding Authority's acceptance of the completed project.

The Designer will exercise the utmost care and diligence in discovering and promptly reporting to the Awarding Authority any defects or deficiencies in the work of the General Contractor or any of its subcontractors, or their agents or employees, or any other person performing any of the Work in the construction of the Project. The Designer represents that it will follow the highest professional standards in performing all services under this Agreement. Any defective Designs or Specifications furnished by the Designer will be promptly corrected by the Designer at no cost to the Awarding Authority, and the Designer will promptly reimburse the Awarding Authority for all damages, if any, resulting from the use of such defective Designs or Specifications. The Awarding Authority's approval, acceptance, use of or payment for all or any part of the Designer's services hereunder or of the Project itself shall in no way alter the Designer's obligations or the Awarding Authority's rights hereunder.

Phase 6. - Record Drawings, Reports, Calculations

Before examining the requisition for final payment submitted to the Awarding Authority by the General Contractor and making any certification in response thereto, the Designer shall obtain from the General Contractor record drawings showing the actual installation of the plumbing, heating, ventilating and electrical work under the construction contract and all variations, if any. The Designer shall ascertain by his review that changes authorized by change orders

are shown on the contractor's record drawings and on the applicable original reproducible and shall submit to the Awarding Authority the complete set as revised, which reproducible shall become the property of the Awarding Authority.

Two suitably bound legible copies of all original design and quantity calculations including those pertinent to change orders and shop drawings if applicable shall be furnished by the Designer to the Awarding Authority **together with an electronic copy** at the conclusion of the construction contract and prior to the expiration of the construction period.

As-Built Record Drawings shall be furnished to the Awarding Authority by the Designer.

ARTICLE 7: DESIGNER'S BASIC FEE

- 7.1 For the performance of all services required under the terms of this AGREEMENT and excluding those services specified under ARTICLES 8, 9 and 10, the Designer shall be compensated by the Awarding Authority in accordance with the lump sum fee for this project. The fee is a lump sum of \$156,870.00.
- 7.2 If there is a material change in the scope of services provided in this agreement, the Designer and the Awarding Authority will mutually agree to an adjustment in the Designer's Basic Fee. Delay of one year or more by the Awarding Authority plus a significant change in the estimated construction cost of the project will be considered a material change in scope of services.
- 7.3 The basic fee shall be paid to the Designer in accordance with **Attachment B** to this agreement. Billings for services shall be made monthly and shall be in proportion to the amount of work completed.

ARTICLE 8: ADDITIONAL COMPENSATION

1. With the formal written approval of the Awarding Authority, the Designer shall perform all or any of the following services in addition to the services performed pursuant to ARTICLE 6 above: (1) revising previously approved drawings, specifications or other documents to accomplish changes authorized by the Awarding Authority, and preparation of change orders related thereto; (2) preparing documents for alternate bids requested by the Awarding Authority except alternates prepared by the Designer to adjust the fixed limit

construction cost, if any; (3) providing consultation concerning replacement of any work damaged by fire or other cause during construction and furnishing professional services of the type set forth in ARTICLE 6 as may be required in connection with the replacement of such work; (4) providing services after final payment to the contractor; (5) revising working plans and specifications submitted in their final and complete form for which bids were not received within six months after submission; (6) making studies other than those normally required and preparing applications and reports to assist the Awarding Authority in obtaining federal and/or state aid; (7) preparing operating and maintenance manuals; (8) assisting the Awarding Authority in litigation arising out of the construction contract; and (9) performing any other professional services not otherwise required under this Contract.

2. For the services provided pursuant to paragraph 1 of this ARTICLE, the Designer shall be compensated by the Awarding Authority at the rates set forth in **Attachment B**.

ARTICLE 9: REIMBURSEMENT

- 9.1 The Designer shall be reimbursed by the Awarding Authority: (a) at one and one tenth (1.1) times the actual cost to the Designer of consultants hired to obtain any data in accordance with ARTICLE 3 above, provided, however, that no reimbursement for such expense shall be made unless the rates of compensation for said consultant services have been approved by the Awarding Authority or its designee, which may approve a lump sum fee; (b) at one and one tenth (1.1) times the actual cost to the Designer of special consultants not specified in ARTICLE 2, and approved by the Awarding Authority or its designee, provided, however, that no reimbursement for such expense shall be made unless the rates of compensation for said consultant services shall have been approved in writing by the Awarding Authority or its designee, which may approve a lump sum fee; (c) any other specially authorized reimbursement, including special printing; and (d) for all printing and reproduction costs.

ARTICLE 10: DESIGN FEES AND CHANGE ORDERS

- 10.1 The Designer shall be compensated in accordance with the rates specified in ARTICLE 8 for the services of its employees or any consultant listed in ARTICLE 2 for services associated with changes and change orders described in ARTICLE 8. The

Designer shall not be compensated for any services involved in preparing change orders required to make unit price adjustments due to existing conditions. Changes for which the Designer receives no compensation under this ARTICLE shall be "no fee modifications" or "no fee change orders." The fact that the Designer receives no fee shall not limit the Town's legal remedies regarding such changes.

Any services in connection with change orders and change directives which are necessitated by a lack of reasonable clarity, deficiencies or conflicts in the Construction Documents or other errors or omissions of the Designer, or which result from existing conditions encountered in the building which should have been anticipated by the Designer based on reasonable investigation of said building as required herein, shall not qualify as additional services and shall be performed within the scope of Basic Services.

- 10.2 Payments for modifications or change orders to the Designer shall be made upon completion of the Designer's work under such modifications or change orders.

ARTICLE 11: TERMINATION, NO AWARD

- 11.1 By written notice to the Designer, the Awarding Authority may terminate this contract at any time. If any such termination shall occur without the fault of the Designer, all compensation and reimbursement due to the Designer up to the date of termination, in accordance with all contract terms, shall be paid to the Designer by the Awarding Authority. Such payment shall not exceed the fair value of the work, as the Awarding Authority shall determine.
- 11.2 By written notice to the Awarding Authority, the Designer may terminate this contract (1) if the Awarding Authority, within sixty (60) days following written notice from the Designer of any default by the Awarding Authority under the AGREEMENT, shall have failed to remove such default or (2) if, after the Designer shall have performed all services required of the Designer in Phase 1, Phase 2, or Phase 3 of the Project, if applicable, at least six (6) months shall have lapsed without receipt by the Designer of Notice to Proceed with the next phase of the Project. Upon any such termination by the Designer all compensation and reimbursement payable to the Designer in accordance with the AGREEMENT up to and including the date of termination shall be paid to the Designer by the Awarding Authority.

ARTICLE 12: RELEASE AND DISCHARGE

- 12.1 The acceptance by the Designer of the last payment for services paid under the provisions of ARTICLES 11 and 12 in the event of contract termination shall in each instance operate as and be a release to the Awarding Authority, and every member or agent thereof, from all claims and liability to the Designer for payment on account of services performed or reimbursable expenses incurred under this AGREEMENT, except for those written claims submitted by the Designer to the Awarding Authority with the last payment requisition.

ARTICLE 13: NOTICES, APPROVALS, INVOICES

- 13.1 Any notice required under this contract to be given by the Awarding Authority to the Designer, or by the Designer to the Awarding Authority, shall be deemed to have been so given, whether or not received, if mailed by prepaid postage by, respectively, the Awarding Authority to the Designer at the address specified for the Designer on Page 1, or the Designer to the Awarding Authority.
- 13.2 Written approval by the Awarding Authority for Extra compensation as provided under ARTICLES 8 and 9, Reimbursements, shall be in the form of a letter issued by the Awarding Authority.
- 13.3 All invoices may be submitted monthly and subject to contract terms and proper documentation will be promptly processed by the Awarding Authority or returned to the Designer. No invoice, however, shall be required to be submitted or processed when the net amount due is less than \$100.00.
- 13.4 Invoices for services under ARTICLE 6 where such invoices pertain to design services during construction shall also describe the names, payroll titles, and dates of site visits required for construction-phase services.
- 13.5 Invoices submitted for services which have not been previously authorized in writing shall be returned to the Designer.
- 13.6 Requests for previously authorized expenses of any nature must be accompanied by a billing or receipt from the source of the expense.

ARTICLE 14: INSURANCE

- 14.1 The Designer shall at his own expense obtain and maintain a Professional Liability Insurance policy for errors, omissions or

negligent acts arising out of the performance of this AGREEMENT in a minimum amount of \$2,000,000.

- 14.2 The coverage shall be in force from the time of the agreement to the date when all construction work designed under the contract is completed and accepted by the Awarding Authority. If, however, the policy is a claims made policy, it shall remain in force for a period of six (6) years after substantial completion.

Since this insurance is normally written on a year-to-year basis, the Designer shall notify the Awarding Authority should coverage become unavailable.

- 14.3 The Designer shall, before commencing performance of this contract, provide by insurance for the payment of compensation and the furnishing of other benefits in accordance with M.G.L. c.152, as amended, to all employed under the contract and shall continue such insurance in full force and effect during the term of the contract. The Designer shall also maintain broad public liability insurance to protect against damage or injury to persons or property.

- 14.4 The Designer shall carry insurance in a sufficient amount to assure the restoration of any plans, drawings, computations, field notes or other similar data relating to the work covered by this contract in event of loss or destruction until the final fee payment is made or all data are turned over to the Awarding Authority.

- 14.5 Certificates and any and all renewals substantiating that required insurance coverage is in effect shall be filed with the Agreement. Any cancellation of insurance whether by the insurers or by the insured shall not be valid unless written notice thereof is given by the party proposing cancellation to the other party and to the Awarding Authority at least fifteen days prior to the intended effective date thereof, which date should be expressed in said notice. The Designer shall indemnify, defend, and hold the Awarding Authority harmless from and against any and all claims, demands, liabilities, actions, causes of action, costs and expenses arising out of the Designer's breach of the Agreement or the negligence or misconduct of the Designer or the Designer's agents or employees.

- 14.6 Upon request of the Designer, the Awarding Authority reserves the right to modify any conditions of this Article.

ARTICLE 15: SUPPLEMENTAL CONTRACT DATA; LEGAL REQUIREMENTS

- 15.1 The Designer hereby certifies:
- (i) if an individual, the individual is a registered architect or engineer;
 - (ii) if a partnership, a majority of all the partners are persons who are registered architects or engineers;
 - (iii) if a corporation, sole proprietorship, joint stock company or other entity, the majority of the directors or a majority of the stock ownership and the chief executive officer are persons who are registered architects or engineers, and the person to have the project in his or her charge is a registered architect or engineer;
 - (iv) if a joint venture, each joint venture satisfies the requirements of this section.
(Statutory reference: M.G.L. c.7C, §44)
- 15.2 The Designer hereby certifies that it has not given, offered or agreed to give any person, corporation or other entity any gift, contribution or offer of employment as an inducement for, or in connection with the award of this Agreement. (Statutory reference: M.G.L. c.7C, §51)
- 15.3 The Designer hereby certifies that no consultant to or subcontractor for the Designer has given, offered or agreed to give any gift, contribution or offer of employment to the Designer, or to any other person, corporation, or entity as an inducement for, or in connection with, the award to the consultant or subcontractor of a contract by the Designer. (Statutory reference: M.G.L. c.7C, §51)
- 15.4 The Designer hereby certifies that no person, corporation or other entity, other than a bona fide full-time employee of the Designer, has been retained or hired by the Designer to solicit for or in any way assist the Designer in obtaining this Agreement upon an agreement or understanding that such person, corporation or other entity be paid a fee or other consideration contingent upon the award of this Agreement to the Designer. (Statutory reference: M.G.L. c.7C §51)

15.5 The Designer hereby certifies that it has internal accounting controls as required by subsection (c) of section thirty-nine R of chapter thirty and that the

Designer filed and will continue to file an audited financial statement as required by subsection (d) of said section thirty-nine R. (Statutory reference: M.G.L. c.7C, §51)

15.6 The Designer shall maintain all books, records, and accounts related to the Project in compliance with the following:

1. The Designer shall make, and keep for at least six years after final payment, books, records, and accounts which in reasonable detail accurately and fairly reflect the transactions and dispositions of the Designer.
2. Until the expiration of six years after final payment, the Awarding Authority, the office of the inspector general and the deputy commissioner of capital planning and operations shall have the right to examine any books, documents, papers or records of the Designer or of its consultants that directly pertain to, and involve transactions relating to, the Designer or its consultants.
3. The Designer shall describe any change in the method of maintaining records or recording transactions which materially affects any statements filed with the Awarding Authority, including in the Designer's description the date of the change and reasons therefore, and shall accompany said description with a letter from the Designer's independent certified public accountant approving or otherwise commenting on the changes.
4. The Designer has filed a statement of management on internal accounting controls as set forth in Paragraph (6) below prior to the execution of this Agreement.
5. The Designer has filed prior to the execution of this Agreement and will continue to file annually, an audited financial statement for the most recent completed fiscal year as set forth in subparagraph 15.6.8 below.
6. The Designer shall file with the Awarding Authority a statement of management as to whether the system of internal accounting controls of the Designer and its subsidiaries reasonably assures that:

- (a) transactions are executed in accordance with management's general and specific authorization;
 - (b) transactions are recorded as necessary:
 - 1. to permit preparation of financial statements in conformity with generally accepted accounting principles; and
 - 2. to maintain accountability for assets;
 - (c) access to assets is permitted only in accordance with management's general or specific authorization; and
 - (d) the recorded accountability for assets is compared with existing assets at reasonable intervals and appropriate action is taken with respect to any difference.
7. The Designer shall also file annually with the Awarding Authority a statement prepared and signed by an independent certified public accountant, stating that such accountant has examined the statement of management on internal accounting controls, and expressing an opinion as to:
- (a) whether the representations of management in response to this paragraph and paragraph 15.6.6(b) above are consistent with the result of management's evaluation of the System of internal accounting controls; and
 - (b) whether such representations of management are, in addition, reasonable with respect to transactions and assets in amounts which would be material when measured in relation to the Designer's financial statements.
8. The Designer shall annually file with the Awarding Authority during the term of this Agreement a financial statement prepared by an independent certified public accountant on the basis of an audit by such accountant. The final statement filed shall include the date of final payment. All statements shall be accompanied by accountant's report.

9. Records and statements required to be made, kept or filed in compliance with the provisions of this paragraph 15.6 shall not be public records and shall not be open to public inspection, except as provided in subparagraph 15.6.2. (Statutory reference: M.G.L. c.30, §39R)
- 15.7 The Designer and its consultants shall not be compensated for any services involved in preparing changes that are required for additional work that should have been anticipated by the Designer in the preparation of bid documents, as reasonably determined by the Awarding Authority. (Statutory reference: M.G.L. c.7C, §51)
- 15.8 Life-cycle cost estimates for the Project shall be obtained at an initial stage and as a regular part of the services to be performed under this Agreement. (Statutory reference: M.G.L. c.149, §44M)
- 15.9 The Designer hereby certifies under penalties of perjury that the Designer has complied with all laws of the Commonwealth of Massachusetts relating to taxes, reporting of employees and contractors, and withholding and remitting child support. (Statutory reference: M.G.L. c.62C, §49A)

ARTICLE 16: MISCELLANEOUS PROVISIONS

- 16.1 One (1) reproducible copy of all Drawings and Specifications furnished by the Designer and all other documents prepared by the Designer shall become the property of the Awarding Authority. Ownership of the stamped drawings and specifications shall not include the Designer's certification or stamp. Any re-use of such Drawings and/or Specifications without the Designer's written verification of suitability for the specific purpose intended shall be without liability or legal exposure to the Designer or to the Designer's independent professional associates, subcontractors or consultants. Distribution or submission to meet official regulatory requirements or for other purposes in connection with the project is not to be construed as an act in derogation of the Designer's rights under this AGREEMENT.
- 16.2 This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors, assigns, and personal representatives.
- 16.3 This Agreement represents the entire agreement between the Awarding Authority and the Designer, and supersedes any prior agreements whether oral or written. This Agreement may be

amended only by written instrument executed by both the Awarding Authority and the Designer.

- 16.4 The Designer agrees that the Awarding Authority and any of its officer or employee assume no personal liability under this Agreement.
- 16.5 This Agreement shall be governed by the laws of the Commonwealth of Massachusetts.
- 16.6 In the event any provision of this Agreement shall be held to be invalid or unenforceable for any reason, such invalidity or unenforceability shall attach only to such provision and shall not affect or render invalid or unenforceable any other provision of this Agreement.

SIGNATURES

IN WITNESS WHEREOF, on the day and year hereinabove first written, the Designer has caused this agreement to be signed and sealed in its name and behalf, and its corporate seal to be hereto affixed by the signatory below authorized to do so, and the Chief Procurement Officer has signed this agreement on behalf of the Awarding Authority.

Accepted by Designer:
SPENCER, SULLIVAN & VOGT

Accepted by Awarding Authority:
TOWN OF WEST NEWBURY

By: _____

Michael P. McCarron
Chief Procurement Officer

Name: _____

Title: _____

Approved as to Form

Town Counsel

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