AGENDA

ANNOUNCEMENT OF OPEN MEETING RECORDINGS
Any person may make a video or audio recording of an open session of a meeting, or may transmit the meeting through any medium, subject to reasonable requirements of the chair as to the number, placement and operation of equipment used so as not to interfere with the conduct of the meeting. Any person intending to make such recording shall notify the Chair forthwith. All Documents and exhibits used or referenced at the meeting must be submitted in duplicate to the City Clerk, as they become part of the Meeting Minutes.

1-1 Review and Approval of the Minutes of the March 27, 2019 Regular Meeting and April 1, 2019 Special Meeting.

2-1 A Measure Authorizing Payment of $336.00 for Prior Year Employee Compensation.

2-2 An Order Appropriating $223,429.00 from Free Cash to Stabilization.

2-3 An Order Appropriating $14,895.00 from Free Cash to OPEB Liability Trust Fund.

2-4 An Order Appropriating $73,876.00 from Free Cash to School E-Rate Expenses Account.

2-5 An Order Appropriating $75,000.00 from Free Cash to Landfill Closure Budget.

2-6 An Order Appropriating $115,000.00 from Free Cash to New School Land Acquisition.

2-7 A Notice from the Gardner Contributory Retirement Board Relative to a Cost-of-living Adjustment for Retirees and Beneficiaries for FY2020.

4-1 An Ordinance to Amend the Code of the City of Gardner, Chapter 390 Thereof, Entitled “Fees,” to Change the Sealer of Weights and Measures Fee Schedule.

5-1 A Measure Authorizing Contracts Not-to-exceed Five (5) Years for Airport Consulting and Engineering Services, Generator Maintenance, Office and Janitorial Supplies, and Parking Ticket Processing.

6-1 An Order of Taking for a Parcel of Land on Pearl Street for a New Elementary School.

8-1 Executive Session Minutes Review Follow-up (Unreleased Minutes).

ADJOURNMENT
Items listed on the Agenda are those reasonably anticipated by the Chair to be discussed at the meeting. Not all items listed may in fact be discussed and other items not listed may also be brought up for discussion to the extent permitted by law.
The Finance Committee meeting was called to order by President Scott Joseph Graves at 12:00 p.m. in the City Council Chamber, Room 219, City Hall.

Finance Committee Members present were Council President Scott Joseph Graves and Councillor James Walsh. Councillor Ronald Cormier was absent.

Others participating: Purchasing Director Jennifer Dymek; City Auditor John Richard; and, City Clerk Alan Agnelli.

President Graves asked if anyone present planned to record the meeting, in accordance with the requirements of the Open Meeting Law, as follows:

Any person may make a video or audio recording of the open session of this meeting so long as it does not interfere with the conduct of the meeting. All documents and exhibits used or referenced at this meeting shall be submitted in duplicate to the City Clerk, as they become part of the minutes of the meeting. Is there anyone present who will be recording this meeting?

No one responded.

1-1 **Reading and Approval of Minutes of Prior Meeting.**

On a motion by Councillor James Walsh and seconded by President Graves, it was voted to approve the Minutes of the March 18, 2019 Meeting, as printed.

5-1 **A Measure Authorizing an Exemption for Michael Budwick under G.L. c. 268A, § 20(d), Financial Interest in a Municipal Contract, Non-elected Compensated Special Municipal Employee, Leasing and Operating the Gardner Municipal Golf Course Restaurant.**

Councillor James Walsh opened the discussion by saying that he is more concerned about the propriety of the City awarding a contract to someone who also serves on the Golf Commission, the awarding authority.

Purchasing Director Jennifer Dymek informed the Committee that the Golf Commission chose not to renew the Restaurant Lease to Zoe’s due to differences with management, so it decided in January to solicit bids. She said that the Invitation for Proposals was issued on February 15 and bids were due on March 4. Invitations were mailed to 16 local restaurants that hold liquor licenses, advertised in The Gardner News, and posted on the City’s website. Nine entities downloaded the specifications from the website; however, only seven were actual food vendors. The only Proposal was submitted by Mr. Budwick, an owner of the Gardner Ten Pins, whose bid package was opened on March 4, 2019 at 2:00 p.m. She added that he downloaded the bid specs on the 4th.

Councillor Walsh questioned whether there was anything unusual about the specifications.

Ms. Dymek stated that the City requests that the lessee maintain the equipment and that the rent is $2,000.00. She added that in the past year, the restaurant operation lost
money and that the rent charged to Zoe’s was only $1.00 per year for the last 2 years and that Zoe’s had a 1-Year Lease with an option for two additional years.

President Graves added that the City is fortunate to have at least one business interested in operating the Golf Course Restaurant.

Councillor Walsh reiterated his concern that someone in a supervisory position at the Golf Course bid on a contract that would earn income from something that he would also oversee.

President Graves noted that the Golf Commission’s designation as Special Municipal Employees would permit such an arrangement.

Councillor Walsh stated that he was not suggesting that Mr. Budwick is legally prohibited from operating the restaurant, but that he concerned about the wisdom of Mr. Budwick, a Golf Commissioner, becoming the lessee.

President Graves stated that he does not see any mischief involved, since there was only a single bidder. He said that Mr. Budwick is reputable, experienced, and that recent history showed that the lessee has not made any money operating the restaurant.

Councillor Walsh expressed interest in how it came about that Mr. Budwick filed his bid only 5 minutes before the deadline.

Ms. Dymek informed the Committee that the restaurant is scheduled to be operating by April 1.

President Graves said that he hopes that the City will not lose Mr. Budwick due to a delay in the Council’s decision.

Councillor Walsh suggested that the Committee postpone a decision and that a special meeting be scheduled for Monday, April 1, 2019 at 7:00 p.m.

On a motion by Councillor James Walsh and seconded by President Graves, it was voted to schedule a special meeting for Monday at 7:00 p.m. and that the Mayor, Jeff Gallant, Chairman of the Golf Commission, and Mr. Budwick be requested to attend.

8-1 Review and Discussion of Disclosure of the Minutes of Executive Sessions.

President Graves stated that he addressed the contents of the Minutes of the various Executive Sessions with City Solicitor John Flick and that he [Graves] concluded that all but two sets of Minutes should be released. He noted that the purposes for which the Executive Sessions were held no longer apply and, therefore, should be released. He added that the two sets of Minutes that should not be released involve active litigation and a confidential personnel matter.
On a motion by Councillor James Walsh and seconded by President Graves, it was voted to release the Finance Committee Executive Session Minutes of March 13, 2008; April 14, 2011; August 1, 2011; and, August 28, 2013, and to recommend to the City Council that the following City Council Executive Session Minutes be released:

<table>
<thead>
<tr>
<th>MEETING DATE</th>
<th>SUMMARY</th>
</tr>
</thead>
<tbody>
<tr>
<td>14 February 1977</td>
<td>Potential Litigation (James Stellato, 43 Summit Avenue, Zoning)</td>
</tr>
<tr>
<td>11 April 1977</td>
<td>Union Grievance (Patrolman Richard LaBonte)</td>
</tr>
<tr>
<td>1 June 1987</td>
<td>Litigation (Marie Suchocki, Former Building Department Clerk)</td>
</tr>
<tr>
<td>5 July 1988</td>
<td>Litigation (CS Appeal, Police Director Richard Gemborys)</td>
</tr>
<tr>
<td>6 September 1988</td>
<td>Public Safety Deployment (Special Police Officers/Regional Drug Task Force)</td>
</tr>
<tr>
<td>20 November 1989</td>
<td>Public Safety Deployment (Special Police Officers/Regional Drug Task Force)</td>
</tr>
<tr>
<td>18 December 1989</td>
<td>Public Safety Deployment (Special Police Officers/Regional Drug Task Force)</td>
</tr>
<tr>
<td>5 March 1990</td>
<td>Litigation (Police positions); Labor Contracts</td>
</tr>
<tr>
<td>5 November 1990</td>
<td>Public Safety Deployment (Special Police Officers/Regional Drug Task Force)</td>
</tr>
<tr>
<td>17 December 1990</td>
<td>Real Estate Acquisition (Golf Course, 80 acre parcel off Green and Eaton Streets)</td>
</tr>
<tr>
<td>22 January 1991</td>
<td>Real Estate Acquisition (Golf Course, 80 acre parcel off Green and Eaton Streets)</td>
</tr>
<tr>
<td>20 June 1991</td>
<td>Litigation (CS Appeal, Police Director Richard Gemborys)</td>
</tr>
<tr>
<td>12 August 1991</td>
<td>Litigation (CS Appeal, Police Director Richard Gemborys)</td>
</tr>
<tr>
<td>16 September 1991</td>
<td>Litigation (CS Appeal, Police Director Richard Gemborys)</td>
</tr>
<tr>
<td>3 February 1992</td>
<td>Pending Litigation (40 active cases)</td>
</tr>
<tr>
<td>17 March 2008</td>
<td>Pending Litigation (School Energy Contracts)</td>
</tr>
<tr>
<td>5 May 2008</td>
<td>Pending Litigation (School Energy Contracts)</td>
</tr>
<tr>
<td>19 April 2011</td>
<td>Potential Litigation (Lisciotti Development, 354 Main Street retaining wall)</td>
</tr>
<tr>
<td>1 August 2011</td>
<td>Real Estate Disposal (W. Lynde Street North and South Parking lots)</td>
</tr>
<tr>
<td>6 February 2012</td>
<td>Real Estate Disposal (W. Lynde Street North and South Parking lots)</td>
</tr>
<tr>
<td>15 October 2012</td>
<td>Real Estate Disposal (W. Lynde Street North Parking lot and Rolla Parcel/Rear Main St)</td>
</tr>
<tr>
<td>3 September 2013</td>
<td>Pending Litigation (94 Pleasant Street; 34-36 Graham Street Tax Titles)</td>
</tr>
<tr>
<td>20 January 2015</td>
<td>Pending Litigation (Multiple Insurance (MIIA) cases)</td>
</tr>
<tr>
<td>6 July 2015</td>
<td>Real Estate Acquisition (Former Cinema, 32 Parker Street; Maki Block, 57-67 Parker St)</td>
</tr>
</tbody>
</table>

**ADJOURNMENT**

On a motion by Councillor James Walsh and seconded by President Scott Graves, it was voted to adjourn at 12:22 p.m.
The Finance Committee meeting was called to order by President Scott Joseph Graves at 7:00 p.m. in the City Council Chamber, Room 219, City Hall.

Finance Committee Members present were Council President Scott Joseph Graves and Councillor James Walsh. Councillor Ronald Cormier was absent.

Others participating: Mayor Mark Hawke; Golf Commission Chairman Jeffrey Gallant; Golf Commissioner Michael Budwick; and, City Clerk Alan Agnelli.

President Graves asked if anyone present planned to record the meeting, in accordance with the requirements of the Open Meeting Law, as follows:

*Any person may make a video or audio recording of the open session of this meeting so long as it does not interfere with the conduct of the meeting. All documents and exhibits used or referenced at this meeting shall be submitted in duplicate to the City Clerk, as they become part of the minutes of the meeting. Is there anyone present who will be recording this meeting?*

No one responded.

**A Measure Authorizing an Exemption for Michael Budwick under G.L. c. 268A, § 20(d). Financial Interest in a Municipal Contract, Non-elected Compensated Special Municipal Employee, Leasing and Operating the Gardner Municipal Golf Course Restaurant.**

President Graves opened the discussion by outlining the bid process that Purchasing Director Jennifer Dymek explained to the Finance Committee at its recent meeting.

Councillor James Walsh stated that Ms. Dymek informed the Finance Committee that Mr. Budwick downloaded the bid specifications only ten minutes prior to the bid deadline. He asked how it came about that Mr. Budwick filed a bid at the last minute.

Mr. Budwick informed the Committee that he was aware that no entity was submitting a bid, so he submitted a bid in order to keep open the Restaurant. He said that he would offer a quick service menu and that he already holds a full liquor license at the Gardner Ten Pins.

Mayor Hawke stated that he inquired with the City Solicitor and the State Ethics Commission and was advised that Mr. Budwick would be eligible to hold the second contract, since Golf Course Commissioners are classified as Special Municipal Employees, and that the Council could grant an exemption under G.L. c. 268A, § 20(d).

President Graves stated that he’s heard only good things about Mr. Budwick and that under the circumstances, he couldn’t see Mr. Budwick doing anything unseemly.

Councillor Walsh said that he sees a potential problem with the appearance of a conflict, since the restaurant’s operator [Budwick] may realize a profit.

Mayor Hawke noted that if Mr. Budwick did not submit a bid, then the City would have to re-bid the Lease, which would delay the restaurant’s opening after the golf season opens, or that it might not open at all.
Golf Commission Chairman Jeffrey Gallant informed the Committee that Zoe's held the Lease for that last five years and that the Golf Commission decided not to renew the Lease for another year.

On questioning by Councillor Walsh, Mr. Gallant stated that he is comfortable with a Golf Commission member operating the restaurant. He added that the Commission took no action with respect to the issue.

President Graves noted that the former Lessee paid only $1.00 per year, while Mr. Budwick is expected to pay $2,000.00.

Mr. Gallant explained that the former Lessee paid for repairs to the restaurant’s equipment, so the Lease payment was set at $1.00.

Councillor Walsh noted that the seasonal alcohol license would have to be transferred from the current holder to Mr. Budwick.

Mr. Budwick stated that his food and alcohol license applications are pending, as he was awaiting approval of the Exemption by the City Council.

On a motion by Councillor James Walsh and seconded by President Graves, it was voted to recommend to the City Council approve an Exemption pursuant to G.L. c. 268A, § 20(d) in the Matter of a Financial Interest of Golf Commissioner Michael Budwick, a Special Municipal Employee, for a Contract to Lease and Operate the Restaurant at the Gardner Municipal Golf Course.

**NEW BUSINESS**

**Montachusett Regional Vocational School District FY2020 Budget.**

Mayor Hawke presented a measure disapproving the Montachusett Regional Vocational School District Fiscal Year 2020 Operating and Maintenance Budget, as adopted by the Montachusett Regional Vocational District School Committee on March 6, 2019, as allowed by Section 5(C) of the District Agreement. He cited the details in his letter and noted that the Council passed legislation in 2018 disapproving the FY2019 Monty Tech Budget.

On a motion by Councillor James Walsh and seconded by President Graves, it was voted to recommend to the City Council disapprove the Montachusett Regional Vocational School District Fiscal Year 2020 Operating and Maintenance Budget, as adopted by the Montachusett Regional Vocational District School Committee on March 6, 2019, as allowed by Section 5(C) of the District Agreement.

**ADJOURNMENT**

On a motion by Councillor James Walsh and seconded by President Scott Graves, it was voted to adjourn at 7:16 p.m.
VOTE TO DISAPPROVE THE MONTY TECH OPERATING AND MAINTENANCE BUDGET FOR THE 2020 FISCAL YEAR

VOTE: The City Council of the City of Gardner hereby votes to disapprove of the 2020 Fiscal Year Operating and Maintenance Budget for the Montachusett Regional Vocational School District, as voted on by the District School Committee on March 6, 2019, as allowed by Section 5(C) of the District Agreement.
April 1, 2019

Atty. Scott J. Graves, President
And Members of the City Council
Gardner City Hall
95 Pleasant St., Rm 121
Gardner, MA 01440

RE: Montachusett Regional Vocational Technical School Budget

Dear President Graves,

The Montachusett Regional Vocational Technical (Monty Tech) School Committee has voted to set Gardner’s assessment at $1,189,713. This is an increase of $126,270 from this current fiscal year.

I am asking the City Council to vote to NOT ACCEPT the Monty Tech School Budget, as allowed under Section V(C) of the Monty Tech District Agreement, which allows local appropriating authorities to vote to approve the budget or not. If less than two-thirds of the member municipalities vote to accept the proposed budget, the District Committee will be required to go back and re-configure the budget until one is passed under the provisions of Section V(C).

Through the Chapter 70 formula, from FY 18 to FY 20 (see attached), Monty Tech will be receiving an additional $1,351,300 from the state. Over that same time period the Gardner Public Schools will see $615,779 or about 45% of the increase that Monty Tech will realize all while having over 1,000 fewer students than Gardner Public Schools.

Monty Tech has no user fees for sports, while we are struggling to maintain all of our varsity athletic teams due to cost even with our user fees. The Monty Tech budget sets aside $40,000 into their own stabilization account. Monty Tech is once again increasing their budget over Net School Spending by $268,866 when their FY18 Excess & Deficiency was recently certified at $1,109,897.

While I fully support both of our schools, I cannot in good conscience fund one far more than the other. I expect Monty Tech to maintain a Net School Spending budget until such time as the Gardner Public Schools receive the same level of funding.

Sincerely,

Mark P. Hawke
Mayor

City Hall, 95 Pleasant Street, Room 125, Gardner, Massachusetts 01440
Telephone: (978) 630-1490 • Facsimile (978) 630-3778 • Email: mayor@gardner-ma.gov
<table>
<thead>
<tr>
<th></th>
<th>Monty Tech</th>
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<tr>
<td></td>
<td>FY18</td>
<td>FY19</td>
<td>FY20</td>
</tr>
<tr>
<td><strong>Receipts</strong></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Chapter 70</td>
<td>$14,144,811.00</td>
<td>$14,733,748.00</td>
<td>$15,279,154.00</td>
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<tr>
<td>Regional Transportation</td>
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<td>$1,275,529.00</td>
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<td>Charter Tuition Reimbursements</td>
<td>$ -</td>
<td>$ -</td>
<td>$ -</td>
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<tr>
<td>School Choice Receiving Tuitions</td>
<td>$77,200.00</td>
<td>$70,919.00</td>
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<td><strong>Total Receipts</strong></td>
<td>$15,449,591.00</td>
<td>$16,080,196.00</td>
<td>$16,740,219.00</td>
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<tr>
<td><strong>Charges</strong></td>
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<td></td>
<td></td>
</tr>
<tr>
<td>Special Education</td>
<td>$ -</td>
<td>$ -</td>
<td>$ -</td>
</tr>
<tr>
<td>School Choice Sending</td>
<td>$343,079.00</td>
<td>$282,407.00</td>
<td>282,407.00 FY20 estimated</td>
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<tr>
<td>Charter School Sending</td>
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<td>$ -</td>
<td>$ -</td>
</tr>
<tr>
<td><strong>Total Charges</strong></td>
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<td>$282,407.00</td>
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<tr>
<td><strong>Receipts net of charges</strong></td>
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<td><strong>Change over prior year</strong></td>
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<td>$660,023.00</td>
<td>$1,351,300.00</td>
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<table>
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<tr>
<td></td>
<td>FY18</td>
<td>FY19</td>
<td>FY20</td>
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<tr>
<td><strong>Receipts</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Chapter 70</td>
<td>$19,521,864.00</td>
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<td>Charter Tuition Reimbursements</td>
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<td>$97,610.00</td>
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<td>$547,531.00</td>
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<td><strong>Total Receipts</strong></td>
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<tr>
<td><strong>Charges</strong></td>
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<td></td>
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<td>Special Education</td>
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<td>$1,782,712.00</td>
<td>$1,774,590.00</td>
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<td>Charter School Sending</td>
<td>$247,254.00</td>
<td>$332,971.00</td>
<td>$313,044.00</td>
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<tr>
<td><strong>Total Charges</strong></td>
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<td>$2,115,683.00</td>
<td>$2,090,963.00</td>
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<tr>
<td><strong>Receipts net of charges</strong></td>
<td>$18,379,322.00</td>
<td>$18,254,662.00</td>
<td>$18,995,101.00</td>
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<tr>
<td><strong>Change over prior year</strong></td>
<td>$(124,660.00)</td>
<td>$740,439.00</td>
<td>$615,779.00</td>
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</tbody>
</table>
AUTHORIZING PAYMENT OF PRIOR YEAR'S COMPENSATION TO EMPLOYEE

VOTED: To authorize the City to pay compensation to an out of town officer for a detail performed in 2016 for an 8 hour shift at $42.00 per hour for a total of $336.00 from the Police Detail Account.
Mr. Mayor:

Recently we were contacted by an out of town officer who worked a detail back in 2016 but was never compensated. He worked before he received or completed his paperwork and then never completed all of it – so he was never entered into the payroll and the detail voucher was never processed with payroll. He has now completed all of his paperwork and we need to pay him for this detail. Below is John’s calculation of pay based on the hours he worked and the detail rate at the time ($42.00). John has informed me that we need to obtain an appropriation for this payment and therefore have to go to the City Council. This email is my formal request that you put up this appropriation.

8hr *$42= $336.00

Thank you.

Debra Pond
Director of Human Resources
City of Gardner
95 Pleasant Street, Rm. 14
Gardner, MA 01440
dpond@gardner-ma.gov
Tel: (978) 630-4001
Cell: (978) 870-8483
Fax: (978) 630-4025
AN ORDER APPROPRIATING FROM FREE CASH TO STABILIZATION.

ORDERED:

That there be and is hereby appropriated the sum of Two Hundred Twenty-Three Thousand Four Hundred Twenty Nine Dollars and No Cents ($223,429.00) from Free Cash to Stabilization.
April 2, 2019

Attorney Scott J. Graves, President
And City Councilors
95 Pleasant Street
Gardner, MA 01440

RF: Free Cash to Stabilization

Dear President Graves and Councilors,

As you are aware, the City’s Free Cash was certified at $1,489,526. Healthy Free Cash certifications are appropriate in the range of 3-5 percent of annual revenue. Using round numbers, the City has annual revenue of approximately $60,000,000. Therefore, Free Cash should range from $1,800,000 - $3,000,000. This year’s Free Cash is approximately 2.5% of our annual revenue.

The City’s Stabilization Fund should maintain a balance of 5-7 percent of annual revenue, as was cited in the Department of Revenue’s 2008 Financial Management Review of the City. Therefore, the City’s Stabilization Fund should hold $3,000,000 - $4,200,000. Currently, the Stabilization Fund stands at $2,044,868. We have aggressively built up our Stabilization Fund over the past twelve (12) years from a 2007 level of $269,362. We did this by initially adopting an informal policy of transferring 20% of certified Free Cash to stabilization. We reduced that percentage five (5) years ago and three (3) years ago we dropped it again to 5%. Given the fact that we utilized just over $600,000 last fiscal year to stabilize the school budget, we must now look to replenish this vital account.

This year I am seeking 1.5% or $223,428, be appropriated to our Stabilization Fund. This would raise the Stabilization Fund to $2,268,296 or approximately 3.8% of annual revenue.

We have been cited repeatedly by the bond rating agencies for our strong financial performance and efforts to increase our reserves. I am comfortable with a 1.5% appropriation at this time as we are continuing to make positive efforts to improve our financial standing.

Respectfully,

Mark Hawke
Mayor, City of Gardner

City Hall, 95 Pleasant Street, Room 125, Gardner, Massachusetts 01440
Telephone: (978) 630-1490 • Facsimile (978) 630-3778 • Email: mayor@gardner-ma.gov
AN ORDER APPROPRIATING FROM FREE CASH TO THE OTHER POST-EMPLOYMENT BENEFITS LIABILITY TRUST FUND.

ORDERED:

That there be and is hereby appropriated the sum of Fourteen Thousand Eight Hundred Ninety Six Dollars and No Cents ($14,896.00) from Free Cash to the Other Post-Employment Benefits Liability Trust Fund.
April 2, 2019

Attorney Scott J. Graves, President
And City Councilors
95 Pleasant Street
Gardner, MA 01440

RE: Free Cash to OPEB Trust Fund

Dear President Graves and Councilors,

In accordance with our policy, I seek to transfer $14,895 from Free Cash to OPEB Liability Trust Fund. By way of a brief refresher I offer the following points:

- OPEB stands for Other Post-Employment Benefits and consists almost entirely of retiree's health insurance obligations.

- Our OPEB liability, in accordance with the Government Accounting Standards Board (GASB) 45, is now carried on our financial statements.

- The City's OPEB liability is roughly $92,000,000.

- The City Council unanimously adopted MGL Ch. 32B, section 20 on December 19, 2016.

- Also on December 19, 2016, the City Council voted unanimously to transfer an amount equal to 1% of certified Free Cash, or $24,365 into the OPEB Liability Trust Fund.

- The only negative factor cited on our last bond rating of February 26, 2014 was in regard to our benefits liabilities.

By having a policy and funding plan in place to address our OPEB liability, we positively affect our bond rating, and we will also be reducing our financial obligations for future generations.

Respectfully,

Mark Hawke
Mayor, City of Gardner

City Hall, 95 Pleasant Street, Room 125, Gardner, Massachusetts 01440
Telephone: (978) 630-1490 • Facsimile (978) 630-3778 • Email: mayor@gardner-ma.gov
AN ORDER APPROPRIATING FROM FREE CASH TO THE SCHOOL E-RATE EXPENSES ACCOUNT.

ORDERED:

That there be and is hereby appropriated the sum of Seventy Three Thousand Eight Hundred Seventy-Six Dollars and No Cents ($73,876.00) from Free Cash to the School E-Rate Expenses Account.
City of Gardner, Executive Department

Mark Hawke, Mayor

April 2, 2019

Attorney Scott J. Graves, President
And City Councilors
95 Pleasant Street
Gardner, MA 01440

RF: Free Cash to School E-Rate Expenses

Dear President Graves and Councilors,

E-rate is a federal reimbursement program for connectivity in our schools. Funding is derived from the FCC Fee or Federal Universal Service Fee that you find on your phone bill. The program funds things like Wide Area Networks, Internet, fiber, network switches, caching, wiring, wireless LAN controllers, switches, routers and wireless access points. Funding from this program is based on percentage of students eligible for the Free/Reduced School Lunch program and urban/rural status.

The amount of $73,876 was realized from this program by the school department. These funds fell to Free Cash, but are needed to pay current year bills.

To rectify this going forward, we have created an E-rate revenue account with a correlating increase in school funding in the FY 2020 Budget. This will allow us to account for the revenue and utilize the funds received to pay current year (FY20) bills.

Respectfully,

Mark Hawke
Mayor, City of Gardner
September 18, 2018

Mr. Mark Hawke, Mayor
Gardner City Hall
95 Pleasant Street
Gardner, MA 01440

Dear Mayor Hawke,

The E-rate program reimburses school districts for certain expenses related to telecommunication in the schools. The reimbursement is deposited in the City’s free cash account. Certain expenses are paid from the School Department’s budget lines and must be supported by the reimbursements.

Please have this year’s reimbursement of $73,876.06 recorded as the FY19 budget for account 13960 - 56800 – 37000, E-Rate Expenses.

The City Auditor is waiting for your sign – off to make the adjustment.

Thank you for your support.

Sincerely,

April Yu

Cc: Mark Pellegrino, Superintendent
    Bob O’Keefe, Director of Technology
AN ORDER APPROPRIATING FROM FREE CASH TO LANDFILL CLOSURE BUDGET.

ORDERED:

That there be and is hereby appropriated the sum of Seventy-five Thousand Dollars and No Cents ($75,000.00) from Free Cash to Landfill Closure Budget.
City of Gardner, Executive Department

Mark Hawke, Mayor

April 2, 2019

Attorney Scott J. Graves, President
And City Councilors
95 Pleasant Street
Gardner, MA 01440

RE: Free Cash to Landfill Closure

Dear President Graves and Councilors,

The City is obligated to maintain and monitor the former West Street Landfill for a period thirty (30) years from the date of closure. The West Street Landfill closed in 2005.

The fund that was previously set up to maintain and monitor the former landfill will be all but exhausted by the end of this fiscal year. In order to maintain and monitor the landfill going forward, I am requesting the transfer of $75,000 from Free Cash to the Landfill Closure Fund.

I anticipate this will be an annual request to replenish the account. We anticipate the cost to maintain and monitor the former landfill will be approximately $50,000 a year. By adding $75,000 each year for the next thirteen (13) years, we anticipate we will be able to re-establish a small cushion for the fund. I’ve included a sample spreadsheet to show the anticipated appropriations and expenses.

Respectfully,

Mark Hawke
Mayor, City of Gardner
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*2 1/2% annual increase
AN ORDER APPROPRIATING FROM FREE CASH TO NEW SCHOOL LAND ACQUISITION.

ORDERED:

That there be and is hereby appropriated the sum of One Hundred Fifteen Thousand Dollars and No Cents ($115,000.00) from Free Cash to New School Land Acquisition.
City of Gardner, Executive Department

Mark Hawke, Mayor

April 2, 2019

Attorney Scott J. Graves, President
And City Councilors
95 Pleasant Street
Gardner, MA 01440

RE: Free Cash to New School Land Acquisition

Dear President Graves and Councilors,

We have successfully negotiated a Purchase & Sales agreement for the School Building Committee’s, and Gardner School Committee’s, parcel of choice for Gardner’s new elementary school. The attached documents will show a purchase price of $115,000 for the property owned by Karen & Alice Kymalainen on Pearl Street, Assessors Map ID W27/11/3.

The assessed value of the property is $80,000 (Assessors sheet attached). The appraised value of the property is $115,000 (Appraisal summary page attached). Test borings were performed on the site and have come back satisfactorily. A Phase I 21 E environmental assessment has been performed on the site and “The site does not possess any attributes defined as environmental concerns.” (The Phase I Environmental Site Assessment report, sans exhibits, is attached). The taking documents as prepared by the City Solicitor are also attached.

I am seeking an appropriation of $115,000 from Free Cash to cover the cost of acquisition of the Kymalainen property on Pearl Street.

Respectfully,

Mark Hawke
Mayor, City of Gardner
### CURRENT OWNER

**KYMALAINEN KAREN & ALICE M TRST**  
**KYMALAINEN REALTY TRUST**  
**117 ADALIA AVE**

### TOPO

**SUPPLEMENTAL DATA**

At Prcl ID  
Sub-Div  
Plt  
Sec  
Ward  
Pc  
Assoc Plt#  

**GIS ID** M_161284_925960

### RECORD OF OWNERSHIP

**BK-VOL/PAGE** 16652 0237  
**SALE DATE** 01-31-1995  
**QU VII** U V  
**SALE PRICE** 1  
**VC** 0  

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### OTHER ASSESSMENTS

**APPRaised VALUE SUMMARY**

- Appraised Bldg. Value (Card): 0
- Appraised Xf (B) Value (Bldg): 0
- Appraised Ob (B) Value (Bldg): 0
- Appraised Land Value (Bldg): 80,000
- Special Land Value: 0
- Total Appraised Parcel Value: 80,000

### ASSESSING NEIGHBORHOOD

- Nbhd: 0001
- Nbhd Name: B
- Tracing: Batch

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<th>Cond.</th>
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Total Card Land Units: 17.337  
Parcel Total Land Area: 17.3374  
Total Land Value: 80,000
## CONSTRUCTION DETAIL

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- No Sketch

### OUTBUILDING & YARD ITEMS

### BUILDING EXTRA FEATURES

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### BUILDING SUB-AREA SUMMARY SECTION

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| Till Gross Liv/Lease Area | 0 | 0 | 0 | 0 |
Mark P. Hawke  
Mayor, City of Gardner  
Gardner City Hall  
95 Pleasant Street  
Gardner, MA 01440

Re: 17.34+/- Acres, Gardner, MA

Dear Mayor Hawke:

In accordance with your request for an estimate of the market value of the real estate consisting of 17.34+/- acres of land located at Pearl Street, Gardner, Massachusetts, owned by Kymalainen Realty Trust, we have examined the property and submit herewith our appraisal.

The following is our appraisal report which describes our method of approach and sets forth a description of the property, together with an analysis of data and the reasoning underlying the conclusions derived in our investigation. The term self-contained report is no longer in effect as of the 2014-2015 Edition of the Uniform Standards of Professional Appraisal Practice. The level of detail contained within this report is consistent with the type of report formerly labeled as self-contained. We hereby certify that we have no present or future contemplated interest herein, and that our employment in making this appraisal is in no way contingent on the amount of our valuation.

This appraisal report has been prepared for the exclusive benefit of the client and intended user, the City of Gardner. It conforms to State “EOEA Specifications for Analytical Narrative Appraisal Reports” and the Uniform Standards of Professional Appraisal Practice 2018-2019 edition. It may not be used or relied upon by any other party. Any party who uses or relies upon any information in this report, without the preparer’s written consent, does so at his own risk.

After applying the methods and techniques recommended by the Appraisal Institute and after analyzing the data presented herein, it is our opinion that the market value of the subject property herein described as of January 23, 2019, is:

17.34+/- ACRES:  
ONE HUNDRED FIFTEEN THOUSAND DOLLARS - $115,000

This opinion is subject to the assumptions, contingencies and limitations as set forth in the following report.

Very truly yours,

FOSTER APPRAISAL & CONSULTING CO., INC.

[Signature]

Kenneth J. Croft III, Esq.  
MA Certified General Appraiser #3579
PHASE I ENVIRONMENTAL SITE ASSESSMENT

Pearl Street
Gardner, Massachusetts 01440

Prepared for:

Jones Whitsett Architects
308 Main Street, 3rd floor
Greenfield, MA 01301

Prepared by:

Sovereign Consulting Inc.
4 Open Square Way, Suite 307
Holyoke, Massachusetts 01040

March 26, 2019

Project Number: MW138.001
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ATTACHMENTS

Attachment A   Résumes
Attachment B   ASTM E1527-13 Phase I AAI Environmental Questionnaire
Attachment C   Aerial Photographs & Topographic Maps
Attachment D   Sanborn Maps
Attachment E   Site Photographs
Attachment F   EDR Environmental Database Report
1.0 INTRODUCTION

1.1 Scope of Work

Sovereign Consulting Inc. (Sovereign) is pleased to present the findings of a Phase I Environmental Site Assessment (Phase I ESA) in conformance with ASTM E1527-13, completed for the property identified by the City of Gardner, Massachusetts assessor’s office as parcel; W27-11-3 in Gardner, Massachusetts herein define as the Site.

The Scope of Work (SOW) for this ESA meets or exceeds the American Society of Testing and Materials (ASTM) E1527-13 Standard Practices for Environmental Site Assessments: Phase I Environmental Site Assessment Process and in accordance with the proposal executed between Jones Whitsett Architects and Sovereign on March 5, 2019. ASTM E1527-13 was officially recognized by the United States Environmental Protection Agency (USEPA) on December 30, 2013, as acceptable for Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) liability protection under the All Appropriate Inquiry (AAI) rule (40 Code of Federal Regulations [CFR] Part 312).

This Phase I ESA was completed in conformance with the ASTM E1527-13 in order to identify any recognized environmental conditions (RECs), controlled RECs (CRECs), historical RECs (HRECs), or Business Environmental Risks (BERs) at the Site. These terms are defined by ASTM E1527-13 as follows:

- **REC**: The presence or likely presence of any hazardous substance or petroleum products in, on, or at a property: (1) due to release to the environment, (2) under conditions indicative of a release to the environment, or (3) under conditions that pose a material threat of a future release to the environment.
- **CREC**: A REC resulting from the past release of hazardous substances or petroleum products that has been addressed to the satisfaction of the applicable regulatory authority with hazardous substances or petroleum products allowed to remain in place subject to the implementation of required controls.
- **HREC**: A past release of any hazardous substance or petroleum product that has occurred in connection with the property and has been addressed to the satisfaction of the applicable regulatory authority or meeting unrestricted use criteria established by a regulatory authority, without subjecting the property to any required controls.
- **BER**: A risk which can have a material environmental or environmentally-driven impact on the business associated with the current or planned use of a parcel of commercial real estate, not necessarily limited to those environmental issues required to be investigated by ASTM E1527-13.
RECs are not intended to include de minimis conditions that generally do not present a threat to human health or the environment and that generally would not be subject of an enforcement action if brought to the attention of the appropriate governmental agencies.

The scope of services for the project included the following:

- Search and review of reasonably available federal, state, and local government agency environmental records and databases;
- Preparation of Public Right-to-Know (RTW) request correspondence for local, county, and state government agencies;
- A review of available information regarding the physical setting of the Site, including the current USGS 7.5 minute topographic map; soil survey, and published geology and groundwater information;
- Review of available historic aerial photographs;
- Review of tax and property records, building permits, as-built drawings and other pertinent and readily available local records;
- Review of historic and current topographic maps;
- Review of historic Sanborn® Fire Insurance Maps (if available);
- Review of historic city directories;
- Performance of a Site inspection and local area survey;
- Interview(s) with individuals with knowledge of the Site history and operations;
- Identification of any data gaps as required by ASTM E1527-13; and
- Preparation of a Phase I ESA Report.

The ESA activities described herein were conducted in accordance with generally accepted standards, practices and procedures (expressed or implied) in effect at the time of the project, relative to the Innocent Landowner Defense (as defined under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) 42 USC Section 9601, et. seq.). Several individuals were contacted for information about the subject site and surrounding area. Relevant information was also obtained from published sources (Referenced in Section 6.0). Sovereign understands that Jones Whitsett has relied upon Sovereign to properly complete this assessment. The project was completed by qualified Environmental Professionals, and their resumes are included as Attachment A. Any representation or information derived from persons or entities hired or employed by Sovereign to assist in this ESA are specifically made by Sovereign, and Jones Whitsett shall be entitled to rely thereon as though such representations and information were actually made by Sovereign.

This Phase I ESA was performed in accordance with the procedures included in ASTM standard E-1527-13: Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process. This Phase I ESA was completed as part of an investigation of future school locations and use of the subject site for the Gardner School System.
1.2 Site Description

A Site Location Map is presented as Figure 1. A Site Plan for this assessment illustrating pertinent site features including the site boundary and historical site features, if any, is presented as Figure 2. A MassDEP Phase 1 Site Assessment Map is included as Figure 3 illustrating surrounding land use, floodplains, protected open space, and drinking water source areas.

1.3 Significant Assumptions

Information obtained regarding the site was made available from reasonably attainable sources including local officials at various municipal offices and state departments, through interviews, records maintained, and a person or persons knowledgeable about the site operations and activities, and are therefore assumed to be reliable and accurate. Technical information was obtained from maps and other published documents.

1.4 User Reliance

This Phase I ESA has been prepared for the use of Jones Whitsett Architects. With the exception of release to any third party by Sovereign or the Client, reliance on this report is for informational purposes only. Sovereign makes no warranties to person(s) or entity(ies) other than the Client and other listed above to rely on the information provided in this report. Any person(s) or entity(ies) wishing to use this information shall do so with the written permission of Sovereign and the contract for which it is intended. Prior approval from Sovereign is required for disclosure of information obtained in this report.

Continued viability of this report is subject to ASTM E 1527-13 Sections 4.6 and 4.8. If the Phase I ESA will be used by a different user (third party) than the user for whom the Phase I ESA was originally prepared, the third party must also satisfy the user’s responsibilities in Section 6 of ASTM E 1527-13.

1.5 Additional Inquiries

Mark P. Hawke, Mayor of the City of Gardner, completed the User Questionnaire to obtain information regarding:

1. Whether a search has been made for environmental liens or any activity use limitations against the site and/or whether the User is aware of any such documents recorded.

2. Whether any specialized knowledge or any relevant experience qualifies the User to identify conditions indicating releases or potential releases at the site and/or adjoining properties.
3. Whether the purchase price reflects the fair market value of the property, and if not, whether it is based on known or potential contamination at the site.

4. Whether commonly or reasonably ascertainable information about the site has been taken into consideration.

5. Whether any obvious signs or evidence of contamination has been encountered while collecting information about the site for the purposes of the Phase I ESA.

ASTM E-1527-13 specifies these additional inquiries as the User's responsibilities. Sovereign relies on the accuracy and completeness of the property owner’s decision to provide the above information as put forth in the questionnaire. Accordingly, Mr. Hawke, completed an environmental questionnaire with information to the best of his knowledge.

1. **Environmental Cleanup Liens.** Are you aware of any environmental cleanup liens against the property that are filed or recorded under federal, tribal, state, or local law?

   **Response:** No.

2. **Activity and Land Use Limitations.** Are you aware of any activity and use limitations, such as engineering controls, land use restrictions, or institutional controls that are in place at the property and/or have been filed or recorded as applicable to the property as a result of environmental contamination, investigation, cleanup or related matters?

   **Response:** No.

3. **Specialized Knowledge or Experience.** As the User of this ESA, do you have any specialized knowledge or experience related to the property or nearby properties? For example, are you involved in the same line of business as the current or former occupants of the property or an adjoining property, such that you would have specialized knowledge about chemicals and processes used by this type of business?

   **Response:** No.

4. **Relationship of Purchase Price to Fair Market Value of Property.** Does the purchase price being paid for this property reasonably reflect the fair market value of the property? If you conclude that there is a difference, do you have any reason to believe that the reduced purchase price may be related to contamination known or believed to be present at the property?

   **Response:** No.

5. **Commonly Known or Reasonable Ascertainable Information.** Are you aware of commonly known or reasonably ascertainable information about the property that would help the Environmental Professional to identify conditions indicative of releases or threatened releases of hazardous substances or petroleum products? For example:

   Do you know the past uses of the property?

Do you know of chemicals, hazardous substances or petroleum products that are present or once were present at the property?

Response: No.

Do you know of spills or other releases of chemicals, hazardous substances or petroleum products that have taken place at the property?

Response: No.

Do you know of any environmental cleanups that have taken place at the property?

Response: No.

6. The Degree of Obviousness of Contamination. E1527-13 and the federal AAI rule (4 CFR 312.31) require that the Phase I ESA consider the degree of obviousness of the presence or likely presence of contamination at the property, and the ability to detect the contamination by appropriate investigation. Based on your knowledge and experience related to the property, are there any obvious indicators that point to the presence or likely presence of contamination at the property?

Response: No.

7. Availability of Previous Environmental Reports. Are you aware of previous environmental site assessment reports, other environmental reports, documents, correspondence, etc. concerning the property and its environmental condition?

Response: No, However, the consultant has been made aware of a report from the state identifying a Controlled Recognized Environmental Concern on an abutting property.

A copy of the questionnaire is included in Attachment B.

1.6 Data Gaps

Sovereign made responsible attempts to obtain User provided information and review all reasonably ascertainable resources to determine historical uses of the site and surrounding properties to identify the possibility of RECs in connection with the site. Although data failure may be encountered, specific objectives are complete with the above research. As defined by ASTM, data failure or data gaps occur when historical research is reasonably ascertained and reviewed, but the intended objectives have not been met.

Sovereign has also completed an evaluation of the significance of these limitations and missing information with respect to our findings, and where appropriate, significant data gaps are
identified and discussed in the body of the report. However, it should be noted that an evaluation of significant data gaps is based on the information available at the time of report submission, and an evaluation of information once a report has been submitted could result in an alteration of our conclusions, recommendations and/or opinions. Sovereign did not identify any data gaps during preparation of this Phase I Report.

2.0 HISTORICAL SITE USE INFORMATION

Sovereign reviewed the following historical sources for indications of RECs in association with or pertaining to the site. A summary of the historical review is included at the end of this section.

2.1 Site Ownership

Records from the City of Gardner Tax Assessor’s Office were reviewed for current and previous property ownership history extending back at least 38 years for the subject sites.

Available information obtained from the Gardner Assessor’s Office documents the Kymalainen Realty Trust currently owning the parcel W27-11-3 defined as the site, with the most recent sale date listed as January 31, 1995. The site was sold for $100.00 dollar to the Kymalainen Realty Trust from Thomas J Kymalainen.

2.2 Aerial Photographs

Aerial photographs for the Site were provided by an Environmental Database Report (EDR) (Attachment C) with assistance of Historicaerials.com to fill data gaps. Years covered by historicaerials.com consist of; 1938, 1963, 1968, 1971, 1995, 1997, 2001, 2003, 2005, 2008, 2009, 2010, 2012, and 2014. EDR coverage includes years; 1938, 1952, 1963, 1967, 1975, 1980, 1985, 1992, 1995, 2008, 2012, and 2016. Observations of the subject site and surrounding property provide indication of prior land use. Surrounding development is documented with Ridgewood Ln being developed in the early 1970’s West of Stump Pond. This occurred shortly after the development of residential properties due east of the site along Pearl St. In 1938 there is a small network of dirt roads adjacent to the site location on the east site of Stump pond indicating human activity. Aerial imagery from 1985 indicates construction or alteration activities resulting in drainage of Stump and Dunn Pond. Associated imagery from the same year indicates forest management practices resulting in a reduced density of canopy cover when compared to imagery from previous years. Evidence of forest management is also apparent between 2016 and 2012. From 1967 to 1975 the existing Gardner High School was constructed to the north west of the site location. Following the construction of the current Gardner Middle School, this is the last and most recent construction associated with site locations documented between 1995, and 1997.
2.3 Local Street Directories

City directories were requested through EDR for this study. As this property has never been developed no directories are available.

2.4 Sanborn Fire Insurance Maps

During the late 19th Century, companies such as the Sanborn Company began preparing maps of central business districts for use by fire insurance companies. These maps were updated and expanded geographically periodically through the 20th Century. Fire insurance maps often indicate construction materials, specific property use, and the location of other features such as gasoline storage tanks. Based upon inquiries with EDR, the Subject site is unmapped, and undeveloped property. Therefore no Sanborn maps were available. Documentation to show that no Sanborn Maps were available are included in Attachment D.

2.5 Title Search

A title search was not included in Sovereign's scope of services for this site.

2.6 Environmental Liens

Environmental lien records recorded against the site were not provided by the Client. During the User Questionnaire, Mark P. Hawke Mayor of Gardner indicated no known knowledge of environmental liens for the site. A title search review of these records was not included as part of the scope of services.

3.0 EXISTING SITE CONDITIONS

3.1 Site Observations

Sovereign completed a visual reconnaissance and collected the below information while walking through the sites. Photo documentation of the sites at the time of the visual reconnaissance is provided in Attachment E.

<table>
<thead>
<tr>
<th>General Site Information</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Site Reconnaissance</strong></td>
</tr>
<tr>
<td>Sovereign Field Personnel</td>
</tr>
<tr>
<td>Reconnaissance Date</td>
</tr>
<tr>
<td>Site Contact/Title</td>
</tr>
<tr>
<td>Site Description</td>
</tr>
<tr>
<td>------------------</td>
</tr>
<tr>
<td><strong>Site Name</strong></td>
</tr>
<tr>
<td><strong>Site Location/Address (Figure 1)</strong></td>
</tr>
<tr>
<td><strong>Land Area</strong></td>
</tr>
<tr>
<td><strong>Site Improvements</strong></td>
</tr>
</tbody>
</table>

**Site Description**

<table>
<thead>
<tr>
<th>Zoning</th>
<th>General Residential (G3) to Rural Residential (R2)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Site Topographic Relief</strong></td>
<td>Minimal relief to the south along Pearl St with increasing topographic relief to the north. The parcel has a slight ridge following the logging road north, with elevation decreasing to the east and west. The parcel plateaus reaching the abandoned right of way to the north east.</td>
</tr>
</tbody>
</table>

**Site Utilities**

<table>
<thead>
<tr>
<th>Electricity</th>
<th>National Grid Easement</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Heat Source</strong></td>
<td>Undeveloped locations have potential for natural gas from local distribution provider Unitil.</td>
</tr>
<tr>
<td><strong>Drinking Water</strong></td>
<td>Municipal</td>
</tr>
<tr>
<td><strong>Wastewater</strong></td>
<td>Municipal</td>
</tr>
<tr>
<td><strong>Natural Gas</strong></td>
<td>Unitil distribution</td>
</tr>
</tbody>
</table>

3.2 Site Observations

The Site identified by the City of Gardner Parcel W27-11-3 shares a split zone (south to north) of General Residential (G3) to Rural Residential (R2) owned by Kymalainen Realty Trust. This parcel abuts other single family Residential (R1) zoned parcel owned along Pearl St to the east and west. Stump Pond to the west is the representation of the water table in which the direction of surficial/groundwater locally flows. There is a stream crossing the site from the east to west passing under the current access road. The parcel has evidence of historic forest management practices in which selective hardwood timber was harvested. Evidence of these practices are visible through aerial photographs, as well as site reconnaissance with observations of stump sprouting on previously harvested timber. The observed growth indicates that forest management practices, and or human activity has been present up to 10 years prior to reconnaissance. The site is mainly deciduous vegetation with scattered conifers native to a typical New England forest. Briars, and scrub brush have filled in areas where large hardwoods once stood and indicate the presence of shallow glacial till. Glacial erratics litter the landscape, with an abundance of boulders. The site is free of refuse and other miscellaneous trash likely to be found road side, and on abandoned right
of ways. The adjacent parcel that abuts the site to the west associated with Stump Pond has evidence of dumping with the presence of stove pipe, cooking wear, mattress springs, and what looks like other metal pail like objects, however based on visual and historical review it does not represent an REC.

3.2.1 Electrical Transformers/PCBs

Pole mounted transformers exist under the management of National Grid on Pearl St. There is no evidence of transformer vaults, or similar types of infrastructure on vacant land according to site reconnaissance.

3.2.2 Underground Chemical or Waste Storage, Drainage or Collection Systems

There is a culvert underneath the existing access road that allows natural drainage of ground/surface water from the eastern edge of the site, west to Stump Pond.

3.3 Interviews Conducted During Visual Reconnaissance

Department of Conservation and Recreation employee at Dunn Park was questioned about the historic impact of water quality of Stump, and Dunn pond in regards to the draining of both water bodies in 1985 for remedial activities. In the 40 years that this employee has been at the DCR he has no recollection of these events.

4.0 NATURAL SETTING

4.1 Physical Site Setting Summary

<table>
<thead>
<tr>
<th>PHYSICAL SITE SETTING INFORMATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>Site Elevation AMSL (Above Mean Sea Level)</td>
</tr>
<tr>
<td>Topography (Refer to Figure 4 TP, Gardner, 2012, 7.5-minute quadrangle).</td>
</tr>
<tr>
<td>Topographic Gradient</td>
</tr>
<tr>
<td>Closest Surface Water</td>
</tr>
<tr>
<td>Soil Characteristics</td>
</tr>
<tr>
<td>Soil Type (Associations)</td>
</tr>
</tbody>
</table>
## PHYSICAL SITE SETTING INFORMATION

**Becket-Skerry Soil Profile:** Extremely stony, loamy lodgment till composed of granite, geniss, and schist over sandy lodgment till.

**Pillsbury-Peacham Soil Profile:** Friable coarse loamy eolian deposits over dense coarse loamy lodgment till with highly decomposed herbaceous organic material over dense coarse loamy lodgment till.

**Turnbridge-Lyman Soil Profile:** Extremely stony, loamy supraglacial till derived from granite, gneiss, and micaceous schist/phyllite. Containing loamy supraglacial melt out till of same derivation.

**Bucksport and Wonsqueak mucks Soil Profile:** Herbaceous organic material and/or woody organic material. With herbaceous organics over loamy till.

### Geological Information

**Surficial Geology**
Thin till, coarse deposits, bedrock outcrops (shallow bedrock).

**Description**
West to east nonsorted, notstratified matrix of sand, silt, minor clay that contains pebbles, cobbles, and large clastic boulders; large surface boulders (dropstones) are common. Local till is predominantly consistent of upper till from the last glaciation. Transitioning eastward are coarse deposits including gravel of ≥ 50 percent gravel-sized clasts. Correlative with USDA soil descriptions cobbles and boulders are predominate; minor quantities of sand present with gravel matrix. Bedding is distorted, and poorly sorted due to ice melt post deposition. Minor aspects of fine sand, silt, and clay layers are present. Northeast most extent contains less than 5’ to 10’ of surficial materials in which shallow bedrock exists.

**Bedrock Geology**
Paxton Formation (Silurian)

**Description**
Undifferentiated 440 m.y biotite granofels, calc-silicate granofels, and sulfidic schist.

**Estimated Depth to First Occurrence of Groundwater**
Estimated at depths of 4 to 7 feet below ground surface. Information obtained online through review of MassDEP’s Searchable Site Database for nearby properties.
4.2 Federal and State Protected Species

Based on the MassDEP Phase 1 Site Assessment Map (figure 3) wetlands exist north of the site abutting the abandoned right of way. As well as to the east on adjacent parcel W32-21-1, and west on parcel W27-11-2. Vernal pool habitat exists ~1,500’ north the site from Pearl St.

5.0 REGULATORY REVIEW

As part of this assessment, Sovereign retained EDR to provide regulatory database information. The purpose of the records review was to identify RECs in connection with the site. Evaluating identified regulatory facilities for potential vapor intrusion conditions was outside the scope of this assessment. Information in this section is subject to the accuracy of the data provided by the information services company and the date at which the information is updated, and the scope herein did not include confirmation of facilities listed as "unmappable" by regulatory databases. In some of the following subsections, the words up-gradient, cross-gradient and down-gradient refer to the topographic gradient in relation to the site.

5.1 Federal and State/Tribal Databases

Listed below are the facility listings identified on federal and state/tribal databases within the ASTM-required search distances from the approximate site boundaries.

### Federal and State Databases

<table>
<thead>
<tr>
<th>Database</th>
<th>Description</th>
<th>Radius (miles)</th>
<th>Listings</th>
</tr>
</thead>
<tbody>
<tr>
<td>Federal</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>NPL</td>
<td>The NPL is the EPA’s database of uncontrolled or abandoned hazardous waste facilities that have been listed for priority remedial actions under the Superfund Program.</td>
<td>1.0</td>
<td>0</td>
</tr>
<tr>
<td>NPL (Delisted)</td>
<td>The NPL (Delisted) refers to facilities that have been removed from the NPL.</td>
<td>1.0</td>
<td>0</td>
</tr>
<tr>
<td>CERCLIS</td>
<td>The CERCLIS database is a compilation of facilities which the EPA has investigated or is currently investigating for a release or threatened release of hazardous substances pursuant to the CERCLA of 1980.</td>
<td>0.5</td>
<td>0</td>
</tr>
<tr>
<td>CERCLIS/NFRAP</td>
<td>CERCLIS/NFRAP refers to facilities that have been removed and archived from EPA’s inventory of CERCLA sites.</td>
<td>0.5</td>
<td>0</td>
</tr>
<tr>
<td>Database</td>
<td>Description</td>
<td>Radius (miles)</td>
<td>Listings</td>
</tr>
<tr>
<td>--------------------------------</td>
<td>-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
<td>----------------</td>
<td>----------</td>
</tr>
<tr>
<td><strong>RCRA CORRACCTS/TSD</strong></td>
<td>The EFA maintains a database of RCRA facilities associated with treatment, storage, and disposal (TSD) of hazardous waste that are undergoing &quot;corrective action.&quot; A &quot;corrective action&quot; order is issued when there has been a release of hazardous waste or constituents into the environment from a RCRA facility.</td>
<td>1.0</td>
<td>0</td>
</tr>
<tr>
<td><strong>RCRA Non-CORRACCTS/TSD</strong></td>
<td>The RCRA Non-CORRACCTS/TSD Database is a compilation by the EFA of facilities which report storage, transportation, treatment, or disposal of hazardous waste. Unlike the RCRA CORRACCTS/TSD database, the RCRA Non-CORRACCTS/TSD database does not include RCRA facilities where corrective action is required.</td>
<td>0.5</td>
<td>0</td>
</tr>
<tr>
<td><strong>RCRA Generators</strong></td>
<td>The RCRA Generators database, maintained by the EPA, lists facilities that generate hazardous waste as part of their normal business practices. Generators are listed as either large (LQG), small (SQG), or conditionally exempt (CESQG). LQG produce at least 1000 kg/month of non-acutely hazardous waste or 1 kg/month of acutely hazardous waste. SQG produce 100-1000 kg/month of non-acutely hazardous waste. CESQG are those that generate less than 100 kg/month of non-acutely hazardous waste.</td>
<td>0.25</td>
<td>0</td>
</tr>
<tr>
<td><strong>Institutional and Engineering Controls</strong></td>
<td>A listing of sites with institutional and/or engineering controls in place. IC include administrative measures, such as groundwater use restrictions, construction restrictions, property use restrictions, and post remediation care requirements intended to prevent exposure to contaminants remaining on site. Deed restrictions are generally required as part of the institutional controls. EC include various forms of caps, building foundations, liners, and treatment methods to create pathway elimination for regulated substances to enter environmental media or effect human health.</td>
<td>0.5</td>
<td>0</td>
</tr>
<tr>
<td><strong>ERNS</strong></td>
<td>The Emergency Response Notification System (ERNS) is a listing compiled by the EPA on reported releases of petroleum and hazardous substances to the air, soil and/or water.</td>
<td>Site</td>
<td>0</td>
</tr>
</tbody>
</table>

**State**

<table>
<thead>
<tr>
<th>Database</th>
<th>Description</th>
<th>Radius (miles)</th>
<th>Listings</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>SHWS</strong></td>
<td>The Massachusetts Department Environment Protection (MassDEP) maintains a database of state equivalent CERCLIS facilities in the State of Massachusetts.</td>
<td>1.0</td>
<td>6</td>
</tr>
<tr>
<td><strong>SWF/LF</strong></td>
<td>State and/or Tribal database of solid waste facilities located within Massachusetts. The database information may include the facility name, class, operation type, area, estimated operational life, and owner.</td>
<td>0.5</td>
<td>0</td>
</tr>
<tr>
<td><strong>LWF/LF (Cont.)</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
In addition to the above ASTM-required listings, Sovereign reviewed other federal, state, local and proprietary databases provided by the database firm.

**Gardner Middle School – 297 Pearl Street**

The property located at 297 Pearl Street is located 1/3 of a mile up gradient from the target site. As identified in the EDR report on the HW Gen, UST, RCRA-SQG, LUST, asbestos, and Spills databases.

- **RTN 2-12924:** A 4,200-gallon #2 fuel oil release occurred on September 2, 1999. The release occurred when a scheduled delivery to the target 20,000-gallon UST was instead delivered to a 150-gallon fuel oil storage tank on a generator. As a result, 4,200 gallons of #2 fuel oil overflowed a spring-loaded release valve onto the floor of the boiler room, subsequently entering the floor drains which lead to a sewage pumping chamber. Once the fluid level was high enough in the chamber the oil was pumped into the city’s sewer system in which it flowed 2.36 miles across town to the waste water treatment plant located off of Gardner Rd, in Templeton MA. The impact area is down-gradient from the point of release, with the only remedial action on site consisting of cleaning the sewage pumping chamber, and floor drain.

The point of release effects only the Gardner Middle school parcel and portions of the sewer system which extends north to Mathew Street. Based on a Class A-1 RAO submitted by Corporate Environmental Advisors, Inc. and dated December 28, 1999, the spill has been remediated to background conditions and would be considered an HREC.

**Gardner High School – 200 Pearl Street**

- **RTN 2-0017544:** During excavation, and replacement of a 20,000-gallon UST on May 20, 2009 contaminated soil containing #2 heating oil on the east side of the excavation site was detected by a hand held photoionization detector (PID) at concentrations greater than 100 parts per million per volume (PPMV). Subsequent response actions consisted of the removal of 300 cubic yards of soil (436.89 tons), and dewatering the surrounding area. The
dewatering process took place from May 22, 2009 to June 3, 2009 collecting 408,500-gallons of contaminated groundwater from the excavation.

Although this property is located up gradient of the Site location the previous release has been appropriately remediated with associated RTN closure as documented in the Class A-2 RAO submitted by Alares, LLC on June 4, 2010, and would not be expected to impact the subject site, but would be considered a HREC.

Based upon ASTM protocols, several additional properties of concern were identified within the search radius of the site; however, based on either their proximity, relationship to the site with respect to inferred groundwater flow direction and/or current regulatory status, conditions at these off-site properties are not expected to impact soil and/or groundwater at the site. A list of the additional reviewed databases is included in the regulatory database report included in Attachment F.

None of the identified properties in the EDR would constitute a REC.

5.2 Municipal Regulatory Review

A review of the local municipal files maintained by the City of Gardner concerning the site was conducted by a Sovereign representative. Department employees were interviewed in regards to environmental conditions such as complaints, violations, USTs, hazardous materials incidents, and permits. A list of the departments visited is outlined below.

- Assessor
- City Clerk
- Building Department
- Fire Department
- School Department
- Planning and Economic Development

The Gardner Fire Department had no records of tanks or hazardous materials storage at the site.

5.3 Previous Environmental Assessments

The Department of Environmental Protection report titled “The restoration of Dunn Pond” was reviewed during the performance of this investigation. The report and information concerning its existence were provided by Mayor Hawke with the City of Gardner. An electronic link to the document is located here:
Based on Sovereign's review of the document and the work associated with the restoration of Dunn's Pond, there was no evidence to suggest the presence or likely presence of any hazardous substance or petroleum products in, on, or at a property as part of the restoration project. Rather, the restoration was related to storm water and surface water quality around the pond but did not identify the presence of hazardous waste or petroleum contamination.

6.0 NEIGHBORING PROPERTIES

Neighboring property uses were reviewed during the site reconnaissance on March 18, 2019. In addition, a review of current and historical state and local records was conducted relative to uses and activities on neighboring properties. Visual observations of adjoining properties (from site boundaries) are summarized below.

<table>
<thead>
<tr>
<th>Direction / Adjoining Properties</th>
<th>Site Location (WZ7-11-3)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>North:</strong></td>
<td>Dense deciduous hard wood vegetation, wetlands (flood plain), National Grid Right of Way.</td>
</tr>
<tr>
<td><strong>South:</strong></td>
<td>Dunn pond, and state park.</td>
</tr>
<tr>
<td><strong>East:</strong></td>
<td>Residential/wooded, single family residence.</td>
</tr>
<tr>
<td><strong>West:</strong></td>
<td>Stump pond, former remediation site, with minimal miscellaneous metal debris present.</td>
</tr>
</tbody>
</table>

Based upon ASTM protocols, parcel to the West WZ7-11-2 (Stump Pond) was identified as a CREC based on historical records of dumping; however, based on proximity, relationship to the site with respect to inferred groundwater flow direction and/or current regulatory status, conditions at these off-site properties are not expected to impact soil and/or groundwater at the site. A list of the additional reviewed databases is included in the regulatory database report included in Attachment F.

7.0 ADDITIONAL SERVICES

Per the agreed scope of services specified in the proposal, additional services (e.g., asbestos sampling, lead-based paint sampling, wetlands evaluation, lead in drinking water testing, radon testing, etc.) were not conducted.

8.0 PHASE I FINDINGS

Based on Sovereign's Phase I assessment, findings for on-site issues are outlined as follows:
8.1 General Summary

- Based on our review of the available historical information, the site encompasses City of Gardner Assessor’s parcel W27-11-3 consisting of 17.34 acres owned by Kymalainen Realty Trust acquired January 31, 1995 from Thomas J Kymalainen for the price of $100.00.
- The site does not possess any attributes defined as environmental concerns.

8.2 On-site Findings/Opinion

- Through site reconnaissance with the aid of historic aerial photographs the site has been vacant since 1938, but potentially longer. There is a reduction in canopy cover and evidence of forest management practices between 2012 and 2016. The site lacks evidence of human activity, being free of trash or other disposal waste. However there is an access road that crosses the stream in the southern section of the site, and eventually meets the National Grid Right of Way easement.

Sovereign has performed a Phase I Environmental Site Assessment in conformance with the scope and limitations of ASTM-E-1527-13 in Gardner, Massachusetts. It is the opinion of Sovereign that this assessment has revealed no evidence of RECs or CRECs on the site.

8.3 Off-site Findings/Opinion

- None of the off-site properties identified in the EDR would be considered an REC with respect to the subject site. However historical use of parcel W27-11-2 accompanying Stump Pond indicates the historical presence of a dump on the eastern edge. However in the Department of Environmental Protection document titled “The Restoration of Dunn Pond” states that analysis indicates no hazardous materials present. Therefore with the removal of solid waste and remediation of both Stump Pond and Dunn Pond this would be considered a CREC.

9.0 LIMITATIONS

1. CERCLA liability criteria for the innocent landowner, bona fide prospective purchaser, or contiguous landowner defense requires that an all appropriate inquiry, or due diligence is performed on the property to be acquired. Application of scientific principles and professional judgment expressed herein are based on the existing data and facts currently available, within the scope of work and any data gaps related to the acquisition of information obtained. No warranties are made as to the applicability of a particular purpose or qualification of the Client for the CERCLA liability defense.
2. This assessment was based on the visual inspection of readily accessible areas of the subject property, interviews with available personnel familiar with site processes and activities and public information obtained from local, state and federal regulatory agencies. Where visual observations are included in this report, they represent conditions at the time of reconnaissance and may not be indicative of past or future conditions. This report should not be considered a legal interpretation of existing environmental regulations.

3. The purpose of this report was to review the history and present physical characteristics of the property with regard to items of environmental concern. No attempt was made to determine the compliance of present or former owner or occupants of the property with Federal, State or local environmental or land use laws and regulations except as noted in this Report.

4. Unless otherwise noted herein, this assessment did not include a definitive evaluation of the presence of asbestos or other insulating materials, lead based paint, or PCBs within any structures on the property, and did not include testing for herbicides or pesticides in soil or groundwater. The property assessment also did not address infectious materials in any form. A comprehensive asbestos, PCB and lead assessment is being conducted by others concurrently.

5. Presence or absence of underground storage tanks, waste disposal procedures, or storage facilities are based on information obtained from Sovereign's property inspection, review of public records, private records (as provided by the Client), and interviews with knowledgeable sources. Sovereign Consulting Inc. does not guarantee the completeness or accuracy of such information.

6. This Phase I ESA Report has been prepared for the exclusive use of Jones Whitsett Architechs. The work has been undertaken and performed in accordance with generally accepted engineering practices. No other warranty, expressed or implied, is made. It is our understanding and intention that the contents of this report be used to assess the potential environmental concerns associated with the properties and structures on the Peck School property in Gardner, Massachusetts.
10.0 STATEMENT OF QUALIFICATIONS

I declare that, to the best of my professional knowledge and belief, I meet the definition of Environmental Professional as defined in 312.10 of 42 CFR 213.

Neil Schofield, LSP

- I have the specific qualifications based on education, training, and experience to assess a property of the nature, history, and setting of the site. I have developed and performed the all appropriate inquiries in conformance with the standards and practices set forth in 40 CFR Part 312. The professional qualifications for Mr. Neil Schofield is included in Attachment A.
March 27, 2019

City of Gardner
City Council
City Hall
Gardner, MA 01440

RE: FY’20 COLA GRANTED

Dear Councilors:

At the Gardner Retirement Board meeting held on March 26, 2019, the Board voted to grant a Cost of Living Adjustment for FY 2020. The Board elected a 3% increase in accordance with M.G.L. Chapter 32, Section 103(i).

Effective July 1, 2019, each retiree and beneficiary receiving an allowance effective June 30, 2018, will receive a 3% cost of living increase on the first $13,000.00 of their annual retirement allowance.

If you have any questions, please contact me.

Very truly yours,

Denise M. Merriam
Board Chairperson

cc: Mayor Hawke
S. Mullins, Director GHA
AN ORDINANCE TO AMEND THE CODE OF THE CITY OF GARDNER, CHAPTER 390 THEREOF, ENTITLED "FEES," TO CHANGE THE SEALER OF WEIGHTS AND MEASURES FEE SCHEDULE.

Be it ordained by the City Council of the City of Gardner as follows:

Section 1. Section 390-9 of Chapter 390, Fees, of the Code of the City of Gardner, is hereby amended to change the fee schedule to read, as follows:

<table>
<thead>
<tr>
<th>A. Scales.</th>
<th>Pounds</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Over 10,000</td>
<td>$200</td>
</tr>
<tr>
<td></td>
<td>5,000 to 10,000</td>
<td>$100</td>
</tr>
<tr>
<td></td>
<td>1,000 to 5,000</td>
<td>$100</td>
</tr>
<tr>
<td></td>
<td>100 to 1,000</td>
<td>$75</td>
</tr>
<tr>
<td></td>
<td>10 to 100</td>
<td>$30</td>
</tr>
<tr>
<td></td>
<td>10 or less</td>
<td>$30</td>
</tr>
</tbody>
</table>

| B. Weights. | 1) Avoirdupois: | $15 |
|             | (2) Metric:     | $15 |
|             | (3) Apothecary: | $15 |
|             | (4) Troy:       | $15 |

| C. Capacity. | 1) Vehicle tanks: | $60 |
|              | (2) Any at 100 gallons or less: | $30 |

| D. Liquid measuring meters. | 1) Oil and grease: | $20 |
|                             | (2) Gasoline:     | $30 |
|                             | (3) Vehicle tank pump: | $60 |
|                             | (4) Vehicle tank gravity: | ---- |
|                             | (5) Bulk storage: | $75 |

| E.             | (1) Taxi meter: | $30 |
|                | (2) Fabric meter: | $30 |
|                | (3) Yard stick: | $30 |
|                | (4) Adjustments: | $15 |
|                | (5) Retest:     | $20 |
|                | (6) Scanner test: |     |
|                | (a) Under five: | $100 |
|                | (b) Under 10: | $375 |
|                | (c) Over 10: | $375 |

| F. Reverse Vending | $30 |

Section 2. Effective date.

This ordinance shall become effective on passage and publication as required by law.
April 2, 2019

Attorney Scott J. Graves, President  
And City Councilors  
95 Pleasant Street  
Gardner, MA 01440

RE: City Code Amendment 390-9

Dear President Graves and Councilors,

The Sealer of Weights and Measures brought to my attention that our fee structure was lower than almost every area community. He performed an analysis and has recommended that we change our Fee Schedule to align it with current rates from area communities.

Respectfully,

[Signature]

Mark Hawke  
Mayor, City of Gardner
<table>
<thead>
<tr>
<th>Sec. 390-9 Fee Schedule</th>
<th>Current - 2008</th>
<th>Proposed - 2019</th>
<th>Change</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Scales</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Over 10,000 lbs.</td>
<td>$100.00</td>
<td>$200.00</td>
<td>$100.00</td>
</tr>
<tr>
<td>5,000 to 10,000 lbs.</td>
<td>$50.00</td>
<td>$100.00</td>
<td>$50.00</td>
</tr>
<tr>
<td>1,000 to 5,000 lbs.</td>
<td>$40.00</td>
<td>$100.00</td>
<td>$60.00</td>
</tr>
<tr>
<td>100 to 1,000 lbs.</td>
<td>$30.00</td>
<td>$75.00</td>
<td>$45.00</td>
</tr>
<tr>
<td>10 to 100 lbs.</td>
<td>$15.00</td>
<td>$30.00</td>
<td>$15.00</td>
</tr>
<tr>
<td>10 or less lbs.</td>
<td>$15.00</td>
<td>$30.00</td>
<td>$15.00</td>
</tr>
<tr>
<td><strong>Weights</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Avoirdupois</td>
<td>$15.00</td>
<td>$15.00</td>
<td></td>
</tr>
<tr>
<td>Metric</td>
<td>$15.00</td>
<td>$15.00</td>
<td></td>
</tr>
<tr>
<td>Apothecary</td>
<td>$15.00</td>
<td>$15.00</td>
<td></td>
</tr>
<tr>
<td>Troy</td>
<td>$15.00</td>
<td>$15.00</td>
<td></td>
</tr>
<tr>
<td><strong>Capacity</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Vehicle tanks</td>
<td>$50.00</td>
<td>$60.00</td>
<td>$10.00</td>
</tr>
<tr>
<td>Any at 100 gals. Or less</td>
<td>$25.00</td>
<td>$30.00</td>
<td>$5.00</td>
</tr>
<tr>
<td><strong>Liquid Measuring Meters</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Oil and grease</td>
<td>$15.00</td>
<td>$20.00</td>
<td>$5.00</td>
</tr>
<tr>
<td>Gasoline</td>
<td>$15.00</td>
<td>$30.00</td>
<td>$15.00</td>
</tr>
<tr>
<td>Vehicle tank pump</td>
<td>$40.00</td>
<td>$60.00</td>
<td>$20.00</td>
</tr>
<tr>
<td>Vehicle tank gravity</td>
<td>$50.00</td>
<td>---</td>
<td></td>
</tr>
<tr>
<td>Bulk storage</td>
<td>$75.00</td>
<td>$75.00</td>
<td></td>
</tr>
<tr>
<td>Checker prover</td>
<td>$100.00</td>
<td>---</td>
<td></td>
</tr>
<tr>
<td><strong>Scanner test</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Under five</td>
<td>$100.00</td>
<td>$100.00</td>
<td>$0.00</td>
</tr>
<tr>
<td>Under ten</td>
<td>$175.00</td>
<td>$375.00</td>
<td>$200.00</td>
</tr>
<tr>
<td>Over ten</td>
<td>$275.00</td>
<td>$375.00</td>
<td>$100.00</td>
</tr>
<tr>
<td><strong>Reverse Vending</strong></td>
<td>$30.00</td>
<td></td>
<td>$30.00</td>
</tr>
</tbody>
</table>
AUTHORIZING CONTRACTS NOT-TO-EXCEED FIVE (5) YEARS
FOR
AIRPORT CONSULTING AND ENGINEERING SERVICES
GENERATOR MAINTENANCE
OFFICE AND JANITORIAL SUPPLIES
PARKING TICKET PROCESSING

VOTE: To authorize the City to enter into contracts not to exceed five (5) years for Airport Consulting and Engineering Services, Generator Maintenance, Office and Janitorial Supplies, and Parking Ticket Processing, pursuant to the provisions of Massachusetts General Law, Chapter 30B, section 12 and under the terms outlined in the Purchasing Agent’s April 3, 2019 Memorandum.
TO: Gardner City Council  
     Mayor Mark Hawke

FROM: Jennifer Dymek, Purchasing Agent/CPO

DATE: April 3, 2019

SUBJECT: Request for 5-year contracts

According to MGL c 30B, any contract that exceeds three years must be approved by majority vote by the City Council.

I respectfully request permission from the Gardner City Council to seek up to a five year contract (including renewals) for the below listed projects. The projects listed below are in the fifth year of their existing contracts. These contracts will be placed out to bid and will continue only if the contracted vendor is in good standing.

- Parking Ticket Processing
- Office and Janitorial Supplies
- Airport Consulting and Engineering Services
- Generator Maintenance

My intention to seek a longer term contract is to attract more competitive rates from vendors and to conduct more effective contract management.

If you have any questions or concerns, please feel free to contact me for additional details.
THE COMMONWEALTH OF MASSACHUSETTS

Worcester, ss.

CITY OF GARDNER, MASSACHUSETTS

ORDER OF TAKING

WHEREAS, the City of Gardner, a municipality organized and incorporated under the laws of Massachusetts, with a usual place of business located at 95 Pleasant Street, Gardner, MA is authorized to take land by eminent domain for any municipal purpose pursuant to Section 36, of the City of Gardner Charter as amended to November 8, 1989 and M.G.L. c. 79, as amended and Chapter 121B; and

WHEREAS, the City of Gardner, has realized a need for the construction of a new elementary school and that construction of said elementary school (the “Project”) on land located in the proximity of its middle and high school; and

WHEREAS, the City of Gardner has voted and appropriated monies to be used to acquire property to construct a new elementary school; and

WHEREAS, the Mayor Mark P. Hawke has approved the construction of a new elementary school and the acquisition of land for said construction and recommended to the City Council an order of taking; and

WHEREAS sufficient funds have been appropriated to compensate the property owners for the property rights taken hereby

NOW THEREFORE, BE IT ORDERED THAT:

Acting pursuant to the powers set forth in M.G.L. c. 79, as amended, and Chapter 121B, as amended, and of any and every power and authority available to the City of Gardner, granted or implied, the City of Gardner hereby takes for itself in fee simple by eminent domain, for the purposes associated with the Project, the property known as land on Pearl Street in Gardner, MA, consisting for 17.34 acres, more or less, as more fully described in a deed recorded at Worcester South Registry of Deeds, Book 16852, Page 237, which is attached hereto as Exhibit A.

The taking is made in fee simple, and, except as provided herein, is made together with any and all easements and rights appurtenant to the property, including trees, buildings and other structures standing upon or affixed thereto, air rights, subsurface rights and including the interests of the supposed owners, if any, in all private ways and public streets, highways or in the land lying in the bed of any street or highway, public or private within or adjacent to the Property.
The City Council of said City of Gardner, does hereby decree that public necessity and convenience require the City to obtain by eminent domain for the purposes of constructing a new elementary school on the above described parcel.

The City Council hereby awards damages sustained by persons in their property by reasons of this taking as follows:

<table>
<thead>
<tr>
<th>OWNER</th>
<th>PROPERTY ADDRESS</th>
<th>AWARD</th>
</tr>
</thead>
<tbody>
<tr>
<td>Kymalainen Realty Trust</td>
<td>Off Pearl Street</td>
<td>$115,000.00</td>
</tr>
<tr>
<td>Alice M. Kymalainen</td>
<td>Gardner, Worcester County, MA</td>
<td></td>
</tr>
</tbody>
</table>

The City Council does direct and authorize the Mayor to do all things and to execute all documents necessary for the prompt payment of the amount of damages awarded in the Order of Taking so that the same shall be payable within sixty (60) days after the rights to damages become vested in the persons entitled to damages. The Mayor is further requested to direct the City Solicitor for and on behalf of the City Council to give notice of this taking and pertinent information to every person entitled thereto in accordance with the provisions of General Laws Chapter 79, Sections 7B, 7C, 7F, 77G, 8A, and 8B.

In City Council

April ____, 2019

ORDERED AND ADOPTED BY A YEA AND NAY VOTE OF _______ YEAS and _______ NAYS.

________________________________________
Alan L. Agnelli, City Clerk
City of Gardner
SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is entered into by and between The City of Gardner, a municipal corporation with a principal business address located at 95 Pleasant Street, Gardner, MA 01440. ("Gardner" or the "City") and Alice M. Kymalainen, sole Trustee of the Kymalainen Realty Trust ("Trustee" or the "Trust"), dated March 23, 1993, u/d/t recorded at the Worcester South Registry of Deeds, Book 16440, Page 329, of 29 Union Square, Gardner, MA 01440 (see also resignation of Trustee, Book 57016, Page 179) (collectively referred to herein as the "Parties").

RECITALS

WHEREAS, on January 27, 1995, the Trust purchased land on Pearl Street in Gardner, MA, by virtue of a Deed recorded at Worcester South Registry of Deeds, Book 16852, Page 237 (the "Premises");

WHEREAS, the Parties desire to avoid the expense and delay of an eminent domain taking and the cost and delay of litigation which might result from such eminent domain taking, and to that end have negotiated a resolution to avoid such litigation.

NOW THEREFORE, in full and final settlement for good and valuable consideration, the Parties agree as follows:

1. **Payment:** The Parties agree and acknowledge that the amount of damages set forth in the Order of Taking, in the amount of One Hundred Fifteen Thousand and 00/100 Dollars ($115,000.00) shall be considered one and the same as any Settlement Payment referred to within the present Settlement Agreement. The Parties acknowledge that such Settlement Payment set forth herein includes closing costs for which Trustee is responsible and being reimbursed by Gardner.

2. **Mutual Releases:**

   2.1. The Trust hereby releases and discharges Gardner from any and all claims, causes of action, suits, promises, and demands, known or unknown, arising before the date that it executes this Agreement and waives all rights and claims, known or unknown, that it may have or claim to have against Gardner arising before the date of this Agreement related to Trust’s ownership and Gardner’s subsequent acquisition of the Premises. The Trustee specifically waive any notice and/or orders of taking, or other requirements of state or federal law related to the taking of real property by eminent domain as such relate to the Premises including any claims pursuant to M.G.L. c. 79A. The release of claims set forth in this paragraph does not apply to any claim for breach of this Agreement.

   2.2. Gardner hereby releases and discharges from any and all claims it may have against the Trust related to the Premises arising after the date of this Agreement. Gardner specifically releases any claims which may arise in the future
related to the physical condition of the Premises and/or the title to the Premises. The release of claims set forth in this paragraph does not apply to any claim for breach of this Agreement.

3. Miscellaneous:

3.1. This Agreement shall be governed and construed in accordance with the laws of the Commonwealth of Massachusetts.

3.2. Neither the waiver by any party of a breach of, or a default under, any provision of this Agreement, nor the failure of any party, on one or more occasions, to enforce any provision of the Agreement or to exercise any right or privilege hereunder, shall thereafter be construed as a waiver of any subsequent breach or default of a similar nature, or as a waiver of any provision, right, or privilege hereunder.

3.3. If any provision or clause of this Agreement shall be or become invalid or unenforceable under applicable law, such provision or clause shall be deemed ineffective, as though not herein contained, and the remainder of this Agreement shall remain operative and in full force and effect.

3.4. This Agreement constitutes the entire agreement between Gardner and the Co-Trustees, merges herein all prior discussions and negotiations between them, and supersedes all other agreements or understandings, oral or written, between them.

3.5. This Agreement may be amended, modified, or supplemented only by a written document executed by all parties affected thereby.

3.6. The Parties acknowledge that they have not relied upon any statements or representations made by the other party; that they have carefully read the foregoing Agreement and know the contents hereof; and that they have executed this Agreement as their own free act.

3.7. This Agreement is subject to the vote and acceptance of the City of Gardner City Council, and all requirements of M.G.L. c. 30B and c. 79A and any other applicable statute, regulation or local ordinance.

THE REMAINDER OF THIS PAGE IS INTENTIONALLY BLANK. SIGNATURES APPEAR ON THE FOLLOWING PAGE.
IN WITNESS WHEREOF, the parties have hereunto set their hands and seals on this _
day of ________________, 2019.

By:

THE CITY OF GARDNER  KYMALAINEN REALTY TRUST

_________________________  _________________________
Mark Hawke, Mayor  Alice M. Kymalainen, Trustee