

THE COMMONWEALTH OF MASSACHUSETTS

BRISTOL SS

At a meeting of the Bristol County Commissioners holden at Taunton within and for the County of Bristol on the twenty-eighth day of February A.D., 2019 by successive adjournments from the September term of the previous year.

Present: Chairman Paul B. Kitchen, Commissioner John R. Mitchell and John T. Saunders.

Also present: County Administrator Maria Gomes and Facilities Superintendent Scott Aguiar.

Meeting commenced at 5:20 pm.

Notices were received from the Bristol County Agricultural High School regarding the following employment matters:

1. Jacci Miranda Title 1 Teacher's Aide Effective 3/4/19

Notice from the County Commissioner's Office regarding the following employment matter:

1. Robert McCarthy Retirement-Custodian Effective 2/7/19

A motion was made by Commissioner Saunders, second by Commissioner Mitchell to approve the two CP's as presented.

A motion was made by Commissioner Mitchell, seconded by Commissioner Saunders to approve the minutes of January 21, 2019.

There was discussion about the proposal from Lynch Marini & Associates. The Commissioners preferred a one-year rather than a three-year agreement.

Upon motion of Commissioner Saunders, second by Commissioner Mitchell to engage **Lynch Marini & Associates Inc.** for a period of one year to conduct the Fiscal Year 2019 audit services for the amount of \$28,500.

Audit Services to be paid to Vendor #2493, charged to 13420-52233 from the

On Saturday, February 2nd there was a water pipe break at the Fall River Children's Museum that required emergency services.

Upon motion of Commissioner Mitchell, seconded by Commissioner Saunders it was voted to approve and forward to the Treasurer's Office for payment the invoice #5135949 from **SERVPRO**, 1476 Purchase Street, New Bedford, MA 02740, in the amount of \$5,143.37 for the emergency services provided at the former FR Superior Court (Fall River Children's Museum) due to a water pipe break.

To be paid to Vendor #5762 from 13420/52299

Upon motion of Commissioner Mitchell, seconded by Commissioner Saunders it was voted to approve and forward to the Treasurer's Office for payment the following medical bills incurred by the employee listed in the schedule below as a result of an injury received in a work related accident:

Vendor # 7716

13420/54404

EMPLOYEE
DOI 10/18/18
Glenn Souza

DOS

VENDOR

Kelly Martin DC
118 Summer Street RT 140
Taunton, MA 02780

AMOUNT
SUBMITTED

AMOUNT
PAID

11/29/18	\$50.00	\$ 29.79
11/29/18	\$50.00	\$ 24.32
11/29/18	\$50.00	\$ 21.61
12/04/18	\$50.00	\$ 29.79
12/04/18	\$50.00	\$ 24.32
12/04/18	\$50.00	\$ 21.61
12/06/18	\$50.00	\$ 29.79
12/06/18	\$50.00	\$ 24.32
12/06/18	\$50.00	\$ 21.61
12/11/18	\$50.00	\$ 29.79
12/11/18	\$50.00	\$ 24.32
12/11/18	\$50.00	\$ 21.61
12/13/18	\$50.00	\$ 29.79
12/13/18	\$50.00	\$ 24.32
12/13/18	\$50.00	\$ 21.61
12/18/18	\$50.00	\$ 29.79
12/18/18	\$50.00	\$ 24.32
12/18/18	\$50.00	\$ 21.61
12/20/18	\$50.00	\$ 29.79
12/20/18	\$50.00	\$ 24.32
12/20/18	\$50.00	\$ 21.61
12/26/18	\$100.00	\$ 49.35
12/26/18	\$50.00	\$ 29.79
12/26/18	\$50.00	\$ 24.32
12/26/18	\$50.00	\$ 21.61
1/02/19	\$50.00	\$ 29.79
1/02/19	\$50.00	\$ 24.32
1/02/19	\$50.00	\$ 21.61
1/09/19	\$50.00	\$ 29.79
1/09/19	\$50.00	\$ 24.32
1/09/19	\$50.00	\$ 21.61
1/16/19	\$100.00	\$49.35
TOTAL		\$855.90

Upon motion of Commissioner Saunders, second by Commissioner Mitchell it was voted to approve and send to the Treasurer's Office for payment an invoice #104292 from Strojny Glass Co., P.O. Box 625, Taunton, MA 02780 in the amount of \$391.00.

To be paid to Vendor #676 to be paid from 10618/52269

The Commissioners reviewed two proposal options from Gorman Construction Inc. of Raynham, MA. The estimates included a review of both the New Bedford Trial Court roof and the New Bedford Superior Court roof. Gorman indicated that each roof was approaching the end of its lifespan. Scott Aguiar, the Facilities Superintendent stated that he wanted to address at least replacing one new roof per year. Chairman Kitchen asked Mr. Aguiar to provide the Commissioners with square footage for each roof along with the current material makeup of the roof. The Commissioners would then have a material or scope of services starting point that would help the County decide whether or not they had to work with DCAMM. Commissioner Saunders suggested replacing any roof with a white color to deter the seagulls.

Upon motion of Commissioner Mitchell, seconded by Commissioner Saunders it was voted to establish the *Post-Issuance Compliance Procedures* as presented by County Treasurer, Christopher T. Saunders. As follows:

**Bristol County, Massachusetts
Post-Issuance Tax Compliance Procedures
For Tax-Exempt Bonds**

(February 2019)

The purpose of these Post-Issuance Tax Compliance Procedures is to establish policies and procedures in connection with tax-exempt bonds or notes (collectively, the “Bonds”) issued by Bristol County, Massachusetts (the “County”) to ensure that the County complies with all applicable post-issuance requirements of federal income tax law to preserve the tax-exempt status of the Bonds. The following outlines procedures to be followed with respect to the Bonds. It also describes records to be maintained by or on behalf of the County for the life of all Bond issues, including any refunding issue plus three years.

Ultimate responsibility for all matters relating to the County’s financings and refinancing rests with the County Treasurer (the “Treasurer”). The Treasurer shall be responsible for the application of Bond proceeds and for monitoring ongoing compliance issues. The Treasurer will be assisted by Director of Accounting (the “Compliance Officials”). The Treasurer may delegate particular tasks and responsibilities to the Compliance Officials.

I. Post-Issuance Compliance Requirements

A. External Advisors

The Treasurer and the Compliance Officials shall consult with Bond Counsel and other legal counsel and advisors, as needed, throughout the Bond issuance process to identify requirements and to establish procedures necessary or appropriate so that the Bonds will continue to qualify for the appropriate tax status. Those requirements and procedures shall be documented in resolutions, tax certificates, and other documents finalized at or before issuance of the Bonds. Those requirements and procedures shall include future compliance with applicable arbitrage rebate requirements and all other applicable post-issuance requirements of federal tax law throughout (and in some cases beyond) the term of the Bonds.

Following the issuance of the Bonds, the Treasurer and the Compliance Officials shall, at least once annually, review the post-issuance compliance checklist attached hereto as Exhibit A. The Treasurer and the Compliance Officials also shall consult with Bond Counsel and other legal counsel and advisors, as needed, following the issuance of the Bonds to ensure that all applicable post-issuance requirements are understood and in fact being met.

Whenever necessary or appropriate, the County shall engage an expert advisor (a “Calculation Agent”) to assist in the calculation of arbitrage rebate and/or yield reduction in respect of the investment of Bond proceeds. The Calculation Agent shall maintain the records, Bond documents and other information necessary to provide arbitrage rebate or yield reduction calculations in accordance with IRS requirements.

B. Arbitrage Yield and Rebate

The Treasurer shall monitor the investment of Bond proceeds and shall consult with the Calculation Agent as necessary to determine compliance with any applicable yield limitations following the issue date of the Bonds. The Treasurer shall ensure that any swap, cap or other derivative contract, including any entered into after the date of issuance, is properly taken into account in the determination of Bond yield. To the extent action is required to achieve compliance with required yield limitations, including, the payment of yield reduction payments to the Internal Revenue Service, the County shall consult with the Calculation Agent and Bond Counsel, as needed, on a timely basis.

Unless Bond Counsel has advised that no Bond proceeds are subject to arbitrage yield limitation or rebate,

- the County shall engage the services of a Calculation Agent, and the County shall deliver annual statements concerning the investment of Bond proceeds to the Calculation Agent on a prompt basis;

- the Treasurer shall provide to the Calculation Agent additional documents and information, upon a reasonable request by the Calculation Agent; and
- the Treasurer shall monitor efforts of the Calculation Agent and ensure payment of any required rebate amounts and/or yield reduction payments no later than 60 days after each 5-year anniversary of the issue date of the Bonds, and no later than 60 days after the last Bond of each issue is redeemed.

The Treasurer shall retain copies of all arbitrage reports and Bond yield calculations as described below under "Record Keeping Requirements".

C. Use of Bond Proceeds

Unless otherwise provided by applicable resolutions, the Treasurer shall manage the use of Bond proceeds. Specifically, the Treasurer shall:

- monitor the expenditure of Bond proceeds on a semi-annual basis until expended and prepare a final expenditure report. The purpose of the monitoring is to verify that proceeds are expended promptly and in compliance with covenants and restrictions set forth in applicable resolutions and tax certificates;
- maintain records identifying the projects that are financed or refinanced with proceeds of each issue of Bonds;
- consult with Bond Counsel and other professional expert advisers in the review of any contracts or arrangements entered into involving use of facilities financed with Bond proceeds to ensure compliance with all covenants and restrictions set forth in applicable resolutions and tax certificates;
- maintain records for any contracts or arrangements involving the use of facilities financed with Bond proceeds as might be necessary or appropriate to document compliance with all covenants and restrictions set forth in applicable resolutions and tax certificates; and
- meet at least annually with personnel responsible for Bond-financed projects or survey such personnel to identify any existing or planned use of Bond-financed facilities, to ensure that those uses are consistent with all covenants and restrictions set forth in applicable resolutions and tax certificates.

The Treasurer shall maintain the following documentation relating to Bond financing:

- allocation of Bond proceeds to expenditures, including sufficient detail to show by Bond issue the amount of Bond proceeds allocated to each project;
- copies of requisitions, draw schedules, draw requests and invoices related to Bond proceeds allocated to expenditures during the construction period;
- schedule of all Bond-financed facilities by Bond issue updated as necessary to reflect retirements and refundings;
- fiscal-year-end audited Property, Plant and Equipment depreciation schedules which include Bond-financed property;
- documentation relating to disposal or sale of capital assets financed with Bond proceeds and evidence of compliance with remedial action rules set forth in Treasury Regulation Section 1.141-12;
- leases with respect to Bond-financed facilities;
- statements showing the investment earnings on any proceeds held pending their expenditure on project costs; and

- other documentation related to the Bond financing or use of Bond-financed facilities.

All relevant records and contracts shall be maintained as described below under "Record Keeping Requirements".

D. Private Activity

To track private activity in Bond-financed facilities, the Treasurer shall review and shall maintain a list of any existing food service or other management contracts, leases, and any special entitlements granted to third parties for the use of Bond-financed facilities or otherwise related to the Bond-financed facilities, which may constitute private use. The Treasurer's review shall include a calculation to ensure that any private activity does not exceed allowable thresholds, as described in the private business test below.

The Treasurer shall instruct the County personnel responsible for decisions as to use of Bond-financed facilities to provide information to the Treasurer about any proposed change of use of such facilities that may involve private use in advance of entering into any sale, lease or other agreement in connection with such new use. The Treasurer shall be responsible for determining whether any such new use must be treated as a private use.

In unclear situations, Bond Counsel or other outside legal counsel who specializes in the tax aspects of tax-exempt bonds shall be consulted to determine if a particular use needs to be treated as private use.

In addition to the foregoing, the Treasurer shall maintain records of any private use (including details of the nature of the use and arrangement, amount of space used and duration) along with copies of any contracts, as described below under "Record Keeping Requirements."

Private Business Tests:

Facilities that are financed with proceeds of Bonds have certain limitations on how they may be used. Where Bond proceeds are applied in such a way as to "satisfy" the "private business tests" set forth in the Internal Revenue Code, the interest on the Bonds will *not* be treated as tax-exempt. So, it is critical that Bond proceeds be applied in such a way that the private business tests are *not* satisfied.

This private business inquiry has two main components or prongs. The first prong limits the percentage of the Bond-financed facility that can be used by private parties in their trades or businesses. The second prong limits the amount of revenues or security that can be generated by or attributed to the private business. Where the limitations of both prongs are exceeded, the private business tests are satisfied and interest on the Bonds could become retroactively subject to federal income taxation.

1. Prong One: Private Use.

Prong one provides that no more than 5% of the net proceeds (including investment earnings) of each Bond issue may be used to (i) finance property that will be used by private parties (including the federal government and nonprofit corporations) and (ii) pay costs of issuance. Any use by the County in carrying out its exempt purposes is considered "good use" and therefore is not treated as private use.

Generally speaking, private use exists when:

- (i) there is direct or indirect use;
- (ii) of a Bond-financed facility;
- (iii) by one or more private business users;
- (iv) in a manner or on a basis different than normal use of that space or facility or program by the general public.

Private business users include non-profit corporations, private for-profit businesses, individuals, or any agency or instrumentality of the federal government. Private users do not include any state or local governmental units.

Generally, not more than 10% of the proceeds of an issue of Bonds or of the project financed by an issue of Bonds must not be used for private business use. However, the 10% threshold is reduced to 5%, to the extent that the private business use is unrelated to or disproportionate to the County's governmental use of the proceeds and the project.

Private use is typically measured over the term of the Bonds. Thus, even if private use were to exceed the applicable 10% (or 5%, as applicable) limit in any one year, the private use will not "satisfy" prong one so long as the private use when averaged-out over the life of the Bonds falls within the permitted threshold.

As a practical matter, private business use exists if there is an oral or written understanding, arrangement, agreement or contract under which any of the following apply:

- The private user is considered, for federal tax purposes, as an owner of the space or facilities.
- The private user will be a lessee, tenant or user of space or facilities (other than as a member of the general public).
- The private user will manage the space or facility or use or operations of the space or facility. (Rev. Proc. 2017-13 provides a safe harbor against private use treatment of certain management contracts).
- With respect to output facilities, the private user will be entitled to a portion of the output or services from operation of the space or facility, on a basis which is different than for the general public.
- The private user will sponsor research to be performed in the space or facilities (Rev. Proc. 2007-47 provides a safe harbor against private use treatment of certain sponsorship arrangements).
- The private user is otherwise entitled to special legal entitlements for beneficial use of the Bond-financed property that are comparable to ownership, leases, management contracts, output contracts or research agreements.
- In circumstances where there is no general public use of the Bond-financed facility, the facility is so situated that it is useful predominantly to a private party or otherwise provides a private party with a special economic benefit, even if there is no special legal entitlement.

2. Prong Two: Private Payment or Private Security.

In addition to satisfying the private use test, in order for the Bonds to be taxable more than 10% (or 5%, as applicable) of the present value of the debt service on the Bonds must be directly or indirectly paid or secured from revenues generated by a privately used facility. In calculating the revenues derived or with respect to a Bond-financed facility, the County may deduct ordinary and necessary operating and maintenance costs incurred in connection with the privately used portion of such facility.

Direct or indirect payments to or on behalf of the County include any of the following: rents; a share of receipts from the use; payments of money or other items or services in exchange for the use; other tangible benefits to or on behalf of the County.

II. Record Keeping Requirements

Unless otherwise specified in applicable resolutions or tax certificates, the County shall maintain the following documents for the term of each issue of Bonds (including refunding Bonds, if any) plus at least three years:

- Organizational Records: Official records of the County (e.g. any charter, bylaws, or special acts of the legislature relating to County Bonds, as well as any correspondence with the IRS related to significant changes of the County's status as a governmental issuer of tax-exempt Bonds
- Transcripts: A copy of the Bond closing transcript(s) and other relevant documentation delivered to the County at or in connection with the closing with respect to each issue of Bonds shall be kept on file with the County in the Treasurer's office and are also on file with Bond Counsel.
- Contracts: A copy of all contracts and arrangements entered into for the construction or renovation of Bond-financed facilities shall be scanned and retained in the Treasurer's office. In addition, copies shall be retained of all leases, management contracts, grants or contracts, or other documents related to private use of Bond-financed facilities.
- Financial Records: Copies of financial records, including audited financial statements, all records of investments, expenditures, investment agreements, arbitrage reports and yield reduction calculations and payments, as well as documents relating to costs reimbursed with Bond proceeds, and reports of any prior IRS examinations of the County shall be retained in the Treasurer's office in hard copy and electronically whenever possible.

III. Remedial Action

If the Treasurer discovers a potential tax law violation, he or she shall immediately consult with Bond Counsel and determine appropriate corrective measures. Ultimately, such measures may include participation in the IRS's Voluntary Closing Agreement Program.

IV. Training

In connection with the implementation of these procedures, the Treasurer and the Compliance Officials shall meet with Bond Counsel as necessary, for training with respect to these procedures. As the Treasurer or the Compliance Officials change, the County shall arrange training for a successor Treasurer or Compliance Official, as the case may be.

To stay current on various issues affecting tax-exempt bond financings, the Treasurer and the Compliance Officials may attend conferences, seminars, and receive various industry publications and advisories, including the following:

- Local seminars covering accounting, tax and other topics affecting non-profits.
- Advisory publications circulated by Bond Counsel and external audit firms.
- Discussions and information sharing conducted through various industry list services.

Post-Issuance Compliance Checklist

(Items 12-14 and 18-19 (as applicable) to be reviewed at least once annually by the Treasurer)

Bond Documents:

1. Resolutions approving the financing and financing documents, including any Declaration of Official Intent regarding reimbursement
2. Official Statement, if any
3. Tax Certificate and all Exhibits
4. Yield Report
5. Form 8038-G
6. Investment Agreements, if any
7. Bidding records for any Investment Agreements
8. Credit Enhancements, if any
9. Derivatives, if any
10. Record of identification of any "qualified hedge" on the County's books
11. Final pricing book or numbers run supplied by the bond purchaser, placement agent, investment bank or underwriter, as applicable

Post Issuance Monitoring:

12. Reports of any change of use, sale, or other disposition of Bond-financed property
13. Contracts, leases, research agreements, management contracts, use agreements and any other arrangements allowing for the use of the Bond-financed property
14. Copies of any modifications to the Bond Documents listed above

Yield and Arbitrage Calculations:

15. First rebate installment due on fifth anniversary of the Bond issuance plus 60 days
16. Succeeding installments every five years plus 60 days
17. Final installment 60 days after retirement of last Bonds of the issue (whether at maturity or earlier redemption)

Ongoing Disclosure, if any:

18. Continuing Disclosure Agreement, if any, including:
 - a. Annual Financial Information Reports
 - b. Any Significant Event Notices
19. Any other notice

Upon motion of Commissioner Saunders, seconded by Commissioner Mitchell it was voted to approve in accordance with the documentation received from Michelle Loranger, Executive Director, **Children's Advocacy Center of Bristol County**, 58 Arch Street, Fall River, MA 02720, dated February 15, 2019 to approve and forward to the Treasurer's Office, an invoice for expenses related to the **February** rent only (all occupancy costs are included in the total rent cost) in the amount of **\$2,916.00**.

It is noted this is for vendor # **6891** and will be charged to **01000-54490**.

Upon motion of Commissioner Saunders, seconded by Commissioner Mitchell it was voted to approve in accordance with the recommendation of Peter Carreiro, Benefits Coordinator, to forward to the Treasurer's Office for payment, invoice dated February 19, 2019 from the **MIIA Health Benefits Trust, One Winthrop Square**,

Boston, MA 02110, in the amount of **\$387,784.24** for the County of Bristol Monthly Membership Premiums for **March, 2019**.

To be paid to Vendor #7778 from the following accounts:	Account #01-21581	\$387,553.84
	Account #13420-54437	\$ 230.40

The County Administrator informed the commissioners that the health insurance rate only increased 0.60%.

Upon motion of Commissioner Mitchell, second by Commissioner Saunders, it was voted to have Chairman Kitchen sign and accept the MIIA Health Insurance Rates for Fiscal Year 2020. Rate increase for Fiscal Year 2020 will be 0.60%.

County Administrator Gomes stated that she needed to attend two courses that were taught by the Inspector General's Procurement Office in order to maintain her MCPPO designation for supplies and services under the state's procurement law.

Upon motion of Commissioner Mitchell, second by Commissioner Saunders, it was voted to approve the attendance costs for County Administrator Gomes to attend two sessions to obtain her re-certification as a Massachusetts Certified Public Procurement Officer ('MCPPO') for Supplies and Services. Sessions to take place in May 2019. Session 1-three day Public Contracting Over view **\$595.00** and Session 2- May 13-14-Recertification for MCPPO, **\$495.00**. Total check **\$1,090.00** Checks to be made payable to the Office of the Inspector General, One Ashburton Place, Room 1311 Boston, MA 02108 Attn: MCPPO Program.

To be paid to Vendor #2055, Remit #2 from account 10300/52241

County Administrator Gomes updated the Commissioners on the current emergency repair project going on at the Taunton Superior Court. The new roof section above the main courtroom is almost complete. Crocker has about another week's worth of work to do but it has been delayed because of weather. The interior repairs have begun and the main courtroom is expected to be ready in about three weeks. Some repointing problems have been discovered and those are going to be addressed by Rebuildex who is working on the interior repairs. The windows in the main courtroom are being looked at by a couple of different vendors to provide estimates on making the sashes sealed and made water tight.

County Administrator Gomes also stated that she had filed a form with the Secretary of State's Office of Public Records to destroy some old records that are in the County Commissioner's storage are. Specifically, Incident and Accident Reports, and old employment records. The request was granted by the State. A quote was received from Shred-It to perform on-site shredding of the records. It is estimated that there about 25 boxes.

Upon motion of Commissioner Mitchell, second by Commissioner Saunders, it was voted to approve the Quote from **Shred-It US JV LLC** to destroy public records as approved by the Commonwealth of Massachusetts Supervisor of Public Records on February 15, 2019. Approval attached. Quote is \$200 for a minimum of 10 boxes and \$8.00 for each additional box.

Vendor #7892 to be paid from 10300/52299.

Upon motion of Commissioner Mitchell, second by Commissioner Saunders, it was voted to approve the posting of a Custodial position to fill the vacancy produced by the retirement of Robert McCarthy.

Administrator Gomes would have a discussion with Roxanne Donovan at the Bristol County Retirement Board to see if a form could be developed to provide notice to the County in advance of a retirement date.

A motion was made by Commissioner Saunders, seconded by Commissioner Mitchell to comply with, or act under the authority of any general or special law or federal grant-in-aid requirements specifically the Open Meeting Law, G.L. c.30A, Sections 22(f), (g)-Review of Executive Session minutes and to have an additional Executive Session to discuss strategy with respect to litigation, the Chairman indicated that an open meeting may have a detrimental effect on the litigating position of the body, and to reconvene in Open Session. Open Meeting Law Complaint.

On the motion, Roll Call Vote:

Commissioner Mitchell	Yes
Commissioner Saunders	Yes
Commissioner Kitchen	Yes

Entered Executive Session at 5:44 pm.

The Commissioner's reconvened in open session at 6:00 pm.

One vote was taken in each Executive Session.

A motion was made by Commissioner Mitchell, seconded by Commissioner Saunders to adjourn at 6:02 pm.

APPROVED
DATE

3/26/19

[Signature]
[Signature]
[Signature]
BRISTOL COUNTY
COMMISSIONERS