



City of Marlborough

Legal Department

140 MAIN STREET
 MARLBOROUGH, MASSACHUSETTS 01752
 TEL (508) 460-3771 FAX (508) 460-3698 TDD (508) 460-3610
 LEGAL@MARLBOROUGH-MA.GOV

RECEIVED
 CITY CLERK'S OFFICE
 CITY OF MARLBOROUGH
 2023 APR 19 PM 1:37
 JASON D. GROSSFIELD
 CITY SOLICITOR
 JEREMY P. MCMANUS
 ASSISTANT CITY SOLICITOR
 BEATRIZ R. ALVES
 PARALEGAL

April 19, 2023

Michael H. Ossing, President
 Marlborough City Council
 City Hall
 140 Main Street
 Marlborough, MA 01752

Re: Proposed Deed – “Rail Spur Parcel” – Marlborough Economic Development Corporation

Dear Honorable President Ossing and Councilors:

Enclosed please find a proposed order authorizing a deed conveying a certain parcel of land consisting of 9,387 square feet +/- off Lincoln Street in Marlborough to the Marlborough Economic Development Corporation (MEDC), for the purposes of assembling land for economic development along with parcels previously acquired by MEDC, in connection with the proposed Lincoln and Mechanic Street mixed-use development. A draft deed is also enclosed.

The City acquired the “rail spur parcel” as part of the premises now comprising portions of the Assabet River Rail Trail in Marlborough by deed from the Massachusetts Bay Transportation Authority (MBTA) to the City in 1997, subject to certain deed restrictions regarding use and ownership. The deed restrictions have now been released by the MBTA as to the “rail spur parcel”, and a copy of the Partial Release and Termination of Certain Deed Restrictions by MBTA is enclosed.

The enclosed order is in proper legal form. Please contact me if you have any questions or concerns.

Respectfully,

Jason D. Grossfield
 City Solicitor

Enclosure

cc: Arthur G. Vigeant, Mayor

ORDERED:

WHEREAS, the City of Marlborough has care, custody, management, and control of a certain parcel of land, known as the "rail spur", located off Lincoln Street, Marlborough, MA, shown as "Proposed Rail Spur Parcel" on the attached plan of land, said parcel containing 9,387 square feet, more or less (the "Property"), and the assessed value of the rear/landlocked Property is approximately \$1,300;

NOW THEREFORE, BE IT VOTED BY A 2/3RDS VOTE:

(1) That the Property is declared surplus and available for disposition by conveyance for nominal consideration to the Marlborough Economic Development Corporation for economic development purposes in accordance with MGL c. 30B, Ch. 40 of the Acts of 2007, and any applicable general or special law, and the Mayor is authorized to execute a deed to the MEDC, subject to the terms and conditions of a letter agreement dated September 13, 2022 by and between the MBTA and the City relative to open space and access, and a Partial Release and Termination of Certain Deed Restrictions by MBTA recorded in said Registry at Book 80744, Page 87.

ADOPTED
In City Council
Order No. 23-
Adopted

Approved by Mayor
Arthur G. Vigeant
Date:

A TRUE COPY

ATTEST:

MASSACHUSETTS QUITCLAIM DEED

CITY OF MARLBOROUGH, a municipal corporation (hereinafter referred to as “Grantor”), with a principal place of business at 140 Main Street, Marlborough, Massachusetts 01752, for consideration paid of ONE DOLLAR (\$1.00) receipt of which is hereby acknowledged, hereby grants to the **MARLBOROUGH ECONOMIC DEVELOPMENT CORPORATION**, a Massachusetts public instrumentality pursuant to Chapter 40 of the Acts of 2007 or other enabling law, as amended, and nonprofit corporation (hereinafter referred to as “Grantee”), with a principal place of business at 91 Main Street, Suite 204, Marlborough, Middlesex County, Massachusetts, with quitclaim covenants the following described property:

See **Exhibit A** attached hereto and incorporated herein by reference.

Being a portion of the same property conveyed to Grantor by that certain deed from the Massachusetts Bay Transportation Authority (“MBTA”) recorded in 1997 in the Middlesex South Registry of Deeds (the “Registry”) at **Book 27727, Page 183**.

For reference, also see Partial Release and Termination of Certain Deed Restrictions by MBTA recorded in the Registry at Book **80744, Page 87**, and that certain unrecorded letter agreement entitled “City of Marlborough – Open Space and Access” by and between MBTA and Grantor dated September 13, 2022, attached hereto as **Exhibit B**.

No title examination requested or performed at request of Grantor and Grantee.

As authorized by Order# _____ dated _____, 2023 of the City Council of the City of Marlborough attached hereto as **Exhibit C**.

IN WITNESS WHEREOF, the undersigned Grantor hereby sets its hand and seal upon this instrument as of the _____ day of _____, 2023.

GRANTOR:

CITY OF MARLBOROUGH

By: _____

Name: Arthur G. Vigeant

Title: Mayor

COMMONWEALTH OF MASSACHUSETTS

COUNTY OF MIDDLESEX

On this ___ day of _____, 2023, before me, the undersigned notary, personally appeared Arthur G. Vigeant, showing sufficient identification, which was MA driver's license, to be the person described in and who executed the foregoing instrument, and acknowledged to me that he signed it voluntarily for its stated purpose in my presence as Mayor of the City of Marlborough, Commonwealth of Massachusetts as the voluntary act of the City of Marlborough, Commonwealth of Massachusetts.

Notary Public
My commission expires:

Notary Public:
My Commission Expires:

**EXHIBIT A
LEGAL DESCRIPTION**

A certain parcel of land situated off the Northerly side of Lincoln Street in the City of Marlborough, County of Middlesex, Commonwealth of Massachusetts, bounded and described as follows:

The Point of Beginning being the Southwesterly most corner of the parcel to be described hereafter; thence

- N89°55'56"E Twenty-eight and sixty hundredths feet (28.60') to a point; thence
- N88°32'41"E Twenty-nine and sixty-five hundredths feet (29.65') to a point of non-tangent curvature; thence
- Northwesterly Along an arc to the right having a radius of six hundred sixty and no hundredths feet (660.00'), an arc length of fifteen and ninety hundredths feet (15.90'), a chord length of fifteen and ninety hundredths feet (15.90') and a chord bearing of N14°44'37"W to a point of non-tangency; thence
- N12°02'07"W Sixty and no hundredths feet (60.00') to a point of curvature; thence
- Northwesterly Along an arc to the left having a radius of four hundred fifty and no hundredths feet (450.00'), an arc length of one hundred twenty-seven and twenty-three hundredths feet (127.23'), a chord length of one hundred twenty-six and eighty-one hundredths feet (126.81') and a chord bearing of N20°14'25"W to a point of non-tangency; thence
- S57°41'23"W Forty-four and fifty-six hundredths feet (44.56') to a point of non-tangent curvature; thence
- Southeasterly Along an arc to the right having a radius of four hundred seventy-six and fifty hundredths feet (476.50'), an arc length of one hundred seventy-five and sixty hundredths feet (175.60'), a chord length of one hundred seventy-four and sixty-one hundredths feet (174.61') and a chord bearing of S13°11'31"E to the point of beginning.

The above-described parcel contains an area of 9,387 square feet (0.22 Acres), more or less.

EXHIBIT B
UNRECORDED LETTER AGREEMENT



Charles D. Baker, Governor
 Karyn E. Polito, Lieutenant Governor
 Jamey Tesler, Acting MassDOT Secretary & CEO
 Steve Poftak, General Manager

massDOT
 Massachusetts Department of Transportation

September 13, 2022

City of Marlborough
 City Hall
 140 Main Street
 Marlborough, MA 01752

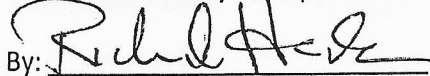
Re: City of Marlborough – Open Space and Access

The Massachusetts Bay Transportation Authority (the “MBTA”) is the holder of certain rights, restrictions, and conditions over the property (the “Premises”) as set forth in paragraphs 13 and 14 of that certain deed (the “Restrictive Covenants”) from the MBTA to the City of Marlborough (the “City”) recorded in 1997 with the Middlesex South Registry of Deeds as Book 27727, Page 183 (the “Deed”). The City has requested the MBTA release the Restrictive Covenants from a portion of the Premises described in said deed, said portion more specifically defined in Exhibit A attached hereto (the “Released Premises”) in order to allow a private developer to construct a large-scale mixed-use development over certain property, more specifically defined in Exhibit B (the “Development Parcel”), which will include the Released Premises.

The MBTA has agreed to release the Restrictive Covenants over the Released Premises via a Partial Release and Termination of Certain Deed Restrictions, which is to be executed in conjunction with this document; provided the City hereby agrees and affirms that any development of the Development Parcel shall include open space (meaning any portion of the Development Parcel used (or conveyed for use) for rail trail parking, public restroom, or other land accessible to the public) and continue to provide for access to the Assabet River Rail Trail located adjacent to the Development Parcel including connection via the public sidewalk or similar path.

Please acknowledge and certify the City’s agreement by countersigning below.

Massachusetts Bay Transportation Authority

By: 

Name: Richard Henderson
 Office: Chief Real Estate Officer

Massachusetts Bay Transportation Authority
 Ten Park Plaza, Suite 3910, Boston, MA 02116
www.mbta.com

Open Space and Access

, 2022

Page 2

Agreed:

City of Marlborough

By

Name:

Office:


Arthur Vigor, Mayor

Open Space and Access
 September 13, 2022
 Page 3

Exhibit A
Released Premises

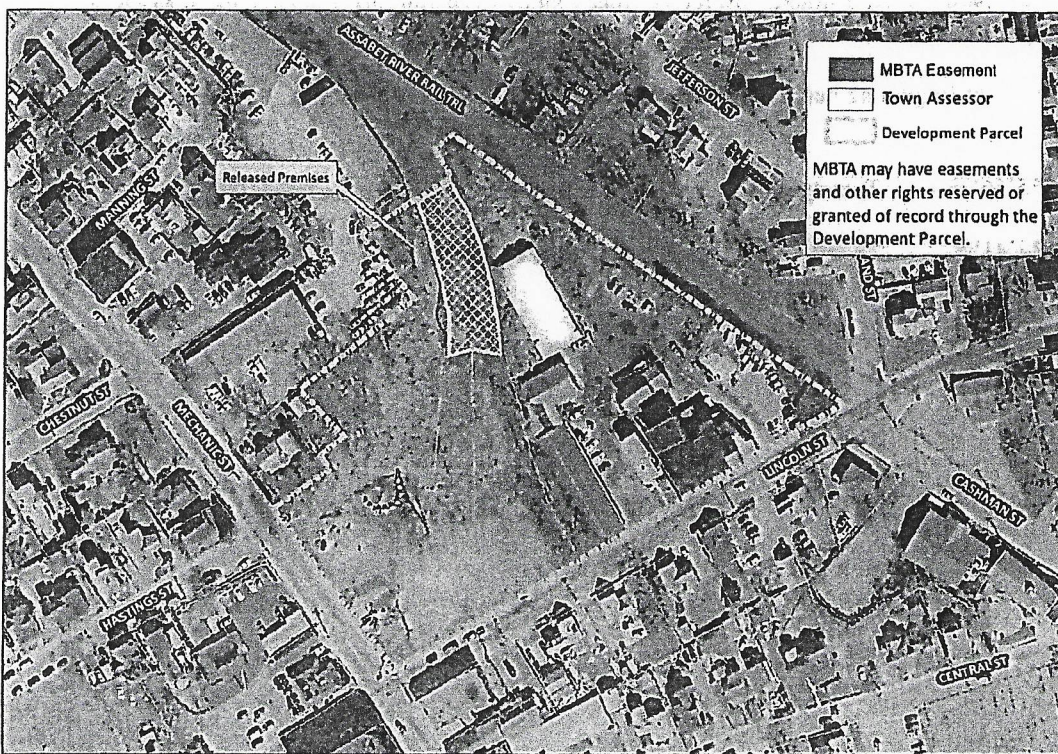
A certain parcel of land situated off the Northerly side of Lincoln Street in the City of Marlborough, County of Middlesex, Commonwealth of Massachusetts, bounded and described as follows:

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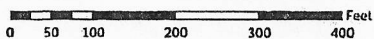
N89°55'56"E	Twenty-eight and sixty hundredths feet (28.60') to a point; thence
N88°32'41"E	Twenty-nine and sixty-five hundredths feet (29.65') to a point of non-tangent curvature; thence
Northwesterly	Along an arc to the right having a radius of six hundred sixty and no hundredths feet (660.00'), an arc length of fifteen and ninety hundredths feet (15.90'), a chord length of fifteen and ninety hundredths feet (15.90') and a chord bearing of N14°44'37"W to a point of non-tangency; thence
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S57°41'23"W	Forty-four and fifty-six hundredths feet (44.56') to a point of non-tangent curvature; thence
Southeasterly	Along an arc to the right having a radius of four hundred seventy-six and fifty hundredths feet (476.50'), an arc length of one hundred seventy-five and sixty hundredths feet (175.60'), a chord length of one hundred seventy-four and sixty-one hundredths feet (174.61') and a chord bearing of S13°11'31"E to the point of beginning.

The above-described parcel contains an area of 9,387 square feet (0.22 Acres), more or less.

Exhibit B



Lincoln Street Development Parcel
Marlborough, MA



Basemap: MassGIS Orthophoto,
4/2019; Navteq Streets Layer.

PARTIAL RELEASE AND TERMINATION OF CERTAIN DEED RESTRICTIONS

This Release is made this 13th day of September, 2022 by the **MASSACHUSETTS BAY TRANSPORTATION AUTHORITY**, a body politic and corporate and political subdivision of the Commonwealth of Massachusetts (the "MBTA") to the **CITY OF MARLBOROUGH**, a municipal corporation, with an address of 140 Main Street, City Hall, Marlborough, Massachusetts, 01752 (the "Grantee"), its successors or assigns.

WHEREAS, the MBTA is the holder of certain rights, restrictions, and conditions as set forth in paragraphs 13 and 14 of that certain deed ("Restrictive Covenants") from the MBTA to the City of Marlborough recorded in 1997 with the Middlesex South Registry of Deeds as **Book 27727, Page 183** (the "Deed").

WHEREAS, the City of Marlborough has requested the MBTA release the Restrictive Covenants from a portion of the Premises described in the Deed, said portion more specifically defined at **Exhibit A** hereto ("Released Premises").

NOW THEREFORE, for consideration paid in full of One (\$1.00) Dollar receipt of which is hereby acknowledged, to the extent permitted by law, the MBTA does hereby release the Restrictive Covenants as it pertains only to the Released Premises. The Restrictive Covenants which are hereby released and of no further force or effect are as follows:

A. "By acceptance of this deed and as part consideration therefor, the Grantee hereby covenants and agrees to: (1) use the Premises solely for public purposes; (2) not to transfer title to the Premises or portion(s) thereof to any entity that is not the Commonwealth of Massachusetts or a political subdivision thereof or an agency, or instrumentality of either of them, and (3) prohibit the building, construction, erection, installation and attachment of any and all buildings, bridges, structures, crossings, fixtures or improvements of any nature and description on the Premises."

B. "Any changes to or uses of the Premises in violation of the above described covenants of use and ownership are prohibited without receiving the prior written consent of the Grantor and if Grantee violates either the covenant of ownership or the covenant of public use, then title to the Premises shall revert to the Grantor."

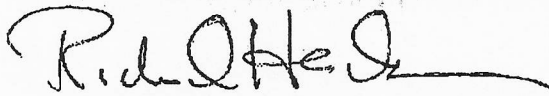
Off Lincoln Street, Marlborough, Mass.

All other rights, interests, reservations, terms, and conditions of the Deed not specifically released hereby remain in full force and effect.

The provisions of this Release shall be binding upon the MBTA, its successors and assigns, and shall inure to the benefit of the Grantee, its successors and assigns, and those claiming title by, through and under them.

EXECUTED as a sealed instrument this 13th day of September 2022.

MASSACHUSETTS BAY
TRANSPORTATION AUTHORITY



By: RICHARD HENDERSON, Chief Real Estate
Duly Authorized OFFICER

THE COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS

On this 13th day of September, 2022, before me, the undersigned notary public, personally appeared, RICHARD HENDERSON, proved to me through satisfactory evidence of identification, which was personal knowledge of the undersigned, to be the person whose name is signed on the preceding or attached document(s), and acknowledged to me that they signed it voluntarily for its stated purpose as Chief Real Estate Officer of the Massachusetts Bay Transportation Authority.



Notary Public: Alma Quijada
My Commission Expires: 10/26/2023



EXHIBIT A (RELEASED PREMISES DESCRIPTION)

A certain parcel of land situated off the Northerly side of Lincoln Street in the City of Marlborough, County of Middlesex, Commonwealth of Massachusetts, bounded and described as follows:

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**EXHIBIT C
CITY COUNCIL ORDER**

[to be attached]