Bulletin ARP-03

Local Votes by Regional School Districts and their Member Communities that have been invited to enter into a Project Funding Agreement with the Massachusetts School Building Authority for an Accelerated Repair Program Project

Requirements for Warrant Articles, Motions, Orders and Votes

Applicability: This Bulletin only applies to **Regional School Districts** that have been invited to enter into a **Project Funding Agreement** ("PFA") with the MSBA for an Accelerated Repair Program Project ("ARP Project") and are seeking guidance on the MSBA's local vote requirements.

Regional School Districts that are seeking guidance on appropriating **only** Feasibility Study/Schematic Design funds should review **Bulletin ARP-02**.

Cities and Towns that are seeking guidance on appropriating the Feasibility Study/Schematic Design funds for an ARP Project should review **Bulletin ARP-01**.

Cities and Towns that have been invited to enter into a Project Funding Agreement with the MSBA for an ARP Project should review **Bulletin ARP-04**

Voting Timeline: Please note that ***only*** those Regional School Districts that have been invited by the MSBA Board of Directors to enter into an PFA with the MSBA for an ARP Project should vote to appropriate and authorize the Total Project Budget (the "TPB") for an ARP Project. Regional School Districts are urged to contact the MSBA at least two weeks before finalizing an article, motion, resolution, ballot question, or other vote (collectively the "Local Vote") for the funding of an ARP Project because there may be additional requirements depending on the particulars of the ARP Project.

If a Regional School District already has voted to authorize an ARP Project, please contact the MSBA immediately. The MSBA may require clarification of the Local Vote or a new Local Vote that meets the MSBA's requirements.

Regional School Districts that have not been invited by the MSBA to enter into a PFA should not be voting to authorize an ARP Project at this time.

Appropriation Amount: A Regional School District must vote to appropriate and authorize the TPB, which is the **full amount** of an ARP Project's cost, including both the local share and the MSBA's share, if any. The amount to be appropriated for the TPB includes the amount that

was already appropriated and authorized for the Feasibility Study/Schematic Design costs.

Definition of TPB from the PFA: The TPB means a complete and full enumeration of all costs, including both hard costs and soft costs, so-called, that a district reasonably estimates, to the best of its knowledge and belief, has been or will be incurred in connection with the planning, design, construction, development, the mobilization of the operation, and the completion of the project, approved by the Massachusetts School Building Authority, which may be updated from time to time by mutual agreement of the Parties and which is attached to the *Project Funding Agreement as Exhibit A*.

Requirements for all Regional School Districts:

1. Regional School Districts should use the template Local Vote language incorporated within this document to appropriate and authorize the TPB.

2. Regional School Districts should provide their Local Vote language to the MSBA **at least two weeks prior to finalizing** so the MSBA has sufficient time to review and approve the language. Please be advised that if a Regional School District votes without receiving the MSBA's approval of the Local Vote language, the Regional School District may be required to re-vote using language required by the MSBA.

3. Prior to submitting draft Local Vote language to the MSBA, Regional School Districts should consult with their local counsel and bond counsel to ensure that the Local Vote language is in compliance with their regional school agreement, municipal finance law and all other applicable laws, regulations, local bylaws, and ordinances.

4. Regional School Districts that proceed with studying, planning, designing, renovating or constructing a school facility without the collaboration and approval of the MSBA will not be eligible for MSBA funding.

5. As a reminder, the amount to be appropriated for the TPB includes the amount that was already appropriated and authorized for the Feasibility Study/Schematic Design costs. Therefore, the appropriation amount authorized for the Feasibility Study/Schematic Design costs shall not be added to the appropriation amount authorized for the TPB to increase the TPB for funding additional project costs that may arise later in the ARP Project.

6. A Regional School District must also make sure it follows the local voting procedure contained in its regional school agreement. Member communities within Regional School Districts may need to vote to approve the appropriation authorized by the regional school committee based on the voting methodology contained in the regional school agreement. Therefore, the MSBA strongly recommends that regional school committees work with each member community early in the process to structure the voting process. Moreover, Regional School Districts should consult with their local legal counsel and bond counsel to ensure that they are voting in compliance with their regional school agreement and any

other statutory and regulatory requirements.

7. The motion/vote/order shall be a **separate, stand-alone vote, solely for the purposes of the ARP Project**. The motion/vote/order for the ARP Project must not pertain to or be bundled with any other school or municipal project. The motion/vote/order must be project specific and must include specific information about the ARP Project location and scope. Please note that a Regional School District may combine multiple ARP projects in the same motion/vote/order if such projects were invited to the ARP through the same Board vote and are not subject to proposition two and one-half ballot questions. The combined motion/vote/order should list each ARP Project, including its proposed scope and appropriation amount. Alternatively, Regional School Districts may vote on each ARP Project separately. The Regional School District should consult with its local finance officials to determine the best course of action.

8. All warrant articles, motions, resolutions, orders and votes, with the exception of a Proposition two and one-half ballot question (see below), must include the following provisions:

    - The appropriation amount for the TPB in the motion/vote/order includes the amount that was already appropriated and authorized for the Feasibility Study and Schematic Design costs.

    - A description of the site of the project, including the address of the school building and a description of the parcel.

    - "The proposed repair project would materially extend the useful life of the school and preserve an asset that otherwise is capable of supporting the required educational program."

    - "The MSBA's grant program is a non-entitlement, discretionary program based on need, as determined by the MSBA, and any project costs that the [*Regional School District*] incurs in excess of any grant that may be received from the MSBA shall be the sole responsibility of the [*Regional School District*]."

    - For the debt authorization provision, the following language must be included: "the amount of borrowing authorized pursuant to the vote shall be reduced by any amounts received or expected to be received from the MSBA prior to the issuance of any bonds or notes under this vote."

9. **A form of article, motion, order, vote is attached as "Attachment A," and regional school committees and member cities and towns must use this form to qualify for MSBA funding.**

10. Proposition Two and One-Half Ballot Questions: All ballot questions for an ARP Project must be solely related to that ARP Project, with only one ARP Project per vote. The ballot question related to the ARP Project must not pertain to or be bundled with any other school or municipal projects.

11. **A form of ballot question is attached as "Attachment B," and member cities and towns must use this form to qualify for MSBA funding.**

See pages below for template vote language

Attachment A

FORM OF VOTE FOR REGIONAL SCHOOL DISTRICT SCHOOL COMMITTEE

Date of FS/SD appropriation and amount appropriated.

VOTED: That the **[*Regional School District*]** hereby appropriates the amount of __($_____) Dollars, [***which includes the ($Dollar Amount) already appropriated for the Feasibility Study and Schematic Design costs on (Month Day, Year)***], for the purpose of paying costs of **[*Insert a description of the Project, including school name, description of location, address, scope of project*]**, including the payment of all costs incidental or related thereto (the "Project"), which proposed repair project would materially extend the useful life of the school and preserve an asset that otherwise is capable of supporting the required educational program, and for which the District may be eligible for a grant from the Massachusetts School Building Authority ("MSBA"), said amount to be expended under the direction of **[*the School Building Committee or Appropriate Body*]**. To meet this appropriation, the Regional School District is authorized to ***[appropriate from available funds/borrow/transfer from (Fund Name)]*** said amount, under and pursuant to Chapter 71, ***[Section 16(d) / Section 16(n)]*** of the General Laws and the District Agreement, as amended, or pursuant to any other enabling authority. The Regional School District acknowledges that the MSBA's grant program is a non-entitlement, discretionary program based on need as determined by the MSBA, and any Project costs the Regional School District incurs in excess of any grant approved by and received from the MSBA shall be the sole responsibility of the Regional School District; provided further that any grant that the District may receive from the MSBA shall not exceed the lesser of (1) _____ percent (_____**%**) of eligible, approved Project costs, as determined by the MSBA, or (2) the total maximum grant amount determined by the MSBA, and that the amount of borrowing authorized pursuant to this vote shall be reduced by any grant amount set forth in the Project Funding Agreement that may be executed between the **[*Regional School District*]** and the MSBA.

If voting to appropriate funds for multiple ARP projects, please provide the scope for each project and the amount being appropriated for each.

The Reimbursement Rate that was approved by the MSBA Board of Directors when the District received their PFA vote.

Keep language only if authorizing borrowing of funds, otherwise remove.

FURTHER VOTED: That within _____ (___) days from the date on which this vote is adopted the **[*Secretary or Appropriate Official]*** be and hereby is instructed to notify the Board of Selectmen of each of the member towns of this District as to the amount and general purposes of the debt herein authorized, as required by the District Agreement and by Chapter 71, Section 16(d), of the General Laws.

Use if following Ch. 71, Sec. 16(d) method.

FURTHER VOTED: That the debt authorized by this vote shall be submitted to the registered voters of the District's member towns for approval at a District-wide election, to be called and held on **[*Day of Week, Month Day, Year*]** in accordance with the provisions of Chapter 71, Section 16(n) of the General Laws and the District Agreement.

Use if following Ch. 71, Sec. 16(n) method.

FORMS OF SCHOOL DISTRICT MEMBER TOWN MEETING ARTICLE AND MOTION

Article ___. To see if the ***[Town of ____]*** will approve the $_____ borrowing authorized by the ***[Regional School District]***, for the purpose of paying costs of ***[Insert a description of the Project, including school name, description of location, address, scope of project]***, including the payment of all costs incidental or related thereto (the "Project"), which proposed repair project would materially extend the useful life of the school and preserve an asset that otherwise is capable of supporting the required educational program, and for which the Regional School District may be eligible for a school construction grant from the Massachusetts School Building Authority ("MSBA"), said amount to be expended at the direction of **[*the School Building Committee or Appropriate Body*]**. The MSBA's grant program is a non-entitlement, discretionary program based on need, as determined by the MSBA, and any Project costs the Regional School District incurs in excess of any grant approved by and received from the MSBA shall be the sole responsibility of the Regional School District and its member municipalities. Any grant that the Regional School District may receive from the MSBA for the Project shall not exceed the lesser of (1) _____ percent (_____%) of eligible, approved project costs, as determined by the MSBA, or (2) the total maximum grant amount determined by the MSBA.

Motion ___. That the ***[Town of _____]*** hereby approves the $_____ borrowing authorized by the ***[Regional School District]***, for the purpose of paying costs of ***[Insert a description of the Project, including school name, description of location, address, scope of project]***, including the payment of all costs incidental or related thereto (the "Project"), which proposed repair project would materially extend the useful life of the school and preserve an asset that otherwise is capable of supporting the required educational program, and for which the Regional School District may be eligible for a school construction grant from the Massachusetts School Building Authority ("MSBA"), said amount to be expended at the direction of ***[the School Building Committee or Appropriate Body]***; that the Town acknowledges that the MSBA's grant program is a non-entitlement, discretionary program based on need, as determined by the MSBA, and any Project costs the Regional School District incurs in excess of any grant approved by and received from the MSBA shall be the sole responsibility of the Regional School District and its member municipalities; provided further that any grant that Regional School District may receive from the MSBA for the Project shall not exceed the lesser of (1) _____ percent (_____%) of eligible, approved project costs, as determined by the MSBA, or (2) the total maximum grant amount determined by the MSBA; [provided that the approval of the District's borrowing by this vote shall be subject to and contingent upon an affirmative vote of the Town to exempt its allocable share of the amounts required for the payment of interest and principal on said borrowing from the limitations on taxes imposed by M.G.L. 59, Section 21C (Proposition 2 ½)]; and that the amount of borrowing authorized by the District shall be reduced by any grant amount set forth in the Project Funding Agreement that may be executed between the ***[Regional School District]*** and the MSBA.

The Reimbursement Rate that was approved by the MSBA Board of Directors when the District received their PFA vote.

If the member town does not intend to hold a debt exclusion, the language within the brackets should be removed entirely.

FORM OF SCHOOL DISTRICT MEMBER CITY ORDER

Ordered: That the City hereby approves the $_____ borrowing authorized by the ***[Regional School District]***, for the purpose of paying costs of ***[Insert a description of the Project, including school name, description of location, address, scope of project]***, including the payment of all costs incidental or related thereto (the "Project"), which proposed repair project would materially extend the useful life of the school and preserve an asset that otherwise is capable of supporting the required educational program, and for which the Regional School District may be eligible for a school construction grant from the Massachusetts School Building Authority ("MSBA"), said amount to be expended at the direction of ***[the School Building Committee or Appropriate Body]***; that the City acknowledges that the MSBA's grant program is a non-entitlement, discretionary program based on need, as determined by the MSBA, and any Project costs the District incurs in excess of any grant approved by and received from the MSBA shall be the sole responsibility of the Regional School District and its member municipalities; provided further that any grant that Regional School District may receive from the MSBA for the Project shall not exceed the lesser of (1) _____ percent (_____%) of eligible, approved project costs, as determined by the MSBA, or (2) the total maximum grant amount determined by the MSBA; [provided that any vote hereunder shall be subject to and contingent upon an affirmative vote of the City to exempt its allocable share of the amounts required for the payment of interest and principal on said borrowing from the limitations on taxes imposed by M.G.L. 59, Section 21C (Proposition 2 1/2)]; and that the amount of borrowing authorized by the Regional School District shall be reduced by any grant amount set forth in the Project Funding Agreement that may be executed between the ***[Regional School District]*** and the MSBA.

The Reimbursement Rate that was approved by the MSBA Board of Directors when the District received their PFA vote.

If the member city does not intend to hold a debt exclusion, the language within the brackets should be removed entirely.

Attachment B

FORM OF SCHOOL DISTRICT MEMBER TOWN/CITY BALLOT QUESTION

Shall the ***[City/Town of _____]*** be allowed to exempt from the provisions of proposition two and one-half, so-called, the amounts required to pay the ***[City's/Town's]*** allocable share of the bond issued by the ***[Regional School District]*** for the purpose of paying costs of ***[insert project description identical to the description in the motion/order]***, including the payment of all costs incidental or related thereto?