

NEW BUSINESS

1-28-13



Town of Middleborough
Massachusetts

BOARD OF SELECTMEN

January 28, 2013

Aidee Cira – Permitting Supervisor
Permits Office
MassDOT, Highway Division
1000 County Street
Taunton, MA 02780

Dear Ms. Cira:

Please be advised that the Middleborough Board of Selectmen is aware that Industrial Communications intends to file an application with the Zoning Board of Appeals for the necessary variances and approvals to construct a telecommunications tower facility on the curb cut subject property located at 137 South Main Street, Middleborough, MA.

Sincerely,

BOARD OF SELECTMEN

Alfred P. Rullo, Jr., Chairman

Allin Frawley, Vice Chairman

Steven P. Spataro

Ben Quelle

Stephen J. McKinnon

INTEROFFICE MEMORANDUM

TO: Francis A. DePaola, Highway Administrator

THROUGH: Andrea S. Jackson, Director, Right of Way Bureau *AS*

FROM: Thomas P. Gray, Counsel, Right of Way Bureau *TPG*

DATE: November 29, 2012

RE: REVISION TO BREAK IN ACCESS RESTRICTION

CITY/TOWN: Middleborough
LAYOUT No.: 4588, Dated 8/20/57
F.A.P No: NFA

LOCATION: Route 105 (S. Main Street)
AREA: N/A
COST CODE: N/A

On September 5, 2012, the Highway Administrator approved a request to alter a deed restriction from "Removal of Minerals Only" to "Installation and Maintenance of a Cellular Tower." The Interoffice Memorandum did not indicate that the existing break in access granted by the Department of Public Works would not be altered in any way: as such, this request should not properly be considered a disposition of excess land, since only the language in the grant of access by MassDOT would be revised. Therefore, this request need not be considered a disposition to be processed by the Office of Real Estate and Asset Development.

Based on the information stated above, the Right of Way Bureau recommends that the Highway Administrator approve and execute the two (2) attached Written Instruments, a "Revision to Grant of Break in Access."

APPROVED-MassDOT HIGHWAY DIVISION
ADMINISTRATOR-Item No. 4

November 29, 2012

11/29/12
Date

Francis A. DePaola
Francis A. DePaola, Highway Administrator



Industrial Communications & Electronics, Inc.
Industrial Tower and Wireless, LLC
Industrial Communications, LLC

January 22, 2013

Mr. Alfred P. Rullo, Jr., Chairman
Honorable Board Members Selectmen's Office
10 Nickerson Avenue
Middleborough, Ma 02346

40 Lone Street
Marshfield, Massachusetts 02050
781-319-1111 • Fax 781-837-4000
www.industrialcommunications.com

Dear Mr. Rullo,

Please accept this letter as a formal request from Industrial Tower and Wireless, LLC to be placed on the agenda of the Board of Selectmen's meeting being held on Monday, January 28, 2013.

The purpose of our coming before the Board is to request your assistance with our submission of a curb cut application with the Mass DOT for our property located at 137 South Main Street, Middleborough, Ma.

By way of providing some background to this matter, on January 2, 2013, the High Way Administrator executed a "Revision To Grant of Break In Access" (see attached) along South Main Street (Route 105) between specific points at the subject property for access and egress solely for the installation, maintenance and operation of a telecommunications tower. This revision removed the original grant of access established as part of a 1957 Order of Taking by the Department of Public Works, which was confined to the removal of mining materials. In order for Industrial to perfect this revision for its intended purpose, a curb cut is necessary between the specific points along our property.

In the course of our discussions with the permitting supervisor at Mass DOT, they indicated that they would not begin processing our application without a statement from the Town of Middleborough indicating that it does not oppose the curb cut and that the Board is aware that Industrial intends to file an application with the Zoning Board of Appeals for the necessary variances and approvals to construct a telecommunications tower facility on the curb cut subject property. More specifically, Mass DOT has requested that we provide the aforementioned statement in a letter from the Town of Middleborough to accompany our curb cut application.

Industrial respectfully requests your placement of this matter on the Board of Selectmen's January 28th agenda at which time we will provide additional subject material. Thank you for your consideration in this matter.

Should you have any questions regarding this matter, please contact me directly at (781) 319-1005.

Sincerely,

Industrial Tower and Wireless, LLC

A handwritten signature in black ink, appearing to read 'Michael J. Umano'.

Michael J. Umano

President

REVISION TO GRANT OF BREAK IN ACCESS

The MASSACHUSETTS DEPARTMENT OF TRANSPORTATION, a body politic and corporate established under the provisions of Chapter 6C and Chapter 81 of the Massachusetts General Laws and all acts in amendment thereof (GRANTOR), with an address of Ten Park Plaza, Boston, Massachusetts 02116, does hereby grant, for nominal consideration, to the STILES & HART BRICK COMPANY, a Massachusetts corporation (GRANTEE) doing business at 127 Cook Street, Bridgewater, Ma 02324 and its heirs, successors and assigns

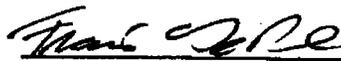
The right of access to and egress from the southwesterly location line of South Main Street (Route 105) solely for the installation, maintenance and operation of a telecommunications tower, on the real property located at 137 South Main Street, Middleboro Massachusetts comprising 49,658 square feet of land, more or less, and more particularly described by deed recorded with the Plymouth County Registry of Deeds, Book 1970, Page 438 (the Site), between points thereon opposite stations 21+12 and 21+32 of auxiliary baseline "C" on Layout No. 4588, as described in an Order of Taking by the Department of Public Works dated August 20, 1957, and recorded with the Plymouth County Registry of Deeds in Book 2589 at Page 313.

This grant of right extinguishes the original limiting grant of access as set forth in said Order of Taking, which was confined to the removal of mining materials. (See Book 2589 at Page 321, Paragraph 9).

As conditions to this grant, the Grantee shall: i.) install and maintain a gate and fencing to secure access to the Site and prevent unauthorized access to or use of the telecommunications tower; ii.) permit the Grantor or its statutory successor, to install a camera and weather monitoring equipment upon the telecommunications tower; and iii.) coordinate development of the Site with the Commonwealth's Natural Heritage and Endangered Species Program.

Dated at Boston this ^{January, 2013} 2nd day of ~~December, 2012~~

RETURN TO:
MASSDOT
RIGHT OF WAY BUREAU
10 PARK PLAZA
BOSTON, MA 02116
ATTN: MAURIZIO FABBO


Francis A. DePaola
Highway Administrator

AGREED: STILES & HART BRICK COMPANY

BY: Lincoln & Anderson Date: 12/26/2012
Its
As duly authorized

THE COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss.

On this 2nd day of January, 2013 ~~2012~~, before me, the undersigned notary public, personally appeared Francis A. DePaola, the Highway Administrator for the Massachusetts Department of Transportation, whose name is signed on the preceding document, and such person acknowledged to me that he signed such document voluntarily for its stated purpose. The identity of such person was proved to me through satisfactory evidence of identification, which was personal knowledge of the undersigned.

Thomas P. Bray
Notary Public
My commission expires: February 20, 2015

#

Official Receipt for Recording in:

Plymouth County Registry of Deeds
50 Obery St.

Plymouth, Massachusetts 02360

Issued For:

MASSONE RIGHT OF WAY BUREAU
ATTN: RESURVEY BUREAU
100 PARK PLAZA
BOSTON, MA 02116

Recordable Fees:

#

Document

Record Charge

Recorder's Fee

Amount

Bank Charge

Amount

12500

00002899

\$125.00

OR MASSACHUSETTS OFFICIAL RECORDS BUREAU
RE SURVEY BUREAU BOSTON

EXCISE

00002899

\$3.00

POSTAGE

\$2.00

\$127.00

Call Forward Amounts:

#

Payment

Amount

Type

#

Cash

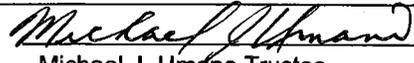
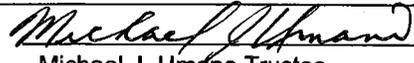
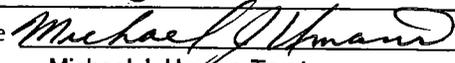
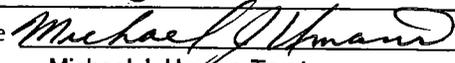
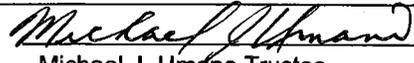
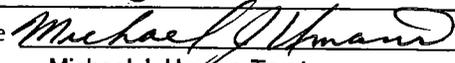
\$150.00

\$150.00

RECEIVED
JAN 18 2013

Application for Permit to Access State Highway

This Access Permit Application, including the attached Access Permit Submittal Checklist, must be completed in full by the Applicant. Instructions for this page are located on page 2. Descriptions of the two types of access permits and related categories are located on page 6. MassDOT will make the final determination regarding Access Permit Application type and category.

1. Town/City: Middleborough
 2. State Highway route number and/or name: Route 105 - South Main Street
 3. Locus/Property Address: Opposite stations 18+29 - 21+32 1957 State Layout #4588 - South Main Street
 4. Description of property and/or facility for which access is sought (attach additional sheets if necessary):
Vacant property to be developed into a cell tower site. Access/maintenance drive for proposed Cell Tower.
Access frequency to be approximately one vehicle trip per month for maintenance after construction.
 5. Description of work to be performed within State Highway Layout (attach additional sheets if necessary):
Remove small section of curbing and sidewalk for entrance to site between stations 21+12 -21+32
 6. Dig Safe number: to be obtained at time of construction
- | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
|---|---|---------------------------------|--|-------------------------|-----------------|-----------------------|--|-----------------------------|-----------|---------------------|-----|---------------------|--------|--|-----------|--|------------|---------------------------------|------|----------------|--|------|---------------------------------|--|-------------------------|-----------------|-----------------------|--|-----------------------------|-----------|---------------------|-----|---------------------|--------|--------------------------------|-----------|---|------------|---------------------------------|------|----------------|
| <ol style="list-style-type: none"> 7. Applicant Information ¹ (See footnote below.) <table border="0" style="width: 100%; border-collapse: collapse;"> <tr><td>Name</td><td><u>Michael J. Umamo Trustee</u></td></tr> <tr><td></td><td><u>ITW Realty Trust</u></td></tr> <tr><td>Mailing Address</td><td><u>40 Lone Street</u></td></tr> <tr><td></td><td><u>Marshfield, MA 02767</u></td></tr> <tr><td>Telephone</td><td><u>781-319-1005</u></td></tr> <tr><td>Fax</td><td><u>781-834-4000</u></td></tr> <tr><td>E-Mail</td><td><u>mike.umamo@induscom.com; engineering@induscom.com</u></td></tr> <tr><td>Signature</td><td><u></u></td></tr> <tr><td>Print Name</td><td><u>Michael J. Umamo Trustee</u></td></tr> <tr><td>Date</td><td><u>1/17/13</u></td></tr> </table> | Name | <u>Michael J. Umamo Trustee</u> | | <u>ITW Realty Trust</u> | Mailing Address | <u>40 Lone Street</u> | | <u>Marshfield, MA 02767</u> | Telephone | <u>781-319-1005</u> | Fax | <u>781-834-4000</u> | E-Mail | <u>mike.umamo@induscom.com; engineering@induscom.com</u> | Signature | <u></u> | Print Name | <u>Michael J. Umamo Trustee</u> | Date | <u>1/17/13</u> | <ol style="list-style-type: none"> 8. Property Owner <table border="0" style="width: 100%; border-collapse: collapse;"> <tr><td>Name</td><td><u>Michael J. Umamo Trustee</u></td></tr> <tr><td></td><td><u>ITW Realty Trust</u></td></tr> <tr><td>Mailing address</td><td><u>40 Lone Street</u></td></tr> <tr><td></td><td><u>Marshfield, MA 02767</u></td></tr> <tr><td>Telephone</td><td><u>781-319-1005</u></td></tr> <tr><td>Fax</td><td><u>781-834-4000</u></td></tr> <tr><td>E-Mail</td><td><u>mike.umamo@induscom.com</u></td></tr> <tr><td>Signature</td><td><u></u></td></tr> <tr><td>Print Name</td><td><u>Michael J. Umamo Trustee</u></td></tr> <tr><td>Date</td><td><u>1/17/13</u></td></tr> </table> | Name | <u>Michael J. Umamo Trustee</u> | | <u>ITW Realty Trust</u> | Mailing address | <u>40 Lone Street</u> | | <u>Marshfield, MA 02767</u> | Telephone | <u>781-319-1005</u> | Fax | <u>781-834-4000</u> | E-Mail | <u>mike.umamo@induscom.com</u> | Signature | <u></u> | Print Name | <u>Michael J. Umamo Trustee</u> | Date | <u>1/17/13</u> |
| Name | <u>Michael J. Umamo Trustee</u> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | <u>ITW Realty Trust</u> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Mailing Address | <u>40 Lone Street</u> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
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| Telephone | <u>781-319-1005</u> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Fax | <u>781-834-4000</u> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| E-Mail | <u>mike.umamo@induscom.com; engineering@induscom.com</u> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Signature | <u></u> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
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| Date | <u>1/17/13</u> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
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| E-Mail | <u>mike.umamo@induscom.com</u> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
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| Print Name | <u>Michael J. Umamo Trustee</u> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Date | <u>1/17/13</u> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |

Return completed application, including Submittal Checklist, to the District Highway Director for your town/city. Refer to reverse side for appropriate address.

For office use only. Do not write below this line.

- | | |
|---|--|
| <ol style="list-style-type: none"> 1. Application number: _____ 2. Date received: _____ 3. Fee amount (non-refundable) : _____ 4. Completeness Pre-Review date: _____ 5. MEPA required (yes or no): _____ ENF-EOEEA Cert. # _____ EIR-EOEEA Cert. # _____ Other-EOEEA Cert. # _____ | <ol style="list-style-type: none"> 6. Section 61 Finding date: _____ 7. Mass. Historic Action (yes or no): _____ 8. Plans returned to DHD: _____ 9. Permit Type/Category: _____ 10. Application complete date: _____ 11. Permit written date: _____ 12. Permit issued date: _____ 13. Permit denied: _____ 14. Permit Recording date at Registry of Deeds _____ |
|---|--|

¹ If an agent is representing an Applicant, the application must include a notarized letter from the Applicant outlining the specified duties and responsibilities of the agent. Where work is proposed on a utility, the utility department must sign the application as the Applicant(s).

INDUSTRIAL TOWER AND WIRELESS, LLC

40 LONE STREET
MARSHFIELD, MA 02050
(781) 319-1111

REMITTANCE ADVICE

5-7017-2110

5599

PAY Five Hundred Dollars _____ DOLLARS

CHECK AMOUNT  Security Features Included. Details on back.

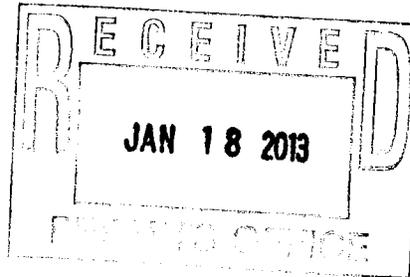
DATE	TO THE ORDER OF	DESCRIPTION	CHECK NO.
1/17/13	MASS DOT	Curb CUT APPLICATION	5599

\$ 500.00

CITIZENS BANK
MASSACHUSETTS

Michael P. [Signature]

⑈005599⑈ ⑆211070175⑆ 1302675971⑈



**INTER MUNICIPAL AGREEMENT
FOR MULTI TOWN PARTICIPATION IN THE FY13
MASSACHUSETTS COMMUNITY DEVELOPMENT BLOCK GRANT
PROGRAM
BY AND BETWEEN THE COMMUNITIES OF
FAIRHAVEN (lead) and MIDDLEBOROUGH**

THIS INTER MUNICIPAL AGREEMENT was made as of the ____ day of January, 2013 by and between the Town of Fairhaven acting by and through its Board of Selectmen and the Town of Middleborough, acting by and through its Board of Selectmen.

The Town of Fairhaven will act as the lead community for the regional/joint Community Development Block Grant (CDBG) funded through the 2013 Massachusetts CDBG Program administered by the Massachusetts Department of Housing and Community Development (DHCD). The purposes of this program will be to make loans and grants available for housing rehabilitation and for infrastructure improvements.

All CDBG finances shall be administered by the Town of Fairhaven, which shall have responsibility of insuring that all State and Federal regulations are enforced on activities and have all financial and programmatic responsibility and accountability for the CDBG funds for activities in the 2013 grant application. The Towns of Fairhaven and Middleborough shall abide by all State and Federal regulations on activities.

The Town of Fairhaven and Town of Middleborough have agreed to be included in the CDBG Program as joint participants, with each participating in grant activities per DHCD guidelines. The Town of Fairhaven shall involve the Town of Middleborough in the procurement and implementation decisions related to this grant. The Town of Middleborough through its Board of Selectmen will designate a person to represent the Town in all matters relating to the FY13 Grant administration.

Fairhaven, as lead Community, shall have the following responsibilities under the CDBG Program which include but are not limited to the following:

The Town of Fairhaven shall sign documents related to the Grant, or delegate responsibility as specified in the Management Plan, including the Grant application, certifications, disclosures, grant agreement, expenses for administration and program delivery costs, environmental review findings, permits, approvals by local and/or Mass. historic commission, quarterly reports, sub-contracting, program and budget revisions, extension requests, and close-out reports.

1. The Town of Fairhaven shall provide the Fairhaven and Middleborough Selectboard's with any necessary documents as requested for their review, including but not limited to:
 - a. All quarterly reports.

- b. Copies of any audits or other monitoring reports as may be performed by the private individuals, the State or DHCD.
2. The Town of Fairhaven, with advance written notice to the Town of Middleborough, shall make decisions related to any program or budget variances (or amendments) from the original grant.
3. The Town of Fairhaven Board of Selectmen shall be responsible for compliance with the Citizen Participation Plan and for holding any public hearings during implementation. The Town of Fairhaven shall notify the Town of Middleborough of any public hearing(s) that take place related to the CDBG activities, at a minimum of two weeks prior.
4. The Town of Fairhaven will be responsible for any audits that may be needed for DHCD or CDBG program requirements, the costs being part of the program administration funds.
5. For the 2013 CDBG Fairhaven-Middleborough Housing Rehabilitation Assistance Program 10 projects (a minimum of 5 in Fairhaven and 5 in Middleborough) are proposed to receive repair loan/grant assistance in the identified target areas in each community.
6. The Town of Fairhaven shall respond to inquiries of forgiveness or subordination of rehabilitation loans according to the Anti-Speculation Plan submitted with the FY13 application. For projects within the Town of Middleborough, the Town of Middleborough shall be the point of contact to gather all necessary documents. Town of Middleborough shall forward a written recommendation along with all supporting documentation to the Town of Fairhaven.
7. Each Community shall direct any Program Income funds that may be generated by activities in the respective Towns to those respective Towns, i.e., Fairhaven or Middleborough, for any CDBG eligible activity. Any such future use of Program Income funds shall comply with the eligibility and other use guidelines as established by the DHCD's regulations and guidelines.
8. This agreement is made pursuant to and shall be subject to the provisions of General Laws Chapter 40, Section 4A.
9. This agreement is contingent upon award of a regional joint community development block grant from the Commonwealth of Massachusetts for Fiscal Year 2013.

IN WITNESS THEREOF, the Town of Fairhaven and the Town of Middleborough have executed this Agreement under seal in triplicate as of the date above written.

For the TOWN of FAIRHAVEN:

By: 

Brian K. Bowcock, Chairman,
Fairhaven Board of Selectmen

By: 

Charles K. Murphy Sr.
Fairhaven Board of Selectmen

By: 

Robert J. Espindola
Fairhaven Board of Selectmen

For the TOWN of MIDDLEBOROUGH:

By: _____
Alfred P. Rullo, Jr, Chairman,
Middleborough Board of Selectmen

By: _____
Allin Frawley, Vice Chairman
Middleborough Board of Selectmen

By: _____
Steven P. Spataro
Middleborough Board of Selectmen

By: _____
Ben Quelle
Middleborough Board of Selectmen

By: _____
Stephen J. McKinnon
Middleborough Board of Selectmen