Office of the City Manager
City Hall • 375 Merrimack Street • Lowell, MA 01852
P: 978.674.4400 • F: 978.970.4007
www.LowellMA.gov

Conor Baldwin
Chief Financial Officer

MEMORANDUM

KJM

TO: Kevin J. Murphy, City Manager

FROM: Conor Baldwin, Chief Financial Officer

DATE: March 2, 2017

SUBJECT: MOTION RESPONSE 7.3 of 3/7/16 CC Meeting - C. Leary - Req. City Mgr. Provide A Report Outlining The Proposition 2 1/2 Debt Exclusion Process As It Would Relate To Funding Of The Lowell High School Project, The Report Should Include The Positive And Negative Aspects Of Funding The High School Project In This Manner.

Municipalities can raise tax revenue beyond annual statutory limits imposed by Proposition 2½ (M.G.L Ch. 59 Sec. 21C) through a referendum to approve an override or exclusion (i.e. "debt exclusion"). Legal authority to place a question on the ballot in a municipality like Lowell, with a Plan E form of government, resides with the City Council. Debt exclusions require a two-thirds vote of the local appropriating authority and must receive a majority of votes in a city election. Under the Proposition 2½ statute, the local appropriating authority is defined, in a city, as the city council, with the City Manager's approval when required by charter.

A debt exclusion, as prescribed by MGL Chapter 59, Section 21C(j), raises additional tax revenue to pay debt service costs to finance a capital project, or sometimes to fund a major capital purchase (i.e., the construction/ renovation of a municipal building). The excluded amount, or additional tax, is not specified in the referendum language, but need not equal the anticipated annual debt service obligation in its entirety. A limit on the amount to be raised is initially set in the bond authorization and requires a two-thirds vote of the city council. The additional property taxes are not permanent, but are removed from the levy when the term of the bond ends. It is likely that the term for the Lowell High School project would be thirty years.

It is important bear in mind some aspects of Lowell's property tax levy when considering the pursuit of a Proposition 2 ½ debt exclusion. A community may choose to set its levy at any amount below or equal to its levy limit. When a community sets its levy below the limit, the difference between the levy and the levy limit is referred to as "excess levy capacity". The City of Lowell has historically limited the year-to-year tax increase and, therefore, has accumulated a significant amount of excess levy capacity. As of FY2017, Lowell's excess levy capacity is $16,674,500. This amount represents that additional amount of taxes that Lowell could—but chose not to—levy. The formula for determining excess levy capacity is as follows:

Levy Limit ($140,808,634) – **Levy** ($124,134,134) = **Excess Levy Capacity** ($16,674,500)

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The concept of excess levy capacity is not a part of the Proposition 2 ½ law, as are the levy limit and levy ceiling. However, excess levy capacity is important weighing the positive and negative aspects of a Proposition 2 ½ debt exclusion. Each of the of the projected average annual debt service payments for the four LHS project options approved by the City Council could be absorbed within the existing levy ceiling, but without a debt exclusion the increase would permanently increase the levy. The amount of excess levy capacity would then be reduced by the additional taxes needed to fund the high school. If a Proposition 2 ½ debt exclusion is approved, then after 30 year term for the LHS bond has been satisfied, the levy would decreased by the approved amount.

For each percent raised in taxes, revenue for the City budget would increase by approximately $1.24 million. The annual debt service costs for the four options approved by the City Council are $7.49 million for Full Renovation, $8.72 million for Add/Reno Option 2, $8.13 million for Add/Reno Option 3, and $9.54 million for New School/ Cawley Site. The tax increase necessary to meet the funding requirements for the four high school options would be approximately 6%, 7%, 6.5%, or 7.7%, respectively. Any additional funding needs for the annual operating budget for fixed costs, additional debt service for capital improvements for curb appeal and infrastructure investment, or any other budgetary needs of the city, would be in excess of the aforementioned tax increases.

Because of the size of Lowell's excess levy capacity, the City Council has some financial flexibility—albeit limited—to phase the tax increase needed to fund the LHS project into the budget in advance of the first major principal and interest payments are due in FY2020. This financing strategy may mitigate the impact of the project and avoid potential "sticker shock" that could occur if property values continue to increase. With a Proposition 2 ½ debt exclusion vote, however, the tax impact would take place immediately following approval by the City Council and the voters.

Enclosed with this memorandum is an Informational Guideline Release (IGR-02-101) from the Department of Revenue published in March of 2002 which explains the policies of the Commissioner of Revenue regarding the borrowing amount covered by an approved Proposition 2½ debt service exclusion and adjustments to the annual exclusion schedule. It also includes procedures and forms to be used by cities and towns with approved debt exclusions for obtaining a determination about the inclusion of cost increases within an exclusion or approval to use an adjusted exclusion schedule.

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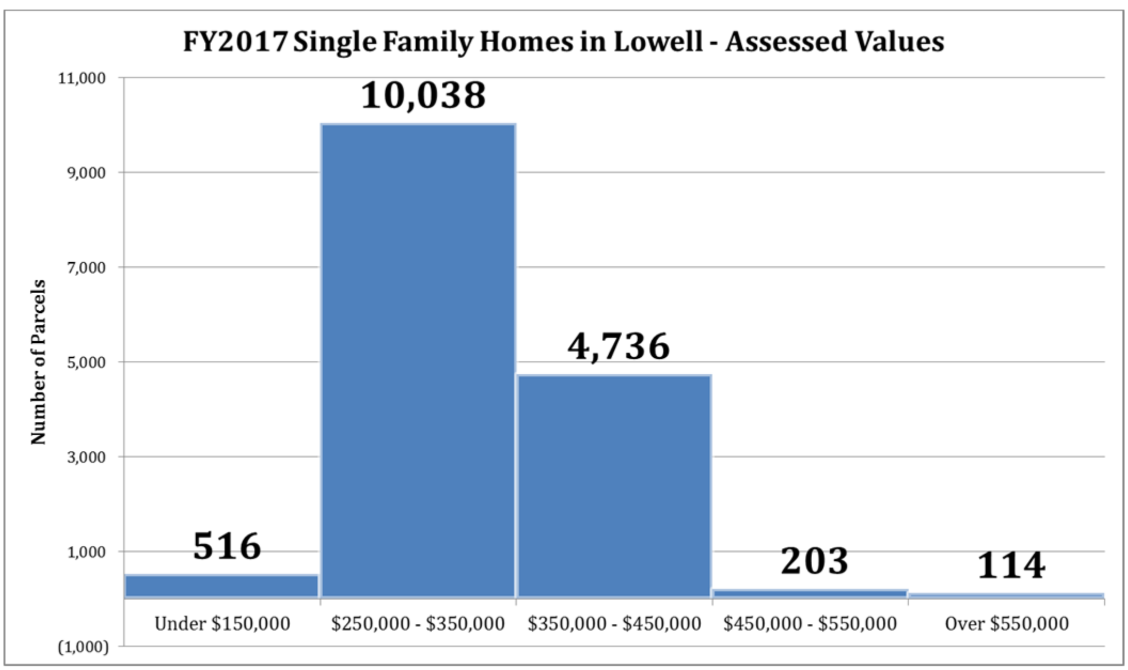
When considering a debt exclusion for the Lowell High School project, it is important to review the tax impact that the capital outlay for the project may have on residential homeowners' tax bills. Information has been distributed to the City Council and the City Council Finance Subcommittee previously regarding the tax impact on the average single family home. While this is a common metric used to gauge the tax impact of a capital project, it only provides a narrow determination the total tax impact on residents. To more fully determine the impact to residential homeowners throughout the city, the finance team has conducted a tax impact study that addresses five groups of home values. Most residents will find that their property falls within one of the five groups and more accurately estimate the impact on their annual tax bill for the LHS project's debt service.

In FY2017, the average single family home in Lowell was assessed at $253,908. However, there are 24,183 parcels taxed at the residential rate which range in value, significantly. Of those, there are 11,683 parcels classified as single family homes. The chart below summarizes the distribution of values for single family homes throughout the city in FY2017. The overwhelming majority of single family homes fall between $250,000 and $350,000 (86%), while the next most populated range is from $350,000 to $450,000 (41%).



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Depending on the assessed value of an individual's home, the corresponding tax impact will vary accordingly. The tables below summarize the estimated tax impact of the four options submitted by Lowell to the Massachusetts School Building Authority (MSBA)[1][2].

1. Estimated Tax Bill Impact on a $150,000 home:

Project Option	Project Cost	Local Share	FY17 Tax Bill	Tax Impact
Full Renovation	$ 331,360,298	$ 116,472,533	$ 2,238	$ 135.04
Add/ Reno Option # 2	$ 344,087,262	$ 135,614,525	$ 2,238	$ 157.21
Add/ Reno Option # 3	$ 334,335,971	$ 126,417,978	$ 2,238	$ 146.57
New School Cawley Site	$ 332,458,871	$ 148,341,142	$ 2,238	$ 172.00

2. Estimated Tax Bill Impact on the **average single family home ($253,908)**:

Project Option	Project Cost	Local Share	FY17 Tax Bill	Tax Impact
Full Renovation	$ 331,360,298	$ 116,472,533	$ 3,730	$ 228.58
Add/ Reno Option # 2	$ 344,087,262	$ 135,614,525	$ 3,730	$ 266.12
Add/ Reno Option # 3	$ 334,335,971	$ 126,417,978	$ 3,730	$ 248.11
New School Cawley Site	$ 332,458,871	$ 148,341,142	$ 3,730	$ 291.14

3. Estimated Tax Bill Impact on a $350,000 home:

Project Option	Project Cost	Local Share	FY17 Tax Bill	Tax Impact
Full Renovation	$ 331,360,298	$ 116,472,533	$ 5,222	$ 315.08
Add/ Reno Option # 2	$ 344,087,262	$ 135,614,525	$ 5,222	$ 366.83
Add/ Reno Option # 3	$ 334,335,971	$ 126,417,978	$ 5,222	$ 342.01
New School Cawley Site	$ 332,458,871	$ 148,341,142	$ 5,222	$ 401.32

[1] Estimated total project budget and local share costs - Conceptual Cost Summary (Skanska, February 2017)
[2] Debt service based on current market conditions. Assumes 30-year term, level debt structure, estimated 5% interest; subject to change.

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4. Estimated Tax Bill Impact on a $450,000 home:

Project Option	Project Cost	Local Share	FY17 Tax Bill	Tax Impact
Full Renovation	$ 331,360,298	$ 116,472,533	$ 6,714	$ 405.11
Add/ Reno Option # 2	$ 344,087,262	$ 135,614,525	$ 6,714	$ 471.64
Add/ Reno Option # 3	$ 334,335,971	$ 126,417,978	$ 6,714	$ 439.72
New School Cawley Site	$ 332,458,871	$ 148,341,142	$ 6,714	$ 515.99

5. Estimated Tax Bill Impact on a $550,000 home:

Project Option	Project Cost	Local Share	FY17 Tax Bill	Tax Impact
Full Renovation	$ 331,360,298	$ 116,472,533	$ 8,206	$ 495.13
Add/ Reno Option # 2	$ 344,087,262	$ 135,614,525	$ 8,206	$ 576.44
Add/ Reno Option # 3	$ 334,335,971	$ 126,417,978	$ 8,206	$ 537.44
New School Cawley Site	$ 332,458,871	$ 148,341,142	$ 8,206	$ 630.65

Bureau of Accounts
Informational Guideline Release (IGR) No. 02-101
March 2002

PROPOSITION 2½ DEBT EXCLUSIONS

(G.L. Ch. 59 §§21C(k) and 21D)

This Informational Guideline Release explains the policies of the Commissioner of Revenue regarding the borrowing amount covered by an approved Proposition 2½ debt service exclusion and adjustments to the annual exclusion schedule. It also includes new procedures and forms to be used by cities and towns with approved debt exclusions for obtaining a determination about the inclusion of cost increases within an exclusion or approval to use an adjusted exclusion schedule.

Topical Index Key:

Borrowing
Proposition 2½

Distribution:

Assessors
Treasurers
Accountants/Auditors
Mayors/Selectmen
City/Town Managers/Exec. Secys.
Finance Directors
City/Town Councils
City Solicitors/Town Counsels
Municipal/Regional School Superintendents
Regional School Treasurers

Informational Guideline Release (IGR) No. 02-101
March 2002

PROPOSITION 2½ DEBT EXCLUSIONS

(G.L. Ch. 59 §§21C(k) and 21D)

Under Proposition 2½, a city or town may present a debt exclusion referendum to voters. An approved debt exclusion provides a temporary increase in the amount the community can levy to fund the payment of debt service costs. Each year until the described debt is retired, the amount of the debt service payment due for that year is added to the levy limit to establish the maximum amount the community can levy. These guidelines explain the policies of the Commissioner of Revenue regarding two issues that arise when using a debt exclusion.

The first policy relates to determining the amount of borrowing covered by an approved debt exclusion. Debt exclusions are usually for major construction projects and often the details and costs change as the projects progress. Even though a dollar amount is not included in the referendum question approved by the voters for these projects, the exclusion is not unlimited and does not necessarily cover all cost increases. An exclusion covers the debt service costs on the borrowing amount authorized or contemplated for the described purpose or purposes at the time of the referendum vote. Debt service on any borrowing above that fixed amount is not excluded unless (1) it is a modest amount attributable to inflation, new regulatory requirements or minor project changes, or (2) another exclusion is approved by the voters.

The second policy relates to determining the amount excluded annually. Ordinarily, the annual debt exclusion is equal to the debt service payment due for that year net of any federal or state reimbursement being received for the project. Borrowing or reimbursement timing issues may result in sharp changes in the tax levies for some of these years, particularly at the outset. In these cases, an adjusted debt exclusion schedule may be used in order to moderate the impact on taxpayers. The total amount excluded over the life of the borrowing remains unchanged, but the annual exclusion amounts are adjusted. In fiscal years in which the exclusion taken is greater than the net debt service due that year, the excess is reserved for appropriation in later years when the exclusion to be taken is less than the net debt service due.

The Director of Accounts will determine the borrowing amount covered by a debt exclusion, and approve adjusted exclusion schedules, using the standards and procedures set forth in these guidelines.

BUREAU OF ACCOUNTS **JAMES R. JOHNSON, DIRECTOR**

GUIDELINES:

I. EXCLUSION SCOPE

A. Determination Policy

A city or town that increases the amount borrowed for a purpose described in a debt exclusion above the amount fixed at the time the exclusion referendum was approved may apply **one time only** to the Director of Accounts for a determination regarding the borrowing amount covered by that particular exclusion. Once a decision is issued, any additional amount, even if de minimis, must be financed within the community's levy limit unless the voters approve a supplementary referendum question.

B. Application Procedure

1. Applicant

   The mayor, city/town manager or selectmen must submit the community's application for a determination regarding the scope of a particular exclusion.

2. Format

   All applications must be made using Form DE-2 (attached). This form will also be used to notify the community of the action taken by the Director on the request.

3. Content

   Applications must include a specific dollar amount of additional borrowing the community has or is planning to authorize for the purpose or purposes described in the debt exclusion. The Director will not act on requests for indefinite amounts nor pre-authorize an amount. **All determinations will be based on a fixed dollar amount specifically provided by the community.**

4. Submission

   Applications must be mailed or faxed to the Director at the address or number shown on Form DE-2.

C. Determination Decisions

1. Standards

Additional borrowing the community has or is planning to authorize for the purpose or purposes described in the debt exclusion will be covered by the exclusion only if it (1) is modest in amount, and (2) funds the same project(s), as defined below.

a. Amount

The percentage increase in the amount being borrowed must be reasonable in comparison to standard measures of the rate of increases in (1) general inflation,[1] (2) construction costs,[2] and (3) costs of state and local government goods and services[3], since the referendum.

The community must request a determination if the borrowing increase exceeds any of those measures regardless of the reason *unless it chooses to bypass the determination procedure and seek voter approval of a supplemental exclusion or fund the additional debt service within the levy limit.* See Section II-C-3-c below.

b. Project

The additional borrowing must also fund expenses reasonably necessary to completing the same fundamental elements of the described project(s).

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[1] Index used to measure changes in the price of goods and services generally is the non-seasonally adjusted Consumer Price Index-All Urban Consumers (CPI-U) for all items typically purchased by consumers in the Boston-Brockton-Nashua area. The index is compiled by the U. S. Labor Department, Bureau of Labor Statistics and is updated bimonthly. The most current index can be obtained at www.bls.gov. [*Select* Consumer Price Index/Get Detailed Statistics/Create Customized Tables/Consumer Price Index-All Urban Consumers (Current Series).]

[2] Index used to measure changes in the price of construction costs in the National Composite Fixed-Weight index. The index is compiled by the U.S. Commerce Department, Census Bureau and updated monthly. The most current index can be obtained at www.census.gov. [*Select* Subjects A- Z/C/Construction/Value of Construction Put in Place/Indexes/Monthly Indexes/U.S. Census Bureau –Composite Fixed-Weight Index (1st column).]

[3] Index used to measure changes in the price of goods and services typically purchased by governmental entities is the State and Local Implicit Price Deflator. The index is compiled by the U.S. Commerce Department, Bureau of Economic Analysis, and is updated quarterly. The most current index can be obtained at www.bea.gov. [*Select* National Income and Product Account Tables/Table 7.1- Quantity and Price Indexes for Gross Domestic Product/Line 88.]

These are defined as those types of involuntary expenses that voters could reasonably foresee might occur in the public construction or other capital project that is the subject of the debt exclusion. They would include, for example, (1) extra work required to meet regulatory or environmental regulations, such as unplanned drainage, removal of asbestos or other contaminants, or new fire and building code improvements, (2) extra work to address unanticipated problems encountered during construction, such as undetected structural deficiencies, or (3) higher acquisition costs resulting from damages awarded by a court to the owner of real estate taken by eminent domain. They would also include some voluntary expenses associated with the types of minor project changes that typically occur in capital projects, such as reconfiguring storage space or sewer lines.

They do not include, however, any expenses related to voluntary changes or expansions in the fundamental specifications of the project as represented to the voters. Examples of such material project changes would include (1) adding new components or amenities, such as a technology plan or air-conditioning, (2) expanding significantly the size or use of a facility or structure, or (3) replacing rather that repairing a major structural component, such as a roof, or demolishing and rebuilding, rather than renovating, a structure.

The community must request a determination if all or part of the borrowing will cover extra work or expenses resulting from voluntary or involuntary circumstances *unless it chooses to bypass the determination procedure and seek voter approval of a supplemental exclusion or fund the additional debt service within the levy limit.* See Section II-C-3-c below.

2. Notice

The Director will return the signed DE-2 to municipal officials to notify them of his decision.

3. Decision

a. Additional Borrowing Covered by Exclusion

If the Director determines that the additional borrowing identified by the city or town in its application is covered by the exclusion, that amount will be recorded on the DE-2. No additional amount will be covered by that particular exclusion even if de minimis.

b. Additional Borrowing Not Covered by Exclusion

If the Director determines that the additional borrowing identified by the city or town in its application is not covered by the exclusion, the DE-2 will record the exclusion amount fixed at the time of the referendum. The Director will not act on any other requests for a determination regarding that particular exclusion.

The Director will calculate the annual exclusion using the same percentage the fixed amount bears to the total debt issued for the exclusion purpose(s) unless another exclusion is approved to cover the additional borrowing as explained in Section I-C-3-c below. For example, if the exclusion covered $20,000,000 of $25,000,000 borrowed for the exclusion purposes, the annual exclusion would be 80% of the net debt service due for the year.

c. Approval of Supplementary Exclusions

The selectmen, town council or city council with mayoral approval if required by law may ask voters to approve another debt exclusion to cover the additional borrowing even if the Director determines the amount is covered by the original exclusion. *The community also retains the option of bypassing the determination procedure entirely and either seeking voter approval of a supplementary exclusion or funding the additional debt service within the levy limit.*

Voter action on a supplementary exclusion does not affect the original exclusion. Proposition 2½ does not contain any method for revoking or superseding an approved exclusion. Therefore, the original exclusion continues to cover the debt service costs on the borrowing fixed at the time it was voted.

If a supplementary exclusion required to cover the additional debt is not presented to or approved by the voters, the annual exclusion will be calculated on a percentage basis as explained in Section I-C-3-b above.

4. Recordkeeping

Treasurers must retain the returned application until the debt exclusion ends, *i.e.,* until the debt is retired and all adjustments to the levy limit attributable to the exclusion have been made.

II. ADJUSTED EXCLUSION SCHEDULE

A. Approval Policy

A city or town may apply to the Director of Accounts for approval to use an adjusted debt exclusion schedule in order to moderate the impact of the exclusion on its levy.

B. Application Procedure

1. Applicant

The mayor, city/town manager or selectmen must submit the community's application for approval to use an adjusted debt exclusion schedule. The assessors, treasurer and accounting officer must also sign the application.

2. Format

All applications must be made using Form DE-3 (attached). This form will also be used to notify the community of the action taken by the Director on the request.

3. Content

Applications must include the proposed exclusion schedule containing the information listed on Form DE-3.

4. Submission

Applications must be mailed or faxed to the Director at the address or number shown on Form DE-3.

C. Application Review

1. Standards

The Director of Accounts will approve use of an adjusted schedule for any municipality subject to the following conditions:

a. Excluded Debt Reserve

The accounting officer must establish an "Excluded Debt Reserve" and reserve the excess taxes raised in any fiscal year in which the exclusion taken under the adjusted schedule exceeds the actual net debt service due for that year.

The reservation of fund balance carries forward on the balance sheet and is available for appropriation for the municipality's debt service costs, or its assessed share of a regional governmental entity's debt service costs, in those years when the exclusion to be taken is less than the actual net debt service due.

b. Total Exclusion

The total amount excluded over the life of the borrowing may not exceed the municipality's net debt service costs, or its assessed share of a regional governmental entity's net debt service costs.

Reductions in future years' levy limits may be necessary if this maximum exclusion is exceeded. The Director will work with municipal officials to minimize any financial hardship that might result from such reductions.

2. Notice

The Director will return the signed DE-3 to municipal officials to notify them of his decision.

3. Recordkeeping

Treasurers must retain the returned application and adjusted schedule until the debt exclusion ends, *i.e.,* until the debt is retired and all adjustments to the levy limit attributable to the exclusion have been made.

Send to:
Bureau of Accounts
Division of Local Services
P.O. Box 9490
Boston MA 02205-9490
FAX (617) 626-2330

DE-2
Rev. 3/2002

DETERMINATION OF BORROWING COVERED BY DEBT EXCLUSION

General Laws Chapter 59 §21C(k)

RETAIN UNTIL DEBT EXCLUSION ENDS

DOR USE ONLY
File No.

APPLICATION FROM CITY/TOWN OF ______________________

Application Date __________________________

INSTRUCTIONS: Provide **ALL** information requested.

A. AUTHORIZED SIGNATURES. Must be signed by mayor, city/town manager or majority of board of selectmen. Signature certifies that all information is true and correct and acknowledges that city/town may not amend this request, nor submit any other request, for a determination related to this particular debt exclusion once a decision has been issued.

Name	Title	Date
Name	Title	Date
Name	Title	Date
Name	Title	Date
Name	Title	Date

B. CONTACT. Provide **name** and **telephone number** of person to contact if additional information is needed to process this application.

YOU MUST ALSO COMPLETE SECTIONS C, D AND E ON REVERSE SIDE

DOR USE ONLY

	FOR COMMISSIONER OF REVENUE
Base exclusion: $	
	Director of Accounts
Additional debt covered: $	Date:

C. DEBT EXCLUSION. Answer the following questions and **attach** a certified copy of the referendum vote.

1. When did voters approve the debt exclusion? ______/________/_________
2. At the time of that election, how much did voters expect the project(s) described in the exclusion to cost? If the exclusion covers debt issued by a regional district, state district-wide cost, not city/town share. $________________________
3. What was the basis for that expectation?
   - ❑ Borrowing voted before election

     If yes, was borrowing voted *expressly* contingent upon passage of debt exclusion in accordance with G.L. Ch. 59 §21(m)?

     ❑ Yes ❑ No
   - ❑ Borrowing scheduled for vote after election
   - ❑ Other. Specify:

D. DEBT AUTHORIZATIONS. List in chronological order **all** authorized/proposed debt for same purpose(s) as the debt exclusion. If the exclusion covers debt issued by a regional district, list debt authorized/proposed by the district, not city/town share.

	Date Authorized/Proposed	Amount Authorized/Proposed
1.	______/________/_________	$ ______________________________
2.	______/________/_________	$ ______________________________
3.	______/________/_________	$ ______________________________
TOTAL DEBT AUTHORIZED/PROPOSED		$ ______________________________

Continue list on attachment, in same format, as necessary.

E. EXCLUSION COVERAGE. Check **all** reasons that explain why the cost of the project(s) described in the debt exclusion now exceeds the amount stated in Section C-2. A brief narrative or statement may also be attached to provide any other relevant information about the circumstances.

❑ Inflation (higher cost of materials/labor)

❑ Regulatory compliance. Specify:

❑ Construction problems. Specify:

❑ Project changes. Specify:

Send to:
Bureau of Accounts
Division of Local Services
P.O. Box 9490
Boston MA 02205-9490
FAX (617) 626-2330

ADJUSTED DEBT EXCLUSION SCHEDULE

General Laws Chapter 59 §21C(k)

DOR USE ONLY
File No.

DE-3
Rev. 3/2002

RETAIN UNTIL DEBT EXCLUSION ENDS

APPLICATION FROM CITY/TOWN OF ______________________
Application Date __________________________

INSTRUCTIONS: Provide **ALL** information requested.

A. DEBT EXCLUSION. Answer the following questions.

1. When did voters approve the debt exclusion? ______/________/_________
2. Does the exclusion cover debt issued by: ❑ Applicant city/town ❑ Regional district to which applicant belongs?
3. What is the purpose of the exclusion?

B. ADJUSTED SCHEDULE. Identify proposed changes to debt exclusion schedule in table below or in attachment containing same information.

Fiscal Year	Debt Service Payment	Reimbursement	Debt Exclusion	Over/(Under) Raised	Reserved Balance
	$	$	$	$	$

Continue list on attachment, in same format, as necessary.

YOU MUST ALSO COMPLETE SECTIONS C AND D ON REVERSE SIDE

DOR USE ONLY

FOR COMMISSIONER OF REVENUE

❑ Schedule approved

____
Director of Accounts

❑ Schedule disapproved

Date:

C. AUTHORIZED SIGNATURES. Must be signed by (1) majority of board of assessors, (2) treasurer, (3) accounting officer, and (4) mayor, city/town manager or majority of board of selectmen. Signature certifies that all information is true and correct and acknowledges that municipality's levy limit may be reduced during or after exclusion period to ensure maximum total exclusion not exceeded.

Name	Title	Date
Name	Title	Date
Name	Title	Date
Name	Title	Date
Name	Title	Date
Name	Title	Date
Name	Title	Date
Name	Title	Date
Name	Title	Date
Name	Title	Date

D. CONTACT. Provide **name** and **telephone number** of person to contact if additional information is needed to process this application.