

CITY OF NEWTON  
IN BOARD OF ALDERMEN  
FINANCE COMMITTEE AGENDA

MONDAY, JUNE 8, 2015

7 PM  
Room 211

**ITEMS SCHEDULED FOR DISCUSSION:**

**REFERRED TO PROG & SERV, PUB FACILITIES, AND FINANCE COMMITTEES**

- #118-15 HIS HONOR THE MAYOR requesting authorization to acquire real property for municipal purposes at 15 Walnut Park, Newton more commonly referred to as Lot 1B, as shown on a subdivision plan dated August 30, 2010 and recorded in Middlesex County Registry of Deeds as Plan No. 746 of 2010, and for authorization to appropriate and expend fifteen million seven hundred fifty thousand dollars (\$15,750,000) from bonded indebtedness for the purpose of purchasing the property. [04/29/15 @ 12:01PM]  
**PROGRAMS & SERVICES APPROVED 6-0 on 05/06/15; PUBLIC FACILITIES APPROVED 7-0 on 05/06/15; FINANCE APPROVED 6-0 ON 05/27/15**  
**FULL BOARD RECOMMITTED TO FINANCE ON 06/01/15**

*The Committee will meet jointly with the Zoning & Planning Committee to discuss the below item*

**REFERRED TO ZONING & PLANNING AND FINANCE COMMITTEES**

- #103-15 COMMUNITY PRESERVATION COMMITTEE recommending the appropriation of one million fifty-seven thousand dollars (\$1,057,000) from the Community Preservation Fund to the control of the Director of Planning & Development, to create additional units of permanently affordable housing through the Newton Homebuyer Assistance Program, as described in the proposal submitted in March 2015. 04/13/15 @ 10:18 AM]

*The Committee will meet jointly with the Zoning & Planning Committee to discuss the below item*

**REFERRED TO ZONING & PLANNING, LAND USE AND FINANCE COMMITTEES**

- #104-15 ALD. JOHNSON, LAREDO, AND GENTILE requesting a report from the Planning Department with the following information: How many of the affordable units developed at Commonwealth Avenue, Pearl Street, and Eddy Street qualify to be included on the State's Subsidized Housing Inventory List. If a property is not currently on the list, what can be done to make it eligible. [04/09/15 @ 12:00PM]

The location of this meeting is handicap accessible and reasonable accommodations will be provided to persons requiring assistance. If you need a special accommodation, *please contact John Lojek, at least two days in advance of the meeting: [jlojek@newtonma.gov](mailto:jlojek@newtonma.gov), or 617-796-1064. For Telecommunications Relay Service dial 711.*

**REFERRED TO PUBLIC FACILITIES AND FINANCE COMMITTEES**

- #144-15 COMMUNITY PRESERVATION COMMITTEE recommending the appropriation of four hundred thousand dollars (\$400,000) from the Community Preservation Fund to the control of the Public Buildings Department, to complete the Museum Archives, Accessibility and Fire Suppression project, as described in the supplemental funding request submitted in April 2015. [05/18/15 @ 3:51 PM]  
**PUBLIC FACILITIES APPROVED 5-0-2 (Gentile and Lappin abstaining) on 06/03/15**

**REFERRED TO PUBLIC FACILITIES AND FINANCE COMMITTEES**

- #132-15 HIS HONOR THE MAYOR requesting authorization to transfer the sum of two hundred thousand dollars (\$200,000) from the Public Works Full Time Wages/Street Maintenance Account to the Public Works Electrical Equipment Account for the purpose of funding additional repair work required this year. [05/11/15 @ 4:18 PM]  
**PUBLIC FACILITIES APPROVED 7-0 on 06/03/15**

**REFERRED TO PUBLIC FACILITIES AND FINANCE COMMITTEES**

- #131-15 HIS HONOR THE MAYOR requesting authorization to transfer the sum of eighty thousand dollars (\$80,000) from the Public Works Snow Overtime Account to the Public Works Vehicle Repairs Account for the purpose of funding additional repair work required due to the historic amount of snow this past winter. [05/11/15 @ 4:18 PM]  
**PUBLIC FACILITIES APPROVED 6-0 (Gentile not voting) on 06/03/15**

**REFERRED TO PUBLIC SAFETY & TRANS. AND FINANCE COMMITTEES**

- #130-15 HIS HONOR THE MAYOR requesting authorization to appropriate the sum of one hundred fifty thousand dollars (\$150,000) from Free Cash for the purpose of improving traffic signalization at several intersections throughout the City.  
**PUBLIC SAFETY APPROVED 6-0-1 (Schwartz abstaining) on 06/03/15**

**REFERRED TO PUBLIC SAFETY & TRANS. AND FINANCE COMMITTEES**

- #129-15 HIS HONOR THE MAYOR requesting authorization to appropriate the sum of two million dollars (\$2,000,000) from bonded indebtedness for the purpose of improving the traffic signals at several intersections in Auburndale and traffic improvements in Nonantum and Oak Hill, as well as other areas of the City. [05/11/15 @ 5:00 PM]  
**PUBLIC SAFETY APPROVED 6-0-1 (Schwartz abstaining) on 06/03/15**

- #128-15 HIS HONOR THE MAYOR requesting authorization to enter into a five-year contract for the curbside collection of solid waste and recyclables. [05/11/15 @ 4:30 PM]

- #142-15 HIS HONOR THE MAYOR requesting authorization to accept and expend the Edward J. Byrne Memorial Justice Assistance Grant in the amount of twenty-nine thousand nine hundred fourteen dollars and ten cents (\$29,914.10) for the purpose of purchasing law enforcement equipment. [05/27/15 @ 2:01 PM]
- #143-15 HIS HONOR THE MAYOR requesting authorization to appropriate the sum of twenty thousand dollars (\$20,000) from Free Cash for fees relating to the transport and disposal of railroad ties in order to expedite the completion of the "Rail Trail Project." [05/27/15 @ 2:00 PM]
- #145-15 HIS HONOR THE MAYOR requesting authorization to appropriate the sum of one hundred twelve thousand nine hundred seventy-six dollars and sixty-one cents (\$112,976.61) from E-Rate Reimbursements Funds collected through May 2015 for the purpose of school technology purchases. [04/30/12 @ 5:08 PM]

**ITEMS NOT SCHEDULED FOR DISCUSSION:****REFERRED TO PS&T, PUBLIC FACILITIES AND FINANCE COMMITTEES**

- #85-15 ALD. SANGIOLO requesting discussion with the Director of Transportation and the Transportation Coordinator to determine whether a fee could be imposed on all residents who own automobiles in the City. Such fee to be placed into a transportation fund to pay for roadway and sidewalk improvements. Residents would get a parking sticker in return for each automobile they have registered with the City that would enable them to bypass parking restrictions in the City except for Tow Zones and Fire Hydrants and any other emergency zones determined by the Police and Fire Departments.
- #84-15 ALD. GENTILE requesting a discussion with the Newton Community Development Foundation (NCDF) regarding their plans for repayment of the deferred rental payments and accrued interest on their ground lease with the City for the former Warren Junior High School site. [03/30/15 @ 2:57 PM]
- #25-15 ALD. GENTILE requesting a discussion regarding the establishment of an Investment Advisory Committee to be comprised of the Treasurer, Chief of Staff/Chief Financial Officer, Comptroller, Chairman of Finance and three residents of the City of Newton. [01/09/15 @ 1:57 PM]

**REFERRED TO PUBLIC SAFETY & TRANS AND FINANCE COMMITTEES**

- #465-14 ALD. SANGIOLO, GENTILE AND HARNEY requesting a discussion regarding reducing the fee charged to residents for permit parking programs. [11/17/14 @ 12:40 PM]

**REFERRED TO PROGRAMS & SERVICES AND FINANCE COMMITTEES**

- #464-14 ALD. SANGIOLO requesting discussion with the Department of Veteran's Services and the Executive Department regarding updates on programming at the Newton Senior Center and budgeting for new initiatives. [11/24/14 @ 3:41 PM]

- #461-14 ALD. FULLER AND JOHNSON requesting a report from the Executive Department regarding the current open positions with a report listed by Department of the days open, current month/quarter forecasted to fill, and candidate pipeline/strategy for hiring. [11/17/14 @ 9:22 AM]

**REFERRED TO PUBLIC FACILITIES AND FINANCE COMMITTEES**

- #455-14 HIS HONOR THE MAYOR recommending amendment to Chapter 29, Section 80 **Sewer/Storwater use charge.** of the City of Newton Ordinances to create a storm water rate fee structure based upon square footage of impervious surface area.

**PUBLIC FACILITIES HELD 7-0 on 04/08/15**

**REFERRED TO LAND USE AND FINANCE COMMITTEES**

- #375-14(5) HIS HONOR THE MAYOR requesting that Sec. 17-3. **Fees for certain licenses and permits.** of the Revised Ordinances of the City of Newton, 2012, relative to Special Permit fees, be amended by striking in (15)a) "\$350.00" and in (15b) "\$750.00" and by substituting "\$500.00" and "\$1,000.00," respectively, and by deleting (15c) in its entirety and re-lettering d) to c) and e) to d), effective July 1, 2015. [04/15/15 @ 4:57 PM]

- #375-14(6) HIS HONOR THE MAYOR requesting that Sec. 17-6 **Fees for building, electrical, gas and plumbing permits.** of the Revised Ordinances of the City of Newton, 2012 be amended by deleting the section and inserting the following in to take effect July 1, 2015:

CERTIFICATION OF USE AND OCCUPANCY FEE SCHEDULE

2. Condominium Certificate of Inspection (not required for \$100.00 new construction)

**FEE AMENDMENT HELD PENDING ACTION ON DOCKET ITEMS  
#102-11 AND #95-11**

**REFERRED TO ZONING & PLANNING AND FINANCE COMMITTEES**

- #315-14 ALD. HESS-MAHAN, ALBRIGHT, CROSSLEY AND DANBERG proposing an amendment to Chapter 2 of the City of Newton Ordinances setting forth requirements for procurement of materials and services by non-governmental recipients of federal, state or local funds administered by the City, such as CDBG and CPA funds. In order to encourage non-profit and other private organizations to participate in affordable housing, cultural and other public-private collaborations, such procurement requirements should accommodate the needs of non-governmental recipients for flexibility given the multiple public and private sources of funds necessary for any project by not placing undue or unreasonable burdens on them. [08/04/14 @ 5:08PM]

**REFERRED TO PROGRAMS & SERVICES AND FINANCE COMMITTEES**

- #216-14 ALD. HESS-MAHAN, ALBRIGHT, BAKER, CROSSLEY, NORTON AND SANGIOLO proposing the following amendments to Chapter 12 Health and Human Services of the Revised Ordinances to:
- require owners of dwellings requiring a Certificate of Habitability under Section 12-1 and real estate agents/brokers who receive compensation in connection with the particular real estate transaction to notify the Commissioner of Health and Human Services whenever an apartment, tenement, or room in a lodging house is vacated by the occupant or when an area in an existing building is converted to a condominium prior to being reoccupied by a new tenant, lodger or occupant;
  - require educational institutions to disclose addresses of undergraduates living off-campus in Newton;
  - require a fee for certification; and
  - impose a fine for violation of these provisions. [05/14/14 @ 11:51 AM]

**REFERRED TO LAND USE AND FINANCE COMMITTEES**

- #49-14 LAND USE COMMITTEE requesting discussion with the Chief Financial Officer and the Chief Information Officer regarding the critical need to implement technology which enables the development, management and use of shared, searchable, mobile-accessed (both read and write) database which contains parcel-based information that can be accessed by all city departments (including Planning, Inspectional Services (ISD), Assessing, Engineering, Fire, Police, Health), the Board of Aldermen and the community. This technology must support the work of ISD and other departments in both the office and the field to more effectively and efficiently monitor and enforce compliance with approved special permits and other related Board Orders. [02/10/14 @ 6:47 PM]
- #34-14 ALD. FULLER requesting a discussion with the Executive Office regarding the current status and challenges related to the City of Newton pension and retiree healthcare (OPEB) systems. [01/11/14 @ 5:22 PM]

**REFERRED TO FINANCE AND PROGRAMS & SERVICES COMMITTEE**

- #402-13 ALD. FULLER, GENTILE, RICE and LINSKY requesting a Home Rule Petition to amend Article 9 of the Charter to clarify that Neighborhood Area Councils shall maintain and control their own financial accounts and records, independent of City finances; and to further clarify that such independent financial accounts and records shall remain subject to City audit. [10/28/13 @ 10:18 AM]

**REFERRED TO ZAP, PROG & SERV AND FINANCE COMMITTEES**

- #397-13(3) ALD. SANGIOLO AND DANBERG requesting creation of an ordinance to protect trees deemed ~~historie~~ significant by the ~~Historical Commission and the City's Tree Warden~~ with the advice and counsel of the Urban Tree Commission. [05-05-14 @ 4:32 PM]

**REFERRED TO PROGRAMS & SERVICES AND FINANCE COMMITTEES****REFERRED TO PUBLIC FACILITIES AND FINANCE COMMITTEES**

- #41-13 ALD. CROSSLEY, FULLER AND SALVUCCI requesting a discussion with the administration to review how the city inventories, plans for, budgets and accounts for needed smaller capital expenditures (currently set at under \$75,000), which are excluded from the Capital Improvement Plan (CIP); how to make these non-CIP capital maintenance items visible, and how to integrate them with the overall planning, CIP, and budgeting processes. [01/14/13 @ 5:02 PM]

**REFERRED TO ZONING & PLANNING, LAND USE & FINANCE COMMITTEES**

- #273-12 ALD. CROSSLEY & HESS-MAHAN requesting a restructuring and increase in fees for permits charged by the Inspectional Services Department and fees charged by the Planning Department and City Clerk to assure that fees are both sufficient to fund related services provided and simple to administer.
- #254-12 (3) PROGRAMS & SERVICES COMMITTEE proposing an ordinance to require a fee, charged to consumers, for the use of paper bags at certain retail establishments in the City of Newton. [01/10/14 @ 3:36 pm]

**REFERRED TO PROGRAMS & SERVICES AND FINANCE COMMITTEES**

- #185-12 ALD. BAKER, BLAZAR, SANGIOLO, LINSKY, ALBRIGHT & DANBERG requesting that the Board of Aldermen adopt a RESOLUTION to His Honor the Mayor asking that, when the Mayor seeks future Board approval for bonding the cost of additional capital facilities or equipment for the schools, he include in that funding request, as well as in the city-wide Capital Improvement Plan, the estimated costs needed for funding the capital technology needs of the Newton Schools, including the appropriate portions of the estimated project costs of the School Committee's three-year district-wide technology plan not anticipated to be funded by the Information Technology Department budget; the anticipated technology grants from Boston College for the elementary schools; and/or estimated revenue from the E-rate Technology Reimbursement Program.  
**PROGRAMS & SERVICES APPROVED 6-0 on 07/11/12**

**REFERRED TO ZONING AND PLANNING AND FINANCE COMMITTEES**

- #102-11 ALD. HESS-MAHAN, JOHNSON, COMMISSIONER LOJEK, AND CANDACE HAVENS requesting an amendment to Chapter 17 to establish a fee for filing a notice of condo conversion. [03-29-11 @ 4:55PM]  
**ZONING & PLANNING APPROVED 6-0 on 6/10/13**

**REFERRED TO ZONING AND PLANNING AND FINANCE COMMITTEES**

- #95-11 ALD. HESS-MAHAN proposing an ordinance requiring that a notice of conversion to condominium ownership be filed with the Inspectional Services Department and that the property be inspected to determine compliance with all

applicable provisions of the state and local codes, ordinances and the rules and regulations of all appropriate regulatory agencies. [03-24-11 @ 9:30AM]

**ZONING & PLANNING APPROVED 6-0 on 6/10/13**

**REFERRED TO LAND USE & FINANCE COMMITTEES**

- #276-10 ALD. FULLER, CROSSLEY, DANBERG, LINSKY requesting a review of guidelines for mitigation fund provisions to maximize the use of such funds on behalf of the city together with mechanisms by which the city can better track such funds to ensure they are used in a timely fashion.

**REFERRED TO FINANCE AND APPROPRIATE COMMITTEES**

- #257-12 RECODIFICATION COMMITTEE recommending (1) review of the Fees, Civil Fines/Non-Criminal Disposition contained in Chapter 17 LICENSING AND PERMITS GENERALLY and Chapter 20 CIVIL FINES/NON-CRIMINAL DISPOSITION CIVIL FINES to ensure they are in accordance with what is being charged and (2) review of the acceptance of G.L. c. 40 §22F, accepted on July 9, 2001, which allows certain municipal boards and officers to fix reasonable fees for the issuance of certain licenses, permits, or certificates.

- #248-12 RECODIFICATION COMMITTEE recommending that **ARTICLE IV. PURCHASES AND CONTRACTS, Secs. 2-182 through 2-205**, be amended to make it consistent with state law.

- #247-12 RECODIFICATION COMMITTEE recommending that Chapter 18 MEMORIAL FUNDS AND TRUSTS be reviewed relative to the consequences and practices of special legislation passed by the General Court in 2007, Chapter 75 of the Acts of 2007, in which the City sought and was granted an exemption from G.L. Chapter 44 §54, which intent was to allow the City greater flexibility in terms of investments.

**REFERRED TO PS&T, PUBLIC FACILITIES AND FINANCE COMMITTEES**

- #310-10(2) ALD. DANBERG, BLAZAR, KALIS, SCHWARTZ, ALBRIGHT, HESS-  
(#409-12) MAHAN, RICE, COTE, LEARY, AND NORTON requesting amendments to Sec. 26-8D of the City of Newton Ordinances to modify and make permanent the trial program for removal of snow and ice from sidewalks and to provide for enforcements and fines for violations. [09/10/14 @ 2:12 PM]

Respectfully submitted,

Leonard J. Gentile, Chairman



SETTI D. WARREN  
MAYOR

City of Newton, Massachusetts  
Office of the Mayor

#118-15  
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TDD/TTY  
(617) 796-1089  
E-mail  
swarren@newtonma.gov

April 29, 2015

Honorable Board of Aldermen  
Newton City Hall  
1000 Commonwealth Avenue  
Newton, MA 02459

RECEIVED  
NEWTON CITY CLERK  
2015 APR 29 PM 12:01  
DAVID A. OLSON, CMC  
Newton, MA 02459

Ladies and Gentlemen:

I write to request that your Honorable Board docket for consideration a request to authorize the acquisition of the real property for municipal purposes located at 15 Walnut Park, Newton, MA, more commonly referred to as Lot 1B as shown on a subdivision plan dated August 30, 2010 and recorded in Middlesex County Registry of Deeds as plan no. 746 of 2010. Further, I respectfully request that your Honorable Board authorize the appropriation of \$15,750,000 and authorize a general obligation borrowing of an equal amount as compensation for the purchase of this property.

I have attached copies of my announcement of this agreement, the signed Letter of Intent dated April 16, 2015, a map of the property, and a resolution passed by the School Committee. Thank you for your consideration of this exciting opportunity.

Very truly yours,

Setti D. Warren  
Mayor

1000 Commonwealth Avenue Newton, Massachusetts 02459

[www.newtonma.gov](http://www.newtonma.gov)



DEDICATED TO COMMUNITY EXCELLENCE



SETTI D. WARREN  
MAYOR

City of Newton, Massachusetts  
Office of the Mayor

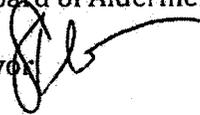
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E-mail  
swarren@newtonma.gov

To: The Honorable Board of Aldermen, City of Newton, Massachusetts

From: Setti Warren, Mayor 

Date: April 17, 2015

Subject: Letter of Intent

In the past few weeks the owners of the former Aquinas College site, the Sisters of Saint Joseph, notified us that they were unable to fully execute the sale of their property with the organization they were negotiating with, and consequently that the property was once again going to be on the market. Following a short negotiation process, I am pleased to share that we have reached an agreement to purchase the property for \$15,750,000, and I have, therefore, signed a Letter of Intent with the Sisters for the City of Newton to purchase the site, contingent upon approval of the School Committee and an affirmative vote of two-thirds of the members of the Honorable Board of Aldermen.

This acquisition will allow our city to accomplish many initiatives. We will now be able to consolidate our growing preschool program into one site at Aquinas and provide a renovated, new site for the Lincoln Eliot School at Aquinas. The current Lincoln Eliot School would become swing space after completion of the Cabot School in 2019. This move will allow us to move the Horace Mann School into the newly renovated Carr School and use the current Horace Mann for a needed inter-generational community center and space for Parks and Recreation year round programming.

We will be docketing this Letter of Intent for School Committee and Board of Alderman approval in the coming weeks. This is a very exciting opportunity that has presented itself to the Administration within the past few weeks, one that is cost effective and efficient. If approved by both bodies, we believe this will dramatically alter our opportunity to address the needs of preschoolers, students, educators and parents in Newton for the next 20 to 30 years.

1000 Commonwealth Avenue Newton, Massachusetts 02459

[www.newtonma.gov](http://www.newtonma.gov)



DEDICATED TO COMMUNITY EXCELLENCE

The proposed purchase price includes the transfer, lease, or license to use the city-owned parcel at the corner of Walnut Park and Washington Street for passive recreation for the Jackson School.

Not only does this opportunity make operational and educational sense, but it also makes financial sense. We had included a consolidated Pre-K Solution in the C.I.P. last fall, anticipated doing a mid-range expansion project at the Peirce School, and a major renovation to the Lincoln Eliot School. With the purchase of this property we no longer will need the expansion at Peirce and will spend considerably less on a renovation of the Aquinas property than we would have spent at the Lincoln Eliot building.

I look forward to working with your Honorable Board as you deliberate this very exciting opportunity.



Sisters of Saint Joseph of Boston

637 Cambridge Street ♦ Brighton, Massachusetts 02135-2800 ♦ www.csjboston.org

Office of the President

April 16, 2015

Mayor Setti O. Warren  
City of Newton  
Newton City Hall  
1000 Commonwealth Avenue  
Newton, MA 02459

Re: 15 Walnut Park

Dear Mayor Warren:

This document should be considered a Letter of Intent by the Congregation of The Sisters of Saint Joseph of Boston or offer to sell to the City of Newton, 15 Walnut Park. The purpose of this Letter of Intent (LOI) is to lay out some of the basic terms and conditions of a potential sale/purchase focusing on price.

**THE CONGREGATION RECOGNIZES THAT ANY ACCEPTANCE BY THE CITY OF THIS LOI IS SUBJECT TO BOARD OF ALDERMAN AUTHORIZING THE MAYOR TO ACQUIRE 15 WALNUT PARK AND THE APPROPRIATION OF FUNDING FOR SUCH ACQUISITION.**

**1. Parties:**

- a. **Seller:** Congregation of the Sisters of Saint Joseph of Boston ("CSJ" hereinafter)
- b. **Buyer:** City of Newton, Massachusetts ("Newton" hereinafter)

- 2. Property:** 15 Walnut Park, Newton, MA, more commonly referred to as Lot 1B as shown on a subdivision plan dated August 30, 2010 and recorded in Middlesex County Registry of Deeds as plan no. 746 of 2010. The Property consists of the former Rashi School/Aquinas College and Convent including open space totaling approximately 5.70 acres.

**3. Price:**

1. \$15,750,000.00
2. Abatement of real estate taxes for 4<sup>th</sup> quarter FY2015 and for fiscal 2016 until title to the Property is transferred to Newton.
3. With regard to real estate owned by Newton and located at the corner of Walnut Park and Washington Street (City Assessor SBL No. 12003 0001):-
  - a. Disposition of such property through sale or lease for ninety-nine (99) years to CSJ with a deed restriction that it be used solely for open space/playing fields ; or

- b. If unable to dispose of such property for legal reasons, then license of such property to CSJ or the Jackson Walnut Education Collaborative, Inc. with a restriction that it be used solely for open space/playing fields; or
  - c. If unable to dispose or to license such property for legal reasons, then CSJ and Newton agree to use good faith efforts to negotiate an equitable resolution for the loss to CSJ of this aspect of the purchase/sale.
4. **Due Diligence/Inspection Calendar:**
- a. Complete within forty-five calendar days of execution of the LOI. CSJ agrees to provide Newton with a copy of the 21E report in its possession upon execution of the LOI.
5. **Closing Date:** Four (4) months (120 calendar days) after execution of Purchase and Sale Agreement or sooner if possible, it being the intent of Newton to be able to use the Property by September, 2015.
6. **Purchase and Sale Agreement:** A Purchase and Sale Agreement (hereinafter "P&S") incorporating, among other things, the business terms set forth in this letter, and such other terms as are otherwise agreed to by Buyer and the Seller after the date hereof, shall be prepared by the Seller's counsel. Buyer and Seller shall endeavor to complete negotiations in good faith on the P&S as soon as practicable, but in any event no later than ninety (90) days after executing this LOI.
7. **Contingencies and Dates For Satisfaction:** The sale shall be subject to the following contingencies being satisfied.
- a. Completion of due diligence as provided in paragraph 4 within forty-five(45) calendar days of LOI.
  - b. Authorization by the Board of Aldermen to acquire the Property and Appropriation of funding;
  - c. School Committee recommendation to the Board of Aldermen pursuant to sec. 4-4 of the City Charter;
  - d. Completion of all legal requirements for acquisition of unique real property as required by G.L. c. 30B; and
  - e. With regard to the parcel of land at the corner of Walnut Park and Washington Street, completion of all legal requirements for the disposition or licensing of such property, including but not limited to approval by the Parks and Recreation Commission.
8. **Broker:** CSJ will be responsible for any Broker fees due.
9. **Title:** CSJ shall deliver good and marketable title, insurable title at closing, free and clear of all liens, encumbrances and easements that interfere with the use of the project as an educational facility.
10. **Miscellaneous:** This letter is intended to serve as a non-binding outline of the material business terms which will be used as a basis for the preparation of the P&S, as aforesaid, and shall not constitute a binding agreement. Unless the P&S, in form, scope and substance acceptable to both City and CSJ, in the sole discretion of each is executed and delivered after the date hereof (regardless of the reason for its not having been so executed and delivered), neither City nor CSJ shall have any liability or obligation to the other. Prior to the execution and delivery of P&S,

however, City and CSJ reserve the right to terminate discussions and negotiations with the other at any time and for any reason (or no reason). The P&S will supersede this Letter of Intent unless otherwise Indicated.

**11. "If during the negotiations of the P&S Agreement but before the parties have executed a P&S Agreement, if CSJ should believe that it is not realistic to reach agreement with Newton or Newton will not be able to close by the closing date listed herein, all within the sole discretion of CSJ, then CSJ has the right to terminate this LOI and there will be no liability or obligations to either party."**

Please indicate agreement with the terms and conditions of this letter by executing the enclosed counterpart of this letter and returning it. This Letter of Intent/Offer shall expire at 5:00 PM EDT on Tuesday, April 28, 2015, after which, if acceptance is not so received, this letter shall automatically be void and of no further force and effect. Electronic signatures shall be regarded as sufficient and valid. The parties' attorneys are authorized, but not obligated, to agree to extensions of the deadlines called for herein.

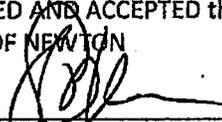
All Notices and communications should be done through our attorney

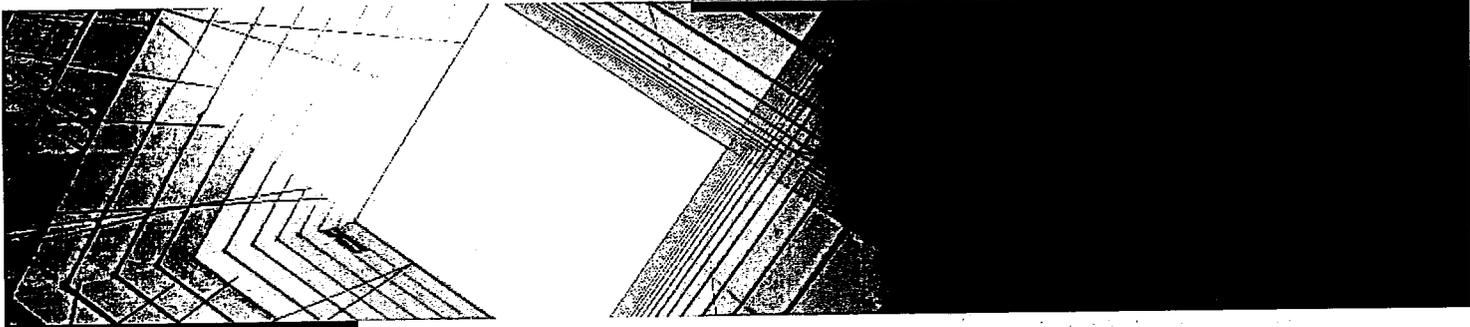
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[bshaevel@shaevelkrem.com](mailto:bshaevel@shaevelkrem.com)

Sincerely yours,  
CONGREGATION OF THE SISTERS OF SAINT JOSEPH OF BOSTON

BY: Rosemary Brennan, C.S.J.  
Rosemary Brennan, CSJ  
President

AGREED AND ACCEPTED this 17th day of April, 2015  
CITY OF NEWTON

By:   
Name (print): Setti D. Warren  
Title: Mayor



For Sale **15 Walnut Park, Newton, MA**

For Lease **Type: For Lease - Institutional**

- 74,443 sf school building
- 20,720 sf convent (34 dormitory units)
- 23 classrooms
- library/administrative offices
- 6-acre campus
- 850-seat auditorium
- 250-seat cafeteria
- Constructed in 1965



15 Walnut Park, the former site of Aquinas College, presents the opportunity to acquire an educational facility within Route 128 at significantly below replacement cost. The facility is located less than a 15-minute drive from downtown Boston, and is nearby a substantial number of public and private educational institutions.

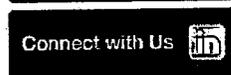
[Click here for brochure \(2.5MB\).](#)

Contact:  
 Charles E. Batchelder  
 cb@wsarealty.com  
 (781) 684-1200 ext. 22

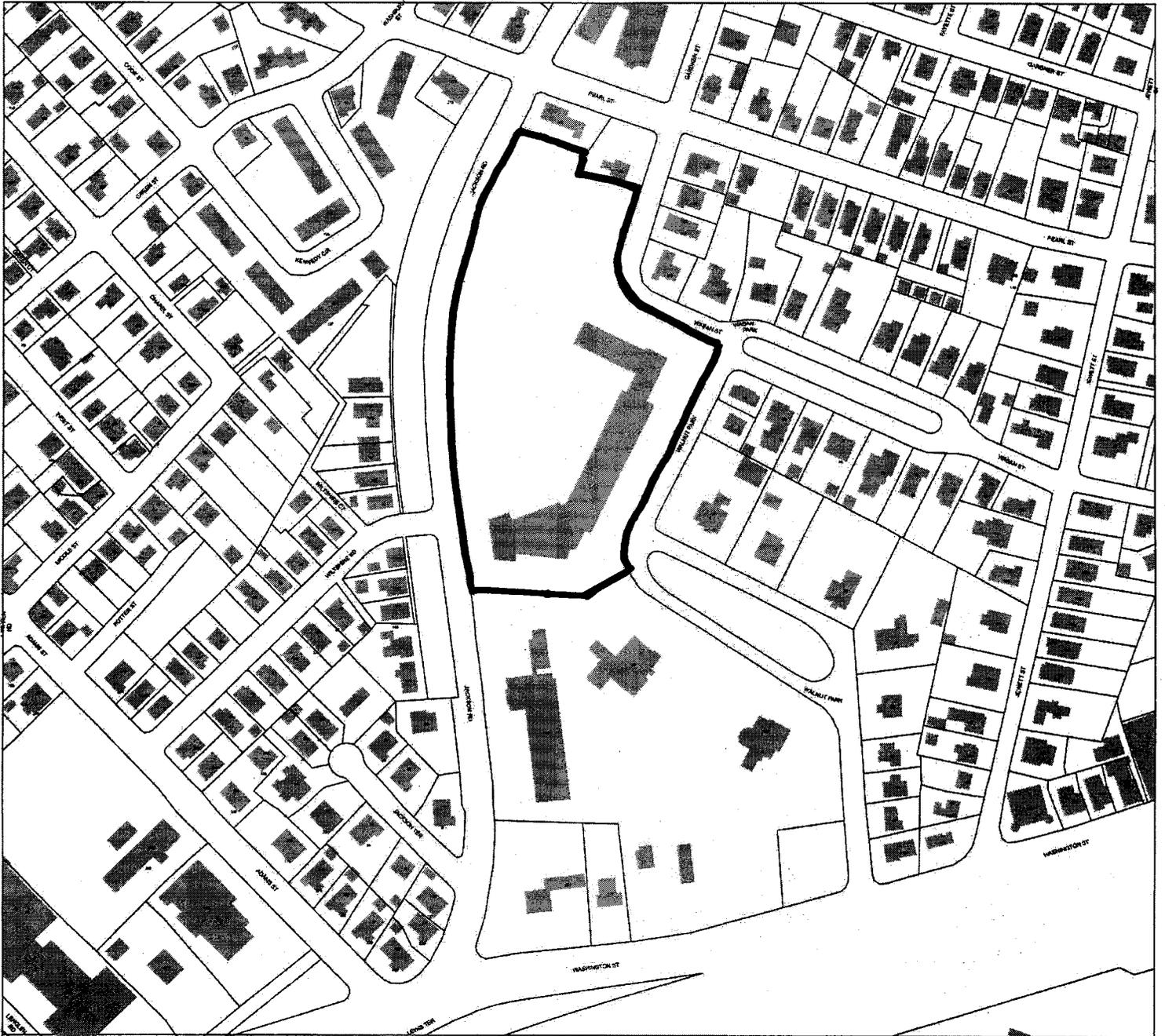
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 f. 781-684-1203  
[Email Us](#)

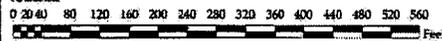

  


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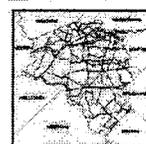
# City of Newton - Custom Map

The information on this map is based on the City of Newton's Geographic Information System (GIS). The City of Newton does not warrant the accuracy of the information. The City of Newton is not responsible for any errors or omissions. The City of Newton is not liable for any damages, including consequential damages, arising from the use of this information. The City of Newton is not responsible for any delays or interruptions in the service of this information. The City of Newton is not responsible for any loss of data or information. The City of Newton is not responsible for any other losses or damages. The City of Newton is not responsible for any other losses or damages.



**Legend**

- Building Outlines
- Property Boundaries



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- Ward  
I Ellen Gibson  
II Margaret Albright  
III Angela Pitter-Wright  
IV Diana Fisher Gomberg  
V Steven Siegel  
VI Ruth Goldman  
VII Matthew Hills, Chairperson  
VIII Margie Ross Decter, Vice-Chairperson

**Newton School Committee**  
100 Walnut Street  
Newtonville, MA 02460  
Tel (617) 559-6110  
Fax (617) 559-6101  
www.newton.k12.ma.us  
schoolcommittee@newton.k12.ma.us

**#118-15** Mayor Setti Warren  
Ex officio



April 29, 2015

At their April 28, 2015 School Committee meeting, the Committee unanimously approved the following vote:

The School Committee advises the Board of Aldermen that it would like to look at use of the former Aquinas College, which building has been used in the past by Newton Public Schools, and considers the acquisition of this property by the City to present an opportunity to address some of the facility needs of Newton Public Schools going forward, including the possible use this fall for Pre-K classrooms.

Sincerely yours,

Matt Hills, Chair

RECEIVED  
Newton City Clerk

2015 MAY -6 PM 5: 39

David A. Olson, CMC  
Newton, MA 02459



Setti D. Warren  
Mayor

**City of Newton, Massachusetts**  
Department of Planning and Development  
1000 Commonwealth Avenue Newton, Massachusetts 02459

**DOCKET  
103-15**

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James Freas,  
Acting Director

## Community Preservation Committee Funding Recommendation for NEWTON HOMEBUYER ASSISTANCE PROGRAM

date: 1 May 2015  
from: Community Preservation Committee  
to: The Honorable Board of Aldermen

### PROJECT GOALS & ELIGIBILITY

This program provides assistance with down payments and closing costs to first-time buyers who are seeking a home in Newton and whose annual income is at or below 80 percent of the area median, in return for deed restrictions keeping the homes purchased permanently affordable to future buyers at that income level.

In 2013 the Board approved \$475,000 in additional funding for this program, along with higher subsidy limits and several other program changes. Unfortunately, rapidly rising prices have made it impossible for the 3 households selected by lottery in the fall of 2014 to find homes they can afford in Newton, even with the higher subsidies approved in 2013. The Planning Dept. is therefore requesting approval of further subsidy increases; authority to increase these limits by another 15% if needed; and an additional \$1,057,000 in funding. Together with previously appropriated funds, the new funds will allow the program to assist 6 households over 2 years if the new maximums are adequate; or 5 households if the 15% adjustment is needed.

The CPA eligibility of this program was established for the previous funding phases documented on the program's page of the CPC website, [www.newtonma.gov/gov/planning/cpa/projects/homebuyer.asp](http://www.newtonma.gov/gov/planning/cpa/projects/homebuyer.asp).

### RECOMMENDED FUNDING

On 9 April 2015, by a vote of 6-0 (members Feinberg, Kronish and Yeo absent), the Community Preservation Committee recommended appropriating the additional \$1,057,000 requested for this program, for the uses included in this summary budget:

Newton Homebuyer Assistance Program Fifth Phase of CPA Funding	Available Funds from Prior Appropriations as of 16 April 2015		2015 New CPA Request	Available Totals if 2015 request is approved	% of total	Average Proposed Subsidies
	pre-2013	2013				
Grants to first-time homebuyers	\$53,348	\$450,000	\$1,042,000	\$1,545,348	97.3%	per unit: \$257,558
Program mgmt. (staffing, advertising, etc.)	\$3,276	\$15,000	\$15,000	\$33,276	2.1%	
Rehabilitation (bring already subsidized units to current standards for resale)		\$10,000		\$10,000	0.6%	per bedroom: \$103,023
<b>Totals</b>	<b>\$56,624</b>	<b>\$475,000</b>	<b>\$1,057,000</b>	<b>\$1,588,624</b>	<b>100.0%</b>	

website [www.newtonma.gov/cpa](http://www.newtonma.gov/cpa)

contact Alice E. Ingerson, Community Preservation Program Manager

email [aingerson@newtonma.gov](mailto:aingerson@newtonma.gov) phone 617.796.1144

**SPECIAL ISSUES CONSIDERED BY THE CPC**

**Program phasing:** CPC members wondered whether the program might assist all 6 households in one year, to stay ahead of rising prices. The Planning staff explained that a limited number of units will both meet the required housing quality standards and be affordable, even with the new subsidy limits. It seemed best not to have all 6 assisted households competing simultaneously for that limited supply.

**Unit size:** To create the maximum number of affordable units, in the past the program has subsidized some 1-bedroom units, for 1-2 person households. These units have sometimes been challenging to resell. In response, the program now targets households needing homes with 2 or 3 bedrooms.

**Homebuyers' contributions:** This program aims to assist as many households as possible with its limited public funds, but also limits buyers' private financial contributions for several reasons: (a) so these moderate-income homeowners will still have financial resources for home maintenance, condominium fees, and other major needs such as health care, education, and retirement; (b) to avoid the additional public subsidy that might be needed at resale if no new income-eligible buyer could match the previous buyer's private contribution, which that buyer is entitled to recover; and (c) to allow listing of these units on the state's Subsidized Housing Inventory (SHI).

**Non-CPA funding:** The Planning Dept. relies on CPA funding for this program in part because CPA funds are flexible, allowing for low program management costs. Federal housing funds (CDBG and HOME) have more onerous requirements. The City also uses its federal funds in complementary ways, such as to serve lower-income households who are better candidates for rental housing than for homeownership.

**Limited-equity homeownership:** Owners who purchase subsidized, deed-restricted homes through this program benefit less from rising market prices than do the owners of unsubsidized homes. However, participants in this program do build equity in their homes, which they are entitled to recover at resale along with their down payment contributions. They also enjoy more housing security than they would as renters.

**ADDITIONAL RECOMMENDATIONS** (*funding conditions*)

1. Funds should be appropriated from the Community Preservation Fund's general fund balance and reserves to the Planning & Development Dept. and treated as 100% for community housing.
2. Up to 6 households should be assisted within 2 years after currently requested funds are appropriated by the Board of Aldermen, or by any extension of that deadline granted in writing by the CPC or its designee.
3. All units subsidized should be added to the state's Subsidized Housing Inventory (SHI).
4. The Planning & Development Department should submit its next funding request for this program early enough to avoid any interruption of the program, if that next request is funded.
5. CPC staff may approve Planning & Development Dept. requests to use funds budgeted for program management or rehabilitation for grants to homebuyers instead. Any requests to re-allocate grantable funds for other uses must be approved by the CPC itself.
6. Any CPA funds appropriated but not used for the purposes stated herein will be returned to the Newton Community Preservation Fund.

**KEY OUTCOMES:** The Community Preservation Committee will evaluate this project based on recommendations 2, 3 and 4 above.

**ATTACHMENTS** (delivered to the clerks of the Programs & Services Committee and Finance Committee)

- Proposal and attachments submitted to the CPC
- Slide presentation to the CPC on 9 April 2015
- Copy of the CPC's "Newton Homebuyer Assistance Program" project webpage, with links to additional information: [www.newtonma.gov/gov/planning/cpa/projects/homebuyer.asp](http://www.newtonma.gov/gov/planning/cpa/projects/homebuyer.asp)

The only written comments received on this proposal were from the League of Women Voters, which supported the request. These comments are available on the project webpage but are not attached to this recommendation.



current proposal highlighted below

## Community Preservation Program

### Newton Homebuyer Assistance Program

<i>location:</i>	citywide (see map link below)
<i>goals:</i>	Provide downpayment assistance to low- and moderate-income households for purchasing a home in Newton, in return for restrictions keeping those homes affordable to households at these income levels in perpetuity.
<i>total funding:</i>	\$2,152,050 total CPA funds appropriated through October 2013 \$1,057,000 new CPA request
<i>contacts:</i>	Eve Tapper, Acting Associate Director of Planning & Development City of Newton Planning and Development Department 1000 Commonwealth Avenue Newton Centre, MA 02459 <i>email:</i> <a href="mailto:etapper@newtonma.gov">etapper@newtonma.gov</a> <i>phone:</i> 617.796.1139

#### Proposal Review & Appropriations

31 March 2003	<b><a href="#">Homebuyer Assistance CPC funding recommendation, phase 1</a></b>
17 May 2004	<a href="#">Board order, phase 1:</a> appropriation \$500,000
7 November 2005	<b><a href="#">Homebuyer Assistance proposal, phase 2</a></b>
	<a href="#">presentation, phase 2</a> (including photos)
3 March 2006	<a href="#">CPC funding recommendation, phase 2</a>
20 March 2006	<a href="#">Board order, phase 2:</a> appropriation \$208,250
21 May 2008	<b><a href="#">Homebuyer Assistance proposal, phase 3</a></b>
28 May 2008	<a href="#">presentation, phase 3</a> (including photos)
23 June 2008	<a href="#">CPC funding recommendation, phase 3</a>
6 October 2008	<a href="#">Board order, phase 3:</a> appropriation \$968,800
4 April 2012	<a href="#">Homebuyer Assistance pre-proposal, phase 4</a>
revised 14 December 2012	<b><a href="#">Homebuyer Assistance proposal, phase 4</a></b> originally submitted 2 November 2012, with all attachments and initial letters of support; revised version includes minor program design changes
14 January 2013	<a href="#">additional letters of support</a> (including Newton Housing Partnership and United Citizens for Housing Affordability in Newton)
revised 14 February 2013	PowerPoint <a href="#">presentation to the CPC</a> , originally presented 24 January 2013
4 February 2013	<a href="#">CPC funding recommendation</a>
22 May 2013	<a href="#">Newton Law Dept. memo on asset limits in homebuyer programs</a> , requested by the Board of Aldermen's Finance Committee
7 October 2013	<a href="#">Board order</a> (appropriation)
23 January 2015	<b><a href="#">Homebuyer Assistance pre-proposal, phase 5</a></b>
13 March 2015	<b><a href="#">Homebuyer Assistance proposal, phase 5</a></b>
	<a href="#">Sample Instructions for Program Applicants</a> (requested by CPC as proposal background)
9 April 2015	PowerPoint <a href="#">presentation to the CPC</a>
	<a href="#">written comments received</a> (League of Women Voters of Newton)
30 April 2015	<a href="#">CPC funding recommendation</a>

#### Project News

June 2008	<a href="#">map of all cases assisted, 2003-June 2008</a>
August 2011	<a href="#">program funds used to purchase additional affordability</a> for a unit previously restricted using non-CPA funding
November 2012	updated <a href="#">map of all cases assisted through 2 November 2012</a>

# NEWTON HOMEBUYER ASSISTANCE PROGRAM



Request for Funds from the  
Community Preservation Committee  
April 9, 2015



## NEWTON HOMEBUYER PROPOSAL



- **FUNDING REQUEST**
  - \$1,057,000 additional program funding
  - Current balance : \$533,000
  - Last capitalized 2013
  - Total with current request would be \$1,590,000
- **PROGRAM CHANGES**
  - **Increase maximum subsidies**
    - Two-bedroom unit \$250,000
    - Three-bedroom unit \$275,000
  - **Allow subsidy escalation up to 15%**

# VOLATILE HOUSING MARKET



## Number of 2-bedroom units\*

	< \$400,000	< \$425,000	< \$450,000	< \$ 500,000
Actual 2014	30	47	54	71
Projected 15% market change 2014 to 2015	12	19	26	49

## Number of 3-bedroom units\*

	< \$400,000	< \$425,000	< \$450,000	< \$ 500,000
Actual 2014	6	9	14	19
Projected 15% market change 2014 to 2015	5	6	6	10

\* Number of units at higher prices also includes units at all lower prices.

# PROPOSED USE OF FUNDS



Homebuyer Assistance (3 three-bedroom units at max. \$275,000)	\$825,000
Homebuyer Assistance (3 two-bedroom units at max. \$250,00)	\$750,000
Administration	\$15,000
<b>TOTAL</b>	<b>\$1,590,000</b>

Staff projects that six households can be assisted over a two-year period at a rate of three per year.

# SUBSIDY CALCULATION

(three-person household)



Purchase Price Limits using DHCD Assumptions	
<b>Housing Cost:</b>	
Sales Price	\$400,000
Cost Buydown Assistance	\$250,000.00
Sale Price to Buyer	\$150,000
Down Payment Percent	5%
5% Down payment	\$7,500
Mortgage	\$142,500
Interest rate	4.57%
Amortization	30
Monthly P&I Payments	\$727.97
Tax Rate	\$11.61
monthly property tax	\$145
Hazard insurance	\$133
PMI	\$93
Condo/HOA fees (if applicable)	\$250
Monthly Housing Cost	\$1,349
Necessary Income:	\$53,962
<b>Household Income:</b>	
# of Bedrooms	2
Sample Household size	3
80% AMI/"Low-Income" Limit	\$62,750
Target Housing Cost (80%AMI)	\$1,569
10% Window	\$54,906
Target Housing Cost (70%AMI)	\$1,373

Notes

Assuming mortgage covers 95% of purchase price  
Freddie Mac Avg. NE Rate as of 3/9/15 +.25%

2015 City of Newton Residential Property Tax Rate  
based on deed restricted price (not market value)  
based on DHCD assumptions

Estimate

2015 Boston/Cambridge/Quincy PSA 80% AMI Limit

29%

# SUBSIDY CALCULATION

(four-person household)



Purchase Price Limits using DHCD Assumptions	
Housing Cost:	
Sales Price	\$450,000
Cost Buydown Assistance	\$275,000.00
Sale Price to Buyer	\$175,000
Down Payment Percent	5%
5% Down payment	\$8,750
Mortgage	\$166,250
Interest rate	4.57%
Amortization	30
Monthly P&I Payments	\$849.29
Tax Rate	\$11.61
monthly property tax	\$169
Hazard insurance	\$150
PMI	\$108
Condo/HOA fees (if applicable)	\$250
Monthly Housing Cost	\$1,527
Necessary Income:	\$61,067
Household Income:	
# of Bedrooms	3
Sample Household size	4
80% AMI/"Low-Income" Limit	\$69,700
Target Housing Cost (80%AMI)	\$1,743
10% Window	\$60,988
Target Housing Cost (70%AMI)	\$1,525

Notes

Assuming mortgage covers 95% of purchase price  
Freddie Mac Avg. NE Rate as of 3/9/15 +.25%

2015 City of Newton Residential Property Tax Rate  
based on deed restricted price (not market value)  
based on DHCD assumptions

Estimate

2015 Boston/Cambridge/Quincy PSA 80% AMI Limit  
26.28%

30%

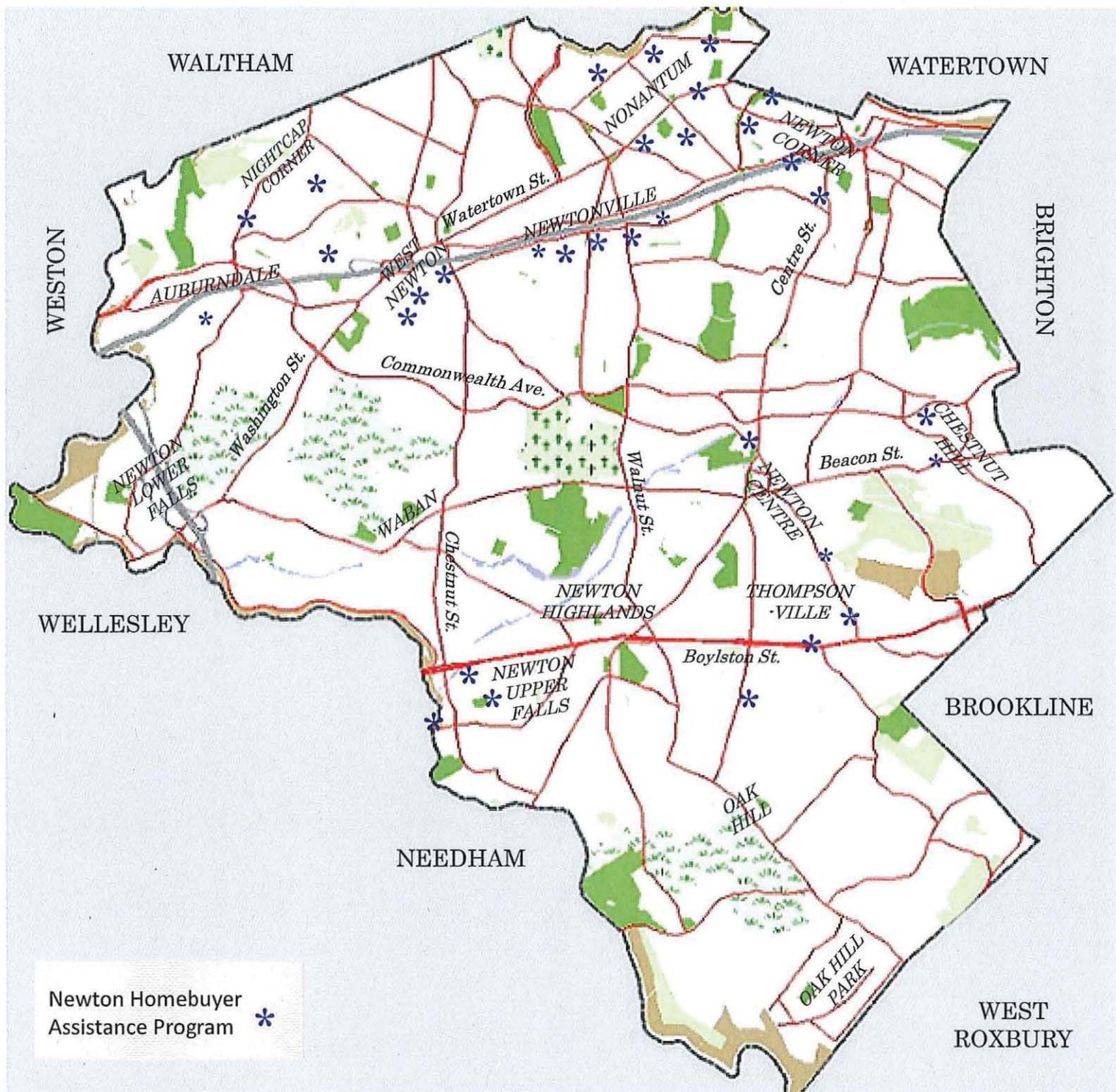
# GENERAL FACTS



- Program is 14 years old
  - CPA funded since 2003
- 36 households assisted over the life of the program
- Email notification list between 750-1100 people
- Funding assistance “buys” affordable housing deed restriction
- Lottery among income-eligible applicants determines program participants

# Newton Homebuyer Assistance Program

All Cases through November 2, 2012



Major streets

NEWTON VILLAGES or NEIGHBORHOODS

BORDERING CITY/TOWN



Setti D. Warren  
Mayor

**City of Newton, Massachusetts**  
Department of Planning and Development  
1000 Commonwealth Avenue Newton, Massachusetts 02459

**#103-15**  
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www.newtonma.gov

James Freas  
Acting Director

Community Preservation Committee  
c/o Alice Ingerson, Community Preservation Programs Manager  
City of Newton  
1000 Commonwealth Avenue  
Newton, MA 02459

March 13, 2015

Dear Community Preservation Committee members:

Thank you for your decision last month to agree to hear the Community Development and Housing Division's proposal to recapitalize the First-Time Homebuyer Program off-cycle. As you know, over the last 14 years more than 30 low-and moderate-income households have participated in this program. These residents enrich the socio-economic, cultural and racial diversity in the City.

The attached proposal requests \$1,057,000 in CPA funds to allow the program to continue to help income-eligible households over the next two years. With the rising housing market in the City, the current maximum subsidy limits are no longer adequate. In addition to requesting funding, this proposal also recommends an increase in the maximum subsidy in line with the market.

As has been the case since the program's inception, staff from the Community Development and Housing Division of the Planning and Development Department will continue to administer the program from the initial lottery to select eligible homebuyers through closing and will record an affordable housing deed restriction that will run with the land in perpetuity.

I look forward to presenting the program and our proposed changes to the Committee at its April 9<sup>th</sup> meeting. Please feel free to contact me in the meantime if you have any questions or would like any further information.

Sincerely,

Eve Tapper  
Acting Associate Director  
Planning and Development Department  
City of Newton

Newton, Massachusetts Community Preservation Program  
FUNDING REQUEST

City of Newton



Setti D. Warren  
Mayor

PRE-PROPOSAL

PROPOSAL

Last updated December 2014.

(For staff use)  
date rec'd:

1 pm, 13  
March 2015

For full instructions, see [www.newtonma.gov/cpa](http://www.newtonma.gov/cpa) or contact us:

Community Preservation Program Manager,  
City of Newton Planning & Development Department, 1000 Commonwealth Ave., Newton, MA 02459  
[aingerson@newtonma.gov](mailto:aingerson@newtonma.gov) 617.796.1144

You may adjust the space for each question, but the combined answers to all questions on this page must fit on this page.

<b>Project TITLE</b>	<b>Newton Homebuyer Assistance Program (citywide)</b>			
<b>Project CONTACTS</b>	Name & title or organization	Email	Phone	Mailing address
<b>Project Manager</b>	Eve Tapper, Associate Director of Planning and Development Department	etapper@newtonma.gov	617-796-1139	Newton Planning Dept.
<b>Project FUNDING</b>	<b>A. New CPA funds requested:</b> \$1,057,000	<b>B. CPA funds remaining from prior appropriations:</b> \$533,000		<b>C. Total project cost (A+B):</b> \$1,590,000
<b>Project SUMMARY</b>	Summarize the project's main tasks, components or features. You may provide more information in attachments, but your SUMMARY MUST FIT IN THE SPACE BELOW.			
<p>The Newton Homebuyer Assistance Program (NHAP) helps qualified households at or below 80% of area median income (AMI) to buy a home in Newton by providing up to \$150,000 in down-payment assistance. Assistance is based on household size and the participant's income and assets, cost of the property, and mortgage amount and terms. Each assisted homebuyer agrees to a deed restriction that keeps the unit's resale price affordable at the same income level, in perpetuity. Funds are now allocated by lottery, and all units are pre-approved for the state's Subsidized Housing Inventory.</p> <p>In 2013, the CPC and Board of Aldermen approved the current subsidy limits and other program changes, along with \$475,000 in new funding. Three households were chosen by lottery in August 2014. Unfortunately, none of these households has been able to find a unit which is affordable to them, even with the current maximum subsidy.</p> <p>The current program guidelines were designed in fall 2012, based on the \$399,000 median sales price for a two-bedroom condominium in Newton in 2011. By the end of 2014 this price had risen by 20% to \$480,000. During the same period, the income of a household at 80% of area median income in greater Boston increased by less than 5%. Using reported data on the sales price of 2- and 3-bedroom condos sold in 2014, staff projects that in 2015 there will be a reasonable number of 2-bedroom units offered at or below \$400,000 and 3-bedroom units offered at or below \$450,000. To afford a unit at these prices, households earning 80% of the AMI would need subsidies of \$250,000 and \$275,000, respectively. Staff recommends that these figures be set as maximum subsidy levels. This funding request will bring the total amount of available funds for the program to just under \$1.6 million, which will allow us to assist up to six households.</p> <p>Finally, staff proposes assisting three households per year over a 2-year period. It is not reasonable to expect all six households to find homes in the same year, given the limited supply of units affordable even with the new maximum subsidy limits. Further, we understand the potential volatility of the housing market and therefore propose that the maximum subsidy be allowed to rise up to 15% in line with increases in housing prices, although this may mean that we will assist fewer than six households.. If the market rises more than 15%, staff will return to the CPC and the Board of Aldermen for further review of the per unit subsidy limit.</p> <p>These changes would allow the program to continue its successful 14-year history of helping moderate-income households in Newton find an affordable home and growing the City's supply of permanently affordable properties, at a cost per unit that is competitive with Newton's other available options for achieving these goals.</p>				

You may adjust the space for each question, but the combined answers to all questions on this page must fit on this page.

<b>Project TITLE</b> <b>Newton Homebuyer Assistance Program</b>						
<b>USE of CPA FUNDS</b>		<b>HISTORIC RESOURCES</b>	<b>OPEN SPACE</b>	<b>of</b>	<b>RECREATION LAND</b>	<b>COMMUNITY HOUSING</b>
<b>Check all that apply.</b>	create	not allowed				✓
<b>COMMUNITY NEEDS</b>	Provide a brief quote and citation (plan title, year, page number) showing how this project meets needs already recognized in at least 2 community-wide plans with links under <a href="#">Guidelines &amp; Forms</a> on <a href="http://www.newtonma.gov/cpa">www.newtonma.gov/cpa</a> . You may also list other community benefits not mentioned in any plan.					
<p>This program will reach a diverse applicant pool consistent with the goals stated in the <i>City of Newton's FY11-15 Consolidated Plan</i>, p. 123, "Supporting and expanding the socio-economic, cultural and racial diversity in Newton".</p> <p>It will also meet the City's stated priority need of "providing more affordable housing options...for residents..." (p. 113, Draft <i>FY16-20 Consolidated Plan</i>).</p> <p>As well as Priority need #2: "Create homeownership opportunities for low-, moderate-, and middle-income residents," as stated in p. 6 of the <i>2008 Comprehensive Plan</i>.</p>						
<b>COMMUNITY CONTACTS</b>	List 3 Newton residents or organizations willing and able to comment on the project and its manager's qualifications. No more than 1 should be a supervisor, employee or current work colleague of the project manager or sponsor. Consult staff on the community contacts required for your specific proposal.					
Name & title or organization		Email		Phone	Mailing address	
The following contacts provided in the 2013 proposal to the CPC for this program remain valid:						
Maryann O'Connor					101 Hawthorn Street, Newton, Ma	
Patrick Jordan-Querns					73 Walnut Street, #9 Newton, Ma	
Leanne Chaves					75 Norwood Ave B Newton, Ma 02459	
<b>NON-CPA FUNDING</b>	Source of Funds			Amount	Status of Funding (requested, expected, confirmed)	

You may adjust the space for each question, but the combined answers to all questions on this page must fit on this page.

Project TITLE	Newton Homebuyer Assistance Program	
<b>SUMMARY CAPITAL/DEVELOPMENT BUDGET</b>		
<b>Uses of Funds</b>		
Administrative Costs – total new request		\$15,000
Grants to Homebuyers		
3-bedroom units, 3 units @ max. \$275,000:		\$825,00
2-bedroom units, 3 units @ max \$250,000:		\$750,000
<b>D. TOTAL USES</b> (should equal C. on page 1.)		<b>\$1,590,000</b>
<b>Sources of Funds</b>		
CPA – remaining funds from prior appropriations (approx.. \$15,000 program admin, \$518,000 grants)		\$533,000
CPA – new funds requested		\$1,057,000
<b>E. TOTAL SOURCES</b> (should equal D. above)		<b>\$1,590,000</b>
Project TIMELINE	Phase or Task	Season & Year
	Submission of full proposal	March 2015
	CPC public hearing & approval	April 2015
	Board of Aldermen appropriation	June 2015
	Revise Program Guidelines	July 2015
	Submit revised Guidelines to State	July 2015
	Advertise new lottery (A second lottery will be held in August 2016 to select three additional applicants. All subsequent tasks outlined below will be completed in the same time frame, just one year later than the date listed.)	August 2015
	Hold lottery and select three applicants	September 2015
	Homebuyers look for properties	October 2015-February 2016
	Properties inspected and approved	December 2015-April 2016
	Homebuyer Financing commitment finalized	January-May 2016
	State reviews Loan Documents and Closing	February-June 2016

Project TITLE		Newton Homebuyer Assistance Program	
↓ Check off submitted attachments here.			
Full proposals: detailed budget attachments REQUIRED.	<b>PROJECT FINANCES</b> printed and as computer spreadsheets, with both uses & sources of funds		
	✓	<p><b>development pro forma/capital budget:</b></p> <p>Funds used for the Newton Homebuyer Assistance Program (NHAP) are not used for the development/ construction of new housing units. Except for \$30,000 in projected administrative costs (less than 2% of the total budget), the CPA funding will be used solely for mortgage buy-down assistance for income eligible households to purchase a home in Newton.</p> <p>In 2014, there were no units sold at a price affordable to households earning 80% AMI. The proposed maximum subsidy limits recommended in this proposal will allow these households to afford to purchase a home in Newton and will accomplish the City's goal of increasing the socio-economic, cultural and racial diversity here.</p> <p><b>Additional attachments with supporting calculations:</b></p> <ul style="list-style-type: none"> <li>A. Breakdown of actual sales prices for 3- and 2-bedroom units sold in Newton in 2014.</li> <li>B. Worksheet (with standard assumptions) showing how much a household earning up to 80% AMI can afford without a subsidy and not be cost burdened, meaning the household spends no more than 30% of their monthly income on housing costs. This formula also incorporates the City's affordable housing policy, which sets housing cost limits to be affordable to households earning to 70% of the AMI. .</li> </ul>	
	✓	<p><b>operating/maintenance budget, projected separately for each of the next 10 years</b></p> <p>There are no long-term operating/maintenance costs associated with NHAP. In return for a subsidy to help eligible households purchase a home in Newton, the City records a permanent deed restriction to ensure that the property will remain affordable to household earning a similar level of income in the future.</p>	
REQUIRED for all full proposals.	<b>SPONSOR FINANCES &amp; QUALIFICATIONS</b>		
	✓	<p><b>for sponsoring department or organization, most recent annual operating budget (revenue &amp; expenses) &amp; financial statement</b></p> <p>NHAP is fully funded through CPA funds. Less than 2% of the requested funding will be used for administrative costs, the rest will be used directly as buy-down assistance to allow income-eligible households to afford to purchase a home in Newton.</p>	
	✓	<p>NHAP has assisted nearly 30 households find and buy homes in Newton over the life of the program. Staff from the Community Development and Housing Division of the City's Planning and Development Department has administered the program since its inception and will continue to do so.</p>	
REQUIRED for all full proposals	✓	<b>COVER LETTER</b>	See attached letter.
REQUIRED.	<b>SITE CONTROL, VALUE &amp; DEED RESTRICTIONS</b>		
	✓	<p>In return for a subsidy for mortgage buy-down assistance, the City records a permanent deed restriction on the property to ensure the home remains affordable in perpetuity. In addition, by following set guidelines for applicant and site selection, each subsidized unit is eligible for inclusion on the State's Subsidized Housing Inventory (SHI).</p>	

Rec'd by CPC staff,  
13 March 2015

**Newton Homebuyer Assistance Program**  
Proposal to the Community Preservation Committee

## Attachment A

Number of two- and three-bedroom condominiums sold in 2014 at the prices shown. Please note that the figures are cumulative (i.e. in 2014 30 condos sold for \$400,000 or less, 17 sold for between \$400,000 and \$425,000 etc.)

<u>2BR</u>	<u>Mode</u>	<u>&lt;\$400,000</u>	<u>&lt;\$425,000</u>	<u>≤</u> <u>\$450,000</u>	<u>&lt;\$500,000</u>
2014		30	47	54	71

<u>3BR</u>	<u>Mode</u>	<u>&lt;\$400,000</u>	<u>&lt;\$425,000</u>	<u>≤</u> <u>\$450,000</u>	<u>&lt;\$500,000</u>
2014		6	9	14	19

Rec'd by CPC staff,  
13 March 2015

**Newton Homebuyer Assistance Program**

Proposal to the Community Preservation Committee

**Attachment B**

Using standard, explicit assumptions, the following tables show how much a three- and four-person household earning 80% of the Area Median Income can afford to spend on the purchase of a home without a mortgage subsidy.

Four-person household

<b>Purchase Price Limits using DHCD Assumptions</b>		
<b>Housing Cost:</b>		Notes
<b>Sales Price</b>	<b>\$188,000</b>	
<b>Cost Buydown Assistance</b>		
<b>Sale Price to Buyer</b>	<b>\$188,000</b>	
<b>Down Payment Percent</b>	<b>5%</b>	
<b>5% Down payment</b>	\$9,400	
Mortgage	\$178,600	Assuming mortgage covers 95% of purchase price
<b>Interest rate</b>	<b>4.57%</b>	Freddie Mac Avg. NE Rate as of 3/9/15 +.25%
Amortization	30	
Monthly P&I Payments	\$912.38	
<b>Tax Rate</b>	<b>\$11.61</b>	2015 City of Newton Residential Property Tax Rate
monthly property tax	\$182	based on deed restricted price (not market value)
<b>Hazard insurance</b>	<b>\$63</b>	based on DHCD assumptions
PMI	\$116	
<b>Condo/HOA fees (if applicable)</b>	<b>\$250</b>	Estimate
<b>Monthly Housing Cost</b>	<b>\$1,523</b>	
<b>Necessary Income:</b>	\$60,921	
<b>Household Income:</b>		
# of Bedrooms	3	
Sample Household size	4	
<b>80% AMI/"Low-Income" Limit</b>	\$69,700	2015 Boston/Cambridge/Quincy PSA 80% AMI Limit
<b>Target Housing Cost (80%AMI)</b>	<b>\$1,743</b>	
10% Window	\$60,988	
<b>Target Housing Cost (70%AMI)</b>	<b>\$1,525</b>	30%

(see calculations for 4-person household on next page)

**Newton Homebuyer Assistance Program**  
 Proposal to the Community Preservation Committee

**Attachment B** (continued)

Three-person household

<b>Purchase Price Limits using DHCD Assumptions</b>	
<b>Housing Cost:</b>	
<b>Sales Price</b>	<b>\$165,000</b>
<b>Cost Buydown Assistance</b>	
<b>Sale Price to Buyer</b>	<b>\$165,000</b>
<b>Down Payment Percent</b>	<b>5%</b>
<b>5% Down payment</b>	\$8,250
Mortgage	\$156,750
<b>Interest rate</b>	<b>4.57%</b>
Amortization	30
Monthly P&I Payments	\$800.76
<b>Tax Rate</b>	<b>\$11.61</b>
monthly property tax	\$160
<b>Hazard insurance</b>	<b>\$55</b>
PMI	\$102
<b>Condo/HOA fees (if applicable)</b>	<b>\$250</b>
<b>Monthly Housing Cost</b>	<b>\$1,367</b>
<b>Necessary Income:</b>	\$54,691
<b>Household Income:</b>	
# of Bedrooms	2
Sample Household size	3
<b>80% AMI/"Low-Income" Limit</b>	\$62,750
<b>Target Housing Cost (80%AMI)</b>	<b>\$1,569</b>
10% Window	\$54,906
<b>Target Housing Cost (70%AMI)</b>	<b>\$1,373</b>

Notes

Assuming mortgage covers 95% of purchase price  
 Freddie Mac Avg. NE Rate as of 3/9/15  
 +.25%

2015 City of Newton Residential Property Tax Rate  
 based on deed restricted price (not market value)  
 based on DHCD assumptions

Estimate

2015 Boston/Cambridge/Quincy PSA 80% AMI Limit

30%



Setti D. Warren  
Mayor

**City of Newton, Massachusetts**  
Department of Planning and Development  
1000 Commonwealth Avenue Newton, Massachusetts 02459

#144-15

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James Freas,  
Acting Director

**Community Preservation Committee  
Supplemental Funding Recommendation for  
MUSEUM ARCHIVES, ACCESSIBILITY & FIRE SUPPRESSION**

date: 26 May 2015

from: Community Preservation Committee

to: The Honorable Board of Aldermen

**PROJECT GOALS & ELIGIBILITY**

This project will create museum-standard storage and research space for archival collections in the Jackson Homestead's 17<sup>th</sup>-century wing, including climate control and fire suppression; provide current, code-compliant accessibility for the entire first floor of the museum; and add sprinklers throughout the 1809 main house. The funding currently requested should allow completion of the work begun with CPA funds from three prior appropriations [Board orders 147-08, 83-10, and 83-10(2)], which also established the project's CPA eligibility.

**RECOMMENDED FUNDING**

On 14 May 2015, by a vote of 6-0 (members Clarke, Fishman, and Fitzmaurice absent), the Community Preservation Committee recommended appropriating the requested additional \$400,000 to the Public Buildings Dept. for the uses in the following summary budget. All funding should be treated as for historic resources.

<b>MUSEUM ARCHIVES PROJECT BUDGET</b>		as of	% of	as of	% of
<b>USES of FUNDS</b>		<b>June 2013</b>	<b>total</b>	<b>April 2015</b>	<b>total</b>
<b>A.</b>	Consultants (architectural & related services)	\$155,632	18.4%	\$183,213	15.2%
<b>B.</b>	Construction	\$571,117	67.5%	\$789,037	65.4%
	Work by Public Buildings Dept. (repair of any minor damage caused by construction, other work not included in main scope) **	—	—	\$52,500	4.4%
<b>C.</b>	Contingency (** above excluded from 10% calculation in 2015)	\$41,648	4.9%	\$104,895	10.0%
<b>D.</b>	Work by Jackson Homestead/Historic Newton (opening building for contractors, moving & protecting collections during construction)	—	—	\$15,000	1.2%
	Storage/Moving	\$27,500	3.3%	\$14,000	1.2%
<b>E.</b>	Furniture, Fixtures & Equipment	\$50,000	5.9%	\$47,700	4.0%
<b>TOTAL USES</b>		<b>\$845,897</b>		<b>\$1,206,345</b>	
<b>SOURCES of FUNDS</b>					
<b>F.</b>	Historic Newton: private donation committed since 2007	-\$24,000	2.8%	-\$24,000	2.0%
	Historic Newton: requested by CPC 2013; dedicated City fund committed 2014	-\$39,552	4.7%	-\$40,000	3.3%
<b>G.</b>	CDBG: committed 2009-14, past federal spending deadline by 2015	-\$40,000	4.7%	—	0.0%
<b>H.</b>	Previously appropriated CPA funds already spent	-\$101,345	<i>total</i>	-\$183,845	<i>total</i>
	Previously appropriated CPA funds still available	—	<i>CPA %:</i>	-\$558,500	<i>CPA %:</i>
<b>NEW CPA REQUEST (2015 highlighted)</b>		<b>\$641,000</b>	<b>87.8%</b>	<b>\$400,000</b>	<b>94.7%</b>

website [www.newtonma.gov/cpa](http://www.newtonma.gov/cpa)

contact Alice E. Ingerson, Community Preservation Program Manager

email [aingerson@newtonma.gov](mailto:aingerson@newtonma.gov) phone 617.796.1144

**HISTORIC NEWTON/JACKSON HOMESTEAD ARCHIVES REVISED PROJECT BUDGET**

BUDGET ORGN	ACCOUNT NUMBER	ACCOUNT TITLE	BUDGET
21B11504	5301	CONSULTANTS	\$ 183,213
21B11504	5825	BUILDING IMPROVEMENTS	\$ 789,037
21B11504	5274	STORAGE/MOVING	\$ 14,000
21B11504	58FFE	FURNITURE, FIXTURES & EQUIP	\$ 47,700
21B11504	5795	CONTINGENCY	\$ 39,452
21B11504	5793	BOA CONTINGENCY**	\$ 39,452
		<b>TOTAL PROJECT COST</b>	<b>\$ 1,112,854</b>
		LESS PREVIOUS CPA FUNDING	\$ (37,500)
		LESS PREVIOUS CPA FUNDING	\$ (63,845)
		LESS PREVIOUS CPA FUNDING	\$ (641,000)
		<b>SUB TOTAL</b>	<b>\$ 370,509</b>
		LESS JACKSON HOMESTEAD CONTRIBUTION*	\$ (64,000)
		<b>ADDITIONAL CPA PROJECT FUNDING</b>	<b>\$ 306,509</b>

<b>* JACKSON HOMESTEAD PROJECT FUNDING BREAKDOWN</b>		<b>TOTAL</b>
ANONYMOUS		\$ 24,000.00
NEWTON HISTORY MUSEUM FUNDRAISING		\$ 40,000.00
<b>TOTAL JACKSON HOMESTEAD FUNDING</b>		<b>\$ 64,000.00</b>

\*\* Approval by the Board of Alderman is required before funds are transferred from the BOA Contingency line item.

**Note:** All issues and recommendations below are repeated, with minor editing and updates, from the CPC's July 2013 recommendation for \$641,000 in final design and construction funds for this project.

## **SPECIAL ISSUES CONSIDERED BY THE CPC**

**Project Management** As it was in 2013, the CPC remains concerned about the prolonged, complex process of scoping, design and approval that has increased this project's cost over time. The Committee strongly seconded a request by Alderman Deborah Crossley, as chair of the Board's Public Facilities Committee, for more explanatory details about the project's budget history. However, the current budget seems more reliable than previous ones, because it is based on an actual construction bid. During construction, the CPC also hopes that the Public Buildings Dept. will honor its 2013 commitment to provide quarterly in-person progress reports to the CPC, though no reports have been provided to date.

**Strategic Planning for Archives** In March 2015 the Board of Aldermen appropriated \$20,000 in CPA funds for an interdepartmental strategic plan for all City archives, to identify the most cost-effective combination of improved facilities and other preservation options. However, the CPC recommends completing the Museum project without waiting for this plan, for the same reasons the Committee cited in 2013: Delay will only increase this project's costs – the current budget is based on an accepted construction bid that is valid only through June 2015. A large portion of this project's costs are for safety and accessibility improvements that will protect not only the Jackson Homestead's archives but also its historic building and its many visitors. Improved archival facilities are critical for the Homestead's pending re-accreditation by the American Alliance of Museums. Finally, although the Homestead's new archival facilities will be safer and more usable, they will not be significantly larger. Historic Newton therefore remains committed to working with the City Clerk, the Newton Free Library, and other City departments on a broader, interdepartmental strategy for archives.

**Funding Leverage** CPA funding is now projected to cover almost 95% of this project's costs. That percentage has risen steadily as the project's total budget has grown. Without setting specific targets, the CPC urged Historic Newton to consider raising additional non-CPA funds and, in collaboration with the Public Buildings Department, both to use appropriated CPA funds efficiently and return some of those funds unspent.

## **ADDITIONAL RECOMMENDATIONS** (all repeated from 2013)

1. Construction will begin within 6 months and be completed within 18 months after additional funds are appropriated; or by any later dates approved in writing by the full CPC.
2. The Public Buildings Dept. will provide a brief (5-minute) in-person progress report on the project at a public meeting of the CPC once each quarter until the project is completed.
3. Prior to spending the last 10 percent of appropriated funds, the Public Buildings Department will provide the CPC with an in-person and written final report on the project's results, including budget-vs.-actual comparisons.
4. The Public Buildings Department will provide the CPC with a brief (1-2 page) summary of preventive maintenance funded at the Jackson Homestead during the 2 years after this project's completion.
5. Any CPA funds appropriated for this project but not needed or used for the purposes stated herein will be returned to the Newton Community Preservation Fund.

## **KEY OUTCOMES** (all repeated from 2013)

The Community Preservation Committee will evaluate this project based on these key outcomes:

1. Completion of the project on time and on or under budget.
2. The strategic expansion of two Historic Newton activities long constrained by the Jackson Homestead's inadequate archival facilities: proactive collecting and active public use.
3. Preservation of the Jackson Homestead's historic character and the new facilities created by this project through regular preventive maintenance, without reliance on additional CPA funds.

**ATTACHMENTS**

(delivered to the clerks of the Public Facilities Committee and Finance Committee)

- ♦ **project history** – webpage for this project from “Proposals & Projects – Pending” at [www.newtonma.gov/cpa](http://www.newtonma.gov/cpa)
- ♦ Public Buildings detailed budget history for the project
- ♦ Public Buildings/Historic Newton PowerPoint presentation to the CPC on 14 May 2105
- ♦ full proposal, including - project summary, budget, project manager’s qualifications, and results of construction bidding, March-April 2015

# Jackson Homestead Renovation Project

## COST ANALYSIS BETWEEN 2007 AND 2015

	2007 Estimate	2009 Estimate	2010 Estimate	2011 Estimate	2013 Estimate	2014/2015 estimate	2015 final bid
<b><u>A&amp;E/Soft Costs:</u></b>							
Architect/consultants	\$ 36,000	\$ 116,720	\$ 87,632	\$ 87,632	\$ 149,590	\$ 183,213	\$ 183,213
Legal	\$ 1,500	\$ 2,000					
FF&E	\$ 50,000	\$ 50,000	\$ 50,000	\$ 50,000	\$ 50,000	\$ 10,448	\$ 47,700
Temp. Storage & Moving	\$ 24,828	\$ 24,828	\$ 24,828	\$ 27,500	\$ 27,500	\$ 3,500	\$ 14,000
Work by other department							\$ 15,000
Public building R-M							\$ 52,500
<b>A&amp;E/Soft Costs Total:</b>	<b>\$ 112,328</b>	<b>\$ 193,548</b>	<b>\$ 162,460</b>	<b>\$ 165,132</b>	<b>\$ 227,090</b>	<b>\$ 197,161</b>	<b>\$ 312,413</b>
<b><u>Construction Costs</u></b>							
Fire Protection (Sprinkler)					\$ 125,000	\$ 77,060	\$ 125,000
Electrical Work						\$ 178,421	\$ 122,000
HVAC						\$ 55,640	\$ 78,500
Plumbing						\$ 18,170	\$ 24,900
General Construction	\$ 263,447	\$ 452,297	\$ 375,000	\$ 428,960	\$ 446,117	\$ 559,787	\$ 438,637
<b>Total</b>	<b>\$ 263,447</b>	<b>\$ 452,297</b>	<b>\$ 375,000</b>	<b>\$ 428,960</b>	<b>\$ 571,117</b>	<b>\$ 889,078</b>	<b>\$ 789,037</b>
Hazardous Materials			\$ 3,000	\$ 3,000	\$ 3,000	\$ 5,000	
<b>Construction Total</b>	<b>\$ 263,447</b>	<b>\$ 452,297</b>	<b>\$ 378,000</b>	<b>\$ 431,960</b>	<b>\$ 574,117</b>	<b>\$ 894,078</b>	<b>\$ 789,037</b>
<b>Total project cost</b>	<b>\$ 375,775</b>	<b>\$ 645,845</b>	<b>\$ 540,460</b>	<b>\$ 597,092</b>	<b>\$ 801,207</b>	<b>\$ 1,091,239</b>	<b>\$ 1,101,450</b>
Project Contingency	\$ 18,789	\$ 32,292	\$ 27,023	\$ 29,855	\$ 41,648	\$ 109,000	\$ 104,895
<b>Total Project cost:</b>	<b>\$ 394,564</b>	<b>\$ 678,137</b>	<b>\$ 567,483</b>	<b>\$ 626,947</b>	<b>\$ 842,855</b>	<b>\$ 1,200,239</b>	<b>\$ 1,206,345</b>









City of Newton, Massachusetts  
 Purchasing Department  
 Comparison of Bids

INVITATION FOR BID #15-75  
 Newton History Museum at the Jackson Homestead

Bid Opening Time: 12:00 PM, March 26, 2015  
 Public Buildings - Rafik Ayoub

BIDDERS	Classic Construction	Contractors Network	Elizabeth Contracting	GTC Construction	Casby Brothers	Northern Contracting	Allegrone Construction	Paul J. Rogan Co., Inc.	Unicon Inc.
<b>Newton History Museum at the Jackson Homestead</b>	\$783,165.00	\$887,000.00	\$912,200.00	\$926,918.00	\$940,000.00	\$1,026,100.00	\$1,072,000.00	\$1,110,400.00	\$1,205,950.00
<i>Alternate 1</i>	\$5,872.00	\$6,500.00	\$3,900.00	\$12,500.00	\$8,000.00	\$8,000.00	\$4,500.00	\$10,000.00	\$15,800.00
<i>Total with Alternate 1</i>	\$789,037.00	\$893,500.00	\$916,100.00	\$939,418.00	\$948,000.00	\$1,034,100.00	\$1,076,500.00	\$1,120,400.00	\$1,221,750.00

Award Recommended to:

\_\_\_\_\_

\_\_\_\_\_  
 Chief Procurement Officer

\_\_\_\_\_  
 Date

Alternate 1

\_\_\_\_\_  
 Department Head

\_\_\_\_\_  
 Date

\_\_\_\_\_  
 Mayor or his designee

\_\_\_\_\_  
 Date

Notes Regarding Specific Bids

**CITY OF NEWTON, MASSACHUSETTS  
PURCHASING DEPARTMENT  
COMPARISON OF BIDS**

**#144-15**

**INVITATION #15-75  
Newton History Museum at the Jackson Homestead**

**Filed Sub Bid Opening: March 19, 2015 at 12:00 pm  
Project Manager: Rafik Ayoub**

Company Name of Filed Sub Bidders	Base Bid	5% Bid Dep.	Alt. 1 (Add)	Alt. 2 (Add)	Alt. 3 (Add)	Alt. 4 (Add)	Addendum	Bid Form Sign	Elig. Cert.	Update Stmt	may be used by any general bidder except	may be used by the following general bidders
<b>ELECTRICAL</b>												
Brite-Lite Electrical Co., Inc.	\$122,000.00	Y					1,2	Y	EXP 3/19/15	Y	GVW, TLT	
Systems Contracting	\$128,800.00	Y					1,2	Y	Y	Y		
Lantern Light & Electric Inc.	\$142,280.00	Y					1,2	Y	Y	Y		
Company Name and Address of Filed Sub Bidders	Base Bid	5% Bid Dep.	Alt. 1 (Add)	Alt. 2 (Add)	Alt. 3 (Add)	Alt. 4 (Add)	Addendum	Bid Form Sign	Elig. Cert.	Update Stmt	may be used by any general bidder except	may be used by the following general bidders
<b>HVAC</b>												
CAN HVAC	\$78,500.00	Y					1,2	Y	Y	Y		
Company Name and Address of Filed Sub Bidders	Base Bid	5% Bid Dep.	Alt. 1 (Add)	Alt. 2 (Add)	Alt. 3 (Add)	Alt. 4 (Add)	Addendum	Bid Form Sign	Elig. Cert.	Update Stmt	may be used by any general bidder except	may be used by the following general bidders
<b>PLUMBING</b>												
PJ Dionne Co., Inc.	\$24,900.00	Y					1,2	Y	EXP 4/14/15	Y		
Richman Corp	\$28,800.00	Y					1,2	Y	Y	Y		
Compass Plumbing	\$29,961.00	Y					1,2	Y	Y	Y		
Robert Irvine & Sons	\$35,400.00	Y					1,2	Y	EXP 3/24/15	Y		
Araujo Brothers	\$37,800.00	Y					1,2	Y	Y	Y		
Company Name and Address of Filed Sub Bidders	Base Bid	5% Bid Dep.	Alt. 1 (Add)	Alt. 2 (Add)	Alt. 3 (Add)	Alt. 4 (Add)	Addendum	Bid Form Sign	Elig. Cert.	Update Stmt	may be used by any general bidder except	may be used by the following general bidders
<b>FIRE PROTECTION</b>												
Rustic Fire Protection	\$125,000.00	Y					1,2	Y	Y	Y		
X-CEL Fire Protection	\$129,000.00	Y					1,2	Y	Y	Y		
Carlyle Engineering	\$151,600.00	Y					1,2	Y	Y	Y		




City of Newton, Massachusetts  
Office of the Mayor

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(617) 796-1089

SETTI D. WARREN  
MAYOR

E-mail  
swarren@newtonma.gov

David A. Olson, CMC  
Newton, MA 02459

2015 MAY 11 PM 4:18

RECEIVED  
Newton City Clerk

May 11, 2015

Honorable Board of Aldermen  
Newton City Hall  
1000 Commonwealth Avenue  
Newton Centre, MA 02459

Ladies and Gentlemen:

I write to request that your Honorable Board docket for consideration a request to transfer the sum of \$200,000 from Acct # 0140104-511002 Full Time Wages/Street Maintenance to Acct # 0140115-52404 Electrical Equipment R&M for additional repair work required this year.

Thank you for your consideration of this matter.

Sincerely,

Setti D. Warren  
Mayor

1000 Commonwealth Avenue Newton, Massachusetts 02459

www.newtonma.gov



DEDICATED TO COMMUNITY EXCELLENCE

City of Newton

Setti D. Warren  
MayorDEPARTMENT OF PUBLIC WORKS  
OFFICE OF THE COMMISSIONER  
1000 Commonwealth Avenue  
Newton Centre, MA 02459-1449

May 8, 2015

To: Maureen Lemieux, Chief of Staff

From: David F. Turocy, DPW Commissioner

Subject: Request to transfer from DPW salaries to expenses  
Transportation traffic signal maintenance

The DPW/Transportation Division is responsible for the maintenance of streetlights, parking meters, traffic signals, signs and pavement markings. During FY 2015, we have placed a particular emphasis on improving vehicular flow and safety through improved traffic signal operation throughout the city. While this is most evident in the CIP projects for traffic signal/intersection improvements, we have also made a number of repairs and upgrades at numerous locations to address many of these concerns. Since July 1, 2014 the City has performed the following with respect to traffic signal maintenance and repairs:

- Responded to (and repaired) nearly 200 locations
- Repaired pavement loop detection at 7 locations
- Responded to and repaired 31 knockdowns
- Installed temporary traffic signals at the intersection of Manitoba and Beacon related to the Angier Elementary School Reconstruction Project
- Diagnosed, repaired and established communication at 3 of 4 signalized intersection in West Newton Square to improve traffic flow along Washington Street
- Adjusted timing/phasing at intersection of Prospect and Washington to resolve pedestrian/vehicle conflict that had been a primary concern with the Learning Prep School
- Implemented specific timing/phasing adjustments at intersection of Centre and Beacon to improve both pedestrian (i.e. lead phase) and vehicular (i.e. flashing yellow arrow) safety and operation
- Evaluated and adjusted pedestrian crossing time to meet minimum standard at several intersections throughout City
- Upgraded several intersections to include pedestrian countdown timers as well as audible pushbutton units to meet current ADA and MUTCD standards

The FY 2015 budget included \$150,000 for Electrical Equipment Repair and Maintenance. We have exhausted the available funds for work performed through November 2014. Currently, we have the remaining invoices totaling approximately \$140,000 as follows:

- December 2014: Knockdowns = \$16,579.88; Maintenance = \$17,312.86
- January 2015: Knockdowns = \$3,333.98; Maintenance = \$9,120.00
- February 2015: Knockdowns = \$14,996.95; Maintenance = \$15,856.93
- March 2015: Knockdowns = \$10,170.89; Maintenance = \$34,293.50
- \$16,645.12 for the installation of temporary signals at Manitoba & Beacon related to Angier School construction project.

In addition, we anticipate the need for \$5,000 for knockdowns and \$15,000 per month for regular maintenance for April thru June. This comprises a total anticipated shortfall of \$200,000 (\$140,000 + \$20,000 x 3 months) in order to meet all of our signal and lighting infrastructure obligations.

I am requesting a transfer of \$200,000 from salary savings to DPW expenses (Transportation Account #0140115-52404).

Please docket this item for Board of Aldermen consideration.

Thank you.



David F. Turocy  
Commissioner, Public Works

cc: David Wilkinson, Comptroller  
Shane Mark, Director of Operations  
William Paille, Transportation Director  
Richard Pishkin, DPW Business Manager



SETTI D. WARREN  
MAYOR

City of Newton, Massachusetts  
Office of the Mayor

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TDD/TTY  
(617) 796-1089  
E-mail  
swarren@newtonma.gov

May 11, 2015

Honorable Board of Aldermen  
Newton City Hall  
1000 Commonwealth Avenue  
Newton Centre, MA 02459

Ladies and Gentlemen:

I write to request that your Honorable Board docket for consideration a request to transfer the sum of \$80,000 from Acct # 0140110-513001 Snow Overtime to Acct # 0140110-52403 Vehicle Repairs for additional repair work required due to the historic amount of snow this past winter.

Thank you for your consideration of this matter.

Sincerely,

Setti D. Warren  
Mayor

RECEIVED  
Newton City Clerk  
2015 MAY 11 PM 4:18  
DAVID A. OLSON, CMC  
Newton, MA 02459



City of Newton



Setti D. Warren  
Mayor

DEPARTMENT OF PUBLIC WORKS  
OFFICE OF THE COMMISSIONER  
1000 Commonwealth Avenue  
Newton Centre, MA 02459-1449

May 11, 2015

To: Maureen Lemieux, Chief of Staff

From: Richard J. Pishkin, DPW Business Manager

Subject: Request to transfer from DPW Snow Account Regular Overtime  
to Vehicle Rentals

Due to the impact of heavy snow of 2015, the DPW Snow accounts are still incurring snow expenses in vehicle rentals and vehicle repairs.

I am requesting a transfer of \$80,000 from the Snow Overtime account (Regular Overtime 0140110-513001) to DPW expenses (Vehicle R/M #0140110-52403).

Please docket this item for Board of Aldermen consideration.

Thank you.

Richard Pishkin, DPW Business Manager

cc: David Wilkinson, Comptroller  
David Turocy, DPW Commissioner  
Shane Mark, Director of Operations



SETTI D. WARREN  
MAYOR

City of Newton, Massachusetts  
Office of the Mayor

#130-15  
Telephone  
(617) 796-1100  
Facsimile  
(617) 796-1113  
TDD/TTY  
(617) 796-1089  
E-mail  
swarren@newtonma.gov

May 11, 2015

Honorable Board of Aldermen  
Newton City Hall  
1000 Commonwealth Avenue  
Newton Centre, MA 02459

Ladies and Gentlemen:

I write to request that your Honorable Board docket for consideration a request to appropriate the sum of \$150,000 from June 30, 2014 Certified Free Cash for the purpose of improving traffic signalization at several intersections throughout the City.

Thank you for your consideration of this matter.

Sincerely,

Setti D. Warren  
Mayor

RECEIVED  
Newton City Clerk  
2015 MAY 11 PM 5:00  
DAVID A. OLSON, CMC  
Newton, MA 02459



**REFERRED TO PUBLIC SAFETY & TRANS. AND FINANCE COMMITTEES**

#130-15 HIS HONOR THE MAYOR, requesting authorization to appropriate the sum of one hundred fifty thousand dollars (\$150,000) from Free Cash for the purpose of improving traffic signalization at several intersections throughout the City. [05/11/15 @ 5:00 PM]

*We would also use the funds to complete as much as possible for the project below.*

*Watertown Street @ Capital Street  
Watertown Street @ Pearl Street*



*projected cost \$150,000*



SETTI D. WARREN  
MAYOR

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Office of the Mayor

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Facsimile  
(617) 796-1113  
TDD/TTY  
(617) 796-1089  
E-mail  
swarren@newtonma.gov

May 13, 2015

Honorable Board of Aldermen  
Newton City Hall  
1000 Commonwealth Avenue  
Newton Centre, MA 02459

RECEIVED  
Newton City Clerk  
2015 MAY 13 AM 11:22  
DAVID A. OLSON, CHIC  
Newton, MA 02459

Ladies and Gentlemen:

I write to request that your Honorable Board amend my original request of May 11, 2015 by replacing the sum of one million five hundred thousand dollars (\$1,500,000) with the sum of two million dollars (\$2,000,000) and by expanding the scope of traffic improvements to include Nonantum and Oak Hill, as well as other areas of the City.

Thank you for your consideration of this matter.

Sincerely,

Setti D. Warren  
Mayor

1000 Commonwealth Avenue Newton, Massachusetts 02459

[www.newtonma.gov](http://www.newtonma.gov)



DEDICATED TO COMMUNITY EXCELLENCE

**REFERRED TO PUBLIC SAFETY & TRANS. AND FINANCE COMMITTEES**

#129-15 HIS HONOR THE MAYOR, requesting authorization to appropriate the sum of two million dollars (\$2,000,000) from bonded indebtedness for the purpose of improving the traffic signals at several intersections in Auburndale and traffic improvements in Nonantum and Oak Hill, as well as other areas of the City. [05/11/15 @ 5:00 PM]

*The monies would be used on the following locations pertaining to Auburndale Square: Projected cost \$1.2 mil*

*Commonwealth Ave @ Lexington Street  
Commonwealth Ave @ Melrose Street  
Lexington @ Wolcott Street  
Lexington @ Auburndale Avenue*



*projected cost 1.2 Mil*

*The remaining funds would go towards as many of the following as possible Est remaining \$800,000*

*Watertown Street @ Adams Street  
California Street @ Bridge Street  
Nahanton Street @ Winchester Street  
Washington Street @ Auburn Street  
Washington Street @ Perkins Street  
Washington Street @ Prospect Street*



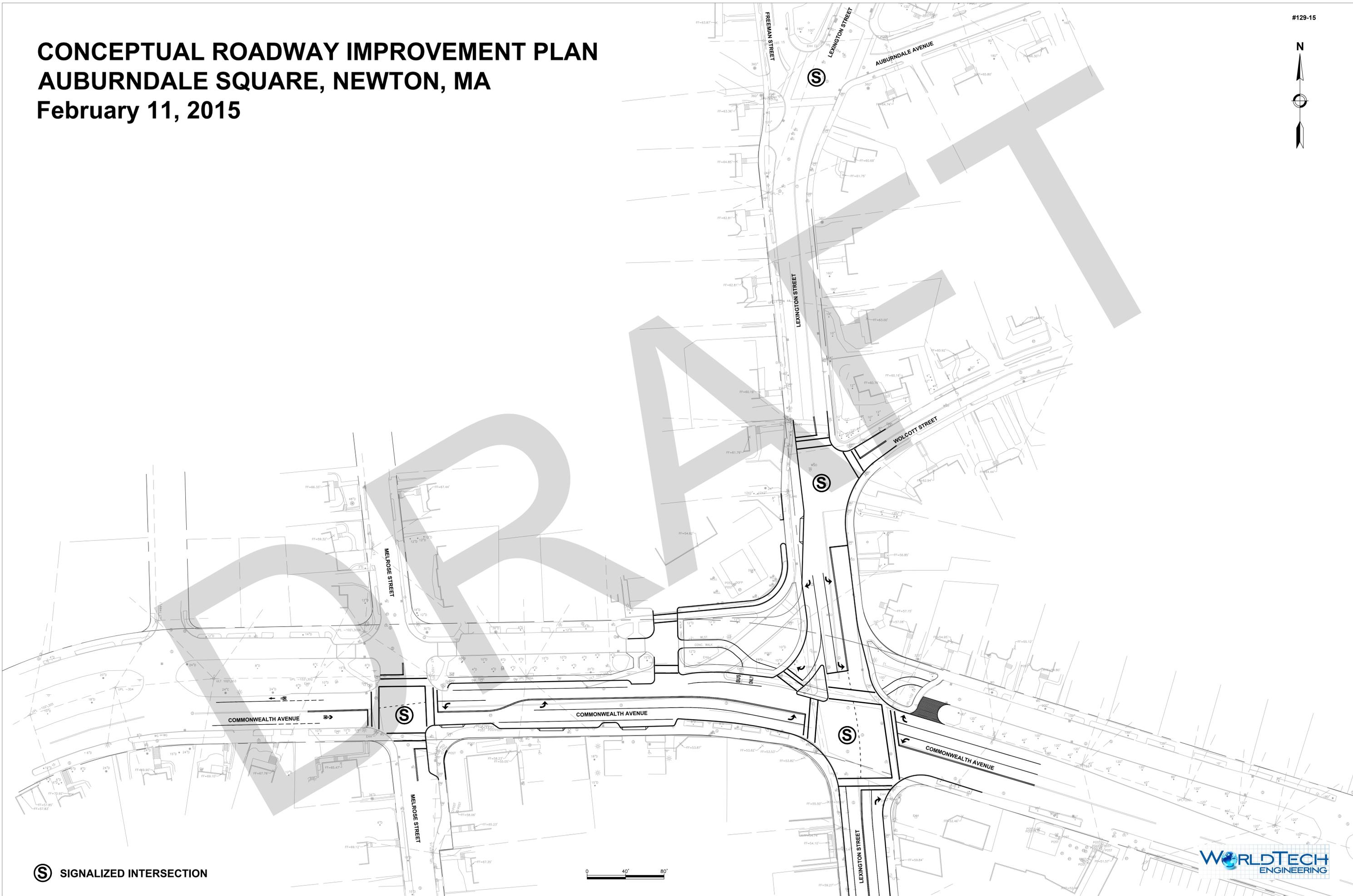
*projected cost \$150,000*

*projected cost \$75,000*

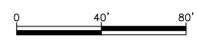
*projected cost \$250,000*

*projected cost \$375,000*

# CONCEPTUAL ROADWAY IMPROVEMENT PLAN AUBURNDALE SQUARE, NEWTON, MA February 11, 2015



 SIGNALIZED INTERSECTION

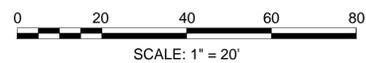
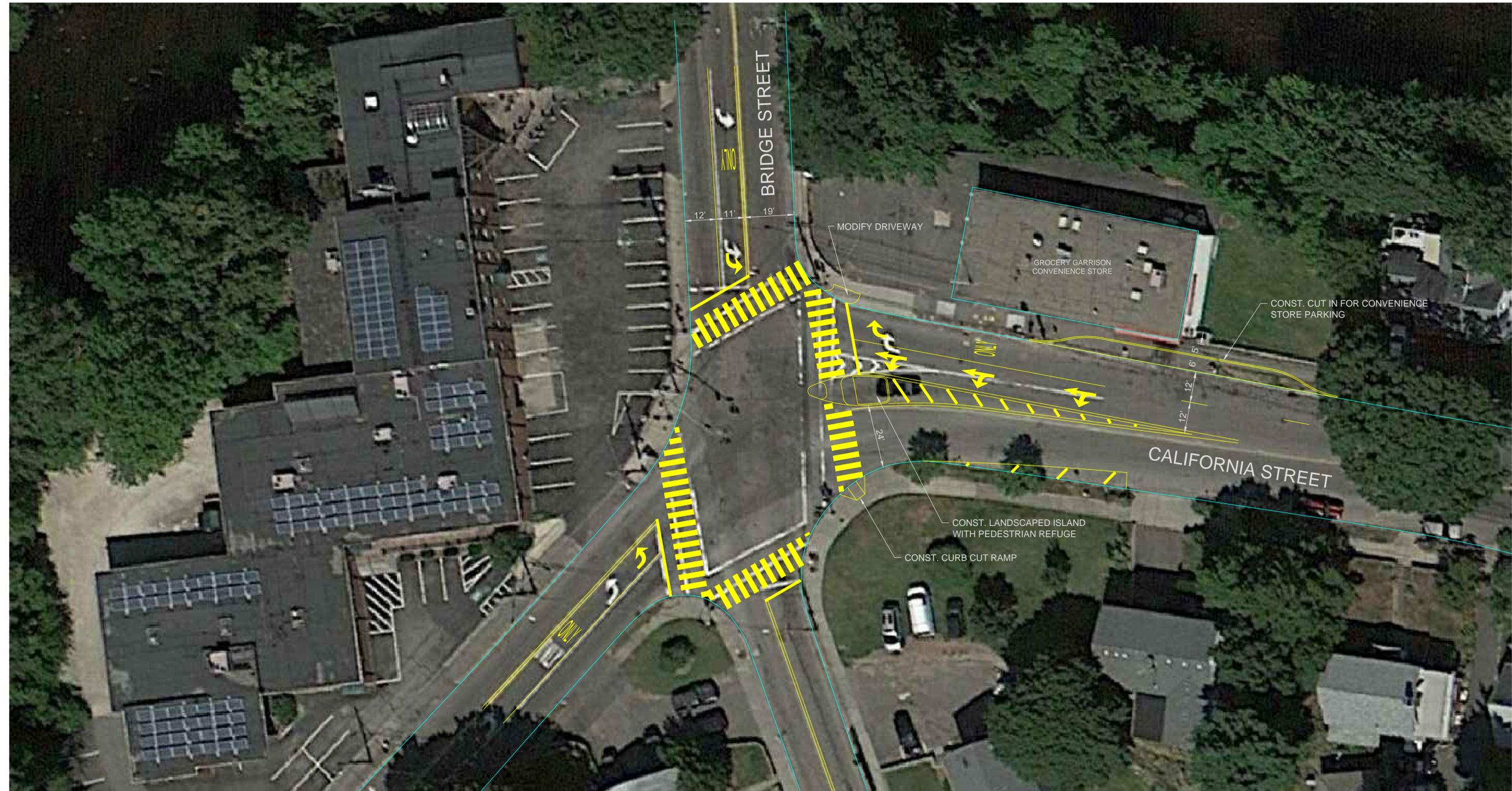


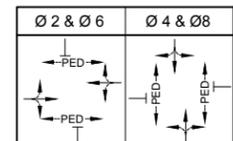
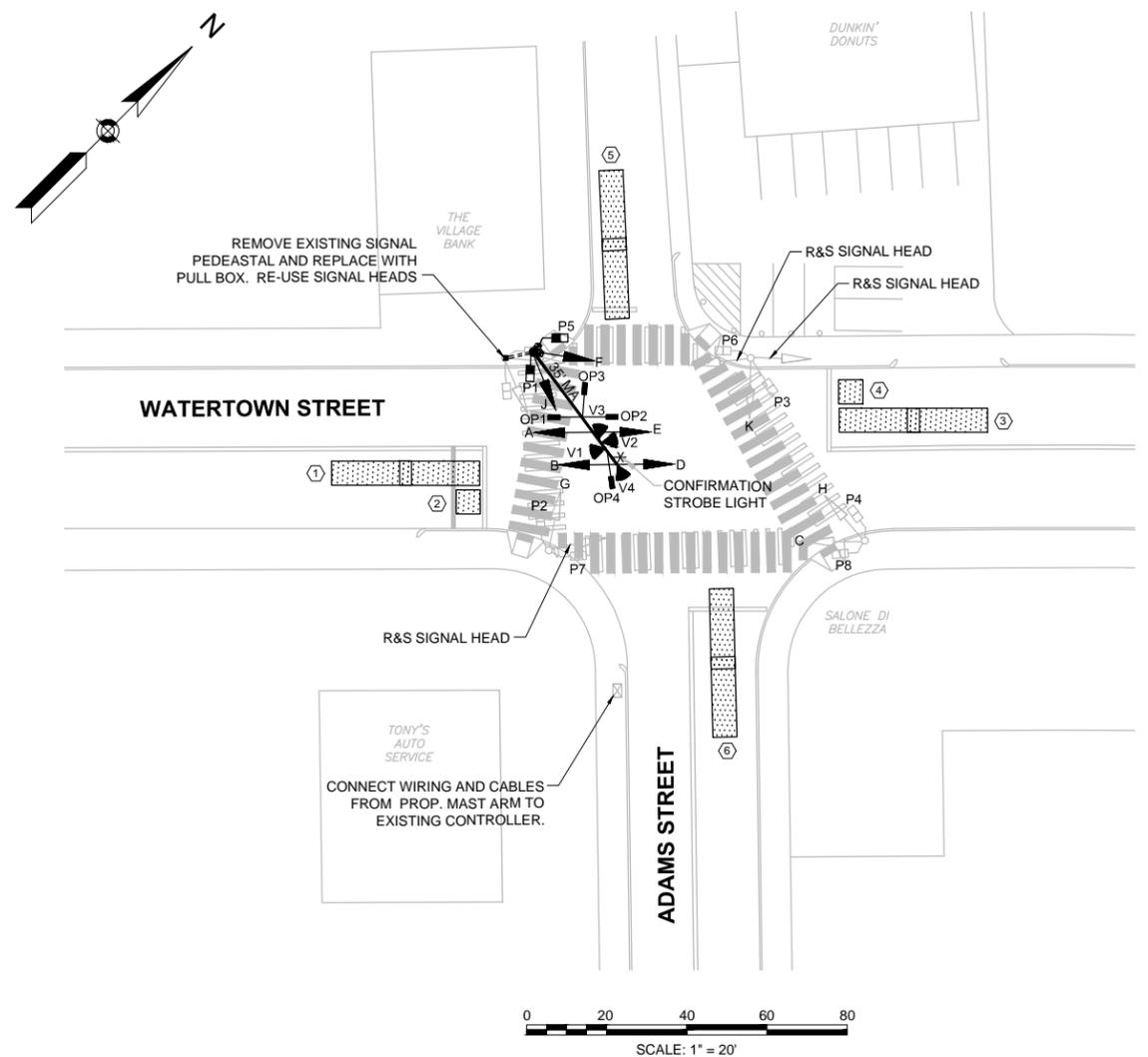
**NEWTON  
(CALIFORNIA STREET)**

STATE	FED. AID PROJ. NO.	SHEET NO.	TOTAL SHEETS
MA	-	1	2

PROJECT FILE NO.

**INTERSECTION IMPROVEMENTS  
CONCEPT PLAN  
CALIFORNIA STREET AT  
BRIDGE STREET**





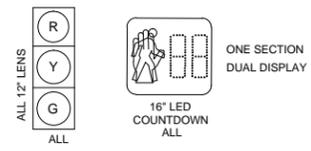
**GENERAL NOTES:**

- EXISTING TRAFFIC FEATURES ARE TO REMAIN UNLESS OTHERWISE NOTED.
- EXISTING NW QUADRANT SIGNAL POLE IS TO BE REMOVED AND A PULL BOX INSTALLED IN ITS PLACE. CONNECT CONDUIT TO PROP. MAST ARM AND RE-USE EXISTING CONDUIT TO THE EXIST CONTROLLER CABINET.
- BASE FOR THIS PLAN WAS DRAWN FROM AN AERIAL VIEW, NOT FROM A SURVEY. ADJUSTMENTS WILL BE NECESSARY IN THE FIELD.
- CONTRACTOR IS TO CALL DIGSAFE PRIOR TO PERFORMING ANY UNDERGROUND WORK AND COORDINATE UTILITY RELOCATIONS WITH THE UTILITY COMPANIES.
- CONTRACTOR IS TO OBTAIN A SOIL BORING AT THE PROP. MAST ARM POLE LOCATION AND OBTAIN APPROVAL FROM THE TOWN ENGINEER PRIOR TO BUILDING THE FOUNDATION.
- HIGH EMPHASIS CROSSWALKS HAVE BEEN SCREENED ON THIS PLAN FOR CLARITY.
- CONFLICTING PAVEMENT MARKINGS SHALL BE REMOVED USING A METHOD APPROVED BY CITY OF NEWTON.

SEQUENCE AND TIMING FOR PEDESTRIAN-ACTUATED CONTROL (ISOLATED)									
STREET	DIRECTION	HOUSINGS	1	2	3	4	5	6	FLASHING OPERATION
WATERTOWN STREET	EB	A,B,C	G	Y	R	R	R	R	FY
WATERTOWN STREET	WB	D,E,F	G	Y	R	R	R	R	FY
ADAMS STREET	SB	G,H	R	R	R	G	Y	R	FR
ADAMS STREET	NB	J,K	R	R	R	G	Y	R	FR
PEDESTRIANS	NB - SB	P1 - P4	DW	DW	DW	W	FDW	DW	OFF
PEDESTRIANS	EB - WB	P5 - P8	W	FDW	DW	DW	DW	DW	OFF
TIMING IN SECONDS									
MINIMUM GREEN (INITIAL)			10			10			EMERGENCY ONLY
PASSAGE TIME (VEHICLE)			3			3			
MAXIMUM 1			35			20			
MAXIMUM 2			35			20			
YELLOW CLEARANCE				3			3		
RED CLEARANCE					1			1	
WALK (W)			5			5			
PEDESTRIAN CLEARANCE				3	3		3	3	
RECALL			SOFT		OFF				
MEMORY			NON-LOCKING		NON-LOCKING				

- NOTES: 1. AUTOMATIC FLASHING OPERATION PER 2009 MUTCD, AS AMENDED.  
 2. STOP AND GO OPERATION FOR 24 HOURS PER DAY, FLASHING OPERATION FOR EMERGENCY ONLY.  
 3. DURING PEDESTRIAN INTERVAL, FDW THROUGH YELLOW OPERATION SHALL NOT BE IN EFFECT

**SIGNAL IDENTIFICATION**



**NOTES:**

- ALL SIGNALS SHALL HAVE CUT AWAY VISORS.
- ALL SIGNALS SHALL HAVE 12" LED WITH 5" LOUVERED BACK PLATES W/ 2" REFLECTIVE BORDER

**EMERGENCY PRE-EMPTION DATA**

APPROACH	PREEMPTION PHASE	DETECTOR
WATERTOWN STREET EASTBOUND	2	OP1
WATERTOWN STREET WESTBOUND	4	OP2
ADAMS STREET SOUTHBOUND	6	OP3
ADAMS STREET NORTHBOUND	8	OP4

**EMERGENCY VEHICLE PREEMPTION OPERATION:**

- EMERGENCY VEHICLE PREEMPTION SHALL BE ACTUATED BY AN OPTICAL SIGNAL FROM AN OPTICAL EMITTER MOUNTED ON AN EMERGENCY VEHICLE AND RECEIVED BY AN OPTICAL DETECTOR LOCATED AT INTERSECTION. A SEPARATE RECEIVING DETECTOR IS REQUIRED FOR EACH DETECTED APPROACH.
- PREEMPTION SIGNALS FROM MULTIPLE APPROACHES SHALL BE SERVICED ON A FIRST DETECTED FIRST SERVED BASIS.
- IN RESPONSE TO A PREEMPTION SIGNAL RECEIVED AT AN INTERSECTION BY AN OPTICAL DETECTOR, THE CONTROLLER SHALL TIME THE CLEARANCE INTERVALS OF THE ACTIVE PHASE (IF DIFFERENT THAT TO BE SERVICED) AND ADVANCE TO AND/OR HOLD IN EMERGENCY VEHICLE PREEMPTION PHASE UNTIL PREEMPTION SIGNAL CEASES. THE CONTROLLER SHALL THEN TIME CLEARANCES AND SIMILARLY SERVICE OTHER EMERGENCY VEHICLE PREEMPTION SEQUENCES IN THE ORDER RECEIVED (IF RECEIVED) OTHERWISE, RESUME NORMAL PREFERENTIAL PHASE SEQUENCE.
- PREEMPTION MINIMUM GREENS SHALL BE TEN SECONDS.
- NORMAL CLEARANCES SHALL BE PROVIDED ON PHASES THAT ARE TERMINATED BY PREEMPTION DEMAND.
- ACTUAL TIMING FOR PREEMPTION SHALL BE DETERMINED IN THE FIELD IN COORDINATION WITH THE FIRE DEPARTMENT AND SHALL BE APPROVED BY CITY PRIOR TO OPERATION.

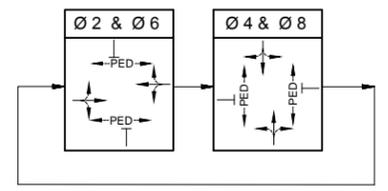
MAJOR ITEMS REQUIRED		
PAY ITEM	QUANTITY	ITEM
816.02	1	35 FT MAST ARM ASSEMBLY, BASE & FDN.
	2	2 WAY, 3 SECTION, SIGNAL HOUSING (12" L.E.D.)
	2	APS PEDESTRIAN PUSH BUTTON, SIGN & SADDLES
	5	VIDEO DETECTOR CAMERA (1 SPARE)
	1	9" VIDEO MONITOR
	2	4 CHANNEL VIDEO INPUT PROCESSOR (1 SPARE)
	4	PRE-EMPTION RECEIVER-SINGLE CHANNEL
	2	PRE-EMPTION PHASE SELECTOR MODULE-DUAL CHANNEL
	1	PRE-EMPTION CARD RACK
	1	PRE-EMPTION CONFIRMATION STROBE (WHITE)
804.3	1	REMOVE AND STACK EXISTING TRAFFIC SIGNALS
	8	3 IN. ELECTRICAL CONDUIT TYPE NM - PLASTIC -(UL)
811.31	1	12" X 12" PULL BOX - SD 031
PLUS ALL NECESSARY DUCT, CABLE, LABOR, MISCELLANEOUS MATERIAL AND EQUIPMENT TO COMPLETE THE INSTALLATION.		

**VIDEO DETECTOR DATA**

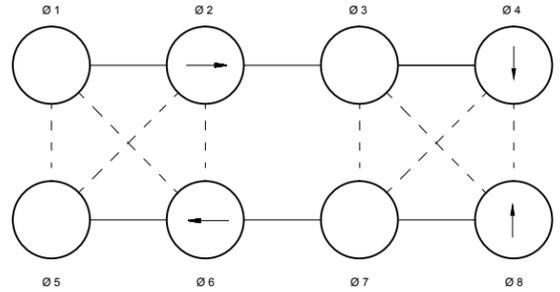
DELAY TIME EFFECTIVE ONLY DURING CALLED RED TIME IN SEC.

DETECTOR NUMBER	CAMERA NUMBER	CHANNEL NUMBER	DETECTION ZONE	Ø CALLED	Ø EXT.	MODE A=PULSE B=PRES.	DELAY TIME	EXT. TIME
①	V1	1	2 @ 6'x20'	2	2	B	-	-
②	V1	2	1 @ 6'x6'	2	2	B	-	-
③	V2	1	2 @ 6'x20'	6	6	B	-	-
④	V2	2	1 @ 6'x6'	6	6	B	-	-
⑤	V3	1	2 @ 6'x20'	4	4	B	-	-
⑥	V4	2	2 @ 6'x20'	8	8	B	-	-

**PREFERENTIAL PHASING SEQUENCE**



**NEMA DUAL RING PHASING NOTES:**



- PHASES ASSOCIATED BY A SOLID LINE SHALL NOT OPERATE CONCURRENTLY.
- PHASES ASSOCIATED BY A DASHED LINE MAY OPERATE CONCURRENTLY.
- THROUGH MOVEMENTS MAY INCLUDE RIGHT TURNS.
- IF THE ASSIGNED RIGHT OF WAY FOR ANY TRAFFIC MOVEMENT IS TO REMAIN IN EFFECT DURING THE NEXT CALLED PHASE, THE SIGNAL INDICATIONS FOR THAT TRAFFIC MOVEMENT SHALL NOT CHANGE DURING THE CHANGE INTERVAL(S) UNLESS OTHERWISE NOTED.

DRAFT

CITY OF NEWTON MASSACHUSETTS

DESIGNED BY:  
DRAWN BY:  
CHECKED BY:  
APPROVED BY:



CITY OF NEWTON  
MASSACHUSETTS  
PRELIMINARY PLAN  
FOR THE  
PROPOSED ROADWAY CONSTRUCTION  
OF  
BEACON STREET FROM MANITOBA ROAD  
TO WABAN STATION  
SCALE: AS NOTED DATE: 4/20/15

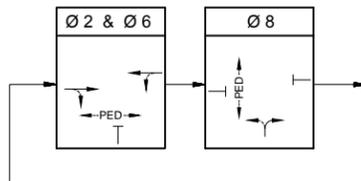
DRAFT

SIGNAL IDENTIFICATION



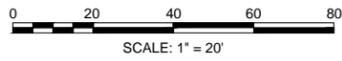
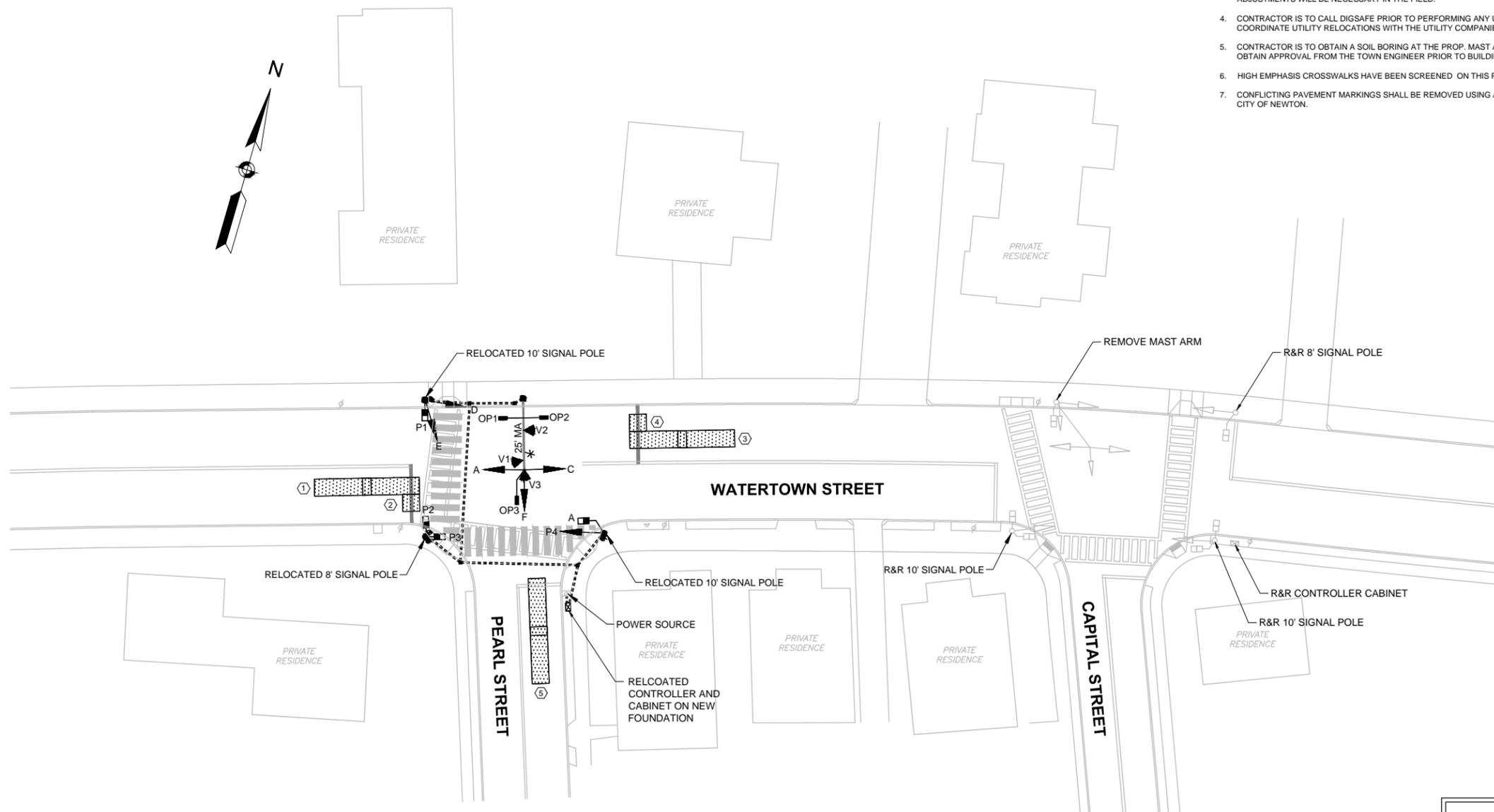
- NOTES:
1. ALL SIGNALS SHALL HAVE CUT AWAY VISORS.
  2. ALL SIGNALS SHALL HAVE 12" LED WITH 5" LOUVERED BACK PLATES W/ 2" REFLECTIVE BORDER

PREFERENTIAL PHASING SEQUENCE



GENERAL NOTES:

1. EXISTING TRAFFIC SIGNAL EQUIPMENT REMOVED FROM THE INTERSECTION OF WATERTOWN STREET AND CAPITAL STREET IS TO BE SALVAGED TO THE GREATEST EXTENT POSSIBLE FOR RE-USE AT THE PROPOSED TRAFFIC SIGNAL AT THE INTERSECTION OF WATERTOWN STREET AND PEARL STREET.
2. RELOCATED CONTROLLER AND CABINET SHALL BE RELOCATED AND INSTALLED ON A NEW FOUNDATION AT PEARL STREET.
3. BASE FOR THIS PLAN WAS DRAWN FROM AN AERIAL VIEW, NOT FROM A SURVEY. ADJUSTMENTS WILL BE NECESSARY IN THE FIELD.
4. CONTRACTOR IS TO CALL DIGSAFE PRIOR TO PERFORMING ANY UNDERGROUND WORK AND COORDINATE UTILITY RELOCATIONS WITH THE UTILITY COMPANIES.
5. CONTRACTOR IS TO OBTAIN A SOIL BORING AT THE PROP. MAST ARM POLE LOCATION AND OBTAIN APPROVAL FROM THE TOWN ENGINEER PRIOR TO BUILDING THE FOUNDATION.
6. HIGH EMPHASIS CROSSWALKS HAVE BEEN SCREENED ON THIS PLAN FOR CLARITY.
7. CONFLICTING PAVEMENT MARKINGS SHALL BE REMOVED USING A METHOD APPROVED BY CITY OF NEWTON.



CITY OF NEWTON  
MASSACHUSETTS

DESIGNED BY:  
DRAWN BY:  
CHECKED BY:  
APPROVED BY:

CITY OF NEWTON  
MASSACHUSETTS  
PRELIMINARY CONSTRUCTION PLAN  
FOR THE  
PROPOSED TRAFFIC SIGNAL  
AT  
WATERTOWN STREET AND PEARL STREET  
SCALE: AS NOTED DATE: 4/23/15





SETTI D. WARREN  
MAYOR

City of Newton, Massachusetts  
Office of the Mayor

#128-15  
Telephone  
(617) 796-1100  
Facsimile  
(617) 796-1113  
TDD/TTY  
(617) 796-1089  
E-mail  
swarren@newtonma.gov

May 11, 2015

Honorable Board of Aldermen  
Newton City Hall  
1000 Commonwealth Avenue  
Newton Centre, MA 02459

Ladies and Gentlemen:

I write to request that your Honorable Board docket for consideration a request to authorize the administration to enter into a five year contract for the curbside collection of solid waste and recyclables.

Thank you for your consideration of this matter.

Sincerely,

Setti D. Warren  
Mayor

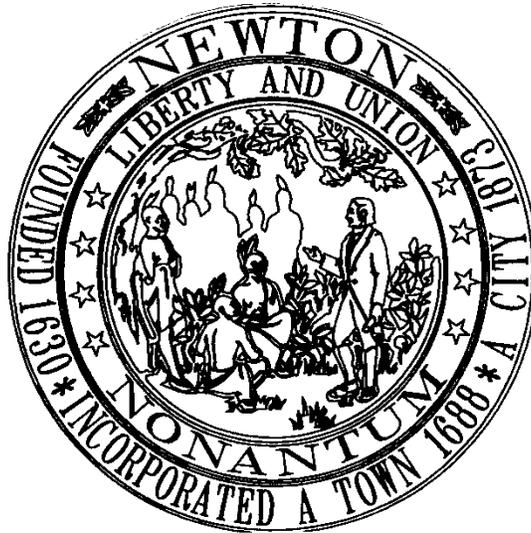
RECEIVED  
Newton City Clerk  
2015 MAY 11 PM 4:30  
David A. Olson, Clerk  
Newton, MA 02459

1000 Commonwealth Avenue Newton, Massachusetts 02459

[www.newtonma.gov](http://www.newtonma.gov)



DEDICATED TO COMMUNITY EXCELLENCE



CONTRACT L \_\_\_\_\_

**SOLID WASTE COLLECTION AND HAUL  
AND  
SINGLE STREAM RECYCLING  
AGREEMENT**

**BETWEEN**

**WASTE MANAGEMENT OF MASSACHUSETTS, INC.**

**AND THE**

**CITY OF NEWTON**

**JULY 1, 2015 - JUNE 30, 2020**

## TABLE OF CONTENTS

ARTICLE	HEADING
I	Definitions and Interpretation
II	Representations
III	Agreement
IV	Term of Agreement
V	Automated Collection; Additional Collections; Bulk Items; Single Stream Recycling, Yard Wastw,
Revenue/Costs	
VI	Diversion of Waste
VII	Trash Fees, Escalation and Payment; SSR
Revenue/Costs	
VIII	Disputes
IX	Default and Remedies, Termination
X	Force Majeure Events
XI	Assignment or Amendment of Agreement
XII	Insurance
XIII	Residential Collection and Haul Covenants
XIV	Applicable Law
XV	Severability
XVI	Headings
XVII	Liability of Parties
XVIII	Annual Appropriations
XIX	Separate Agreement
XX	Entire and Complete Agreement
XXI	Performance Bond
XXII	Laws and Regulations
XXIII	Change in Law, Costs, Payment
XXIV	Sales tax Exemption
XXV	Prevailing Wage Rates
XXVI	Indemnity
XXVII	Notices
XXVIII	Education and Program Assistance
XXIX	Future Program Provisions
EXHIBIT 1	Contract Pricing
EXHIBIT 2A	MSW Dumpster Locations and Rates
EXHIBIT 2B	Recycle Dumpster Rates
EXHIBIT 2C	Recycle Dumpster Locations
EXHIBIT 3	Prevailing Wages Rates
EXHIBIT 4	Performance Bond
EXHIBIT 5	Certificate of Insurance
EXHIBIT 6	Single Stream Specifications
EXHIBIT 7	Acceptable Trash Waste

**AGREEMENT FOR COLLECTION AND HAUL OF SOLID WASTE  
AND  
SINGLE STREAM RECYCLING**

**BETWEEN**

**THE CITY OF NEWTON AND WASTE MANAGEMENT OF  
MASSACHUSETTS, INC.**

**THIS COLLECTION AND HAUL AGREEMENT** dated July 1, 2015, between Waste Management of Massachusetts, Inc. a Massachusetts corporation duly organized and existing under laws of the Commonwealth of Massachusetts with a business address of 26 Patriot Place, Foxborough, Ma 02135 together with its successors and permitted assigns hereunder, (hereinafter “WMMA” or “Contractor”), and the City of Newton, together with its successors or assigns hereunder, a municipal corporation and political subdivision of the Commonwealth of Massachusetts, acting through its Commissioner of Public Works, but without personal liability to him, with a business address of 1000 Commonwealth Avenue, Newton, MA 02459, together with its permitted assigns hereunder, (hereinafter “City” or “Newton”) witnesses as follows:

**WHEREAS**, WMMA has expertise and ability to provide curbside collection and haul of acceptable solid waste and has presented an offer for a five (5) year contract; and

**WHEREAS**, the City is responsible for planning and providing for the collection, haul, processing and disposal of solid waste generated and present within its boundaries and is authorized to enter into contracts to carry out such responsibility; and

**WHEREAS**, the City desires to enter into an Agreement with WMMA that will result in the automated collection and haul of solid waste and single stream recycling, including processing and marketing of recyclable materials, from within City boundaries, and

**WHEREAS**, WMMA offers its collection and haul services to City to ultimately transport for disposal certain quantities of residential and municipal Acceptable Wastes, and

**NOW, THEREFORE**, in consideration of the promises and of mutual covenants and agreements herein set forth, and of the undertakings of each party to the other, and for other good and valuable consideration the receipt and adequacy of which is hereby acknowledged the parties do hereby promise and agree as follows:

## **ARTICLE I**

### **Definitions and Interpretation**

**SECTION 1.01 Definitions.** The following words and terms shall, for all purposes of this Contract, have the following meanings, unless the context clearly indicates a different meaning or intent:

**“Acceptable Waste” as defined by Wheelabrator Millbury Inc. as of November 2014 (Exhibit 7)** means all household (including occasional non-hazardous in mixed commercial) and non-hazardous municipal waste of the type currently generated or present within the corporate boundaries of Newton and now currently collected and disposed of on behalf of Newton, including materials set out specifically for recycling. Acceptable Waste may include ferrous and nonferrous metals, food and other constituents that normally appear in residential trash, automotive tires (2 per week per household without rims), but not including explosives and ordnance materials, pathological waste, radioactive waste, hazardous waste, oil, mercury, cesspool or other human or animal waste, human and/or animal remains, motor vehicles and parts, large machinery or any type or kind of Hazardous Material as defined herein, or materials deemed “Waste Ban” items by the Massachusetts Department of Environmental

Protection, provided, however, that “waste ban” items that are recyclable which meet the specifications for Single Stream Recycling shall be considered to be Acceptable Waste when set out as part of Single Stream Recycling Collection.

“**Affiliate**” with respect to any person, corporation, firm or entity, any person, corporation, firm, or entity, which directly or indirectly, controls or is controlled by or is under common control of such person, corporation, firm or entity.

“**Agreement**” means this Agreement between WMMA and the City.

“**Blended Value of Recyclable Materials**” The following commodity publications are used to determine this factor: Newspapers, magazine and inserts: PPW - ONP #8; Cardboard and brown papers: PPW - OCC #11; PPW - #2 mixed paper; SMP - aluminum cans - (-\$.25/lb); SMP - steel cans - (-\$10/T); SMP - PET - #1 plastic; SMP for natural HDPE - #2 natural; SMP for colored HDPE - #2 colored; #3-7 - actual value; rigid plastics - actual value; glass - actual value; scrap metal - actual value; non-recyclables – actual cost

“**Bulky Waste**” means burnable items too large to fit into a standard City issued automated collection cart capable of being accepted at the designated disposal site and of a size and weight that can be reasonably lifted by two employees and placed in a standard rear-load packer vehicle. Said items shall include but not be limited to household furniture but shall exclude municipal solid waste, metal household appliances (white goods), CFC containing devices, CRT’s or other waste ban items.

“**Change in Law**” means any event or condition occurring after the Effective Date of this Agreement which has a material adverse or positive effect on WMMA’s or City’s ability to perform its obligations under this Agreement, if such event or condition is beyond the reasonable control, and not the result of willful or negligent action or lack of reasonable diligence on the part of the party

relying thereon as justification for not performing any obligation or complying with any condition required of such party under this Agreement.

(a) the adoption, promulgation, issuance, modification or official change in interpretation after the Effective Date of any federal, state, or local law, regulation, rule, requirement, ruling or ordinance, unless such law, regulation, rule, requirement, ruling or ordinance was on or prior to such date duly adopted, promulgated, issued or otherwise officially modified or changed in interpretation, in each case in final form, to become effective without any further action by any federal, state or local government body, administrative agency or governmental official having jurisdiction, provided that any increase in minimum wage rates or schedules is not a Change in Law;

(b) the order and/or judgment of any federal, state or local court, administrative agency or governmental officer or body, if it is not also the result of willful or negligent action or a lack of reasonable diligence of the party relying thereon, provided that the contesting in good faith of any such order and/or judgment shall not constitute or be construed as a willful or negligent action or a lack of reasonable diligence of such party; or

(c) the suspension, termination, interruption or failure of renewal of any permit, license, consent, authorization, or approval legally necessary and essential to the performance of collection and haul obligations under this Agreement, if it is not also the result of willful or negligent action or a lack of reasonable diligence of the non-performing party, provided that the contesting in good faith of any such suspension, termination, interruption or failure of renewal shall not be construed as willful or negligent action or a lack of reasonable diligence of such non-performing party.

“City” City of Newton, Massachusetts, acting through its Mayor or his/her designee.

**“City Acceptable Waste”** is the Acceptable Waste collected/generated by the City of Newton.

**“Collection Fee”** means, with respect to each service year, the fee to be paid to WMMA for the collection and haul of Acceptable Waste.

**“Collection Route”** the schedule of streets and locations from which Acceptable Waste is to be collected during a particular day of the work week. Each collection route shall permit the collection, transport and disposal of approximately 1/5 of the total amount of Acceptable Waste typically collected during the work week.

**“Commencement Date”** 12:01 AM local time on July 1, 2015

**“Commonwealth”** the Commonwealth of Massachusetts.

**“Daily or Operating Day”** any day of the week other than a Sunday, a Saturday (when a holiday falls on a working day), legal holiday, or as directed by the Commissioner of Public Works.

**“Disposal”** disposing of trash in a legal manner at the permitted location of Wheelabrator Millbury Inc. with a business address of 331 Southwest Cutoff Road, Millbury, MA 01527 (“WMI”.)

**“Effective Date”** July 1, 2015

**“Escalator Factor”** or “CPI” means the Consumer Price Index as published by the United States department of Labor, Bureau of Labor Statistics, United States for all urban consumers, Boston-Brockton-Nashua, or a mutually agreed upon index if such index is no longer published.

**“Force Majeure Event”** any event or condition having, or which may reasonably be expected to have a material adverse effect on the Contractor or Newton or on the Contractor or Newton’s ability to perform pursuant to this Agreement and not the result of willful or negligent action or lack of reasonable diligence, of the party relying thereon as justification for not performing (the Non-Performing Party) any obligation or complying with any condition required of such party under this Agreement. The foregoing provisions shall not be construed to require that the Non-Performing party observe a higher standard of conduct than that required by the usual and customary standards of the industry or other field of activity in question, as a condition of claiming the existence of a Force Majeure Event. Such events or conditions may include, but shall not be limited to, circumstances of the following kind:

(1) a Change in Law, an act of God, epidemic, landslide, lightning, earthquake, hurricane, fire, explosion, storm, flood, or similar occurrence, an act of war, blockade, insurrection, riot, civil disturbance or similar occurrences or physical damage caused directly or indirectly by Unacceptable Waste unless knowingly accepted by WMMA; or

(2) A strike, lockout, work slowdown, or similar industrial or labor action, which affects, impacts or impedes the ability to receive acceptable waste at the Millbury disposal facility or the Shrewsbury Landfill.

**“Hazardous Materials”** material addressed by regulations adopted by the United States Environmental Protection Agency, pursuant to the Resource Conservation Recovery Act of 1976, as amended.

**“Legal Holiday”** the following days: New Years, Martin Luther King, Presidents , Patriots, Memorial, Independence, Labor, Columbus, Veterans, Thanksgiving, Christmas and any other such legal holiday that may be declared during the duration of this Agreement. If a legal holiday falls on a Sunday but celebrated on

Monday by the City of Newton, the collection will follow a holiday collection schedule.

**“Mixed Rigid Plastics”** a category of recyclable plastic, which includes hard or rigid plastic items that are not bottles, films, or other flexible plastic.”

**“Month”** calendar month.

**“Public Works Commissioner”** the Commissioner of Public Works for the City of Newton or his/her designee. The Public Works Commissioner or his/her designee shall act as Newton’s representative in all matters relating to the services to be performed by the Contractor under the provisions of this Agreement.

**“Recyclable Materials”** recyclable residential and municipal waste generated or present within the corporate boundaries of Newton consisting of: paper including cardboard, glass and plastic bottles, metal cans, leaf and yard waste, or any other material that may be deemed recyclable by the Department of Environmental Protection, or successor agency and Waste Management.

**“Residential Collection and Haul”** the curbside collection of Acceptable Waste generated by the households of Newton, the collection of Acceptable Waste from specified residential/municipal dumpster containers, and the direct transport of the collected waste to the Site as of the effective date of this Agreement.

**“Service Year”** a twelve-month (12) period, beginning the first day of the month of July of one calendar year and extending through the last day of the month of June of the next calendar year (or a lesser time pro rata in the event of termination prior to the conclusion of the full service year), during which collection and haul services are provided to Newton by the Contractor pursuant to this Agreement.

**“Single Stream Recycling”** is defined as (also known as “fully commingled”) recycling refers to a system in which all paper fibers and co-mingled containers are mixed together in a collection truck, instead of being sorted into separate commodities (newspaper, cardboard, plastic, glass, etc.) by the resident and handled separately throughout the collection process. In single stream, both the collection and processing systems must be designed to handle this fully commingled mixture of recyclables. Acceptable Waste for Single Stream Recycling more fully described on Exhibit 6, includes, but not limited to all of the following:

Paper-Cardboard: newspapers (including all inserts), magazines, catalogs, telephone books, brown paper bags, white and colored office type paper, computer paper, junk mail (paper materials only), paperboard, soft and hard cover books, stationery, envelopes, booklets, pamphlets, greeting cards, manuals with glued bindings, file folders, corrugated cardboard, spiral notebooks.

Glass containers (clear and colored), metal containers (tin cans), including empty paint and aerosol cans, aluminum cans, aluminum food containers and foil, plastic containers, including but not limited to #1-7, aseptic containers, milk and juice cartons (caps, labels, lids and rings need not be removed).

Any other recyclable materials, which may be mandated by any state or federal agency, provided they are capable of being accepted without modification to the existing single stream processing facility or which the parties may agree upon.

**“Site”** the place to which Newton shall cause waste to be delivered by Contractor. The current Site is WMI-Millbury, 331 Southwest Cutoff Road, Millbury, MA 01527 unless changed in accordance with this Agreement.

**“Unacceptable Waste”** includes, but not limited to the Wheelabrator Millbury Inc. list of Acceptable and Unacceptable Waste, as of November 2014, (Exhibit 7) explosives and ordnance materials, pathological waste, radioactive waste,

hazardous waste, mercury, cesspool or other human or animal waste, highly flammable substances, human and/or animal remains, motor vehicles and parts, large machinery, waste oils, any type or kind of Hazardous Material as defined herein or materials deemed “Waste Ban” items by the Massachusetts Department of Environmental Protection (except “Waste Ban” items that can be recycled shall be deemed to be Acceptable Waste when set out for Single Stream Recycling Collection), construction or building materials including earth, stone, cement and gravel, and any other debris left from work performed in residences including castings, sheetrock, plaster, lumber, doors and windows; leaf and yard waste including sod, landscaping and tree debris such as tree logs and stumps.

“**Waste**” any waste, by-pass waste, or waste residue ordinarily collected, hauled and delivered to or handled by WMI –Millbury, Massachusetts.

“**Waste Ban Items**” are prohibitions according to 310 CMR 19.017 on the disposal and transfer of certain toxic and/or recyclable items: glass, metal and plastic containers; paper, including cardboard; leaf and yard waste; asphalt pavement, brick, concrete, metal, wood (except as disposed at combustion facilities), certain batteries, white goods, cathode ray tubes (TV and computer monitors), and tires (except as disposed at combustion facilities).

**SECTION 1.02 Interpretation.** The words “herein”, “hereby”, and “hereof” and such general terms of reference as may be utilized in this Agreement shall pertain to this Agreement as a whole, including any exhibits, attachments, schedules or annexed material forming part of this Agreement and referenced in it. The singular of any term defined in this Agreement shall encompass the plural and the plural the singular, unless the context indicates otherwise.

## **ARTICLE II**

### **Representations**

**SECTION 2.01 Representations of Newton.** Newton makes the following representations as the basis for the undertakings on the part of WMMA herein contained:

(a) Newton is a municipal corporation and political subdivision of the Commonwealth of Massachusetts, duly created and existing under and pursuant to the Constitution and laws of the Commonwealth;

(b) Newton has full power and authority to enter into this Agreement, to carry out the transactions contemplated by this Agreement and to perform its obligations under this Agreement.

(c) Newton has by proper action duly authorized the execution and delivery of this Agreement.

**SECTION 2.02 Representation of WMMA.** WMMA makes the following representations as the basis for the undertakings on the part of Newton herein contained:

(a) WMMA is a Massachusetts corporation duly organized, validly existing and in the good standing under the laws of the Commonwealth of Massachusetts and is in the business of collecting and hauling municipal solid waste;

(b) WMMA has the authority and legal capacity to enter into this Agreement and perform its obligations hereunder in accordance with the terms of this Agreement;

(c) The execution, delivery and performance by WMMA of this Agreement and transactions contemplated thereby, are within its corporate powers, have been duly authorized by all necessary corporate and other action and do not and will not

(i) violate any provision of its incorporation papers or bylaws, as amended to date or of any securities issued by WMMA;

(ii) constitute or result in a breach of or default under or conflict with any statute or other law, or any order, judgment, award, decree, regulation, ruling or requirement of any court or other tribunal, or any arbitrator or of any governmental or administrative authority, commission or agency, or any indenture, agreement, lease, instrument or other undertaking, to which WMMA or its associates, affiliates or related entities is a party or by which it or its property or assets may be bound or affected;

(d) This Agreement constitutes a legal, valid and binding obligation of WMMA, enforceable against WMMA in accordance with its terms.

**SECTION 2.03 Mutual Covenant.** The parties covenant, as a condition of each other's obligations to exercise all and every prudent effort to develop and implement necessary long-term strategies to eliminate, avoid or mitigate any possible events of Force Majeure, Change in Law or other events which would increase costs in any way for the other party.

### **ARTICLE III**

#### **Agreement**

**SECTION 3.01 Agreement.** WMMA agrees to, at its own expense, perform all the work and furnish all vehicles, equipment, and labor for collecting and transporting all of the Acceptable Waste and Single Stream Recycling collected within the City of Newton during the term of this Agreement, all in accordance with the terms and provisions of this Agreement and in a proper, thorough and workmanlike manner, and to the satisfaction of the Public Works Commissioner or his/her designee, whose decision as to matters pertaining to the fulfillment of this Agreement shall be conclusive.

**ARTICLE IV**

**Term of Agreement**

**SECTION 4.01 Term of Agreement.** The term of this Agreement shall begin on the Effective Date and shall continue through June 30, 2020 (unless this Agreement is earlier terminated as provided herein).

This Agreement is subject to annual appropriation of funds and may be cancelled at the City's sole option at any time if funds are not appropriated or otherwise made available to support continuation of performance in any fiscal year.

**ARTICLE V**

**Automated Trash Collection; Additional Collections; Bulk Items;  
Automated Single Stream Recycling; Yard Waste, Roll-Offs: Revenue/Cost**

**SECTION 5.01 Automated Collection - Trash.** The City of Newton trash collection program utilizes both blue 64 gallon and blue 35 gallon carts to service legal residential units receiving curbside collection by the City of Newton. WMMA personnel will maintain and repair the carts from City supplies. These carts will be owned by the City of Newton and maintained by residents. Any trash outside the cart will not be collected unless specified in Sections 5.02, 5.03, 5.04 and 5.05.

**SECTION 5.02 Trash - Dumpster Collection.** The City of Newton collects trash at sites indicated in Exhibit 2A, from larger residential, municipal and school sites. Additional dumpster collections will be modified to a rate per pick up as indicated in Exhibits 1, 2A. These will be non-dedicated commercial routes. Compacting units may replace dumpsters at Newton North High School and Newton South High School at the haul and rental rates as established in Exhibit 1. The City shall be responsible for any site preparation, if any, (cement

pads, electrical, building modifications) that may be required for compactor units to be installed. All dumpster collection sites are required to recycle according to the same requirements as a single unit site.

**SECTION 5.03 Additional Collection – Second Cart.** Residential units may be allowed extra supplemental carts, of 35 or 64 gallon capacity, upon request for extra waste, which cannot fit into a household's cart at annual fees as determined by the Commissioner of Public Works. These additional carts will be collected simultaneously with the original cart by WMMA. If a resident purchases the use of a trash cart for extra trash on an annual basis, a recycling cart must be purchased as well. The City is allowed up to 2,000 additional carts (trash and recycling) over the term of the contract without incurring a charge of \$4.00 per month per cart.

**SECTION 5.04 Additional Collection – Bag.** Residential units will be allowed to place overflow bags of trash at curbside on the day of collection. The overflow bags will be adjacent to the automated trash cart at a cost to the resident of \$2.25 per bag. As of the date of this contract, if the City reduces the bag charge to residents below the price of \$2.25 per bag, then WMMA will charge \$1.50 per bag for collection and haul of these bags.

**SECTION 5.05 Bulk Items.** By appointment only, WMMA will collect not more than five (5) bulky items per week from each legal residential unit that receives City trash and recycling services. The cost of these collections is included in the annual lump sum cost as set forth in Section 7.01. The City agrees to provide WMMA with an electronic list of addresses and items to be collected no later than 3:30 pm on the day previous to the designated collection day (i.e. Monday by 3:30 pm for Tuesday's collections).

**SECTION 5.06 Automated Single Stream Recycling.** All recyclable materials covered hereunder shall be collected as single stream recycling. Occupants of

legal residential units receiving curbside collection by the City of Newton shall place all recyclable materials in a green 64 gallon or green 35 gallon cart(s) for collection and WMMA shall collect recyclable materials from these carts at curbside. These carts will be a green 64-gallon or a green 35-gallon green wheeled cart. All acceptable recyclable materials must be inside the cart to be collected. The City may allow an additional green cart by the City free of charge. The City is allowed up to 2,000 additional carts (trash and recycling) over the term of the contract without incurring a charge of \$4.00 per month per cart. At residential locations that have a dumpster, the use of carts or recycling dumpsters are permitted according to the same standards as a single unit of housing.

WMMA shall collect all recyclables from municipal and school buildings in either automated wheeled cart or dumpsters as directed by the Commissioner of Public Works. (Exhibit 2B, 2C). Dumpster collections shall occur at a frequency as determined by the Commissioner of Public Works. However, at no extra charge, WMMA shall allow extra recycling collections at all schools for 3 weeks at the end of the school year and the beginning of the new school year for up to 40 collections without additional cost. Other additional school and municipal dumpsters will be modified to a rate per pick up as indicated in Exhibit 1, 2B .

**SECTION 5.07 Single Stream Recycling Collections at Dumpster Locations.**

All sites with a trash dumpster service must also recycle. Recycling may be in a dumpster(s) or carts. Compacting units may replace dumpsters at Newton North High School and Newton South High School at the haul and rental rates as specified in Exhibit 1. City shall be responsible for any site preparation, if any, (cement pads, electrical, building modifications) that may be required for compactor units to be installed.

**SECTION 5.08 Yard Waste.** Yard waste shall be collected curbside from legal residential units that receive trash and recycling collection services from the City of Newton and shall be delivered to Rumford Avenue for 41 weeks per year. The

dates of yard waste collection shall be approximately mid-March through mid-December, weather pending. The City reserves the right to establish these dates. Within these dates will be 2 weeks for the collection of Christmas trees. Any additional collection weeks beyond 41 per year will be subject to an additional fee as agreed to by the parties. Yard waste shall be brought to the City of Newton Resource Recovery Center at 115 Rumford Avenue, Newton, MA 02466.

**SECTION 5.09 Roll-Off Units: 2-30 CY MSW, 1-42 CY OCC, 1-30 CY C&D, 1-30 CY Public Recycling.** The City of Newton shall pay a standardized fee per roll-off as set forth in Exhibit 1.

## **ARTICLE VI**

### **Diversion of Waste**

#### **SECTION 6.01 Diversion of Waste.**

- (a) WMMA may, at its sole election, dispose of Newton's Acceptable Waste at other than the Site.
  
- (b) Should WMMA choose at its own election to divert any of Newton's Acceptable Waste delivered under this contract to other than the Site, for other than an event of Force Majeure, Newton shall bear no additional cost or charge for such diversion.
  
- (c) WMMA shall provide Newton with written notice of any such diversion of Acceptable Waste for any reason, since the prior billing by WMMA, with an itemization of tonnages diverted and location of diversion, with each billing by WMMA.

## **ARTICLE VII**

### **Trash Fees, Escalation and Payment Single Stream Recycling Revenue/Costs**

**SECTION 7.01 Trash Fees.** The annual fee for collection and haul shall be determined as follows:

The fee for all collection and haul services for trash and recycling by WMMA is set forth in Exhibit 1, and Exhibits 2 A, 2B with an escalation rate after Year 1 at 3.5% per year. The fee is based upon one (1) cart issued for trash collection and one (1) cart issued for single stream recycling collection to the residential household units requiring curbside collection as described in Sections 5.01 through Sections 5.09 and as determined by the City and also includes the cost of collecting and hauling the City's acceptable waste compactors and roll-offs at the Newton Resource Recovery Center at Rumford Avenue. The actual costs shall be itemized and billed separately at the rates set forth in Exhibit 1. In addition, all dumpsters currently collected at municipal and school sites, as well as condominium/apartment sites listed in Exhibit 2A, 2B will continue to be collected as provided in Section 13.01; and collection of such dumpsters shall be subject to separate itemization and billing as set forth in Exhibits 1, 2A, 2B.

**SECTION 7.02 Trash Escalation.**

(a) The fee for all collection and haul services for trash and recycling by WMMA is set forth in Exhibits 1, 2A, 2B with an escalation rate after Year 1 at 3.5%.

(b) Fuel costs shall be adjusted twice yearly based on a range from \$3.30-\$3.70 per gallon for diesel and \$2.59-\$2.99 for CNG before any adjustments will occur. 159,000 gallons used per year. However, the City reserves the right to review these costs during the course of the year based on major fluctuations in the indices and determine, along with WMMA, a new adjustment clause. Adjustment shall be based on the average six (6) month cost for #2 diesel motor fuels and CNG (diesel fuel equivalent) published by the United States Department of Energy for the full six (6) months preceding the adjustment. The difference between the average six (6) month published cost and base fuel cost will be multiplied by gallons of fuel used each month. The resulting increase or decrease will be the basis for the adjustment, which will be applied to the monthly invoice. WMMA agrees to provide the City with the actual number of gallons used for a six (6) month period to be the basis for the calculation in the subsequent six months. If the cost increases, the City of Newton shall be billed accordingly. If the cost decreases, the City of Newton shall receive a credit.

**SECTION 7.03 Trash Compactors, Roll-Offs and Additional Dumpsters.**

Rent per compactor will be \$325.00 per month per compactor unit. New

dumpster locations (trash and/or recycling) will be added at per pick up rates. Hauling rates are standardized in Exhibit 1, 2A, 2B.

**SECTION 7.04 Trash Payment.** WMMA shall be paid monthly based upon 1/12 of the annual lump sum payment as determined in Section 7.01 plus number of itemized roll-off haul and disposal fees and any dumpster collections. Each monthly payment shall be determined in accordance with the methods provided herein. There shall be no other cost or charges for any work performed under this Agreement. Payments in whole or in part will be made for the faithful performance of this Agreement, less any penalties for noncompliance.

At the end of each month, WMMA shall render to the City a monthly statement for an amount equal to one twelfth (1/12) of the agreed upon annual fee plus any additional itemized fees. Invoices submitted within ten days after the end of the previous month for work performed during the preceding month will be paid no later than thirty days from the date of invoice subject to the collection of expenses and/or defaults to be reimbursed to and deducted by the City, and subject to the City's right to terminate the contract. Each monthly invoice shall itemize and include copies of all of the weight slips of the materials collected under this Agreement.

**SECTION 7.05 Single Stream Recycling Revenue/Cost.**

(a) **Cost.** Curbside recyclables will be valued based on the composition of single stream materials and market prices for each material. Residue rate shall not exceed 10%. Periodic audits will be conducted to verify residue rates and a disposal fee will be applicable if the residue rate exceeds 10%. However, for the term of this Agreement, Newton shall pay WMMA a per ton disposal fee calculated by subtracting a Ninety-One (\$91.00) dollars per ton (adjusted annually by 1.5 per cent) (Exhibit 1) processing fee from the monthly blended value as defined in "Blended Value for Recyclable Materials" during the month of

delivery, provided however that the net maximum charge shall not exceed \$30.00 per ton for the term of the Contract.

(b) **Revenue.** When the average blended prices exceed the processing fee of \$91.00 dollars, or as adjusted annually by 1.5%, during the month of delivery, WMMA will pay a rebate calculated as follows:

When the average blended prices exceeds \$91.00 per ton (or as adjusted by 1.5% annually) during the month of delivery, then WMMA shall pay Newton 70% of the blended value less the then processing fee multiplied by the total tons of single stream recyclables meeting the specifications for Single Stream Recycling contained herein collected during the month by WMMA in Newton. Such rebate shall be payable within 30 days of the end of each month, i.e., by July 30 for the month ended June 30.

## **ARTICLE VIII**

### **Disputes**

**SECTION 8.01** In the event of any dispute as to any portion of any monthly or other bill, Newton shall pay any undisputed amounts as set forth in Section 7 and shall give written notice of the disputed portion to WMMA. Such notice shall identify the disputed portion of the bill, state the amount in dispute and set forth the grounds on which such dispute is based. No Event of Default shall result from a failure to pay or late payment during any dispute. WMMA shall give consideration to such dispute and shall advise Newton with regard to its position relative thereto within twenty (20) days following the receipt of such written notice. Upon final determination (whether by agreement, mediation, adjudication or otherwise) of the correct amount, any difference between such correct amount and such full amount shall be added to or subtracted from the statement next submitted to Newton after such determination. During the pendency of any

dispute as to the amounts owed, both Newton and WMMA shall continue performing their respective obligations under this Agreement.

**SECTION 8.02** The parties agree to use their respective best efforts to resolve any dispute(s), which may arise regarding this Agreement. If a dispute arises that cannot be resolved among the parties involved in the daily management and implementation of this Agreement, the Public Works Commissioner or his/her designee and the Company's senior operations manager or his/her designee shall use their respective best efforts to resolve such dispute. If those individuals are unable to resolve the dispute within a reasonable time period, the parties agree to submit the dispute to alternative dispute resolution in the form of non-binding mediation for resolution prior to seeking to enforce this Agreement before a court. Notwithstanding the foregoing, either party may seek injunctive relief without resorting to alternative dispute resolution or mediation to prevent irreparable harm caused by a breach of this Agreement.

## **ARTICLE IX**

### **Default and Remedies, Termination**

#### **SECTION 9.01 Events of and Remedies of Default.**

(a) In the event of the breach by either party of an obligation under this Agreement, the right to recover damages or to be reimbursed as provided herein will ordinarily constitute an adequate remedy. Therefore, neither party shall have the right to terminate this Agreement for cause for any breach unless an Event of Default on the part of the other party shall have occurred and be continuing.

(b) The persistent or repeated failure or refusal by a party to fulfill any of its material obligations in accordance with this Agreement shall constitute an Event of Default, unless such failure or refusal shall be excused or justified by a Force

Majeure Event, provided, however, that no such failure or refusal shall constitute an Event of Default unless and until:

(i) The affected party shall have given prior written notice to the party allegedly in breach stating that in the affected party's opinion a particular default or defaults (to be described in reasonable detail in such notice) exist, which will, unless corrected, constitute a material breach of this Agreement on the part of the party allegedly in breach and which will, in the affected party's opinion, give it a right to terminate this Agreement for cause under this Section unless such default is corrected within fifteen (15) days, and,

(ii) the party allegedly in breach shall have neither corrected such default nor initiated reasonable steps to promptly and successfully correct the same within fifteen (15) days from the date of the notice given pursuant to this Section, or has not succeeded in correcting such default within sixty (60) days of such notice or a longer period if the default cannot reasonably be cured in 60 days and such party is using best efforts to cure the default.

**SECTION 9.02 Termination on Default.** If any party shall have a right of termination for cause in accordance with this Section, the same may be exercised only by written notice of termination given to the party in default. The proper exercise of such right of termination shall be in addition to and not in substitution for such other remedies, whether damages or otherwise, as the party exercising the right of termination may have. Failure by either party to provide such notice of termination in the event of a default, or to terminate this Agreement upon a failure by the breaching party to cure such default, shall not act as a waiver of any prior or subsequent default, nor as a waiver of the right to terminate in the event of default.

**SECTION 9.03 Termination.** This Agreement shall not be terminated by either party under any circumstances, whether based upon the default of the other party

under this Agreement or any other instrument or otherwise, except as specifically provided in this Agreement.

## **Article X**

### **Force Majeure Events**

**SECTION 10.01 Force Majeure Events.** A non-performing party shall be excused without cost or liability to the other, for failure or delay in performance of any obligation set forth in this Agreement, by reason of a Force Majeure Event. This provision shall not, however, relieve the non-performing party from using all reasonable efforts to overcome or remove such Force Majeure Event as soon as legally possible, nor from providing immediate notice to the other party of such Force Majeure Event. Such failure or delay shall be excused at any time during which performance is prevented by such Force Majeure Event, and during such period thereafter as may be reasonably necessary for the non-performing party to correct the adverse effect of such Force Majeure Event, provided that the non-performing party shall use its best efforts to obtain a stay or appeal of any Force Majeure Event constituting a Change in Law if in the non-performing party's good faith judgment, after consultation with counsel, such action is warranted. The non-performing party shall give prompt notice of a Force Majeure Event to the other party. The non-performing party shall attempt to remedy with all reasonable dispatch the cause or causes constituting a Force Majeure Event.

**SECTION 10.02 Strikes, Work Slowdown.** No strike, lockout, work slowdown or similar industrial or labor action, labor dispute or labor shortage shall constitute a Force Majeure Event for the residential collection and haul of Acceptable Waste. If such occurs, WMMA shall assign whatever management or other personnel from WMMA including but not limited to WMMA personnel from other districts to provide sufficient manpower to provide the same/continuing level of trash collection and haul services as referenced in this Agreement with the City of Newton.

## ARTICLE XI

### Assignment or Amendment of Agreement

#### SECTION 11.01 Assignment of Agreement.

(a) This Agreement shall inure to the benefit of and shall be binding upon the respective successors and assigns of the parties to this Agreement; provided, however, that except for any assignments authorized hereunder, neither this Agreement nor any interest herein shall be transferred or assigned by either party hereto except with the consent in writing of the other party hereto, and any attempt to the contrary to assign without such consent shall be void, except as provided in subparagraph (b) herein.

(b) Subject to subparagraph (c) herein, WMMA may not assign, nor delegate its obligations under this Agreement without the express written consent of Newton. If WMMA makes such an assignment, it shall remain responsible for the performance bond provided in Article XXI until such time as assignee posts a performance bond acceptable to the City, to be renewed annually for the balance of the term of this Agreement, equal to the total annual Collection Fee. WMMA's obligations under this Section 11.01(b) shall be an essential and material term of this Agreement. Any assignment in violation of this provision is void.

(c) In the event of bankruptcy, takeover or merger, outright purchase, majority stock purchase by another organization, or other change in ownership or status of WMMA, or any assignment for the benefit of creditors, the City may, at the election of the City:

(i) terminate this Agreement with all pertinent contractual conditions herein affected in favor of the City, or

(ii) fully obligate the newly formed organization, corporation and/or legal entity to fulfill all terms and conditions of the contract, and to

perform in accordance with the specifications or descriptions contained herein. Notwithstanding the foregoing, failure of a permitted assignee to perform shall not relieve WMMA of its obligations to fulfill the terms and conditions of the contract as set forth herein.

**SECTION 11.02 Amendment of Agreement.** This Agreement may not be amended except in writing agreed to, executed and delivered by the parties hereto. It is contemplated by both parties that amendment to this Agreement may be necessary during the term of this Agreement.

## **Article XII Insurance**

**SECTION 12.01 Claims.** WMMA shall provide insurance coverage (Exhibit 5) as will protect WMMA performing work covered by this Agreement and the City of Newton and its employees, agents and officials from all claims set forth below which may arise out of or result from WMMA's operations under this Agreement, whether such operations be by WMMA or by anyone directly or indirectly employed by WMMA, or anyone for whose acts WMMA may be liable:

- (a) claims under workers' or workmen's compensation, disability benefits, and other similar employee benefit acts;
- (b) claims for damages because of bodily injury, occupational sickness or disease, or death of WMMA's employees;
- (c) claims for damages because of bodily injury, sickness or death of any person other than WMMA's employees;
- (d) claims for damages insured by usual personal injury liability coverage which are sustained (i) by any persons as a result of an offense directly or indirectly related to the employment of such person by the Contractor, or (ii) by any other person;
- (e) claims for damages, other than to the work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom; and

(f) claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance, or use of any vehicle.

**SECTION 12.02 Minimum Limits.** Prior to the execution of this Agreement, WMMA shall obtain and deliver to the City of Newton certificates of insurance as specified hereunder. During the performance of the work, WMMA shall maintain insurance of the kinds and at least the amounts specified hereunder, and in a form satisfactory to Newton. This insurance shall be provided at WMMA’s expense and shall be in full force and effect during the full term of this Agreement.

(a)	Statutory Workers’ Compensation Employer’s Liability, per occurrence	Statutory \$1,000,000
(b)	Comprehensive General Liability Insurance, including contractual and products/completed per occurrence operations per occurrence	\$1,000,000  \$2,000,000
(c)	Comprehensive Automobile Liability including non-owned and hired vehicle hired:  Bodily injury and property damage per occurrence	    \$1,000,000
(d)	Comprehensive Excess Umbrella per occurrence	\$4,000,000

**SECTION 12.03 Certificates.** Not later than the commencement date of the Agreement, and annually thereafter for the term of this Agreement or any extension thereof, WMMA shall furnish Newton with certificates of insurance, in triplicate, evidencing coverages set forth above and such certificates shall contain a provision that Newton shall be given thirty (30) days advance written notice by registered mail of any change in or cancellation of coverage. The description of each coverage listed on the certificates shall include an appropriate means of

identification, referencing the coverage to the corresponding paragraph subdivision listed above.

WMMA shall not commence the work until proof of compliance with this article has been furnished to the City of Newton. The City of Newton shall be named an additional insured party under all General liability policies covering or applicable to Residential Collection and Haul under this Agreement to the extent of WMMA's obligations hereunder. If the City is damaged by WMMA's failure to maintain such insurance, then WMMA shall be responsible for all reasonable costs attributable thereto. Failure to comply with the requirements of this section on the part of the WMMA shall be considered an Event of Default under this Agreement

### **ARTICLE XIII**

#### **Residential Collection and Haul Covenants**

##### **Trash and Recycling**

**SECTION 13.01 Operation.** WMMA shall provide residential collection and transport of the entire quantity of the City of Newton's Acceptable Waste generated or present within its corporate boundaries for the term specified in Section 4.01. Collection shall occur at curbside, and from municipal, school and residential dumpster units and compactor units located at 115 Rumford Avenue and specifically identified in Exhibit 2A,B, C or as directed by the Commissioner of Public Works or his/her designee and in accordance with the provisions of this Article XIII. WMMA shall take and acquire title to Acceptable Waste from the City of Newton collected by WMMA at the time WMMA removes waste from curbsides in Newton by loading same into collection vehicles under its control or transports the same in accordance with the provisions of this Article XIII. Title to

all Unacceptable Waste shall remain with the City of Newton. WMMA agrees to support efforts to identify the generator of any Unacceptable Waste and shall share equally with the City in the costs of remediation for such Unacceptable Waste. WMMA shall deliver all Acceptable Waste to the waste-to-energy plant at Wheelabrator-Millbury and shall not permit the diversion of waste from such facility unless the City of Newton agrees or directs such diversion or as provided in Article VI herein.

**SECTION 13.02 Frequency of Collection and Haul of Trash and Single**

**Stream Recycling.** WMMA shall collect and haul Acceptable Waste at least once per week from every residential dwelling within Newton that has City collection service, including, but not limited to single, 2-, 3-, and 4-family buildings, apartment buildings, condominiums and at all municipal and school buildings. The Contractor shall collect Acceptable Waste from municipal, school buildings and 115 Rumford Avenue more often than once per week as may be reasonably required by the Commissioner of Public Works as stated below. As of the commencement date of this Agreement, WMMA shall collect Acceptable Waste from municipal buildings on the following schedule:

**TRASH:**

- Daily – Two (2) Newton High Schools, four (4) middle schools, Library for dumpsters  
and on a reduced time schedule, TBD, if compacting units are placed at the high schools
- Three times per week at City Hall, Police Headquarters
- Two times per week at all 15 elementary schools, DPW Eliot yard
- Weekly - Newton Housing Authority buildings
- Once per week at the Eliot Street Fire Station, Police Traffic
- There shall be additional collections at all school buildings, as determined by the Commissioner of Public Works, in June, at the end of the school year and August, before the beginning of the school year. Forty (40) additional collections will be allowed without additional cost.

- There shall be a weekly collection of the dust bins, from the carpentry programs, at the high schools.

**RECYCLING:**

- Weekly: Two Newton High schools, four (4) middle schools, City Hall, Library  
(If compacting units added to the high schools, the collection will be adjusted accordingly.)
- Weekly: all 15 elementary schools, school department administration building,
- Weekly: Police Headquarters and Traffic Buildings
- Weekly - Newton Housing Authority
- There shall be up to forty (40) additional collections at all school buildings, as determined by the Commissioner of Public Works, in June, at the end of the school year and August, before the beginning of the school year at no additional charge.

WMMA shall use its best efforts to ensure that no wastes other than that to be collected and hauled under the provisions of this Agreement shall be placed into the collection vehicles used for Residential Collection and Haul, except for vehicles collecting from locations with dumpsters, pursuant to the provisions of this Agreement. The City agrees to encourage households to place only Acceptable Waste in collection containers.

**SECTION 13.03 Work Week.** WMMA shall provide Residential Collection and Haul of all Acceptable Waste on a daily basis during a five-day work week, commencing on Monday and concluding on Friday. No Residential Collection and Haul shall occur on legal holidays which fall within the five day work week. When a collection day falls on a legal holiday, the collection route shall be collected the day after the legal holiday and the remaining collection routes for that week shall be delayed by one (1) day, unless otherwise directed by the Commissioner of Public Works and mutually agreed upon by the parties. If a

legal holiday falls on a Sunday and is celebrated on the following Monday, then the collection and haul schedule shall be the same as a holiday week schedule, delayed by one (1) day. Should the City of Newton recognize additional legal holidays during the term of this Agreement, such legal holidays shall be added to this Agreement's definition of legal holidays and all parties shall conform their conduct and obligations under this Agreement accordingly.

If, in case of an emergency and with prior approval of the Commissioner of Public Works, a collection route is to be run on a legal holiday, WMMA shall, at its expense, notify the public in Newton of the holiday collection by advertisement in local newspapers and on local radio and on local access TV channels. WMMA shall also insure that holiday collection can be accepted by the disposal site to which the collected waste is hauled. There shall be no Residential Collection and Haul on weekends (Saturday and Sunday) unless such collection is the result of a legal holiday during the work week, an emergency or WMMA has received prior approval of the Commissioner of Public Works.

**SECTION 13.04 Time of Collection.** WMMA shall not commence Residential Collection and Haul within Newton before 7 AM. WMMA shall complete the removal of all Acceptable Waste from curbside or dumpsters on each daily collection route and those collection vehicles used to satisfy the Agreement's obligations shall leave Newton on or before 5 PM. WMMA acknowledges and agrees that the timely completion of daily collection routes is an essential and material condition of this Agreement. WMMA shall not permit any Acceptable Waste set out for collection in accordance with applicable local ordinances and scheduled for collection on that day's Collection Route, as specified hereunder, to remain uncollected later than 5 PM of the collection day or overnight at the conclusion of the collection day, unless specifically and expressly permitted in advance by the Commissioner of Public Works, at which time the material shall be collected at the beginning of the next business day unless deemed otherwise by the Commissioner of Public Works. If WMMA repeatedly fails to satisfy its

obligations for timely collection and transport, it warrants to cause additional collection vehicles and personnel to be used to promptly remedy such failure.

The Contractor shall provide storage for its equipment, adequate to provide all weather, year- round operation. Adverse weather, extreme cold temperatures and snow accumulations, unless state- of-emergency conditions prevail shall not be grounds for the cancellation or delay of Residential Collection and Haul in accordance with this Agreement, unless both parties agree that collection should not occur for safety or health reasons. WMMA shall schedule collection and haul from schools at such times as shall insure the safety of pupils and other personnel. The schedule of school collections shall be subject to the reasonable review and approval by the Commissioner of Public Works.

**SECTION 13.05 Collection from Curbside.** WMMA shall collect all Acceptable Waste deposited on the curbside in accordance with all applicable local ordinances, as they may be amended from time to time, not earlier than 7:00AM or later than 5:00 PM on a scheduled collection route unless permission is given by the Commissioner of Public Works. The Acceptable Waste, except for separately handled Bulky Waste, is to be placed in proper containers distributed by the City to each household and Contractor shall not be required to collect waste left outside or around the City issued containers, unless specifically allowed by ordinance or as a result of Section 5.02, Section 5.03, 5.04 and 5.05. Unless otherwise authorized by the Commissioner of Public Works, WMMA shall not collect as part of its trash collection any Waste placed on the curbside for Single Stream Recycling collection.

Residents are required to place carts at curbside according to City ordinances within three (3) feet of the edge of the roadway with the cart opening facing the street and other than streets designated for semi-automated collection as agreed to by the parties, residents will be required to set containers in an area free from obstructions (parked cars, trees etc.).

If any portion of the collection route is temporarily blocked or inaccessible for any reason, the Commissioner of Public Works shall provide notice and consultation to WMMA regarding a planned blockage and collections shall be performed at a time as the parties agree will allow Contractor access to the Acceptable Waste. WMMA shall be responsible for the Residential Collection and Haul of Acceptable Waste only when such waste is placed in accordance with the provisions of local ordinances. If WMMA's automated equipment is not operational for any reason, WMMA warrants to collect and haul Newton Acceptable Waste manually in a timely manner at no additional cost to the City. WMMA shall notify the Commissioner of Public Works daily in a prompt manner of all locations at which WMMA failed to collect waste and the reason(s) for non-collection.

If during collection, waste is spilled onto a street, sidewalk or private property, or if at any time waste is spilled or dumped out of a collection vehicle prior to disposal, the WMMA shall immediately cause the spilled waste be cleaned up and placed in the collection vehicle before the vehicle proceeds to the next stop on the collection route or shall promptly make all other necessary arrangements for the immediate cleanup of the spilled waste. The lids, doors and other openings of the collection vehicles shall remain closed between stops and all waste shall be securely stored and covered in a collection vehicle prior to the removal of such waste from Newton. At all times, while in service in the City of Newton, all vehicle bodies shall be properly plugged to prevent liquid from leaking onto the City streets.

**SECTION 13.06 Collection from Dumpsters.** WMMA shall provide, maintain, collect and dispose of waste from dumpsters from the locations set forth in Exhibit 2 A, B, C. This list is the best current approximation of dumpster locations, and may be amended from time to time by the Commissioner of Public Works. Newton accepts no responsibility as to its accuracy regarding the number or size of the dumpster containers listed.

**SECTION 13.07 Acceptable Waste.** Acceptable Waste is defined in Article I. At no time shall WMMA collect items as part of its trash collection that are considered “Waste Ban”, “Recyclable” and/or “Unacceptable Waste” items as defined in Article I; provided however, that WMMA may collect recyclable items meeting the Specifications set out for collection as part of Single Stream Recycling.

**SECTION 13.08 Stickers.** WMMA shall place City-provided stickers on any items not considered Acceptable Waste or which do not meet the collection standards as defined in this section for proper collection and haul according to this Agreement. Sticker types include but may not be limited to the following:

- Collection Notice
- Not Accepted for the Following Reasons.....
- Yard Waste
- Others as directed by the Commissioner of Public Works

WMMA shall reimburse City for 50% of the cost of the stickers, not to exceed \$3500 per year.

**SECTION 13.09 Collection Vehicles and Equipment.** WMMA shall use a sufficient number of collection vehicles and equipment commonly used for the collection of residential waste which are capable of collecting Acceptable Waste and waste from dumpsters within the hours of 7:00 AM –5:00 PM, and which are further capable of transporting the collected Acceptable Waste directly to the disposal facility and mechanically dumping directly into the waste pit of such site. WMMA warrants that by the Commencement Date of this Agreement, it shall own new equipment or already have existing equipment and/or have the exclusive right to use a sufficient number of existing collection vehicles and all necessary equipment, including reserve equipment in case of breakdowns of vehicles or equipment, so that there shall be no unnecessary delay in Residential Collection

and Haul of all Acceptable Waste in accordance with the provisions of this Agreement. New vehicles put into service pursuant to this Agreement shall be state of the art vehicles capable of automated and manual collection. All vehicles and/or employees of WMMA in the performance of this Agreement shall have access to communications equipment, which operates on frequencies that shall not interfere with existing area frequencies or mobile communications. Each vehicle shall carry communications equipment. Communications equipment shall be assigned to a specific vehicle. The City shall have the power at any time to order WMMA to increase the number of vehicles, at no additional cost to the City, if in the judgment of the Commissioner of Public Works such an increase is necessary for the fulfillment of the Agreement. If upon receipt of such order, WMMA fails to comply with such order within 10 days, or fails to respond with adequate reason why the increase is not warranted, such failure shall constitute a breach of the Agreement, and WMMA shall forfeit in the form of liquidated damages the sum of \$2,000.00 for each day WMMA fails to comply with such order, said penalty to be imposed for each additional truck ordered by the City but not placed in service by WMMA.

The bodies of the trucks to be used for the collection and haul of Acceptable Waste shall be industry standard vehicle and body as used in the automated collection of solid waste. The bodies shall be watertight, readily cleanable and sanitary, and capable of being unloaded by dumping or automatic push-out means. The equipment shall be essentially a standard product of a reputable manufacturer, so that continuing service and delivery of spare parts may be assured. The component parts of the unit need not be a product of the same manufacturer. The body shall be so mounted that when fully loaded, the axle loading shall fall within the maximum load limit per axle as prescribed by state law.

WMMA shall also have available for constant use "chase" vehicles that will inspect and follow-up each Collection Route daily to assure that collections are made in accordance with provisions of this Agreement. Such "chase" vehicles shall also be used to check complaints and make immediate collection of Acceptable Waste

from complainants or where not otherwise properly collected. Chase vehicles may also be used to pick up identified special citizen circumstances as outlined in the City's automated trash collection ordinance.

WMMA shall not use collection vehicles used in the performance of its obligations under this Agreement or marked "City of Newton" for any purpose or in any other manner than in the performance of this Agreement, unless the Commissioner of Public Works has received prior notice. Prior to 7:00 AM on any operating day, WMMA shall give notice and identify the collection vehicles which are to be used for collection and haul in the City of Newton on that operating day. Such notice shall also identify when, where and for whom collection vehicles permanently marked as provided below will be used on that operating day if such use is not for Newton and shall also identify which collection vehicles marked as provided below are under repair on such operating day or will otherwise not be in use for any purpose on that operating day. Prior to 7:00 AM on any non-operating day, WMMA shall give notice and identify collection vehicles permanently marked which will be used for any purpose other than for the collection and haul of the City of Newton's Waste on that day, indicating when, where and for whom such services will be provided.

In the event that WMMA elects to use a collection vehicle for any purpose other than for the collection and haul of the City of Newton's Waste after the commencement of the collection in Newton by such vehicle, then WMMA shall give immediate notice of such use to Newton. Any collection vehicle which has provided collection services to any entity other than Newton shall be emptied and cleaned by WMMA and shall be inspected by both WMMA and Newton prior to the use of such vehicles for collection of Newton's Waste.

**SECTION 13.10 Identification.** WMMA and Newton shall agree to the size and type of identification to be used for all vehicles employed in the performance of this Agreement, but such identification must include the prominent identification of "City of Newton", affixed on all collection vehicles which are substantially dedicated to the collection and haul of Newton's Waste under this

Agreement, provided, however, that all vehicles used for collection and haul of the City of Newton's Waste, whether substantially dedicated to the collection and haul of the City of Newton's Waste or not, must have prominent identification of "City of Newton" affixed to such vehicle while it is engaged in the collection and haul of the City of Newton's Waste under this Agreement. Any vehicle marked as required in this paragraph shall have such identification covered at all times when it provides services to any entity other than the City of Newton.

**SECTION 13.11 Inspection.** WMMA shall present any and all collection vehicles and other equipment used for Residential Collection and Haul under this Agreement for inspection and approval by the Commissioner of Public Works at such times and places as he/she may reasonably request. Prior to the Commencement Date of this Agreement, WMMA shall furnish the Commissioner of Public Works with a list of all such vehicles, including on such list the make, body type and registration for each vehicle. WMMA shall file updates to this list so that the Commissioner of Public Works has at all times an accurate list of vehicles and equipment currently being used by WMMA in Residential Collection and Haul. WMMA shall notify the Commissioner of Public Works prior to the addition of another vehicle or the substitution of any vehicle. New or substitute vehicles shall be inspected and approved prior to being used by WMMA in Residential Collection and Haul under this Agreement. WMMA shall affix the identifying information required in this section to any substitute vehicle prior to using such vehicle in Residential Collection and Haul. All equipment used by WMMA shall be subject to inspection for sanitation, safety, and appearance, and subject to approval or rejection by the City at any time. The City of Newton also reserves the right to inspect the premises garaging the vehicles and equipment including the right to enter upon any property owned or occupied by WMMA provided reasonable notice is provided to the Contractor.

**SECTION 13.12 Condition.** WMMA shall use its best efforts to maintain all collection vehicles, reserve vehicles and all other vehicles and equipment used in

Residential Collection and Haul in good condition and repair, including being neatly and uniformly painted and rust free, properly identified as provided hereunder and thoroughly clean, throughout the term of this Agreement, so that at no time during the term of this Agreement is WMMA unable to comply with any and all provisions of this Agreement due to the condition of its vehicles or equipment. WMMA shall make adequate provision for maintenance and prompt repair of its equipment. All equipment used in the collection and transport of Acceptable Waste shall be thoroughly cleaned both inside and outside, at least once a week and sprayed with such deodorizing material as may be deemed necessary by the City of Newton.

**SECTION 13.13 Cleanliness.** WMMA shall use its best efforts to see that all vehicles and equipment used in Residential Collection and Haul are at all times clean, in good repair and kept in a sanitary condition. Any collection vehicles stored, parked or garaged in the City of Newton overnight shall be completely unloaded and cleaned prior to such storage, parking and garaging, although this Agreement does not contemplate parking, storing or garaging in Newton, except as expressly provided by the Commissioner of Public Works.

**SECTION 13.14 Employees.** WMMA shall have available at all times the necessary labor force to collect and haul waste according to the terms of this Agreement. WMMA shall also have a reserve of labor available to cover vacations and sick leave. The City requires CORI on all WMMA employees. WMMA agrees to provide the driving records of any WMMA employee driving on Newton collection routes.

**SECTION 13.15 Competence.** Employees of WMMA are the main contact with City of Newton residents. Employees are therefore required to act in a courteous and respectful manner at all times, and shall be fully prepared to answer questions or complaints made by residents concerning trash collection. All employees shall conduct themselves appropriately towards all members of the

general public. Rude and offensive conduct, including foul and abusive language, shall not be tolerated.

WMMA shall supply sufficient personnel, including supervisory and management personnel, to perform Residential Collection and Haul in accordance with the provisions of this Agreement. WMMA agrees that whenever Newton notifies WMMA in writing that an employee of WMMA while performing Residential Collection and Haul services under this Agreement is incompetent, disorderly, under the influence of alcohol and/or drugs, uses insolent or improper language to members of the public or is otherwise unsatisfactory in any manner, including the operation of collection vehicles, or is not employed in accordance with the provisions of this Agreement, WMMA shall promptly investigate such complaint. If WMMA is unable to correct the problem,

WMMA shall no longer assign such employee to perform Residential Collection and Haul duties under this Agreement.

WMMA shall provide each employee with proper training, instructions and handouts to ensure the employee understands and can communicate to the residents which materials are acceptable and not acceptable for trash collection, including any special preparation requirements.

All employees in service under this Agreement shall use every effort to ensure that recyclable items as defined in Article I are not collected as trash, but rather as part of the Single Stream Recycling collection as contemplated under this Agreement.

**SECTION 13.16 Level of Service.** WMMA shall familiarize itself with all customs and procedures of the City relative to trash collection and haul and hereby agrees to adopt and incorporate these customs and procedures in the performance of its duties hereunder, including the City's ordinance addressing automated trash collection. These procedures include but are not limited to the collection, transport and disposal of all items currently collected in the City as

described in this Agreement. Notwithstanding anything to the contrary in the provisions of this Agreement, this Agreement shall be construed to require WMMA to provide at least the same level and quality of trash pickup and disposal services that have been previously provided by the City of Newton's prior contractor, and as defined by the Commissioner of Public Works.

**SECTION 13.17 Training and Licenses.** WMMA warrants that all vehicle operators shall be trained in public safety, driving safety and basic first-aid prior to their commencement of services hereunder, and shall, at all times while performing Residential Collection and Haul services under this Agreement, possess and carry the necessary valid and applicable Commercial Driver License (CDL) issued by the Commonwealth of Massachusetts or State of bearer's residence. WMMA warrants that any of its employees driving on Newton collection routes shall have a good driving record. The Commissioner of Public Works shall have the right to review the public safety and driving safety training provided by WMMA to all vehicle operators. WMMA shall use its best efforts to see that its vehicle operators comply with all applicable traffic and motor vehicle laws, regulations and local ordinances while performing Residential Collection and Haul services. The Commissioner of Public Works reserves the right to require that all drivers periodically produce their licenses for examination.

**SECTION 13.18 Clothing.** WMMA's personnel who are employed in the collection of Acceptable Waste shall be dressed in suitable clothing and shall be clean and neat in appearance.

**SECTION 13.19 Contractor Representative.** WMMA shall provide a representative to whom all orders and directions pertaining to Residential Collection and Haul shall be given by the Commissioner of Public Works. The WMMA Representative or a duly authorized designee capable of acting in place of the WMMA Representative, shall be on-call and reachable within two (2) hours, twenty-four (24) hours per day, seven (7) days per week. WMMA shall

make a representative available until 6:00 PM during days of collection as well as on call on Saturday mornings until 11:00 AM. WMMA agrees that whenever the City of Newton notifies WMMA in writing that the WMMA Representative is incompetent, unresponsive to complaints concerning the level of performance of collection and pickup services, or is unable to communicate with members of the public in a tactful and satisfactory manner, WMMA shall investigate such complaint. If WMMA is unable to correct the problem, WMMA shall no longer assign such individual to serve as the WMMA Representative, and WMMA shall provide a new WMMA Representative.

**SECTION 13.20 Presence in Newton.** The WMMA Representative shall be physically present in Newton at all times during actual performance of this Agreement, and WMMA shall maintain adequate telephone service with local telephone numbers to allow the timely performance of Residential Collection and Haul in accordance with the provisions of this Agreement. The WMMA Representative shall have a mobile phone.

**SECTION 13.21 Complaints.** The WMMA Representative shall contact the Commissioner of Public Works or his/her designee at or before 10:00 AM and again at or before 3:00 PM during each work day to receive complaints, which the WMMA Representative shall promptly remedy. All complaints regarding collection and pickup reported before 3 PM shall be investigated and resolved by the WMMA Representative on the same day, unless otherwise mutually agreed by the Commissioner of Public Works or his/her designee and the WMMA Representative. All attempts will be made to resolve complaints received after 3:00 PM on that same day. Otherwise the WMMA Representative shall file a report (written or verbally as agreed upon) to the Commissioner of Public Works or his/her designee before 10:00 AM on the day following the day the complaint was received. Such report shall describe the complaint and the action taken to resolve the complaint. All reports of non-collection of waste shall be filed with the Commissioner of Public Works on the day following the non-collection.

Failure to satisfactorily resolve any complaint, no matter how or when communicated to the WMMA Representative, may result in the imposition of liquidated damages as provided in this Article.

**SECTION 13.22 Records.** The WMMA Representative shall cause the weigh slips or records registering the City of Newton's tonnages collected, transported and disposed from the prior workday (or on Monday for the prior Friday, Saturday or Sunday) to be delivered on a daily basis to the Commissioner of Public Works. Prior to departure from Newton of the last collection vehicle to finish its daily collection route, and after the last vehicle has completed its collection route, the WMMA Representative shall notify the Commissioner of Public Works of the time when that day's last Collection Route was completed. The WMMA Representative shall make whatever arrangements necessary at WMMA's sole expense to ensure that no portion of that day's collection route has been missed.

**SECTION 13.23 Collection Routes.** The City of Newton will provide to WMMA the Collection Routes, including maps, indicating streets, or portions thereof, to be collected on each day of the schedule. Each address shall be scheduled for collection this same day of each week, holidays excepted. No modification to the Collection Routes shall be made without the prior written approval of the Commissioner of Public Works. The City shall reserve the right to require WMMA to modify the collection schedule and/or routes, type and care of vehicles and equipment for the health and safety of the City and the public, provided such change does not result in WMMA incurring additional cost. If Collection Routes change, WMMA and City shall share in the cost of providing such notice of same to the Newton public as may be reasonably required by the Commissioner of Public Works.

**SECTION 13.24 Modification of Routes.** Newton and WMMA will define the automated Collection Routes. Prior to any modification of the Collection Routes approved and implemented on the Effective Date of this Agreement, WMMA shall submit the proposed collection route changes, together with street maps, to the Commissioner of Public Works for final approval.

If the automated Collection Route modification, or any other modification, is approved by the City of Newton, the City of Newton in cooperation with WMMA shall issue and deliver, at WMMA's expense, if the change was requested by WMMA or at the City's expense if requested by the City, notice of Collection Route modification to all parties or members of the public in areas within Newton affected by the Collection Route modification. This notice shall be delivered to every household within the area affected no later than 30 days before the new collection routes take effect and shall include WMMA's name and address, telephone number for complaints, the date the Collection Route modification shall commence and the new day of the week when Acceptable Waste should be set out for collection. This notice shall also contain a summary of Newton ordinances and regulations governing residential trash collection and recycling.

After the Collection Route modification takes effect, additional notices shall be left by WMMA at each household within the affected area as often as the Commissioner of Public Works deems necessary. WMMA shall also advertise the Collection Route modification in the local newspaper and Newton Web Site no less than two (2) successive weeks prior to the effective date of the collection route modification. The newspaper advertisements shall contain the same information as the notices to be left at the households, and shall be in a form approved by the Commissioner of Public Works.

**SECTION 13.25 Health Regulations.** WMMA shall comply with all applicable rules and regulations that may be issued by the City's Board of Health and the State Department of Health.

**SECTION 13.26 Care of Property.** WMMA shall use its best efforts to see that trash carts are not damaged. Empty receptacles shall be left right side up, in a standing position and in the appropriate place where found.

At no time shall trash be scattered about the street or on private property. Trash which was accidentally spilled by WMMA, shall be immediately picked up by WMMA and removed. WMMA must carry tools on each truck for the proper removal of spilled debris, i.e. brooms, rakes, shovels, etc. At all times the trash body shall be properly plugged while the vehicles are in the City so liquid does not spill onto the City streets.

**SECTION 13.27 Replacement.** If in the City of Newton's judgment, carts are damaged or destroyed by WMMA's personnel, WMMA shall at its expense promptly replace the damaged or destroyed cart with a similar cart.

**SECTION 13.28 Cart Maintenance.** WMMA shall repair carts at curbside for the City of Newton with spare materials from the City stockpile (wheels, axles, lids, lift bars, etc) in a timely manner, no later than two weeks from the damaged cart notice by the resident. Spare wheels and axles shall be carried as stock in each vehicle.

**SECTION 13.29 Property.** Any damage to public property by WMMA's personnel during Residential Collection and Haul shall be promptly repaired or paid for by WMMA, or may be repaired by the City of Newton and the cost thereof deducted from any monthly payment due WMMA under the terms of this Agreement.

**SECTION 13.30 Weighing Tonnages.** If the disposal by WMI of the City of Newton's waste is terminated for any reason, the weighing of waste tonnage collected and hauled by WMMA shall be undertaken by WMMA in a manner

equivalent and consistent with the provisions of Section 13.22 herein, provided that WMMA must separately weigh and tabulate (1) waste collected at curbside, (2) City Acceptable Waste and (3) Single Stream Recycling.

**SECTION 13.31 Haul of City Acceptable Waste.** The City shall provide at its cost up to two compactors with associated containers and power source necessary and WMMA shall supply up to two 30 cubic yard open top containers for the deposit and secure storage of City Acceptable Waste at 115 Rumford Avenue, pending the haul and disposal of such waste by WMMA. Newton shall pay for the operation of such equipment, including any power required to operate the equipment, shall maintain the site and shall pay for the maintenance of such equipment. The City shall pay for the replacement of the equipment or of any major component thereof, as may be reasonably necessary. WMMA shall provide a compacting unit and associated container for Acceptable Recyclable Materials.

**SECTION 13.32 Liquidated Damages.** In addition to its rights under Article IX, Newton shall be entitled to assess liquidated damages against WMMA for its failure to perform the following specified obligations for Residential Collection and Haul and disposal of Newton's Acceptable Waste. WMMA acknowledges and agrees that the liquidated damages provided herein are not penalties but represent a fair measure of damages which will be sustained by Newton in the event WMMA defaults on any of the following specified obligations.

Newton shall have the right to withhold the amount of liquidated damages assessed by it from any payment owed to WMMA as a credit or set-off of such amount, provided the City notifies WMMA of the specific assessment in advance of deduction. Newton's failure to assess liquidated damages shall not constitute a waiver of its rights to hold WMMA in default nor does Newton waive its right to claim and collect damages for the WMMA's default on any of its obligations for

Residential Collection and Haul and disposal by reason of Newton's failure to provide a liquidated damage hereunder for such default.

1. Failure to sticker for non-conformance occurrence \$25.00 per
2. Failure to immediately pick up waste spilled during Collection at curbside occurrence \$100.00 per
3. Failure to promptly pick up waste spilled during haul in Newton or outside the City boundaries of Newton if Newton receives a complaint of such spill occurrence \$100.00 per
4. Failure to place waste barrels/receptacles in upright position at approximately the same location upon emptying occurrence \$50.00 per
5. Following notice of complaint, failure to collect Acceptable Waste from a specific location on the same day as complaint is registered or by 9 AM the following day if so authorized by the Commissioner of Public Works occurrence \$50.00 per
6. Failure to collect Acceptable Waste from 5 or more adjoining locations on the same day as a regular Collection route or by 9 AM the following day if so authorized by the Commissioner of Public Works occurrence \$300.00 per
7. Continued violation of traffic laws, ordinance or regulation during collection and haul, after written notice to correct from Newton occurrence \$500.00 per
8. Failure to finish any single Collection route by 5 PM day without prior notice to the City \$500.00 per
9. Failure to notify the Commissioner of Public Works prior to the departure of the last Collection vehicle from Newton, of the time the daily Collection Routes

- |   |              |
|---|--------------|
| were completed  | \$100.00 per |
| day   |              |
| 10.    Use of unmarked or uninspected Collection vehicles         | \$300.00 per |
| occurrence  |              |
| 11.    Use of Collection vehicle marked “ City of Newton”         |              |
| for the collection and/or haul of waste other than                |              |
| under the provisions of this Agreement                            |              |
| [using vehicle outside Newton w/out covering Newton sign]         | \$2,500.00   |
| per occurrence  |              |
| 12.    Failure to clean vehicle or conveyances as provided herein | \$100.00 per |
| occurrence  |              |
| 13.    Knowingly Disposing of Waste Ban Items in with trash       | \$1,000.00   |
| per occurrence  |              |
| 14.    Failure to increase number of trucks as provided in        |              |
| Section 13.09   | \$2,000 per  |
| day per truck   |              |
| 15.    Beginning trash and recycling collections before 7:00 AM   | \$1,000 per  |
| occurrence  |              |
| per vehicle, per route  |              |

**SECTION 13.33 Obligation to Assist WMMA.** WMMA shall be responsible for the proper disposal of all waste loaded into its vehicles or otherwise collected by it in Newton, with payment by Newton as provided in Article VII. Upon request from WMMA, Newton shall use its best efforts to assist WMMA in determining the location or generator of any waste collected which fails to conform to the definition of Acceptable Waste. Newton further agrees that it will suspend WMMA’s obligation to collect Acceptable Waste from such specifically identified locations until such time as only Acceptable Waste is placed for collection at such location.

**ARTICLE XIV**  
**Applicable Law**

**SECTION 14.01 Applicable Law.** This Agreement shall be construed in accordance with the laws of the Commonwealth of Massachusetts.

## **ARTICLE XV**

### **Severability**

**SECTION 15.01 Severability.** If any section, paragraph, clause or provision of this Agreement shall be finally adjudicated by a court of competent jurisdiction to be invalid, the remainder of this Agreement shall be unaffected by such adjudication and all of the remaining provisions of this Agreement shall remain in full force and effect as though such section, paragraph, clause or provision, or any part thereof so adjudicated to be invalid, had not been included herein, unless such remaining provisions, standing alone, are incomplete and incapable of being executed in accordance with the intent of the parties to this Agreement.

## **ARTICLE XVI**

### **Headings**

**SECTION 16.01 Headings.** This section in this Agreement are for convenience and reference only and in no way define or limit the scope or content of this Agreement or in any way affect its provisions.

## **ARTICLE XVII**

### **Liability of Parties**

**SECTION 17.01 Liabilities of Parties.** WMMA and the City of Newton shall each be independently responsible and liable for the maintenance and operation of their respective properties and fulfillment of their respective obligations.

## **ARTICLE XVIII**

### **Annual Appropriations**

**SECTION 18.01 Annual Appropriations.** This Agreement is subject to annual appropriation by the Board of Aldermen, and may be terminated by the City of Newton at any time in the event that funds are not appropriated.

**ARTICLE XIX**  
**Separate Agreement**

**SECTION 19.01 Separate Agreement** The obligations of the parties herein under are separate and independent of any obligations of the parties under contracts other than this Agreement which are or may exist.

**ARTICLE XX**  
**Entire and Complete Agreement**

**SECTION 20.01 Entire and Complete Contract.** This Agreement along with any schedules and/or attachments attached and incorporated by reference herein, constitutes the entire and complete Agreement between the parties hereto with respect to the subject matter hereof and supersedes all prior agreements or understandings.

**ARTICLE XXI**  
**Performance Bond**

**SECTION 21.01 Performance Bond.** WMMA shall annually provide the City of Newton for the term of this Agreement a performance bond securing its satisfactory performance of its obligations under this Agreement. Such bond shall first be submitted to Newton not later than ten (10) days after execution of this Agreement by WMMA, and annually thereafter thirty (30) days prior to July 1 of that year. The performance bond shall be issued by a surety licensed or authorized to issue insurance in the Commonwealth of Massachusetts. This bond shall be in the form acceptable to the City of Newton. The penal amount of the

bond shall be 50 percent of the actual annual amount of the contract. Failure to provide performance bond requirements shall be cause to terminate this Contract. See Exhibit 4.

## **ARTICLE XXII**

### **Laws and Regulations**

**SECTION 22.01 Laws and Regulations.** WMMA shall comply at all times in the performance of this Agreement with all applicable federal, state and municipal laws and regulations. WMMA shall keep fully informed of all state and federal laws, municipal ordinances and regulations and any other matter affecting those engaged or employed in the work, or the materials used in the work or in any way affecting the conduct of the work and of all such orders and decrees or bodies of tribunals having any jurisdiction or authority over the same. If any discrepancy or inconsistency is discovered in the specifications of the Agreement for this work in relation to such law, ordinances, regulation, order or decree, WMMA shall forthwith report the same to the City of Newton in writing. WMMA shall at all times observe and comply with, and shall cause all his/her agents and employees to observe and comply with all such existent and future laws, ordinances, regulations, orders and decrees; and shall protect and indemnify the City and the Board of Aldermen and their officers and agents against any claim liability arising from or based on the violation of any law, ordinance, regulation, order or decree, whether by WMMA or its employees.

## **ARTICLE XXIII**

### **Change in Law, Costs, Payment**

**SECTION 23.01 Change in Law Costs.** “Change in Law Costs” means for any period and for any Change in Law, the amount, if any, of the increased operating and/or capital cost pertaining to the collection and haul of Acceptable Waste and attributable to services rendered by WMMA under this Agreement, including any

amounts resulting from increases in the amount of any tax payable by or on behalf of WMMA with respect to the collection and haul of Acceptable Waste. For purposes of this section, the Change in Law costs pertaining to capital costs shall be recovered under generally accepted accounting principles and shall be allocable evenly over the remaining life of this Agreement or the generally accepted life of the capital investment, whichever is greater.

**SECTION 23.02 Payment.** For each Change in Law that causes WMMA to sustain a Change in Law Cost, WMMA shall inform the City of Newton of the nature and cause of the Change in Law, as well as the Change in Law Cost incurred or to be incurred by WMMA and shall supply the City of Newton with such reasonable financial information as requested by the City regarding the Change in Law Costs. Thereafter, the City of Newton shall pay WMMA the Change in Law Cost reasonably incurred, such payment to be invoiced on the monthly statement and to be paid monthly in accordance with the provisions in this section. The Change in Law costs shall not be added to the Collection Fee nor adjusted by the CPI. If a Change in Law Cost is expected to be incurred beginning at a point in time after the commencement of any Service Year, WMMA shall be entitled to receive such cost only at or after the point in time at which such cost is actually incurred.

## **ARTICLE XXIV**

### **Sales Tax Exemption**

**SECTION 24.01 Sales Tax Exemption.** The City of Newton is exempt from state sales tax under Chapter 14 of the acts of 1966 and all amendments thereto.

## **ARTICLE XXV**

### **Prevailing Wage Rates**

**SECTION 25.01 Prevailing Wage Rates** WMI shall pay the prescribed rates of wages as determined by the Commonwealth of Massachusetts pursuant to Massachusetts General Laws Chapter 149, Section 27F to all employees providing services under this Agreement covered by such wage rates. Rate schedules as of the date of this Agreement are attached as Exhibit 3. WMI further agrees to comply with the provisions of Chapter 149, Section 34 of the General Laws as amended.

## **ARTICLE XXVI**

### **Indemnity**

**SECTION 26.01** WMMA agrees that it is responsible, as an independent contractor, for all operations under this Agreement and for all acts of its employees and agents hereunder, and agrees that it will fully indemnify and hold harmless the City and its officers, and employees from any loss, damage, cost, charge, expense and claim, including reasonable attorneys fees, which may be made against it or them, or to which they may be subject to the extent caused by the negligent or willful act or omission on the part of the WMMA or its agents or employees. In no event whether in contract, tort or otherwise, shall either party be liable to the other for any incidental, consequential, special, indirect or punitive damages.

## **ARTICLE XXVII**

### **Notices**

**SECTION 27.01 Notices.** Any notice, demand, approval, proposal, protest, direction or request provided for in this Agreement to be delivered, given or made shall be in writing except as otherwise explicitly provided herein and shall be deemed given when delivered by hand, deposited with an overnight courier

service or mailed by registered or certified mail, postage prepaid, return receipt requested, and addressed as follows:

If to Newton:

Commissioner of Public Works  
City of Newton  
Department  
1000 Commonwealth Avenue  
Newton, MA 02459

If to WMMA:

James Nocella  
Public Sector Services Manager  
26 Patriot Place  
Foxborough, Ma 02135

With a copy to:

City Solicitor  
City of Newton, Law

1000 Commonwealth Avenue  
Newton, MA 02459

With a copy to:

General Counsel  
4 Liberty Lane West  
Hampton, NH 03842

## ARTICLE XXVIII

### Education and Program Assistance

**SECTION 28.01 Education.** WMMA agrees to provide the City with educational assistance for its public education programs up to \$10,000 per year.

**SECTION 28.02 Scholarship.** WMMA agrees to provide four (4) one-thousand dollar \$1,000 annual scholarships to students graduating from Newton high schools in June and starting college programs in September of any year.

**SECTION 28.03 Program Assistance – HHW Collection.** WMMA agrees to assist Newton with Household Hazardous Waste Collection Program costs up to \$5,000 annually.

**SECTION 28.04 Program Assistance – Sharps Collection.** WMMA agrees to assist Newton with the Sharps Collection Program costs up to three thousand dollars (\$3,000) annually.

**SECTION 28.04 Program Assistance.** As provided in Section 13.08, WMMA shall reimburse City for 50% of the cost of the stickers, not to exceed \$3500 per year.

All funding requests pursuant to Article XXVIII shall be in writing from City to Contractor in amounts and for programs specifically contained in this section. No unused amounts shall carry forward from year to year unless specifically agreed upon by both parties.

**ARTICLE XXIX**  
**FUTURE PROGRAM PROVISIONS**

The City and WMMA agrees that during the contract negotiations for this current FY 16 through FY 20 contract, commencing on July 1, 2015 and ending on June 30, 2020, there were several separate and distinct discussions; (1) providing trash and recycling to additional residential units known as "Special Permit Units", (2) the collection of public trash and recycling containers, (3) enforcing compliance of current trash and recycling ordinance and program standards at multi-unit apartment, condo and townhouse locations currently receiving City trash and collection services, (4) additional trash and/or recycling collections at school and/or municipal buildings, as needed, (5) organics collection, (6) fee based bulk collection, and (7) real time "not out" and sticker notification. Though no agreements were made as these issues require further investigation and analysis, the City and WMMA agree that if the City wished to pursue these further, the City and WMMA will meet to review, find possible solutions and negotiate associated costs.

**SECTION 29.01 "Special Permit Units".** The City currently does not provide trash or recycling collection services to these units. The City and WMMA agree that during the term of this contract, the City may decide to provide services to these sites. The City and WMMA agree that, if that decision is made by the City,

the City will notify WMMA and the City and WMMA will negotiate, within a reasonable and agreeable time frame, the operational and cost parameters of these collections.

**SECTION 29.02 Public Trash and Recycling Collection.** The City currently collects public trash and recycling from containers located in village squares, school areas, parks and playgrounds and several municipal buildings. Currently the City is analyzing the types, sizes and locations of these containers. When that process is complete, the City may decide that WMMA will collect these containers. The City and WMMA agree that, if that decision is made by the City, the City will notify WMMA and the City and WMMA will negotiate, within a reasonable and agreeable time frame, the operational and cost parameters of these collections.

**SECTION 29.03 Standardizing current multi-unit trash and recycling to ordinances and program requirements.** The City has identified units in the City that do not comply with the proper trash and recycling standards. In all instances, these units have too much trash capacity and not enough recycling capacity. It is the City's intent to standardize these units for the proper volume and tonnage capacity that meets the ordinance and program standards. The City and WMMA agree that the City will notify these units to come into compliance and work with WMMA on the details of the operational changes within a reasonable and agreeable time frame.

**SECTION 29.04 Additional municipal and school building trash and/or recycling collections.** The City has identified the need for additional recycling collections at municipal and school buildings and through this contract is considering adding 1 additional recycling collection per week to these sites. However, due to size and use of some of these buildings, additional trash collections may also be required. The City reserves the right to add the additional recycling collection each week and to analyze the trash generation thereafter. If

additional trash and/or recycling collections are required, the cost will be at the individual dumpster collection rate. The City and WMMA agree review these sites for usage and adjust schedules accordingly.

**SECTION 29.05 Organics Collection.** The City has discussed the possibility of adding organic collections to its solid waste collection program, however has not completed an analysis. If the City decides to pursue an organics collection program, the City shall notify WMMA of its intent and the City and WMMA will negotiate, within a reasonable timeframe, an operational schedule and costs.

**SECTION 29.06 Fee based bulk collection.** The City currently allows up to five (5) items per week per household at no cost to the residents. The City is entertaining reducing the number of items per week per household to two (2) and adding a fee based system, a practice in most communities. Should the City decide to adjust the bulk collection to this method, the City will notify WMMA and the City and WMMA will negotiate a cost and fee.

**SECTION 29.07 Real time "not out" and sticker notification.** In order to reduce what residents call in as "missed collections", which may be due to carts not out, carts out late or carts not to program specifications, there were discussions about the drivers reporting "real time" information to Customer Service. The City and WMMA will pursue this discussion and develop a "real time" information delivery system in a reasonable and timely manner.

IN WITNESS WHEREOF, the parties have caused this instrument to be executed under seal the day and year first above written.

**CONTRACTOR**

**CITY OF NEWTON**

*Affix Corporate Seal*

By \_\_\_\_\_  
Title: *President*  
*Works*

By \_\_\_\_\_  
*Commissioner of Public*

Date \_\_\_\_\_

Date \_\_\_\_\_

Date \_\_\_\_\_

City funds in the amount of \$ \_\_\_\_\_  
and  
Are available in account number  
\_\_\_\_\_

Approved as to Legal Form  
Character

\_\_\_\_\_  
*Assistant City Solicitor*

Date \_\_\_\_\_

I further certify that the Mayor is  
authorized to execute contracts and  
approve change orders

**CONTRACT AND BONDS**

\_\_\_\_\_  
APPROVED  
*Comptroller of Accounts*

\_\_\_\_\_  
Setti D. Warren, MAYOR

Date \_\_\_\_\_

Date \_\_\_\_\_

**CERTIFICATE OF AUTHORITY - CORPORATE**

1. I, Gail Lynch, hereby certify that I am the Assistant Secretary of **Waste Management of Massachusetts Inc.**

2. a corporation, and that Christopher DeSantis  
(insert the name of officer who signed the **contract and bonds.**)

3. is the duly elected President  
(insert the title of the officer in line 2)

4. of said corporation, and that on \_\_\_\_\_  
(insert a date that is ***ON OR BEFORE*** the date the officer signed the **contract and bonds.**)

at a duly authorized meeting of the Board of Directors of said corporation, at which all the directors were present or waived notice, it was voted that

5. Christopher DeSantis the President  
(insert **name** from line 2) (insert **title** from line 3)

of this corporation be and hereby is authorized to execute contracts and bonds in the name and on behalf of said corporation, and affix its Corporate Seal thereto, and such execution of any contract of obligation in this corporation's name and on its behalf, with or without the Corporate Seal, shall be valid and binding upon this corporation; and that the above vote has not been amended or rescinded and remains in full force and effect as of the date set forth below.

6. ATTEST: \_\_\_\_\_ *AFFIX*  
*CORPORATE*

(Signature of **Assistant Secretary**)\* *SEAL*

*HERE*

7. Name: Gail Lynch  
(Please print or type name in line 6)\*

8. Date: \_\_\_\_\_  
(insert a date that is ***ON OR AFTER*** the date the officer signed the **contract and bonds.**)

\* The name and signature inserted in lines 6 & 7 **must** be that of the **Clerk or Assistant Secretary** of the corporation.

**ATTESTATION**

Pursuant to M. G. L. c. 62C, § 49A, the undersigned acting on behalf of the Contractor, certifies under the penalties of perjury that, to the best of the undersigned's knowledge and belief, the Contractor is in compliance with all laws of the Commonwealth relating to taxes, reporting of employees and contractors, and withholding and remitting child support.\*

Waste Management of Massachusetts Inc

04 253 5063

\*\*Signature of Individual or Corporate  
Number  
Contractor (Mandatory)  
Identification Number

\*\*\* Contractor's Social Security  
(Voluntary) or Federal

By: \_\_\_\_\_  
Corporate Officer  
(Mandatory, if applicable)

Date: \_\_\_\_\_

\* The provision in the attestation relating to child support applies only when the Contractor is an individual.

\*\* Approval of a contract or other agreement will not be granted unless the applicant signs this certification clause.

\*\*\* Your social security number will be furnished to the Massachusetts Department of Revenue to determine whether you have met tax filing or tax payment obligations. Providers who fail to correct their non-filing or delinquency will not have a contract or other agreement issued, renewed, or extended. This request is made under the authority of GL c. 62C, § 49A.

**EXHIBIT 1**  
**CONTRACT PRICING**

	Term	Unit	FY 16	FY17	FY 18	FY 19	FY 20
Trash Collection and Haul	5 Yrs	Annual	2,508,000	2,595,780	2,686,632	2,780,664	2,877,988
Recycling Collection and Haul	5 Yrs	Annual	1,562,000	1,616,670	1,673,253	1,731,817	1,792,431
Yard Waste - To Rumford	5 Yrs	Annual	900,000	931,500	964,103	997,846	1,032,771
Processing of Recyclables/Ton	5 Yrs	Per Item	91.00	92.37	93.75	95.16	96.58
Roll Off - Price per Haul - all waste streams	5 Yrs	Per Item	240.00	249.00	257.00	266.00	275.00
Plastics disposal/ton	5 Yrs	Per Item	20.00	20.00	20.00	20.00	20.00
30 cy C&D price per ton	5 Yrs	Per Item	85.00	87.98	91.05	94.24	97.54
Compactor Rentals NNHS, NSHS (2 Trash and 2 Recycling)	5 Yrs	Per Item/month	325.00	325.00	325.00	325.00	325.00

**NOTE:** MSW and RECYCLING DUMPSTER RATES (EXHIBITS 2A, 2B) WILL INCREASE AT A RATE OF 3.5% FROM FY 17 - FY 20.

	Term	Unit	FY 16	FY17	FY 18	FY 19	FY 20
MSW Dumpster P/U Rates	5 Yrs	Per Item, 2 yd	13.85	14.81	15.33	15.87	16.43
	5 Yrs	Per Item, 4 yd	25.38	26.27	27.19	28.14	29.12
	5 Yrs	Per Item, 6 yd	34.62	35.83	37.08	38.38	39.72
	5 Yrs	Per Item, 8 yd	46.15	47.77	49.44	51.17	52.96
	5 Yrs	Per Item, 10 yd	51.92	53.74	55.62	57.57	59.58

	Term	Unit	FY 16	FY17	FY 18	FY 19	FY 20
Recycling Dumpster P/U Rates	5 Yrs	Per Item, 4 yd	20.00	20.07	20.79	21.52	22.27
	5 Yrs	Per Item, 8 yd	35.77	37.02	38.32	39.66	41.05
	5 Yrs	Per Item, 10 yd	40.38	41.79	43.25	44.76	46.33

Exhibit 2.A - MSW Dumpster Rates

SCHOOLS	ADDRESS	M	T	W	TH	F	SIZE	QTY	FREQ	YDS/WK	Rate/Mo	Annual	Rate / PU
Bigelow Middle *	42 Vernon St	1	1	1	1	1	8	1	5	40	\$ 999.84	\$ 11,998.08	\$ 46.15
Bowen School *	280 Cypress St	1		1			8	1	2	16	\$ 399.94	\$ 4,799.23	\$ 46.15
Chas Brown Jr *	125 Meadowbrook Rd	1	1	1	1	1	8	1	5	40	\$ 999.84	\$ 11,998.08	\$ 46.15
Burr School *	171 Pine St	1			1		8	1	2	16	\$ 399.94	\$ 4,799.23	\$ 46.15
Cabot School *	229 Cabot St	1					8	1	2	16	\$ 399.94	\$ 4,799.23	\$ 46.15
Carr *	225 Nevada St		1			1	8	1	2	16	\$ 399.94	\$ 4,799.23	\$ 46.15
Countryside *	191 Dedham St		1			1	8	1	2	16	\$ 399.94	\$ 4,799.23	\$ 46.15
FA Day Jr High *	21 Minot Pl	1	1	1	1	1	8	1	5	40	\$ 999.84	\$ 11,998.08	\$ 46.15
Education Center *	100 Walnut Street	1		1			8	1	2	16	\$ 399.94	\$ 4,799.23	\$ 46.15
Franklin *	125 Derby St	1		1		1	8	1	3	24	\$ 599.90	\$ 7,198.85	\$ 46.15
Horrace Mann SCH *	687 Watertown St		1			1	10	1	2	20	\$ 449.94	\$ 5,399.26	\$ 51.92
Lincoln Elliot *	191 Pearl St	1			1		8	1	2	16	\$ 399.94	\$ 4,799.23	\$ 46.15
Mason Rice *	149 Pleasant St		1			1	8	1	2	16	\$ 399.94	\$ 4,799.23	\$ 46.15
Memorial Spaulding *	250 Brookline St		1			1	8	1	2	16	\$ 399.94	\$ 4,799.23	\$ 46.15
North High School *	457 Walnut St	2	2	2	2	2	10	2	5	100	\$ 2,249.69	\$ 26,996.32	\$ 51.92
Oak Hill HighSCH *	130 Wheeler Rd	1	1	1	1	1	8	1	5	40	\$ 999.84	\$ 11,998.08	\$ 46.15
Peirce *	170 Temple St	1			1		8	1	2	16	\$ 399.94	\$ 4,799.23	\$ 46.15
South High School *	140 Brandeis Rd	2	2	2	2	2	10	2	5	100	\$ 2,249.69	\$ 26,996.32	\$ 51.92
South High School *	140 Brandeis Rd	1					4	1	1	4	\$ 109.97	\$ 1,319.66	\$ 25.38
Underwood Sch *	101 Vernon St	1			1		8	1	2	16	\$ 399.94	\$ 4,799.23	\$ 46.15
Ward School *	10 Dolphin Rd	1			1		8	1	2	16	\$ 399.94	\$ 4,799.23	\$ 46.15
Williams School *	141 Grove St	1			1		8	1	2	16	\$ 399.94	\$ 4,799.23	\$ 46.15
Zervas School *	30 Beethoven Ave		1			1	8	1	2	16	\$ 399.94	\$ 4,799.23	\$ 46.15
										632	\$ 15,257.66	\$ 183,091.95	
MUNICIPAL	ADDRESS	M	T	W	TH	F	SIZE	QTY	FREQ	YDS/WK	Rate/Mo	Annual	Rate / PU
City Hall *	1000 Commonwealth Ave	1		1		1	10	1	3	30	\$ 674.91	\$ 8,098.90	\$ 51.92
Horrace Mann HSG *	21-35 Walker St					1	10	1	1	10	\$ 224.97	\$ 2,699.63	\$ 51.92
Horrace Mann HSG *	16 Brookside St					1	10	1	1	10	\$ 224.97	\$ 2,699.63	\$ 51.92
Private Apts *	101 Walker St					1	2	1	1	2	\$ 60.01	\$ 720.14	\$ 13.85
Public Works *	52 Elliot Street		1		1		10	1	2	20	\$ 449.94	\$ 5,399.26	\$ 51.92
Police Hdq. *	1321 Washington St	1		1		1	8	1	3	24	\$ 599.90	\$ 7,198.85	\$ 46.15
Police Station *	25 Chestnut St	1					8	1	1	8	\$ 199.97	\$ 2,399.62	\$ 46.15
Library *	Homer Street	1	1	1	1	1	2	1	5	10	\$ 300.06	\$ 3,600.72	\$ 13.85
Fire Station 7 *	144 Elliot Street		1				2	1	1	2	\$ 60.01	\$ 720.14	\$ 13.85
Imperial Condos *	280 Boylston St			1			10	1	1	10	\$ 224.97	\$ 2,699.63	\$ 51.92
St. James Units *	22 St. James St			2			6	2	1	12	\$ 300.02	\$ 3,600.20	\$ 34.62
Adams Street Apts.*	175 Adams Street				1		8	1	1	8	\$ 199.97	\$ 2,399.62	\$ 46.15
New Hyde HSG *	82 Lincoln Street		1				10	1	1	10	\$ 224.97	\$ 2,699.63	\$ 51.92
Centenary Village *	234 Central Street	1					10	1	1	10	\$ 224.97	\$ 2,699.63	\$ 51.92
Chatham Townhse *	2247 Comm. Ave	1					10	1	1	10	\$ 224.97	\$ 2,699.63	\$ 51.92
Cottage Court Apts. *	12 Cottage Court				1		6	1	1	6	\$ 150.01	\$ 1,800.10	\$ 34.62
Woodland Park *	264 Grove Street	7					10	7	1	70	\$ 1,574.79	\$ 18,897.43	\$ 51.92
Comm Ave Apts *	2300 Commonwealth Ave	3					10	3	1	30	\$ 674.91	\$ 8,098.90	\$ 51.92
Comm Ave Apts *	2350 Commonwealth Ave	3					10	3	1	30	\$ 674.91	\$ 8,098.90	\$ 51.92
Hamilton HSG *	545 Grove Street	1					10	1	1	10	\$ 224.97	\$ 2,699.63	\$ 51.92
Echo Ridge *	60-80 Thurston Road		1				10	1	1	10	\$ 224.97	\$ 2,699.63	\$ 51.92
NCDF Housing *	27 Hamlet St			3			10	3	1	30	\$ 674.91	\$ 8,098.90	\$ 51.92
JFK Housing *	83 Kennedy Drive				2		10	2	1	20	\$ 449.94	\$ 5,399.26	\$ 51.92
Nonantum Village *	239 Watertown Street					2	10	2	1	20	\$ 449.94	\$ 5,399.26	\$ 51.92
Parker House *	21 Parker Street			1			10	1	1	10	\$ 224.97	\$ 2,699.63	\$ 51.92
Cappasso Apts *	89 Lexington St	1					10	1	1	10	\$ 224.97	\$ 2,699.63	\$ 51.92
Cappasso Apts *	125 Lexington St	1					10	1	1	10	\$ 224.97	\$ 2,699.63	\$ 51.92
Cappasso Apts *	155 Lexington St	1					10	1	1	10	\$ 224.97	\$ 2,699.63	\$ 51.92
Cappasso Apts *	159 Lexington St	1					10	1	1	10	\$ 224.97	\$ 2,699.63	\$ 51.92
Cappasso Apts *	163 Lexington St	1					10	1	1	10	\$ 224.97	\$ 2,699.63	\$ 51.92
Cappasso Apts *	181 Lexington St	1					10	1	1	10	\$ 224.97	\$ 2,699.63	\$ 51.92
Cappasso Apts *	199 Lexington St	1					10	1	1	10	\$ 224.97	\$ 2,699.63	\$ 51.92
Cappasso Apts *	180 Church St				1		10	1	1	10	\$ 224.97	\$ 2,699.63	\$ 51.92
Farwell Street *	55 Farwell Street					1	10	1	1	10	\$ 224.97	\$ 2,699.63	\$ 51.92
Cappasso Apts *	151 Concord Street	1					10	1	1	10	\$ 224.97	\$ 2,699.63	\$ 51.92
Saco Street Apts.	Sweet Street - off Oak Street		1				10	1	1	10	\$ 224.97	\$ 2,699.63	\$ 51.92
Sawmill Brook *	655 Sawmill Brook Prkway		1				8	1	1	8	\$ 199.97	\$ 2,399.62	\$ 46.15
Peobody Condos *	30 Ober Road		1				8	1	1	8	\$ 224.97	\$ 2,699.63	\$ 51.92
Crystal Lake *	15 Norwood Ave.		1				10	1	1	10	\$ 224.97	\$ 2,699.63	\$ 51.92
MT Ida Apts *	290 Centre St				1		6	1	1	6	\$ 150.01	\$ 1,800.10	\$ 34.62
Park St. Apts.*	40-46 Park St				1		10	1	1	10	\$ 224.97	\$ 2,699.63	\$ 51.92
Zigarelli Apts *	392 Langley Road			2			6	2	1	12	\$ 300.02	\$ 3,600.20	\$ 34.62
Taglienti Apts *	410 Langley Rd.			1			6	1	1	6	\$ 150.01	\$ 1,800.10	\$ 34.62
Taglienti Apts *	33 Paul St		2				10	2	1	20	\$ 449.94	\$ 5,399.26	\$ 51.92
Curtis Arms Apts.	136 North Street					2	10	2	1	20	\$ 449.94	\$ 5,399.26	\$ 51.92
Blithedale St Apts *	29 Blithedale Street					60	6	1	1	6	\$ 150.01	\$ 1,800.10	\$ 34.62
	<b>Trash</b>	<b>47</b>	<b>25</b>	<b>24</b>	<b>24</b>	<b>27</b>	Total Municipal			<b>1892</b>	<b>\$ 14,518.37</b>	<b>\$ 174,220.40</b>	

Duumpster rates will increase by 3.5% per year each July 1st  
 All \* accounts start with City of Newton in MAS

Exhibit 2.B - Recycling Dumpster Rates

SCHOOLS	ADDRESS	M	T	W	TH	F	SIZE	QTY	FREQ	YDS/WK	Rate/Mo	Annual	Rate/PU
Bigelow Middle *	42 Vernon St			1			8	1	1	8	\$ 154.99	\$ 1,859.90	\$ 35.77
Bowen School *	280 Cypress St				1		8	1	1	8	\$ 154.99	\$ 1,859.90	\$ 35.77
Chas Brown Jr *	125 Meadowbrook Rd				1		8	1	1	8	\$ 154.99	\$ 1,859.90	\$ 35.77
Burr School *	171 Pine St			1			8	1	1	8	\$ 154.99	\$ 1,859.90	\$ 35.77
Cabot School *	229 Cabot St			1			8	1	1	8	\$ 154.99	\$ 1,859.90	\$ 35.77
Carr *	225 Nevada St			1			8	1	1	8	\$ 154.99	\$ 1,859.90	\$ 35.77
Countryside *	191 Dedham St				1		8	1	1	8	\$ 154.99	\$ 1,859.90	\$ 35.77
FA Day Jr High *	21 Minot Pl			1			8	1	1	8	\$ 154.99	\$ 1,859.90	\$ 35.77
Education Center *	100 Walnut Street			1			8	1	1	8	\$ 154.99	\$ 1,859.90	\$ 35.77
Franklin *	125 Derby St			1			8	1	1	8	\$ 154.99	\$ 1,859.90	\$ 35.77
Horrace Mann SCH *	687 Watertown St			1			10	1	1	10	\$ 174.97	\$ 2,099.60	\$ 40.38
Lincoln Elliot *	191 Pearl St			1			8	1	1	8	\$ 154.99	\$ 1,859.90	\$ 35.77
Mason Rice *	149 Pleasant St			1			8	1	1	8	\$ 154.99	\$ 1,859.90	\$ 35.77
Memorial Spaulding *	250 Brookline St				1		10	1	1	10	\$ 174.97	\$ 2,099.60	\$ 40.38
North High School *	457 Walnut St			2			10	2	1	20	\$ 349.93	\$ 4,199.20	\$ 40.38
North High School *	457 Walnut St			1			8	1	1	8	\$ 154.99	\$ 1,859.90	\$ 35.77
Oak Hill HighSCH *	130 Wheeler Rd				1		8	1	1	8	\$ 154.99	\$ 1,859.90	\$ 35.77
Peirce *	170 Temple St			1			8	1	1	8	\$ 154.99	\$ 1,859.90	\$ 35.77
South High School *	140 Brandeis Rd				2		10	2	1	20	\$ 349.93	\$ 4,199.20	\$ 40.38
Underwood Sch *	101 Vernon St			1			8	1	1	8	\$ 154.99	\$ 1,859.90	\$ 35.77
Ward School *	10 Dolphin Rd			1			8	1	1	8	\$ 154.99	\$ 1,859.90	\$ 35.77
Williams School *	141 Grove St			1			8	1	1	8	\$ 154.99	\$ 1,859.90	\$ 35.77
Zervas School *	30 Beethoven Ave			1			8	1	1	8	\$ 154.99	\$ 1,859.90	\$ 35.77
Total School Cost											\$3,994.64	\$47,935.63	
MUNICIPAL	ADDRESS	M	T	W	TH	F	SIZE	QTY	FREQ	YDS/WK	Rate/Mo	Annual	Rate/PU
City Hall *	1000 Commonwealth Ave			1			10	1	1	10	\$ 174.97	\$ 2,099.60	\$ 40.38
Rumford Ave Yard *	115 Rumford Ave			5			10	5	1	50	\$ 874.83	\$10,497.99	\$ 40.38
Public Works *	52 Elliot Street			2			10	2	1	20	\$ 349.93	\$ 4,199.20	\$ 40.38
Police Hdq. *	1321 Washington St			1			8	1	1	8	\$ 154.99	\$ 1,859.90	\$ 35.77
Main Library	11 Homer Street			1			10	1	1	10	\$ 174.97	\$ 2,099.60	\$ 40.38
NCDF Housing *	27 Hamlet St			2			4	2	1	8	\$ 173.32	\$ 2,079.84	\$ 20.00
Total Municipal cost											\$1,903.01	\$22,836.12	
Duumpster rates will increase by 3.5% per year each July 1st													
All * accounts start with City of Newton in MAS													

Classification	Effective Date	Base Wage	Health	Pension	Supplemental Unemployment	Total Rate
<b>Trash/Recycle</b>						
Laborer / Driver	07/01/2014	\$26.06	\$8.09	\$0.00	\$0.00	\$34.15
<i>(Teamsters 25)</i>	01/01/2015	\$26.13	\$8.09	\$0.00	\$0.00	\$34.22
	07/01/2015	\$26.35	\$8.24	\$0.00	\$0.00	\$34.59
	01/01/2016	\$26.41	\$8.24	\$0.00	\$0.00	\$34.65
	07/01/2016	\$26.60	\$8.39	\$0.00	\$0.00	\$34.99
	01/01/2017	\$26.66	\$8.39	\$0.00	\$0.00	\$35.05

Additional Apprentice Information:

Minimum wage rates for apprentices employed on public works projects are listed above as a percentage of the pre-determined hourly wage rate established by the Commissioner under the provisions of the M.G.L. c. 149, ss. 26-27D. Apprentice ratios are established by the Division of Apprenticeship Training pursuant to M.G.L. c. 23, ss. 11E-11L.

All apprentices must be registered with the Division of Apprenticeship Training in accordance with M.G.L. c. 23, ss. 11E-11L.

All steps are six months (1000 hours) unless otherwise specified.

- \* Ratios are expressed in allowable number of apprentices to journeymen or fraction thereof.
- \*\* Multiple ratios are listed in the comment field.
- \*\*\* APP to JM; 1:1, 2:2, 2:3, 3:4, 4:4, 4:5, 4:6, 5:7, 6:7, 6:8, 6:9, 7:10, 8:10, 8:11, 8:12, 9:13, 10:13, 10:14, etc.
- \*\*\*\* APP to JM; 1:1, 1:2, 2:3, 2:4, 3:5, 4:6, 4:7, 5:8, 6:9, 6:10, 7:11, 8:12, 8:13, 9:14, 10:15, 10:16, etc.

**EXHIBIT 3  
PREVAILING WAGE RATES**

**EXHIBIT 3  
PREVAILING WAGE RATES**

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DEVAL L. PATRICK  
Governor

THE COMMONWEALTH OF MASSACHUSETTS  
EXECUTIVE OFFICE OF LABOR AND WORKFORCE DEVELOPMENT  
DEPARTMENT OF LABOR STANDARDS

Prevailing Wage Rates

As determined by the Director under the provisions of the  
Massachusetts General Laws, Chapter 149, Sections 26 to 27H

RACHEL KAPRIELIAN  
Secretary  
HEATHER E. ROWE  
Director

**Awarding Authority:** City of Newton  
**Contract Number:** L-5485 C-2860 **City/Town:** NEWTON  
**Description of Work:** Solid Waste Collection & Recycling

**Job Location:** Various Locations

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Information about Prevailing Wage Schedules for Awarding Authorities and Contractors

- This wage schedule applies only to the specific project referenced at the top of this page and uniquely identified by the "Wage Request Number" on all pages of this schedule.
- An Awarding Authority must request an updated wage schedule from the Department of Labor Standards ("DLS") if it has not opened bids or selected a contractor within 90 days of the date of issuance of the wage schedule. For CM AT RISK projects (bid pursuant to G.L. c.149A), the earlier of: (a) the execution date of the GMP Amendment, or (b) the bid for the first construction scope of work must be within 90-days of the wage schedule issuance date.
- The wage schedule shall be incorporated in any advertisement or call for bids for the project as required by M.G.L. c. 149, § 27. The wage schedule shall be made a part of the contract awarded for the project. The wage schedule must be posted in a conspicuous place at the work site for the life of the project in accordance with M.G.L. c. 149 § 27. The wages listed on the wage schedule must be paid to employees performing construction work on the project whether they are employed by the prime contractor, a filed sub-bidder, or any sub-contractor.
- All apprentices working on the project are required to be registered with the Massachusetts Division of Apprentice Standards (DAS). Apprentice must keep his/her apprentice identification card on his/her person during all work hours on the project. An apprentice registered with DAS may be paid the lower apprentice wage rate at the applicable step as provided on the prevailing wage schedule. **If an apprentice rate is not listed on the prevailing wage schedule for the trade in which an apprentice is registered with the DAS, the apprentice must be paid the journeyworker's rate for the trade.**
- The wage rates will remain in effect for the duration of the project, except in the case of multi-year public construction projects. For construction projects lasting longer than one year, awarding authorities must request an updated wage schedule. Awarding authorities are required to request these updates no later than two weeks before the anniversary of the date the contract was executed by the awarding authority and the general contractor. For multi-year CM AT RISK projects, awarding authority must request an annual update no later than two weeks before the anniversary date, determined as the earlier of: (a) the execution date of the GMP Amendment, or (b) the execution date of the first amendment to permit procurement of construction services. Contractors are required to obtain the wage schedules from awarding authorities, and to pay no less than these rates to covered workers. The annual update requirement is not applicable to 27F "rental of equipment" contracts.
- Every contractor or subcontractor which performs construction work on the project is required to submit weekly payroll reports and a Statement of Compliance directly to the awarding authority by mail or email and keep them on file for three years. Each weekly payroll report must contain: the employee's name, address, occupational classification, hours worked, and wages paid. Do not submit weekly payroll reports to DLS. A sample of a payroll reporting form may be obtained at <http://www.mass.gov/dols/pw>.
- Contractors with questions about the wage rates or classifications included on the wage schedule have an affirmative obligation to inquire with DLS at (617) 626-6953.
- Employees not receiving the prevailing wage rate set forth on the wage schedule may report the violation to the Fair Labor Division of the office of the Attorney General at (617) 727-3465.
- Failure of a contractor or subcontractor to pay the prevailing wage rates listed on the wage schedule to all employees who perform construction work on the project is a violation of the law and subjects the contractor or subcontractor to civil and criminal penalties.

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**Issue Date:** 09/23/2014

**Wage Request Number:** 20140923-046



**EXHIBIT 4**  
**PERFORMANCE BOND**

**EXHIBIT 5**  
**CERTIFICATE OF INSURANCE**

## EXHIBIT 6

### SINGLE STREAM SPECIFICATIONS

**Commingled Recyclables**, consisting of recyclable glass, aluminum, cans, plastics and papers, generally collected from residential recycling, as follows:

Materials Accepted:

**Aluminum food and beverage containers**

Glass food and beverage containers – brown, clear, or green  
Ferrous (Iron) cans (including empty paint and aerosol cans)  
PET plastic containers with the symbol #1 – with screw tops only  
HDPE natural plastic containers with the symbol #2 – (milk and water bottles)  
HDPE pigmented plastic containers with the symbol #2 – (detergent, shampoo bottles, etc.)  
Plastics with symbols #3, #4, #5, #6, #7-narrow and screw top containers  
Aseptic and gable top cartons such as juice, soy, broth, milk cartons, etc.  
Newsprint  
Old corrugated cardboard  
Books (soft and hard cover) and Magazines  
Catalogs  
Cereal boxes  
Telephone books  
Printer paper  
Copier paper  
Mail  
All other office paper without wax liners

Materials Not Accepted, include but are not limited to ("Unacceptable Materials"):

Microwave trays  
Mirrors  
Window or auto glass  
Light Bulbs  
Ceramics  
Porcelain  
Plastics unnumbered and styrofoam  
Plastic bags  
Coat hangers  
Glass cookware/bakeware  
Household items such as cooking pots, toasters, etc.

All glass containers must be empty and contain less than 5% food debris.

All tin cans, bi-metal cans, and aluminum cans must be empty and contain less than 5% food debris.

All aerosol cans must be empty with less than 5% content

All plastic containers must be empty and less than 5% food debris.

All Fiber must be dry and free of food debris and other contaminating material.

Tissues, paper towels or other paper that has been in contact with food is not acceptable.

Recyclables may contain up to 5% Unacceptable Materials, provided however, Recyclables may not:

1. Materially impair the strength or the durability of the COMPANY's structures or equipment; or
2. Create flammable or explosive conditions in COMPANY's facilities;
3. Contain dry cell batteries or lead acid batteries;
4. Contain chemical or other properties which are deleterious or capable of causing material damage to any part of COMPANY's property, its personnel or the public; or

5. Contain Excluded Materials defined as any waste tires, radioactive, volatile, corrosive, flammable, explosive, biomedical, infectious, biohazardous, regulated medical or hazardous waste, toxic substance or material, as defined by, characterized or listed under applicable federal, state, or local laws or regulations, or other waste not approved in writing by COMPANY.

**EXHIBIT 7  
ACCEPTABLE TRASH WASTE**



# **Wheelabrator Millbury Inc.**

A Waste Management Company

November 2014

**Acceptable Waste includes:**

Automobile or small vehicle tires <sup>1</sup>	Non-Hazardous oily debris/solids and oil filter
Commercial Solid Waste	Residential Solid Waste
Institutional Solid Waste	Shredded Utility poles & railroad ties
Beds/Mattresses	TSDF Waste Blends (non-Hazardous)
Manufacturing or Industrial Operation Waste	Tires
Manufacturing Waste, Trimmings and other debris	Sofas
Industrial Product manufacturing waste, trimmings & other debris	
Auto Shredder waste that has mercury removed	
Off Spec/Expired Consumer Products	
Non Recyclable Material Resource Facility residues	
Pharmaceutical products, including drugs, illegal contraband, narcotics, etc.	

**Unacceptable Waste includes:**

Acids	Farm Machinery	Radioactive Material
Agricultural Equipment	Fenders	*Recyclable Paper
Ammunitions	Firearms	Refrigerators
Animal Remains	Flammables	Rear Ends
Asbestos	*Glass Containers	Sheetrock
*Asphalt, brick, concrete	Hazardous Remains	Snowmobiles
Auto Springs	Human Remains	Stoves
Auto Transmissions	Insecticides	Trailers
Biological Waste	Large Machinery	Tree Logs
Cable	*Leaves & Yard Waste	Tree Stumps
Caustics	*MADEP Waste Banned Items	Vehicular parts
Cesspool or Other Human Wastes	Liquid Waste	Wall board
Chemicals	Marine Vessels	White Goods
*Clean Gypsum Board	*Metal Containers	Washing machines
Cleaning Fluids	Motor Vehicles	Wire
Commercial Organic Material *	Motorcycles	Wood (greater than 6 feet and/or 1 foot in diameter (including whole telephone poles)
Crankcase Oils	*Narrow Neck Plastic Containers	
Cutting Oils	Non-Burnable Construction Material	
*CRT's	Oil	
Demolition Debris	Paints	
Drained Oil	Pathological Wastes	
Drugs	Pesticides	
Drying Machines	Petroleum Products	
Empty Chemical Containers	Poisons	
Explosives & Ordinance Materials		

\*Massachusetts State Banned items

<sup>1</sup> Tires must be in reasonable quantities compatible with waste delivery and service schedules and to the extent the air criteria applicable to the facility are not violated by the burning thereof.



SETTI D. WARREN  
MAYOR

City of Newton, Massachusetts  
Office of the Mayor

#142-15  
Telephone  
(617) 796-1100  
Facsimile  
(617) 796-1113  
TDD/TTY  
(617) 796-1089  
E-mail  
swarren@newtonma.gov

May 26, 2015

Honorable Board of Aldermen  
Newton City Hall  
1000 Commonwealth Avenue  
Newton Centre, MA 02459

Ladies and Gentlemen:

I write to request that your Honorable Board docket for consideration a request to authorize the acceptance and expenditure of the Edward J. Byrne Memorial Justice Assistance Grant in the amount of \$29,914.10 for the purpose of purchasing Law Enforcement Equipment including Infrared Traffic Emitters, Tactical Flashlights, Rifle Caliber Balistic Shields, and Rifle Caliber Balistic Vests..

Thank you for your consideration of this matter.

Sincerely,

Setti D. Warren  
Mayor

RECEIVED  
Newton City Clerk  
2015 MAY 27 PM 2:01  
David A. Olson, CMC  
Newton, MA 02459

1000 Commonwealth Avenue Newton, Massachusetts 02459

[www.newtonma.gov](http://www.newtonma.gov)



DEDICATED TO COMMUNITY EXCELLENCE



OFFICE OF THE GOVERNOR  
**COMMONWEALTH OF MASSACHUSETTS**  
STATE HOUSE • BOSTON, MA 02133  
(617)725-4000

**CHARLES D. BAKER**  
GOVERNOR

**KARYN E. POLITO**  
LIEUTENANT GOVERNOR

April 6, 2015

Howard Mintz, Chief  
Newton Police Department  
1321 Washington Street  
Newton, MA 02465

Dear Chief Mintz:

Congratulations! We are pleased to inform you that Newton Police Department's Law Enforcement Equipment grant application has been selected to receive an Edward J. Byrne Memorial Justice Assistance Grant in the amount of \$29,914.10. We look forward to working with you and your community on this public safety initiative.

Additional correspondence, including all the necessary documents needed to execute this award will be provided by the Executive Office of Public Safety and Security, Office of Grants and Research. Feel free to contact Kevin Stanton at [kevin.stanton@state.ma.us](mailto:kevin.stanton@state.ma.us) if you have any questions.

Sincerely,

Handwritten signature of Charles D. Baker in black ink.

Governor Charles D. Baker

Handwritten signature of Karyn E. Polito in black ink.

Lt. Governor Karyn E. Polito

**Executive Office of Public Safety and Security  
Office of Grants and Research  
Budget Worksheet  
JAG Equipment Grant**

*Budget Breakdown*

**Consultants**—For each consultant enter the name, if known, service to be provided, hourly or daily fee (8-hour day/ \$81.25 per hour), and estimated time on the project. Consultant fees in excess of \$650/day require additional justification and prior approval.

Name of Consultant	Rate	Number of Hours/Days	Brief Description of Service	Cost	Federal Share
				-	
				-	
<b>Total:</b>				-	-

**Contracts**—Provide a description of the product or services to be procured by contract and an estimate of the cost. Applicants should use a competitive process for procurements compliant with the organization's own procurement policy. Sole Source Contracts are not allowed.

Item	Cost	Description of Services	Cost	Federal Share
			-	
			-	
<b>Total:</b>			-	-

**Equipment and Technology Costs**—Provide the name and a description of the item to be purchased. Please provide the cost of the equipment per unit.

Equipment/Technology to be Purchase	Rate	Quantity	Description of Item	Cost	Federal Share
Infrared Traffic Emitter	\$1,100.00	6.00	Changes traffic lights for emergency vehicles	6,600.00	6,600.00
53238 TPT R5 14 Flash light	\$104.99	90.00	Tactical Flashlight	9,449.10	9,449.10
Body Bunker 1632P	\$2,330	4.00	Rifle Caliber Ballistic Shield	9,320.00	9,320.00
Rifle Plates with carriers	\$505	9.00	Rifle Caliber Ballistic Vests	4,545.00	4,545.00
<b>Total:</b>				29,914.10	29,914.10

**Other Related Costs**—Any other costs not listed in previous budget categories. Additional direct costs with a specific purpose and specific amounts associated with the JAG program. Provide a description of the item and the purpose.

Item	Rate	Quantity	Describe purpose	Cost	Federal Share
				-	
				-	
<b>Total:</b>				-	-

<b>GRAND TOTAL</b>	29,914.10	29,914.10
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COMMONWEALTH OF MASSACHUSETTS ~ STANDARD CONTRACT FORM

This form is jointly issued and published by the Executive Office for Administration and Finance (ANF), the Office of the Comptroller (CTR) and the Operational Services Division (OSD) as the default contract for all Commonwealth Departments when another form is not prescribed by regulation or policy. Any changes to the official printed language of this form shall be void. Additional non-conflicting terms may be added by Attachment. Contractors may not require any additional agreements, engagement letters, contract forms or other additional terms as part of this Contract without prior Department approval. Click on hyperlinks for definitions, instructions and legal requirements that are incorporated by reference into this Contract. An electronic copy of this form is available at [www.mass.gov/osc](http://www.mass.gov/osc) under Guidance For Vendors - Forms or [www.mass.gov/osd](http://www.mass.gov/osd) under OSD Forms.

<b>CONTRACTOR LEGAL NAME:</b> City of Newton - Newton Police Department (and d/b/a):	<b>COMMONWEALTH DEPARTMENT NAME:</b> Executive Office of Public Safety and Security <b>MMARS Department Code:</b> EPS
<b>Legal Address: (W-9, W-4,T&amp;C):</b> 1000 Commonwealth Ave., Newton, MA 02459	<b>Business Mailing Address:</b> 10 Park Plaza, Suite 3720, Boston, MA 02116
<b>Contract Manager:</b> David Wilkinson	<b>Billing Address (if different):</b>
<b>E-Mail:</b> dwilkinson@newtonma.gov	<b>Contract Manager:</b> Corine Pryme
<b>Phone:</b> (617) 796-1300 <b>Fax:</b> (617) 796-1196	<b>E-Mail:</b> corine.pryme@MassMail.State.MA.US
<b>Contractor Vendor Code:</b> VC6000192120	<b>Phone:</b> (617) 725-3370 <b>Fax:</b> (617) 725-0267
<b>Vendor Code Address ID (e.g. "AD001"):</b> AD 001 (Note: The Address ID must be set up for EFT payments.)	<b>MMARS Doc ID(s):</b> SCEPSBJAG1FY15NEWTON
	<b>RFR/Procurement or Other ID Number:</b> Grant Application

<input checked="" type="checkbox"/> <b>NEW CONTRACT</b> <b>PROCUREMENT OR EXCEPTION TYPE: (Check one option only)</b> <input type="checkbox"/> <b>Statewide Contract</b> (OSD or an OSD-designated Department) <input type="checkbox"/> <b>Collective Purchase</b> (Attach OSD approval, scope, budget) <input checked="" type="checkbox"/> <b>Department Procurement</b> (includes State or Federal grants <b>815 CMR 2.00</b> ) (Attach RFR and Response or other procurement supporting documentation) <input type="checkbox"/> <b>Emergency Contract</b> (Attach justification for emergency, scope, budget) <input type="checkbox"/> <b>Contract Employee</b> (Attach <b>Employment Status Form</b> , scope, budget) <input type="checkbox"/> <b>Legislative/Legal or Other:</b> (Attach authorizing language/justification, scope and budget)	<input type="checkbox"/> <b>CONTRACT AMENDMENT</b> Enter Current Contract End Date <u>Prior</u> to Amendment: ____20 Enter Amendment Amount: \$ _____ (or "no change") <b>AMENDMENT TYPE: (Check one option only. Attach details of Amendment changes.)</b> <input type="checkbox"/> <b>Amendment to Scope or Budget</b> (Attach updated scope and budget) <input type="checkbox"/> <b>Interim Contract</b> (Attach justification for Interim Contract and updated scope/budget) <input type="checkbox"/> <b>Contract Employee</b> (Attach any updates to scope or budget) <input type="checkbox"/> <b>Legislative/Legal or Other:</b> (Attach authorizing language/justification and updated scope and budget)
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The following **COMMONWEALTH TERMS AND CONDITIONS (T&C)** has been executed, filed with CTR and is incorporated by reference into this Contract.

Commonwealth Terms and Conditions  Commonwealth Terms and Conditions For Human and Social Services

**COMPENSATION:** (Check ONE option): The Department certifies that payments for authorized performance accepted in accordance with the terms of this Contract will be supported in the state accounting system by sufficient appropriations or other non-appropriated funds, subject to intercept for Commonwealth owed debts under 815 CMR 9.00.

**Rate Contract** (No Maximum Obligation. Attach details of all rates, units, calculations, conditions or terms and any changes if rates or terms are being amended.)

**Maximum Obligation Contract** Enter Total Maximum Obligation for total duration of this Contract (or *new* Total if Contract is being amended), \$ 29,914.10

**PROMPT PAYMENT DISCOUNTS (PPD):** Commonwealth payments are issued through EFT 45 days from invoice receipt. Contractors requesting accelerated payments must identify a PPD as follows: Payment issued within 10 days % PPD; Payment issued within 15 days % PPD; Payment issued within 20 days % PPD; Payment issued within 30 days % PPD. If PPD percentages are left blank, identify reason:  agree to standard 45 day cycle  statutory/legal or Ready Payments (G.L. c. 29, § 23A);  only initial payment (subsequent payments scheduled to support standard EFT 45 day payment cycle. See Prompt Pay Discounts Policy.)

**BRIEF DESCRIPTION OF CONTRACT PERFORMANCE or REASON FOR AMENDMENT:** (Enter the Contract title, purpose, fiscal year(s) and a detailed description of the scope of performance or what is being amended for a Contract Amendment. Attach all supporting documentation and justifications.)

JAG funding was made available to address local law enforcement department's equipment and technology related needs. 2010-DJBX-0422 FJAG10LEKE \$29,914.10

**ANTICIPATED START DATE:** (Complete ONE option only) The Department and Contractor certify for this Contract, or Contract Amendment, that Contract obligations:

1. may be incurred as of the Effective Date (latest signature date below) and **no** obligations have been incurred **prior** to the Effective Date.

2. may be incurred as of \_\_\_\_\_, a date **LATER** than the Effective Date below and **no** obligations have been incurred **prior** to the Effective Date.

3. were incurred as of \_\_\_\_\_, a date **PRIOR** to the Effective Date below, and the parties agree that payments for any obligations incurred prior to the Effective Date are authorized to be made either as settlement payments or as authorized reimbursement payments, and that the details and circumstances of all obligations under this Contract are attached and incorporated into this Contract. Acceptance of payments forever releases the Commonwealth from further claims related to these obligations.

**CONTRACT END DATE:** Contract performance shall terminate as of 09/11/2015 with no new obligations being incurred after this date unless the Contract is properly amended, provided that the terms of this Contract and performance expectations and obligations shall survive its termination for the purpose of resolving any claim or dispute, for completing any negotiated terms and warranties, to allow any close out or transition performance, reporting, invoicing or final payments, or during any lapse between amendments.

**CERTIFICATIONS:** Notwithstanding verbal or other representations by the parties, the "Effective Date" of this Contract or Amendment shall be the latest date that this Contract or Amendment has been executed by an authorized signatory of the Contractor, the Department, or a later Contract or Amendment Start Date specified above, subject to any required approvals. The Contractor makes all certifications required under the attached Contractor Certifications (incorporated by reference if not attached hereto) under the pains and penalties of perjury, agrees to provide any required documentation upon request to support compliance, and agrees that all terms governing performance of this Contract and doing business in Massachusetts are attached or incorporated by reference herein according to the following hierarchy of document precedence, the applicable Commonwealth Terms and Conditions, this Standard Contract Form including the Instructions and Contractor Certifications, the Request for Response (RFR) or other solicitation, the Contractor's Response, and additional negotiated terms, provided that additional negotiated terms will take precedence over the relevant terms in the RFR and the Contractor's Response only if made using the process outlined in 801 CMR 21.07, incorporated herein, provided that any amended RFR or Response terms result in best value, lower costs, or a more cost effective Contract.

<b>AUTHORIZING SIGNATURE FOR THE CONTRACTOR:</b> X: _____ Date: _____ (Signature and Date Must Be Handwritten At Time of Signature) Print Name: Print Title:	<b>AUTHORIZING SIGNATURE FOR THE COMMONWEALTH:</b> X: _____ Date: _____ (Signature and Date Must Be Handwritten At Time of Signature) Print Name: Ellen Frank Print Title: Executive Director
--	---



COMMONWEALTH OF MASSACHUSETTS ~ STANDARD CONTRACT FORM

INSTRUCTIONS AND CONTRACTOR CERTIFICATIONS

The following instructions and terms are incorporated by reference and apply to this Standard Contract Form. Text that appears underlined indicates a "hyperlink" to an Internet or bookmarked site and are unofficial versions of these documents and Departments and Contractors should consult with their legal counsel to ensure compliance with all legal requirements.

CONTRACTOR LEGAL NAME (AND D/B/A): Enter the Full Legal Name of the Contractor's business as it appears on the Contractor's W-9 or W-4 Form (Contract Employees only) and the applicable Commonwealth Terms and Conditions

Contractor Legal Address: Enter the Legal Address of the Contractor as it appears on the Contractor's W-9 or W-4 Form (Contract Employees only) and the applicable Commonwealth Terms and Conditions, which must match the legal address on the 1099 table in MMARS

Contractor Contract Manager: Enter the authorized Contract Manager who will be responsible for managing the Contract. The Contract Manager should be an Authorized Signatory or, at a minimum, a person designated by the Contractor to represent the Contractor, receive legal notices and negotiate ongoing Contract issues.

Contractor E-Mail Address/Phone/Fax: Enter the electronic mail (e-mail) address, phone and fax number of the Contractor Contract Manager. This information must be kept current by the Contractor to ensure that the Department can contact the Contractor and provide any required legal notices.

Contractor Vendor Code: The Department must enter the MMARS Vendor Code assigned by the Commonwealth. If a Vendor Code has not yet been assigned, leave this space blank and the Department will complete this section when a Vendor Code has been assigned.

Vendor Code Address ID: (e.g., "AD001") The Department must enter the MMARS Vendor Code Address ID identifying the payment remittance address for Contract payments, which MUST be set up for EFT payments PRIOR to the first payment under the Contract in accordance with the Bill Paying and Vendor File and W-9s policies.

COMMONWEALTH DEPARTMENT NAME: Enter the full Department name with the authority to obligate funds encumbered for the Contract.

Commonwealth MMARS Alpha Department Code: Enter the three (3) letter MMARS Code assigned to this Commonwealth Department in the state accounting system.

Department Business Mailing Address: Enter the address where all formal correspondence to the Department must be sent. Unless otherwise specified in the Contract, legal notice sent or received by the Department's Contract Manager (with confirmation of actual receipt) through the listed address, fax number(s) or electronic mail address for the Contract Manager will meet any requirements for legal notice.

Department Billing Address: Enter the Billing Address or email address if invoices must be sent to a different location. Billing or confirmation of delivery of performance issues should be resolved through the listed Contract Managers.

Department Contract Manager: Identify the authorized Contract Manager who will be responsible for managing the Contract, who should be an authorized signatory or an employee designated by the Department to represent the Department to receive legal notices and negotiate ongoing Contract issues.

Department E-Mail Address/Phone/Fax: Enter the electronic mail (e-mail) address, phone and fax number of the Department Contract Manager. Unless otherwise specified in the Contract, legal notice sent or received by the Contract Manager (with confirmation of actual receipt) through the listed address, fax number(s) or electronic mail address will meet any requirements for written notice under the Contract.

MMARS Document ID(s): Enter the MMARS 20 character encumbrance transaction number associated with this Contract which must remain the same for the life of the Contract. If multiple numbers exist for this Contract, identify all Doc Ids.

RFR/Procurement or Other ID Number or Name: Enter the Request for Response (RFR) or other Procurement Reference number, Contract ID Number or other reference/tracking number for this Contract or Amendment and will be entered into the Board Award Field in the MMARS encumbrance transaction for this Contract.

NEW CONTRACTS (left side of Form):

Complete this section ONLY if this Contract is brand new. (Complete the CONTRACT AMENDMENT section for any material changes to an existing or an expired Contract, and for exercising options to renew or annual contracts under a multi-year procurement or grant program.)

PROCUREMENT OR EXCEPTION TYPE: Check the appropriate type of procurement or exception for this Contract. Only one option can be selected. See State Finance Law and General Requirements, Acquisition Policy and Fixed Assets, the Commodities and Services Policy and the Procurement Information Center (Department Contract Guidance) for details.

Statewide Contract (OSD or an OSD-designated Department). Check this option for a Statewide Contract under OSD, or by an OSD-designated Department.

Collective Purchase approved by OSD. Check this option for Contracts approved by OSD for collective purchases through federal, state, local government or other entities.

Department Contract Procurement. Check this option for a Department procurement including state grants and federal sub-grants under 815 CMR 2.00 and State Grants and Federal Subgrants Policy, Departmental Master Agreements (MA). If multi-Department user Contract, identify multi-Department use is allowable in Brief Description.

Emergency Contract. Check this option when the Department has determined that an unforeseen crisis or incident has arisen which requires or mandates immediate purchases to avoid substantial harm to the functioning of government or the provision of necessary or mandated services or whenever the health, welfare or safety of clients or other persons or serious damage to property is threatened.

Contract Employee. Check this option when the Department requires the performance of an Individual Contractor, and when the planned Contract performance with an Individual has been classified using the Employment Status Form (prior to the Contractor's selection) as work of a Contract Employee and not that of an Independent Contractor.

Legislative/Legal or Other. Check this option when legislation, an existing legal obligation, prohibition or other circumstance exempts or prohibits a Contract from being competitively procured, or identify any other procurement exception not already listed. Legislative "earmarks" exempt the Contract solely from procurement requirements, and all other Contract and state finance laws and policies apply. Supporting documentation must be attached to explain and justify the exemption.

CONTRACT AMENDMENT (Right Side of Form)

Complete this section for any Contract being renewed, amended or to continue a lapsed Contract. All Contracts with available options to renew must be amended referencing the original procurement and Contract doc ids, since all continuing contracts must be maintained in the same Contract file (even if the underlying appropriation changes each fiscal year.) "See Amendments, Suspensions, and Termination Policy."

Enter Current Contract End Date: Enter the termination date of the Current Contract being amended, even if this date has already passed. (Note: Current Start Date is not requested since this date does not change and is already recorded in MMARS.)

Enter Amendment Amount: Enter the amount of the Amendment increase or decrease to a Maximum Obligation Contract. Enter "no change" for Rate Contracts or if no change.

AMENDMENT TYPE: Identify the type of Amendment being done. Documentation supporting the updates to performance and budget must be attached. Amendment to Scope or Budget. Check this option when renewing a Contract or executing any Amendment ("material change" in Contract terms) even if the Contract has lapsed. The parties may negotiate a change in any element of Contract performance or cost identified in the RFR or the Contractor's response which results in lower costs, or a more cost-effective or better value performance than was presented in the original selected response, provided the negotiation results in a better value within the scope of the RFR than what was proposed by the Contractor in the original selected response. Any "material" change in the Contract terms must be memorialized in a formal Amendment even if a corresponding MMARS transaction is not needed to support the change. Additional negotiated terms will take precedence over the relevant terms in the RFR and the Contractor's Response only if made using the process outlined in 801 CMR 21.07, incorporated herein, provided that any amended RFR or Response terms result in best value, lower costs, or a more cost effective Contract.

Interim Contracts. Check this option for an Interim Contract to prevent a lapse of Contract performance whenever an existing Contract is being re-procured but the new procurement has not been completed, to bridge the gap during implementation between an expiring and a new procurement, or to contract with an interim Contractor when a current Contractor is unable to complete full performance under a Contract.

Contract Employee. Check this option when the Department requires a renewal or other amendment to the performance of a Contract Employee.

Legislative/Legal or Other. Check this option when legislation, an existing legal obligation, prohibition or other circumstance exempts or prohibits a Contract from being competitively procured, or identify any other procurement exception not already listed. Legislative "earmarks" exempt the Contract solely from procurement requirements, and all other Contract and state finance laws and policies apply. Attach supporting documentation to explain and justify the exemption and whether Contractor selection has been publicly



# COMMONWEALTH OF MASSACHUSETTS ~ STANDARD CONTRACT FORM

posted.

## COMMONWEALTH TERMS AND CONDITIONS

Identify which Commonwealth Terms and Conditions the Contractor has executed and is incorporated by reference into this Contract. This Form is signed only once and recorded on the Vendor Customer File (VCUST). See Vendor File and W-9s Policy.

## COMPENSATION

Identify if the Contract is a Rate Contract (with no stated Maximum Obligation) or a Maximum Obligation Contract (with a stated Maximum Obligation) and identify the Maximum Obligation. If the Contract is being amended, enter the new Maximum Obligation based upon the increase or decreasing Amendment. The Total Maximum Obligation must reflect the total funding for the dates of service under the contract, including the Amendment amount if the Contract is being amended. The Maximum Obligation must match the MMARS encumbrance. Funding and allotments must be verified as available and encumbered prior to incurring obligations. If a Contract includes both a Maximum Obligation component and Rate Contract component, check off both, specific Maximum Obligation amounts or amended amounts and Attachments must clearly outline the Contract breakdown to match the encumbrance.

## PAYMENTS AND PROMPT PAY DISCOUNTS

Payments are processed within a 45 day payment cycle through EFT in accordance with the Commonwealth Bill Paying Policy for investment and cash flow purposes. Departments may NOT negotiate accelerated payments and Payees are NOT entitled to accelerated payments UNLESS a prompt payment discount (PPD) is provided to support the Commonwealth's loss of investment earnings for this earlier payment, or unless a payments is legally mandated to be made in less than 45 days (e.g., construction contracts, Ready Payments under G.L. c. 29, s. 23A). See Prompt Pay Discounts Policy. PPD are identified as a percentage discount which will be automatically deducted when an accelerated payment is made. Reduced contracts rates may not be negotiated to replace a PPD. If PPD fields are left blank please identify that the Contractor agrees to the standard 45 day cycle; a statutory/legal exemption such as Ready Payments (G.L. c. 29, § 23A); or only an initial accelerated payment for reimbursements or start up costs for a grant, with subsequent payments scheduled to support standard EFT 45 day payment cycle. Financial hardship is not a sufficient justification to accelerate cash flow for all payments under a Contract. Initial grant or contract payments may be accelerated for the *first* invoice or initial grant installment, but subsequent periodic installments or invoice payments should be scheduled to support the Payee cash flow needs and the standard 45 day EFT payment cycle in accordance with the Bill Paying Policy. Any accelerated payment that does not provide for a PPD must have a legal justification in Contract file for audit purposes explaining why accelerated payments were allowable without a PPD.

## BRIEF DESCRIPTION OF CONTRACT PERFORMANCE

Enter a brief description of the Contract performance, project name and/or other identifying information for the Contract to specifically identify the Contract performance, match the Contract with attachments, determine the appropriate expenditure code (as listed in the Expenditure Classification Handbook) or to identify or clarify important information related to the Contract such as the Fiscal Year(s) of performance (ex. "FY2012" or "FY2012-14"). Identify settlements or other exceptions and attach more detailed justification and supporting documents. Enter "Multi-Department Use" if other Departments can access procurement. For Amendments, identify the purpose and what items are being amended. Merely stating "see attached" or referencing attachments without a narrative description of performance is insufficient.

## ANTICIPATED START DATE

The Department and Contractor must certify WHEN obligations under this Contract/Amendment may be incurred. Option 1 is the default option when performance may begin as of the Effective Date (latest signature date and any required approvals). If the parties want a new Contract or renewal to begin as of the upcoming fiscal year then list the fiscal year(s) (ex. "FY2012" or "FY2012-14") in the Brief Description section. Performance starts and encumbrances reflect the default Effective Date (if no FY is listed) or the later FY start date (if a FY is listed). Use Option 2 only when the Contract will be signed well in advance of the start date and identify a specific future start date. Do not use Option 2 for a fiscal year start unless it is certain that the Contract will be signed prior to fiscal year. Option 3 is used in lieu of the Settlement and Release Form when the Contract/Amendment is signed late, and obligations have already been incurred by the Contractor prior to the Effective Date for which the Department has either requested, accepted or deemed legally eligible for reimbursement, and the Contract includes supporting documents justifying the performance or proof of eligibility, and approximate costs. Any obligations incurred outside the scope of the Effective Date under any Option listed, even if the incorrect Option is selected, shall be automatically deemed a settlement included under the terms of the Contract and upon payment to the Contractor will release the Commonwealth from further obligations for the identified performance. All settlement payments require justification and must be under same encumbrance and object codes as the Contract payments. Performance dates are subject to G.L. c.4, § 9.

## CONTRACT END DATE

The Department must enter the date that Contract performance will terminate. If the Contract is being amended and the Contract End Date is not changing, this date must be re-entered again here. A Contract must be signed for at least the initial duration but not longer than the period of procurement listed in the RFR, or other solicitation document (if applicable). No new performance is allowable beyond the end date without an amendment, but the Department may allow a Contractor to complete minimal close out performance obligations if substantial performance has been made prior to the termination date of the Contract and prior to the end of the fiscal year in which payments are appropriated, provided that any close out performance is subject to appropriation and funding limits under state finance law, and CTR may adjust encumbrances and payments in the state accounting system to enable final close out payments. Performance dates are subject to G.L. c.4, § 9.

## CERTIFICATIONS AND EXECUTION

See Department Head Signature Authorization Policy and the Contractor Authorized Signatory Listing for policies on Contractor and Department signatures.

**Authorizing Signature for Contractor/Date:** The Authorized Contractor Signatory must (in their own handwriting and in ink) sign AND enter the date the Contract is signed. See section above under "Anticipated Contract Start Date". Acceptance of payment by the Contractor shall waive any right of the Contractor to claim the Contract/Amendment is not valid and the Contractor may not void the Contract. **Rubber stamps, typed or other images are not acceptable.** Proof of Contractor signature authorization on a Contractor Authorized Signatory Listing may be required by the Department if not already on file.

**Contractor Name /Title:** The Contractor Authorized Signatory's name and title must appear legibly as it appears on the Contractor Authorized Signatory Listing.

**Authorizing Signature For Commonwealth/Date:** The Authorized Department Signatory must (in their own handwriting and in ink) sign AND enter the date the Contract is signed. See section above under "Anticipated Start Date". **Rubber stamps, typed or other images are not accepted.** The Authorized Signatory must be an employee within the Department legally responsible for the Contract. See Department Head Signature Authorization. The Department must have the legislative funding appropriated for all the costs of this Contract or funding allocated under an approved Interdepartmental Service Agreement (ISA). A Department may not contract for performance to be delivered to or by another state department without specific legislative authorization (unless this Contract is a Statewide Contract). For Contracts requiring Secretariat signoff, evidence of Secretariat signoff must be included in the Contract file.

**Department Name /Title:** Enter the Authorized Signatory's name and title legibly.

## CONTRACTOR CERTIFICATIONS AND LEGAL REFERENCES

Notwithstanding verbal or other representations by the parties, the "Effective Date" of this Contract or Amendment shall be the latest date that this Contract or Amendment has been executed by an authorized signatory of the Contractor, the Department, or a later Contract or Amendment Start Date specified, subject to any required approvals. The Contractor makes all certifications required under this Contract under the pains and penalties of perjury, and agrees to provide any required documentation upon request to support compliance, and agrees that all terms governing performance of this Contract and doing business in Massachusetts are attached or incorporated by reference herein:

**Commonwealth and Contractor Ownership Rights.** The Contractor certifies and agrees that the Commonwealth is entitled to ownership and possession of all "deliverables" purchased or developed with Contract funds. A Department may not relinquish Commonwealth rights to deliverables nor may Contractors sell products developed with Commonwealth resources without just compensation. The Contract should detail all Commonwealth deliverables and ownership rights and any Contractor proprietary rights.

**Qualifications.** The Contractor certifies it is qualified and shall at all times remain qualified to perform this Contract; that performance shall be timely and meet or exceed industry standards for the performance required, including obtaining requisite licenses, registrations, permits, resources for performance, and sufficient professional, liability; and other appropriate insurance to cover the performance. If the Contractor is a business, the Contractor certifies that it is listed under the Secretary of State's website as licensed to do business in Massachusetts, as required by law.

**Business Ethics and Fraud, Waste and Abuse Prevention.** The Contractor certifies that performance under this Contract, in addition to meeting the terms of the Contract, will be made using ethical business standards and good stewardship of taxpayer and other public funding and resources to prevent fraud, waste and abuse.

**Collusion.** The Contractor certifies that this Contract has been offered in good faith and without collusion, fraud or unfair trade practices with any other person, that any actions to avoid or frustrate fair and open competition are prohibited by law, and shall be grounds for rejection or disqualification of a Response or termination of this Contract.

**Public Records and Access** The Contractor shall provide full access to records related to performance and compliance to the Department and officials listed under Executive Order 195 and G.L. c. 11, s.12 seven (7) years beginning on the first day after the final payment



# COMMONWEALTH OF MASSACHUSETTS ~ STANDARD CONTRACT FORM

under this Contract or such longer period necessary for the resolution of any litigation, claim, negotiation, audit or other inquiry involving this Contract. Access to view Contractor records related to any breach or allegation of fraud, waste and/or abuse may not be denied and Contractor can not claim confidentiality or trade secret protections solely for viewing but not retaining documents. Routine Contract performance compliance reports or documents related to any alleged breach or allegation of non-compliance, fraud, waste, abuse or collusion may be provided electronically and shall be provided at Contractor's own expense. Reasonable costs for copies of non-routine Contract related records shall not exceed the rates for public records under 950 C.M.R. 32.00.

**Debarment.** The Contractor certifies that neither it nor any of its subcontractors are currently debarred or suspended by the federal or state government under any law or regulation including, Executive Order 147; G.L. c. 29, s. 29F; G.L. c. 30, s. 39R; G.L. c. 149, s. 27C; G.L. c. 149, s. 44C; G.L. c. 149, s. 148B and G.L. c. 152, s. 25C.

**Applicable Laws.** The Contractor shall comply with all applicable state laws and regulations including but not limited to the applicable Massachusetts General Laws; the Official Code of Massachusetts Regulations; Code of Massachusetts Regulations (unofficial); 801 CMR 21.00 (Procurement of Commodity and Service Procurements, Including Human and Social Services); 815 CMR 2.00 (Grants and Subsidies); 808 CMR 1.00 (Compliance, Reporting and Auditing for Human And Social Services); AICPA Standards; confidentiality of Department records under G.L. c. 66A; and the Massachusetts Constitution Article XVIII if applicable.

**Invoices.** The Contractor must submit invoices in accordance with the terms of the Contract and the Commonwealth Bill Paying Policy. Contractors must be able to reconcile and properly attribute concurrent payments from multiple Departments. Final invoices in any fiscal year must be submitted no later than August 15<sup>th</sup> for performance made and received (goods delivered, services completed) prior to June 30<sup>th</sup>, in order to make payment for that performance prior to the close of the fiscal year to prevent reversion of appropriated funds. Failure to submit timely invoices by August 15<sup>th</sup> or other date listed in the Contract shall authorize the Department to issue an estimated payment based upon the Department's determination of performance delivered and accepted. The Contractor's acceptance of this estimated payment releases the Commonwealth from further claims for these invoices. If budgetary funds revert due to the Contractor's failure to submit timely final invoices, or for disputing an estimated payment, the Department may deduct a penalty up to 10% from any final payment in the next fiscal year for failure to submit timely invoices.

**Payments Subject To Appropriation.** Pursuant to G.L. c. 29, s. 26, s. 27 and s. 29, Departments are required to expend funds only for the purposes set forth by the Legislature and within the funding limits established through appropriation, allotment and subsidiary, including mandated allotment reductions triggered by G.L. c. 29, s. 9C. A Department cannot authorize or accept performance in excess of an existing appropriation and allotment, or sufficient non-appropriated available funds. Any oral or written representations, commitments, or assurances made by the Department or any other Commonwealth representative are not binding. The Commonwealth has no legal obligation to compensate a Contractor for performance that is not requested and is intentionally delivered by a Contractor outside the scope of a Contract. Contractors should verify funding prior to beginning performance.

**Intercept.** Contractors may be registered as Customers in the Vendor file if the Contractor owes a Commonwealth debt. Unresolved and undisputed debts, and overpayments of Contract payments that are not reimbursed timely shall be subject to intercept pursuant to G.L. c. 7A, s. 3 and 815 CMR 9.00. Contract overpayments will be subject to immediate intercept or payment offset. The Contractor may not penalize any state Department or assess late fees, cancel a Contract or other services if amounts are intercepted or offset due to recoupment of an overpayment, outstanding taxes, child support, other overdue debts or Contract overpayments.

**Tax Law Compliance.** The Contractor certifies under the pains and penalties of perjury tax compliance with Federal tax laws; state tax laws including but not limited to G.L. c. 62C; G.L. c. 62C, s. 49A; compliance with all state tax laws, reporting of employees and contractors, withholding and remitting of tax withholdings and child support and is in good standing with respect to all state taxes and returns due; reporting of employees and contractors under G.L. c. 62E, withholding and remitting child support including G.L. c. 119A, s. 12; TIR 05-11; New Independent Contractor Provisions and applicable TIRs.

**Bankruptcy, Judgments, Potential Structural Changes, Pending Legal Matters and Conflicts.** The Contractor certifies it has not been in bankruptcy and/or receivership within the last three calendar years, and the Contractor certifies that it will immediately notify the Department in writing at least 45 days prior to filing for bankruptcy and/or receivership, any potential structural change in its organization, or if there is any risk to the solvency of the Contractor that may impact the Contractor's ability to timely fulfill the terms of this Contract or Amendment. The Contractor certifies that at any time during the period of the Contract the Contractor is required to affirmatively disclose in writing to the Department Contract Manager the details of any judgment, criminal conviction, investigation or litigation pending against the Contractor or any of its officers, directors, employees, agents, or subcontractors, including any potential conflicts of interest of which the Contractor has knowledge, or learns of during the Contract term. Law firms or Attorneys providing legal

services are required to identify any potential conflict with representation of any Department client in accordance with Massachusetts Board of Bar Overseers (BBO) rules.

**Federal Anti-Lobbying and Other Federal Requirements.** If receiving federal funds, the Contractor certifies compliance with federal anti-lobbying requirements including 31 USC 1352; other federal requirements; Executive Order 11246; Air Pollution Act; Federal Water Pollution Control Act and Federal Employment Laws.

**Protection of Personal Data and Information.** The Contractor certifies that all steps will be taken to ensure the security and confidentiality of all Commonwealth data for which the Contractor becomes a holder, either as part of performance or inadvertently during performance, with special attention to restricting access, use and disbursement of personal data and information under G.L. c. 93H and c. 66A and Executive Order 504. The Contractor is required to comply with G.L. c. 93I for the proper disposal of all paper and electronic media, backups or systems containing personal data and information, provided further that the Contractor is required to ensure that any personal data or information transmitted electronically or through a portable device be properly encrypted using (at a minimum) Information Technology Division (ITD) Protection of Sensitive Information, provided further that any Contractor having access to credit card or banking information of Commonwealth customers certifies that the Contractor is PCI compliant in accordance with the Payment Card Industry Council Standards and shall provide confirmation compliance during the Contract, provide further that the Contractor shall immediately notify the Department in the event of any security breach including the unauthorized access, disbursement, use or disposal of personal data or information, and in the event of a security breach, the Contractor shall cooperate fully with the Commonwealth and provide access to any information necessary for the Commonwealth to respond to the security breach and shall be fully responsible for any damages associated with the Contractor's breach including but not limited to G.L. c. 214, s. 3B.

**Corporate and Business Filings and Reports.** The Contractor certifies compliance with any certification, filing, reporting and service of process requirements of the Secretary of the Commonwealth, the Office of the Attorney General or other Departments as related to its conduct of business in the Commonwealth; and with its incorporating state (or foreign entity).

**Employer Requirements.** Contractors that are employers certify compliance with applicable state and federal employment laws or regulations, including but not limited to G.L. c. 5, s. 1 (Prevailing Wages for Printing and Distribution of Public Documents); G.L. c. 7, s. 22 (Prevailing Wages for Contracts for Meat Products and Clothing and Apparel); minimum wages and prevailing wage programs and payments; unemployment insurance and contributions; workers' compensation and insurance; child labor laws; AGO fair labor practices; G.L. c. 149 (Labor and Industries); G.L. c. 150A (Labor Relations); G.L. c. 151 and 455 CMR 2.00 (Minimum Fair Wages); G.L. c. 151A (Employment and Training); G.L. c. 151B (Unlawful Discrimination); G.L. c. 151E (Business Discrimination); G.L. c. 152 (Workers' Compensation); G.L. c. 153 (Liability for Injuries); 29 USC c. 8 (Federal Fair Labor Standards); 29 USC c. 28 and the Federal Family and Medical Leave Act.

**Federal And State Laws And Regulations Prohibiting Discrimination** including but not limited to the Federal Equal Employment Opportunity (EEO) Laws the Americans with Disabilities Act; 42 U.S.C. Sec. 12,101, et seq., the Rehabilitation Act, 29 USC c. 16 s. 794; 29 USC c. 16, s. 701; 29 USC c. 14, 623; the 42 USC c. 45; (Federal Fair Housing Act); G.L. c. 151B (Unlawful Discrimination); G.L. c. 151E (Business Discrimination); the Public Accommodations Law G.L. c. 272, s. 92A; G.L. c. 272, s. 98 and 98A, Massachusetts Constitution Article CXIV and G.L. c. 93A, s. 103; 47 USC c. 5, sc. II, Part II, s. 255 (Telecommunication Act; Chapter 149, Section 105D, G.L. c. 151C, G.L. c. 272, Section 92A, Section 98 and Section 98A, and G.L. c. 111, Section 199A, and Massachusetts Disability-Based Non-Discrimination Standards For Executive Branch Entities, and related Standards and Guidance, authorized under Massachusetts Executive Order or any disability-based protection arising from state or federal law or precedent. See also MCAD and MCAD links and Resources.

**Small Business Purchasing Program (SBPP).** A Contractor may be eligible to participate in the SBPP, created pursuant to Executive Order 523, if qualified through the SBPP COMMBUYS subscription process at www.commbuys.com and with acceptance of the terms of the SBPP participation agreement.

**Limitation of Liability for Information Technology Contracts (and other Contracts as Authorized).** The Information Technology Mandatory Specifications and the IT Acquisition Accessibility Contract Language are incorporated by reference into Information Technology contracts in the U01, U02, U03, U04, U05, U06, U07, U08, U09, U10, U75, U98 object codes in the Expenditure Classification Handbook or other Contracts as approved by CTR or OSD. Pursuant to Section 11. Indemnification of the Commonwealth Terms and Conditions, the term "other damages" shall include, but shall not be limited to, the reasonable costs the Commonwealth incurs to repair, return, replace or seek cover (purchase of comparable substitute commodities and services) under a Contract. "Other damages" shall not include damages to the Commonwealth as a result of third party claims, provided, however, that the foregoing in no way limits the Commonwealth's right of recovery for personal injury or property damages or patent and copyright infringement under Section 11 nor the Commonwealth's ability to join the contractor as a third party defendant. Further, the term



# COMMONWEALTH OF MASSACHUSETTS ~ STANDARD CONTRACT FORM

"other damages" shall not include, and in no event shall the contractor be liable for, damages for the Commonwealth's use of contractor provided products or services, loss of Commonwealth records, or data (or other intangible property), loss of use of equipment, lost revenue, lost savings or lost profits of the Commonwealth. In no event shall "other damages" exceed the greater of \$100,000, or two times the value of the product or service (as defined in the Contract scope of work) that is the subject of the claim. Section 11 sets forth the contractor's entire liability under a Contract. Nothing in this section shall limit the Commonwealth's ability to negotiate higher limitations of liability in a particular Contract, provided that any such limitation must specifically reference Section 11 of the Commonwealth Terms and Conditions. In the event the limitation of liability conflicts with accounting standards which mandate that there can be no cap of damages, the limitation shall be considered waived for that audit engagement. These terms may be applied to other Contracts only with prior written confirmation from the Operational Services Division or the Office of the Comptroller. The terms in this Clarification may not be modified.

**Northern Ireland Certification.** Pursuant to G.L. c. 7 s. 22C for state agencies, state authorities, the House of Representatives or the state Senate, by signing this Contract the Contractor certifies that it does not employ ten or more employees in an office or other facility in Northern Ireland and if the Contractor employs ten or more employees in an office or other facility located in Northern Ireland the Contractor certifies that it does not discriminate in employment, compensation, or the terms, conditions and privileges of employment on account of religious or political belief, and it promotes religious tolerance within the work place, and the eradication of any manifestations of religious and other illegal discrimination; and the Contractor is not engaged in the manufacture, distribution or sale of firearms, munitions, including rubber or plastic bullets, tear gas, armored vehicles or military aircraft for use or deployment in any activity in Northern Ireland.

**Pandemic, Disaster or Emergency Performance.** In the event of a serious emergency, pandemic or disaster outside the control of the Department, the Department may negotiate emergency performance from the Contractor to address the immediate needs of the Commonwealth even if not contemplated under the original Contract or procurement. Payments are subject to appropriation and other payment terms.

**Consultant Contractor Certifications** (For Consultant Contracts "HH" and "NN" and "U05" object codes subject to G.L. Chapter 29, s. 29A). Contractors must make required disclosures as part of the RFR Response or using the Consultant Contractor Mandatory Submission Form.

**Attorneys.** Attorneys or firms providing legal services or representing Commonwealth Departments may be subject to G.L. c. 30, s. 65, and if providing litigation services must be approved by the Office of the Attorney General to appear on behalf of a Department, and shall have a continuing obligation to notify the Commonwealth of any conflicts of interest arising under the Contract.

**Subcontractor Performance.** The Contractor certifies full responsibility for Contract performance, including subcontractors, and that comparable Contract terms will be included in subcontracts, and that the Department will not be required to directly or indirectly manage subcontractors or have any payment obligations to subcontractors.

## EXECUTIVE ORDERS

For covered Executive state Departments, the Contractor certifies compliance with applicable Executive Orders (see also Massachusetts Executive Orders), including but not limited to the specific orders listed below. A breach during period of a Contract may be considered a material breach and subject Contractor to appropriate monetary or Contract sanctions.

**Executive Order 481. Prohibiting the Use of Undocumented Workers on State Contracts.** For all state agencies in the Executive Branch, including all executive offices, boards, commissions, agencies, Departments, divisions, councils, bureaus, and offices, now existing and hereafter established, by signing this Contract the Contractor certifies under the pains and penalties of perjury that they shall not knowingly use undocumented workers in connection with the performance of this Contract; that, pursuant to federal requirements, shall verify the immigration status of workers assigned to a Contract without engaging in unlawful discrimination; and shall not knowingly or recklessly alter, falsify, or accept altered or falsified documents from any such worker

**Executive Order 130. Anti-Boycott.** The Contractor warrants, represents and agrees that during the time this Contract is in effect, neither it nor any affiliated company, as hereafter defined, participates in or cooperates with an international boycott (See IRC § 999(b)(3)-(4), and IRS Audit Guidelines Boycotts) or engages in conduct declared to be unlawful by G.L. c. 151E, s. 2. A breach in the warranty, representation, and agreement contained in this paragraph, without limiting such other rights as it may have, the Commonwealth shall be entitled to rescind this Contract. As used herein, an affiliated company shall be any business entity of which at least 51% of the ownership interests are directly or indirectly owned by the Contractor or by a person or persons or business entity or entities directly or indirectly owning at least 51% of the ownership interests of the Contractor, or which directly or indirectly owns at least 51% of the ownership interests of the Contractor.

**Executive Order 346. Hiring of State Employees By State Contractors** Contractor certifies compliance with both the conflict of interest law G.L. c. 268A specifically s. 5 (f) and this order, and includes limitations regarding the hiring of state employees by private companies contracting with the Commonwealth. A privatization contract shall be deemed

to include a specific prohibition against the hiring at any time during the term of Contract, and for any position in the Contractor's company, any state management employee who is, was, or will be involved in the preparation of the RFP, the negotiations leading to the awarding of the Contract, the decision to award the Contract, and/or the supervision or oversight of performance under the Contract.

**Executive Order 444. Disclosure of Family Relationships With Other State Employees.** Each person applying for employment (including Contract work) within the Executive Branch under the Governor must disclose in writing the names of all immediate family related to immediate family by marriage who serve as employees or elected officials of the Commonwealth. All disclosures made by applicants hired by the Executive Branch under the Governor shall be made available for public inspection to the extent permissible by law by the official with whom such disclosure has been filed.

**Executive Order 504. Regarding the Security and Confidentiality of Personal Information.** For all Contracts involving the Contractor's access to personal information, as defined in G.L. c. 93H, and personal data, as defined in G.L. c. 66A owned or controlled by Executive Department agencies, or access to agency systems containing such information or data (herein collectively "personal information"), Contractor certifies under the pains and penalties of perjury that the Contractor (1) has read Commonwealth of Massachusetts Executive Order 504 and agrees to protect any and all personal information; and (2) has reviewed all of the Commonwealth Information Technology Division's Security Policies. Notwithstanding any contractual provision to the contrary, in connection with the Contractor's performance under this Contract, for all state agencies in the Executive Department, including all executive offices, boards, commissions, agencies, departments, divisions, councils, bureaus, and offices, now existing and hereafter established, the Contractor shall: (1) obtain a copy, review, and comply with the contracting agency's Information Security Program (ISP) and any pertinent security guidelines, standards, and policies; (2) comply with all of the Commonwealth of Massachusetts Information Technology Division's "Security Policies" (3) communicate and enforce the contracting agency's ISP and such Security Policies against all employees (whether such employees are direct or contracted) and subcontractors; (4) implement and maintain any other reasonable appropriate security procedures and practices necessary to protect personal information to which the Contractor is given access by the contracting agency from the unauthorized access, destruction, use, modification, disclosure or loss; (5) be responsible for the full or partial breach of any of these terms by its employees (whether such employees are direct or contracted) or subcontractors during or after the term of this Contract, and any breach of these terms may be regarded as a material breach of this Contract; (6) in the event of any unauthorized access, destruction, use, modification, disclosure or loss of the personal information (collectively referred to as the "unauthorized use"): (a) immediately notify the contracting agency if the Contractor becomes aware of the unauthorized use; (b) provide full cooperation and access to information necessary for the contracting agency to determine the scope of the unauthorized use; and (c) provide full cooperation and access to information necessary for the contracting agency and the Contractor to fulfill any notification requirements. Breach of these terms may be regarded as a material breach of this Contract, such that the Commonwealth may exercise any and all contractual rights and remedies, including without limitation indemnification under Section 11 of the Commonwealth's Terms and Conditions, withholding of payments, Contract suspension, or termination. In addition, the Contractor may be subject to applicable statutory or regulatory penalties, including and without limitation, those imposed pursuant to G.L. c. 93H and under G.L. c. 214, § 3B for violations under M.G.L. c. 66A. **Executive Orders 523, 524 and 526.** Executive Order 526 (Order Regarding Non-Discrimination, Diversity, Equal Opportunity and Affirmative Action which supersedes Executive Order 478), Executive Order 524 (Establishing the Massachusetts Supplier Diversity Program which supersedes Executive Order 390), Executive Order 523 (Establishing the Massachusetts Small Business Purchasing Program.) All programs, activities, and services provided, performed, licensed, chartered, funded, regulated, or contracted for by the state shall be conducted without unlawful discrimination based on race, color, age, gender, ethnicity, sexual orientation, gender identity or expression, religion, creed, ancestry, national origin, disability, veteran's status (including Vietnam-era veterans), or background. The Contractor and any subcontractors may not engage in discriminatory employment practices; and the Contractor certifies compliance with applicable federal and state laws, rules, and regulations governing fair labor and employment practices; and the Contractor commits to purchase supplies and services from certified minority or women-owned businesses, small businesses, or businesses owned by socially or economically disadvantaged persons or persons with disabilities. These provisions shall be enforced through the contracting agency, OSD, and/or the Massachusetts Commission Against Discrimination. Any breach shall be regarded as a material breach of the contract that may subject the contractor to appropriate sanctions.



SETTI D. WARREN  
MAYOR

City of Newton, Massachusetts  
Office of the Mayor

#143-15  
Telephone  
(617) 796-1100  
Facsimile  
(617) 796-1113  
TDD/TTY  
(617) 796-1089  
E-mail  
swarren@newtonma.gov

May 26, 2015

Honorable Board of Aldermen  
Newton City Hall  
1000 Commonwealth Avenue  
Newton Centre, MA 02459

Ladies and Gentlemen:

I write to request that your Honorable Board appropriate the sum of \$20,000 from June 30, 2014 Certified Free Cash for fees relating to the transport and disposal of railroad ties in order to expedite the completion of the "Rail Trail Project".

Unfortunately, the City's original contractor was unable to complete the project as planned. The original contractor is able to load the railroad ties, but neither the City, nor the contractor, is able to transport and dispose of the ties. This funding will be paid to the hauler and it is the expectation that these funds will be reimbursed to the City by the original contractor on or before August 31, 2015.

Thank you for your consideration of this matter.

Sincerely,

Setti D. Warren  
Mayor

RECEIVED  
Newton City Clerk  
2015 MAY 27 PM 2:00  
David A. Olson, Clerk  
Newton, MA 02459

1000 Commonwealth Avenue Newton, Massachusetts 02459

[www.newtonma.gov](http://www.newtonma.gov)



DEDICATED TO COMMUNITY EXCELLENCE



SETTI D. WARREN  
MAYOR

City of Newton, Massachusetts  
Office of the Mayor

#143-15

Telephone  
(617) 796-1100

Facsimile  
(617) 796-1113

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(617) 796-1089

E-mail  
swarren@newtonma.gov

May 26, 2015

Mayor Setti D. Warren  
Newton City Hall  
1000 Commonwealth Avenue  
Newton Centre, MA 02459

Dear Mayor Warren:

I write to request that you docket an item before the Honorable Board to request the appropriation of \$20,000 for fees relating to the transport and disposal of railroad ties in order to expedite the completion of the Upper Falls "Rail Trail Project".

Unfortunately, the City's original contractor (Iron Horse) was unable to complete the project as planned. The original contractor is able to load the railroad ties, but neither the City, nor the contractor, is able to transport and dispose of the ties. This funding will be paid directly to the hauler on a per load basis after the ties are removed from the site. The work is estimated to take a week to complete. The contractor and hauler can complete this work the week of June 15, 2015. The Law Department has prepared a contract amendment with the contractor (attached), which stipulates that he will reimburse the City for this expenditure on or before August 31, 2015.

Thank you for your consideration of this matter.

Sincerely,

Dori Zaleznik  
Chief Administrative Officer

1000 Commonwealth Avenue Newton, Massachusetts 02459

[www.newtonma.gov](http://www.newtonma.gov)



DEDICATED TO COMMUNITY EXCELLENCE

Mayor Setti Warren  
Ex officio



**Newton School Committee**

100 Walnut Street  
Newtonville, MA 02460

Tel (617) 559-6110

Fax (617) 559-6101

www.newton.k12.ma.us

schoolcommittee@newton.k12.ma.us

**Ward**

- I Ellen Gibson
- II Margaret Albright
- III Angela Pitter-Wright
- IV Diana Fisher Gomberg
- V Steven Siegel
- VI Ruth Goldman
- VII Matthew Hills, Chairperson
- VIII Margie Ross Decter, Vice-Chairperson

May 28, 2015

Mayor Setti Warren  
Newton City Hall  
1000 Commonwealth Ave.  
Newton Centre, MA 02459

Dear Mayor Warren:

At the meeting of 5/27/15, as per the attachment, the School Committee voted to approve the request for \$112,976.61 for school technology purchases from e-rate reimbursement funds collected during FY15 to date. The funds will allow for updating or replacing core switches in all buildings to take advantage of the new Citywide fiber wide area network (WAN), which will increase the network performance.

This request and the recommended uses for the funding are within the prescribed process and policy on use of E-rate funds, as referenced in the attached memorandum from David Wilkinson.

The Committee requests that you docket this before the Board of Aldermen for their approval. Please do not hesitate to contact me if you have any questions.

Sincerely,

Deirdre Reade  
Confidential Executive Assistant

cc: David Olson, Clerk of the Board of Aldermen  
David Wilkinson, Comptroller  
Maureen Lemieux, Chief Financial Officer  
Leo Brehm, Director of Information Technology  
Sean Mannion, Senior Budget Analyst

**APPROVED**

Attachments

# NEWTON PUBLIC SCHOOLS

100 Walnut Street, Newtonville, MA 02460

AREA CODE (617) 559-9025

## Memorandum

\*\*\*\*\*

TO: David Fleishman, Superintendent  
School Committee

FROM: Sandra Guryan, Deputy Superintendent/Chief Administrative Officer

DATE: May 27, 2015

RE: E-Rate Funds for School Technology Spending

\*\*\*\*\*

This memo serves as a request that the School Committee make a request of the Mayor that E-Rate funds collected through May 2015 be appropriated to the School Department.

Attached is a detailed request from Leo Brehm, Director of Information Technology and Libraries, for district technology purchases to be made using the funds received from E-Rate (Universal Service Discount) reimbursements. The new funds will be used to update or replace the core switches in all school buildings to fully utilize the new city-wide fiber wide area network that is nearing completion. The FY15 funds collected year-to-date total \$112,976.61. Per agreement with the Board of Aldermen, the School Committee must request appropriation of these funds for the purpose of purchasing technology items. I have enclosed the April 29, 1998 memo with this provision and agreement. Since FY99, \$1,526,920 has been received. This request for core switches has been prepared by Leo Brehm in keeping with the current technology plan for Newton. Please see the table on the next page for a listing of all E-rate funds received and appropriated from FY99 to the present.

In order to access these funds, the School Committee may vote to request them from the Board of Aldermen. After such vote, the School Committee must send a letter to the Mayor and Board of Aldermen requesting that this item be placed on the docket.

### Attachments

cc: David Wilkinson, Comptroller  
Maureen Lemieux, Chief Financial Officer  
Leo Brehm, Director of Information Technology and Libraries

	<b>E-Rate Funds Received</b>	<b>E-Rate Funds Appropriated</b>
FY99	\$78,397	\$0
FY00	\$78,505	\$0
FY01	\$65,220	\$193,646
FY02	\$73,470	\$63,112
FY03	\$31,923	\$69,338
FY04	\$74,242	\$45,745
FY05	\$0	\$29,916
FY06	\$51,467	\$0
FY07	\$72,639	\$124,106
FY08	\$18,020	\$0
FY09	\$191,190	\$0
FY10	\$130,841	\$201,497
FY11	\$96,678	\$235,232
FY12	\$212,666	\$212,666
FY13	\$119,426	\$119,426
FY14	\$119,259	\$119,259
FY15	\$112,977	\$112,977 - requested
<b>Total</b>	<b>\$1,526,920</b>	<b>\$1,526,920</b>



**Leo G Brehm II**  
*Director of Information Technology and Libraries*  
**NEWTON PUBLIC SCHOOLS**  
100 Walnut Street,  
Newtonville, MA 02460-1398  
Phone: 617-559-6190  
Fax: 617-559-6191

---

To: Dr. David A. Fleishman  
Superintendent of Schools

From: Leo Brehm

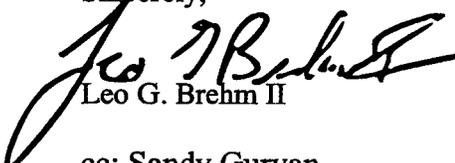
Date: May 12, 2015

Subject: E-Rate Funds Request

The purpose of this memo is to request \$112,976.61 in FY15 E-Rate funds received year-to-date. We plan to update or replace the core switches in all of our buildings to take advantage of our new city-wide fiber wide area network (WAN) that is nearing completion. This will increase the network performance between our schools and the Internet and other network resources. In addition, this will benefit the network performance within each of our elementary schools.

Thank you for your time and consideration.

Sincerely,

  
Leo G. Brehm II

cc: Sandy Guryan

**COMPTROLLER'S OFFICE**

1000 Commonwealth Avenue  
Newton, Massachusetts 02159  
(617) 552-7088

April 29, 1998

TO: Janet Goldrick, Acting Superintendent of Schools

FROM: David Wilkinson, Comptroller 

SUBJECT: Federal E-rate Reimbursements

Thank you for inviting me to the E-rate meeting at the Education Center yesterday afternoon. The purpose of this communication is to confirm my understanding of the financial accounting and reporting issues of this program.

**Vendor Payment:**

It is my understanding that the School Department will pay vendors the full cost of purchases potentially eligible for reimbursement under the E-rate program. The vendor will make application for reimbursement from the *Schools and Libraries Corporation* and will pass this refund on to the School Department. As I understand it the School Department will enter into a written agreement with each vendor to insure that any and all rebates that are granted will be passed along to the School Department in full. This agreement will be reviewed by the City Solicitor's Office to make certain that it is legally binding upon the vendor.

In order to avoid losing track of rebates that are owed to the City, I would recommend that employees of the School Department provide the Comptroller's Office with written notification of the dollar amount of each expected rebate, by vendor, at the point that it becomes known that a rebate is owed to the School Department. We will use this information to record an account receivable on the City's books, which can be monitored until such time as the rebate is actually received.

**E-rate Cash Receipts:**

All rebated cash receipts are City of Newton revenues, and can not be spent without an appropriation by the Mayor and Board of Aldermen. All rebate checks must be forwarded to the City Treasurer's Office, along with a standard cash receipt schedule, within one week of receipt. All E-rate cash receipts should be coded to Receipts Reserved for Appropriation account 14K301-4890.

The new receipts reserved for appropriation account will be used exclusively to account for E-rate reimbursements. As E-rate reimbursements are received, they will be deposited in this account, which will serve as a source for future technology appropriations. The appropriations can be requested of the Mayor and Board as frequently as you wish.

Funds appropriated from the E-rate Receipts Reserved for Appropriation account will be accounted for in the School Technology special appropriation section of the City's general ledger. This will insure that the funds are only used for school technology purposes. The specific expense budget account numbers will be provided to you within the text of the board order, which is used to appropriate the funds.

Please give me a call if you have any questions about these procedures.

Cc: Steve Cirillo  
Don Jensen  
Powers & Sullivan, CPA

COMPTROLLER'S OFFICE  
DATE: 05/12/2015  
TIME: 10:49:37

CITY OF NEWTON, MASSACHUSETTS  
REVENUE STATUS REPORT

PAGE NUMBER: 1  
REVSTAI1

SELECTION CRITERIA: revledgr.key\_orgn='14I301'  
ACCOUNTING PERIOD: 11/15

SORTED BY: MAJOR PROGRAM, PROGRAM, 1ST SUBTOTAL, ACCOUNT  
TOTALLED ON: MAJOR PROGRAM, PROGRAM, 1ST SUBTOTAL  
PAGE BREAKS ON: MAJOR PROGRAM

MAJOR PROGRAM-99 PUBLIC EDUCATION  
PROGRAM-14I301 SCHOOL E-RATE RECEIPTS  
1ST SUBTOTAL-4800 MISCELLANEOUS REVENUE

ACCOUNT - - - - -	TITLE - - - - -	BUDGET	PERIOD RECEIPTS	RECEIVABLES	YEAR TO DATE RECEIPTS	AVAILABLE BALANCE	YTD/ BUD
4800	MISCELLANEOUS REVENUE	.00	.00	.00	112,978.61	-112,978.61	.00
	TOTAL MISCELLANEOUS REVENUE	.00	.00	.00	112,978.61	-112,978.61	.00
	TOTAL SCHOOL E-RATE RECEIPTS	.00	.00	.00	112,978.61	-112,978.61	.00
	TOTAL PUBLIC EDUCATION	.00	.00	.00	112,978.61	-112,978.61	.00
	TOTAL REPORT	.00	.00	.00	112,978.61	-112,978.61	.00