



Finance Committee Report

City of Newton In City Council

Wednesday, November 14, 2018

Present: Councilors Gentile (Chair), Ciccone, Cote, Rice, Noel, Grossman, and Lappin

Absent: Councilor Norton

Also present: Councilor Markiewicz

City staff present: Barney Heath (Director of Planning & Development), Josh Morse (Commissioner of Public Buildings), Sue Dzikowski (Comptroller), and Maureen Lemieux (Chief Financial Officer)

#472-18 Selection of external auditor for FY 19 –FY 23

COMPROLLER requesting that the City Council select a qualified public accounting firm to complete the City's annual financial audit for fiscal years 2019 to 2023.

Action: Finance Approved 7-0

Note: Financial Audit Advisory Committee (FAAC) member Tony Logalbo presented the FAAC's recommendation on awarding the contract for the external auditor for the next five years. The City's contract with the current external auditor expires December 31, 2018. The FAAC is charged with making a recommendation to the City Council through the Finance Committee on the contract for the next external auditor. A sub-committee of the FAAC was formed to develop a Request for Proposals (RFP) for a new five-year contract, evaluate the submitted proposals, conduct interviews, and make a recommendation. The six members of the sub-committee included Tony Logalbo (Chair), Councilor Rebecca Grossman, Councilor Chris Markiewicz, Terry Finn, Comptroller Sue Dzikowski, and David Spector.

The City received responses from three firms to the RFP and all three firms met the necessary qualifications outlined in the RFP. The sub-committee members interviewed the three certified public accounting firms that responded to the City's Request for Proposals. At the conclusion of the interviews, the sub-committee individually reviewed each firm's proposals and presentations and unanimously selected Clifton, Larson, Allen, LLC (CLA), as the first choice as the City's external auditor for Fiscal 2019 to Fiscal 2023. CLA is the City's current external auditor. The price proposals were unsealed once the rankings were complete and CLA was the lowest price firm. Mr. Logalbo noted that the sub-committee members recognized that all three firms were impressive and would be more than capable of filling the role as the City's external auditing firm.

As members of the sub-committee, Councilors Grossman and Markiewicz spoke on the selection of CLA. They agreed that all three responding firms were exceptional. CLA's presentation was excellent and highlighted their knowledge of Newton and their commitment to work with the City. The City is in the process of moving to the Munis Financial Software as its financial software system. CLA has people with expertise in Munis and its implementation and will provide the City with support, if requested, during implementation. Councilor Grossman added that she would like to see CLA

highlight areas that the City should be focusing on and possibly provide the audit reports with a summary for easier translation and comprehension of a large amount of complex material.

There was a question regarding whether there are benefits to contracting with the same audit firm for another five-year period and whether that carried any extra weight when ranking the firms. Tony Logalbo stated that it did not impact the rankings. He added that it is the practice for long-term auditing firms to change the principal partner on their contracts after a five-year period and he anticipates that CLA will change its principal partner for the City shortly. The City is hiring the firm not the principal. CLA is a national firm and can support the rotation of partners. The Chair expects that the FAAC will have a discussion with the current partner regarding making that change.

Councilor Grossman moved approval, which carried by a vote of seven in favor and none opposed. The Chair recognized the hard work and thanked the members of the sub-committee, especially Mr. Logalbo for all his efforts in organizing and managing the sub-committee.

#409-18 Report on developers' profits on 40B projects

COUNCILORS NORTON AND GENTILE requesting a report from the Planning & Development Department on developers profits from Chapter 40B projects in the City.

Action: Finance Held 7-0

Note: Planning and Development Director Barney Heath joined the Committee for the discussion of this item. The Chair explained that the item is being discussed to clarify what information is being requested. The docket item refers to only 40B projects, but it would be helpful to have information on large special permit projects. Developers for large-scale special permit and 40B projects always state that project needs to be a certain density in order to make a profit. The developer represents a sale/rental price for units during the permitting process but there is a sense that the actual rental/sale prices are much higher than represented. It is important to verify that the City is being given the right information from the developer.

Mr. Heath explained that the State requires 40B developer to provide audited statements on 40B projects to verify that the developer has not exceeded the maximum allowable profit as established by the State's Department of Housing and Community Development and Mass Housing. Mr. Heath provided the attached audited submittal related to the 40B at 75-77 and 83 Court Street. The maximum allowed profit on a 40B project is 20%, which was not exceeded in the case of the Court Street project. There was a question related to whether there is an escalator clause in the 40B paperwork related to selling at market rate. Mr. Health will look at what the Court Street developer represented for unit price at the time of the approval process and what the market rate was at the time of sale. He will also find out if there is an escalator clause.

It would be helpful to understand the market rates for rental/purchase at the time of the approval process for large-scale special permit projects. If possible, it should be included in the Planning Department's memo provided to Land Use during the special permit approval process. There was a suggestion that the developer could fund an independent analysis under the provisions of

Massachusetts General Law c. 44, §53G and Newton Revised Ordinances, § 22-4. The Council should be able to verify that the developer is giving accurate information. It may also be possible to add language in the special permit that if the developer profits more than stated, the City receives additional mitigation funds. Mr. Heath will check with the Law Department on the legality of including this type of language in a special permit and whether the Council can request financial information from a private developer.

It was pointed out that the City is working towards developing its own financial model to understand fiscal impacts of projects on the City. A model may help the Council understand the amount of profit a developer is making from a project. There is also the possibility that the Council could require peer review of the financials on large developments. Mr. Heath suggested having the Law Department weigh in on whether peer reviews are feasible. The developer may not be required to provide the City with any financial information as it may be deemed confidential.

Committee members asked Mr. Heath for the audited submittal for the Lexington Street 40B project. In addition, the Committee would like further information on what developers represented as sale/rent prices versus the actual prices for recent large-scale projects. The Chair will check with Councilor Norton to see if there is other information that she would like. The Committee should work with Land Use to determine if there is any recourse for the Council if a developer misrepresents profits. With that, Councilor Noel moved hold, which carried unanimously.

Referred to Public Facilities and Finance Committees

#535-18 Appropriate \$500,000 for interior improvements at the library

HER HONOR THE MAYOR requesting authorization to appropriate five hundred thousand dollars (\$500,000) from bonded indebtedness for the purpose of funding the design, procurement, and construction of the interior improvements at the Newton Free Library.

Public Facilities Approved 6-0-1 (Danberg abstaining; Norton not voting) on 11/07/18

Action: Finance Approved 7-0

Note: Commissioner of Public Buildings Josh Morse presented the request for \$500,000 to replace significant amounts of carpet at the library, install additional acoustical panels in the Druker Auditorium, painting, and removal of the reference desk at the library. The funding request includes design, construction, and contingency for the interior improvement. These improvements are included in the Capital Improvement Plan (CIP) and are Priorities 1 and 2 on the Library Improvement Plan.

The useful life of carpeting is around 10 years; the carpeting in the library is 27 years old and has seen a lot of foot traffic. Newton's main library is one of the most heavily used libraries in the state. The Public Buildings Department is looking at other durable flooring materials for the high-traffic areas like the main stairs. It is likely that the remainder of the carpet will be replaced with carpet tile, which will allow small areas of carpet to be replaced, if damaged but Public Buildings, the Library Working Group, and the Design Review Committee are still looking at all available flooring

options. They will work with suppliers to determine the best material. Public Buildings looked at the possibility of removing the bookshelves in order to replace the carpet underneath the shelves, but the cost is prohibitive. The contractor can install new flooring and leave the carpet underneath the shelves without any impact to the aesthetics. The project also includes fresh paint in various rooms and areas of the library.

When Druker Auditorium was planned, the number of people occupying the room was under estimated as a result the room does not have the best acoustics. The new panels will improve the sound quality in the auditorium. The reference desk is under-utilized for the valuable real estate it inhabits. The reference functions have already been relocated to the rear of the library.

A Committee member questioned whether it made sense to replace flooring when there are several improvement projects planned for the library in the future. Mr. Morse explained that the current CIP includes library mechanicals replacements and reconstruction of the Children's Room, which will not be in the vicinity of the new flooring. There was a question related to the high prioritization of this project when there are other issues that would seem to be higher priority that have not been funded like a flooding bathroom at an elementary school. The Commissioner explained that the CIP prioritization is based on different sets of values. The library is one of the most utilized buildings in the City and is part of what makes Newton a great community to live. It is important to make sure that assets like the library remain in good shape and continue to have a high level of utilization. There were no further questions and Councilor Ciccone moved approval, which carried unanimously.

Referred to Public Facilities and Finance Committee

#560-18 **Appropriation window replacement and accessibility designs at Lincoln-Eliot School**
HER HONOR THE MAYOR requesting authorization to appropriate one hundred fifty thousand dollars (\$150,000) from Free Cash for the purpose of funding the Lincoln-Eliot Elementary School window replacement and accessibility improvements design.

Public Facilities Approved 7-0 (Kelley not voting) on 11/07/18

Action: **Finance Approved 7-0**

Note: Commissioner of Public Buildings Josh Morse outlined the request for \$150,000 to design the window replacements at the Lincoln-Eliot Elementary School. The requested funds will cover documentation of existing conditions, demolition plans, design options for new windows, technical documents, and construction administration. The window replacement project is included in the Capital Improvement Plan at an estimated cost of \$1.35 million.

The \$1.35 million total project cost estimate is based on the last six window replacements that the City has done. The Commissioner also got input from a cost estimator to make sure that the cost estimate was in line with current window replacement costs for municipalities. The cost estimate also

includes the anticipated deglazing of some windows, as there are currently too many window panes. The replacement project will be evaluated throughout the process by the Design Review Committee.

The Commissioner added that the HVAC work at the school is almost complete. The second boiler is being replaced in the next few months. The Public Building Department is working with the School Department on issues with the gas service.

Commissioner Morse anticipates that the window replacement will take place while the building is occupied. Although the expectation is that the Lincoln -Eliot School will be moving to 150 Jackson Road in the next few years, the project will benefit the current student and teacher population. Once the move takes place, the Pearl Street building will be used as swing space for future school building projects. The Committee members are supportive of the project and Councilor Ciccone moved approval, which carried by a vote of seven in favor and none opposed.

Referred to Public Facilities and Finance Committee

#561-18 Appropriation of \$300,000 for building upgrades at Fire Stations 1 & 2

HER HONOR THE MAYOR requesting authorization to appropriate three hundred thousand dollars (\$300,000) from Free Cash for the purpose of funding upgrades at Fire Stations 1 and 2 including isolation of apparatus bay from living quarters and pole rehab/replacement.

Public Facilities Approved 7-0 (Kelley not voting) on 11/07/18

Action: Finance Approved 7-0

Note: Commissioner of Public Buildings Josh Morse explained that this is a request to fund upgrades that create a safer work environment for firefighters by improving air quality in living quarters at Fire Stations 1 (Newton Corner) and 2 (Commonwealth Avenue @ Washington Street). The Public Buildings Department provided a cost breakdown as part of the backup material attached to the agenda for the meeting.

The projects will result in an improved barrier between the living quarters and apparatus bays in both stations. The plan is to remove unused fire poles and infill them with concrete and put in new flooring. In addition, the remaining poles will be repaired including the entry gates and barriers on the poles to bring them up to OSHA standards to provide improved fall protection.

Stations 1 and 2 have not had major renovations and are not on the schedule for renovation in the next five years. Station 2 is slightly ahead of Station 1 in terms of prioritization. Both Stations 1 and 2 are close in needs but Station 1 is more stable in terms of systems. Also, there is the potential for large development in Newton Corner and along the Washington Street Corridor, which may generate a need for an additional bay at Station 1. Commissioner Morse believes that the feasibility study for Station 2 is at the tail end of the FY 19 - FY 23 Capital Improvement Plan.

The Committee understood the need for these projects and unanimously supported a motion to approve the item.

#558-18 Mayor's reappointment of Antonio Bianchi as a constable

HER HONOR THE MAYOR reappointing ANTONIO BIANCHI, 15 Colonial Avenue, Newton, reappointed as a Constable for the City of Newton for a term of office to expire November 1, 2021. (60 days 01/04/19)

Action: Finance Approved 7-0

Note: Mr. Bianchi is being re-appointed as a constable for the City of Newton. He has provided the necessary paperwork including an updated constable bond. Councilor Ciccone moved approval, which carried unanimously.

Note: The Committee received an update on the Washington Street Visioning Project from the Planning & Development Department.

Planning & Development Director Barney Heath provided the Committee with an update on the Washington Street Visioning Project. Mr. Heath provided the following materials: a spreadsheet of the project budget outlining the project tasks and the completion percentages of the tasks and a change order, which were attached to the agenda for the meeting.

There were adjustments to costs for some of tasks. The most significant adjustment was in the line item for existing and emerging conditions research and the Plan Open House line item. The Planning Department did a significant amount of the research on the existing and emerging conditions; therefore, the money allocated to the consultant for that work was reassigned to the Plan Open House. The additional funds in the line item allowed the consultant to provide additional exhibits that the Planning Department felt the public needed to see. The Planning Department is working to ensure that the public remains informed on the project and that the project stays within the \$500,000 budget.

The project is on schedule and completion of the contract is anticipated in April 2019. The next draft of the plan and zoning code for the Washington Street Corridor will be provided in February. The final plan and zoning code will be issued in April. The zoning code for the corridor will be a standalone document that aligns with the upcoming reformed zoning ordinances. The Washington Street Corridor zoning will be more detailed and include specifications for building dimensions, height, and square footage. On December 6, 2018, the Planning Department will present a portion of the Washington Street Corridor zoning and a draft of the new City zoning ordinances. The Planning & Development staff worked on reforming the zoning ordinances with an on-call consultant and therefore was able to work with the Washington Street Corridor consultant on that zoning to ensure that both documents aligned.

Mr. Heath will keep the Finance Committee informed on the progress of the Washington Street Vision Project as it moves forward.

The Committee adjourned at 8:42 PM and all other items before the Committee were held without discussion. Draft Council Orders for the above items that are recommended for City Council action are attached.

Respectfully submitted,

Leonard J. Gentile, Chair

CITY OF NEWTON

IN CITY COUNCIL

2018

ORDERED:

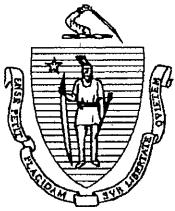
That, in accordance with the recommendation of the Finance Committee through its Chair Leonard J. Gentile, the City Council hereby authorizes the Her Honor the Mayor to enter into a contract with the firm of Clifton, Larson, Allen to complete the City's annual financial audit for Fiscal Years 2019 to 2023.

Under Suspension of Rules
Readings Waived and Approved

(SGD) DAVID A. OLSON
City Clerk

(SGD) RUTHANNE FULLER
Mayor

Date _____



Commonwealth of Massachusetts
**DEPARTMENT OF HOUSING &
COMMUNITY DEVELOPMENT**

Charles D. Baker, Governor ♦ Karyn E. Polito, Lt. Governor ♦ Janelle L. Chan, Undersecretary

May 25, 2018

Honorable Ruthanne Fuller
Mayor, City of Newton
1000 Commonwealth Avenue
Newton, Massachusetts 02459

Re: 77 Court Street, Local Initiative Project, Newton, MA
Certified Cost and Income Statement

Dear Mayor Fuller:

The Department of Housing and Community Development (DHCD) has received the enclosed Certified Cost and Income Statement submitted by the Project sponsor for the 77 Court Street housing development as required by Section 4 of the Local Initiative Program Regulatory Agreement and Declaration of Restrictive Covenants (Regulatory Agreement) for the development. DHCD has reviewed the Certified Cost and Income Statement and determined that the Project Sponsor is in compliance with the G.L. c.40B limited dividend requirement as set forth in the Regulatory Agreement.

Section 4(c) of the Regulatory Agreement provides that prior to DHCD's acceptance of the Certified Cost and Income Statement, the City of Newton will have a period of 30 days to have the Certified Cost and Income Statement evaluated for accuracy by an independent auditor applying the same standards as DHCD. DHCD will review any inaccuracies identified by the City before issuing an acceptance of the Certified Cost and Income Statement.

Please address any comments in writing by June 24, 2018 to:

Catherine Racer, Associate Director
Division of Housing Development
Department of Housing and Community Development
100 Cambridge Street, Suite 300
Boston, Massachusetts 02114

If you have any questions regarding these materials, please feel free to contact Alana Murphy at 617-573-1301.

Sincerely,

A handwritten signature in black ink, appearing to read "Catherine Racer", with a long horizontal flourish extending to the right.

Catherine Racer

Enclosures

SEB Court Street, LLC
75-77 and 83 Court Street, Newton, MA

Schedule of Chapter 40B Maximum Allowable Profit from Sales and

Schedule of Total Chapter 40B Costs

For the period from May 21, 2014 to February 23, 2018

SEB Court Street, LLC
75-77 and 83 Court Street, Newton, MA

For the period from May 21, 2014 to February 23, 2018

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D&M DAVIES & MONAHAN PC
CERTIFIED PUBLIC ACCOUNTANTS

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Quincy, MA 02169

Suzanne M. Monahan, CPA
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Independent Accountants' Report

To the Members of
SEB Court Street, LLC
Boston, Massachusetts

We have examined the accompanying Schedules of Chapter 40B Maximum Allowable Profit from Sales and Total Chapter 40B Project Costs of SEB Court Street, LLC for the period from May 21, 2014 to February 23, 2018. These schedules are the responsibility of management of SEB Court Street, LLC. Our responsibility is to express an opinion on these schedules based on our examination.

Our examination was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants and, accordingly, included examining, on a test basis, evidence supporting SEB Court Street, LLC's Schedules of Chapter 40B Maximum Allowable Profit from Sales and Total Chapter 40B Project Costs and performing such other procedures as we considered necessary in the circumstances. We believe that our examination provides a reasonable basis for our opinion.

As described in Note 1, the schedules were prepared in conformity with the accounting practices prescribed by the requirements of the Massachusetts Housing Finance Agency ("Mass Housing"), MGL Chapter 40B, and the Regulations at 760 CMR 56.00 and the associated guidelines issued by the Department of Housing and Community Development.

In our opinion, the schedules referred to above present fairly, in all material respects, the Chapter 40B Maximum Allowable Profit from Sales and Total Chapter 40B Project Costs of SEB Court Street, LLC as of February 23, 2018, in conformity with guidelines prescribed by the Department of Housing and Community Development and Mass Housing.

This report is intended solely for the information and use of the members of SEB Court Street, LLC, Mass Housing, the Commonwealth of Massachusetts, the Department of Housing and Community Development, and the Town of Newton and is not intended and should not be used by anyone other than these specified parties.

Davies & Monahan, P.C.

Quincy, Massachusetts
February 23, 2018

SEB Court Street, LLC
 75-77 and 83 Court Street, Newton, MA
 Schedule of Chapter 40B Maximum Allowable Profit from Sales
 For the period from May 21, 2014 to February 23, 2018

Affordable Unit Fraction	25%	
<u>SALES REVENUE</u>	<u>Total Number of Units</u>	<u>Total Dollars</u>
Market Unit Sales	25	\$ 21,398,080
* Market Unit Sales to Related Parties	2	\$ 1,443,910
Market Unit Upgrades		\$ 166,151
Affordable Unit Sales	9	\$ 1,788,900
Total Sales Revenue		\$ 24,797,041
Total Project Costs (taken from Schedule of Total Chapter 40B Costs)		\$ 22,039,403
Computed Profit from Sales		\$ 2,757,638
Maximum Allowable Profit - 20% of Total Project Costs		\$ 4,407,881
Excess Profit		\$ -
Percent Profit		12.51%

* Market Unit Sales to Related Parties - use the higher of X or Y:

Unit #	Buyer	Actual Sale Price (X)	Avg Sales Price of Highest 3 Arm's Length Sales of Comparable Units (Y)
104	Maple Leaf Ventures, LLC	\$ 721,064	\$ 735,539
202	Matthew Gilmartin	\$ 678,450	\$ 708,371
		\$ 1,399,514	\$ 1,443,910

SEB Court Street, LLC
 75-77 and 83 Court Street, Newton, MA
 Schedule of Total Chapter 40B Costs
 For the period from May 21, 2014 to February 23, 2018

<u>DEVELOPMENT ITEM</u>	<u>TOTAL COSTS</u>	<u>PER UNIT COST</u>
SITE ACQUISITION	\$ 2,272,350	\$ 63,121
HARD COSTS		
Site Development Costs		
Road work	10,000	278
Rough Grading/Site Preparation	1,188,831	33,023
Landscaping	287,298	7,981
Utility Connections	121,744	3,382
	<u>1,607,873</u>	<u>44,663</u>
Residential Construction	11,507,442	319,651
Related Party Details		
Builder's Profit	786,919	21,859
Builder's Overhead	262,306	7,286
General Requirements	786,919	21,859
TOTAL HARD COSTS	<u>\$ 14,951,459</u>	<u>\$ 415,318</u>
SOFT COSTS		
Permits/Surveys	53,425	1,484
Architectural	474,764	13,188
Engineering	282,175	7,838
Legal	184,053	5,113
Insurance	108,298	3,008
Property Taxes	49,645	1,379
Construction Period Interest	1,935,899	53,775
Application/Financing Fees	283,875	7,885
Appraisal	12,566	349
Accounting	37,510	1,042
Closing Costs	231,206	6,422
Condo Fees	13,656	379
Sales Staff - Model Units	40,000	1,111
Commissions/Advertising - Affordable	53,667	1,491
Commissions/Advertising - Market	930,823	25,856
Lottery	12,032	334
Developer's Overhead	112,000	3,111
TOTAL SOFT COSTS	<u>\$ 4,815,594</u>	<u>\$ 133,767</u>
TOTAL DEVELOPMENT COSTS	<u>\$ 22,039,403</u>	<u>\$ 612,206</u>
Per Square Foot Hard Costs		
Market - 27 Units	<u>\$ 181.56</u>	/sq. ft.
Affordable - 9 Units	<u>\$ 181.56</u>	/sq. ft.

SEB Court Street, LLC

Notes to Schedules

February 23, 2018

NOTE 1 - ORGANIZATION AND SIGNIFICANT ACCOUNTING POLICIES:Organization

SEB Court Street, LLC, a Massachusetts limited liability company, was formed on August 21, 2012 to acquire, develop and sell 36 units of residential housing, including 9 units for qualifying income eligible individuals and households in Newton, Massachusetts (the Project). The project received a Determination of Site Eligibility under the Local Initiative Program on May 21, 2014 from the Department of Housing & Community Development. Substantial completion of the project occurred on November 17, 2017, when the last certificates of occupancy were obtained.

Basis of Presentation

The accompanying Schedules have been prepared utilizing the format prescribed by the Massachusetts Housing Finance Agency, as Subsidizing Agency for the Department of Housing and Community Development. The purpose of these Schedules is to facilitate the review and determination of the project's allowable profit from sales.

Basis of Accounting

The accompanying Schedules have been prepared in conformity with the accounting practices prescribed by the requirements of the Massachusetts Housing Finance Agency ("Mass Housing"), MGL Chapter 40B, the Regulations at 760 CMR 56.00 and the associated guidelines issued by the Department of Housing and Community Development using the accrual basis of accounting.

Site Acquisition

The acquisition value presented in the Schedule of Total Chapter 40B Costs reflects the "As-Is Market Value" of \$2,130,000 and "Reasonable Carrying Costs" of \$142,350 incurred during the carrying period of the project. Reasonable Carrying Costs include property taxes, property insurance, interest payments on acquisition financing and extension fees.

Estimates

The presentation of the Schedules in conformity with the basis of accounting described above requires management to make estimates and assumptions that affect the reported amounts of sales and costs during the reporting period. Actual results could differ from those estimates.

SEB Court Street, LLC

Notes to Schedules (Continued)

**NOTE 1 - ORGANIZATION AND SIGNIFICANT ACCOUNTING POLICIES
(Continued):**Warranty Costs

The Company provides all its home buyers with a limited warranty as to workmanship and mechanical equipment. Included in the Schedule of Total Chapter 40B Costs are accrued warranty costs of \$55,000.

NOTE 2 - CAPITAL CONTRIBUTIONS:

The Members have made capital contributions of \$1,900,000.

NOTE 3 - FINANCING:

On December 30, 2015, the Company obtained financing from Cambridge Savings Bank in the form of a construction loan for up to \$12,630,000 with an initial maturity date of December 30, 2018. The note was payable in monthly installments of interest only at a floating rate equal to the one-month LIBOR index plus 250 basis points with a floor of 3.25%. Interest expense incurred for the period under examination and reported in Total Development Costs is \$249,147. The loan was secured by the real estate.

On December 30, 2015, the Company obtained financing from Fidelity Real Estate Opportunistic Income Fund, L.P. in the form of a Mezzanine loan for up to \$5,700,000 with an initial maturity date of December 30, 2018. The note accrued interest at a fixed rate of 15% per annum and had a pay rate of 8% per annum. Unpaid interest was added to the principal balance monthly. Interest expense incurred for the period under examination and reported in Total Development Costs is \$1,686,752.

The Mezzanine loan was required to fill the financing shortfall between the senior construction loan and sponsor equity. This was a reflection of the overall financial landscape and uncertainty in marketing this housing product for sale. At project inception, the loan to value ratio offered by the banks for affordable housing developments of this size was insufficient for a developer to pursue the project. Mezzanine debt was the only financing solution.

The security interest for the Mezzanine lender was achieved through the creation of a single purpose entity, which was the Mezzanine borrower and equity owner of SEB, LLC. The Mezzanine lender had a security interest in the entity, SEB LLC and entered into an intercreditor agreement with the senior lender. The economic impact on the project of servicing both third party loans is shown in the Schedule of Total Chapter 40 B Costs.

SEB Court Street, LLC
Notes to Schedules (Continued)

NOTE 4 - RELATED PARTY TRANSACTIONS:

The General Contractor, Back Bay Construction LLC, is an affiliate of the Managing Member. Payments to the General Contractor consisted of the following items and are reported in the associated line items in the schedules:

Reimbursement of Site and Residential Construction Costs, including onsite payroll of \$110,481	\$13,115,316
Builder's Profit	\$ 786,919
Builder's Overhead	\$ 262,306
General Requirements	\$ 786,919

Other related party transactions:

Payments for Purchase of Land from a Related Party: None

Sales of Units to a Related Party:

Craig Gilmartin is an investor member of the Company and purchased a unit at a sales price of \$678,450. Maple Leaf Ventures, LLC is an affiliate of an investor member of the Company and purchased a unit at a sales price of \$721,064. The sales price of the related party transactions reflects a 5% discount compared to arm's length sales as the units were sold without commissions.

Purchases of Materials and/or Supplies from a Related Party: None

Purchases of Services from a Related Party:

Back Bay Development Group, LLC, is an affiliate of the Managing Member and earned Developer's Overhead fees of \$112,000. Back Bay Development Group, LLC also earned a fee of \$40,000 to staff the model unit at the property.

Financing provided by a Related Party: None

If there are any other transactions with a Related Party, please describe them below:

Back Bay Construction LLC, is an affiliate of the Managing Member and was reimbursed \$12,865 for insurance and other soft costs related to the project. Back Bay Development Group, LLC, is an affiliate of the Managing Member and was reimbursed \$19,357 for insurance and other soft costs related to the project. These reimbursements were at cost with no fees earned by the related parties.



Ruthanne Fuller
Mayor

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Barney S. Heath
Director

Report on Developer Profits on 40B Projects: 77 Court Street

- **Certified Cost and Income Statement, as required by Section 4 of the Local Initiative Program Regulatory Agreement and Declaration of Restrictive Covenants (Regulatory Agreement):**
- Within 180 days after Substantial Completion of the Project or, if later, within 60 days of the date on which all units in the Project are sold (December 2017), the Project Sponsor shall deliver to DHCD the Certified Cost and Income Statement, prepared and certified by a certified public accountant satisfactory to DHCD.
 - SEB submitted to DHCD on February 23, 2018
 - Prior to DHCD's acceptance of the Certified Cost and Income Statement, the Municipality shall have 30 days to review and evaluate the Certified Cost and Income Statement for accuracy
 - DHCD submitted its determination of compliance to the City on May 25, 2018
 - The City provided its letter of acceptance of this determination of compliance to DHCD on July 20, 2018 (more than 30 days due to the request for additional information from DHCD)
 - DHCD thereafter makes a final determination of the Project Sponsor's compliance with the limited dividend requirement
- **DHCD Regulations and Guidelines related to Limited Dividend Organizations and Limitations on Profits and Distributions:**

From the Chapter 40B Guidelines:

Chapter 40B Guidelines - IV. RESPONSIBILITIES OF THE SUBSIDIZING AGENCY

Homeownership and CCRCs Profit to Limited Dividend Organizations, including all partners, shall be limited to **no more than 20% of total allowable development costs**, and such other sums as the Subsidizing Agency may determine constitute a Developer's contribution to the project, provided that calculation of total allowable development costs shall not include any fee paid to the Developer. Profits accrued in excess of 20%, as defined herein, shall be distributed to the municipality for the purpose of developing and/or preserving Affordable Housing.

From the Chapter 40B Regulations:

760 CMR: DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

760 CMR 56.00: COMPREHENSIVE PERMIT; LOW OR MODERATE INCOME HOUSING

“Limited Dividend Organization” – means any entity which proposes to sponsor a Project under M.G.L. c. 40B, §§ 20 through 23; and is not a public agency or a nonprofit; and is eligible to receive a Subsidy from a Subsidizing Agency after a Comprehensive Permit has been issued and which, unless otherwise governed by a federal act or regulation, agrees to comply with the requirements of the Subsidizing Agency relative to a reasonable return for building and operating the Project.

(8) Cost Examination and Limitations on Profits and Distributions.

(a) Following the issuance of a Comprehensive Permit, a Project for which the Developer is a Limited Dividend Organization shall be subject to the following limitations on reasonable return as determined by the Subsidizing Agency, in accordance with guidelines issued by the Department. The Subsidizing Agency shall be solely responsible for the monitoring and enforcement of such limitations, subject to the Subsidizing Agency’s right to delegate such functions as set forth in 760 CMR 56.02: Subsidizing Agency.

(b) Certification of Total Development Costs. For purposes of compliance with 760 CMR 56.04(8)(b)1. and (c), total development costs, and the determination of qualifying inclusions and exclusions, shall be established by the Applicant or subsequent Developer in a detailed financial statement of all material costs of the project prepared by a certified public accountant and submitted to the Subsidizing Agency in a form and upon a schedule determined by the Department's guidelines. The Department's guidelines shall provide for verification of financial statements; submission of a copy of cost certifications to the affected municipality for its review and consideration by the Subsidizing Agency of any inaccuracies identified by the municipality during its review; and enforcement actions, including suspension or disqualification from state agency programs, in the event of noncompliance with 760 CMR 56.04(8).

(c) Distribution of Excess Funds. Any funds in excess of the applicable limitations on profits and distributions shall be paid over to the Subsidizing Agency or the municipality or the Subsidizing Agency, as determined solely by the Subsidizing Agency's program requirements and the terms of a regulatory agreement, or similar agreement, to be entered into between the Subsidizing Agency and the Developer.

(d) Cost Certification Inventory. The Department shall maintain an inventory of all projects granted a Comprehensive Permit and the respective status of each Project with respect to the submission of the certification of total development costs as required by 760 CMR 56.04(8)(d). For the purposes of such inventory, Subsidizing Agencies shall provide information to the Department in the manner and form required by the Department.

CITY OF NEWTON

IN CITY COUNCIL

2018

ORDERED:

That for the purpose of paying costs of funding the design, procurement, and construction of the interior improvements at the Newton Free Library any and all other costs associated therewith, there be and hereby is appropriated and authorized to be borrowed under and pursuant to Chapter 44, Section 7(1) of the Massachusetts General Laws, as amended and supplemented or pursuant to any other enabling authority, the sum of five hundred thousand dollars (\$500,000).

Under Suspension of Rules
Readings Waived and Approved

(SGD) DAVID A. OLSON
City Clerk

(SGD) RUTHANNE FULLER
Mayor

Date _____

CITY OF NEWTON

IN CITY COUNCIL

2018

ORDERED:

That, in accordance with the recommendation of the Public Facilities and Finance Committees through their respective Chairs Deborah J. Crossley and Leonard J. Gentile, the sum of one hundred fifty thousand dollars (\$150,000) be and is hereby appropriated from Free Cash for the purpose of funding for the Lincoln-Eliot Elementary School window replacement and accessibility improvements design.

From: Free Cash
(01-3497) \$150,000

To:

Under Suspension of Rules
Readings Waived and Approved

(SGD) DAVID A. OLSON
City Clerk

(SGD) RUTHANNE FULLER
Mayor

Date _____

CITY OF NEWTON

IN CITY COUNCIL

2018

ORDERED:

That, in accordance with the recommendation of the Public Facilities and Finance Committees through their respective Chairs Deborah J. Crossley and Leonard J. Gentile, the sum of three hundred thousand dollars (\$300,000) be and is hereby appropriated from Free Cash for the purpose of funding for the upgrades at Fire Stations 1 and 2 to isolate the apparatus bay from the living quarters, which includes pole removal and rehabilitation at both stations. .

From: Free Cash
(01-3497) \$150,000

To:

Under Suspension of Rules
Readings Waived and Approved

(SGD) DAVID A. OLSON
City Clerk

(SGD) RUTHANNE FULLER
Mayor

Date _____

CITY OF NEWTON

IN CITY COUNCIL

2018

ORDERED:

That in accordance with the recommendation of Her Honor the Mayor and with the confirmation of the Honorable City Council, be it known that ANTONIO BIANCHI is hereby re-appointed as a CONSTABLE for the City of Newton for a term to expire on November 1, 2021.

Under Suspension of Rules
Readings Waived and Approved

(SGD) DAVID A. OLSON
City Clerk