

CITY OF NEWTON

IN BOARD OF ALDERMEN

PUBLIC FACILITIES COMMITTEE REPORT

WEDNESDAY, JUNE 19, 2013

Present: Ald. Crossley (Acting Chairman), Lennon, Albright, Gentile, Danberg, Laredo, and Lappin

Absent: Ald. Salvucci

Also present: Ald. Kalis and Fischman

#224-13      COMCAST OF NEW ENGLAND petitioning for a grant of location to install 204' ± of conduit in WALNUT STREET from existing Pole # V2 437/23 to 823-833 Washington Street. (Ward 2) [05/22/13 @ 2:57 PM]

**ACTION:**      **APPROVED 7-0**

**NOTE:**      Contractor Manuel Furtado presented the request for a grant of location to install conduit in Walnut Street to provide Comcast of New England Service to 823-833 Washington Street. The conduit will run from an existing utility pole on Walnut Street underground to the property. There are no utilities poles near the building; therefore, the conduit must be installed underground. The public hearing was opened and no one spoke for or against the project.

#225-13      CHRIS UTANO, 295 Upland Avenue, Newton Highlands, petitioning for a main drain extension in NOD HILL ROAD to a proposed manhole at the intersection of Upland Avenue 220' ± in a northeasterly direction to a proposed manhole in Nod Hill Road. (Ward 8) [05/28/13 @ 2:05 PM]

**PETITIONER TO PAY ENTIRE COST**

**ACTION:**      **APPROVED SUBJECT TO SECOND CALL 6-0 (Laredo not voting)**

**NOTE:**      Associate City Engineer John Daghlian presented the petition to the Committee. The property owner, Chris Utano, is petitioning the Board of Aldermen to extend a main drain from a proposed manhole 220' in Nod Hill Road to allow for the connection of 295 Upland Avenue to the City's drainage system. The petitioner has two possible options to provide storm water management for the site. The option to connect with the City's drainage system is the most advantageous to the petitioner and the neighbors. However, there is a possibility that a drainage recharge system could be placed in the rear of the property to provide the required storm water management on the site.

The property at 295 Upland Avenue is the subject of a by-right building permit. There have been a number of problems and complaints related to construction at the site. The original drainage design for the site did not work and the design engineer who provided the design license had expired. Therefore, Mr. Utano hired a new engineering firm (Chappell Engineering Associates, LLC) that designed an approach that requires connection to the City's drainage system. The City's Projects Engineer Frank Nichols is providing engineering oversight at 295

Upland Avenue. Mr. Nichols provided the attached memo with a list of items that need to be addressed on the site including minor items related to the drainage plans.

The newly designed system would direct site storm water into an on-site holding tank, which would then be pumped into the City's drainage system once the volume capacity is reached. The holding tank would have the capacity to retain approximately 2,200 gallons of storm water, when empty. The pumping mechanism would have several redundancies including two pumping mechanisms that would be used alternately, a natural gas back-up generator, and an alarm system. The alarm system would notify the property owner that the holding tank was nearing capacity and that the pumps may not be operational. The new design includes drainage swales along the side property lines. The intent of the swales is to keep surface runoff on site to be absorbed into the soil before reaching abutting properties. In addition, a stone drainage trench is to be installed 10' from the rear property line to capture surface storm water runoff from the backyard area. The petitioner will also be adding landscaping to the site and adding vegetation to the bottom of the hill to improve absorption on site.

During the construction of the building on the site the impervious surface was increased, part of the backyard was leveled off by adding fill, and the petitioner clear-cut the trees on the lot, which created additional storm water run-off. Very large retaining walls were also added to the site. The Committee would like a memo from Inspectional Service explaining why the project did not require a special permit due to the height of the retaining walls.

By connecting the site to the City drainage system, the storm water runoff from the site would be controlled. The petitioner has agreed to pay for the entire cost of the installation of the main drain extension. Committee members asked if the removal of the many trees necessitated the storm water run-off mitigation. Cutting the trees did exacerbate the problem as the trees absorb groundwater. In addition, the property is located at the top of a hill and the soil in the front and side area of the property is glacial till, which is very dense and very slow in absorbing water. The site would have required mitigation even if the trees were not removed. The proposed drainage system provides the best solution for the property and the abutters. This is not a unique situation, as the City allows property owners to tie into the City drainage system when the site soil is not conducive to infiltration.

The Committee inquired if abutters to the site would be notified if the holding tank alarm were triggered. It was explained that the holding tank alarm is set up similar to a septic system alarm system, which notifies the homeowner if there is a problem. If possible, the Committee would like assurance that abutters are notified if the alarm is triggered. In addition, there was concern that the current property owner would not follow the plan, as there has been a stop work order issued on the site by the Inspectional Services Department. The City needs to provide oversight to make sure the drainage system is installed in the best way possible. Oversight is critical to the abutters, as there have been a number of situations throughout the building process where things were supposed to be done by the property owners that were not done. It was pointed out that the plans submitted to the City for the building permit were for a by-right house. The submitted plans do not show the hardscaping that was installed on site. It is a not a matter

for the Public Facilities Committee but it is a real problem and might be something the Zoning and Planning Committee could discuss.

The Engineering Division would require an operation and maintenance plan for the drainage system. The engineer of record develops the operation and maintenance plan, which would include inspections of the system that occur twice a year and a requirement that any dry wells, catch basins and any other structures have to be cleaned twice a year. The inspection report has to be submitted to the Commissioner of Public Works as a written report stamped by the engineer of record. There was some concern that the City has no mechanism to monitor if a property owner is abiding by the requirement that drainage inspections be filed with the Engineering Division of the Department of Public Works every six months. Unfortunately, the City does not have the workforce to track all of the inspections. The City relies on professional engineers to certify the inspection and verify that the system is working properly.

It is critical to the neighbors that the storm water run-off from the site is mitigated, as they are in jeopardy of their properties flooding. However, the neighbors would like reassurance that there will be oversight of the drainage system installation. The Engineering Division will be inspecting the project at each step of the installation.

The public hearing was opened and Steve Silverman, 47 Bound Brook Road, spoke on the drainage in the area. He is concerned about the general capacity of the drainage system and feels that adding an additional connection could further overburden the drainage system. He also added that the City has not cleaned South Meadow Brook in a number of years, which currently cannot handle the water drained into it from the drainage system.

Bob Golden, 16 Nod Hill Road, was concerned that the extension of the drain would affect the water pressure in his home. It was explained that there would be no impact to the water pressure as the water system is completely separate from the drainage system.

Dr. Joe Gold, 281 Upland Avenue, pointed out that if the drainage system for 295 Upland Avenue fails, it is the direct abutters who will be most impacted. He also asked what happens if 295 Upland Avenue is unoccupied and the alarm system for the drainage system is triggered. It would seem appropriate to have a back-up plan for notification. Mr. Gold would also like assurance that the drainage system will be maintained.

Dave Chappell of Chappell Engineering responded that the alarm system is located halfway up the holding tank leaving a lot of remaining capacity in the tank. Dr. Gold would ask that there be some assurance regarding the maintenance plan in perpetuity and that the alarm notification system be bulletproofed. Dr. Gold's other concerns relate to the roadway condition after the work is completed and the timeframe for construction. Associate City Engineer John Daghlian estimated that it would take approximately two weeks to install the main drain extension. During the installation in the roadways, a police detail would be required. Dr. Gold would like Upland Avenue restored to its original condition once the work is complete. The residents of Upland Avenue paid to have Upland Avenue paved and do not want to see it destroyed. The Board Order would require that the petitioner to pay the full costs of the

restorations of Nod Hill Road and Upland Avenue to their prior condition. There was discussion regarding conditioning the Board Order to require the petitioner to repave Upland Avenue from curb to curb. The Committee felt that it was appropriate to ask for the Law Department's input on the proposed condition before adding the condition to the Board Order.

Mindy Gold, 281 Upland Avenue, stated that there has been flooding in the basement of her home since the construction began on the 295 Upland Avenue site. The 295 Upland Avenue site is a mess and the house is too large for the lot. The petitioner has trespassed and continues to trespass on the Gold's property. The Gold's have hired an attorney to address the problems between themselves and the property owner of 295 Upland Avenue.

Since Chappell Engineering has taken over the project, the backyard and the terrace retaining wall have been redesigned. The engineering team on this project includes a geotechnical engineer that specializes in this kind of work. He has studied the slope stability and the retaining walls. Chappell Engineering has been working very closely with the City on all the engineering issues on site. The soils are to be stabilized before the holding tank is installed. Keith Lincoln of Chappell Engineering explained that the drainage swales along each of the property lines would contain the water before it goes over the property line. The infiltration trench near the rear property will mitigate water going down the slope. Associate City Engineer John Daghlian agreed that the water generated on the site is being directed to stay on the site and be captured on the site.

Ed Hoyt, 303 Upland Avenue, has a sense that there is a question regarding whether the swale could work due to the amount of room between the wall and the property line. Keith Lincoln responded that the landscaping has been designed in accord with the grading plan and there is an 8' distance from the property line to the wall, which is more than adequate for the swale. The representatives of Chappell Engineering are comfortable that the swales would direct the water away from the abutting properties. Mr. Hoyt asked if there is room for landscaping in front of the wall. There is an extensive landscape plan that addresses the terrace sections of the wall and the lower section of the property. The existing retaining walls are to be removed and replaced with new retaining walls that will be located 8' from the Hoyt property line and 9.5' from the Gold property line. The height of the retaining walls will vary. There was a question regarding whether the retaining walls require a special permit because the walls are over 4' high. The Committee would like a memo from the Commissioner of Inspectional Services explaining why a special permit was not required.

Andy Gelfond, 338 Winchester Street, explained that he is the abutter directly behind 295 Upland Avenue. It is important to get the water from the site into a drainage system but is also important that there is oversight during the installation of the drainage system. There needs to be assurance that the system is built correctly. He is concerned, as the petitioner has not abided by a number of building code requirements.

The City's Engineering Division will inspect the drainage system and provide verification that it is working. The engineer of record will also be at the final site visit and will provide a final as-built plan to ensure that everything was correctly designed and built. The City

will receive a certified letter and a stamped plan stating that everything was installed and constructed correctly.

The Engineer of record would be responsible if the drainage system does not work. Chappell Engineering will sign off on the drainage system and take responsibility for the functionality of the system. The City will be inspecting the pipes, the swales, making sure the slopes are correct, that the pumps that are installed correctly and that the pumps are the same models that were specified. The City's Engineering Division will have someone on site throughout the drainage system installation. The building permit is overseen by the City's Inspectional Services Department and the Engineering Division is the design review agent for the Inspectional Services Department; therefore, the Engineering Division is responsible for review and inspecting the site work. The building permit still lies with the Inspectional Services Department and the Commissioner of Inspectional Services Department is very aware of the construction at 295 Upland Avenue.

Mr. Gelfond pointed out that it seems like the neighbors and the petitioner are at a point where there is a drainage plan that seems reasonable and the connection to the City's drainage system is very important to the plan. He asked if there is any assurance that the plan is not going to substantially change once approval is given. Mr. Daghlian explained that once the Engineering Division receives a final plan that addresses all items on the Engineering Division memos and everything is finalized and stamped by the petitioner's engineer that is the plan that must be used. There is no varying from the submitted plan in terms of drainage and utilities. There is more leeway in terms of landscaping.

Dain Oliver, 30 Nod Hill Road, asked why a drainage pipe cannot be run downhill from the site to Winchester Street, as that route would not require pumps. It was explained that the petitioner would require an easement from the owner of 338 Winchester Street, as the drainage connection would run through private property. Sally Shen Lin, 29 Nod Hill Road, stated that it would be ideal if there were a solution that relied on gravity instead of pumps. Unfortunately, it is unlikely that an easement through private property would be granted.

Mindy Gold, 281 Upland Avenue, stated that the neighborhood is awfully close to the Charles River and she is concerned that the storm water from the site is not clean. There was a substantial amount of fill that was deposited on the site and the neighbors are concerned that the fill may be toxic.

Keith Lincoln from Chappell Engineering responded that there are no concerns about the toxicity of the fill material. The vast majority of the fill material will be removed and taken off site. There will be suitable backfill added for stabilizing the retaining walls.

Dr. Gold stated that the neighbors and the petitioner are approaching consensus that the drainage plan is a good remedy to a very bad situation and getting the water out by this pump system is the best choice but it is important to note that the abutters need to get from now to the end of the process. The "as is" condition of the neighborhood is not a good one. The slope is unstable and presents a hazard to the abutters downhill. It is presenting a problem to Mr. Gold's

property, as the water is coming right to the house. Mr. Gold also suggested that it would be appropriate to have some plan for mitigation of dust and debris related to the construction of the main drain extension.

Johan Shane, 332 Winchester Street, asked what the timeframe is for the construction of the drainage system. Mr. Daghlian responded that the project could be completed by the fall if the Engineering Division receives an updated site plan in the near future. It is important that the project moves forward as a delay in the installation of system puts the abutters in jeopardy. Dave Chappell stated that his firm could address the City's Engineering Division comments within a week and keep the process moving.

Edward Hoyt, 303 Upland, asked whether there would be any noise from the pumps. The pump noise would be similar to the noise of a septic system pump. It would be unlikely that the abutters would hear it. Mr. Hoyt also raised issues about the site landscaping and asked if there was any way to control the site landscaping. It was explained that the Public Facilities Committee had no ability to specify or require landscaping. However, if the project ends up being the subject of a special permit, a landscaping plan would be required as part of the project. The public hearing was closed.

The Committee focused on whether the petition should move forward as a correction to a bad situation. The drainage plan would address the need for storm water mitigation for a site that currently has no plan. The drainage plan would mitigate storm water runoff for a 100-year storm on site and it would tie into a new City storm water extension paid for by the petitioner. Committee members felt that it was appropriate to move forward with the approval of the petition with a number of conditions included in the board order.

The standard conditions would be included in the board order but several additional conditions were requested. The proposed conditions included submittal of a construction management plan that includes a timeline of the construction, an alarm system that notifies the neighbors if it is triggered because of a pending overflow, inspection of the drainage system twice a year and the inspection made available to the abutters. There was discussion regarding whether the petitioner could be required to pave the whole of Upland Avenue from curb to curb once the drainage system was complete. It is not a condition that can be imposed, as it is beyond what the City requires for restoration of any street that has not been repaved in the past five years that is opened for construction. The Committee would like to consult with the Law Department to determine what conditions can be included in the Board Order.

Ald. Gentile moved approval of the petition subject to second call, as there seemed to be no question that the storm water mitigation is needed and the connection to the City's drainage system is the best available alternative. The Committee voted in favor of the motion by a vote of six in favor and none opposed. A draft board order (attached) will be provided to the Committee before the Board of Aldermen meeting. The Committee would like a response regarding whether a special permit is needed from the Commissioner of Inspectional Services before the next Board of Aldermen meeting.

**REFERRED TO PUBLIC FACILITIES AND FINANCE COMMITTEES**

#227-13 HIS HONOR THE MAYOR requesting authorization to enter into an Inter-Municipal Agreement with the Town of Wellesley detailing Wellesley's obligation to fund half of the construction contract costs associated with structural repairs to the jointly owned Wales Street Bridge. [06/10/13 @ 6:54 PM]

**ACTION:** **APPROVED 5-0 (Laredo, Lappin not voting)**

**NOTE:** The Wales Street Bridge was identified by the State's Department of Transportation as deficient, as a result of insufficient parapet walls. It is part of the City's 2014 Capital Improvement Plan. A motor vehicle could potentially go over the side of the bridge. The Town of Wellesley took the lead on the design of the bridge improvements. Newton will take the lead on the construction phase of the improvements. The signed agreement with the Town of Wellesley for the bridge improvements has been reviewed by the Law Department and is attached. Construction should begin in July 2013 and be completed in the fall of 2013. The estimated cost of the project is \$800,000, and as the bridge is co-owned, the cost of the repairs will be split equally between Newton and Wellesley. Newton will be funding the repairs to the bridge through Chapter 90.

Ald. Gentile moved approval, which carried unanimously.

**REFERRED TO PROGRAMS & SERV. AND PUBLIC FACILITIES COMMITTEES**

#315-12 ALD. FULLER, RICE AND GENTILE of the Angier School Building Committee providing updates and discussion on the Angier School Building project as it develops through the site plan approval process. [10-02-12 @ 3:37PM]

**ACTION:** **HELD 4-0 (Danberg, Lappin, Laredo not voting)**

**NOTE:** At the last meeting of the Angier School Building Committee, the 50% schematic designs for the proposed school were approved unanimously. The 50% designs will be forward to the Massachusetts School Building Authority for their review. The Board of Aldermen and School Committee will be meeting jointly on July 15, 2013. The first cost estimates for the project and possibly the 100% designs for the school will be presented at that meeting.

The project manager assigned to the project by the construction manager-at risk has left their company. There will be a new project manager assigned to the project. Ald. Albright moved hold and the Committee voted unanimously to approve the motion.

The Committee adjourned at 9:50 PM and all other items before the Committee were held without discussion.

Respectfully submitted,

Deborah Crossley, Chairman

**CITY OF NEWTON**  
**ENGINEERING DIVISION**  
**MEMORANDUM**

To: David Norton, Deputy Commissioner

From: Frank Nichols, PE, Project Engineer

Re: Proposed Single Family Home – Location: **295 Upland Avenue**

Date: June 12, 2013

CC: Lou Taverna, City Engineer (via email)  
John Daghljan, Associate City Engineer (via email)  
John Lojek, ISD Commissioner (via email)  
Bill Forte, Zoning Enforcement Officer (via email)  
Chappell Engineering Assoc. LLC (via email)  
Pinecone Construction (via email)

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In reference to the above, approval is not recommended at this time. The Engineer of Record must address the following items.

**Proposed Single Family Home – 295 Upland Avenue**  
Prepared By: Chappell Engineering Associates, LLC (5 Sheets)  
Dated: 3/19/2013 & 4/12/2013 (Revised: 5/28/2013)

**Geogrid Reinforcement & Segmental Retaining Wall**  
**295 Upland Ave, Newton Ma**  
Prepared by Geotechnical Consultants, Inc. (2 Sheets)  
Dated: 5/28/2013

Note: The Applicant has submitted a Drain Main Extension Plan with the city in an effort to allow for the connection to the City's drain system for stormwater control. If the city does not approve the connection, the Engineer of Record must re-evaluate on-site options for stormwater control.

**General**

Per your cover letter dated May 31, 2013, please address the following items:

1. Page 2 – the City will need to review and approve the proposed retaining wall fence prior to overall plan approval. Please submit.
2. Page 2 – add note on “all” plans (both Chappell Engineering Associates, LLC and Geotechnical Consultants, Inc) that Geotechnical Consultants, Inc (GCI) will be responsible for the following: verifying the capacity of the subgrade to support the retaining walls, conducting on-site inspections during construction, and testing of materials necessary for the proper installation of the retaining walls. In addition, relative to the retaining walls and slope construction, that GCI will provide both As-Built drawings and an affidavit stating that the walls and slopes were constructed in conformance with the approved design.



**Plan – Sheet C1**

1. Show the proposed width of the driveway opening. City of Newton maximum opening is 22-feet
2. The proposed drainage trench at the rear of the property is shown as a 2' wide by 1' deep stone trench. However, on Sheet C4 the infiltration trench detail shows a trench depth of 1' but text indicates 2' of stone. Also, this detail shows a trench width of 2.5'. Please clarify.
3. All sheets, please change “town” of Newton to “city” of Newton

**Plan – Sheet C3**

1. City of Newton standard for conduit requires a minimum 3-foot of cover for RCP. Associate City Engineer John Daghlian is reviewing your Drain Main Extension plans for the Pubic Facilities Committee and may comment on this issue

**Plan – Sheet C4**

1. Add note relative to required electrical inspections for all electrical work for the proposed pumps, alarms, etc

**Drainage Analysis**

1. Pond 1P – plan shows an invert elevation of 214 but analysis shows invert of 213, please clarify
2. Pond 4P – the summary for the Infiltration Trench does not agree with either the plans or trench detail (see above). Volume #1 indicates a width of 2.5' a depth of 2.5' and a length of 120', however Volume #2 has a length of 150 and a depth of 1'. Also, volume at invert elevation (i.e. bottom of trench) is shown as 300 CF (2.5' x 2.5' x 120' x .4). However, at this elevation there is no available storage. Please clarify.
3. Pond 6P – primary outlet is shown as an 18" diameter pipe. Profile on Sheet C3 indicates a 12" diameter pipe. Also, invert for primary routing is shown as 218.75 (profile shows 217.68). Please clarify.
4. Pond 8P – primary routing invert is called as 212.74 (profile shows 211.99). Also, pipe should be RCP not corrugated PE (as shown in profile)

This completes my review of the submitted plan. If you have any questions please feel free to contact me @ 617-796-1034.

DRAFT

CITY OF NEWTON

IN BOARD OF ALDERMEN

2013

**ORDER FOR MAIN DRAIN EXTENSION  
NOD HILL ROAD**

WHEREAS, a petition for extension of the main drain has been presented to the Board of Aldermen, and

WHEREAS, the petition was presented by Chris Utano on behalf of the 295 Upland Avenue, LLC, a Massachusetts limited liability company, as owner of the property known and numbered 295 Upland Avenue, Newton; and

WHEREAS, said Board has appointed a time for a public hearing and has caused a notice thereof and of its intention in the matter to be given; and

WHEREAS, said public hearing has been held before the Board of Aldermen, and it is the opinion of the Board of Aldermen of the City of Newton that it is necessary for the public convenience and the public health that such main drain be extended; it is hereby

ORDERED: that a main drain shall be laid, made, repaired and maintained in and through the following street:

**NOD HILL ROAD**, a public way, from a proposed manhole in front of 28 Upland Avenue northerly approximately 220' to a proposed manhole at 21 Nod Hill Road then to an existing manhole at Nod Hill Road, as shown on a plan filed in the office of the City Engineer, which plan is entitled "Site Plan of Land in Newton, MA, " dated, revised, prepared by and signed by Civil Engineer and, Registered Land Surveyor,

This order is granted subject to the following conditions:

- 1) that the 295 Upland Avenue, LLC as owner of the property known and numbered 295 Upland Avenue, Newton, (the "petitioner") or its successors and assigns, shall pay the full costs of said drain installation.

- 2) that the petitioner, or its successors and assigns, shall pay the full costs of the restorations of Nod Hill Road and Upland Avenue to their prior condition.
- 3) that the petitioner, or its successors and assigns, shall complete all such work by his contractor, under the terms of a utilities connection permit license issued by the Public Works Commissioner, or by use of the City forces, at the option of the Public Works Commissioner.
- 4) that all such work shall comply with the standards and specifications of the City Engineer, and be completed under his inspection.
- 5) that the petitioner, or its successors and assigns, shall submit a finalized site plan to the City Engineer for 295 Upland Avenue prior to the commencement of work on the main drain extension.
- 6) that the petitioner, or its successors and assigns, shall submit a construction management plan for the storm water management system that includes a construction timeline for review and approval to the City Engineering Division of the Public Works Department.
- 7) that the petitioner, or its successors and assigns, shall install a 6' fence with dust control fabric along the property lines of 295 Upland Avenue.
- 8) that the petitioner, or its successors and assigns, shall install a catch basin in the area of #281 Upland Avenue, unless it is determined by the Commissioner of Public Works, in his sole discretion, that such installation is impracticable.
- 9) that the petitioner, or its successors and assigns, shall submit an operation and maintenance plan for the drainage pumping system, which requires that the system is inspected at least twice a year and that the inspection reports are submitted to the City Engineering Division of the Public Works Department.
- 10) that the petitioner, or its successors and assigns, shall submit the drainage system inspection reports required under the previous condition to the City Engineering Division of the Public Works Department and, upon request, provide such reports to abutters.
- 11) that the petitioner, or its successors and assigns, shall install an alarm system for the holding tank which shall serve to notify the occupant of 295 Upland Avenue of an overflow or breach of the tank and the petitioner shall then notify the abutters to 295 Upland Avenue of such event..
- 12) that there shall be no expense to the City of Newton or to the abutters to Nod Hill Road or Upland Avenue with the exception of the petitioner, or its successors and assigns, for any work or ongoing maintenance required hereunder. No betterments shall be assessed.

13) that no work on the main drain extension may begin until this board order is recorded at the Middlesex South Registry of Deeds.

Under Suspension of Rules  
Readings Waived and Adopted

(SGD) DAVID A. OLSON  
City Clerk

(SGD) SETTI WARREN  
Mayor

Date \_\_\_\_\_

**TOWN OF WELLESLEY**  
WELLESLEY, MASSACHUSETTS 02481



20 MUNICIPAL WAY  
781-235-7600  
FAX 781-237-0047

DEPARTMENT OF PUBLIC WORKS  
ENGINEERING DIVISION

June 13, 2013

Mr. Lou Taverna  
City Engineer  
Newton City Hall  
1000 Commonwealth Avenue  
Newton, MA 02459


**RE: Wales Street Bridge Project**

Dear Lou:

Returned herewith for signature by City of Newton Officials is the proposed Inter-municipal Agreement between the Town of Wellesley and City of Newton regarding the Wales Street Bridge Improvements Project. The Wales Street Bridge ownership and maintenance is shared equally between the Town of Wellesley and City of Newton. The Agreement outlines the provisions for accomplishing the Wales Street Bridge Improvements Project.

The Agreement has been reviewed and signed by the Appropriate Town of Wellesley Officials. Please return a fully executed copy of the Agreement for our files.

Sincerely,

  
Douglas R. Stewart, P.E.  
Assistant Town Engineer

Enc: Agreement

cc: M. Pakstis  
J. Curby  
D. Hickey  
H. Larsen

CITY OF NEWTON CONTRACT NO. L-5923

TOWN OF WELLESLEY CONTRACT NO. XXXXX

AGREEMENT BETWEEN THE TOWN OF WELLESLEY, MASSACHUSETTS AND

THE CITY OF NEWTON, MASSACHUSETTS

FOR

WALES STREET BRIDGE IMPROVEMENTS

This Agreement made this the 10<sup>th</sup> day of June 2013 pursuant to the provisions of GL Chapter 40, Section 4A, by and between the Town of Wellesley, Massachusetts, acting through its Executive Director of General Government with the approval of its Board of Selectmen and Town Meeting, hereinafter called the "Town," and the City of Newton, Massachusetts, acting by and through its Mayor hereunto duly authorized by Order of its Board of Aldermen, Order No. \_\_\_\_\_ and dated \_\_\_\_\_, but without personal liability to himself, hereinafter called the "City."

WITNESSETH:

Whereas, the Wales Street Bridge #N-12-006/W-13-002 (the "Bridge") is located over the Charles River at the Town/City line between Wellesley and Newton; and

Whereas, the Bridge links the City at Wales Street, to the Town at Walnut Street; and

Whereas, ownership and maintenance of the Bridge is shared equally between the City and the Town; and

Whereas, the Bridge is in need of rehabilitation; and

Whereas, the Town contracted with the BETA Group, Inc. for consulting engineering services for the investigation and design of repairs and rehabilitation of the Bridge, which work has been completed and paid for by the City and the Town; and

Whereas the City and the Town wish to provide for the repairs to the Bridge with the City being the lead community to award and supervise the contract for said repair;

Now therefore, for and in consideration of the promises, the mutual covenants herein recited and other good, valuable, and sufficient considerations, the parties hereto agree as follows:



1. The City shall prepare and put out invitations for bids for the repairs to the Bridge in accordance with the plans and designs of BETA Group, Inc., receive and review said bids and award the Contract for the repairs to the Bridge to a Contractor, all in accordance with G. L. c30, §39M and all other applicable provisions of law.
2. The City shall make progress payments for material and services to the Contractor awarded the contract, pursuant to the terms of the Contract.
3. The City shall maintain, and make available to the Town if so requested, accurate and comprehensive records of services performed, costs incurred, reimbursements and contributions received, and periodic financial statements for the project.
4. The City shall invoice the Town for fifty (50%) percent of the amount approved for payment to the Contractor by the City.
5. The Town shall make every effort to pay invoices within thirty (30) days of receipt from the City; however, payment by the Town to the City shall be made no later than forty-five (45) days after receipt of invoices from the City. All invoices unpaid as of the end of the fiscal year shall be paid by the Town to the City within thirty (30) days after the end of the fiscal year. With any request for payment, the City shall provide a copy of the invoice(s) from Contractor showing the total amount(s) billed to the City.
6. Within seven (7) days of receipt of invoices from the City, the Town shall have the opportunity to inspect the work and object to payments for work not completed according to the contract documents, whereupon the City and Town shall confer to agree as to what should be paid. If they do not agree, BETA Group, Inc. will determine what portion of the disputed amount will be paid and the Town shall pay the City fifty (50%) percent of that amount and the City shall pay the Contractor one hundred (100%) percent of that amount. With respect to an unpaid portion of a disputed amount which is subsequently determined to be owed to the Contractor in accordance with the Contract, the Town shall pay the City fifty (50%) percent of such amount and the City shall pay the Contractor one hundred (100%) percent of such amount.
7. Any undisputed amounts unpaid by the Town after forty-five (45) days of receipt of invoices from the City are subject to interest at the same rate the City is required to pay for funds in order to make payments to the Contractor. The Town hereby agrees to pay any interest incurred by the City due to such late payment by the Town.
8. Notwithstanding the foregoing provisions, the Town's total obligation to pay the City hereunder shall not exceed the lesser of either fifty (50%) percent of the total amount invoiced to the City pursuant to the Contract, or \$400,000.00.
9. This Agreement shall be effective upon the action of the Board of Selectmen of the Town as authorized by the Town Meeting, and action by the Mayor of the City as authorized by the Board of Aldermen.

10. It is mutually agreed and understood that this Agreement shall remain in full force until completion of the services to be performed by the Contractor pursuant to the Contract or until such time as it may be amended or replaced by a new agreement, but in any event, not to exceed a total of three (3) years.

The two parties have caused their legal corporate signatures and seals to be hereunto affixed by their proper officers, thereunto duly organized on the day of the year first above written.

THE TOWN OF WELLESLEY

THE CITY OF NEWTON

*Ham Damm*  
Executive Director of  
General Government

\_\_\_\_\_  
David F. Turocy,  
Commissioner of Public Works

*Terri Taggart*  
Chairman

Approved as to legal form  
and character:

*Sean J. Gillis*  
Selectman

\_\_\_\_\_  
City Solicitor

*Barbara D Sean*  
Selectman

Contract Approved:

*Katherine L Babson Jr.*  
Selectman

\_\_\_\_\_  
Setti D. Warren,  
Mayor

*Wm McCauley*  
Selectman

Approved as to legal form  
and character:

*Jon A. Knoble*  
Town Counsel

I hereby certify that there are funds available in account # *Borrowing* *auth AT&T 2003* in an amount up to \$400,000.00 to fund this Agreement.

*Article 15*

*Sheryl Stroh*  
Finance Director  
Town of Wellesley