



# Finance Committee Agenda

## City of Newton In City Council

Monday, November 14, 2022

The Finance Committee will hold this meeting as a virtual meeting on Monday, November 14, 2022 at 7:00 pm. To view this meeting using Zoom use this link: <https://us02web.zoom.us/j/87979306705> or call 1-646-558-8656 and use the following Meeting ID: 879 7930 6705

Items scheduled for discussion:

### Referred to Public Facilities and Finance Committees

#499-22

**Appropriate \$150,000 from Certified Free Cash**

HER HONOR THE MAYOR requesting authorization to appropriate and expend the sum of one hundred and fifty thousand dollars (\$150,000) from June 30, 2022 Certified Free Cash for the purpose of purchasing the replacement of a 2004 trackless sidewalk clearing tractor.

### Referred to Public Safety & Transportation and Finance Committees

#495-22

**Request to transfer \$55,000 from Financial Services Full Time Salaries**

HER HONOR THE MAYOR requesting authorization to transfer the sum of fifty-five thousand dollars (\$55,000) from Acct #0111049-511001 Financial Services Full Time Salaries to a Department 111-Non-Lapsing Police Technology Upgrade Account.

**Public Safety & Transportation Committee Approved 8-0 on 11/9/22**

### Referred to Public Safety & Transportation and Finance Committees

#483-22

**Request to transfer \$800,000 from the June 30, 2022 Certified Free Cash**

HER HONOR THE MAYOR requesting authorization to transfer the sum of eight-hundred thousand dollars (\$800,000) from June 30, 2022 Certified Free Cash to fund the replacement of Fire Engine 7.

**Public Safety & Transportation Committee Approved 8-0 on 11/9/22**

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The location of this meeting is accessible and reasonable accommodations will be provided to persons with disabilities who require assistance. If you need a reasonable accommodation, please contact the city of Newton's ADA Coordinator, Jini Fairley, at least two business days in advance of the meeting: [jfairley@newtonma.gov](mailto:jfairley@newtonma.gov) or (617) 796-1253. The city's TTY/TDD direct line is: 617-796-1089. For the Telecommunications Relay Service (TRS), please dial 711.

**#498-22      Appropriate \$33,333 from Transportation Mitigation funds**  
HER HONOR THE MAYOR requesting approval to spend thirty-three thousand, three hundred thirty-three dollars (\$33,333) in transportation mitigation funds from the 15 Riverdale Avenue development for NewMo operations consistent with the transportation demand management plan set out in Special Permit #01-20 and the approved Request for Determination of Insubstantial Change dated 2/2/22.

**Respectfully submitted,**

**Rebecca Walker Grossman, Chair**



City of Newton, Massachusetts  
Office of the Mayor

499-22 Telephone  
(617) 796-1100  
Telefax  
(617) 796-1113  
TDD  
(617) 796-1089  
E-mail

RUTHANNE FULLER  
MAYOR

[rfuller@newtonma.gov](mailto:rfuller@newtonma.gov)

Honorable City Council  
Newton City Hall  
1000 Commonwealth Avenue  
Newton Centre, MA 02459

RECEIVED  
2022 NOV - 3 PM 4:37  
CITY CLERK  
NEWTON, MA, 02459

Councilors:

I respectfully submit a docket item to your Honorable Council requesting authorization to appropriate and expend the sum of \$150,000 from June 30, 2022 Certified Free Cash for the purpose of purchasing the replacement of a 2004 trackless sidewalk clearing tractor which is beyond its useful life.

As explained in the attached letter from Jim McGonagle, Commissioner of Public Works, the Department of Public Works put a sidewalk clearing bid out twice this year and received no bidders; therefore, all sidewalk clearing will be done in-house. A new trackless machine will be critical to successfully accomplishing this work.

There are significant supply chain issues impacting the availability of these vehicles. The City of Newton is taking advantage of the recent cancellation of an order, by another municipality, making this unit available immediately in time for the coming winter season.

Thank you for your consideration of this matter.

Sincerely,

Ruthanne Fuller  
Mayor

City of Newton

DEPARTMENT OF PUBLIC WORKS

499-22

Ruthanne Fuller  
Mayor

OFFICE OF THE COMMISSIONER

1000 Commonwealth Avenue  
Newton Centre, MA 02459-1449

To: Maureen Lemieux, Chief Financial Officer  
Jonathan Yeo, Chief Operating Officer

From: James McGonagle, Commissioner of Public Works

Subject: Request to Appropriate Funding to Purchase a Trackless

Date: November 2, 2022

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I respectfully request that the Mayor docket the following request to appropriate and expend one hundred fifty thousand dollars (\$150,000) to fund the replacement of a 2004 trackless sidewalk clearing machine beyond its useful life.

Attached is the quote for the purchase of a new trackless. The trackless is a critical piece of equipment in our sidewalk clearing operations. The Department of Public Works put a sidewalk clearing bid out twice this year and received no bidders; therefore, all sidewalk clearing will be done in-house.

Thank you for your consideration of this matter.

James McGonagle  
Commissioner

Telephone: (617) 796-1009 • Fax: (617) 796-1050 • [jmcgonagle@newtonma.gov](mailto:jmcgonagle@newtonma.gov)



**C.N. Wood Enviro LLC**

*an affiliate of C.N. Wood Co., Inc.*

10/18/2022

ORDER DATE

**499-22**  
WOBURN, MA

BRANCH

200 Merrimac Street  
Woburn, MA 01801  
(781) 935-1919

140 Wales Ave  
Avon, MA 02322  
(508) 584-8484

102 State Road  
Whately, MA 01093  
(413) 665-7009

60 Shun Pike  
Johnston, RI 02919  
(401) 942-9191

84B Warren Ave  
Westbrook, ME 04092  
(207) 854-0615

25A Bernhard Road  
North Haven, CT 06473  
(203) 848-6735

**Sales Order**

Customer P.O. # \_\_\_\_\_

F.O.B. \_\_\_\_\_ SHIPPED VIA: \_\_\_\_\_

Sold To: City of Newton

Ship To: same

Address: Department of Public Works

110 Crafts St

Newton MA02458

Phone: 617 796 1000 Fax: \_\_\_\_\_

Email: \_\_\_\_\_

QTY	ITEM #	S/N	DESCRIPTION	EACH	TOTAL
1	1		Trackless MT7 Tractor with extra pump and valve, reversing fan, forward/reverse	\$ 149,315.00	\$149,315.00
			rocker switch, rear washer/ wiper, intermittent front wiper, battery disconnect		0
			switch, am/fm/cd/blue tooth radio, ac/heater, oil pressure gauge, air ride seat,		0
			outside mirrors, power outlet-12 volt, license plate holder front and rear, cold weather start aid,		0
			rear view camera, back up alarm, radial winter tires, ride control, locking differentials,		0
			1 year standard warranty, painted Yellow		0
					0
					0
					0
					0
					0
			Due to the currant market conditions and the on-going supply		0
			chain issues pricing is subject to change		0
					0
			Procurement contract FAC 116		0
					0
					0
					0

	YEAR	MAKE	MODEL	S/N	HRS	WORKING CONDITION	ALLOWANCE	PAYOFF
TRADE #1						No		
TRADE #2						No		

Sale Price	\$149,315.00
Plus Tax	
F.E.T.	
<b>Total</b>	<b>\$149,315.00</b>
Less Trade	
Total Payoff	0
Less Deposit	
<b>Net Due</b>	<b>\$149,315.00</b>

Finance Details: (ALL FINANCE IS SUBJECT TO CREDIT APPROVAL)

Empty box for finance details.

TERMS:  NET CASH UPON INVOICE

FINANCE: \_\_\_\_\_

CONDITION:  AS IS  NEW

WARRANTY: \_\_\_\_\_

THIS DOCUMENT IS A CONTRACT INCLUDING IMPORTANT TERMS AND CONDITIONS. I HAVE REVIEWED AND ACCEPT ALL TERMS AND CONDITIONS, INCLUDING WITHOUT LIMITATION THOSE ON PAGES 2 - 4 OF THIS CONTRACT. I HAVE READ THIS CONTRACT AND AUTHORIZE THE ENTRY OF THE ABOVE ORDER SUBJECT TO THE TERMS AND CONDITIONS CONTAINED HEREIN

SELLER

PURCHASER

C.N. WOOD ENVIRO, LLC

COMPANY: City of Newton Department of Public Works

BY: Steve Russell

SALES REP

PRINT NAME: Travis Mosca Department of Public Works Fleet Maintenance

ACCEPTED: \_\_\_\_\_  
AUTHORIZED SIGNATURE

SIGNATURE: \_\_\_\_\_  
BUYER (If Corporation, Signature and Title of Officer)

THIS ORDER NOT ACCEPTED OR BINDING UNTIL APPROVED BY AN OFFICER OF C.N. WOOD ENVIRO LLC

Shipping Reference

This space for internal use only



RUTHANNE FULLER  
MAYOR

RECEIVED  
City of Newton, Massachusetts

2022 OCT 31 PM 3:00 Office of the Mayor

CITY CLERK  
NEWTON, MA. 02459

#495-22

Telephone  
(617) 796-1100

Telefax  
(617) 796-1113

TDD  
(617) 796-1089

E-mail  
[rfuller@newtonma.gov](mailto:rfuller@newtonma.gov)

October 31, 2022

Honorable City Council  
Newton City Hall  
1000 Commonwealth Avenue  
Newton Centre, MA 02459

Councilors:

I respectfully submit a docket item to your Honorable Council requesting authorization to transfer the sum of \$55,000, from Acct # 0111049-511001 Financial Services Full Time Salaries to a Department 111 – Non-Lapsing Police Technology Upgrade account.

With the departure of the former IT Director in the Police Department, it has become clear that additional funds are necessary for the City to improve substantially the Newton Police Department's wiring infrastructure, replace the phone system, provide new personal computers in all three buildings, consolidate solutions and equipment, update software and implement a strong offline encrypted backup solution.

Unused salaries from vacancies in the Financial Services Department has created unexpended appropriations that can fund this significant need.

Thank you for your consideration of this matter.

Sincerely,

Ruthanne Fuller  
Mayor



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**CITY OF NEWTON, MASSACHUSETTS**  
DEPARTMENT OF INFORMATION TECHNOLOGY

---

Ruthanne Fuller, Mayor  
Joseph P. Mulvey  
Chief Information Officer

Telephone (617) 796-1180  
Facsimile (617) 796-1196  
TDD/tty # (617) 796-1089

To: Maureen Lemieux, CFO  
From: Joseph Mulvey, CIO  
Date: October 12, 2022  
Re: Docket Request for additional funding for Police and Public Safety expenses

Good day, Maureen,

I respectfully request your consideration for submission of a docket item for \$55,000 to fund additional technology costs as we work with the Newton Police Department to overhaul their wiring infrastructure, replace their phone system, replace every personal computer in all three buildings, while consolidating solutions and equipment and implementing a strong offline encrypted backup solution.

As we progressed, and in conjunction with NPD staff and outside contractor Delphi, additional needs were uncovered as all areas of Police were examined, reviewed, and cleaned up. Items such as updating every PC to Office 365, creating a phone directory / voicemail service for officers without desks, additional wireless access points and SAN-based licensing all have taken a toll on our budgets.

Additionally, it is expected that our annual Office 365 subscription renewal costs will increase significantly due to the leaps in technology now available to the Police Department.

Since we began this project in April, we have done our best to keep all parties apprised and updated towards our progress without overwhelming people with too much information. Most of these financial challenges made themselves known only as we made progress.

In an unrelated event, we experienced an outside fiber cut on the south side of the city that has impacted about 10 city and school buildings. Emergency repair work will be expedited to get these systems functioning the way they were designed.

The estimated cost for this repair does not include Police details.

Catastrophic events are never convenient. I am happy to report that in the 8 years since our city-wide fiber was installed, this is the first instance of damage to outside cabling.

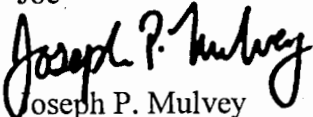
Below, please find a table detailing the breakdown of costs that have taken place or will be occurring in the next weeks to months.

As always, I appreciate your understanding of the many challenges inherent in overhauling such a complicated system with so many moving parts.

Description	Cost
Software - MS Office G3 Licensing November through Feb	\$ 4,000.00
Software - MS Office G3 Add. Annual Licensing Renewal March 2023	\$ 20,000.00
Software - Mitel Police Officer rolodex and voicemail (one time costs)	\$ 5,400.00
Hardware - Replace 400 Patch Cables for all PCs and Phones	\$ 1,430.00
Software - Subscription License Increase to add NPD Backup Capacity	\$ 2,008.00
Infrastructure - Enclosure Replacements	\$ 1,450.00
Server - Maintenance and Support for DataDomain (annual)	\$ 3,000.00
Infrastructure - Emergency Fiber Repair Work, south side	\$ 14,000.00

Respectfully,

Joe



Joseph P. Mulvey

Chief Information Officer

City of Newton Information Technology Dept.

1000 Commonwealth Ave.

Newton Centre, MA 02459

617-796-1188





City of Newton, Massachusetts  
Office of the Mayor

RUTHANNE FULLER  
MAYOR

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(617) 796-1089

E-mail  
rfuller@newtonma.gov

Honorable City Council  
Newton City Hall  
1000 Commonwealth Avenue  
Newton Centre, MA 02459

Councilors:

I respectfully submit a docket item to your Honorable Council requesting authorization to appropriate and expend the sum of \$800,000 from June 30, 2022 Certified Free Cash to fund the replacement of Fire Engine 7.

Engine 7 is approximately 15 years old and will become a spare in the Fire Department's fleet.

Thank you for your consideration of this matter.

Sincerely,

Ruthanne Fuller  
Mayor

October 17, 2022

RECEIVED  
2022 OCT 17 PM 3:31  
CITY CLERK  
NEWTON, MA. 02459



Gregory J. Gentile  
Chief

**CITY OF NEWTON, MASSACHUSETTS**  
**FIRE DEPARTMENT HEADQUARTERS**  
1164 Centre Street, Newton Center, MA 02459-1584  
Chief: (617) 796-2210 Fire Prevention: (617) 796-2230  
FAX: (617) 796-2211 EMERGENCY: 911



Ruthanne Fuller  
Mayor

October 14, 2022

Maureen Lemieux  
CFO  
City of Newton  
1000 Commonwealth Ave  
Newton, MA 02459

Maureen,  
I respectfully request to docket funding of \$800,000.00 dollars to purchase a new Fire Engine for the Newton Fire Department.

The new fire engine would replace our current Engine 7 which is approximately 15 years old. NFPA standards requires all in line apparatus to be replaced every 10 years. Older Engine 7 will become a spare in our fleet.

Thank you for your consideration to this matter.

Greg Gentile  
Chief of Department

A handwritten signature in black ink, appearing to read "Greg Gentile", written over a horizontal line.



**APPARATUS PROPOSAL**

September 26, 2022

Bulldog Fire Apparatus hereby proposes to furnish to the City of Newton, MA., subject to the City of Newton Fire Department acceptance of Bulldog's proposal and the proper execution of the appropriate contract, the following KME apparatus and equipment to be built in accordance with the attached specifications, whether purchase is made via Bulldog contract or customer purchase order.

Quantity: One (1) KME Severe Service Triple Combination Pumper.  
For the sum of **Seven Hundred Sixty Thousand – Eight Hundred Four Dollars.**

(Plus applicable taxes if any)

**TOTAL: \$760,804.00**

Delivery is to be made subject to all clauses of the attached contract, within approximately **490-520 calendar days from receipt of the pre-construction documents.** Company will not be liable for any delay, failure to make delivery, or other default due to strikes or labor unrest, war, riot, federal, state or local government action, fire, flood or other disaster or acts of God, accidents, breakdown of machinery, lack of or inability to obtain materials, parts or supplies, or any other causes or circumstances beyond the reasonable control of Company which prevent or hinder Company's manufacture and/or delivery of the Apparatus. The Bidder's right to withdraw this proposal, if not accepted within **Thirty (30) days** from the above date is hereby acknowledged.

Respectfully submitted by,

A handwritten signature in black ink that reads "Linus G. Murphy". The signature is written in a cursive style with a long horizontal stroke at the end.

Linus Murphy  
Fire Apparatus Sales Representative

Bulldog Fire Apparatus Inc.  
17 Winter Street  
Woodville, MA. 01784  
(508)435-4200

KME  
One Industrial Complex  
Nesquehoning, PA 18240  
(800) 235-3928

**Pre-Payment and Travel Options:**

1. **100% Pre- Pay:** If the sum of \$741,867.28 is remitted within thirty (30) business days of contract signing Bulldog Fire Apparatus will consider the apparatus paid in full with a zero balance due upon delivery.
2. **90% Pre- Pay:** If the sum of \$684,723.60 is remitted within thirty (30) business days of contract signing you may deduct \$17,043.05 from the bid price.
3. **75% Pre- Pay:** If the sum of \$570,603.00 is remitted within thirty (30) business days of contract signing you may deduct \$14,202.54 from the bid price.
4. **50% Pre- Pay:** If the sum of \$380,402.00 is remitted within thirty (30) business days of contract signing you may deduct \$9,468.36 from the bid price.
5. **25% Pre- Pay:** If the sum of \$190,201.00 is remitted within thirty (30) business days of contract signing you may deduct \$4,734.18 from the bid price.
6. **TRAVEL:** If the Fire Department chooses not to travel to Holden, LA for final inspection, you may deduct \$5000.00 from the bid price.



City of Newton, Massachusetts  
Office of the Mayor

RUTHANNE FULLER  
MAYOR

498-22  
Telephone  
(617) 796-1100  
Telefax  
(617) 796-1113  
TDD  
(617) 796-1089  
E-mail  
rfuller@newtonma.gov

November 3, 2022

Honorable City Council  
Newton City Hall  
1000 Commonwealth Avenue  
Newton Centre, MA 02459

RECEIVED  
2022 NOV -3 PM 4:39  
CITY CLERK  
NEWTON, MA. 02459

Councilors:

I respectfully submit a docket item to your Honorable Council requesting the approval to spend \$33,333 in transportation mitigation funds from the 15 Riverdale Ave development for NewMo operations consistent with the transportation demand management plan set out in Special Permit #01-20 and the approved Request for Determination of Insubstantial Change dated 2/2/22.

While the approved language calls for payments for NewMo in three equal installments totaling \$100,000, the first on 2/1/22, the second on 8/1/23 and the third on 2/1/24, this approval is only for the Fiscal Year 2023 payment of \$33,333. The City plans to request a second installment in early Fiscal Year 2024 and the third installment a year later.

As stated in the "Request for Determination of Insubstantial Change,"

The applicant has been in touch with the Watertown TMA, and learned that there is presently no funding to extend the Pleasant Street shuttle into Newton via California Street. Accordingly the Applicant proposes the following language to replace condition 56d:

"Providing the City with a contribution of \$100,000. The funds are to be used for such transportation purposes as the City deems appropriate, including without limitation, NewMo. These funds shall be paid in three equal installations: the first on February 1, 2022, the second on August 1, 2023, and the third on February 1, 2024."

A memo from Director of Planning & Development Barney Heath is attached.

Thank you for your consideration of this matter.

Sincerely,

Ruthanne Fuller  
Mayor



City of Newton, Massachusetts  
Office of the Mayor

498-22

Telephone  
(617) 796-1100

Telefax  
(617) 796-1113

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(617) 796-1089

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[rfuller@newtonma.gov](mailto:rfuller@newtonma.gov)

RUTHANNE FULLER  
MAYOR

November 3, 2022

Honorable City Council  
Newton City Hall  
1000 Commonwealth Avenue  
Newton Centre, MA 02459

RECEIVED  
2022 NOV -3 PM 4:33  
CITY CLERK  
NEWTON, MA. 02459

Councilors:

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While the approved language calls for payments for NewMo in three equal installments totaling \$100,000, the first on 2/1/22, the second on 8/1/23 and the third on 2/1/24, this approval is only for the Fiscal Year 2023 payment of \$33,333. The City plans to request a second installment in early Fiscal Year 2024 and the third installment a year later.

As stated in the "Request for Determination of Insubstantial Change,"

The applicant has been in touch with the Watertown TMA, and learned that there is presently no funding to extend the Pleasant Street shuttle into Newton via California Street. Accordingly the Applicant proposes the following language to replace condition 56d:

"Providing the City with a contribution of \$100,000. The funds are to be used for such transportation purposes as the City deems appropriate, including without limitation, NewMo. These funds shall be paid in three equal installations: the first on February 1, 2022, the second on August 1, 2023, and the third on February 1, 2024."

A memo from Director of Planning & Development Barney Heath is attached.

Thank you for your consideration of this matter.

Sincerely,

Ruthanne Fuller  
Mayor

Middlesex South Registry of Deeds  
Electronically Recorded Document

This is the first page of the document - Do not remove

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Recording Information

Document Number	: 20345
Document Type	: AFF
Recorded Date	: February 07, 2022
Recorded Time	: 12:11:12 PM
Recorded Book and Page	: 79650 / 567
Number of Pages(including cover sheet)	: 7
Receipt Number	: 2780445
Recording Fee	: \$105.00

**Middlesex South Registry of Deeds**  
**Maria C. Curtatone, Register**  
208 Cambridge Street  
Cambridge, MA 02141  
617-679-6300  
[www.middlesexsouthregistry.com](http://www.middlesexsouthregistry.com)

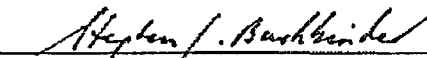
Affidavit Under G.L.C. 183, § 5B

Property Address: 15 Riverdale Avenue, Newton, MA  
Title Reference: Middlesex South District Registry of Deeds Book 59021, Page 1

I, Stephen J. Buchbinder, of Schlesinger and Buchbinder, LLP, 1200 Walnut Street, Newton, Middlesex County, Massachusetts, having personal knowledge of the facts herein stated, under oath depose and say as follows:

The correspondence and related exhibits from Brooke K. Lipsitt, Chairman of the Zoning Board of Appeals for the City of Newton, attached hereto as Exhibit A, relate to a modification of Comprehensive Permit Decision #01-20 recorded with said Deeds in Book 75327, Page 424 by approving certain insubstantial changes to the same, and is required to be recorded with the Middlesex South District Registry of Deeds.

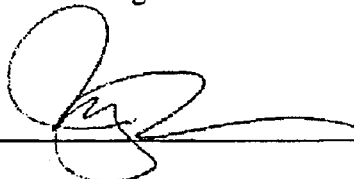
Signed under the pains and penalties of perjury this 3<sup>rd</sup> day of February, 2022.

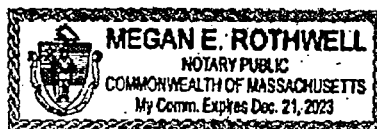
  
Stephen J. Buchbinder, Esquire

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

On this 3<sup>rd</sup> day of February, 2022, before me, the undersigned notary public, personally appeared Stephen J. Buchbinder, proved to me through satisfactory evidence of identification, which was a Massachusetts driver's license, to be the person whose name is signed on the preceding document, and acknowledged to me that he signed it voluntarily for its stated purpose.

  
Notary Public  
My commission expires:



15 Riverdale Avenue, Newton, MA · Book 75420, Page 312





Ruthanne Fuller  
Mayor

## CITY OF NEWTON, MASSACHUSETTS

City Hall

1000 Commonwealth Avenue, Newton, MA 02459-1449

Telephone: (617) 796-1120 TDD/TTY: (617) 796-1089 Fax: (617) 796-1086

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

**ZONING BOARD OF APPEALS**  
Heather Zaring, Interim Board Clerk

February 2, 2022

By Email Only

Schlesinger and Buchbinder, LLP  
1200 Walnut Street  
Newton, Massachusetts 02461

Re: Comprehensive Permit 01-20; 15 Riverdale Avenue, Newton-Request for Determination of  
Insubstantial Change

Dear Mr. Buchbinder:

Pursuant to 750 CMR 56.05 (11), this letter serves as written notice with respect to the above-referenced Comprehensive Permit that the Newton Zoning Board of Appeals ("ZBA") has determined, based on the factors set forth in 750 CMR 56.07(4), that the changes to the approved project set forth in the January 14, 2022 letter received by the ZBA from Stephen Buchbinder on behalf of CPC Land Acquisition Company (the "Request Letter") constitute an insubstantial change. As a result, Comprehensive Permit #01-20 shall be deemed modified to incorporate the changes set forth in the Request Letter and the approved project shall be constructed in accordance with changes as set forth in the Request Letter and as shown on the following updated architectural plans: A-200 Overall Elevations, Prepared by ICON Architecture and dated December 6, 2021 (the "Revised Plans"). The Revised Plans shall replace plan sheet A-201 to A-206 listed in Schedule A of the Comprehensive Permit #01-20. The Request Letter is attached hereto as Exhibit A and the Revised Plans is attached hereto as Exhibit B.

Very truly yours,

*Brooke K. Lipsitt*

Brooke K. Lipsitt, Chair

**SCHLESINGER AND BUCHBINDER, LLP**  
ATTORNEYS AT LAW

**EXHIBIT A**

STEPHEN J. BUCHBINDER  
ALAN J. SCHLESINGER  
LEONARD M. DAVIDSON  
A MIRIAM JAFFE  
SHERMAN H. STARR, JR.  
JUDITH L. MELIDEO-PREBLE  
BARBARA D. DALLIS  
JULIE B. ROSS  
KATHRYN K. WINTERS  
KATHERINE BRAUCHER ADAMS  
FRANKLIN J. SCHWARZER  
RACHAEL C. CARVER  
ADAM M. SCHECTER

1200 Walnut Street  
Newton, Massachusetts 02461-7257  
Telephone (617) 965-3500

www.sab-law.com  
Email: sjbuchbinder@sab-law.com

January 13, 2022

**BY FEDEX**

Ms. Brooke K. Lipsitt, Chairman  
Zoning Board of Appeals  
Newton City Hall  
1000 Commonwealth Avenue  
Newton, MA 02459-1449

Re: The Residences on the Charles

Dear Chairman Lipsitt,

On June 17, 2020 the Zoning Board of Appeals (the "ZBA") issued a Comprehensive Permit Decision (#01-20) ("the Decision") to CPC Land Acquisition Company ("the Applicant") granting approval for the construction of a mixed-use development known as the Residences on the Charles containing three new buildings with 204 residential units and ancillary tenant and community space. On October 6, 2021, the ZBA approved certain Insubstantial Changes to approved architectural plan A-102 resulting in a decrease of two parking stalls and updates to the parking layout and to the tenant and community space.

**Plan Changes**

The Applicant now seeks to make certain additional modifications to the Decision, and for those modifications to be determined to be insubstantial changes to the Decision in accordance with the factors set forth in 760 CMR 56.05(11) and 756.07(4).

In accordance with said request, the Applicant presents updated architectural elevations prepared by ICON Architecture (sheet A-200P, "Comparison of Overall Elevations" dated December 6, 2021), a copy of which is hereto attached as Exhibit A. We are seeking a determination from the ZBA that these changes are insubstantial.

The minor changes, which are the result of the progression of the schematic design documents into construction documents, are summarized on the attached narrative (Exhibit B) and are the result of changes to materials which were specified on the previously approved plans. Rooftop mechanicals have also been added to the proposed building elevations. Sheet A-200, "Overall Elevations" dated December 6, 2021, a copy of which is attached hereto as Exhibit C, will replace Sheet A-201 (the approved elevation). I note that the approved plan set includes perspectives listed as A-202 to A-206 on Schedule A of the Decision. Replacements for these perspectives are not available because the software used for the construction plans does not offer perspective views. Therefore, the Applicant requests that Sheet A-200 replace Sheets A-201 to A-206.

The Applicant also requests a modification of Condition 56d of the Decision, which mandates that the Applicant shall implement a Transportation Demand Management Plan to include the following:

"Providing funding to the Watertown TMA for the creation or maintenance of a shuttle service along Pleasant Street and/or California Street."

**SCHLESINGER AND BUCHBINDER, LLP**

Ms. Brooke K. Lipsitt, Chairman  
January 13, 2022

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The Applicant has been in touch with the Watertown TMA, and has learned that there is presently no funding to extend the Pleasant Street shuttle into Newton via California Street. Accordingly, the Applicant proposes the following language to replace Condition 56d:

“Providing the City with a contribution of \$100,000. The funds are to be used for such transportation purposes as the City deems appropriate, including without limitation, NewMo. These funds shall be paid in three equal installments: the first on February 1, 2022, the second on August 1, 2023, and the third on February 1, 2024.”

The Applicant has discussed this proposed modification with Planning Director Barney Heath and his team, along with Transportation Director Nicole Freedman and her team, and we believe that the proposed transportation provision satisfies the City.

**Insubstantial Change**

The 40B regulations at 760 CMR 56.07(4) (b)-(d) provide commentary and examples to assist a Zoning Board as to what constitutes a substantial or insubstantial change to a comprehensive permit.

As set forth in 56.07(4)(c), the following matters generally constitute a substantial change:

1. An increase of more than 10% in the height of the building(s);
2. An increase of more than 10% in the number of housing units proposed;
3. A reduction in the size of the site of more than 10% in excess of any decrease in the number of housing units proposed;
4. A change in building type (e.g., garden apartments, townhouses, high-rises); or
5. A change from one form of housing tenure to another.

As set forth in 56.07(4)(d), the following matters generally will not constitute substantial changes:

1. A reduction in the number of housing units proposed;
2. A decrease of less than 10% in the floor area of individual units;
3. A change in the number of bedrooms within individual units, if such changes do not alter the overall bedroom count of the proposed housing by more than 10%;
4. A change in the color or style of materials used; or
5. A change in the financing program under which the Applicant plans to receive a Subsidy, if the change affects no other aspect of the proposal.

The Applicant hereby requests that the Board act on this request within twenty (20) days as is required pursuant to 760 CMR 56.05(11)(a). If it is determined that the above-described revisions to the Decision are insubstantial changes, or if notice is not provided to the Applicant to the contrary within twenty (20) days, the Comprehensive Permit shall be deemed modified as requested. The above process does not require a public hearing. A public hearing would only be required if you determine that the requested changes are substantial changes, and if so, and pursuant to the referenced regulations, a public hearing would need to be held within thirty (30) days.

Thank you for your consideration of these requests.

Sincerely,

*Stephen J. Buchbinder*

Stephen J. Buchbinder

**SCHLESINGER AND BUCHBINDER, LLP**

Ms. Brooke K. Lipsitt, Chairman  
January 13, 2022

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Enclosures

cc: (By FedEx, w/enclosures)  
Mr. Treff LaFleche  
Mr. Michael J. Quinn  
Mr. Michael Rossi  
Mr. Stuart Snyder  
Ms. Elizabeth Sweet

(By Email, w/enclosures)  
Mr. Jack Englert

(By Hand and By Email, w/enclosures)  
Ms. Heather Zaring  
Jonah Temple, Esquire, Assistant City Solicitor  
Ms. Jennifer Caira, Deputy Director of Planning and Development  
Mr. Neil Cronin, Chief Planner, Planning and Development Department