



Public Facilities Committee Report

City of Newton

In City Council

Wednesday, June 5, 2019

Present: Councilors Crossley (Chair), Leary, Norton, Kelley, Gentile, Danberg, Laredo, Lappin,
Also Present: Councilor Grossman

City Staff Present: Commissioner of Public Works Jim McGonagle, City Engineer Lou Taverna,
Commissioner of Public Buildings Josh Morse, School Department Assistant Superintendent/Chief
Financial and Administrative Officer Liam Hurley, School Committee Member Diana Fisher-Gomberg
Chief Operating Officer Jonathan Yeo, Associate City Solicitor Jonah Temple

#194-19 5-58 for the Newton Early Childhood Program at 687 Watertown Street

DESIGN REVIEW COMMITTEE petition, pursuant to 5-58, for schematic design and site plan approval at 687 Watertown Street for the interior renovation of the former Horace Mann school to accommodate the Newton Early Childhood Program and proposed site design that includes a new entry plaza, removal of the existing modular structures to provide an access drive, a school transportation van loading area and emergency access, and landscaping improvements. Additional site improvements include parking improvements and an accessible ramp to new play structures located in the adjacent area north of the building.

Action: Public Facilities Held 8-0

Note: Commissioner of Public Buildings Joshua Morse introduced Arrowstreet Architects Larry Spang and Meryl Nistler. Commissioner Morse presented the request for approval of the site plan and schematic design for the Newton Early Childhood Program (NECP) at 687 Watertown Street. Mr. Spang, Ms. Nistler and Commissioner Morse presented an overview of the project as shown on the attached presentation. The building at 687 Watertown Street is located at the corner of Albemarle Road and Watertown Street, adjacent to the Boys & Girls Club on Watertown Street and the existing park along Albemarle Road. The Newton Early Childhood Program typically serves Pre-K children including children with special needs.

Ms. Nistler explained that some students spend 3-4 hours a day at the program while others only attend for specific, one-hour services. She noted that the enrollment tends to expand throughout the year as student needs change. Because the program is the only one of its kind, it draws from students throughout the City and is car-centric. Mr. Spang explained that most children arrive by private vehicle and specialized busses. The drop-offs tend to take longer but are spread out throughout the day given the shorter service times. Mr. Spang noted that approximately 85-100 parking spaces are needed for staff members and 45-60 for parents. There are 265 parking spaces in the neighborhood which can accommodate the parking

demand. Mr. Spang noted that accessible parking will be located on the street near the Albemarle Road front entry.

The building will have four access points. The main entrance will be on Albemarle Road and a second access will be located at the rear of the building. The site plan includes a bus loop at the rear entrance for students who arrive by van, as well as access on each side of the building.

Mr. Spang noted that the playground equipment at 150 Jackson Road will be relocated to 687 Watertown Street and the existing playground equipment at 687 Watertown Street will be relocated on/near this site or to 227 Nevada Street TBD. It is the expectation that there will be access from the NECP program to the existing playground space at 687 Watertown Street. During winter months and inclement weather, students will use multi-purpose space within the building for exercise. Ms. Nistler presented an overview of the details of the floorplans as shown on the attached presentation. To create two additional classrooms, a new upper level is proposed to infill the existing gymnasium. At the lower level, additional meeting rooms, social work rooms and office space is shown.

Commissioner Morse noted that the Public Buildings Department is continuing to work with the Parks and Recreation Commission and the neighborhood to determine the best options with regard to plantings, pedestrian flow and the park spaces. The Commissioner noted that while the City had considered construction of an additional 15+ stall parking lot at the site, it proved costly and unnecessary given the number of parking spaces in the neighborhood, and has been removed from the plans.

The Commissioner noted that the total project budget is \$10 million dollars (\$8 million for construction). He stated that the first professional construction estimate, received the previous week, is \$4 million dollars over the \$8 million-dollar construction budget. The Commissioner explained that it is not uncommon to have estimates over budget during the course of projects but that the design team will continue to evaluate to see where cost savings might be achieved. The Commissioner noted that the current NECP serves 13 classrooms and will need 14 in the near future. The plan to infill the gymnasium creates 17 classrooms, allowing future growth. The Commissioner noted that the infill portion of the project triggers a level 3 renovation, which means it must meet more stringent seismic code. Without the infill portion of the project, it is possible that the renovation would be below the 50% renovation threshold that triggers these additional reinforcements throughout the building. The Commissioner stated that the infill portion of the project is resulting in cost increases that would not be applicable TO an addition to the building, as an addition could be structurally isolated from the main building.

The Commissioner explained that the design team will continue to evaluate what level of work can be completed without triggering a level 3 renovation but noted that a level 3 renovation is unavoidable if the City proceeds with the gymnasium infill. The Chair asked and Mr. Spang confirmed that constructing the additional two classrooms in the gym results in a cost increase representing approximately \$1 million dollars per classroom. Mr. Spang confirmed that elimination of the infill is not enough to eliminate the seismic work at the site; there would need to be additional reductions in scope.

Committee members questioned whether the additional classrooms are necessary given the recent demographer's report indicating that student enrollment is remaining flat and/or declining. School Committee Member Diana Fisher Gomberg noted that while student enrollment is flat and/or declining throughout the K-12 population, it is increasing for the special education/pre-K population. Ms. Fisher-Gomberg noted that there are increasing needs for special education as well as smaller classroom sizes (approximately 14 students). It was noted that having the pre-K and special education programs in the same space is important for operational efficiency.

Commissioner Morse confirmed that the City is committed to full remediation of the remaining oil contamination underground. He stated the borings have been completed and the area of contamination has been identified. The Commissioner noted that oil vapors that may permeate the building are a concern, especially when there are children with compromised immune systems. The Commissioner confirmed that the City will comply with federal and state laws and recommendations. He recommended additional air testing over the winter to ensure that there are no vapor issues.

Some Committee members expressed concern relative to the cost of the project and noted that one site identified for NewCAL is the Albemarle Park. Councilors questioned whether another program might be better suited at 687 Watertown Street. Committee members urged the Commissioner to consider the various options for land use at 687 Watertown Street.

The Public Hearing was Opened

Michael Penzo, 46 Chandler Place, is a Licensed Site Professional (LSP). He noted that he spoke with the LSP for the project. Mr. Penzo noted that there will always be some oil at the site that can never be eradicated. He stated that the project should be able to move forward and the site remediation closed out if a subsurface ventilation system is installed. He stated that the ventilation system will assure compliance and mitigate any remaining vapors at the site.

Marian Randell, 2 Harrington Street, is an Environmental Engineer. Ms. Randell is supportive of Mr. Penzo's statements as well as the additional air testing.

Amy Sangiolo, thanked Councilors for urging the continued collaboration with the Boys and Girls Club.

Seeing no other member of the public who wished to speak, the public hearing was closed. It was noted that playground relocations and the oil mitigation costs are included in the current cost estimates. However, The Commissioner confirmed that no building insulation is included in the estimates. Committee members asked that the Commissioner provide a breakdown of the budget and a summary of stormwater measures for the next meeting. The Chair also requested a break-down of costs for the building insulation options as well as expected costs for the mechanical systems. With that, Committee members voted unanimously in favor of a motion to hold the item.

#116-19 ExteNet Systems petition for wireless grant of location on Commonwealth Avenue

EXTENET SYSTEMS, LLC petitioning for a grant of location to install a small cell wireless facility on an existing city-owned streetlight pole located in the right-of-way in the vicinity of 140 Commonwealth Avenue. The installation will include an antenna, radio equipment, an electric meter, and cabling for fiber and power to enhance wireless coverage in the area. (Action date: 06/18/19)

Action: Public Facilities Approved 8-0

Note: Extenet Representative Mr. Keenan Brinn joined the Committee to discuss the grant of location for wireless equipment on Commonwealth Avenue. The grant of location was approved by the Public Facilities Committee on May 20, 2019, and later recommitted at the Council meeting of May 20, 2019 by Councilor Gentile, who asked several questions about the petition. The following answers were given: The proposed pole is a City owned pole and as such requires a licensing agreement between the City and the petitioner. Attorney Mandl confirmed that the licensing agreement (attached) can be used as a template for other wireless licensing agreements. Atty. Mandl noted that there may be differences in the licensing agreements for other carriers, but likely only matters specific to the conditions of a given location, which would be reflected in the exhibits attached to the license agreement. Commissioner of Public Works Jim McGonagle confirmed that the City's Associate City Engineer verifies details of the specifications for each grant of location. Mr. Keenan Brinn confirmed that the details specified as Attachments are included on the equipment detail sheet. Mr. Brinn also confirmed that replacement poles are maintained off-site. Commissioner McGonagle confirmed that DPW will set up an account with the Treasury who will bill the petitioner annually. Committee members expressed no other concerns relative to the item. Councilor Kelley motioned to approve the item which carried unanimously.

Referred to Public Facilities and Finance Committees

#198-19 **Authorization to acquire by purchase 1135 Washington Street from the State**

HER HONOR THE MAYOR requesting authorization to acquire by purchase the West Newton Armory building and land located at 1135 Washington Street for affordable housing, and further requesting that the sum of one dollar (\$1) be appropriated from the Municipal Building Maintenance/Building Improvements Account to fund all costs associated with the acquisition of such property.

Action: Public Facilities Approved as Amended 8-0

Note: Director of Planning and Development Barney Heath presented the request to acquire the Armory building at 1135 Washington Street. Mr. Heath explained that the City was approached by the Division of Capital Asset Management and Maintenance (DCAMM) regarding how the Armory building may be used. If the City were not interested; a competitive RFP would be issued, and the property would be sold to the highest bidder. If the City wishes to acquire the property; it can purchase the property at a cost of \$1 for the purpose of constructing all affordable housing (at 80% AMI or lower). Otherwise, the City may purchase the property at a reduced rate for a direct public use only (i.e. police station, senior center, library). After a review of the options and an assessment of the building condition, the Mayor asked the Planning Department to move forward with a plan for affordable housing. After conversations with the Council President, the Mayor has requested an amendment to the docket item to allow the

acquisition of the property for a price and use to be determined. The amended docket language is shown below:

HER HONOR THE MAYOR requesting authorization to acquire by purchase the West Newton Armory building and land located at 1135 Washington Street for affordable housing or a public use for a price to be determined.

Councilor Laredo explained that DCAMM met with the Mayor and Councilors to present details of the process. He explained that the last time DCAMM sold a property to a City, it was for approximately 25% of the appraised value for a public use. The Mayor has amended the request to allow the City to investigate all options. An item must be docketed before the state legislature to grant DCAMM the authority to sell the property to the City. In order to be considered by the legislature, the City must demonstrate interest in acquiring the property by September 1, 2019.

Director of Housing Amanda Berman explained that the timeline presented in the packet would be revised given the change in direction. She noted that the Planning Department intends to move forward with the Newton Housing Partnership to put together an RFP for an affordable housing consultant. They plan to seek grant funding or use consulting funds to cover the contract for the consultant. Ms. Berman stated that the consultant would be responsible for performing due diligence on the property including; historic preservation research, investigating environmental impacts and identifying possible funding sources as well as development of an RFP for an affordable housing developer. If the City moves forward with a plan for affordable housing, the affordable housing development consultant would finalize an RFP in 2020. The selection process would take a few months and the developer would seek approval through the City's processes. If the project moves quickly and without delay, the earliest that the building would be occupied would be 2023.

Committee members noted that approval of the legislation will take approximately 6 months and the City is not obligated to purchase the property once DCAMM is authorized to sell it. Councilors were supportive of acquiring the Armory building for some purpose, but some members shared concerns over hiring a housing consultant prior to analysis of what other public uses might be best for the site. It was noted that repurposing of the building will be costly and will require Massachusetts Historic Commission approval. When a Joint Action Planning Group (JAPG) is formed, the members will be tasked with analysis of the building as well as possible uses. Mr. Heath explained that an affordable housing consultant may help make an initial determination that the building cannot be easily converted for affordable housing. Committee members expressed interest in moving forward with the acquisition of the property. Associate City Solicitor Jonah Temple confirmed that the Real Property Reuse Committee may begin discussions on the project prior to the City's acquisition on the property. With that, Councilor Kelley motioned to approve the item as amended to require that a JAPG be required and so directed, with the recommendation that the JAPG be docketed as soon as possible. Committee members voted unanimously in favor of approval.

Referred to Public Facilities and Finance Committees

#161-19 Appropriation of \$2 million for design of the Washington Street corridor
HER HONOR THE MAYOR requesting authorization to appropriate and expend two million dollars (\$2,000,000) from Free Cash for the purpose of developing 25% conceptual design of the Washington Street corridor in order to make the improvements to the corridor eligible for the State's Transportation Improvement Program (TIP) funding.

Action: Public Facilities Held 6-0 (Kelley, Norton not Voting)

Note: Commissioner of Public Works Jim McGonagle presented the request for \$2 million dollars for the design of the Washington Street corridor. Commissioner McGonagle noted that there is support for a trial of the Washington Street Corridor from Lowell Ave to Chestnut Street. The Commissioner presented the amended request to appropriate \$2 million dollars for placement in a dedication account per the Mayor's request:

*I respectfully request that your Honorable Council amend **Docket Item# 161-19** ... by limiting the authorization to simply appropriate" the funds to a dedicated account for this purpose, and by requiring that the Administration will seek City Council approval for any expenditure of funds when the plan has been finalized. Thank you for your consideration of this matter.*

The Commissioner explained that it is the intent to return to the Public Facilities Committee with a request to expend funds to begin traffic counts and the design of the trial.

Committee members questioned why the request is to reserve the \$2 million dollars in a separate account. The Commissioner explained that he does not yet have an estimate for the cost of traffic counts and trial design and noted that the separate account would place the funds on hold. Most Committee members agreed that there is no immediate need for the \$2 million dollars and expressed concern about removing \$2 million dollars from free cash. Councilors agreed that funds can be appropriated once DPW provides more detailed cost estimates, for the traffic counts and work needed to design and implement the trial. With that Councilor Lappin motioned to hold the item which carried unanimously.

The Committee adjourned at 10:30 pm.

Respectfully Submitted,

Deborah Crossley, Chair



**NEWTON EARLY CHILDHOOD PROGRAM
687 WATERTOWN STREET**

PUBLIC FACILITIES COMMITTEE HEARING

Newton Public Schools
Newton, Massachusetts

JUNE 5, 2019

ARROWSTREET

10 POST OFFICE SQUARE
SUITE 700N
BOSTON, MA 02109
617.623.5555

www.arrowstreet.com

Hill International

75 SECOND AVENUE
SUITE 300
NEEDHAM, MA 02494
617.778.0900

www.hillintl.com

687 Watertown Street



Newton Early Childhood Program (NECP)
 City Wide Integrated Pre School Educational Program

- » Program currently located at former Aquinas College (150 Jackson Road)
- » Serves ages 2.9 years old to under 6 years old
- » Classroom based and related services provided to students
- » Approximately 65 - 70% of NECP students have Individualized Education Plans (IEPs)
- » Due to the nature of the program, enrollment increases throughout the school year
- » The NECP group size for integrated classrooms is limited to a total of 16 students per classroom; two sub-separate classrooms have a limit of 9 students

Program Summary and Design Guidelines
 Projected NECP at 687 Watertown Street

Exterior/ Site

- » Outdoor age appropriate playground
- » Car-centric due to nature of program
- » Vans operation: 12 - 15 Vans
- » Parent/ guardian vehicles: 45 - 65
- » Staff vehicles: 85 - 100

Building/ Program

- » Building Size: 38,000 SF on 3 levels
- » Remove modulars
- » Occupancy:
 - 305 total students (ages 2.9 to under 6 years old)
 - 104 Special needs
 - 90 Typically developing
 - 111 Related services
- » 85 - 100 Staff
- » Hours of Operation:
 - Entry 8:30am to 9:00am
 - Dismissal 12:00 to 12:30pm, 1:30pm, and 2:30pm

Features/ Goals

- » Improve pick-up/ drop off and entry to provide access and security for families and caregivers
- » Design with regard with understanding the mobility and sensory needs of population
- » Design for inclusiveness and spaces for specialists adjacent or within classrooms
- » Create shared specialist offices to foster collaboration and sharing between teachers

» 14 - 18 Classrooms

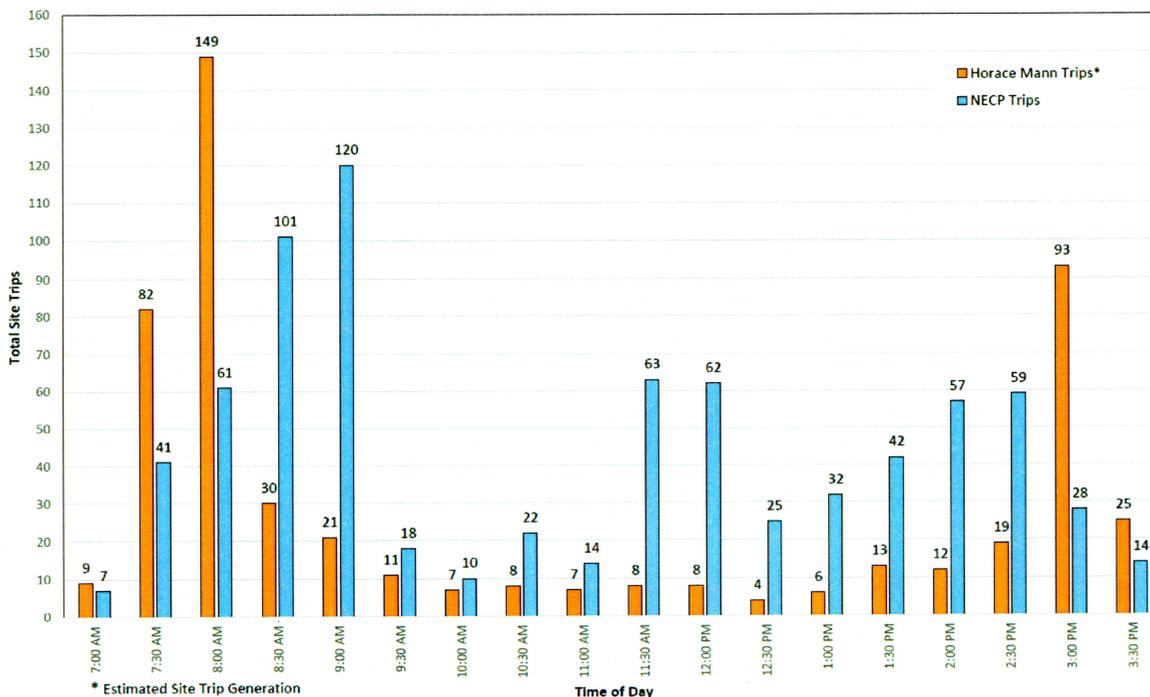
NECP Site Circulation

Unique Features to the City wide Integrated Preschool Program

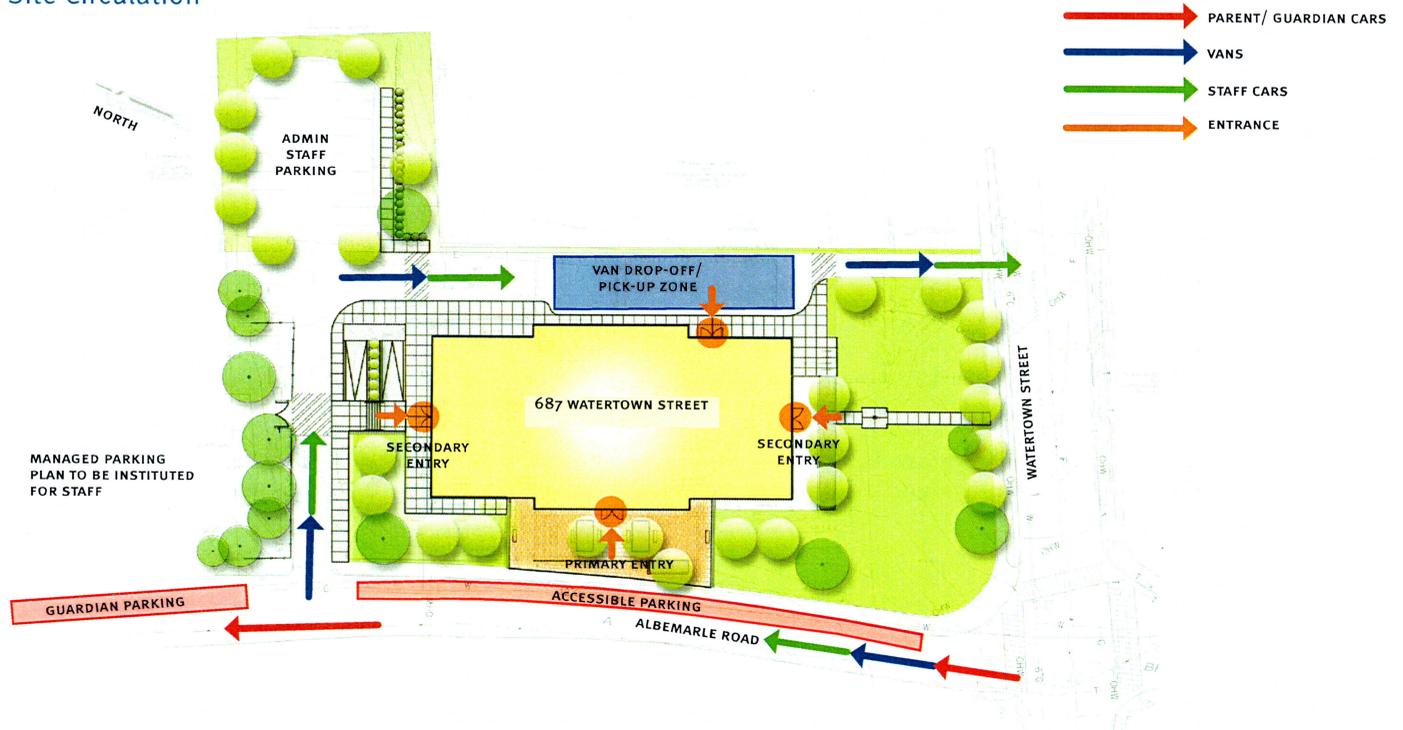
- » No yellow buses
- » Students are **2.9 to under 6 years old**, which are escorted into and picked up at the classroom
- » All transportation provided by NPS is required to be door-to-door specialized van services
- » **70 - 110 students** are transported by specialized vans, increasing throughout the year
- » At peak times, there are **10 - 12 specialized vans** required to pick up students
- » Specialized vans, just like yellow buses, require **full traffic stop** while loading and unloading students
- » All students arriving by specialized van transportation are in **5-point restraint booster seats**, requiring additional loading and unloading time
- » The NECP school schedule has **varied times and schedules** (e.g., half day, afternoons only, services only)
- » There are **two scheduled van drop off times** in the morning
- » Drop offs and pick-ups are scheduled every **15-30 minutes** from noon to 2:30 p.m.
- » **Role model students** arrive with and are picked by parents/ guardians (mostly arriving by car)
- » Proximity of **Day Middle School** adds to potential peak traffic congestion/delays for specialized vans along Albemarle Road

Site Trip Generation Comparison

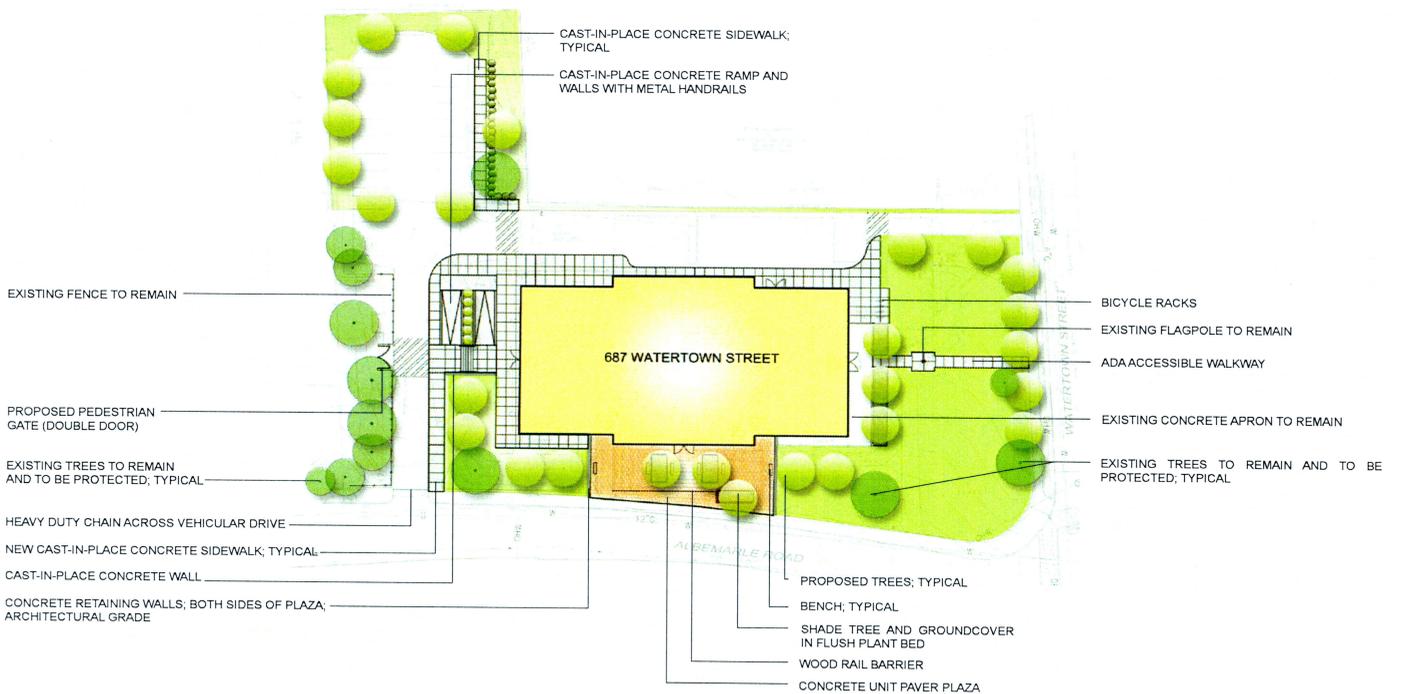
Existing Horace Mann School vs. Proposed NECP



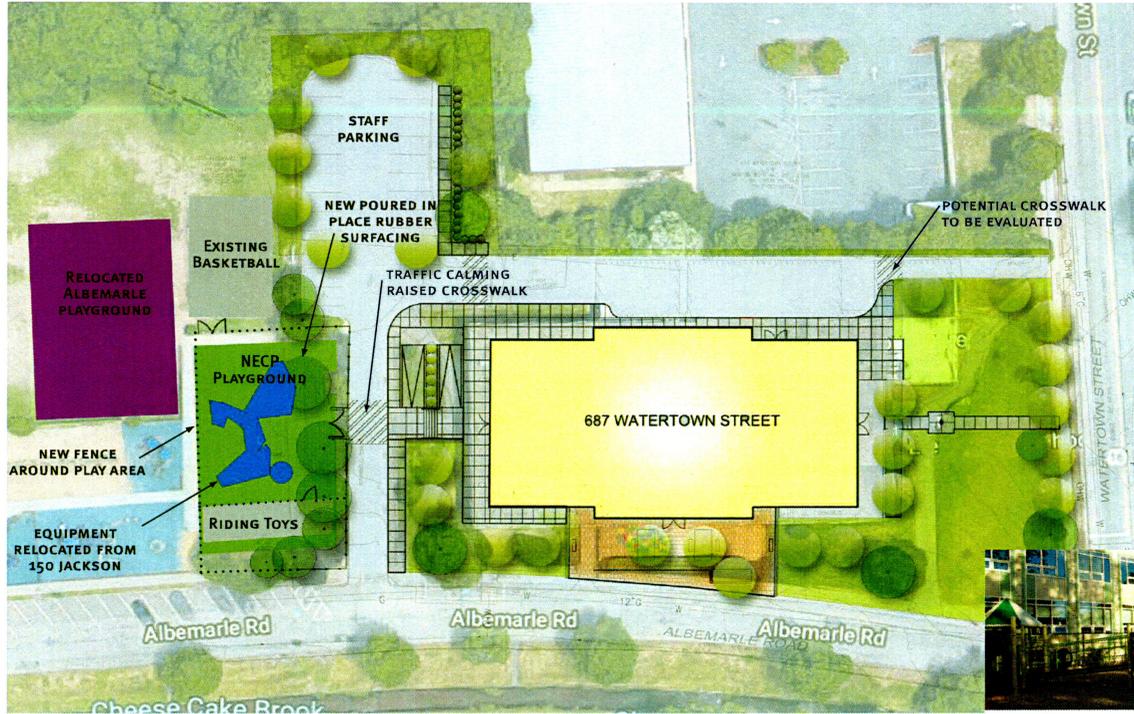
687 Watertown Street Site Circulation



687 Watertown Street Developed Option



687 Watertown Street Playground Concept



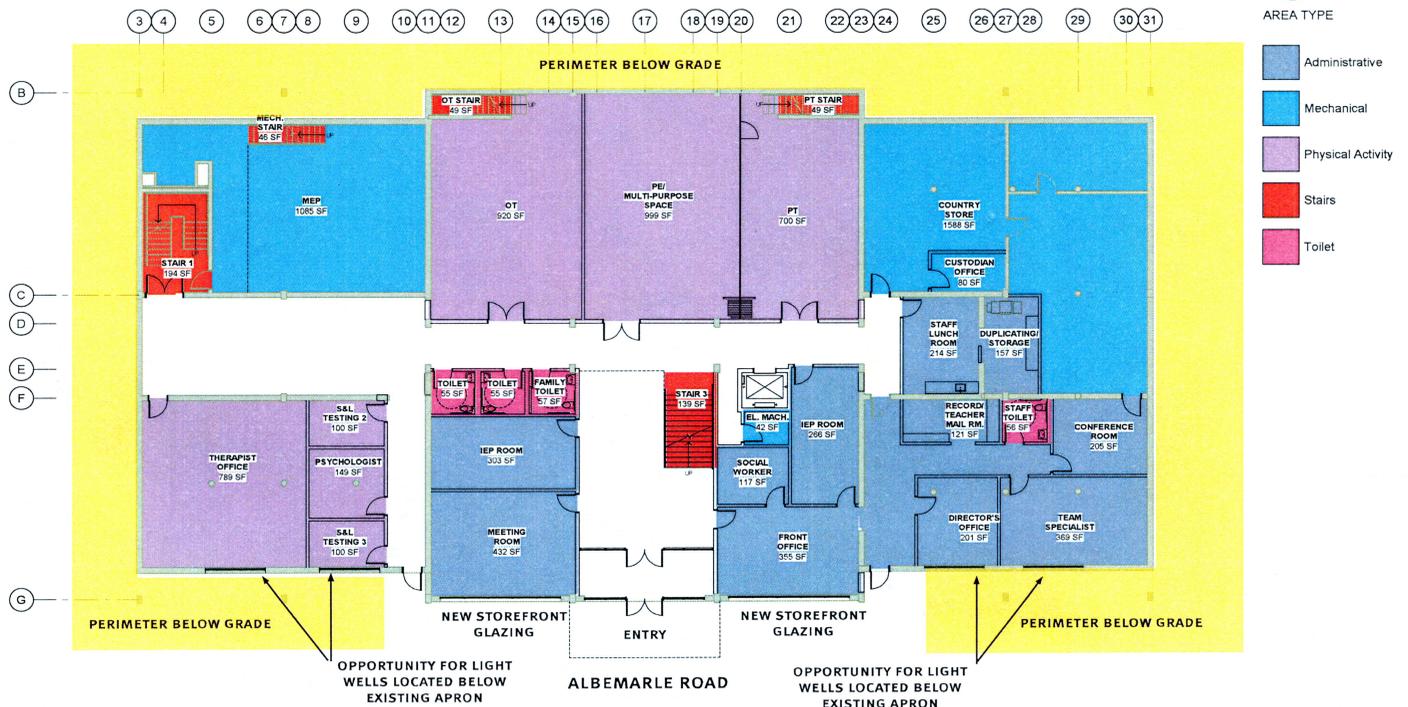
RUBBER SURFACING EXAMPLES



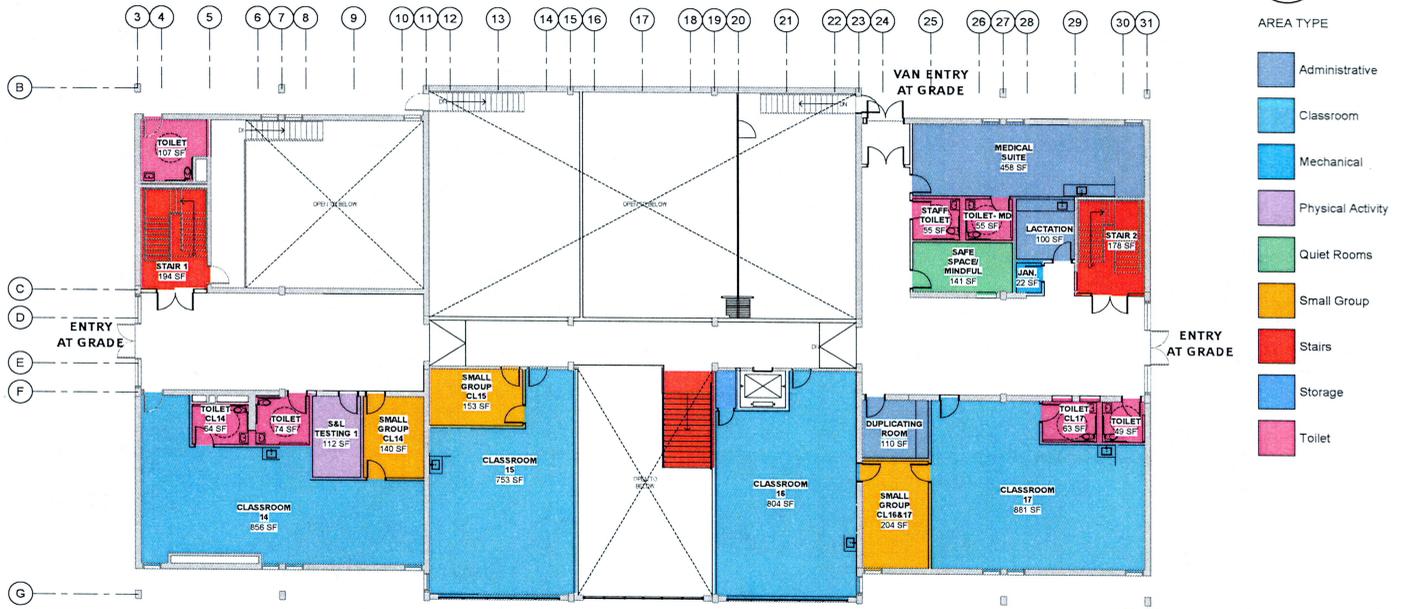
EQUIPMENT FROM 150 JACKSON



Newton Early Childhood Program Lower Level (Level 0) – Fit Plan

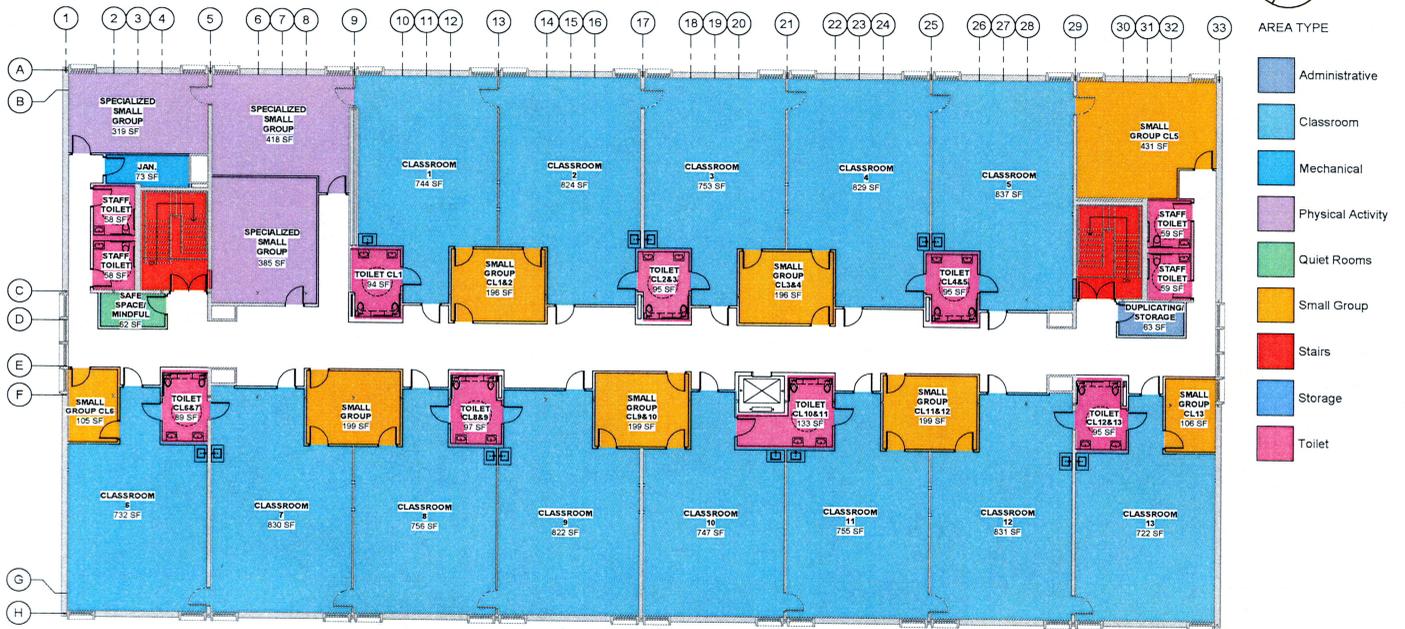


Newton Early Childhood Program Middle Level (Level 1) – Fit Plan



ALBEMARLE ROAD

Newton Early Childhood Program Upper Level (Level 2) – Fit Plan



ALBEMARLE ROAD

Project Websites

www.newtonma.gov/gov/building/capital_projects

www.lincolneliot-necp-projects.com

**NEWTON EARLY CHILDHOOD PROGRAM
687 WATERTOWN STREET**

PUBLIC FACILITIES COMMITTEE HEARING

Newton Public Schools
Newton, Massachusetts

JUNE 5, 2019

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10 POST OFFICE SQUARE
SUITE 700N
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617.623.5555
www.arrowstreet.com

Hill International
75 SECOND AVENUE
SUITE 300
NEEDHAM, MA 02494
617.778.0900
www.hillintl.com

**LICENSE AGREEMENT BETWEEN THE CITY OF NEWTON, MASSACHUSETTS,
AND EXTENET SYSTEMS, INC. REGARDING ATTACHMENT OF
COMMUNICATIONS FACILITIES TO CITY-OWNED STREETLIGHT POLES**

The City of Newton, Massachusetts, a body politic and corporate and a political subdivision of the Commonwealth of Massachusetts (“City” or “Licensor”), and ExteNet Systems, Inc., (“Licensee”), a Delaware corporation with a place of business at 3030 Warrenville Rd., Ste. 340, Lisle, Illinois 60532 (each a “Party” and together, the “Parties”) hereby enter into this license agreement (the “License Agreement”).

1. The City owns and operates the streetlight pole shown in Attachment 1 to, and covered by, this License Agreement (a “Pole”).
2. Licensee has requested from the City a revocable, non-exclusive license to attach to the Pole its Communications Facilities (“CF”), as shown in Attachment 2 to this License Agreement. The Department of Public Works, which exercises control over the use of City-owned streetlight poles, has consented to the attachment of the Licensee’s CF as shown in Attachment 2 to the Pole.
3. The City is willing to permit Licensee to attach its CF to the Pole and Licensee is willing to attach its CF to the Pole under the terms and conditions set forth in this License Agreement.
4. Pole Locations: The Pole and location of the Pole are described in Attachment 1 to this License Agreement. Notwithstanding anything to the contrary in this License Agreement, in the event the Parties agree to add additional CF to additional streetlight poles under the same terms and conditions contained in this License Agreement, Licensee shall prepare a revised Attachment 1 which may be substituted for the original Attachment 1 without the need for an amendment to this License Agreement. Nothing provided herein shall preclude the Parties from entering into one or more separate license agreements for attachments to other streetlight poles or from entering into a master license agreement which covers all streetlight which the City consents to license to Licensee.
5. Communications Facilities: Licensee’s CF are described in Attachment 2 to this License Agreement. Attachment 2 shall also include (i) a drawing of the CF; (ii) the positions of the component parts of the CF on the Pole; (iii) the identity and dimensions of each component part of the CF; (iv) manufacturers’ specifications for each component part of the CF; (v) ground clearances of the CF and any electric meter and the height of the CF; (vi) a diagram and detailed description of the interconnection of the CF to the local electric distribution utility, including but not limited to any expected trenching and duct work; and (vii) a photographic simulation of the CF, any electric meter and any related facilities attached or adjacent to a Pole. If there are any changes in the above information as a result of a City Council grant of location order, condition or standard, other local permitting

requirement, or as a result of approved Licensee-proposed changes, Licensee shall prepare a revised Attachment 2 which may be substituted for an original Attachment 2 without the need for an amendment to this License Agreement. Unless they are separately required pursuant to a City Council grant of location order, Licensee shall provide to Licensor and keep current as-built drawings of the CF. Licensee shall maintain, in a form reasonably acceptable to the City, a current map and list of the locations of all CF it installs pursuant to this License Agreement.

6. Replacement Poles to Accommodate Licensee's CF: The Parties agree that any streetlight Pole where a location is identified for attachment shall be replaced by Licensee at Licensee's sole expense. A replacement pole shall have a design, specifications and construction and installation standards which are mutually satisfactory to the Licensor, as approved by the Department of Public Works.
7. Knockdowns: In the event that there is a knockdown of or other damage to the Pole, irrespective of the cause, Licensee shall repair or replace the Pole at its sole expense within seven (7) calendar days following the date that Licensee has been notified of the knockdown or a reasonable time thereafter, provided that Licensee has taken steps to repair or replace such Pole and a repair or replacement will be completed within a reasonable time thereafter.
8. Spare Replacement Poles: For each individual pole type or style used to support Licensee's CF, one spare replacement pole shall be procured and stored by the Licensee so the Pole and City-owned equipment can be replaced by the Licensee at Licensee's expense within seven (7) calendar days or a reasonable time thereafter as agreed upon by the parties, provided that the Licensee has taken steps to replace such Pole and Licensor's City-owned equipment is available for Licensee to place on the Pole, in case of a knockdown or other damage to a Pole which requires its replacement. Notwithstanding the foregoing, the City may elect to attach its equipment to the replacement pole either directly or through a contractor at the expense of Licensor. If a spare replacement pole is used to replace a Pole due to a knockdown or other damage, the Licensee shall procure and store a new spare replacement pole at Licensee's expense.
9. Non-Exclusive License: This License Agreement is non-exclusive. Subject to its obligations hereunder, the City reserves the right to use the Pole for its own municipal operations or grant use of a Pole to any person or entity at any time during the term of this License Agreement. Such third-party use of a Pole shall not interfere with Licensee's use of such Pole.
10. No Creation of Property Interest: Neither this License Agreement nor Licensee's use of a public way shall be deemed to create and does not create for or convey to the Licensee any type of property interest (including but not limited to any fee, leasehold or easement interest

in any land) and affords Licensee only a revocable right to use the Pole for the purposes described in this License Agreement.

11. Permitted Uses: Licensee's use of the Pole shall be limited to the attachment of its CF for the operation and maintenance of its personal wireless and/or intrastate communications services that are authorized by the Massachusetts Department of Telecommunications and Cable ("MA DTC") or the FCC. Upon the request of Licensor, Licensee shall provide to Licensor a copy of any FCC permit or authorization to operate its CF and documentation of its registration with the MA DTC. The Licensee shall not use or permit its CF to be used for any activity violating any applicable local, state or federal laws, rules or regulations.
12. Sub-Licenses: Licensee shall not sub-license the use of the Pole without the prior written consent of the City acting in its sole discretion. Any such action shall constitute a material breach of this License Agreement. Notwithstanding the foregoing, the installation of CF for and use of internal space within Licensee's CF by third party wireless service providers utilizing Licensee's communications services is not subject to the prohibition against sub-licensing. In addition, the use of Licensee's communications facilities that involves no additional attachments and no over-lashing to the Pole is not subject to the prohibition against sub-licensing. No such third party shall have any rights under this License Agreement or be deemed a third-party beneficiary.
13. Access to the Pole: After its obtaining all necessary permits (including, but not limited to, a grant of location from the City Council) and assuming its compliance with the other terms of this License Agreement, the Licensee shall have access to the Pole and accompanying right of way seven (7) days per week, twenty-four (24) hours per day, for constructing, installing, operating, maintaining, repairing, modifying and removing its CF; provided, however, that the City may reasonably restrict the hours when access is available or when a police detail is required to enable such access; and provided further, such a requirement shall be waived in the event that emergency repair work or other emergency work is necessary.
14. Installation and Operation of CF: Licensee shall attach its CF to the Pole and operate its CF in accordance with applicable law and industry standards, including but not limited to the National Electrical Safety Code, the National Electric Code, OSHA and the City's code, rules and regulations. The parties acknowledge that Licensee's CF attachments may be subject to conditions under a grant of location order issued by the City Council pursuant to M.G.L.c.166, §22. In the event of any inconsistency between the terms of this License Agreement and a City Council grant of location order, the parties shall confer and use their best efforts to remove such inconsistency.
15. Coordination of Maintenance and Equipment Upgrade Activities: Prior to Licensee engaging in planned or routine maintenance activities, or equipment modifications or

upgrades concerning the CF attached to the Pole, Licensee shall provide seven (7) days' prior notice to the Commissioner of Public Works in order to coordinate such activities with City streetlight operations or other public safety functions. Licensee shall obtain any necessary permits prior to engaging in any such maintenance, modification or upgrade activities. Such prior notice shall not be required in the case of an emergency. Such work and changes shall not interfere with the use of the Pole by the City. The performance of such work and changes may require additional permits from City departments and/or the City Council. Licensee shall have the right to upgrade the CF subject to any applicable limitations (including but not limited to non-interference obligations under Sections 20 and 42 hereof) under this License Agreement or a City Council grant of location order. For purposes of this License Agreement, an "emergency" is defined as an immediate threat of substantial harm or damage to the health, safety and welfare of the public and/or the property of Licensor or Licensee.

16. Damage to or Destruction of Poles caused by Casualty: If a fire or other casualty damages or destroys the Pole and impairs Licensee's use of such Pole, Licensee may either (1) terminate this License Agreement if Licensee reasonably believes its use will be impaired for a period longer than forty-five (45) days, or (2) relocate the impaired CF pursuant to the terms of Section 18 of this License Agreement.
17. Damage to or Destruction of Pole caused by Licensee: Any damage to the Pole caused solely by Licensee's use of such Pole or that occurs during the removal, installation, and/or relocation of Licensee's CF on such Pole, shall be promptly repaired or replaced at Licensee's sole expense as provided for under Sections 6 through 8 of this License Agreement. Should Licensee not make nor diligently pursue adequate repairs within thirty (30) days of receiving written notice, Licensor may make all reasonable and necessary repairs on behalf of Licensee and charge Licensee for the actual, out-of-pocket cost for the work. Licensee shall promptly remit payment of such costs when invoiced by the Licensor. Except as expressly provided for under this License Agreement, Licensee shall have no obligation to maintain the Pole, including but not limited to the changing of light bulbs and applicable wiring, all of which shall be the sole responsibility of the Licensor.
18. Relocation and Removal of CF: Licensee shall remove and relocate its CF at its own expense on a temporary basis, not later than one hundred twenty (120) days after receiving written notice that removal, relocation, and/or alteration of the CF is necessary due to:
 - a. Construction, expansion, repair, relocation or maintenance of a street or other public improvement project; or
 - b. Maintenance, repair, upgrade, expansion, replacement, or relocation of City streetlight poles (which includes the Pole); or
 - c. Closure of a street or sale of City property; or

- d. Projects and programs undertaken to protect or preserve the public health or safety; or
- e. Activities undertaken to remove a public nuisance; or
- f. Duty otherwise arising from applicable law related to public safety.

In the event that Licensor requests a relocation of the CF on a permanent basis, after Licensee's receipt of written notice pursuant to this Section 18 and prior to the expiration of a reasonable period of time established by the Licensor which contemplates as much time possible for Licensee to relocate, but provided that such time period is not less than one hundred twenty (120) days, the Parties shall identify a mutually agreeable, alternative location for relocation of the Licensee's CF (which may be made available by the Licensor or utility pole owner), that technologically and functionally meets Licensee's needs. The Licensee and Licensor shall cooperate to the extent possible to assure continuity of service during relocation of the Licensee's CF. If the Licensee fails to timely remove or relocate its CF after such alternative location has been agreed to, the Licensor may remove the CF at the expense of the Licensee. Licensee shall obtain permission to relocate its CF at the alternative location in accordance with applicable law.

19. Electric Power: The Licensee shall be responsible for procuring and paying for any electric power supply and distribution service which are needed to operate its CF. The parties and the local electric distribution company shall determine any work necessary to enable the CF to obtain electric power supply and distribution service and whether any trenching or duct installation by Licensee would interfere with any existing underground facilities and their operation and maintenance. Licensee shall be responsible for the costs of interconnection to the local electric distribution company's distribution system (including but not limited to pre-construction surveys, make ready costs and the cost of details) and the costs of relocating any existing underground facilities; provided, however, that Licensor may reasonably decline to relocate any of its underground facilities. Any use of electricity by Licensee shall be under Licensee's accounts with the local electric distribution company. Should the need arise, during an emergency, for the use of temporary, emergency power generators for the CF installed pursuant to this License Agreement, Licensee shall inform the City of the need for such emergency power generators and work with the City to determine the location(s) at which they will be placed. Licensee will comply with any applicable permitting requirements and noise standards regarding the use or placement of emergency power generators.
20. Non-Interference: The Licensee and its CF shall comply with City Council rules and orders regarding non-interference. The Licensee shall not interfere with the operation and maintenance of any wires, cables or equipment already attached to the Pole, including but not limited to streetlights and cable, electrical and telecommunications facilities (including

any City communications facilities such as fiber optic cables and copper alarm transmission lines). Each component part of the CF shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, including the public's use of the public way, interfere with the growth and health of public shade trees, or cause safety hazards to pedestrians and motorists. Nor shall any such component obstruct intersection visibility. The CF shall not interfere with access to or operation of a streetlight, fire alarm cable, municipal fiber optic facilities, fire hydrant, fire alarm, fire station, fire escape, water valves and facilities, sewer facilities, underground vault, valve housing structure, or any other public health or safety facility. The CF shall not interfere with snow plowing, side walk clearing, leaf removal or the maintenance of public shade trees. The CF shall not interfere with the City's vegetation management practices and obligations. The Licensee shall not trim or cut any public shade tree without the prior written consent of the City's Director of Urban Forestry and shall otherwise comply with state and local laws pertaining to public shade trees.

In the event of a claim of interference, the Licensee shall follow the following protocol for responding to events of interference: (i) respond to Licensor's request to address the source of interference as soon as practicable but in no event later than twenty-four (24) hours of receiving the request; and (ii) provide a written interference remediation report which includes a remediation plan to stop the event of interference, the expected time frame for execution of the remediation plan and any additional information relevant to the execution of the remediation plan.

In the event that interference with any City services cannot be eliminated within ten (10) days, Licensee shall shut down its CF, until the interference can be resolved or abated and remove or relocate its CF that is the source of interference as soon as possible to a suitable alternative location within a public way and made available by the Licensor or a utility pole owner pursuant to Section 18.

21. Right to Remove CF: Licensee shall have the right to remove, at any time, any CF that it has installed pursuant to this License Agreement, provided that it notify the City at least seven (7) days in advance and that it coordinate with City staff regarding the timing and logistics of removal. Licensee shall restore the location after such removal using due care and taking reasonable steps to safeguard and maintain the work area in accordance with generally accepted industry practice and in compliance with applicable laws. Upon removal, Licensee shall no longer be responsible for paying an annual license fee for the CF attachment during the remainder of the applicable year for which an annual license fee was due.
22. Term of License Agreement: The term of this License Agreement shall commence on the date of execution by both parties ("Effective Date") and shall expire ten (10) years after the first day of the month following Licensee's acceptance of a grant of location order

permitting it to attach its CF on a Pole. The date of acceptance shall be filed with and recorded by the City Clerk, at which time the end date of the ten (10) year term shall be recorded. Thereafter, this License Agreement shall remain in effect on a year by year basis. In the event that the Licensor or Licensee determines not to extend the License Agreement beyond the ten (10) year term or any subsequent term, it shall provide notice to the other Party at least one hundred twenty (120) days prior to the end of the then current term of the License Agreement. Parties may choose to negotiate the terms and conditions of a successor license agreement. In the event that the Parties are actively negotiating in good faith a successor license agreement or an amendment to this License Agreement upon the termination date of this License Agreement, the Parties, by mutual written agreement, may extend such termination date to allow for further good faith negotiations. Such an extension shall be deemed a continuation of this License Agreement and not a successor agreement. Either Party may notify the other Party of its election to discontinue such good faith negotiations, in which case the extension shall end one hundred twenty (120) days after the date of such notice.

23. Termination of License Agreement by Either Party: Either party may terminate the attachment of any CF for the Pole, if: (1) after having received a grant of location, Licensee fails to take necessary actions required to commence construction of its CF within six (6) months of its receipt of a grant of location; or (2) Licensee fails to place in service its CF within one (1) year after its receipt of a grant of location, by notifying the other party at least fourteen (14) days in advance of the date of termination specified in such notice. With regard to the above, Licensee shall notify Licensor if it in good faith believes that its failure is due to any unreasonable delays by the Licensor or to other circumstances outside of its reasonable control.

If there is a material breach by a Party with respect to any of the provisions of this License Agreement, the non-breaching Party shall give the breaching Party written notice of that breach. After receipt of the written notice, the breaching Party shall have thirty (30) days in which to cure the breach, provided the breaching Party shall have such extended period as may be required beyond the thirty (30) day period if (1) the nature of the breaching Party's obligation is such that more time is reasonably required for the breaching Party to cure the breach and (2) the breaching Party commences the cure within the thirty (30) day period and thereafter continuously and diligently pursues the cure to completion, but in no event more than ninety (90) days after receipt of written notice of the breach. The non-breaching Party may not maintain any action or effect any remedies for default against the breaching Party unless and until the breaching Party has failed to cure the breach within the time periods provided in this paragraph.

24. Termination of License Agreement by Licensee: In the event that (a) any of the certificates, permits, licenses, or other approvals required by any federal state, and local authorities issued to Licensee is cancelled, expires, lapses, or is otherwise withdrawn or terminated by government authority so the Licensee in its sole discretion determines that it will be unable to use the Pole for its intended purposes; or (b) Licensee reasonably

determines that the Pole has become unsuitable for Licensee's use due to subsequent changes in system or network design, then in such event Licensee shall have the right to terminate this License Agreement with regard to the Pole or this License Agreement, by providing written notice to Licensor. Notice of Licensee's exercise of its right to terminate under this section shall be given to Licensor in accordance with Section 28 of this License Agreement and shall be effective thirty (30) days after the date of such notice. All license fees paid to Licensor as of said effective date of termination, shall be kept by Licensor. Licensee shall comply with its obligations to remove its CF from the Pole and shall not be obligated to make additional license fee payments based on its use of such Pole after the effective date of termination and timely removal of its CF.

Notwithstanding anything to the contrary contained herein, provided Licensee is not in default hereunder beyond applicable notice and cure periods, Licensee shall have the right to terminate this License Agreement effective as of the annual anniversary of the License Agreement Effective Date provided that Licensee has notified Licensor at least one hundred twenty (120) days prior to the effective date of such termination.

Notwithstanding the foregoing to the contrary, it shall be a default under this License Agreement if Licensor fails, within seven (7) days after receipt of written notice of such breach, to perform an obligation required to be performed by Licensor, and if the failure to perform that obligation materially interferes with Licensee's ability to use the CF on a Pole to provide service; provided, however, that if the nature of Licensor's obligation is such that more than seven (7) days after notice is reasonably required for its performance, then it shall not be a default under this License Agreement if performance is commenced within such seven (7) day period and thereafter diligently pursued to completion, but in no event more than twenty (20) days after receipt of written notice.

25. Termination by Licensor: In the event of the failure of Licensee to make any payment when due, Licensor shall have the right to notify Licensor of such failure and Licensee shall have fifteen (15) days from the date of notice to cure its non-payment. In the event that Licensee fails to cure, Licensor shall have the right to terminate this License Agreement by notifying Licensee at least seven (7) Days prior to the date of termination set forth in such notice.

26. Remedies: The Parties shall have remedies available to them under law and at equity.

27. Annual License Fees; Payment:

- a. Licensee shall pay to Licensor an annual license fee for use of the Pole to which its CF are attached. The annual license fee for the first year shall be payable on or before the fifteenth (15th) day of the month following Licensee's receipt of a grant of location to attach its CF on a Pole. Each subsequent annual license fee shall be paid on or before the anniversary date(s) of the first annual license fee payment(s). Annual license fees

and any other annual fees applicable to CF on the Pole ("Total Annual Fees") shall be established under the City Code. At the time of execution of this License Agreement, the Total Annual Fees shall be two hundred seventy dollars (\$270.00). Notwithstanding the foregoing, the Licensor shall have the right to request Total Annual Fees in excess of two hundred seventy dollars (\$270.00) in the event that it determines, on the basis of an objectively reviewable cost analysis, that its Total Annual Fees exceed two hundred seventy dollars (\$270.00), per Pole. In the event of such a request by Licensor, Licensor shall provide to Licensee the proposed Total Annual Fees with inputs, assumptions and calculations in support of Licensor's Total Annual Fees adjustment at least sixty (60) days before the proposed effective date of the higher Total Annual Fees. Licensee reserves the right to challenge such increase on the grounds that the Total Annual Fees do not comply with applicable federal, state or local laws or are unreasonable or discriminatory. Any such challenge shall be made in writing and provided to Licensor. The Parties will in good faith discuss the proposed Total Annual Fees and seek mutual agreement. It is the intent of the parties that the Licensor's Total Annual Fees hereunder shall not be unreasonable or discriminatory. Licensee shall notify Licensor if Licensee reasonably believes that Licensor's Total Annual Fees are unreasonable or discriminatory and shall provide an explanation with such notice.

- b. Each annual license fee shall be paid by (1) check payable to the City of Newton or (2) upon agreement of the parties, by electronic funds transfer in accordance with bank routing information provided by the City to the Licensee.
 - c. In the event that Licensee fails to pay an annual license fee in a timely manner, after written notice to Licensee of such failure, Licensee shall be responsible for interest on the unpaid principal balance, beginning five (5) business days after Licensee's receipt of such notice, at the rate of eighteen percent (18%) per annum from the due date until payment is made in full.
 - d. The annual license fee shall be subject to change in the event of any extension or renewal of this License Agreement. The City shall provide the Licensee with notice of any change in the annual license fee at least sixty (60) days before the effective date of such change.
28. Notices: Notices required or permitted under this License Agreement shall be provided in writing and shall be delivered by certified mail, return receipt requested, or by overnight courier, addressed as follows:

To the Licensor:

Attn: City Solicitor
City of Newton
City Hall
1000 Commonwealth Avenue
Newton Centre, MA 02459

With a copy to:

Attn: Commissioner, Department of Public Works
City of Newton
City Hall
1000 Commonwealth Avenue
Newton Centre, MA 02459

To the Licensee:

ExteNet Systems, Inc.
ATTN: CFO
3030 Warrenville Rd, Suite 340
Lisle, Illinois 60532

With a copy to General Counsel at the same address.

A Party may change its above notice information by notifying the other party in accordance with the above notice requirements.

29. Applicable Law: The execution and performance of this License Agreement shall be governed by the laws of the Commonwealth of Massachusetts, applicable federal law and applicable ordinances, rules and orders of the City.
30. Venue: In the event that any court action is brought directly or indirectly by reason of this License Agreement, the courts of Middlesex County, Massachusetts shall have jurisdiction over the dispute and venue shall be in Middlesex County, Massachusetts; provided, however, where a matter of federal law is at issue, the federal courts located in Massachusetts shall have jurisdiction and venue shall be in Suffolk County (if no such venue exists, in the Massachusetts federal court closest to the City).
31. Non-Waiver: Waiver by the Licensor of any breach by the Licensee of any term, covenant or condition herein shall not operate as a waiver of any subsequent breach.

32. Liens: The Licensee shall keep the CF and the Pole free from any and all liens arising out of any work performed, materials furnished, or obligations incurred by the Licensee, its employees, agents, affiliates, contractors and subcontractors, and the Licensee agrees to reimburse the City for any costs (including attorneys' fees) incurred in defense of proceedings to enforce or foreclose such liens or in seeking removal of such liens.
33. Operation in Compliance with Law: At all times, Licensee shall operate and maintain its CF in accordance with all applicable federal, state and local laws and requirements.
34. Operation and Maintenance Contacts: Each party shall make available on a twenty-four (24) hour seven (7) days a week basis operation and maintenance contacts as follows:

For the City:
Dispatch
Phone: (617) 796-2100

For Licensee:

Network Operations Center: 866-892-5327, noc@extenetsystems.com

The Licensee contact shall be a qualified and experienced representative who is authorized to act for the Licensee in matters pertaining to all emergencies and the day to day operation of the CF.

Each party shall notify the other party in writing of any change in its above contact information as soon as practicable.

35. Video Competition Claims: The Parties acknowledge and Licensee represents that pursuant to this License Agreement, Licensee and any sublicensee are not "Video Service Providers" as that term is used any cable television license agreement between any cable operator and the City, acting through its Mayor as cable franchise issuing authority under Massachusetts law. At the time of execution of this License Agreement, this term is defined in the Cable Television Renewal License of Verizon New England, Inc., effective between July 1, 2017, through June 30, 2022 (unless further extended by amendment). The Parties further acknowledge that this License Agreement does not constitute the grant of a franchise agreement, license or other lawful authorization to any entity using any portion of the public rights of way to provide video programming to multiple subscribers within the territorial boundaries of Newton.
36. Entire Agreement: This License Agreement contains all of the agreements, promises and understandings between the Licensor and Licensee and supersedes any discussions, agreements or understandings between the parties that preceded the execution of this License Agreement. Except as expressly set forth herein, this License Agreement may not

be altered, amended or modified except by an agreement in writing, signed by both parties and specifically referring to this License Agreement.

37. Amendment: Except as expressly set forth herein, no revision of this License Agreement shall be valid unless made in writing and signed by a duly authorized agent of the Licensor and by the Licensor acting by and through its Mayor. No provision may be waived except in writing signed by the Mayor when such waiver is on behalf of the Licensor and a duly authorized signatory of the Licensee.
38. Assignment: This License Agreement shall not be assigned or transferred at any time by Licensee without the prior written consent of the City which shall not be unreasonably withheld; provided, however, that the License Agreement may be assigned or transferred to Licensee's affiliates or subsidiaries without such consent. Licensee shall promptly notify the Licensor of any such assignment or transfer. Such notice shall include contact information as provided for in Section 28 as well as any contact information needed for purposes of property tax assessments. Such successors, affiliates or subsidiaries shall meet all of the obligations of the Licensee under this License Agreement, including but not limited to holding requisite MA DTC and FCC authorizations needed to provide communications services and holding requisite grants of location. Notwithstanding anything to the contrary, Licensee shall have the authority to sublicense use and capacity of Licensee's services to its third-party customers and similar entities with notice, and such sublicense shall not constitute a transfer, assignment, lease or sublease as defined by this Agreement.
39. Severability: If any clause, term or provision of this License Agreement is illegal, invalid or unenforceable under present or future laws effective during the term of this License Agreement, then and in that event it is the intention of the Parties that the remainder of this License Agreement shall not be affected thereby, and it is also the intention of the Parties that in lieu of each clause, term or provision of this License Agreement that is illegal, invalid, or unenforceable, there be added as part of this License Agreement a clause, term or provision as similar in terms to such illegal, invalid or unenforceable clause, term or provision as may be possible and be legal, valid and enforceable.
40. Insurance: The Licensee shall maintain the following insurance:

Commercial General Liability Insurance: Comprehensive liability coverage including protective, completed operations and broad form contractual liability, property damage and personal injury coverage, and comprehensive automobile liability including owned, hired, and non-owned automobile coverage. The limits for such coverage shall be: (1) bodily injury including death, \$1,000,000 for each person, occurrence and \$2,000,000 aggregate; (2) property damage, \$1,000,000 for each occurrence and \$2,000,000 aggregate.

Automobile Liability Insurance: Automobile liability coverage for owned vehicles, with limits no less than one million dollars (\$1,000,000) per occurrence and three million dollars (\$3,000,00) annual aggregate.

Worker's Compensation Insurance: Full Workers' Compensation Insurance and Employer's Liability with limits as required by Massachusetts law.

To the extent applicable, the City shall be named as an additional insured on all aforementioned insurance coverages as those policies permit. All insurance certificates shall provide that the policies shall not be cancelled without endeavoring to provide the City at least thirty (30) days' prior written notice.

The parties acknowledge that the Licensor is self-insured.

41. Indemnification by Licensee: Licensee shall defend, indemnify and hold the City harmless against any claim of liability or loss from personal injury or property damage resulting from or arising out of the negligence or willful misconduct of Licensee, its employees, contractors or agents, except to the extent such claims or damages may be due to, or caused by, the negligence or willful misconduct of the City, or its employees, contractors or agents. The City will provide the Licensee with prompt, written notice of any written claim covered by this indemnification; provided that any failure of the City to provide any such notice, or to provide it promptly, shall not relieve the Licensee from its indemnification obligations in respect of such claim, except to the extent the Licensee can establish actual prejudice and direct damages as a result thereof. The City will cooperate appropriately with the Licensee in connection with the Licensee's defense of such claim. The Licensee shall defend the City, at the City's request, against any claim with counsel reasonably satisfactory to the City. The Licensee shall not settle or compromise any such claim or consent to the entry of any judgment without the prior written consent of the City and without an unconditional release of all claims by each claimant or plaintiff in favor of the City.
42. Performance Bond: At the time of execution of this License Agreement, the Licensee shall provide to the City a performance bond in the amount of Fifteen Thousand Dollars (\$15,000.00). The performance bond shall be with an entity and in a commercially reasonable form acceptable to the Parties. The purpose of the performance bond is to ensure the Licensee's performance of all of its obligations under this License Agreement. Such performance bond does not constitute a cap on Licensee's liability.
43. Limitation on Liability: **EXCEPT AS EXPRESSLY PROVIDED HEREIN, NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY OR ITS OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, AFFILIATES AND REPRESENTATIVES FOR ANY SPECIAL, PUNITIVE, EXEMPLARY, INDIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES, LOSSES OR DAMAGES FOR LOST REVENUE,**

LOST PROFITS, LOSS OF DATA, INTERRUPTION OR LOSS OF USE OF SERVICE, COST OF CAPITAL OR OF SUBSTITUTE USE OR PERFORMANCE, INTERRUPTIONS OF OPERATIONS OR FOR CLAIMS FOR DAMAGES BY OR TO EITHER PARTY'S CUSTOMERS, WHETHER FORESEEABLE OR NOT, WHETHER UNDER THEORY OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, ARISING OUT OF, OR IN CONNECTION WITH THIS LICENSE AGREEMENT. NOTHING HEREIN SHALL MODIFY OR CONSTITUTE A WAIVER OF THE RIGHTS OF THE CITY UNDER THE MASSACHUSETTS TORT CLAIMS ACT. IT IS ACKNOWLEDGED BY THE PARTIES THAT THE LIABILITY OF THE LICENSOR MAY BE LIMITED UNDER THE PROVISIONS OF THE MASSACHUSETTS TORT CLAIMS ACT.

44. Radio Frequency Emissions: The Licensee shall provide to the City on an annual basis, upon written request of the Licensor: (1) radio frequency emissions test results for the CF Pole location if such tests are routinely performed by the Licensee or required under applicable law; (2) certification of compliance with applicable state and federal radio frequency emissions requirements (including any requirements which apply when more than one party is responsible for radio frequency emissions in or near the Pole location; and (3) current practices and procedures for the safety of all persons who perform any work on or under the Pole, pedestrians and motorists, and a certification that such practices and procedures satisfy FCC and any other state and federal requirements. Each party reserves its rights under applicable local, state and federal law regarding radio frequency emissions and in the event of any changes in such applicable law.
45. Environmental, Employee Health and Safety: Each Party shall comply with applicable environmental and employee health and safety laws. Licensee shall have the right to inspect the Pole and the ground at the base of the Pole prior to its construction and installation of CF for environmental testing purposes, all at Licensee's own expense. Licensor shall be notified at least ten (10) days before such inspection and testing and may attend such inspection and testing. Licensee shall not cause any damage to the Pole or any underground facilities as a result of such inspection and testing. Licensee shall provide to Licensor the results of such inspections and tests. Licensee shall not use, store or dispose of hazardous materials, as defined by federal statute, M.G.L. c.21E, and federal and Massachusetts regulations, as now in effect or as amended or replaced during the term of this License Agreement at, on, or around the Pole.
46. Inventory; Recordkeeping: Licensee shall maintain an inventory of CF attached to the Pole and other City-owned streetlight poles during the term of this License Agreement. Licensee shall provide to Licensor a copy of such inventory within ten (10) days after a written request from Licensor. Such written requests shall be made no more frequently than

annually. The inventory shall include GIS coordinates, date of installation, Licensee site ID number and description and type of CF installation. If the CF become inactive, the inventory shall include the date of deactivation and the date of removal of the CF. Licensor shall compare the inventory to its own records and review any discrepancies with Licensee.

47. Removal of CF at end of term or in case of earlier termination: At the expiration or termination of this License Agreement, the Licensee shall, at its sole expense, remove its CF from the Pole within ninety (90) days after such expiration or termination date or such other date as the Parties may mutually agree. Licensee shall restore the location of its CF on the Pole to the reasonable satisfaction of the City, reasonable wear and tear and casualty damage excepted. If the time for removal causes the Licensee's CF to remain on the Pole after the expiration or termination date of the License Agreement, Licensee shall pay to Licensor a pro rata portion of the annual license fee based upon the amount of time that the CF remains on the Pole (by way of example, 90 days/ 360 days= ¼ of the annual license fee).
48. Change in Law: The Parties agree that the Pole shall not be considered a base station for purposes of 47 USC §1455 and related FCC regulations. If any federal, state, or local laws or regulations (including, but not limited to, those issued by the FCC or its successor agency) and any binding judicial interpretations thereof (collectively, "Laws") that govern any aspect of the rights or obligations of the parties under this License Agreement shall change after the effective date and such change makes any aspect of such rights or obligations inconsistent with the then-effective Laws, then the parties agree to promptly to negotiate in good faith to amend this License Agreement as reasonably required to accommodate and/or ensure compliance with any such legal or regulatory change.
49. Force Majeure: Except as may be expressly provided herein, neither Party shall be liable to the other for any failure of performance hereunder due to causes beyond its reasonable control, including but not limited to: (a) acts of God, fire, explosion, vandalism, storm, or other similar occurrences; (b) national emergencies, insurrections, riots, acts of terrorism, or wars; or (c) strikes, lockouts, work stoppage, or other labor difficulties. To the extent practicable, the Parties shall be prompt in restoring normal conditions, establishing new schedules and resuming operations as soon as the force majeure event causing the failure or delay has ceased. Each Party shall promptly notify the other party of any delay in performance under this section and its effect on performance required under this License Agreement.
50. Taxes: Licensee shall remain current in its payment of any property taxes that are payable to the City. Nothing herein shall preclude the Licensee from seeking an abatement or contesting any assessment of property taxes.

Pursuant to M.G.L.c.62C, §49A, Licensee certifies under the pains and penalties of perjury that, to the best of its knowledge and belief, Licensee is in compliance with all laws of the Commonwealth of Massachusetts relating to taxes.

51. No Personal Liability: No official or employee of the Licensor or Licensee shall be personally liable as a result of any default by such party under this License Agreement or as a result of any conduct by such official or employee arising under or in connection with this License Agreement.
52. Interpretation: This License Agreement shall be interpreted, applied and enforced according to the fair meaning of its terms and shall not be construed strictly in favor of or against either party, regardless of which party may have drafted any of its provisions.
53. No Third-Party Beneficiary: This License Agreement benefits only the Licensor and the Licensee and their successors or permitted assigns. There are no third-party beneficiaries.
54. No Partnership or Joint Venture: The relationship between Licensor and Licensee is solely that of licensor and licensee and the License Agreement does not create a partnership or joint venture.
55. Non-Collusion: Licensee certifies under the penalties of perjury that it has entered into this License Agreement in good faith and without collusion or fraud with any person. As used in this certification, the word "person" shall mean any natural person, business, partnership, corporation, limited liability company, union, committee, club, or other organization, entity, or group of individuals.
56. Counterparts: This License Agreement may be executed in multiple counterparts, each of which is an original. Regardless of the number of counterparts, they constitute only one agreement.
57. Public Disclosure: The parties acknowledge that the City is subject to public records laws of the Commonwealth of Massachusetts and that this License Agreement, including exhibits and attachments, constitutes a public record under Massachusetts law.
58. Authority: Each party to this License Agreement represents and warrants that the person signing on its behalf has full authority to execute this License Agreement on its behalf.
59. Dispute Resolution: Except as otherwise precluded by law, a resolution of any dispute arising out of, or related to, this License Agreement shall first be pursued through good-faith negotiations in order to reach a mutually acceptable resolution. If, after negotiating in good faith for a period of at least thirty (30) days, the Parties are unable to resolve the dispute, then the Parties shall be entitled to pursue all available remedies at law or in equity. Each Party will bear its own costs for dispute resolution negotiations.

60. Survival: Any termination or expiration of this License Agreement shall not release Licensee from any liability or obligations hereunder whether or indemnity or otherwise, which may have accrued or may be accruing as of the date of termination or expiration.

IN WITNESS WHEREOF, the Parties have executed this License Agreement effective as of the Effective Date.

LICENSOR:

CITY OF NEWTON

By: _____

Name: _____

Title: _____

Date: _____

APPROVED AS TO FORM:

By: _____

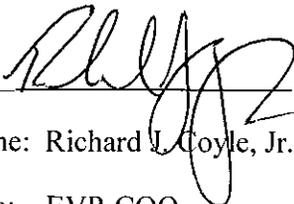
Name: _____

Title: _____

Date: _____

LICENSEE:

EXTENET SYSTEMS, INC.

By: 

Name: Richard J. Coyle, Jr.

Title: EVP-COO

Date: 6-3-19

ATTACHMENT 1

CITY-OWNED POLE COVERED BY LICENSE AGREEMENT

Project ID	ExteNet Node ID	AT&T (ATOLL) RAN ID and Equipment Config	AT&T Implementation Node ID	NODE Location (RAN Lat/Long)		Street Address	City	STRUCTURE TYPE	Pole Color	Tower Height (ft AGL)
				Latitude	Longitude					
NE-MA-ALBRD3M1-ATT	NE-MA-ALBRD3M1-14003	CRAN_RCTB_00014_036	CRAN_RCTB_00014_03	42.33790645	-71.17110485	Saint Mary's Hall, 140 Commonwealth A Newton		Streetlight-Concrete/Coo Cement		24.00

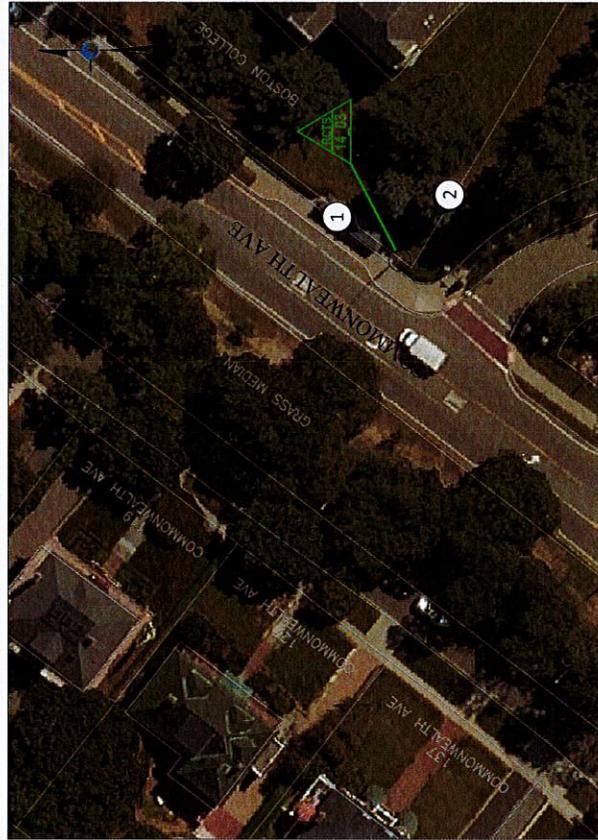
ATTACHMENT 2
LICENSEE'S WIRELESS COMMUNICATIONS FACILITIES

PROJECT DESCRIPTION:

THESE PLANS REPRESENT A PORTION OF A PROPOSED SMALL CELL BUILD INVOLVING THE INSTALLMENT OF AN ANTENNA AND RADIO EQUIPMENT ON AN EXISTING WOODEN UTILITY OR REPLACEMENT METAL STREETLIGHT POLES.

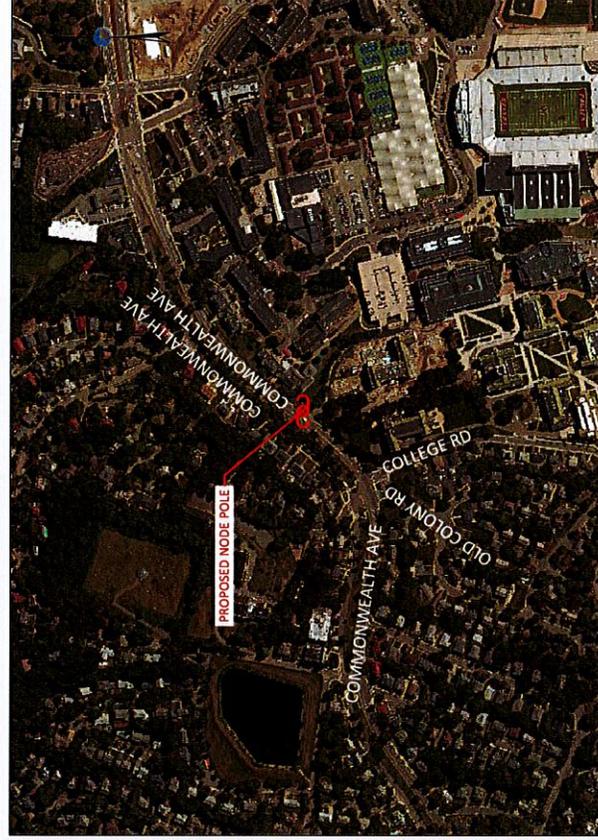
EXTENET SYSTEMS
 140 COMMONWEALTH AVE
 NEWTON, MA 02467
 (SOUTHEAST SIDE OF COMMONWEALTH AVE)

CRAN_RCTB_00014_03
 NE-MA-ALBRD3M1-14003



LOCATION MAP

LATITUDE: 42.337906° LONGITUDE: -71.171104°
 ELEVATION: 206.64' AGL
 SCALE: 1" = 50'



LOCUS MAP

PROJECT LOCATION - NODE RCTB-14_03
 SCALE: 1" = 500'

PROJECT INFORMATION

INDEX:

1	COVER PAGE
2	SIDE PROFILE
3	REAR PROFILE
4	DETAILS - ANTENNA AND RADIOS
5	DETAILS - RADIO SHROUD
6	DETAILS - CONCRETE FOUNDATION
7	EXISTING PHOTO / WIRING DIAGRAM

ROLE OWNER: CITY OF BOSTON

CONTACT: RICK ANGLINI
 3030 WARRENVILLE RD
 LISLE, IL 60532
 NCC: (866) 892-5327

LOCATION: NEWTON, MA
 MIDDLESEX COUNTY

NOTES:

PREPARED FOR:



PREPARED BY:



NODE

RCTB-14_03
 COVER PAGE

REV	DESCRIPTION	DATE
1	UPDATED INFORMATION & INFO	03/13/18
2	UPDATE PER PERMIT	03/22/18

DRAWN: NMAS/SMIL

SCALE: AS SHOWN

ISSUE DATE: 03/13/18

INDEX NAME: RCTB 14_03

SHEET #. 1 OF 8

1

FOR PERMITTING ONLY

ATTACHMENT 3
STREETLIGHT POLE STANDARDS AND DESIGNS