

**Proposed Conditions for Petition #542-03, 750 Saw Mill Brook Parkway**  
*(including the radio towers, the utility building and all other items covered by the Petition)*

1. The Petitioners, which term includes their successors and assigns, shall use reasonable efforts to resolve all radio frequency interference (“RFI”) complaints arising from radio frequency emissions (“RFEs”) generated by the 3 AM radio broadcast stations (each a “Station” and collectively the “Stations”) at 750 Saw Mill Brook Parkway (the “Site”), in accordance with the following:

A. The Petitioners will jointly administer an Interference Remediation Program (the “IRP”). The IRP will consist of two phases which are referred to as the “Initial Phase” and the “Permanent Phase,” as further described below. The Petitioners shall designate one single point of contact representing the Stations to receive and respond to all RFI complaints and issues caused by the Stations’ RFEs from the Site.

B. The RFI to be addressed by the IRP means the material degradation of, or nuisance to, the performance of consumer home electronic devices customarily used by consumers which are being used in homes, home business or municipal activities including, but not limited to, medical devices, resulting from RFEs from any Station.

i. RFI is further defined to include radio frequency phenomena (“RF Phenomena”) resulting from the conduction or detection of RFEs by non-electronic devices (e.g., a “talking radiator”).

ii. To be included in the IRP, RF Phenomena must be clearly demonstrated to be caused by RFEs from one or more of the Stations.

C. “RFI Remediation” is defined, in the Initial Phase, as: providing technical information and assistance; providing parts, such as filters, to be added to the utility infrastructure and/or electronic devices; replacing or modifying affected electronic devices; and providing qualified personnel who will make on-site visits to evaluate and/or work on RFI issues, including those involving RF Phenomena. Depending upon where and when the RFI Remediation occurs, the cost of RFI Remediation will be borne as set forth herein.

D. The Map dated October 5, 2005 and attached hereto (the “Map”), describes the area in the City of Newton that is defined as the Remediation Zone (the “RZ”) within which the Petitioners will perform RFI Remediation at their sole expense during the Initial Phase of the IRP. The Federal Communications Commission (the “FCC”) requires that the Stations perform certain “proof of performance” measurements to obtain their FCC licenses. If these measurements indicate that any of the Stations’ FCC blanketing contours (47 CFR 73.88) exceed the bounds of the RZ as shown on the Map, the RZ will be extended such that it is coextensive with all Stations’ blanketing contours.

E. The Initial Phase of the IRP will begin when the FCC grants Program Test Authority (“PTA”) to any Station and will continue for 3 years from the date the FCC last grants PTA to any Station, at which time the Initial Phase will terminate. The Petitioners agree to notify the Clerk of the Newton Board of Aldermen of the dates of the first and the last PTA grants to the Stations.

F. At the conclusion of the Initial Phase, the Permanent Phase of the IRP shall commence and shall continue for so long as a radio station(s) continues to broadcast from the Site. During the Permanent Phase, the RFI Remediation the Petitioners will provide at their expense within the RZ shall consist solely of technical information and assistance to complainants with RFI issues. Such information and assistance shall be provided in a timely and reasonable fashion when requested and shall also be made readily available in a form that permits complainants to obtain basic advice through a well-publicized web site, or by other effective methods that may become available in the future (collectively, the “Web Site”), established and maintained by the Petitioners at their sole expense. The Petitioners also may provide at their sole discretion, but are not required to provide, further services or parts such as filters. If the Petitioners' engineers determine that the technical information and assistance, or the parts provided by the Petitioners, are unlikely or unable to correct the RFI in question, the Petitioners may refer the complainant to the Remediation Fund established pursuant to subsection H below for further assistance.

G. In addition to the RFI Remediation the Petitioners will provide within the RZ pursuant to subsections D and F above, the Petitioners will provide at their sole expense technical information and assistance to the Administrator of the Remediation Fund (the “Fund Administrator”) established pursuant to subsection H below. The technical assistance provided to the Fund Administrator will include advising the Fund Administrator as to the likelihood that a RFI complaint, whether inside or outside the RZ, is related to the RFEs generated by the Stations; basic information regarding RFI Remediation; and advice and assistance in the selection and scheduling of third party technicians to make on-site visits, whether inside or outside the RZ, as necessary to correct the RFI.

H. A Remediation Fund in the amount of \$100,000 will be established by the Petitioners to cover the costs of providing parts and/or service for any RFI Remediation resulting from RFEs from any Stations. The purpose of the Remediation Fund is to pay for the cost of RFI Remediation that is not required to be paid for by the Petitioners, whether because the RFI Remediation is located outside the RZ or because the RFI Remediation within the RZ occurs during the Permanent Phase of the IRP. The Remediation Fund shall be established at the time the FCC grants the first PTA to any Station. The Remediation Fund will be held by the City of Newton under the supervision of the City Treasurer and any interest earned shall be added to the Remediation Fund to be used for the same purpose. The City of Newton will be solely responsible for the maintenance, security, and investment of the Remediation Fund. The Petitioners will not be obligated pursuant

to this special permit to make any contribution to the Remediation Fund beyond the initial \$100,000 contribution.

Disbursements from the Remediation Fund shall be made by the Fund Administrator. The Fund Administrator will be an official of the City designated by the Mayor and approved by the Board of Aldermen. The Fund Administrator shall consult with the Petitioners' engineers prior to authorizing a disbursement of the Remediation Fund, provided however, that the Fund Administrator may authorize a disbursement if the Petitioners' engineers fail to respond to the Administrator's request for consultation for more than 10 business days.

I. As part of the IRP, the Petitioners will use their best efforts to identify if and when RFI problems are in part created or exacerbated by the inadequate or outdated infrastructure of a utility company. In such event, the Petitioners shall use reasonable efforts to notify each affected complainant, and shall notify the City of Newton Commissioner of Public Works, as to the nature and location of the problem and identify the utility company responsible for contributing to the RFI.

2. The Petitioners have proposed that the Stations will operate at a combined power output of 95,000 watts. The Petitioners shall not increase the combined power output beyond 95,000 watts without written notification to the Clerk of the Newton Board of Aldermen. The Petitioners shall also file a map with the Clerk of the Newton Board of Aldermen showing the new FCC blanketing contours (47 CFR 73.88) based upon "proof of performance" measurements for the increased power output. In the event that any of the Stations' FCC blanketing contours for the increased power output exceed the bounds of the RZ described in the Map, then the RZ will be extended such that it is coextensive with the new blanketing contours and the Petitioners will provide, at their sole expense, a new Initial Phase of RFI Remediation within the enlarged RZ, including that portion of the RZ that has been added by virtue of the increased power output, for a period of 3 years from the date the FCC grants the PTA for the Station(s) that caused the combined power output to exceed 95,000 watts.

3. The Petitioners shall post and maintain appropriate signage in compliance with ANSI and FCC requirements which will contain required hazard warnings. To the extent that such signage does not comply with the sign requirements of the zoning ordinances of the City of Newton, waivers are hereby granted to permit such signage. The Petitioners agree to submit the required sign package to the Planning Department for its records. In addition, the Petitioners agree to erect on the property such other reasonable signs consistent with ANSI and/or FCC requirements as the City of Newton may request.

4. The Petitioners shall construct, and update at least annually, the Web Site. The Web Site will contain contact information for technical support of RFI issues, including the telephone number and e-mail address of a representative of the Stations responsible for providing the IRP. The Web Site shall also report the status of construction of the towers, the testing of the signals emanating therefrom, and startup dates of broadcasting. In addition, within 7 days from the date when the first Station commences operation, and

during the Initial Phase, the Petitioners shall mail a written notice to all property owners within the RZ, the list of which owners will be provided to the Petitioners by the City of Newton, providing contact information for technical support of RFI issues, including the telephone number and e-mail address of a representative of the Stations providing the IRP, and the Web Site address. The Petitioners shall maintain the Web Site for so long as any Station(s) continues to broadcast from the Site.

5. The Petitioners shall utilize a galvanized gray color on each of the radio towers that is not paint, but a zinc-infused product with which each tower will be coated.

6. The Site is subject to all of the requirements of the Conservation Commission's Order of Conditions with respect to the Site.

7. Any lighting on the Site will be shielded consistent with FCC requirements, and will be Metal Halide or equivalent. All Site lighting shall comply with §§20-23 – 20-24 of the Revised Ordinances of the City of Newton, 2001, except to the extent that such ordinances are inconsistent with any applicable FCC requirement.

8. Unless required by the rules of the FCC, the Petitioners shall not use razor wire on the equipment shelter buildings. The Petitioners will consult with the Planning Department regarding the details of any other fencing and will incorporate the Planning Department's reasonable suggestions with respect to such fencing, which suggestions will not be out of the ordinary for commercial properties in Newton. All Site fencing shall comply with §§20-40 of the Revised Ordinances of the City of Newton, 2001, except to the extent that such ordinances are inconsistent with any applicable FCC requirement.

9. Other than as amended by this special permit, all conditions of Board Orders #552-66, #422-60, #102720 and #91260 remain in effect.

10. Upon the commencement of transmission of by any Station from one or more of the new 199-foot towers, the Petitioners shall commence the removal of the old towers as soon as reasonably practical.

11. No wireless communication equipment may be added unless in accordance with the design and operating criteria and the administrative provisions established in Section 30-18A of the Zoning Ordinance, and unless this special permit is amended.

12. Unless prohibited by federal law or FCC regulations, the Petitioners agree to abide by all of the conditions of this special permit. The City of Newton agrees that it may not seek to revoke or suspend this special permit in the event of a dispute regarding the Petitioners' performance of their obligations hereunder, except that the City of Newton will be entitled to seek enforcement of the provisions of this special permit short of suspension or revocation. For matters not covered by this special permit, the Petitioners reserve the right to assert the FCC's jurisdiction over matters pertaining to RFI and RFEs.

13. The Board's order of approval of this special permit will refer to and incorporate the site plans and the landscape plans filed by the Petitioners as part of the special permit application.