

MEMORANDUM OF AGREEMENT

By and Between

TOWN OF BROOKLINE

And

MASSACHUSETTS BAY TRANSPORTATION AUTHORITY

- I. The purpose of this Memorandum of Agreement (this "MOA") is to set forth the basic terms of agreement by and between the Town of Brookline, acting by the Brookline Select Board and the Brookline School Committee (the "Town") and the Massachusetts Bay Transportation Authority (the "MBTA"), under which the Town will seek to construct a portion of the Brookline High School expansion project on, over and adjacent to MBTA property located at the Brookline Hills MBTA station, all as shown on the plans attached hereto as Exhibit A (the "Project").
- II. The Town and the MBTA will use reasonable efforts to negotiate an agreement by which the Town seeks to acquire an easement and all other rights required from the MBTA to construct, use and occupy the Project, which is currently estimated to require the use of MBTA property totaling approximately 11,400 square feet (including approximately 7,800 square feet in land and approximately 3,600 square feet of air rights), as shown on Exhibit B.
 - A. The value of MBTA temporary and permanent interests in land to be acquired by the Town (the "Property Value") will be established by an appraisal using a methodology determined by the MBTA in consultation with the Town and consistent with the methodology utilized for similar MBTA projects. Prior to the commencement of the appraisal process, the Town and MBTA shall agree on the scope of said appraisal. The Town shall reimburse the MBTA for all costs associated with obtaining the appraisal.
 - B. The Town and MBTA acknowledge that the Project will require additional work within the Brookline Hills MBTA station area to comply with the codes, policies, standards, and guidelines listed on Exhibit C (the "MBTA Standards"). The Town and the MBTA further acknowledge that the Project must address the requirements of MBTA operating departments set forth in Exhibit D.
 - C. The Town, at its sole cost and expense, shall undertake all work within the Brookline Hills MBTA station area required to comply with the MBTA Standards (collectively, the "Station Compliance Improvements"), subject to MBTA review and approval, which preliminary scope of improvements includes (i) the creation of a coordinated drop-off zone, (ii) pedestrian safety enhancements at track crossings in the area of the Project, (iii) landscape enhancements and accessibility improvements to the station platform, (iv) reconfiguration of the MBTA parking lot, (v) ensuring adequate building clearance above the existing track, (vi) sheltering or relocating the existing MBTA bungalows and associated

appurtenances if required due to construction of the Project, (vii) ensuring adequate MBTA truck access to the tracks, (viii) relocation of an existing MBTA kiosk, (ix) potential modifications to MBTA wayfinding, and (x) any additional requirements listed in a code analysis completed by a vendor approved by the MBTA. The plans for and value of the Station Compliance Improvements will be documented by the Town and submitted to the MBTA for its review. The parties will consult in good faith during design development and the construction of the Station Compliance Improvements, in conjunction with Town's construction of the Project.

- D. During design review of the Station Compliance Improvements, the MBTA may request that the Town design and construct additional MBTA improvements within the Brookline Hills MBTA station area ("Additional MBTA Improvements" and, together with the Station Compliance Improvements, the "MBTA Station Improvements") and the Town shall make reasonable efforts to undertake such Additional MBTA Improvements. If the Property Value exceeds the value of the Station Compliance Improvements together with the value of the Additional MBTA Improvements paid for and undertaken by the Town, then the Town shall pay the difference to the MBTA. Under no circumstances shall the MBTA be obligated to pay for or reimburse the Town for any Station Compliance Improvements.

- III. The Town will be required to complete the design and construction of the MBTA Station Improvements in accordance with the requirements of all applicable state and federal procurement laws on the MBTA's behalf to the same extent as if the MBTA were the awarding authority. The Town will negotiate and enter into such other appropriate implementation agreements with the MBTA in order to ensure that the Project and the MBTA Station Improvements are constructed in a manner that meets all applicable MBTA requirements for such construction, satisfactorily addresses all concerns identified in the MBTA internal canvass on the Project, is completed in a timely fashion, does not interrupt MBTA Green Line operations and does not interfere with adequate pedestrian and vehicular access to the Brookline Hills MBTA station. Regardless of the procurement and project delivery methods selected by the Town, appropriate representatives of the MBTA will be directly involved in all aspects of the procurement, design, construction and commissioning of the MBTA Station Improvements, and the MBTA's approval will be required at key points in the process.

- IV. The MBTA will use reasonable efforts to review, comment and approve design plans for the Project and the MBTA Station Improvements at the 30%, 60% and 100% stage on a timely basis. The MBTA agrees to use reasonable efforts to review and approve, or provide written comments on, all drawings and specifications and other items submitted to the MBTA for review within forty-five (45) business days following initial delivery to the MBTA and, with respect to any item which is resubmitted following comments from the MBTA, within thirty (30) days following resubmittal to the MBTA.

- A. The parties shall enter into all required Project license and construction agreements (the "Project Construction Agreements"), ensuring that the Town's

construction is completed by qualified contractors and that construction does not adversely impact MBTA operations, including MBTA parking at Brookline Hills.

1. The Project Construction Agreements will be guided by the MBTA Standards and other standards to which the Town, its contractors and the MBTA may agree.
2. The Project Construction Agreements will also be guided by and address the Project requirements and issues identified by MBTA Safety, the MBTA Capital Delivery Department, MBTA Light Rail Operations, MBTA Power, MBTA Maintenance of Way, MBTA System-wide Accessibility and MBTA Signals, in their respective reviews of the Project.
3. Prior to entry on MBTA property, the Town or its contractors shall apply to the MBTA to enter into a so-called License for Entry agreement, in the MBTA's standard form, granting the Town, its consultants and contractors the right to enter upon the MBTA property for the purpose of conducting due diligence investigations, taking measurements, testing soils and geotechnical and environmental conditions, and otherwise compiling information needed to prepare the drawings and specifications for the Project and the MBTA Station Improvements and for construction of the Project and the MBTA Station Improvements. The MBTA's license application and associated fee schedule is available at <https://www.mbtarealty.com/licenses>.

B. The Town and the MBTA acknowledge and agree that the construction contract(s) for the Project, the MBTA Station Improvements shall incorporate the following requirements:

1. The contractor(s) and subcontractors shall be required to work in harmony with other elements of labor employed or to be employed by the MBTA, and to conduct themselves in an orderly and proper manner with due regard for personnel of the MBTA working on or in the vicinity of Brookline Hills MBTA station as well as customers using the MBTA's transportation system;
2. The contractor(s) and subcontractors shall be required to maintain insurance which includes all coverages and minimum limits specified by the MBTA;
3. The contractor(s) shall be required to deliver to the MBTA, following the completion of work, as-built record drawings of the work in reproducible form ("Record Drawings"), calculations, and any other documents reasonably requested by the MBTA;

4. The contractor(s) shall provide the MBTA with advance notification for the operation of any construction cranes, which notification shall include: (i) a copy of the crane certification; (ii) verification stamped by a Massachusetts registered engineer that the crane is capable of lifting the maximum intended load; (iii) verification stamped by a Massachusetts registered engineer that the crane components/connections are structurally sound; and (iv) verification that the crane operator is duly licensed to operate a crane. All crane operations that create a reasonable risk of interfering with the MBTA's rail or transit operations shall be submitted to the MBTA for review and approval not less than ten (10) days prior to commencement of such operations. Any material deviation from the crane operation plan previously approved by the MBTA must be re-submitted to the MBTA for review and approval, and the contractor(s) shall be required to provide a minimum of ten (10) days' notice prior to any such proposed material deviation.
 5. The contractor(s) shall prepare a construction management plan (the "CMP") describing customary construction management measures, such as access and mitigation and safety measures, which CMP shall be subject to the MBTA's review and approval. As a material inducement to the MBTA to enter into this MOA, the Town agrees that the CMP shall not propose any closure or material restriction of access to or from Brookline Hills MBTA station for any period of time. The CMP must include (i) pre-construction coordination meetings with the MBTA as needed prior to the commencement of construction, (ii) weekly construction coordination meetings with the MBTA (including site walks and review of a three-week-look-ahead schedule), (iii) monthly written status reports to the MBTA regarding the progress of work, and (iv) an appropriate signage and wayfinding program approved by the MBTA. The contractor(s) are required to submit a proposed CMP to the MBTA for such review and approval not later than forty-five (45) days prior to the planned start of any construction work. Any material deviation from the CMP previously approved by the MBTA must be re-submitted to the MBTA for review and approval.
- C. Prior to commencing construction, the Town shall provide evidence to the MBTA's reasonable satisfaction that the Town has sufficient financial resources available to discharge any anticipated obligations under this MOA.
- D. The Town acknowledges that there are surface and subsurface utilities on and adjacent to Brookline Hills MBTA station, and the Town agrees to direct the contractor(s) to exercise extreme caution with respect thereto in performance of the work. The construction contract(s) shall obligate the contractor(s) to comply with Massachusetts General Laws, Chapter 82, Section 40 (also known as the "Dig Safe" law) and the regulations promulgated pursuant thereto, including, without limitation, 220 CMR 99.00 et seq. The contractor(s) shall be required to

perform test pits/hand excavation in areas adjacent to the station to avoid any utility service interruption.

- E. The Town shall cause its contractors to indemnify, defend (at the option of the MBTA) and save the MBTA harmless from and against any and all liabilities, losses, damages, costs, expenses (including reasonable attorneys' expenses and fees), causes of action, suits, claims, demands or judgments of any nature whatsoever including, without limitation, those related to Hazardous Materials (as defined below) that may be imposed upon, incurred by, or asserted against the MBTA by reason of any of the following occurrences: (a) the activities of the Town, its contractors and subcontractors; (b) the injury, illness or death of any employee of the Town, its contractors or subcontractors, except to the extent caused by the gross negligence or willful misconduct of the MBTA, (c) the presence, discovery or revealing of any pre-existing Hazardous Materials on MBTA property, which discovery is a result of the activities of the Town, its contractors or subcontractors; (d) the placement or accidental release of any Hazardous Materials onto MBTA property by the Town, its contractors or subcontractors, (e) any use, condition or occupation of MBTA property by the Town, its contractors or subcontractors; or (f) any failure of the Town to perform or comply with any of the terms hereof, or of any contracts, agreements or restrictions, statutes, laws, ordinances or regulations affecting the activities or any part thereof. The term "Hazardous Materials" means any toxic or hazardous substance or waste, pollutant, contaminant, oil or other petroleum product regulated under Chapter 21E of the Massachusetts General Laws and the regulations promulgated thereunder or any other applicable federal, state or local laws, rules or regulations. The Town hereby releases the MBTA from any responsibility for the Town's losses or damages related to "negative impacts" associated with construction and operation of a project proximate to subway and bus lines, including, without limitation, vibrations, electromagnetic fields, fumes and noise (collectively, "Negative Impacts"). The Town covenants and agrees that it will not assert or bring, nor cause any third party to assert or bring, any claim, demand, lawsuit or cause of action (whether by way of original claim, cross claim, counterclaim, contribution claim, indemnification claim, third-party claim or any other claim) against the MBTA related to such Negative Impacts, including, without limitation, claims for response actions, response costs, assessments, containment, removal and remedial costs, government oversight charges, including any overhead or response action costs incurred or assessed by the Massachusetts Department of Environmental Protection, fines or penalties, permit and annual compliance fees, reasonable attorney and expert fees, natural resource damages, property damages, including diminution of property value claims, and personal injury damages and damages related to Negative Impacts.
- V. The Town and the MBTA agree to use all reasonable efforts to complete negotiations and execute all agreements contemplated under this MOA by the dates set forth in the Project schedule attached hereto as Exhibit E (the "Project Schedule"). Each party shall keep the other party reasonably apprised of the status of its design, construction and review work,

and shall have the right to reasonably adjust or extend the dates set forth in the Project Schedule for completion of its tasks.

- VI. The Town agrees to fund force accounts sufficient to cover all of the MBTA's reasonable expenses in connection with negotiation and administration all of the agreements contemplated in this MOA, including, without limitation design review, construction oversight, project management and legal and engineering costs. These force accounts will be replenished at any time they fall below their specified minimum balances. Within ninety (90) days following the MBTA's acceptance of the MBTA Station Improvements, the unexpended balances in the force accounts will be returned (without interest) to the Town.
- VII. Upon completion of the MBTA Station Improvements, the MBTA shall make a final inspection of the work, and upon acceptance thereof by the MBTA, the MBTA shall confirm in writing that it accepts the MBTA Station Improvements. From and after such acceptance, the MBTA shall be responsible for maintenance, repairs and replacements of all aspects of the MBTA Station Improvements. Following completion of the MBTA Station Improvements, the Town shall make available to the MBTA, on a non-exclusive basis: (i) any correction obligations or warranties provided by the architect(s) and contractor(s) (including, without limitation, the contractor(s)' obligation to correct any defective or non-conforming work); and (ii) any extended warranties for the components, systems, furnishings, fixtures and equipment included within the MBTA Station Improvements. The Town shall assign to the MBTA (if and to the extent assignable) all express and implied warranties arising out of the contracts related to the MBTA Station Improvements. The contractor(s) will provide a one (1) year warranty for all work that such contractor(s) perform. The Town covenants and agrees to reasonably cooperate with the MBTA's efforts to enforce warranties.
- VIII. Either party may terminate this MOA if the other party is in default of its material obligations hereunder and such default continues for more than thirty (30) days after written notice to the other party (or such longer period as may reasonably be required to cure such default provided that the defaulting party has promptly commenced and is diligently pursuing the cure). The parties agree that prior to any such termination, the parties will meet in person and use good faith efforts to discuss and resolve any dispute between them. The Town may also terminate this MOA by written notice to the MBTA if, at any time prior to commencement of the Project or the MBTA Station Improvements, the Town elects not proceed with the Project. If this MOA is terminated as a result of the Town's default beyond the applicable cure period, (i) upon request, the Town will provide to the MBTA copies of all material and data developed hereunder without representation or warranty of any kind and subject to the terms of any contracts it may have with the applicable counterparties; (ii) the MBTA may immediately assume control of and construct the MBTA Station Improvements, and (iii) if the MBTA elects not to assume control and construct the MBTA Station Improvements, then the Town shall immediately restore the MBTA's property and facilities to a condition reasonably equivalent to the condition in which such MBTA property and facilities existed prior to commencement of the Project and the MBTA Station Improvements (or such better condition as may be approved by the MBTA).

- IX. This MOA may be executed in several counterparts, and/or by execution of counterpart signature pages which may be attached to one or more counterparts, and all so executed shall constitute an agreement binding on all of the parties hereto, notwithstanding that all of the parties are not signatory to the original or the same counterpart.
- X. In the event a building permit for the Project has not been issued on or before the date that is two (2) years after the date of this MOA, this MOA shall in its entirety be null and void, and of no further force or effect.

[Remainder of page intentionally left blank. Signatures follow.]

This MOA is entered into by the parties on this day of May, 2018.

MASSACHUSETTS BAY TRANSPORTATION AUTHORITY

By: _____
Luis Manuel Ramírez
General Manager

Approved as to form:

Lauren D. Armstrong
Deputy General Counsel, MassDOT and MBTA

TOWN OF BROOKLINE

Select Board

Neil Wishinsky, Chair

Ben Franco, Member

Nancy Heller, Member

Bernard Greene, Member

Heather Hamilton, Member

School Committee

David Pollak, Chairman

Julie Schreiner-Oldham, Vice Chairman

Helen Charlupski, Member

Susan Wolf Ditkoff, Member

Suzanne Federspiel, Member

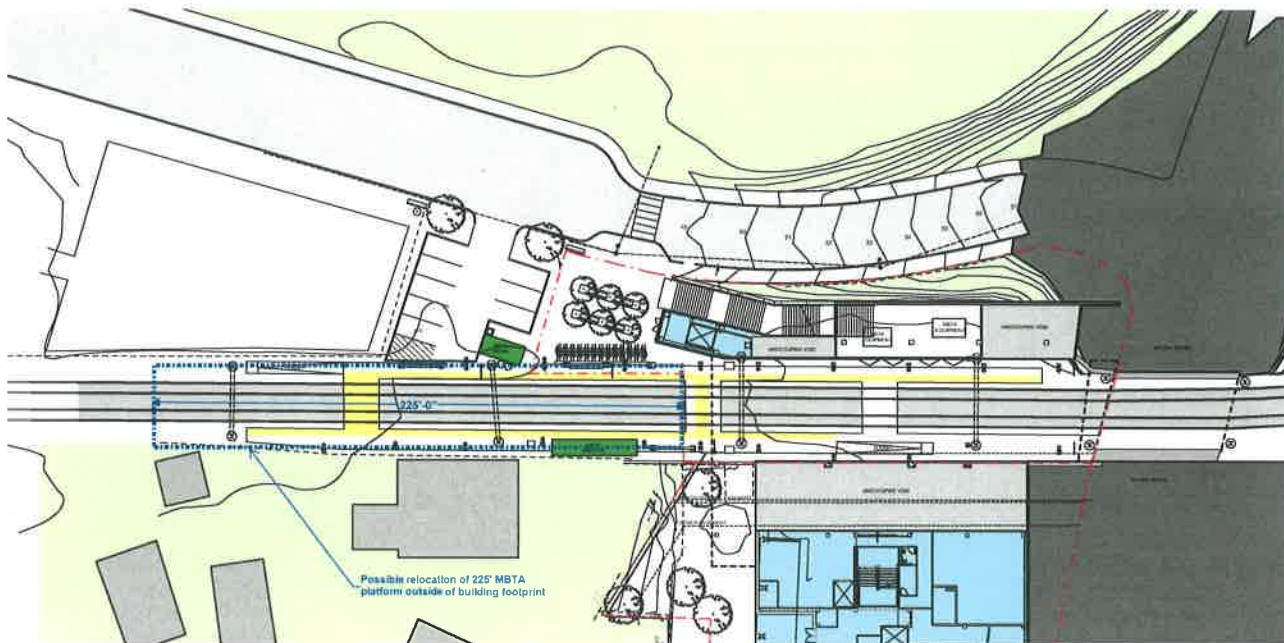
Michael Glover, Member

Jennifer Monopoli, Member

David A. Pearlman, Member

Barbara Scotto, Member

Exhibit A



BROOKLINE HIGH SCHOOL
BROOKLINE, MA

LOWER LEVEL -PORCH PLAN

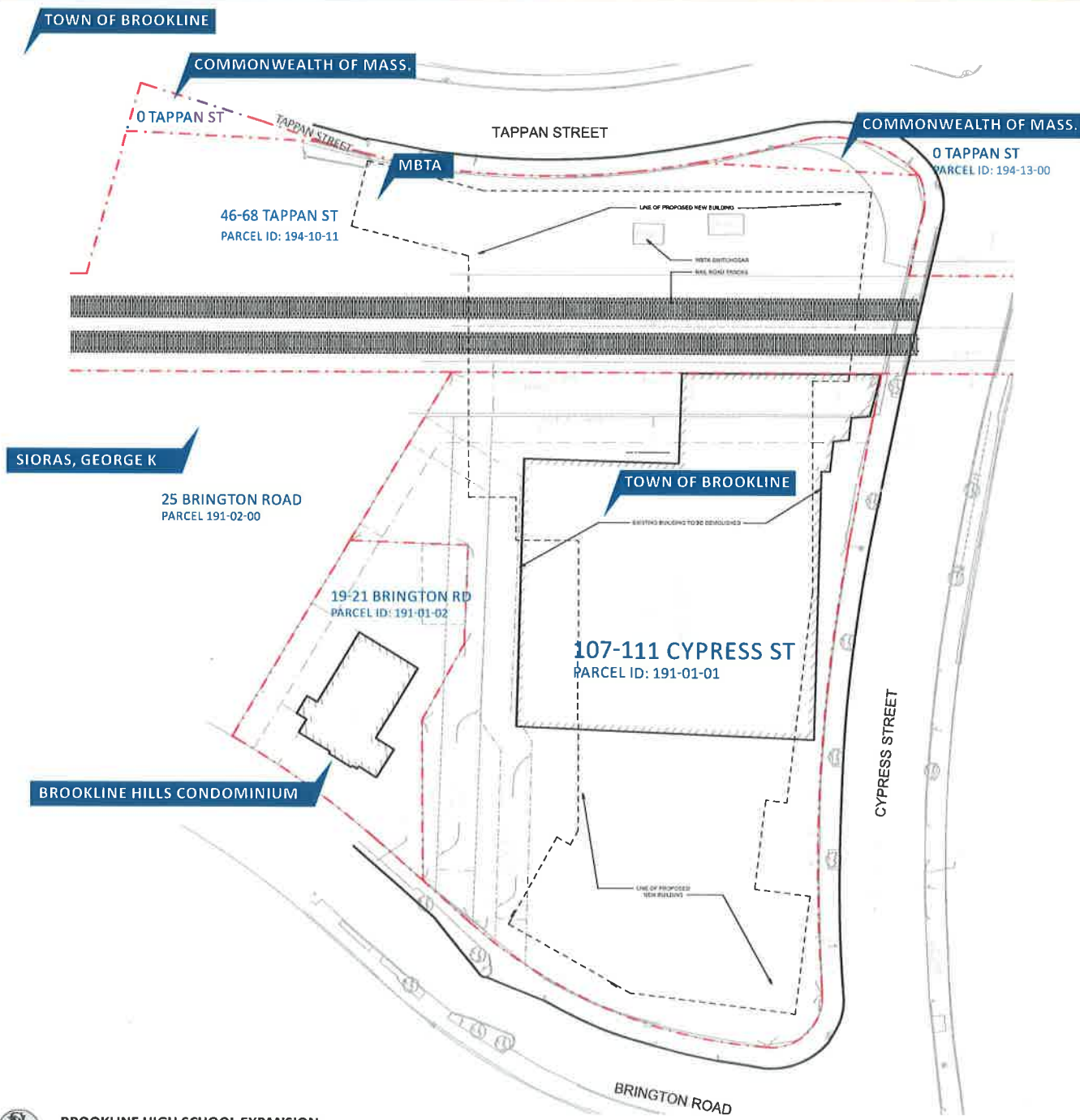
1/16" = 1'-0"

William Rawn Associates, Architects, Inc., Boston, MA

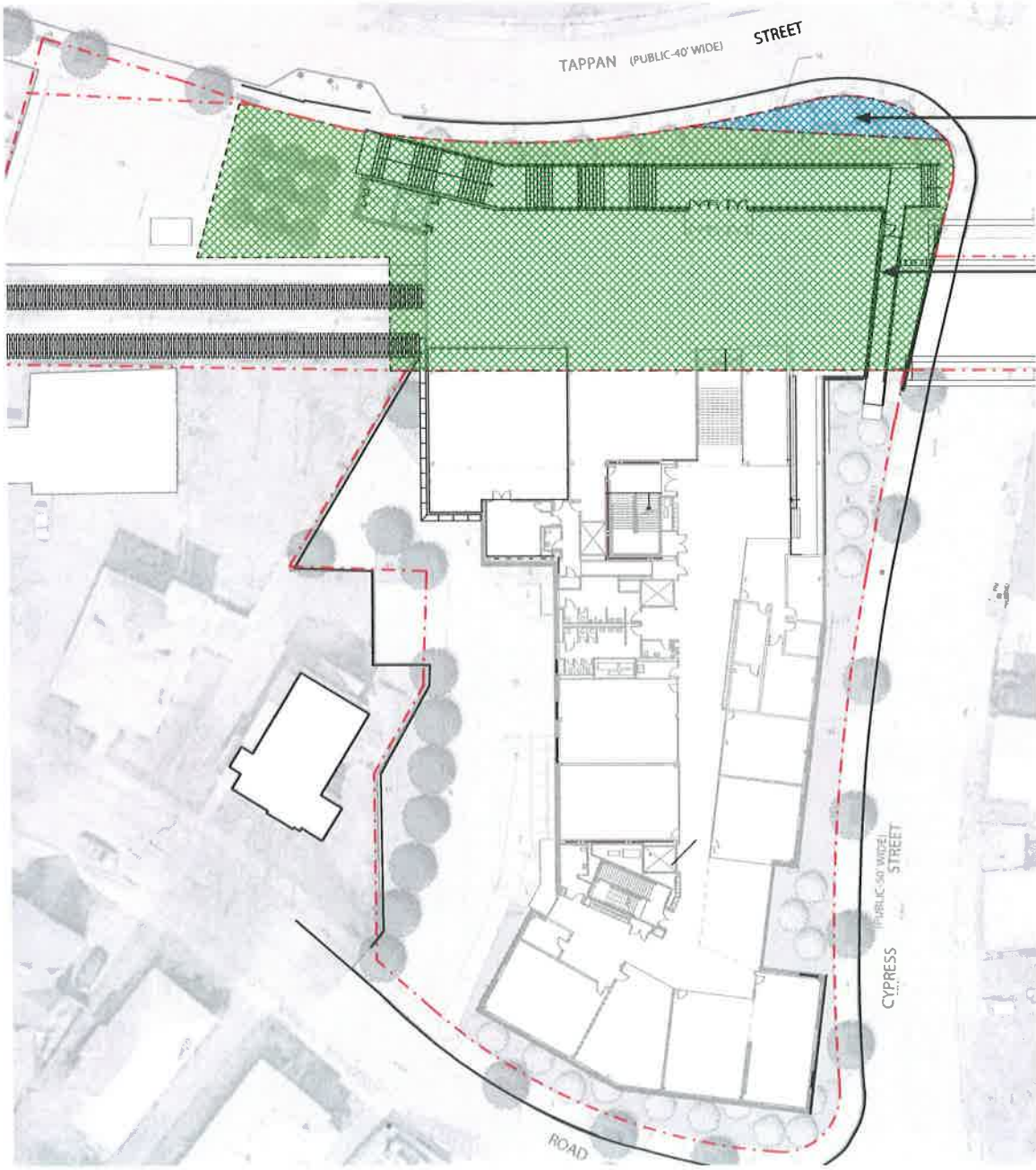


Exhibit B

PROPERTY OWNERSHIP - EXISTING



PROPERTY OWNERSHIP - PROPOSED



LAND ASK ON PROPERTY OWNED BY COMMONWEALTH OF MASSACHUSETTS:
669 SF

ASK ON PROPERTY OWNED BY MBTA:
APPROXIMATELY 17,129 SF

EXHIBIT C

MBTA STANDARDS

- NFPA 130: Standard for Fixed Guideway Transit and Passenger Rail Systems
- 780 CMR – Chapter 34: Repair, Alteration, Addition, and Change of use of Existing Buildings
- 521 CMR – MA Architectural Access Board
- International Building Code (IBC) for Existing Buildings
- MBTA Guide to Access
- MBTA Guide Specifications For Structural Design of Rapid Transit and Light Structures
- MBTA Guidelines and Standards
- MBTA Standard Specifications for Construction
- FTA – Transit Noise and Vibration Impact Assessment, FTA-VA-90-1003-006; most recent update
- Boston Center for Independent Living (BCIL) v MBTA – Settlement Agreement
- MBTA Safety Department – Crane Policy
- MBTA Special Instructions
- MBTA Elevator Design Standards, 9th Edition (July 31, 2017)
- Design/Construction Review for Projects within the MBTA's Zone of Influence: A Guide for Owners, Developers, and Contractors (November 2017)

Exhibit D



Charles D. Baker, Governor
Karyn E. Pollito, Lieutenant Governor
Stephanie Pollack, MassDOT Secretary & CEO
Luis Manuel Ramirez, General Manager & CEO



February 16, 2018

Mr. Brian Clarizia
Director of Licensing
Massachusetts Realty Group
20 Park Plaza, 11th Floor, Suite 1115A
Boston, MA 02116

Re: **MRG Request No. 16043 Brookline High School Air Rights at Brookline Hills, Brookline, Mass.**

Dear Mr. Clarizia,

The MBTA Capital Delivery Department has reviewed your January 11, 2018 request from the Town of Brookline for disposition of a parcel of land and air rights adjacent to and above the Brookline Hills Green Line Station as part of the expansion of Brookline High School.

The parcel consists of 7,800 square feet of land and 3,600 square feet of air rights for a proposed building over the tracks with a vertical clearance of 14 feet (matching the adjacent Cypress Street Bridge). The MBTA would retain access and control of the inbound and outbound platforms as well as the three existing grade-crossings, and eight parking spaces. The Town is proposing to relocate an existing MBTA passenger kiosk, and two signal bungalows.

Prior to the disposition of MBTA land and air rights at this location, it is incumbent upon the Applicant to receive prior authorization from Light Rail Operations, confirming clearance requirements and the safe operation of Green Line trains; MBTA Station Operations, confirming that there is adequate at-grade crossing sight distances, and accessible paths of travel, and; obtain the approval of Parking Operations, Track and Signals, and Power and Communications departments.

Subject to the above conditions, the MBTA Capital Delivery Department requires that the Applicant meet the following conditions prior to the start of construction:

- Contact this Department to schedule a follow-up meeting to the initial Project Development Group (PDG) meeting, through Project Manager Ashley Emerson at 617-222-1830.
- Enter into a Force Account Agreement to cover the costs of MBTA review and construction oversight.

MRG Request No. 16043

Brookline High School Air Rights at Brookline Hills, Brookline, MA

- Submit Design Drawings and Calculations for review at the 30%, 60%, and 100% design stage.
- Submit Construction Management plans when available, prior to the start of construction to the Capital Delivery Department for review, identifying the sequence of construction, and construction details outlining support and protection of passengers, trains and tracks.
- Agree to terms and conditions governing access to the MBTA ROW, and assurance that there will be no interruptions to train movements.
- Maintain the standard MBTA Green Line vertical and horizontal clearances under the proposed overbuild.
- Provide advanced notification, scheduling and coordination with MBTA Safety, Green Line Operations concerning safety protocols and access times prior to the start of work, RWP training and on-site flagging for which an MBTA Force Account shall be established.
- Maintain 8 parking spaces adjacent to the Brookline Hills Station at all times.

In addition:


- The Project Proponent shall bear all costs for MBTA personnel associated with the support of this project and will be required to enter into a Force Account Agreement in order to cover costs that may be incurred by the MBTA, including construction oversight by an MBTA Capital Delivery Construction Inspector.
- The Applicant shall make any repairs and/or required upgrades to MBTA infrastructure necessitated by activities of the Applicant which shall be performed by the Applicant at no cost to the MBTA.
- The Applicant shall pay for any diversion costs incurred if MBTA service is interrupted due to the Applicant's activities.

MRG Request No. 16043
Brookline High School Air Rights at Brookline Hills, Brookline, MA

Any conditions that other MBTA Departments may have shall be incorporated with those stated above.

Please contact Peter Paravalos, Director of Transit-Oriented Development, at pparavalos@mbta.com or at 617-222-5678 with any questions you may have.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Beth J. Larkin', is written over the word 'Sincerely,'.

Beth J. Larkin, P.E.
Assistant General Manager for Capital Delivery

cc: P. Paravalos, S. Culp, E. Stoothoff, L. Brelsford, A. Brennan, T. Thibodeaux, J. Chan,
C. Hart, A. Emerson



Charles D. Baker, Governor
Karyn E. Polito, Lieutenant Governor
Stephanie Pollack, MassDOT Secretary & CEO
Luis Manuel Ramirez, General Manager & CEO



MEMORANDUM

To: Steven V. Culp
Director of Safety Engineering

From: Jonathan Tieu *SVK*
Safety Analyst

Date: March 12, 2018

Subject: **Town of Brookline**
Brookline Hills Green Line T Station Disposition
Brookline, MA
MRG Project# MBTA - 16043

MBTA Safety has received and reviewed the request by Massachusetts Realty Group on behalf of Town of Brookline for approval to offer for disposition a parcel of land and air rights adjacent to and above the Brookline Hills Green Line T Station.

Based on the documents provided, MBTA Safety should deem this request "Approved with Conditions". In addition to any and all conditions set forth by Transit-Oriented Capital Delivery, MBTA Infrastructure, System Wide Accessibility, Environmental Affairs, and Green Line Operations, the following conditions must be adhered to:

1. All demolition and construction activity need to be coordinated with Green Line Operations for proper scheduling and flagging. Some of the work may need to take place after revenue hours and on weekends.
2. All personnel entering the Green Line ROW must be MBTA ROW certified or attend MBTA ROW training to become MBTA ROW certified.
3. Existing MBTA infrastructure must be protected during all demolition and construction activity.
4. Underground utilities must be identified prior to work and protected during all demolition and construction activity.
5. All demolition plans must be submitted to MBTA Transit-Oriented Capital Delivery, MBTA Infrastructure, and MBTA Safety for review and approval.
6. Contractor may be required to use vibration monitoring devices during demolition.
7. Contractor must erect fencing around work zone to protect pedestrians from demolition and construction activity.
8. Passenger access to and from the station must remain unimpeded during demolition and construction activity.
9. If at any time MBTA deems demolition and construction activity unsafe to its Operations, Infrastructure, Passengers, or Personnel, contractor must cease all work until safer conditions are established and approved by MBTA.

Cc. J. Connell
S. Culp



Charles D. Baker, Governor
Karyn E. Polito, Lieutenant Governor
Stephanie Pollack, MassDOT Secretary & CEO
Luis Manuel Ramirez, General Manager & CEO

massDOT
Massachusetts Department of Transportation

March 6, 2018

Mr. Brian Clarizia
Director of Licensing
Greystone Management Solutions
20 Park Plaza, Suite 1120
Boston, MA 02116

Subject: MRG File #16043
Request for Disposition of Land
Brookline Hills Station, Brookline, MA
MBTA E&M Review Comments

Dear Mr. Clarizia,

Per your request, the MBTA E&M Department has reviewed File #16043 dated 1/11/18, relative to the request to offer for disposition a parcel of land and air rights adjacent to and above the Brookline Hills Green Line Passenger Station in Brookline, MA. As a result of our review, we do not agree with the proposed disposition of land without additional planning and coordination. Please see the following comments:

- See the attached response from the MBTA Power Department.
- See the attached response from the MBTA Maintenance of Way Department.
- See the attached response from the MBTA Signals Department.

Please see the attached documents. If you have any questions regarding this response, feel free to contact my office at (617) 222-6251.

Sincerely,

Erik Stoothoff, P.E.
Deputy Chief Operating Officer
For Infrastructure

cc: File



Charles D. Baker, Governor
Karyn E. Polito, Lieutenant Governor
Stephanie Pollack, MassDOT Secretary & CEO
Luis Manuel Ramirez, General Manager & CEO

massDOT
Massachusetts Department of Transportation

MEMORANDUM

TO: Eric Stoothoff
Deputy COO for Infrastructure
MBTA E & M Systems Department

FROM: *John M. Martin*
Jack Martin
Power Department Engineer

DATE: March 6, 2018

RE: MRG #16043- The Town of Brookline
Request to for Disposition of Land
Brookline Hills Station, Brookline, MA

The MBTA Power Department has reviewed MRG File #16043 relative to the request to offer for disposition a parcel of land and air rights adjacent to and above the Brookline Hills Green Line Passenger Station in Brookline, MA. As a result of our review, we would like to provide the following comments.

1. The MBTA Power Department costs associated with the support of any work that is performed at this location shall be the responsibility of the Town of Brookline. The MBTA Power Department will need to submit a force account depending on the level of effort required by the Power Department and a function number will need to be open to Areas 324, 341, and 371 of the MBTA Power Department before any work begins at this location.
2. The MBTA Power Department reserves the right to provide additional comments and possibly modify existing comments at a future date as the design and construction progresses. The MBTA Power Department will require a design meeting with the design engineer and the Town of Brookline to review the project, its impact on our infrastructure, and the MBTA Power Department Force Account requirements. We will need to have the opportunity to review detailed design drawings that show how this work will be done and how the existing MBTA Power Department facilities in this area will be impacted.
3. Provide information on proposed clearances away from the catenary and MBTA catenary poles in this area.
4. The picture that was attached to the canvas shows a purple highlighted area that covers the entire footprint of the station and the Green Line tracks. Is the intent to build in the entire area that is highlighted?
5. The proposed clearance of 14 feet is not acceptable to the MBTA Power Department. We have trolley wire, poles, aerial cables, etc. that need to be

MRG #16043
Brookline Hills Passenger Station
March 6, 2018

maintained in this area and 14 feet may not allow us to adequately maintain our facilities in this area.

6. The proposal allows for the preservation of eight (8) MBTA parking spots at this location. Provide information on how our vehicles will access the ROW to maintain our facilities. How will our employees park at this location while working on the ROW?
7. We cannot approve relocating the existing MBTA power generators until additional information has been received pertaining to this work.
8. This canvass is not approved by the MBTA Power Department until all of our concerns have been satisfactorily addressed and enough information has been provided for us adequately review this proposal.

If you have any questions regarding this response, please feel free to contact my office at (617) 222-3199.

JMM/jmm
(MRG #18-03)

cc: W. Charrette
E. Baird
A. Abdulakhatov
File

O:\POWER DEPARTMENT ENGINEERING\MRG (Greystone)\2018 MRG\MRG #16043 Brookline Hills Disposition\MRG 16043 Brookline Hills Land Disposition 030618.docx



Charles D. Baker, Governor
Karyn E. Polito, Lieutenant Governor
Stephanie Pollack, MassDOT Secretary & CEO
Luis Manuel Ramirez, General Manager & CEO

massDOT
Massachusetts Department of Transportation

MEMORANDUM

To: Brian Clarizia – Massachusetts Realty Group

From: Ray E. Martin, Jr. – Track Engineer

Date: 07 February 2018

RE: MRG 16043 – Town of Brookline – Air Rights Brookline Hills Station

I have reviewed the application submitted on behalf of the Town of Brookline requesting MBTA approval for the disposition of land and air rights at the Brookline Hills station on the Green Line Highland Branch. The land would be used for a new building to be part of Brookline High School.

Overall, the project would not provide any benefit to the MBTA with the exception of the proceeds from the sale of the property. There would also be several negative impacts to future maintenance of the infrastructure to consider that must be accounted for in the sale of this parcel. Construction impacts for the duration of the project are also substantial.

It is my recommendation that, prior to execution of the sale, the MBTA and Town of Brookline address and agree on the following Track Department issues as well as those of other departments.

- Construction of a building over the tracks will effectively create a tunnel approximately 175' in length. Maintenance of the track and other infrastructure within will be more difficult and expensive. One option for mitigating this issue would be to require the Town of Brookline to provide funds for the reconstruction of the track and platform within the footprint of building plus an additional 50' at both ends.
- Overhead clearance of 14' above tracks should be increased to a minimum of 15' from top of rail to bottom of structure or higher as dictated by the MBTA Power Department requirements.
- Side clearances from track to building structure appear to be narrow and confining. Design of this structure must consider all factors such as ventilation, passenger flow, egress, lighting, etc.
- An alternative design to eliminate having the passenger platform within the building envelope would be to shift the platforms further west. The proponent should be required to investigate the feasibility of this option. The new platform must meet the requirements of the Americans with Disability Act, Boston Center for Independent Living Agreement and other accessibility requirements. New (full

depth) track is required as part of the platform reconstruction. Reimbursement by the Town of Brookline for the costs for this work should be included in the agreement.

- Construction of the new building will require substantial excavation and/or pile driving for the foundation. Protection against undermining and other damage to the track must be considered as part of the design. MBTA Track Engineers must be allowed to review the design and construction methods as well as be present during foundation construction to monitor tracks for disturbance. The Town of Brookline and their contractors will be held responsible for the cost of correcting any disturbance of the tracks.
- No drainage from the building or site may be directed toward the tracks or platforms.
- The replacement parking lot as shown in the conceptual drawings does not appear to be of adequate size to accommodate eight parking spaces. The existing parking lot is frequently used by MBTA forces performing maintenance of the tracks during non-revenue hours. Replacement parking must be sufficient to match existing vehicle capacity and flow and must meet all current MBTA standards for parking lots.
- Relocation of the Automated Fare Collection kiosk may require installation of new communication cables under the tracks. Any work requiring excavation under or near the tracks will require review and oversight by MBTA Track Engineers.
- Track Department costs related to supporting this project shall be reimbursed by the Town of Brookline.
- All work performed on or near the right-of-way must be under proper flag protection.

The MBTA Track Department reserves the right to add additional conditions as the design progresses.



Ray E. Martin, Jr. – Track Engineer
MBTA Engineering & Maintenance



Charles D. Baker, Governor
Karyn E. Polito, Lieutenant Governor
Stephanie Pollack, MassDOT Secretary & CEO
Luis Manuel Ramirez, General Manager & CEO

massDOT
Massachusetts Department of Transportation

Ref: MRG-SE-307

To: Brian Clarizia
Director of Licensing, Massachusetts Realty Group

From: Ted Smedberg
Supervisor of Signal Engineering, MBTA Signals & Communications

Date: January 29, 2018

RE: MBTA #16043 – Brookline Hills Land and Air Rights

The MBTA Transit Signal Department has reviewed File MBTA-16043 regarding the approval request on the disposition of parcel of land and air rights next to and above the Green Line Brookline Hills Station. This request is based on the Town of Brookline proposal to construct a new building called 111 Cypress that will be part of Brookline High School. Although the Signal Department does not object to the land and air rights disposition, the following comments are provided:

- It is not explicitly clear if signal bungalow accessibility may be impacted by possible new building footings.
- Signal cable may need to be relocated if the catenary poles are not kept in the new design.
- The Signal Department have cables on messenger that are at a higher height in approach of the Cypress Street Bridge and are not sure if the proposed clearance of fourteen feet for the new building is sufficient.
- The signal cables on both east and west bound sides of the station must be protected in place before building construction takes place.
- The Signal Department also requests to be informed on design review and field meetings as needed to make sure our concerns have been addressed before construction.

Please contact this office at (617) 222-6274 if there are any questions or concerns.

Ted Smedberg
Supervisor of Signal Engineering

cc: J. McNall
T. Ho

Brian Clarizia

Subject: FW: Canvassing Memo - Brookline Hills - Air & Ground Rights - MBTA 16043

From: Hart, Chris [<mailto:chart@MBTA.com>]

Sent: Friday, March 09, 2018 4:10 PM

To: Brelsford, Laura <LBrelsford@MBTA.com>; Travaline, Mike <Mike.Travaline@am.jll.com>

Cc: Paravalos, Peter <pparavalos@MBTA.com>; Emerson, Ashley <AEmerson@MBTA.com>; Nee, Thomas <THNee@MBTA.com>

Subject: [EXTERNAL] RE: Canvassing Memo - Brookline Hills - Air & Ground Rights - MBTA 16043

Importance: High

Mike,

First, let me say that SWA wants to help on the Town's request as Brookline has been improving access to bus stops and GL stations for pedestrians. For expediency on this canvass, SWA worked directly with Design and Construction as they drafted comments on Brookline's request that raised multiple flags MBTA wide. Brookline's design assumed minimal impact to the station which by most people's, including my own reaction, is simply impossible. That said, the following sums up SWA's concerns:

For SWA, work that impacts any significant portion of the GL platform and path of travel resulting in resurfacing and patching means that the platform must be raised to accommodate Type 8/9 cars, similar to Brookline Village and Reservoir. Relocating duct banks, signal bungalows, removing OCS poles, foundations, etc. all but guarantee significant platform impacts to say nothing of constructing the building's footings, stairs and elevator. It also likely creates an enclosed station per 780 CMR, thus, we need to address both track crossings and emergency egress. Brookline's design also is assuming that there is proper dynamic envelope clearance between the IB/OB tracks or track alignment today let alone when platforms are raised to 8" and eventually 14" TOR. That clearance in and of itself must be verified. If we need additional space between track centers then that will impact the platform locations and ultimately Brookline's building foundation.

Thus, any overbuild at Brookline Hills will need to facilitate and not impede platform, signal, power, and associated track upgrade work. If Brookline only impacts one platform, there will still be a requirement to simultaneously raise the other platform. While not complicated, neither SWA nor D&C have a design started for raised platforms at Brookline Hills nor a ready mechanism to do so. That makes Brookline's 2019 groundbreaking date all but impossible unless Brookline has the means to take on platform design promptly and there is an agreement between MBTA/Brookline re station construction costs.

Hope that adds clarity.

Christopher Hart

MBTA System-wide Accessibility - 10 Park Plaza Suite 4470, Boston MA

From: Brelsford, Laura

Sent: Friday, March 09, 2018 3:13 PM

To: Hart, Chris <chart@MBTA.com>

Subject: FW: Canvassing Memo - Brookline Hills - Air & Ground Rights - MBTA 16043



Charles D. Baker, Governor
Karyn E. Polito, Lieutenant Governor
Stephanie Pollack, MassDOT Secretary & CEO
Luis Manuel Ramírez, General Manager & CEO



MEMORANDUM

To: Brian Clarizia
Greystone Management Solutions

From: Tamieka Thibodeaux
Division Chief, Light Rail Operations

Date: Monday January 29, 2018

Subject: MBTA #16043 – Please review the request regarding the disposition a parcel of land and air rights adjacent to and above the Brookline Hills Green Line T Station. The parcel consists of a total of approximately 11,400 square feet with 7,800 square feet of land rights and 3,600 square feet of air rights. The MBTA will retain access and control of the inbound and outbound platform as well as the at-grade track crossings that currently exist, next to the MBTA Green Line at Brookline Hills Land and Air Rights in Brookline MA.

With regards to File MBTA- 16043, Light Rail Operations has reviewed the disposition a parcel of land and air rights adjacent to and above the Brookline Hills Green Line T Station. The parcel consists of a total of approximately 11,400 square feet with 7,800 square feet of land rights and 3,600 square feet of air rights. The MBTA will retain access and control of the inbound and outbound platform as well as the at-grade track crossings that currently exist, next to the MBTA Green Line at Brookline Hills Land and Air Rights in Brookline MA. Light Rail Operations approves this request with the following conditions:

- The terms and conditions outlined in the Authority's Special Conditions for Subway Operations as well as those set forth in the Right of Way Manual must be strictly adhered to.
- The Town of Brookline and/or their contractors require access to the Green Line right-of-way must complete Right of Way (ROW) training before access is granted to the Green Line ROW.
- The Town of Brookline and/or their contractors will be under the supervision of a Light Rail Supervisor or Light Rail Operations Construction Supervisor and/or any station personnel.
- The Town of Brookline and/or their contractors understand that the MBTA can suspend all work at any time and limit the hours and/or timeframe(s) that work will be allowed to take place including the possibility of limiting hours to "non-revenue hours" or diversions.
- All diversions if needed must be coordinated and approved by Thomas Maher. Mr. Maher can be reached at 617-694-1756.

- If it is determined that MBTA flagging support is required a force account must be established through the completion of the project.
- The Town of Brookline and/or their contractors must coordinate a field visit with the Light Rail Construction Coordinator to outline the exact scope of work to take place.
- All work must be approved by the Division Chief of Light Rail Operations, and the Light Rail Construction Coordinator.
- Station and/or Yard access will not be obstructed at any time.
- Streetcar service will not be obstructed during revenue service.
- Extreme care must be taken as to not damage MBTA property or infrastructure.
- Any and all damage that may occur to the Green Line is the sole responsibility of The Town of Brookline and/or their contractors.
- The Town of Brookline and/or their contractors cannot hinder any other project occurring in the area.
- The Town of Brookline and/or their contractors must ensure MBTA vehicles, MBTA personnel and/or emergency response vehicles are able to access the area.
- Any future development on MBTA property has to be vetted through MassDot Real Estate Department.
- The Town of Brookline and/or their contractors understands that a hazard analysis may dictate the need for the proposed work to take place after regular revenue service or during a diversion of service, with the overhead catenary system testing “dead “in the field.
- The Town of Brookline and/or their contractors will provide their contact information for their designated liaison to Light Rail Operations, who will be available throughout the course of the work.
- Extreme care must take place as to not damage MBTA duct banks, catenary poles, overhead catenary system, track, or any other element of MBTA Infrastructure.
- The Town of Brookline and/or their contractors will provide contact information for their designated liaison to Light Rail Operations, who will be available seven days a week, twenty four hours a day, during all phases of construction.

- Because this work will be in very close proximity of the Green Line Right of Way and Overhead Catenary System, strict coordination with the Light Rail Construction Coordinator or his designee, MBTA Track Engineers, MBTA Structural Engineers and the MBTA Power Department must take place
- I also recommend that you seek concurrence of Peter Paravalos, Director, MBTA - Transit-Oriented Development Capital Delivery, Danny Payne, Deputy Director of Maintenance of Way, William Charrette, Director of Power Systems Maintenance, Joseph McNall, Director of Signals and Communications, Ray Martin, Engineer of Maintenance of Way, and Steven Culp, Director of Safety Systems. Any and all conditions outlined by the aforementioned divisions must be strictly adhered to.
- Once these conditions have been met, any work impacting Light Rail Operations or encroaches on or near the Green Line Right of Way, may proceed under the direction of Light Rail Construction Coordinator Thomas Maher. Mr. Maher can be reached at 617-222-6529 or 617-694-1756.

cc: W. Charrette J. McNall R. Martin P. Paravalos D. Payne
 N. Michaud S. Culp M. Fong T. Maher

Laura Kaplan

Subject: FW: Canvassing Memo - Brookline Hills - Air & Ground Rights - MBTA 16043
Attachments: Brookline Hills Diagrams.pdf; Canvassing Memo - Brookline Hills - Air & Ground Rights - MBTA 16043.docx

From: Brennan, Andrew [<mailto:ABrennan@MBTA.com>]
Sent: Wednesday, April 04, 2018 5:34 PM
To: Travaline, Mike <Mike.Travaline@am.jll.com>
Subject: [EXTERNAL] FW: Canvassing Memo - Brookline Hills - Air & Ground Rights - MBTA 16043

The Environmental Department has reviewed the attached canvas request for the disposition of this property in Brookline and offers the following comments:

The Environmental Department hereby approves the above-reference property disposition with the following conditions:

Environmental Review and Environmental Permitting:

1. The developer is required to perform any environmental review and environmental permitting for the project. If the developer is proposing any infrastructure on MBTA owned property, the Environmental Department must be given the opportunity to review and comment on the environmental review document (if one is required) and environmental permitting (if required). The developer should work with Holly Palmgren, Manager of Environmental Construction on this document review.
2. No land transfer can occur until the developer has completed any review required under the Massachusetts Environmental Policy Act (MEPA) or the National Environmental Policy Act (NEPA). If the developer believes that no review is required, the developer must demonstrate that view to the MBTA's satisfaction prior to taking title to the land.
3. The Developer should be required to submit to the Environmental Department an *Environmental Review and Permitting Plan* which details what level of environmental review and permitting is required based on the specifics of the project being proposed. That Plan is necessary to ensure that the MBTA is not transferring land to a project before the necessary reviews and approvals are in hand.
4. The developer should be aware that no inappropriate segmentation (for the purpose of environmental review) can occur. The project needs to be reviewed in its entirety. Based on what the developer is proposing, it may be necessary that the environmental review be structured to include the MBTA and the private development as one "project." The Developer should consult with Ms. Palmgren to determine what the scope of the project should be considered.

Environmental Conditions of the Properties

1. The buyer fully accepts the parcel "As Is" and fully indemnifies the MBTA against any environmental liability. The buyer also must agree that it will not seek any reimbursement from the MBTA for any costs it incurs for remediation, assessment or soil disposal, or any other costs rising out of the environmental conditions of the parcel.
2. If there is any environmental testing to be done on the property prior to transfer, no environmental testing of the property should be conducted until after the Environmental Department has had the opportunity to review the scope of work of the testing. It is the Environmental Department understanding that any on site testing will not occur until after a canvas from MRG, specific to subsurface testing, is circulated. When it is circulated, the

Environmental Department will comment. If this is incorrect, and some type of testing may be allowed without a follow up canvas, please let me know before testing occurs so that we can review that scope of work.

3. The proponent should indicate whether or not a Phase I Environmental Site Assessment (ESA) was prepared for the property. If so, the MBTA should be given a copy of the Phase I ESA (at a minimum, those portions of the report relating to the MBTA's property). If no ESA was prepared, the proponent should specifically indicate so.

Please let me know if you have any questions

Andrew

From: Travaline, Mike <Mike.Travaline@am.jll.com>
Sent: Wednesday, March 07, 2018 5:51 PM
To: Brennan, Andrew <ABrennan@MBTA.com>
Subject: FW: Canvassing Memo - Brookline Hills - Air & Ground Rights - MBTA 16043

Hi Andrew –

Hope you are doing well. We still haven't received a response from Environmental for the attached canvass and wanted to follow-up. Let me know if there is anything I can do to help facilitate the process.

Thanks,
Mike

Mike Travaline
Associate, Public Institutions
One Post Office Square
Boston, MA 02110
O: 617-531-4241
C: 617-413-0732
F: 312-938-2727



From: Brian Clarizia [<mailto:Brian.Clarizia@greyco.com>]
Sent: Thursday, January 11, 2018 4:28 PM
To: Paravalos, Peter <pparavalos@MBTA.com>; Culp, Steven <SCulp@MBTA.com>; Stoothoff, Erik <estoothoff@MBTA.com>; Brelsford, Laura <LBrelsford@MBTA.com>; Brennan, Andrew <ABrennan@MBTA.com>;

Exhibit E

Task	Anticipated Completion Date
111 Cypress Street Building	
Ongoing coordination and engineering meetings with Town of Brookline Team and MBTA	Ongoing
Submission of 30% design plans for the 111 Cypress Street Building to MBTA	June 2018
MBTA review and comment 30% design set	July 2018
Submission of 60% design plans for 111 Cypress Street Building to MBTA	January 2019
MBTA review and comment on 60% design set	February 2019
Execution of Negotiated Easement Agreement	January 2019
Submission of 100% design set for 111 Cypress Street Building to MBTA	July 2019
MBTA review and approval of 90% design set	August 2019
Commencement of enabling work, utility relocations, excavation, foundations and other pre-construction work	June 2019
Completion of Construction 111 Cypress Street Building	4 th Quarter 2021
Brookline Hills Station Improvements	
Ongoing coordination and engineering meetings with Town of Brookline Team and MBTA	Ongoing
Submission of 30% design plans for the Brookline Hills Station	September 2018
MBTA review and comment 30% design set	October 2018
Submission of 60% design plans for Brookline Hills Station	December 2018
MBTA review and comment on 60% design set	January 2019
Submission of 100% design set for Brookline Hills Station	April 2019
MBTA review and approval of 100% design set	May 2019
Commence Construction Brookline Hills Station	June 2019