

April 9, 2019

Mayor Joseph A. Curtatone
City of Somerville
City Hall
93 Highland Avenue
Somerville, MA 02143

Re: Letter of Intent on Tiebacks and Building Encroachment

Dear Mayor Curtatone:

This Letter of Intent ("**Letter**") is written to reflect the shared objectives and understandings of the City of Somerville ("**City**") and the Massachusetts Bay Transportation Authority ("**MBTA**", and collectively with the City, the "**Parties**") concerning the installation of tiebacks by the MBTA on various properties in connection with the construction of an extension to the MBTA's Green Line (the "**GLX Project**"), on one hand, and the City's construction of the new Somerville High School ("**SHS**") and its ownership of a Department of Public Works facility (the "**DPW Facility**") that encroaches onto the MBTA's Right-of-Way (the "**MBTA ROW**"), on the other, and other related matters.

This Letter is intended to evidence the agreements amongst the Parties relating to the subject matters set forth herein subject, however, to the Somerville City Council's approval of the conveyance of rights in land needed for the GLX Project as detailed in this letter and in the current agreements between the Parties. Any additional documentation of the respective obligations of the Parties will, as appropriate, be suitable for recording in the Middlesex South District Registry of Deeds. The Parties further agree that, except as expressly set forth herein, none of the understandings contained in this Letter shall be construed in a manner that can reasonably be expected to result in increased expenditures by the MBTA or the City.

A. SHS Parcel

1. MBTA Permitted to Install SHS Tiebacks. Subject to approval by the City Engineer, which approval shall not be unreasonably withheld or delayed, the City shall support the MBTA's request to the City Council for the grant of easements to install, own, operate, maintain, repair and replace tiebacks within Parcel MB-215 (the "**SHS Parcel**") in the locations shown conceptually on Exhibit A incorporated herein (such tiebacks, the "**SHS Tiebacks**") for no additional consideration.
2. Non-Interference with SHS. The MBTA warrants that the SHS Tiebacks will not interfere with the City's construction or use of SHS, including, but not limited to, the proposed garage, and that the installation of the SHS Tiebacks shall in no event interfere with the construction, use, or structural integrity of SHS. To this end, the MBTA agrees, at its expense, to implement a mutually acceptable Geotechnical Instrumentation and

Monitoring Plan to alert the Parties to potential impacts to the SHS retaining wall and foundation during GLX Project construction and for a period extending twelve (12) months after the date on which construction of the SHS retaining wall and the Community Path in the vicinity of SHS are completed. The MBTA further agrees to stop work immediately if any existing or proposed SHS foundation, building or support structure experiences vibrations or settlement beyond the tolerances set forth in such plan.

3. Interference with Further Development. The Parties understand that the City may in the future elect to develop the SHS Parcel or City-owned abutting or neighboring parcels, including development of air rights over the MBTA ROW– in ways that cannot currently be foreseen. In the event that the SHS Tiebacks interfere with such future development, the MBTA shall, at its option, either: (a) modify the SHS Tiebacks at its sole cost and expense to eliminate the interference; or (b) pay to the City the reasonable estimated costs to modify the SHS Tiebacks in an amount agreed to with the City; provided, however, that the City and the MBTA shall consult in good faith with the objective of limiting the expense related to any such modification of the SHS Tiebacks.
4. Community Path and SHS-Related Drainage. The MBTA shall design and construct the GLX Project in a manner that will accommodate drainage from SHS and the Community Path to be constructed as a part of the GLX Project as shown on Exhibit B (the “**SHS-Related Drainage**”).
5. Coordination with SHS Construction
 - a. Construction of the GLX Project in the Gilman Square area is expected to occur concurrently with SHS construction. The City will require access to and use of the proposed GLX Gilman Square Permanent and Temporary Easement Areas to complete certain portions of SHS construction. When sequencing construction of the GLX Project in Gilman Square, the MBTA agrees to accommodate the City’s goal of avoiding creating physical barriers to the completion of SHS construction. The City agrees to prioritize construction of portions of SHS dependent upon existing conditions in the Gilman Square Permanent Easement Areas to avoid impactful delays to the construction of the GLX Project. The Parties agree to collaborate in sequencing construction activities and promoting mutual access to the Gilman Square Permanent and Temporary Easement Areas to complete both projects in a timely manner.
 - b. The City has represented that it will require an access road adjacent to the permanent MBTA wall shown on Exhibit A (the “**City Access Road**”). The City shall be solely responsible for all expenses related to the design and construction of the City Access Road. Similarly, the MBTA will also require a separate access road to facilitate construction of the GLX Project (the “**GLX Access Road**”). The final location and the means and methods to construct both access roads shall be subject to the reasonable approval of the MBTA and the City. The MBTA shall be solely responsible for all expenses related to the design and construction of the GLX Access

Road. Each Party will provide access to the other Party and coordinate use of its respective access road as necessary to facilitate advancement of each project in a timely manner.

- c. The MBTA agrees to adjust the sequencing of the construction of the GLX Project through the end of September, 2019 in the vicinity of Gilman Square so that the City does not incur the additional expense of a larger crane in order to advance the SHS Project in a timely manner.
6. Additional Exchange of Rights in Land at or near the SHS Parcel. The Parties also agree to an exchange of land and interests in land on or near the SHS Parcel intended to accomplish the following objectives:
 - a. The installation and maintenance by the City of a temporary wall within the MBTA ROW to support construction of SHS.
 - b. The placement, use, and operation by the MBTA of a bicycle cage within the limits of the SHS Parcel.
 - c. The placement, use, and operation by the City of a drainage line within the MBTA ROW as shown on Exhibit B.

The Parties confirm that the exchange of land and interests in the land, shown conceptually on Exhibit C, shall be implemented by the Parties such that, except as may be specifically agreed by the Parties in writing, no use of the SHS Parcel by the MBTA shall unreasonably interfere with SHS and no use of the MBTA ROW by the City shall unreasonably interfere with the GLX Project. Notwithstanding the foregoing, the MBTA shall, at its own expense, repair any cracks or damage to new or existing SHS structures which the City Engineer establishes to the MBTA's satisfaction result from the construction, installation, or maintenance of the SHS Tiebacks.

B. Encroachment of DPW Facility

1. Acknowledgment and Mitigation of Encroachment. The City acknowledges that the DPW Facility encroaches on the MBTA ROW as shown conceptually on Exhibit D incorporated herein. The MBTA's design-build contractor has represented that unless steps are taken in mitigation, this encroachment will cause the foundation of the DPW Facility to interfere with the installation of the new support and/or foundation for the ME-2 retaining wall, necessitating a modification of the retaining wall. To mitigate the effects of the encroachment, the MBTA and its design-build contractor plan to install tiebacks under the DPW Facility.
2. MBTA Measures to Mitigate Encroachment. The City agrees not to object to the MBTA's installation of tiebacks on Parcel MB-297 under the DPW Facility in the locations shown conceptually on Exhibit D (such tiebacks, the "**DPW Facility Tiebacks**"). The City shall support the MBTA's request that the City Council vote to

provide to the MBTA, for no additional consideration, rights sufficient for the MBTA to own, operate, maintain, repair and replace the DPW Facility Tiebacks. The location and installation of the tiebacks will be subject to review and approval of the City Engineer, which approval shall not be unreasonably withheld or delayed, and the implementation by the MBTA, at its expense, of a mutually acceptable Geotechnical Instrumentation and Monitoring Plan to alert the Parties to potential impacts to the DPW Facility. The MBTA further agrees to stop work immediately if the DPW Facility experiences vibrations or settlement beyond the tolerances set forth in such plan.

3. No Expense to City. It is the MBTA's understanding that the DPW Facility Tiebacks described in Section B.2 represent an alternative to the modification of the ME-2 retaining wall which will result in minimal expense and delay relative to the current cost and schedule for the GLX Project. Based on that understanding, the MBTA shall not seek payment from the City for the additional expenses of such measures.
4. Non-Interference with DPW Facility. It is the MBTA's understanding that the DPW Facility Tiebacks will not interfere with the City's use of the DPW Facility. Upon the successful installation of the DPW Facility Tiebacks, the MBTA will cure the DPW Facility's encroachment through a conveyance, for no additional consideration, of rights to the City sufficient for the City to continue to own, occupy, operate, maintain, repair, and replace the DPW Facility substantially as it presently does, at which time, the City shall acknowledge that the DPW Facility Tiebacks do not interfere with the City's use or ownership of the DPW Facility.
5. Parties to Work in Good Faith. The Parties agree to work in good faith to resolve all issues and additional expenses arising from the DPW Facility's encroachment on the MBTA ROW.

C. Water and Sewer Issues

The Parties agree to make good faith efforts to coordinate with respect to water, drain, and sewer-related issues, including but not limited to:

- a. The replacement of the c. 1900 City-owned and operated twenty-inch (20") diameter water main at Washington Street.
- b. The connection of the "City Connecting Drainage Facilities" to the "MBTA Primary Drainage Facilities" (as such terms are defined in that certain Drainage Facilities Interconnection Agreement between the MBTA and the City dated as of July 21, 2017) at a location near the end of Fitchburg Street.
- c. The replacement of the City's existing sewer siphon in School Street in accordance with the MBTA's design of the GLX Project in the Gilman Square area.

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Two copies of this letter are provided. The parties acknowledge that the areas shown on the exhibits to this letter are conceptual and that in the event of a conflict between the areas shown on the exhibits and those shown on the plans that accompany the City's conveyance of rights in land to the MBTA consistent with this letter, the accompanying plans shall control.

Please indicate the City's consent to the terms set forth above by signing both copies of this letter and returning one to my attention at your earliest convenience.

Sincerely,

**MASSACHUSETTS BAY TRANSPORTATION
AUTHORITY**

By: 

John Dalton, Program Manager, GLX Program

AGREED AND ASSENTED TO: April 10, 2019

CITY OF SOMERVILLE

By: 

Joseph A. Curtatone
Mayor

Enclosures

Approved as to form:

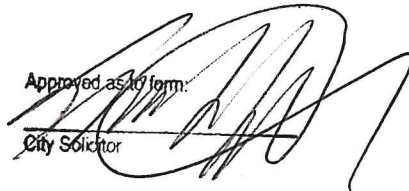

City Solicitor

Exhibit A – Conceptual Drawings of SHS Tiebacks

Exhibit B – Conceptual Drawings of SHS-Related Drainage

Exhibit C – Conceptual Plan of Exchange of Rights in Land at or Near the SHS Parcel

Exhibit D – Conceptual Drawings of Encroachment of DPW Facility on MBTA ROW and Proposed Tiebacks

EXECUTION VERSION

EXHIBIT A

CONCEPTUAL DRAWINGS OF SHS TIEBACKS

EXECUTION VERSION

EXHBIT B

CONCEPTUAL DRAWINGS OF SHS-RELATED DRAINAGE

EXECUTION VERSION

EXHBIT C

CONCEPTUAL PLAN OF EXCHANGE OF RIGHTS IN LAND AT OR NEAR THE SHS
PARCEL

EXHIBIT D

CONCEPTUAL DRAWINGS OF ENCROACHMENT OF DPW FACILITY ON MBTA ROW
AND PROPOSED TIEBACKS