

AGREEMENT

5/2/78.

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by and between the
MASSACHUSETTS BAY TRANSPORTATION AUTHORITY
and the
CITY OF CAMBRIDGE

regarding the
USE OF RUSSELL FIELD AND THE CITY DUMP (MBTA Contract No. 091-002)

THIS AGREEMENT made this _____ day of _____ 1978, by and between the Massachusetts Bay Transportation Authority (hereinafter called "the Authority"), a body politic and corporate and a political subdivision of the Commonwealth of Massachusetts created by Chapter 563 of the Acts of 1964 and the City of Cambridge (hereinafter called "the City"), witnesseth that:

WHEREAS, the City and the Authority have been working jointly under Urban Mass Transportation Administration (hereinafter referred to as "UMTA") Grant No. MA-29-9001 to cooperatively plan for the extension of the Red Line through Cambridge, and

WHEREAS, the Authority requires land to be used for construction staging and the disposal of materials excavated as a result of the construction of the Red Line extension, and

WHEREAS, the City agrees the Authority may use Russell Field and the City Dump under certain conditions funded under UMTA Grant No. MA-23-9008 for the purpose of construction staging and the disposal of excavated material;

NOW, THEREFORE, in consideration of the above premises and other good and valuable consideration, the receipt of which is hereby acknowledged, the City and the Authority agree as follows:

SECTION I: RUSSELL FIELD

1. The Authority shall have the right, for a period of five years commencing on the date above mentioned, to occupy Russell Field as shown on Exhibit A for the purpose of construction staging i.e. construction equipment, mills, laydown, storage, backfill, and construction personnel, provided that the terms and conditions in this agreement are met.
2. The city at the Authority's expense will provide for temporary replacement playing areas acceptable to the City which are displaced by this use of Russell Field as follows:

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NORTHWEST REGION
CONSTRUCTION OFFICE

- a. The City will rent or make other arrangements at the Authority's expense for the use of high school football, baseball, and outdoor track playing areas for use during the various high school athletic seasons until replacement facilities are constructed on the City Dump, an area shown on Exhibit A.
 - b. The City may perform interim repairs at the Authority's expense rejuvenating the playing surface of the interim playing area(s) so as to make the site(s) suitable for high school athletic use.
3. The Authority shall remove all construction staging related equipment and material from Russell Field upon the earlier to occur of five (5) years of the date hereof or completion of construction of the Red Line Extension, Northwest and shall forthwith have the property reconstructed for open space in a manner agreeable to the City. A plan for the reconstruction of Russell Field shall be submitted to the City by the Authority, and reconstruction of Russell Field shall not commence until said plan has been approved by the City. The existing loam on Russell Field may be stripped by the Authority prior to its use of Russell Field. The loam may be stored and then replaced after use. In any event, the Authority shall upon the termination of this agreement deliver Russell Field covered with the same amount of loam as now exists.
 4. Under no circumstances shall the Authority occupy Russell Field beyond five years from the date hereof, unless this Agreement is extended by mutual consent in writing. However, if the Authority still requires the use of Russell Field five (5) years from the date hereof, the City will not unreasonably withhold its consent to the Authority occupying Russell Field for an additional period of one (1) year, provided that all of the terms and conditions of this Agreement continue to be met by the Authority.
 5. During the occupancy of Russell Field by the Authority, the Authority will permit access to Russell Field only via the B&M Freight Cut-Off railroad right-of-way (Authority owned) or via some other manner first approved by the City.
 6. During its use of Russell Field for the above stated purposes, the Authority will maintain the noise level within City code requirements and shall provide a visual screen to its activities on the field where the field abutts residential properties.

SECTION II: THE CITY DUMP

1. The Authority shall have the right for a period of five years commencing on the date above mentioned to place on the City Dump excavation material rough graded to the contours shown on the plan attached hereto as Exhibit B, and to construct, within five years from date above mentioned on the City Dump

- according to the preliminary site plans attached hereto as Exhibit C and contract documents to be supplied by the City, new athletic and related facilities to replace those now located at Russell Field. The rough grade will be to a tolerance of minus zero to plus two feet in accordance with the plan attached hereto as Exhibit B. Upon completion of the replacement facilities the Authority will seed the areas not to be used for athletic facilities with rye or other suitable materials.
2. The Authority may also use the site as a contractor staging for shops, equipment, and materials storage, and laydown, and may temporarily stockpile excavated materials suitable for backfill for removal to other sites so long as stockpiling is coordinated with the filling operation.
 3. All excavated material shall be delivered to or removed from the City Dump only by the B&M Railroads Right-of-Way (Authority owned) or in such other manner as is approved by the City but such approval shall not be unreasonably withheld.
 4. The Authority shall schedule its filling operation so as not to interfere with the continued use by the City's Department of Public Works of a suitable site on the City Dump off Sherman Street as shown on Exhibit B for the storage of and access to construction and maintenance materials used by the City. Fill material which will eventually be placed on this area shall be stockpiled adjacent to this area for future redistribution by the City.
 5. The portion of the City Dump to be used by the Authority for construction staging shall be located and scheduled for use in a manner coordinated with the filling operation, and access to this area shall only be via the railroad right-of-way or New Street. Construction personnel may park their cars on the site during working hours, but shall have access to and from the site only via New Street, or other route approved by the City.
 6. The Authority shall ensure that operation on the City Dump site will be fenced and screened where needed to minimize adverse impact to abutting properties.
 7. The City Dump filling operation to be conducted by the Authority will include a program of rodent and vector control approved by the City. The filling operation will also include a program of methane gas monitoring and control, including venting, and a program of settlement monitoring acceptable to the City. The City may monitor the Authority's methane detection and control measures and may require the Authority to correct any measures found not to be in conformance with the approved program. The Authority will contract separately for these monitoring programs. The work scope and any work scope changes of said contract necessitated because of field conditions shall be acceptable to the City. Copies of all reports made pursuant to such contract will be furnished to the City.

SECTION III: OCCUPANCY OF THE SITES BY THE AUTHORITY

1. The Authority shall occupy Russell Field and the City Dump only as long as all the conditions contained in this Agreement are fully met, and this Agreement shall terminate upon the earlier to occur of the completion of the replacement facilities or five (5) years from the date hereof, unless this Agreement is extended in writing.
2. Occupancy of the sites shall not be allowed until construction and land fill permits are issued by the City, in accordance with applicable Codes and laws. A site permit will be issued by the City upon application by the Authority's contractor(s). The City agrees to expedite all other necessary permits and the City will obtain all permits required by the Conservation Commission or other agencies. In the event the fill operations are stopped on all or a part of the dump by actions of the City its agents or citizens, the City will use reasonable efforts to reinstate the use of the dump.

SECTION IV: DIVISION OF EXPENSES

1. The Authority shall pay all the expenses incurred pursuant to this Agreement, provided, however, that the Authority shall be required to pay a maximum of Three Million Nine Hundred Thousand (\$3,900,000.00) Dollars in connection with providing replacement facilities on the City Dump, as generally described in Exhibit D "Estimate of Costs Associated with the Use of City of Cambridge Land by the Massachusetts Bay Transportation Authority." This amount shall not include the cost of hauling, filling and rough grading or the open space restoration of Russell Field which costs shall also be borne by the Authority.
2. In the event that, at the termination of this Agreement, the Authority has not completed the replacement facilities described in Section II or has not removed all construction staging equipment and materials from Russell Field and the City Dump, the City may complete said facilities and remove said equipment and materials, and the Authority shall reimburse the City therefor, provided, however, that the Authority shall in no event be required to pay more than the amount stated in the preceding paragraph hereof.

SECTION V: GENERAL PROVISIONS

1. The Authority shall hold harmless and indemnify the City and its employees for any amounts paid by the City as compensation for property or other damage or personal injury for which the Authority is responsible in connection with its occupancy of Russell Field and the Old City Dump or which is based in any way on the Authority's project of extending its Red Line through the City.

2. Prior to occupying Russell Field or the City Dump, the Authority shall submit to the City proof of issuance of a comprehensive liability insurance policy with limits of not less than \$300,000 per occurrence, covering Russell Field and the City Dump. Upon occupancy of Russell Field and the City Dump the Authority will assume complete responsibility for the safety and security of those areas in which it occupies until those areas are returned to the city as provided herein. The Authority will require its construction contractors doing work under this Agreement to carry property damage and personal liability insurance covering their operations.
3. The Authority haulage of excavated material to the City Dump shall be along Massachusetts Avenue from excavation near Garfield Street, Jarvis Street, and Harvard Square and thence along the B&M Railroad Right-of-Way (Authority owned) unless otherwise agreed to by the City.
4. Authority excavation material haulage will be restricted to Monday thru Friday from 7:00 a.m. to 11:00 p.m. on Massachusetts Avenue, unless otherwise agreed to by the City.
5. → The Authority agrees that drainage from the City Dump will be in accordance with the contour plan attached hereto as Exhibit A. The City agrees to accept drainage from the site at the site boundaries.
6. The Authority agrees that the open lot storage of construction materials and excavated or other materials to be used for backfill or other construction purposes will be handled so as to ensure that all dust incident to storage or handling is effectively confined to the premises or so disposed of as to avoid air pollution and other nuisances.
7. For the entire Red Line Extension project through Cambridge, the City Streets to be used by excavation trucks for access and access to all construction will be controlled by the City.
8. The Authority will remove the median strip in Massachusetts Avenue opposite Sears Roebuck in the Porter Square area to permit haul-truck left-hand turns onto Massachusetts Avenue from the area of the Commonwealth Lock Building and will replace said median strip on or before the termination of this Agreement.
9. The City and the Authority will agree to a traffic plan permitting northbound left hand turns for automobiles into parking areas west of Massachusetts Avenue in the Porter Square/Sears Roebuck area.
10. This agreement is subject to concurrence in financial participation by the Urban Mass Transportation Administration (UMTA), U. S. Department of Transportation.

11. The City and the Authority will comply with all Urban Mass Transportation Administration rules and regulations imposed upon the Authority by virtue of the Authority's accepting the Federal Grant and entering into a grant contract with the Urban Mass Transportation Administration.
12. The parties to this Agreement shall permit the authorized representatives of the City, the Authority, the U. S. Department of Transportation (UMTA) and the Comptroller General of the United States to inspect and audit data and records of the parties relating to their performance under this Agreement.
13. The City, the Authority, UMTA, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers and records of the City and the Authority which are directly pertinent to this Agreement for the purpose of making audit, examination of excerpts and transcriptions.
14. In connection with the execution of this Agreement, the City and the Authority shall not discriminate against any employee or application for employment because of race, religion, color, sex or national origin. The City and the Authority shall take affirmative actions to insure that applicants are employed and that employees are treated during their employment without regard to their race, religion, color, sex or national origin. Such actions shall include, but not be limited to, the following: employment upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.
15. In connection with the performance of this Agreement, the City and the Authority will assure that minority business enterprises have the maximum practical opportunity to compete for further contract work made pursuant to this Agreement, and will cooperate in meeting the Authority's commitments and goals with regard to the maximum utilization of the minority business enterprises.
16. No member of or delegate to the Congress of the United States shall have any interest in this Agreement or any benefit arising herefrom.
17. No member, officer or employee of the City or the Authority, during his tenure or for one year thereafter, shall have any interest, direct or indirect, in this Agreement or the benefits arising herefrom.
18. The City agrees to fully cooperate with the Authority to permit the Authority's extension of its rapid transit system to proceed as planned.
19. This Agreement shall be construed as a contract under seal in accordance with the laws of the Commonwealth of Massachusetts.

This document constitutes the entire Agreement between the parties, and no letter, representation, warranty, condition, understanding or agreement of any kind relating to Russell Field or the Old City Dump shall be binding on the parties unless incorporated herein. The City and the Authority agree to incorporate any changes or additions to this Agreement by Supplement hereto.

20. This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.
21. All notices, demands or requests from one party to another shall be delivered personally or sent by mail, postage prepaid, to the addresses stated below:

→ City: Richard Essler, Transportation Coordinator
Community Development Department
Cambridge City Hall Annex
57 Inman St., Cambridge, MA 02139

With a copy to:

Gaston Snow & Ely Bartlett
One Federal Street
Boston, Massachusetts 02110

Attention: Daniel B. Bickford, Esq.

Authority: Francis M. Keville
Regional Project Manager, MBTA
58 Day Street
Somerville, MA 02144

or to such other address as the parties may hereafter designate to each other in writing.

IN WITNESS WHEREOF, the Authority and the City have caused this Agreement to be executed as a sealed instrument on their behalf and by their duly authorized officers or representatives as of the date first above noted.

Approved as to Legal Form:

For The Massachusetts Bay
Transportation Authority:

General Counsel

Chairman

For The City of Cambridge

Russell B. Higley
City Solicitor

James L. Sullivan
City Manager



B&M Fitchburg Division Freight Cut-Off

RUSSELL FIELD

Army's Pond

EXHIBIT "A"
LOCATION MAP

B&M Fitchburg Division Main Line

CAMBRIDGE DUMP

Yates Pond

8888117
8888117

Fresh Pond Pkwy

Alameda Brook Parkway

PROSPECT FIELD

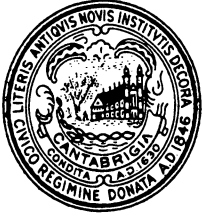
ALBANY CHURCH

Phonetic Street

Parcel

Street

WATER



CITY OF CAMBRIDGE

CAMBRIDGE, MASSACHUSETTS 02139
Tel. 876-6800

EXECUTIVE DEPARTMENT
JAMES L. SULLIVAN
City Manager

May 22, 1978

To the Honorable, the City Council:

Enclosed for your information is a copy of the proposed agreement between the City of Cambridge and the Massachusetts Bay Transportation Authority regarding the use of Russell Field and the City Dump.

Basically the agreement, subject to approval of the Urban Mass Transit Authority, provides the City with \$3.9 million of funding for temporary replacement areas during the construction of the Red Line Extension and permanent athletic facilities on the City Dump site in accordance with the plans and specifications provided by the City.

In return, the MBTA will be allowed to use Russell Field and the Dump Site as a construction staging area as well as use of the City Dump for excavation material in accordance with the site and grading plan prepared by the City.

The agreement makes provisions for methane gas monitoring, rodent and vector controls and City control of associated truck traffic.

It is my belief that the City will be provided at long last with top quality high school facilities as a result of a construction program that will occur regardless of this agreement, and such an agreement is certainly in the best interests of the City of Cambridge.

Very truly yours,

James L. Sullivan
City Manager

JLS/mbf
Enc.

Agreement between the City and the MBTA re:
use of Russell Field and the City Dump

In City Council,
May 22, 1978

5-22-78

Placed on file -