

MITIGATION AGREEMENT

The City of Cambridge ("Cambridge") and the Massachusetts Highway Department ("MHD") have reached an agreement ("the Mitigation Agreement") regarding mitigation measures which MHD agrees to undertake or cause to be undertaken in order to mitigate in accordance with G.L. c. 30 § 61 the impacts of the construction and operation of the Central/Third Harbor Tunnel Project ("the Project") in Cambridge.

Now, therefore, the Parties agree to include the following mitigation measures as actions required to be undertaken by MHD as part of its obligations under the Agreement for Judgment:

1. Cambridgeport Roadway Improvement Program.

The Parties agree to the construction of a system of roadways that will permit traffic to be diverted from residential streets in the Cambridgeport section of Cambridge. It is the intent of the Parties that the design of the road improvements shall be undertaken by Cambridge with funding provided by MHD and that the actual construction shall be undertaken by MHD, as described below:

(a) Description of Construction. MHD shall undertake the construction of the Cambridgeport Roadway Improvement Program ("the Program") as described in Exhibit A, including, but not limited to, the reconstruction of Brookline Street from Memorial Drive to and including its intersection with Henry Street and beyond to its intersection with Massachusetts Avenue; the reconstruction of the intersection of Henry Street and Brookline Street to prevent, if possible, or to discourage through traffic from using Brookline Street but to permit bus use of Brookline Street; the construction of new roadways that connect Brookline Street to Sidney and Waverly Streets; the construction of a new roadway that connects Waverly Street and Landsdown Street; the reconstruction of Waverly Street from Henry Street to Putnam Avenue, including the reorientation of the truck loading docks at the building known as the California Paint Building (said reorientation to be done in a manner that allows the loading docks to continue to be used for truck loading and unloading during and after the reconstruction of this portion of Waverly Street); the reconstruction of Sidney Street from Pacific Street to Henry Street; the reconstruction of Erie Street from Waverly Street to Albany Street; the reconstruction of Albany Street from Erie Street to Main Street; and the reconstruction of the railroad crossing on Main Street east of Albany Street. The construction shall include, but not be limited to, drainage facilities, utilities, sidewalks, curbing, street lighting, signalization, signage and landscaping.

(b) Planning, Design and Environmental Review. Cambridge shall undertake the planning, design and environmental review (if required) of the Program. Promptly after the date hereof, but no later than 90 days, MHD shall enter into a force account agreement with Cambridge substantially similar to Exhibit B, which shall permit Cambridge to undertake all of the planning, design and environmental review required to

undertake the construction of the Program with all costs of this work to be reimbursed by MHD. Cambridge shall cooperate with MHD regarding the planning, design and environmental review of the Program. Cambridge shall submit to the MHD: (1) preliminary plans and specifications; (2) formal design submissions; and (3) the final plans and specifications, including right of way plans (collectively "the Submissions") for approval by the MHD. MHD shall review and approve the Submissions within 90 days of their delivery by Cambridge, which approval shall not be unreasonably withheld.

(c) Right-of-Way Acquisition and Construction. Promptly upon completion and approval of the seventy-five percent design plans of the Program, but no later than 90 days, MHD shall prepare right of way plans and shall promptly commence and diligently pursue all of the right of way acquisitions necessary for the completion of the Program. Promptly upon the completion of the right of way acquisitions, but no later than 90 days, the MHD shall commence and diligently pursue the actual construction of the Program.

(d) Supersedence of Services Agreement. The Parties intend that the provisions of this Mitigation Agreement regarding the Program shall supersede and replace in all respects the provisions regarding the Program in Paragraph 2(f) of the Services Agreement.

2. Employment and Training.

In addition to the provisions of Section 6 of the Services Agreement relating to employment and training, the Parties agree that for a four-year period the MHD shall provide funds in the amount of \$450,000 annually to Cambridge for employment and training programs to be administered by Cambridge. MHD therefore shall provide Cambridge grants necessary to provide \$450,000 annually for each of the fiscal years 1995, 1996, 1997 and 1998. The provisions of this section shall be in addition to the commitment in the Services Schedule, Exhibit A to the Services Agreement, regarding the provision of \$200,000 annually for services to be provided by Cambridge.

3. North Cambridge Railroad Safety Study.

Cambridge has undertaken the North Cambridge Railroad Safety Crossing Study ("the Study") to review options to improve the safety of commuter rail operations in North Cambridge. The Study is expected to make recommendations for action by the Commonwealth to provide increased safety for such commuter rail operations. MHD shall undertake the construction and implementation of the reasonable recommendations of the Study by September 1, 1994.

4. Truck Traffic Mitigation.

Cambridge is concerned with the increase in truck traffic through residential areas of Cambridge, particularly trucks transporting hazardous cargo. Cambridge therefore seeks to find feasible alternatives for rerouting from Cambridge streets the truck traffic that does not have a Cambridge destination. MHD therefore shall undertake, in addition to the actions taken pursuant to Section 2(c) of the Services Agreement, the following studies:

(a) Traffic Model and Origin and Destination Study. MHD shall create a traffic model that has the capacity to analyze existing and potential truck traffic and routes within the Boston Metropolitan Area (the geographical region east of and including Route 128, which is hereafter referred to as "the Boston Metropolitan Area"). As part of the development of the traffic model, MHD shall undertake a truck origin and destination study of the Boston Metropolitan Area to collect the truck traffic data necessary to create the traffic model. Prior to undertaking the origin and destination study, MHD shall consult with Cambridge regarding the scope of the study, including, but not limited to, where, how and when the truck traffic data is proposed to be collected and what information will be gathered. MHD shall make promptly any reasonable modifications to the proposed scope of work suggested by Cambridge. MHD shall cooperate with Cambridge during the study, shall provide Cambridge with information as reasonably requested and shall consult with Cambridge in the design and implementation of the traffic model.

(b) Alternative Truck Routes. MHD shall undertake promptly after completion of the origin and destination study and the model an analysis of such routes, including exclusion of hazardous cargos from I-90 east of Route 128 and other alternatives suggested by Cambridge. MHD shall consult regularly with Cambridge regarding the feasibility of alternative truck routes and shall undertake further analysis of alternative truck routes as requested by Cambridge. MHD shall develop recommendations in consultation with Cambridge for Cambridge or regional actions to reduce general and/or hazardous cargo truck traffic on residential streets in Cambridge and shall promptly implement those recommendations agreed to by Cambridge.

5. Alewife Transportation Improvements.

Cambridge has undertaken studies regarding the provision of improved access without increasing traffic or reducing safety in the Alewife area of Cambridge, which is described in Exhibit C. MHD agrees to undertake the following actions with respect to this area:

(a) Commuter Rail Actions. MHD shall study the feasibility of creating a commuter rail stop at the MBTA Alewife Station. The feasibility study shall include, but not be limited to, analysis of potential transportation, environmental and other benefits provided by such a commuter rail stop. MHD shall commence the feasibility study by September 1, 1994. In the event the feasibility study concludes that the creation of a commuter rail stop is feasible, MHD shall undertake the construction of the commuter rail station by January 1, 1998.

(b) Roadway Actions. MHD, if necessary, shall undertake traffic and feasibility studies of potential road access improvements to this area in addition to those already completed by Cambridge. The studies shall analyze the traffic impact and the feasibility of the construction of: a roadway connection between Smith Place and Cambridge Park Drive to be used solely by high occupancy vehicles, pedestrians and bicyclists; the realignment of Smith Place at its intersection with Concord Avenue to improve the safety at this area of Concord Avenue; and a new road to connect New Street and Fawcett Street. Cambridge will provide MHD with a proposed scope for the feasibility studies for review and approval by MHD in consultation with Cambridge. The feasibility studies shall include recommendations regarding these and other improvements. MHD shall complete the feasibility studies by December 1, 1994. MHD shall undertake by January 1, 1996 all necessary right of way acquisitions and the construction of the improvements recommended as feasible ("the Improvements").

Cambridge shall undertake the planning, design and environmental review of the Improvements. Promptly after completion of the feasibility studies, but no later than 90 days, MHD shall enter into a force account agreement with Cambridge substantially similar to Exhibit B, which shall permit Cambridge to undertake all of the planning, design and environmental review required to undertake the construction of the Improvements with all costs of this work to be reimbursed by MHD.

6. HOV Study.

MHD by May 1, 1994 shall include in the HOV study required by Section 2(d) of the Services Agreement an analysis of the connection of the proposed Route I-93 HOV lane to East Street as relocated. MHD shall undertake the construction of improvements recommended by the HOV study before commencement of the actual construction of the Charles River Bridge portion of the Project.

7. MDC Road Improvements.

MHD shall undertake the following actions regarding certain MDC roads located within Cambridge:

(a) Gilmore Bridge. MHD shall undertake the construction of a third eastbound lane on the Gilmore Bridge that provides additional capacity eastbound. The construction shall commence by the earlier of: (i) the commencement of the actual construction of the portion of the Project referred to as the Charles River Bridge and (ii) May 1, 1995.

(b) Left Turn Elimination and Corridor Improvements. MHD shall eliminate left turns on to the Monsignor O'Brien Highway by traffic traveling west on the Gilmore Bridge by altering the traffic signal at the intersection of the Gilmore Bridge and the Monsignor O'Brien Highway to eliminate the left turn movement and posting signage prohibiting such a left turn. The elimination of this left turn shall be implemented by September 1, 1994. MHD by September 1, 1994 shall retime the traffic signal at the intersection of Edwin Land Boulevard and the Monsignor O'Brien Highway and shall

coordinate it with other signals along the Monsignor O'Brien Highway in order to improve traffic operations in this corridor.

(c) Western Avenue and River Street Intersection. MHD shall undertake the construction of improvements to the intersections of Memorial Drive and Western Avenue and Memorial Drive and River Street to improve traffic flow and vehicular, bicycle and pedestrian safety at these intersections, including the retiming and coordination of the traffic signals.

(d) Memorial Drive and Massachusetts Avenue Intersection. MHD shall undertake a study of the feasibility of constructing improvements to the traffic flow and vehicular, bicycle and pedestrian safety at the intersection of Memorial Drive and Massachusetts Avenue. MHD shall undertake by December 1, 1995 the construction of the improvements recommended as feasible by the study.

(e) Alewife Brook Parkway and Route 2 Intersection. MHD shall undertake by December 1, 1995 the construction of improvements to the intersection of Alewife Brook Parkway and Route 2 at the former Dewey/Almy rotary to rechannel and resignalize the intersection. This construction shall be consistent with Cambridge's entryway and parkway enhancement plan, which is described in Exhibit D.

(f) Concord Avenue Intersections. MHD shall undertake the construction by December 1, 1995 of improvements to the intersection of Concord Avenue and Alewife Brook Parkway and the intersection of Concord Avenue and Fresh Pond Parkway to channelize and signalize in order to improve safety. This construction shall be consistent with Cambridge's entryway and parkway enhancement plan, which is described in Exhibit D.

(g) Fresh Pond Parkway, Mount Auburn Street and Elmwood Avenue. MHD shall undertake by December 1, 1995 a feasibility study of improvements to the intersection of Fresh Pond Parkway, Mount Auburn Street and Elmwood Avenue to enhance vehicular and pedestrian safety and to prevent diversion of traffic to residential neighborhoods adjacent to the intersection. MHD shall construct the improvements recommended by the study within three months from the completion of the study. This construction shall be consistent with Cambridge's entryway and parkway enhancement plan, which is described in Exhibit D.

(h) Massachusetts Avenue and Alewife Brook Parkway. MHD shall fund the purchase and installation of a new traffic signal controller to create an exclusive left turn phase for traffic turning from Massachusetts Avenue on to the Alewife Brook Parkway. MHD shall enter into a force account agreement substantially similar to Exhibit B which shall permit Cambridge to install the controller with its costs to be promptly reimbursed by MHD.

(i) Alewife Corridor Improvements. MHD by January 1, 1995 shall retime and coordinate all traffic and pedestrian signals on Fresh Pond and Alewife Brook Parkways from the former Dewey/Almy rotary up to and including Huron Avenue including those intersections described above to improve traffic and pedestrian safety.

8. MDC Parkland and Building Improvements.

(a) Cambridge Parkway. MHD shall undertake the construction necessary to discontinue the Cambridge Parkway between its two intersections with Edwin Land Boulevard for all vehicular traffic, except for emergency response vehicles. The construction shall be commenced by December 1, 1994 and shall include the improvements necessary to convert this portion of the Cambridge Parkway to a landscaped park and recreational area, leaving only an appropriately surfaced pathway capable of providing access for fire fighting equipment and other emergency vehicles.

(b) Boat House and Stables. Cambridge shall prepare design guidelines in consultation with MHD and MDC for the renovation of the boat house and adjacent storage building (former stables) on the Old Charles River Dam. MHD shall undertake the design and construction of the renovation of these buildings consistent with the guidelines. MHD shall commence the design and construction of the renovations within 90 days after submission of the final design guidelines. MHD shall provide these facilities promptly upon completion of the renovation to Cambridge for appropriate public use.

9. Relocation of Lechmere Station.

The Parties agree to the relocation of the Lechmere Station as described below:

(a) Relocation Project. MHD shall undertake the construction of the relocation of the MBTA Lechmere Station to the other side of the Monsignor O'Brien Highway, including the demolition and removal of the abandoned station and viaduct and the extension of First Street to the Monsignor O'Brien Highway upon the relocation of the Lechmere Station (all of which is referred to as "the Relocation Project"). The construction of the Relocation Project shall be consistent with the MBTA site plan as described in Exhibit E, but it need not include the construction of the adjacent maintenance facility. MHD shall complete promptly the environmental review required by state and federal law, the final design and the acquisition of right of way, if any is required. The actual construction of the Relocation Project shall commence by the later of: (i) December 1, 1996 or (ii) diligent completion of the environmental review process, final design and right of way acquisition. The Relocation Project shall include, if found to be feasible and desirable, a pedestrian overpass over the Monsignor O'Brien Highway to the new Lechmere Station.

(b) Transportation Services. MHD shall adequately mitigate the impacts on transportation services caused by the construction of the Relocation Project, including, but not limited to, the provision of appropriate bus service to and from the Lechmere Station and North Station and to and from the Lechmere Station to the red line station at Kendall Square in Cambridge.

(c) Supersedence of Services Agreement. The Parties intend for this section to supersede the provisions of Section 1(a) of the Services Agreement.

10. Paratransit Study and Services.

Cambridge intends to enhance the existing transportation services within Cambridge. The Parties, therefore, agree on the following paratransit actions:

(a) Paratransit Study. Cambridge will prepare a scope of services for a comprehensive study for the provision of paratransit services in Cambridge. The scope shall be provided to MHD, which shall review and comment on the proposed scope. MHD shall enter into a force account agreement substantially similar to Exhibit B for the reimbursement for Cambridge's costs for the study. It is expected that these costs will not exceed \$75,000.

(b) Paratransit Grants. MHD shall cooperate with Cambridge to implement the recommendations of the paratransit study. MHD shall provide Cambridge in fiscal year 1995 a grant or grants in the amount of not less than \$1,000,000 for the purchase of capital equipment, including vehicles, necessary to provide the paratransit services recommended by the study and a grant or grants in the amount of not less than \$1,000,000 for initial operating costs for the paratransit service recommended by the study.

11. East Cambridge Mitigation.

The Parties agree to undertake certain actions to mitigate the effects of the Project in East Cambridge as follows:

(a) Traffic Studies. MHD by July 1, 1994 shall enter into a force account agreement substantially similar to Exhibit B to reimburse Cambridge for the costs of requiring its traffic consultant to analyze and, where appropriate, develop mitigation for traffic congestion in East Cambridge, particularly congestion on residential streets including, but not limited to, Second, Third, Rogers, Thorndike, Spring, Hurley, Gore, and Warren Streets. Cambridge and its traffic consultant shall work with East Cambridge residents to analyze temporary and permanent traffic measures that are necessary to reduce the congestion on East Cambridge streets including that related to the construction and operation of the Project. The force account agreement shall be effective for a three-year period. The traffic consulting services required by this paragraph shall be in addition to and shall not supersede the city-wide traffic mitigation planning services required by the Services Agreement.

(b) Parks Improvements. MHD shall undertake by December 1, 1994 the construction of improvements to the parks located on Hurley Street between Sciarappa and Fifth Streets and at the intersection of Sciarappa and Otis Streets. MHD shall undertake by December 1, 1994 the construction of improvements at Donnelly Field.

(c) Homeowner Assistance. MHD shall establish a fund available to East Cambridge home owners to provide financial assistance for noise abatement measures

to mitigate the impacts caused by the construction of the Project. MHD shall deposit this fund with Cambridge which will administer the fund.

(d) Notification of East Cambridge Residents. MHD, in consultation with East Cambridge's representatives, shall fund the publication of the East Cambridge News six times per year as a public information device to provide, amongst other things, construction updates and information about the Project.

(e) Staff Positions. MHD shall provide in an amount no less than \$100,000 annually funds sufficient to staff two full-time staff assistant positions to monitor and facilitate progress in implementing this Mitigation Agreement. Such funding shall be made available for fiscal years 1995, 1996, 1997 and 1998.

13. Binding Agreement.

The obligations imposed by this Mitigation Agreement shall not depend on the availability of federal funds. The City and MHD acknowledge that it is the intention of MHD, MDC and MBTA that their obligations hereunder be funded, to the extent possible, by the Federal Highway Administration and the Federal Transit Administration. Accordingly, the City agrees to undertake its best efforts to assist MHD, MDC and MBTA in securing federal approval for said funding.

14. Agreements With MBTA and MDC.

The Parties understand that MHD has entered into agreements with MDC to fund the work and to cause the MDC to undertake the construction of the work required by this Mitigation Agreement regarding facilities owned by MDC and with the MBTA to cause the MBTA to undertake the construction of the work required by this Mitigation Agreement regarding facilities owned by MBTA. The Parties, therefore, intend that the obligations imposed on MHD by this Mitigation Agreement shall be undertaken by the MHD or caused to be undertaken by the MDC or MBTA in accordance with these agreements.

15. Definitions.

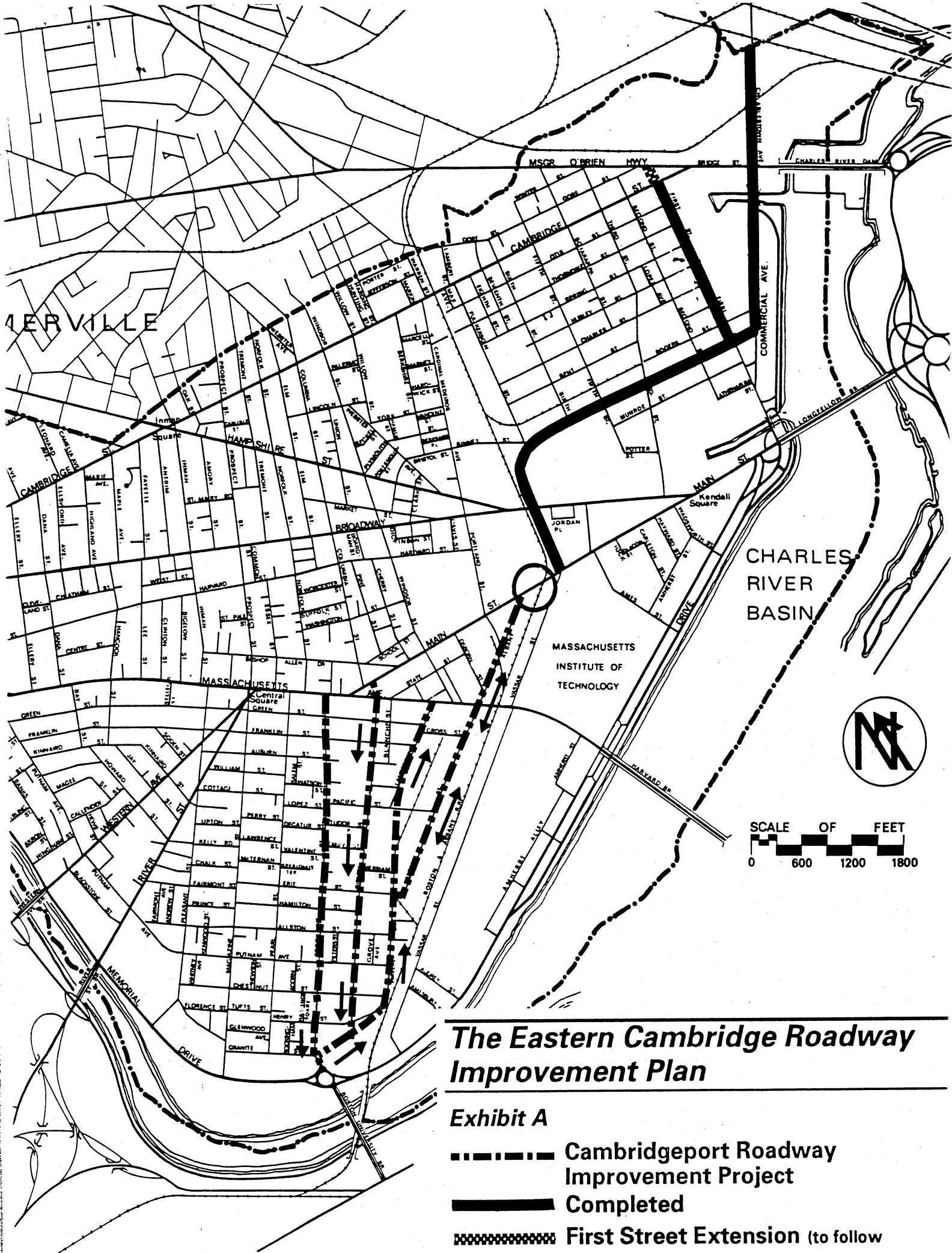
For the purposes of this Mitigation Agreement, the following terms shall have the following meanings:

(a) With regard to work to be performed by MHD and MDC, the term "construction" shall have the same meaning as that term has in 23 U.S.C. §101(a).

(b) With regard to MBTA work to be performed by MBTA, the term "construction" shall have the same meaning as that term has in 49 U.S.C. App. §1608(c)(1).

(c) The term "Services Agreement" shall mean the September 11, 1992 agreement by and among EOTC, MHD and Cambridge that is entitled the Services Agreement.

Exhibit A



The Eastern Cambridge Roadway Improvement Plan

Exhibit A

-  Cambridgeport Roadway Improvement Project
-  Completed
-  First Street Extension (to follow station relocation)

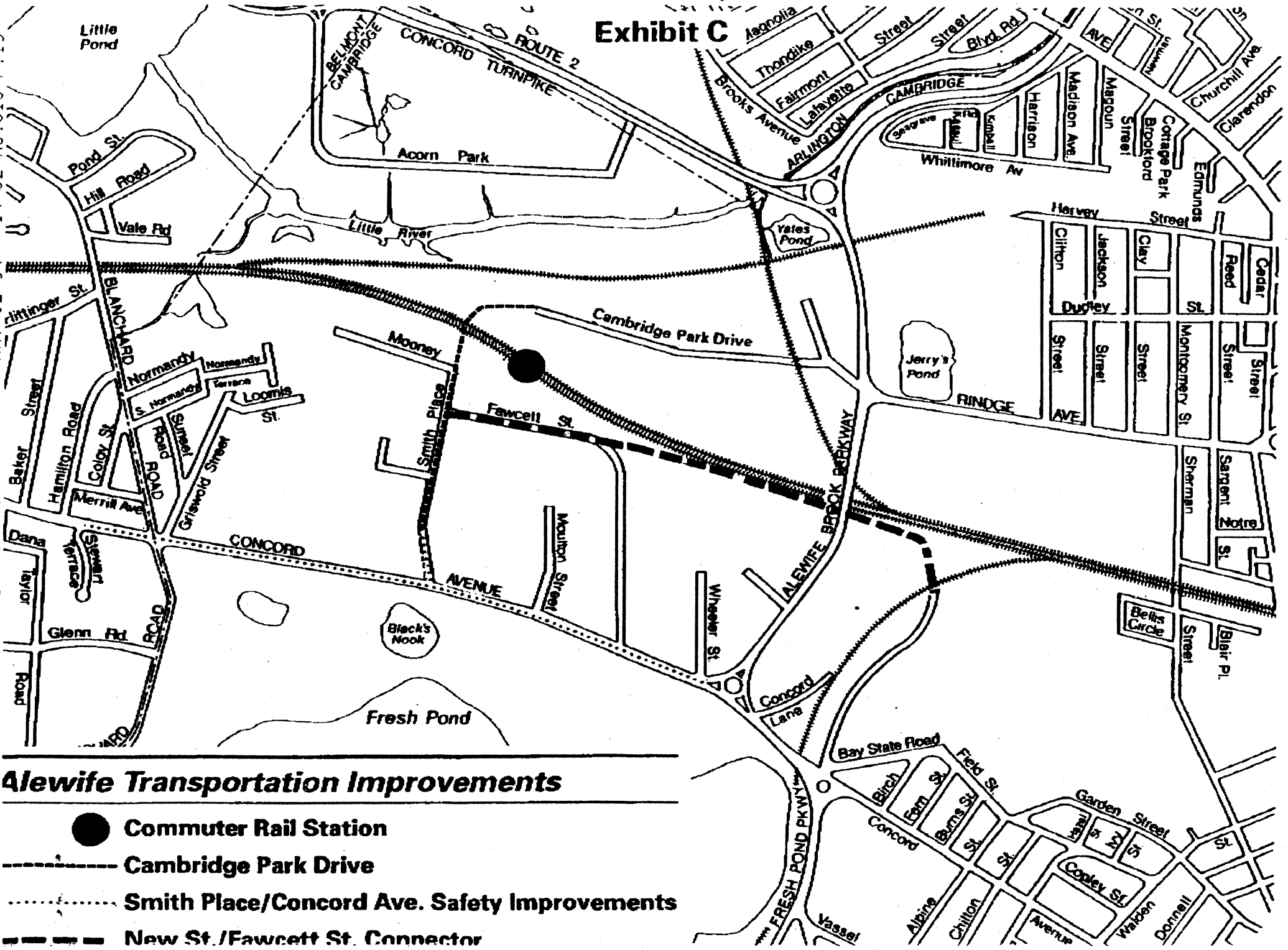
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Exhibit C



Alewife Transportation Improvements

-  **Commuter Rail Station**
-  **Cambridge Park Drive**
-  **Smith Place/Concord Ave. Safety Improvements**
-  **New St./Fawcett St. Connector**

City of Cambridge

The Environment Committee conducted a public hearing on Tuesday, May 3, 1994 beginning at seven o'clock and forty minutes p. m. in the Sullivan Chamber, Second Floor, City Hall.

Councillor Francis H. Duehay, Chair of the above referenced committee, convened the hearing and stated that the purpose of this date's proceedings was to discuss a report from the City Manager regarding the latest developments and options available to the City of Cambridge as it relates to the Charles River Crossing. The Chair also requested the City Manager to outline the potential legal situation without delving into the strength of the City's position as outlined by the Special Counsel, City Manager and City Solicitor in a previous executive session vis a vis litigation. The report also was to include proposed transportation and environmental mitigation measures between the Commonwealth of Massachusetts and the City of Cambridge. Present at the hearing were: Committee members Councillor Kathleen L. Born and Vice Mayor Sheila T. Russell, Councillor Michael A. Sullivan, Councillor Timothy J. Toomey, Jr., Councillor Katherine Triantafillou, City Manager Robert W. Healy, Deputy City Solicitor Donald A. Drisdell, Environmental Program Director Elizabeth Epstein, Attorney Edward F. (Ned) Lawson and Deputy City Clerk John E. Flynn.

To begin the discussion Councillor Duehay recognized the City Manager for his statement.

Robert W. Healy, City Manager, stated "that this is a complex issue with no simple solution. The City Council has been advised in Executive Session of components of litigation strategy. The second approach evolves around a mitigation strategy. This strategy provides significant environmental, transit, roadway and other project related capital infrastructure improvements.

Since litigation settlement by mitigation involves compromise, the components of the mitigation cannot be all encompassing, but must be connected to the project impact, and are not on the table forever.

After several meetings with staff of the Artery Project and City staff and Attorney's and meetings that included myself, the Mayor, Secretary Kerasiotis, Project Director Zuk it is my recommendation that the City Council take a significant step to permit the mitigation solution to be concluded in a successful manner by voting to authorize the City Manager to execute a mitigation agreement, that upon recommendation of the City's legal counsel is as binding and enforceable commitment as can be achieved.

If this agreement is not concluded by June 8th the City will file its suit while continuing to negotiate binding settlement. Legal counsel has been authorized to draft the complaint.

However, absent such a City Council authorization, it is extremely doubtful that the state would continue mitigation negotiations once we have filed suit."

Upon completion of the City Manager's opening remarks Mr. Drisdell reviewed the legal history of the project. He stated that the intent of the original litigation was to challenge the Commonwealth's design selection of what was known as Scheme Z. Due to this litigation the Commonwealth reviewed the design selection and, reflecting the work of the Bridge Design Review Committee, issued a Notice of Project Change. In this notice three designs were presented and comments were gathered from the affected parties. Upon review of the comments the Secretary of the Executive Office of Transportation and Construction (EOTC) announced the selection of the Preferred Alternative. This selection was in time approved by the Secretary of Environmental Affairs. The City of Cambridge then filed Notice under the MEPA Guidelines. Mr. Drisdell further stated that the June 8, 1994 deadline for filing suit is approaching and that the City Council has been briefed on the context of such action. The types of litigation include:

1. Procedural challenge - MEPA and
2. Substantive challenge - Section 4 (f).

In the case of the procedural challenge, the outcome could be that the project is referred back to the environmental review process. He declined comment on the likely outcome of substantive litigation.

At this time, Councillor Duehay requested the City Manager to outline the proposed components of the Mitigation Agreement.

Robert W. Healy, City Manager, passed out the most recent draft of the mitigation agreement which the state has under review. While some refinements are possible, the basic components of this agreement are those that Secretary Kerasiotis agreed late in 1993 are achievable, but expanded as to legal language to improve the enforceability. For the agreement to work, there must be approvals from:

1. Massachusetts Highway Department.
2. MBTA.
3. MDC.

(A copy of the May 3, 1994 Draft of the Mitigation Agreement is attached.)

The City Manager noted that most of the components of this agreement have been agreed to in principal or concept by the Commonwealth.

Ms. Epstein stated that the City would shortly return to the State with some expanded ideas and specificity with regards to interim measures.

Upon completion of the City Manager's presentation the Chair solicited inquiries and comments from the City Council.

Vice Mayor Russell inquired of the meaning "reasonable recommendations" as it relates to the North Cambridge Railroad Safety Study.

In response the City Manager stated that one of the possible recommendations include the placement of inter-track fencing.

Vice Mayor Russell noted that this proposal has been discussed before and that it is generally not supported by the community. She also requested further details, if possible, on this issue.

Councillor Born commented that the agreement appears loaded in favor of the Massachusetts Highway Department (MHD) with regards to the feasibility determination of such items as intersections and other roadway improvements. She noted the language in Section 5 (b) of the agreement: "if necessary" to bolster her argument.

The City Manager, in response, stated that although the language of the agreement may not be perfect, the city controls the scope of the work (i.e. technical capacity and technical assistance) to be done. The City Manager also mentioned the judicial remedies that the City could seek if bad faith was demonstrated on the part of the MHD.

Councillor Born then inquired of the wisdom of identifying a dollar amount for these projects.

In response the City Manager stated that in some cases a dollar figure is placed in the agreement (i.e. Employment and Training (Section 2), Paratransit Grants (Section 10 (6)) but in other cases the extent of the scope is still not defined.

Councillor Triantafillou inquired of the guarantee(s) of the funding provisions as stated in Section 13 of the agreement. Specifically, if federal funds are not available will the Commonwealth fund these measures.

The City Manager, in response, stated that it would be funded by the Commonwealth if the federal funds were not available. He stated that he was not worried about the Employment and Training piece (\$450,000 in fiscal years 95, 96, 97 and 98) given the percentage it would be of the total MHD budget. He also stated that the City has received funds from the existing service agreement.

Mr. Drisdell further stated that the issue raised by Councillor Triantafillou is the crux of how the agreement was structured. He stated that the research is being done to identify the vehicle by which the greatest assurance could be attained by the City. He also stated that the City through the City Manager and legal counsel will negotiate the best possible agreement.

The City Manager further stated that the Project Director, Peter Zuk, wants it binding as well.

Councillor Sullivan inquired of the enforceability of the provisions of this agreement.

The City Manager, in response, stated that this mitigation agreement is part of a subset of the Master Agreement. He stated that the MDC piece is several months away from finalization.

Councillor Sullivan inquired of the total dollar value of this mitigation agreement.

The City Manager, in response, stated an estimated range of 100-165 million dollars. He noted that the MDC is the hard piece given that the Secretary of EOTC has not direct supervision over this agency.

Councillor Toomey inquired of the possibility of expanding the walkway at the Galleria Mall Fountain to connect Lechmere Canal to Old Dam Parks behind the Museum of Science.

The City Manager, in response stated that it is contained in the MDC Master Plan.

Councillor Born inquired of what problems are being solved by these proposed mitigation measure.

City Manager Healy stated that the threat of a lawsuit has brought the City and the Commonwealth to this point. The options have been presented with regards to litigation. These mitigation measures are ones that can be easily connected to the project. Basically, he stated that it is a judgment call. He noted that MHD has now selected and EOEAs has approved a preferred alternative with which the City is not entirely happy. While mitigation agreement will not alter the design, it is not clear that litigation will achieve a change in design. At some point the City must decide whether it should try to receive mitigation measures by agreement that are not obtainable by litigation.

Councillor Duehay inquired of the possibility of including commencement and completion dates to all applicable sections of this mitigation agreement. For example, he cited Section 7 (d) in which it is stated that the MHD will undertake a study...

In response, the City Manager stated that it was possible within some parameters. He noted that when the scope of the study is defined a time estimate could be established.

Councillor Duehay citing subsection (g) of the same Section stated his preference to place a feasibility completion date.

Councillor Duehay inquired of the selection process for consultants to be utilized in these studies.

The City Manager stated that the City selects the consultants and directs and influences the scopes of studies.

Councillor Duehay requested that this practice as described by the City Manager be included in the framework of agreement for judgment or in this mitigation agreement.

Mr. Drisdell, in response, stated that the agreement has not been reduced to writing at this point. He commented that the Commonwealth wants to see the authorization vote by the City Council before it proceeds.

Councillor Duehay commented that everyone of the projects outlined in the mitigation agreement were important; the wording is important and that the studies are to be definitive ones.

Councillor Duehay then cited Section 7 (i) and inquired of the details regarding the signage and beautification of the Fresh Pond Parkway entryway throughout the Alewife Corridor.

The City Manager stated that exhibit D of the agreement does specify details of signage and beautification.

Ms. Epstein also commented on another EOTC funding grant that the city has applied for with regards to the entryway.

Councillor Duehay inquired if through this agreement the Commonwealth would commit to compliance with the Clean Air Act.

The City Manager stated that the recent action by Secretary Kerasiotis in recommending the approval of the Cambridge Plan for compliance with the SIP by DEP was a positive one and done in good faith. Mr. Healy further stated he doubts in getting the Commonwealth to agree to a regional plan.

Councillor Duehay inquired if the June 8th deadline for filing suit applied to both the state and federal courts.

Mr. Drisdell, in response, stated it was only the MEPA deadline. Mr. Drisdell further explained that there is no pending deadline for filing a Section 4 (f) lawsuit, and that the City would most likely wait for the Record of Decision to issue before proceeding to the federal court.

Councillor Duehay then inquired of the names of the Special Counsels being retained by the City in this matter.

The City Manager named John Rattigan, Esquire, and Charles DeWitt Esquire, as Special Counsel. He noted that their services are being paid for by the project and they will not litigate the matter if that is the decision. He stated his confidence in their abilities to negotiate the best possible agreement.

Councillor Duehay then requested Ms. Epstein to provide the committee with an oral report of the differences in the Bridge Design Review Committee design and MHD's proposed action focusing on visual, recreational, air quality and impacts on North Point.

In response Ms. Epstein stated that the design recommended by the Bridge Design Review Committee is known as 8.1d. This design includes a ten land bridge over the Charles river, one interchange loop ramp on the north bank of the river adjacent to North Point, and a three land tunnel carrying traffic heading north to the Tobin Bridge via the CANA tunnel and to I-93 north.

The MHD's preferred design for the river crossing includes two bridges over the Charles river, a ten land bridge carrying I-93 traffic, and a four lane bridge carrying traffic between the Leverett Circle area south of the river and the Tobin Bridge and I-93 north of the river and two-and-one-half interchange loop ramps on the north bank to the river adjacent to North Point.

These designs are intended to provide the same highway capacity and connections as well as similar access to various local roadways. The characteristics of these designs with respect to visual impacts, air quality, recreational facilities and impacts in the North Point development area are briefly outlined as follows:

MHD's preferred river crossing can clearly differ from 8.1d in terms of its visual impacts. As the MHD's design has more loop ramps and an additional bridge, it will appear more substantial from various vantage points in the project area and will have more superstructure over the recreational area of the Charles River and the riverfront parkland to be developed by the MDC.

In terms of air quality impacts, it is difficult to distinguish between the designs. As both are intended to carry the same amount of traffic, the factors affecting emissions associated with use of the river crossing will be differences in congestion and travel speeds on the highway and local roads affected by the highway and the location at which emissions are discharged. As with other surface and elevated roadways, emissions from vehicles using MHD's preferred design will disburse into the air from their discharge at the tailpipe. With 8.1d, emissions from vehicles on the surface and elevated roadways will be similarly discharged, while emissions from vehicles in the river tunnel will be collected through a ventilation systems and discharged through a vent stack or stacks to be located on one or both banks of the river.

The impacts of the designs on recreational resources in the area and the development are of North Point would reflect the amount of the highway superstructure and the additional above ground traffic and noise associated with it. 8.1d has one bridge over the Charles River and its banks, while MHD's preferred design has two bridges, creating somewhat more area in shadow during some or most of the daytime. The additional loop ramps in North Point Development area and along the riverfront parklands to be developed by the MDC. The additional noise from these ramps will also be audible in the adjacent park areas.

Councillor Sullivan inquired of the future use of the present Lechmere T Station when the station is relocated.

The City Manager, in response, stated that he believed the T would retain ownership.

Councillor Duehay commented that he believes it would be the desire of the neighborhood to see housing on the parcel vacated by the relocation of the station.

At this time Councillor Duehay opened the floor for public comment.

Ms. Pebble Gifford, 85 Sparks Street, President of the Harvard Square Defense Fund, but speaking in her capacity as a private citizen stated her disappointment with what was discussed at this hearing. She described the proposed mitigation measures as old-fashioned bribery. She stated her concerns with Sections 13 and 14 and stated that the language should be strengthened. She also reminded the committee of the lessons learned from the lack of enforcement of the CLF agreement. Ms. Gifford called the project wrong visually, for the environment and for the park land. She stated the need to change the design of the project and that the City should do everything in its power to do so. She requested the city administration to step back and take a different approach.

Councillor Duehay pointed out to Ms. Gifford that the City Council, given advice by the attorneys, at some point must decide if further legal actions is a wise expenditure of public funds.

In response, Ms. Gifford stated that this agreement, given the present language will not produce the desired results. She stated that the idea behind a lawsuit is not always to win but to use as leverage.

Mr. Dan Geer, 180 Chestnut Street, stated that the project is still ugly, big and enormous. He called the process flawed and that the affected parties had been lied to. He noted that the project is the end result of a lot of negative engineering. He also questioned the funding availability for these mitigation measures. He called the impacts real and in some cases irreversible. He also described some of the mitigation measures as insulting. He also stated that he had no doubts that a 4 (f) suit will succeed. He also stated that he is willing to take the risks associated with a lawsuit.

Ms. Cymie Paine, 87 Cherry Street, Chair of the Conservation Commission, stated her disappointment that the mitigation measures did not address Millers River beyond that what is achievable under permits.

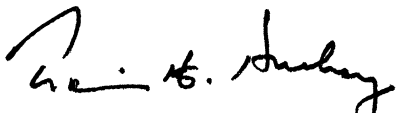
Mr. Bob Simha, Director of Planning, MIT, stated that he would be offering suggestions for additions to this agreement after consultation with his staff.

Councillor Duehay, at this time, requested the City Manager and City Solicitor to draw up and frame the two policy options available for consideration by the City Council.

Councillor Duehay thanked those in attendance for their comments.

The hearing was adjourned at nine o'clock and fifty-two minutes p. m.

For the Committee,


Councillor Francis H. Duehay,
Chair

2.

COMMITTEE REPORTS

S-205

Environment Committee Report for a hearing held on May 3, 1994 for the purpose of discussing the latest developments and options available as it relates to the Charles River Crossing.

In City Council,

May 9, 1994

Report accepted
Placed on file