

ORDER OF TAKING

City of Boston Public Facilities Commission

The Public Facilities Commission of the City of Boston, County of Suffolk, Commonwealth of Massachusetts, duly appointed, qualified, and acting as such, on behalf of the City of Boston by virtue of and in accordance with the authority of the provisions of Chapter 642 of the Acts of 1966, Chapter 51 of the Acts of 2015, and Chapter 79 of the Massachusetts General Laws, and any and every other power and authority which is hereunto in any way enabling, hereby takes, on behalf of the City of Boston, and for the public purposes of enhancing and improving the safety of pedestrian/bicycle paths along Commonwealth Avenue, through the City of Boston and the Town of Brookline, commencing at or near the B.U. Bridge, at or near where it meets Commonwealth Avenue, and then westerly, for a distance of approximately 0.63 miles (3,318 feet), to Existing Station 10+71.94, as shown on certain plans entitled “_____,” dated _____, prepared by _____, recorded herewith in the Suffolk Registry of Deeds in Plan Book _____, Plan _____, and in the Norfolk Registry of Deeds in Plan Book _____, Plan _____ (the “Plans”), the following interests in land:

Temporary Construction Easements: Non-exclusive temporary construction easements for the purpose of constructing the Project, as hereinafter defined, and for all uses incidental thereto, including, without limitation, temporary construction easements to facilitate adjacent construction/reconstruction of roads, sidewalks, paths, driveways, entryways, lights and signals, necessary or convenient to the Project (the “Permitted Uses”), in, over, under, across, upon and along the parcels of land as set forth on the attached Schedule A (the “Easement Premises”), including the right to access, pass and re-pass over, under, across, upon and along the Easement Premises, by foot and motor vehicle, including heavy equipment, for the Permitted Uses.

In exercising these rights, the City of Boston will make all reasonable efforts to minimize interference with the Owners’ access to and use of their properties.

Said Temporary Construction Easements shall commence _____, 201____, and shall terminate automatically four (4) years therefrom, or _____, 20____ (the “Term”), without the necessity of recording any instrument with said Registry of Deeds.

The Easement Premises are acquired in connection with a project commonly known as “Commonwealth Avenue Phase 2A” (the “Project”). Acquisition of the property interests for the Project is governed by Public Law 91-646, The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, and specifically 42 U.S.C. §§4601 et seq. and 49 CFR §§24.1 et seq.

Any and all trees and structures located upon the Easement Premises are included in this taking. Notwithstanding the foregoing, there is excepted from this Order of Taking all easements to public utility companies for wires, pipes, conduits, poles, and appurtenances for the

conveyance of water, sewage, gas and electricity and for telephone communications and television transmission now lawfully in or upon the Easement Premises and the lawful rights of the public to use those parts of the public streets and ways which may be included in the foregoing description.

Said parcels of land are owned, supposed to be owned, and/or formerly owned by the persons listed in Schedule A, hereinafter collectively referred to as the Owners. If in any instance the name of the Owner is not correctly stated, the name of the supposed Owner(s) is provided in this Order of Taking, and further it is understood that in such instance where the land referred to is owned by an Owner or Owners unknown to the City, said parcels of land are hereby taken.

No damages are awarded to the Owners in connection with these takings as the Owners have waived the right to an appraisal and damages.

No betterments are to be assessed under this Order of Taking.

WHEREAS, the Public Facilities Commission, by virtue of the requirements contained in Section 3(f)(ii) of Chapter 642 of the Acts of 1966 has the authority to delegate any of its powers or functions to any other department or officer of the City of Boston and such officer or department is authorized and directed to accept such delegation and exercise the power and perform the function so delegated; and

WHEREAS, the Public Facilities Commission, by virtue of the requirements contained in Section (3)(f)(v) of Chapter 642 of the Acts of 1966 has the power and authority to make and execute all contracts, documents and instruments, and to record orders and instruments necessary or convenient for the exercise and fulfillment of the Commission's powers, duties and responsibilities pursuant to this Act;

NOW, THEREFORE, BE IT VOTED: That the Commissioner of the Public Works Department for the City of Boston be, and hereby is, authorized to execute and deliver all contracts, documents or other instruments, which are approved as to form by the Corporation Counsel for the City of Boston or the First Assistant Corporation Counsel for the City of Boston, in the name and on behalf of the Commission, when such are deemed necessary or appropriate to effectuate the purposes of the aforementioned Order of Taking, and to file any and all of the required documents concerning the same with the Registry of Deeds for Suffolk County or Suffolk Registry District of the Land Court and with the Registry of Deeds for Norfolk County or Norfolk Registry District of the Land Court.

WITNESS our hands and seals this 20th day of August, 2015.

PUBLIC FACILITIES COMMISSION

_____, Chair
Katherine P. Craven

_____, Member
Lawrence D. Mammoli

_____, Member
Dion Irish

APPROVED AS TO FORM:

Henry C. Luthin
First Assistant Corporation Counsel
City of Boston

Colleen Daley
Secretary for the PFC

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss.

On this 20th day of August, 2015, then personally appeared before me the above-named members of the City of Boston Public Facilities Commission, and acknowledged the foregoing to be their free act and deed on behalf of the City of Boston Public Facilities Commission.

Notary Public
My Commission Expires:

SCHEDULE A – Property Owners and Interests Taken

TE-4A and TE-4B

Record Owner: Trustees of Boston University
Mailing Address: Jason A. Mahler, Esq., Boston University Office of the General Counsel,
125 Bay State Road, Boston, MA 02215
Title Reference: Suffolk Registry of Deeds, Book 9765, Page 241
Interests Taken: TE-4A (Access for Sidewalk Construction)
TE-4B (Meet Existing Driveway)

TE-7A and TE-7C

Record Owner: Trustees of Boston University
Mailing Address: Jason A. Mahler, Esq., Boston University Office of the General Counsel,
125 Bay State Road, Boston, MA 02215
Title Reference: Suffolk Registry of Deeds, Book 8789, Page 654
Interests Taken: TE-7A (Meet Existing Driveway)
TE-7C (Access for Sidewalk Construction)

TE-9

Record Owner: Trustees of Boston University
Mailing Address: Jason A. Mahler, Esq., Boston University Office of the General Counsel,
125 Bay State Road, Boston, MA 02215
Title Reference: Suffolk Registry of Deeds, Book 13396, Page 9
Interests Taken: TE-9 (Access for Sidewalk Construction)

TE-10

Record Owner: Gary W. Nicksa, Trustee of Pleasant Ventures Realty Trust and
Trustees of Boston University
Mailing Address: Jason A. Mahler, Esq., Boston University Office of the General Counsel,
125 Bay State Road, Boston, MA 02215
Title Reference: Norfolk Registry of Deeds, Book 8358, Page 347 (Pleasant Ventures
Realty Trust)
Norfolk Registry of Deeds, Book 23108, Page 246 (Trustees of Boston
University)
Interests Taken: TE-10 (Meet Existing Driveway)

TE-11

Record Owner: Trustees of Boston University and Gary W. Nicksa, Trustee of Pleasant Ventures Realty Trust
Mailing Address: Jason A. Mahler, Esq., Boston University Office of the General Counsel, 125 Bay State Road, Boston, MA 02215
Title Reference: Norfolk Registry of Deeds, Book 31088, Page 253 (Trustees of Boston University)
Norfolk District of the Land Court, Certificate of Title #130933 (Pleasant Ventures Realty Trust)
Interests Taken: TE-11 (Meet Existing Driveway)

TE-12A, TE-12B and TE-12C

Record Owner: Trustees of Boston University
Mailing Address: Jason A. Mahler, Esq., Boston University Office of the General Counsel, 125 Bay State Road, Boston, MA 02215
Title Reference: Norfolk Registry of Deeds, Book 31088, Page 253
Interests Taken: TE-12A (Access for Sidewalk Construction)
TE-12B (Meet Existing Driveway)
TE-12C (Access for Sidewalk Construction)

TE-13A, TE-13B, TE-13C and TE-13E

Record Owner: Trustees of Boston University
Mailing Address: Jason A. Mahler, Esq., Boston University Office of the General Counsel, 125 Bay State Road, Boston, MA 02215
Title Reference: Norfolk Registry of Deeds, Book 23108, Page 232 and Book 23108, Page 226
Interests Taken: TE-13A (Access for Sidewalk Construction)
TE-13B (Access for Sidewalk Construction)
TE-13C (Access for Sidewalk Construction)
TE-13E (Access for Sidewalk Construction)

TE-15A and TE-15E

Record Owner: Trustees of Boston University
Mailing Address: Jason A. Mahler, Esq., Boston University Office of the General Counsel, 125 Bay State Road, Boston, MA 02215
Title Reference: Suffolk Registry of Deeds, Book 6933, Page 103
Interests Taken: TE-15A (Access for Sidewalk Construction)
TE-15E (Meet Existing Driveway)

TE-20B

Record Owner: Trustees of Boston University
Mailing Address: Jason A. Mahler, Esq., Boston University Office of the General Counsel,
125 Bay State Road, Boston, MA 02215
Title Reference: Suffolk Registry of Deeds, Book 7916, Page 138
Interests Taken: TE-20B (Access for Sidewalk Construction)

TE-21A

Record Owner: Trustees of Boston University
Mailing Address: Jason A. Mahler, Esq., Boston University Office of the General Counsel,
125 Bay State Road, Boston, MA 02215
Title Reference: Suffolk Registry of Deeds, Book 7296, Page 248
Interests Taken: TE-21A (Access for Sidewalk Construction)

TE-22

Record Owner: Trustees of Boston University
Mailing Address: Jason A. Mahler, Esq., Boston University Office of the General Counsel,
125 Bay State Road, Boston, MA 02215
Title Reference: Norfolk Registry of Deeds, Book 5620, Page 227
Interests Taken: TE-22 (Access for Sidewalk Construction)

TE-23

Record Owner: Trustees of Boston University
Mailing Address: Jason A. Mahler, Esq., Boston University Office of the General Counsel,
125 Bay State Road, Boston, MA 02215
Title Reference: Norfolk Registry of Deeds, Book 5620, Page 227
Interests Taken: TE-23 (Meet Existing Driveway)

TE-24A and TE-24B

Record Owner: Trustees of Boston University
Mailing Address: Jason A. Mahler, Esq., Boston University Office of the General Counsel,
125 Bay State Road, Boston, MA 02215
Title Reference: Suffolk Registry of Deeds, Book 13396, Page 9
Interests Taken: TE-24A (Access for Sidewalk Construction)
TE-24B (Access for Sidewalk Construction)

TE-40A and TE-40B

Record Owner: Trustees of Boston University
Mailing Address: Jason A. Mahler, Esq., Boston University Office of the General Counsel,
125 Bay State Road, Boston, MA 02215
Title Reference: Suffolk District of the Land Court, Certificate #89021

Interests Taken: TE-40A (Access for Sidewalk Construction)
TE-40B (Access for Sidewalk Construction)

TE-43

Record Owner: Gary W. Nicksa, Trustee of Pleasant Ventures Realty Trust
Mailing Address: Jason A. Mahler, Esq., Boston University Office of the General Counsel,
125 Bay State Road, Boston, MA 02215
Title Reference: Norfolk Registry of Deeds, Book 7917, Page 658
Interests Taken: TE-43 (Access for Sidewalk Construction)

TE-47

Record Owner: Trustees of Boston University
Mailing Address: Jason A. Mahler, Esq., Boston University Office of the General Counsel,
125 Bay State Road, Boston, MA 02215
Title Reference: Norfolk Registry of Deeds, Book 23108, Page 246
Interests Taken: TE-47 (Access for Sidewalk Construction)

TE-48A, TE-48B and TE-48D

Record Owner: Gary W. Nicksa, Trustee of Pleasant Ventures Realty Trust
Mailing Address: Jason A. Mahler, Esq., Boston University Office of the General Counsel,
125 Bay State Road, Boston, MA 02215
Title Reference: Norfolk Registry of Deeds, Book 8358, Page 347 and Norfolk District of
the Land Court Certificate #130933
Interests Taken: TE-48A (Access for Sidewalk Construction)
TE-48B (Access for Sidewalk Construction)
TE-48D (Access for Sidewalk Construction)

TE-49A and TE-49B

Record Owner: Gary W. Nicksa, Trustee of Pleasant Ventures Realty Trust
Mailing Address: Jason A. Mahler, Esq., Boston University Office of the General Counsel,
125 Bay State Road, Boston, MA 02215
Title Reference: Norfolk Registry of Deeds, Book 7896, Page 33
Interests Taken: TE-49A (Access for Sidewalk Construction)
TE-49B (Access for Sidewalk Construction)

TE-52

Record Owner: Trustees of Boston University
Mailing Address: Jason A. Mahler, Esq., Boston University Office of the General Counsel,
125 Bay State Road, Boston, MA 02215
Title Reference: Norfolk Registry of Deeds, Book 4377, Pages 734, 736 and 737
Interests Taken: TE-52 (Access for Sidewalk Construction)

TE-54A and TE-54B

Record Owner: Gary W. Nicksa, Trustee of Pleasant Ventures Realty Trust
Mailing Address: Jason A. Mahler, Esq., Boston University Office of the General Counsel,
125 Bay State Road, Boston, MA 02215
Title Reference: Norfolk Registry of Deeds, Book 8040, Page 715
Interests Taken: TE-54A (Access for Sidewalk Construction)
TE-54B (Access for Sidewalk Construction)