



September 12, 2012

To: Robert W. Healy
City Manager

From: Lisa Peterson 
DPW Commissioner

Re: Awaiting Report Cambridge Street Overpass

The City has been working with Harvard University and a number of the utility companies in and around the Cambridge Street overpass throughout the summer. This work is associated with two projects; namely; the rehabilitation and reconstruction of the overpass and the construction of a new NSTAR electric cooling pipe system through the City.

The overpass rehabilitation project has been broken into two phases; that associated with the top of the tunnel and that associated with the underside and approaches to the tunnel. Harvard University will reconstruct the top side of the tunnel to include the approach pathways from both Quincy Street and Peabody terrace and the city will reconstruct the underside, to include the ceiling, internal walls, roadway and approaches. The work on top has been ongoing since May 2012 and it incorporates utility rehabilitation and significant enhancements dedicated to improving the facility for pedestrians and cyclists and to make in it a more successful space for both the community and the university activities.

Because the waterproofing on the top of the tunnel had to be replaced in its entirety, a significant portion of the structure had to be incorporated within the work zone; this has led to major changes in how the space works in the interim for pedestrians and cyclists. In an effort to alleviate the issues around access to and from Harvard Square, the Agassiz community, Mid Cambridge and Massachusetts Avenue the University agreed to allow cyclists to ride through the yard while construction has been ongoing. To that end and to further provide assistance to people using the top of the tunnel numerous temporary way finding signs have been placed in the area. It is expected that work on the top of the tunnel will continue until the spring of 2013.

<http://www.construction.harvard.edu/CampusServices/cstisip/index.html>

At the same time NSTAR Electric has been constructing their cooling pipe project under the north side curb of the underpass. This work is part of the larger project ongoing between Putnam Avenue at Pleasant Street and the Terminal Road. This project has occupied the northern lanes of the westbound portion of the underpass intermittently during the summer months. It is expected that this project will be completed in October.

The City is presently in the process of awarding the remaining work associated with the rehabilitation project for the tunnel. The remedial contract associated with the underside and approaches will begin in October 2012 and will continue through the 2013 construction season.

<http://www.cambridgema.gov/theworks/cityprojects/detail.aspx?path=%2fsitecore%2fcontent%2fhome%2ftheworks%2fcityprojects%2f2012%2fcambridgetunnelreconstructionproject>

Nancy E. Glowa
Acting City Solicitor

Arthur J. Goldberg
First Assistant
City Solicitor



Assistant City Solicitors

Vali Buland
Paul S. Kawai
Elizabeth A. Lashway
Samuel A. Aylesworth
Amy L. Witts

CITY OF CAMBRIDGE

OFFICE OF THE CITY SOLICITOR
795 Massachusetts Avenue
Cambridge, Massachusetts
02139

September 24, 2012

Robert W. Healy
City Manager
City Hall
Cambridge, MA 02139

Awaiting Report No.: 12-21 re: report on 1) the ownership status of the Cambridge Street overpass and 2) on the abilities of universities and other organizations to close off property owned by them but enjoyed by the public

Dear Mr. Healy:

In response to the above-referenced Awaiting Report, please find the following response.

Cambridge Street was established as a public way in 1809 and the use of Cambridge Street as a public way has continued unabated since that time. There was never a discontinuance of that portion of Cambridge Street as a public way.

In 1965, the City agreed to allow Harvard University to depress a portion of Cambridge Street to create a tunnel overpass structure on Cambridge Street so that all vehicular traffic would travel on that portion of the street via the tunnel underpass to be constructed by Harvard University. The 1965 agreement provided that Harvard "will maintain the exterior roof of the tunnel and the area immediately above the tunnel as a pedestrian walkway as long as the City of Cambridge desires."

In the course of discussions between the City and Harvard regarding the repair of the Cambridge Street tunnel overpass in 2011, Harvard and the City entered into a letter agreement on December 12, 2011, in which Harvard acknowledged its maintenance obligations under the 1965 agreement, and agreed that Harvard would make certain improvements to the tunnel overpass that include improving pedestrian and bike access, increased lighting, stormwater management improvements, as well as a variety of informal outdoor seating areas. Pursuant to the 1965 and December 2011 agreements, Harvard will

be responsible for the maintenance of these improvements. A copy of the December 2011 agreement is attached here for your reference.

With regard to the second question raised in the order as to "the extent of the abilities of universities and other similar organizations to close off property owned by those organizations but enjoyed by the general public," it is difficult to opine as to whether the use by the general public of university-owned land may lead to the possibility of prescriptive easements. The existence of prescriptive easements is a matter of fact-specific analysis, and therefore, the best practice is to analyze these issues on a case-by-case basis.

Very truly yours,



Nancy E. Glowa
Acting City Solicitor

Enclosure

HARVARD
CAMPUS SERVICES



December 12, 2011

Robert W. Healy
City Manager
City of Cambridge
Cambridge City Hall
795 Massachusetts Avenue
Cambridge, MA 02139

Re: Cambridge Overpass

Dear City Manager Healy:

This letter memorializes and confirms our discussions regarding the City's planned repair of the tunnel structure over Cambridge Street. As a result of these discussions and in conjunction with the City project, Harvard will make improvements to the surface of the structure, which is referred to in this letter as the "Cambridge Street Overpass."

We enclose the Plan for Improvements and Continuation of Pedestrian and Bicycle Access for the Cambridge Street Overpass, which outlines Harvard's improvements to the area and confirms Harvard's continued compliance with the 1965 agreements governing the Overpass area (the "1965 Agreements") which states that Harvard "will maintain the exterior roof of the tunnel and the area immediately above the tunnel as a pedestrian walkway as long as the City of Cambridge desires."

Your signature on the enclosed copy of this letter accepts Harvard's Cambridge Street Overpass Improvement Plan and Confirmation of Pedestrian and Bicycle Access which provides continued compliance with the conditions of the 1965 Agreements.

We are pleased to partner with the City on this project that will benefit the community.

Sincerely,

Lisa Hogarty
Vice President

Acknowledged and Agreed:

Robert W. Healy
City Manager
City of Cambridge

Cambridge Street Overpass Proposed Improvements and Confirmation of Pedestrian and Bicycle Access

Consistent with the 1965 Agreements and in light of Harvard University's plans to work with the City of Cambridge to repair the tunnel structure on Cambridge Street, Harvard University has evaluated potential improvements to the surface area over the tunnel. The improvements will provide continuing compliance with existing requirements regarding pedestrian access, improve safety and the quality of pedestrian and bike access over the area, and also provide amenities that can be enjoyed by the community.

The University plans to make significant improvements to the Cambridge Street overpass, as shown on the enclosed illustrative diagram. These will improve pedestrian and bike access and include a variety of informal outdoor seating areas and open space amenities. The space would continue to be used for University events and programs and for City activities and City-sponsored events and program throughout the year. Harvard will maintain the enhanced plaza improvements. Pedestrian and bike access will be maintained at all times, including during University, City and community events and during any periodic renovations or repairs.

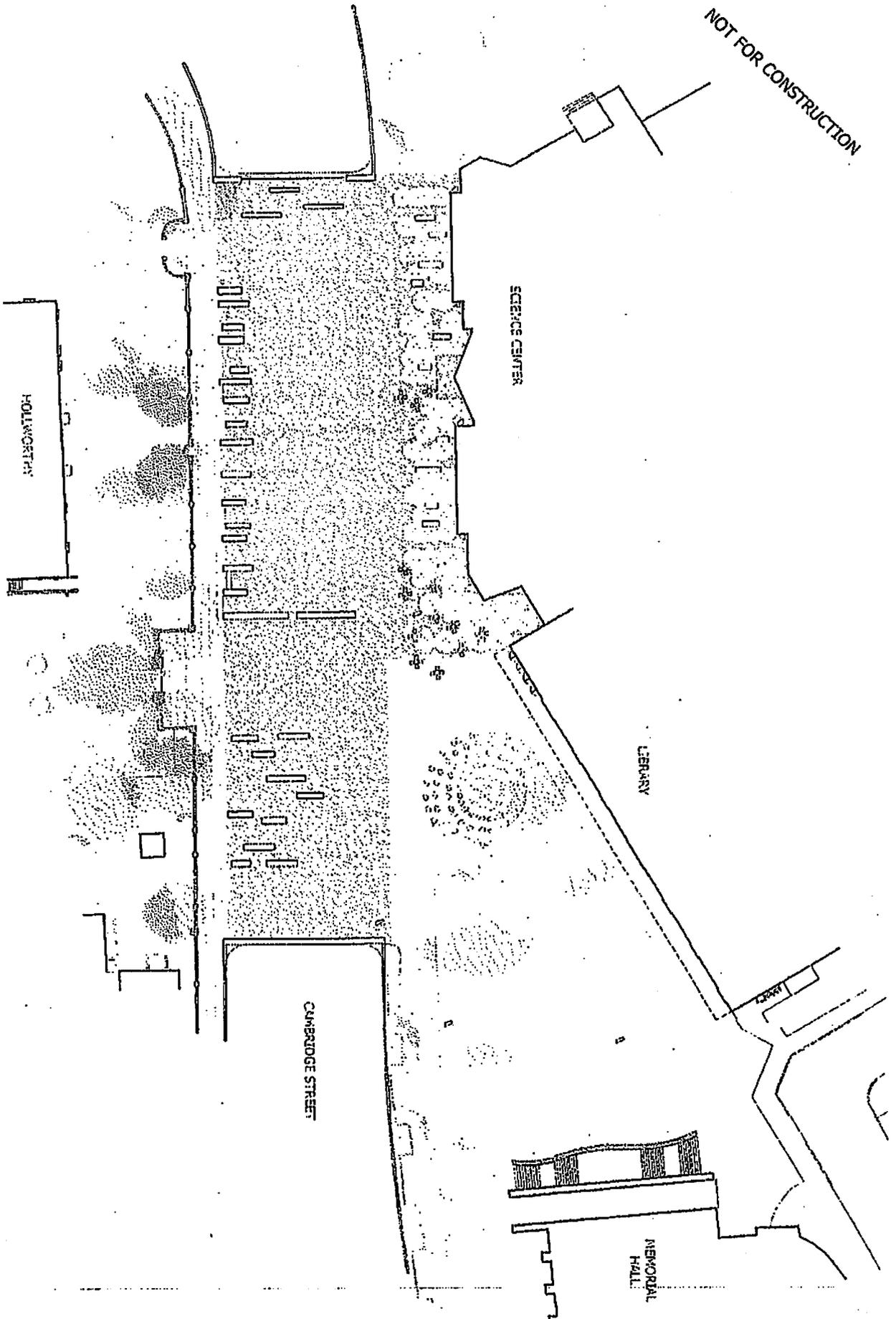
The plaza improvements for the overpass will enhance the quality and safety of both pedestrian and bike movement and maintain the existing access for pedestrians and cyclists to the overpass from Massachusetts Avenue to the West, from Cambridge Street to the East, from Harvard Yard to the South and from Oxford Street to the North. Increased lighting will improve safety.

The large, open area at the heart of the space will allow for the continued flexible use for both programmed events and small informal gatherings. The area could be used for events and activities such as exhibits and information events; musical or theatrical performances; occasional outdoor movies or streaming of special events like inaugurations; recreational activities such as ice sculpture contests or skating; markets and festivals; outdoor classes and commencement festivities. Temporary structures such as a gazebo, skating rink, covered stalls, electrical or other infrastructure connections could be installed, subject to any applicable approvals. In warmer weather, chairs, tables, and food carts could be brought in regularly.

The improvements also include important infrastructural elements such as distributed power sources, information technology elements such as Wi-Fi and tele/data connections; audio/visual equipment; surface, overhead and event lighting; improved stormwater management; structural support for tents and other temporary installations; potable water supply; utility access; structural loading for vehicles and improved vehicular access for loading and for vehicles such as food trucks.

Per the City's request, the University will create an events management system and website to provide information about scheduled programs, how to reserve space, and a calendar of events. Harvard will designate a contact person to coordinate with the City regarding City activities and City-sponsored activities.

NOT FOR CONSTRUCTION



SCHEMATIC PLAN

HARVARD COMMON SPACES PLAZA - SCHEMATIC DESIGN

HARVARD UNIVERSITY



STOSSLU