

AMENDMENT TO DEVELOPMENT AGREEMENTS (2021)

AMENDMENT TO DEVELOPMENT AGREEMENTS (2021) (hereinafter the “2021 Amendment” or the “Amendment”) dated as of December xx, 2021 (hereinafter the “Date of this Amendment”), by and between CAMBRIDGE REDEVELOPMENT AUTHORITY (hereinafter, with its successors and assigns, the “Authority”), having its office at 255 Main Street, Eighth Floor, Cambridge, Massachusetts, and BOSTON PROPERTIES LIMITED PARTNERSHIP, a Delaware limited partnership (as successor-in-interest to Cambridge Center Associates, hereinafter, with its successors and assigns, the “Developer”), having its office at 800 Boylston Street, Suite 1900, Boston, Massachusetts. The Authority and the Developer may hereinafter be collectively referred to as the “Parties.”

A. Statement of Facts

1. By Development Agreement dated June 11, 1979 (the “Original Parcel 3 and 4 Development Agreement”) as amended by the Parcel 3 and 4 Prior Amendments described below (as so amended and inclusive of all exhibits thereto, collectively, the “Parcel 3 and 4 Development Agreement”), between the Authority and the Developer, the Authority agreed to convey to the Developer in stages and the Developer agreed to purchase from the Authority and redevelop in stages, the developable area within Parcel 3 and Parcel 4 of the Kendall Square Urban Redevelopment Area (the “Urban Redevelopment Area”), as amended by Section 1 of the Parcel 3 and 4 Fifth Amendment (referred to in the Original Parcel 3 and 4 Development Agreement and hereafter sometimes referred to collectively as the “Parcel 3 and Parcel 4 Development Area,” respectively, as shown on Exhibit A) upon the terms and conditions set forth in the Parcel 3 and 4 Development Agreement.

The Parcel 3 and 4 Prior Amendments consist of the following:

- Amendment No. 1 dated May 29, 1980;
- Amendment No. 2 dated December 22, 1981;
- Amendment No. 3 dated April 14, 1982;
- Amendment No. 4 dated December 19, 1983;
- Amendment No. 5 dated May 30, 1986;
- Amendment No. 6 dated April 1, 1988;
- Amendment to Development Agreements dated January 14, 1991;
- Amendment to Development Agreements dated May 28, 1993;
- Amendment No. 9 to Parcel 3 and 4 Development Agreement dated September 29, 1993;
- Amendment No. 10 to Parcel 3 and 4 Development Agreement dated September 14, 1994;
- Amendment No. 11 to Parcel 3 and 4 Development Agreement dated June 23, 1997;
- Amendment No. 12 to Parcel 3 and 4 Development Agreement dated March 11, 1998;
- Amendment No. 13 to Parcel 3 and 4 Development Agreement dated July 14, 2004;

- Amendment No. 14 to Parcel 3 and 4 Development Agreement dated January 11, 2011;
- Amendment No. 15 to Parcel 3 and 4 Development Agreement dated December 12, 2016; and
- Amendment to Development Agreements (2017) dated January 11, 2017 (the “2017 Amendment”).

2. By Development Agreement dated April 14, 1982 (the “Original Parcel 2 Development Agreement”), as amended by the Parcel 2 Prior Amendments described below (as so amended and inclusive of all exhibits thereto, collectively, the “Parcel 2 Development Agreement”), between the Authority and the Developer, the Authority agreed to convey to the Developer in stages and the Developer agreed to purchase from the Authority and redevelop in stages, the developable area within Parcel 2 of the Urban Redevelopment Area (referred to in the Original Parcel 2 Development Agreement and hereinafter referred to as the “Parcel 2 Development Area,” as shown on Exhibit A) upon the terms and conditions set forth in the Parcel 2 Development Agreement.

The Parcel 2 Prior Amendments consist of the following:

- Amendment No. 1 dated April 24, 1987;
- Amendment No. 2 dated April 1, 1988;
- Amendment No. 3 dated March 19, 1990;
- Amendment to Development Agreements dated January 14, 1991;
- Amendment to Development Agreements dated May 28, 1993;
- Amendment No. 6 to Parcel 2 Development Agreement dated September 29, 1993;
- Amendment No. 7 to Parcel 2 Development Agreement dated June 23, 1997;
- Amendment No. 8 to Parcel 2 Development Agreement dated July 14, 2004; and
- Amendment to Development Agreements (2017) dated January 11, 2017.

3. The Parcel 3 and 4 Development Agreement and the Parcel 2 Development Agreement are hereinafter sometimes individually referred to as a “Development Agreement” and collectively referred to as the “Development Agreements.” The Parcel 3 and 4 Development Area and the Parcel 2 Development Area are hereinafter sometimes collectively referred to as the “Development Area.”

4. The Development Area constitutes the majority of the area identified as the “MXD District” in both the City of Cambridge Zoning Ordinance (the “Zoning Ordinance”) and in the Kendall Square Urban Redevelopment Plan dated March 30, 2021 (as so amended, the “KSURP”). The Zoning Ordinance provides that 5,073,000 square feet of Aggregate GFA is permitted to be developed within the MXD District.

5. The Parties acknowledge that, the Authority has caused an Infill Development Concept Plan (the “Original IDCP”) to be written for the development of 940,000 square feet of Infill GFA (as that term is defined in Section 14.32.1 of the Zoning Ordinance), and that the Original IDCP has been amended once without affecting the Aggregate GFA (the “2019 IDCP”).

Amendment”). The Authority has also caused a second amendment to the Original IDCP termed Infill Development Concept Plan Amendment #2 (the “2021 IDCP Amendment”) to be written and adopted concurrently with this Amendment providing for the development of an additional 800,000 square feet of Utility Project GFA (as that term is defined in Section 14.32.2 of the Zoning Ordinance) that is permitted to be developed for commercial uses in the MXD District under both the Zoning Ordinance and the KSURP, as well as the consolidation of the two residential buildings contemplated by the Original IDCP into one building (“Residential GFA”).

6. The Development Agreements require that the Developer make certain payments to the Authority in the event it seeks to develop Infill GFA (each a “Purchase Price Payment” and collectively, the “Purchase Price Payments”).

7. On May 20, 2020, the Parties executed a Letter of Intent, a copy of which is attached to this Amendment as Exhibit B, to establish the Purchase Price for the Residential GFA (the “Letter of Intent”). In the Letter of Intent, the CRA acknowledged that the Developer had submitted in good faith a schematic design for the housing project contemplated by the Original IDCP and the 2019 Amendment to be located at 135 Broadway, and accordingly agreed to fix the Purchase Price for the Residential GFA (as defined in the Letter of Intent) irrespective of whether or not such Residential GFA was utilized in one or two buildings.

8. The Zoning Ordinance provides that the Utility Project GFA may only be utilized in connection with the development by NSTAR Electric Company d/b/a Eversource of the “Substation Project” (as defined in Section 14.32.2 of the Zoning Ordinance), and requires that a building permit for construction of a residential project containing at least 400,000 square feet of Residential GFA shall be issued prior to or concurrently with the issuance of a building permit for any project utilizing Utility Project GFA.

9. The Parties acknowledge that the Infill GFA to be used for the two commercial buildings contemplated by the 2021 IDCP Amendment is the Utility Project GFA, and that all of the Residential GFA will be used for the redesigned 135 Broadway contemplated by the 2021 IDCP Amendment. In addition, the Parties acknowledge that Utility Project GFA is also Infill GFA for the purposes of the Development Agreements (subject to the special provisions applicable solely to Utility Project GFA as set forth in this Amendment).

10. The Parties have agreed that, in order to further their agreements and accomplish the purposes embodied by the Development Agreements more effectively in light of both past experience in implementing the Development Agreements and current and anticipated development conditions in the Development Area, it is necessary and desirable to make certain amendments to the Development Agreements as hereinafter set forth.

B. Agreement of the Parties

NOW, THEREFORE, each of the Parties, for and in consideration of the promises and the mutual obligations herein contained, and for other good and valuable consideration, the receipt and sufficiency of which is hereby severally acknowledged, does hereby covenant and agree with the other as follows:

1. Matters Concerning the Use of Residential GFA

As stated in the Letter of Intent, the purchase price for the Residential GFA shall be calculated as the product of (i) the number of gross square feet of Residential GFA (not including Middle Income Units or any other components of the development utilizing Infill GFA (“Infill Project”) that are excluded from the calculation of Aggregate GFA pursuant to the applicable provisions of the Zoning Ordinance) as shown in the 2021 IDCP Amendment or any proposed amendments thereto subsequently submitted by the Developer pursuant to Section 14.32.2.5 of the Zoning Ordinance, as approved by the Authority, multiplied by (ii) the Per Square Foot Price of fifty dollars and seventy-nine cents per square foot (\$50.79/SF).

2. Matters Concerning the Use of Utility Project GFA

- a. Notwithstanding anything contained in the Development Agreements to the contrary, it is acknowledged and agreed that as of the Date of this Amendment, the Per Square Foot Price for Utility Project GFA utilized in connection with the Infill Projects shown on the 2021 IDCP Amendment shall be (x) fifty dollars and seventy-nine cents per square foot (\$50.79/SF) for those components of an Infill Project not used for Office or Biotechnology Manufacturing Uses under any of the provisions of Section 14.21.2 of the Zoning Ordinance and (y) one hundred eleven and seventy-eight cents per square foot (\$111.78/SF) for those components of an Infill Project used for Office or Biotechnology Manufacturing Uses under any of the provisions of said Section 14.21.2, in both cases increased by the Escalation Factor (as hereinafter defined) starting on May 21, 2027.

For purposes hereof, the “Escalation Factor” shall be the annualized index of the Consumer Price Index (CPI) for the Boston-Cambridge-Newton, MA-NH metropolitan area as published by United States Bureau of Labor Statistics to be multiplied by the baseline annually on May 21st beginning on May 21, 2027.

- b. The purchase price for Utility Project GFA (the “Utility Project GFA Purchase Price”) shall be an amount equal to the product of: (i) the amount of Utility Project GFA (not including any components of the Infill Project that are excluded from the calculation of Aggregate GFA pursuant to the applicable provisions of the Zoning Ordinance) to be utilized in connection with any Infill Project as shown in the 2021 IDCP Amendment or any proposed amendments thereto subsequently submitted by the Developer pursuant to Section 14.32.2.5 of the Zoning Ordinance, as approved by the Authority, and (ii) the Per Square Foot Price as determined pursuant to subsection 2.a above. The Utility Project GFA Purchase Price shall be established as of the date of the Authority’s approval of the schematic design of the Infill Project, and the timing of delivery of the Purchase Price Payments shall remain unchanged.

3. Matters Concerning Certain Issues Related to Related Costs.

- a. The Transit Study Cost shall be three hundred thousand dollars (\$300,000.00) for the study of future rail transit service in Kendall Square utilizing existing rail right-of-way connecting Cambridge and Boston (the “Transit Study”). The Transit Study Cost shall be paid to the Authority within thirty (30) days after the approval by the City of Cambridge of a foundation permit for the first Infill Project developed using Utility Project GFA and shall be used by the Authority to conduct the Transit Study according to a final scope of work reasonably agreed to by the Authority and the Developer.
- b. The Open Space Design Cost shall be two hundred thousand dollars (\$200,000.00) for the design of certain improvements to open space on Parcel 3 (the “Parcel 3 Open Space Improvements”), consistent with the 2021 IDCP Amendment. The Open Space Design Cost shall be paid to the Authority within thirty (30) days after the approval by the City of Cambridge of a foundation permit for the first Infill Project developed using Utility Project GFA and shall be used by the Authority to conduct the open space design according to a final scope of work reasonably agreed to by the Authority and the Developer.
- c. The purchase price for the first Infill Project to be developed using Utility Project GFA shall be reduced by the Parcel 3 Construction Costs (as hereinafter defined).

The “Parcel 3 Construction Costs” shall be fifty percent (50%) of the costs in excess of nine hundred thousand dollars (\$900,000.00) incurred by the Developer in connection with the design and construction of the Parcel 3 Open Space Improvements (with the exception of the Open Space Design Costs described in subsection 3.b above). The Developer shall provide to the Authority, no later than the date on which the City of Cambridge shall issue a certificate of occupancy for the first Infill Project developed using Utility Project GFA, sufficiently detailed documentation evidencing the final costs of the Parcel 3 Open Space Improvements. Notwithstanding the above, the sum of the Developer’s contribution to the Open Space Design Cost and Parcel 3 Construction Costs shall not exceed \$1,200,000.

- d. The purchase price for the second Infill Project to be developed using Utility Project GFA shall be increased by the 2021 KSTEP Costs and (to the extent required by the 2021 IDCP Amendment to be funded through the Authority) the Binney Street Reconstruction Costs (each as hereinafter defined).

The “2021 KSTEP Costs” shall be calculated as fifty (50%) percent of the lump sum KSTEP mitigation funding of one million two hundred thousand dollars (\$1,200,000.00), as outlined in the November 9, MEPA Certificate of the 2021 Notice of Project Change (EEA No. 1891) as a contribution to set the Kendall Square Transit Enhancement Program (KSTEP) consistent with that certain Kendall Square Transit Enhancement Program Memorandum of Understanding dated May 6, 2017 between the Authority, the Massachusetts Bay Transportation

Authority, and the Massachusetts Department of Transportation (the “MOU”). It being understood and agreed that, except with respect to the Binney Street Reconstruction Costs defined below, the Authority shall fund the remainder of any costs of the KSTEP mitigation pursuant to, and shall otherwise administer all aspects of, the MOU.

The Binney Street Reconstruction Costs shall be three million five hundred thousand dollars (\$3,500,000), as recommended by the City of Cambridge Department of Traffic, Parking, and Transportation (TPT), for the purpose of funding the design and reconstruction of Binney Street between Fifth Street and Sixth Street. It is understood and agreed that to the extent the 2021 IDCP Amendment or a subsequent decision from TPT requires the Developer to contribute these funds to any party other than the Authority, the Binney Street Reconstruction Costs will not be part of the purchase price for any Infill Project developed using Utility Project GFA.

4. Miscellaneous Matters.

- a. Except as herein amended, the Development Agreements shall remain unchanged and in full force and effect.
- b. All references to the “Parcel 3 and 4 Development Agreement” shall be deemed to be references to the Parcel 3 and 4 Development Agreement as herein amended and all references to the “Parcel 2 Development Agreement” shall be deemed to be references to the Parcel 2 Development Agreement as herein amended.
- c. All capitalized terms used herein and not otherwise defined herein shall be used with the meanings as set forth in the Development Agreements.

WITNESS the execution hereof under seal as of the Date of this Amendment.

CAMBRIDGE REDEVELOPMENT AUTHORITY

By: _____
Name: _____
Title: _____

BOSTON PROPERTIES LIMITED PARTNERSHIP

By: Boston Properties, Inc., its general partner

By: _____
Name: _____
Title: _____

Exhibits:

A – Plan of Development Area

B – Letter of Intent

EXHIBIT A

Plan of Development Area

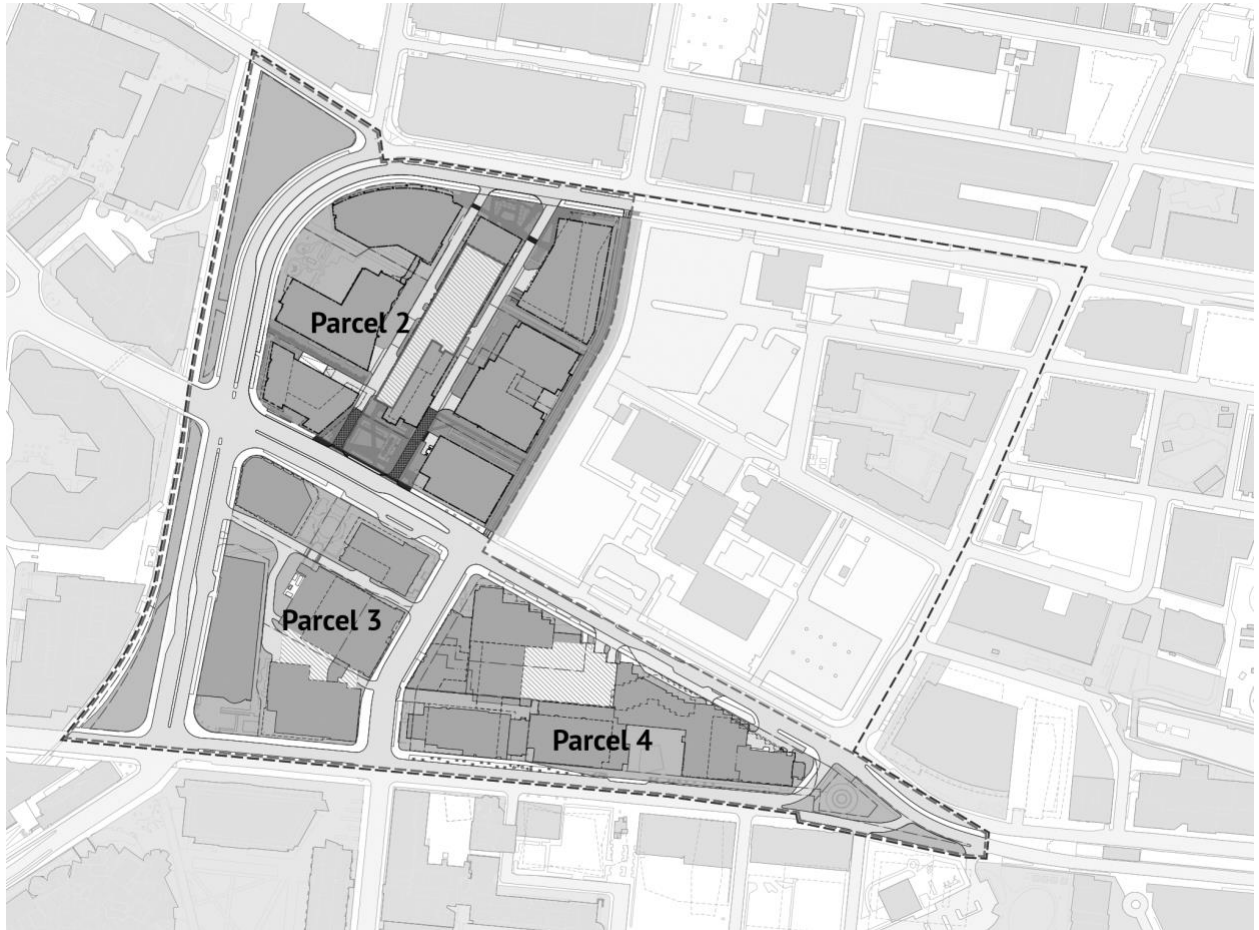


EXHIBIT B

Letter of Intent



May 20th, 2020

David Provost
Boston Properties Limited Partnership
Prudential Center
800 Boylston Street
Boston, MA 02199

Re: Letter of Intent on Residential GFA Purchase Price

Dear Mr. Provost:

This Letter of Intent ("Letter") is written to reflect the terms and conditions pursuant to which the Cambridge Redevelopment Authority (the "CRA") and Boston Properties Limited Partnership, as the authorized representative of the owners of certain properties within the Kendall Square Urban Renewal Plan Area (the "KSURP Area") (collectively, "Boston Properties"), intend to reach agreement on several matters concerning the Housing Project, as hereinafter defined. The CRA and Boston Properties (collectively, the "Parties") each acknowledge that this Letter, except for the limited purposes of establishing the Fixed Price and setting forth the timeline of the first phase of the Housing Project, as defined below, is a non-binding agreement, and is in no way intended to be a complete or definitive statement of all the terms and conditions of the proposed transaction, and that the negotiation and execution of documentation satisfactory to the Parties will be required. This Letter will document the understandings reached by the Parties to date and is intended to serve as a guideline for the negotiation and execution of the documents necessary to finalize the agreement between the Parties with respect to the Housing Project.

1. The Housing Project

As shown in the Infill Development Concept Plan ("IDCP") approved on January 17, 2017 and amended on January 31, 2019, Boston Properties intends to pursue the development of multi-family housing on Parcel 2 of the KSURP Area (the "Housing Project"). The design of the Housing Project currently involves the construction of two residential buildings in two phases: the first containing approximately 350,000 square feet of gross floor area as defined under Article 14 of the Cambridge Zoning Ordinance ("Residential GFA") and the second containing approximately 70,000 square feet of Residential GFA. Section 14.32.1 of the Zoning Ordinance requires that Boston Properties commence construction of a residential building of 200,000 square feet before an occupancy permit for the new commercial building at 325 Main Street can be issued. To achieve that timeline, Boston Properties had progressed the design of the first phase of the Housing Project at 135 Broadway, throughout 2018 and 2019.

2. Eversource Sub-Station Alternative Location

In 2019, when Eversource announced its plans for a new electrical substation on Fulkerson Street, the Cambridge City Manager brought together City staff and representatives from the local development community to explore an alternative location for that facility. Shortly after these initial discussions with the City Manager and hearings held by the City Council regarding the substation proposal, Boston Properties approached the CRA and the City Manager with the conceptual idea of placing the substation on the site of the Blue Garage within Parcel 2 of the KSURP Area (the "Eversource Project"). The technical challenges of the alternative substation location are complex and the planning efforts of Boston Properties and the CRA shifted toward understanding the alternative site's feasibility. Specifically related to this Letter, it has become apparent that to accommodate the Eversource

Project, the siting, massing, design, and timing for construction of the Housing Project will need to be modified. At this time, the CRA is preparing a zoning petition and an amendment to the Kendall Square Urban Renewal Plan ("KSURP") to allow the City Council to consider the development entitlements required to facilitate the Eversource Project while still allowing for the development of the Housing Project.

3. Consideration to be Paid to the CRA

Pursuant to the Development Agreements between Boston Properties and the CRA (the "Development Agreements"), Boston Properties is required to pay to the CRA a purchase price for all "Infill GFA" (as defined in the Development Agreements), including the Residential GFA. This purchase price is calculated on a per GFA square foot basis in accordance with a schedule in the Development Agreement, with the price per square foot increasing annually. The purchase price for Infill GFA is locked-in at the date at which the CRA approves the Schematic Design for the project at issue, and is payable once the approved project receives a building permit from the City of Cambridge.

The CRA understands that the Eversource Project site offered by Boston Properties is a significantly more favorable option for the neighborhood abutting the KSURP Area. The CRA has also made the delivery of the Housing Project a priority in the alternative site planning efforts. The CRA understands that if the Eversource Project had not become a key planning priority for the City of Cambridge, then Boston Properties would have continued to advance the plans for the Housing Project and had planned to submit a Schematic Design package for the larger of the two residential buildings at 135 Broadway to the CRA for consideration in 2019. Those design efforts have proceeded as illustrated in the conceptual design update, enclosed with and made a part of this Letter as Exhibit A.

Therefore, subject to the limitations set forth in this Letter the CRA agrees to amend the Development Agreements to fix the price for the Residential GFA associated with the Housing Project (whether as originally contemplated or as may be revised in conjunction with the Eversource Project) at the point it would have been set if a Schematic Design had been approved as of the date of this Letter, which the CRA agrees is as of the date of this Letter May 20th, 2020. According to the Development Agreement, the price for Infill GFA is currently fifty dollars and seventy-nine cents per square foot (\$50.79 / SF), (the "Fixed Price").

If the zoning and KSURP amendments to facilitate the Eversource Project are not approved within a year of this Letter, then Boston Properties will continue to advance the Housing Project consistent with what was previously approved in the IDCP and consistent with Exhibit A and will pay the purchase price for the Residential GFA associated with each of the two phases (in each case utilizing the Fixed Price) upon the issuance of a building permit for each such phase. Per the IDCP, construction would commence on the first phase of two residential buildings comprising the current Housing Project before the occupancy of the 325 Main Street commercial project, provided the design review process is conducted efficiently.

If the Eversource Project is approved, the Housing Project will be delivered in a different form and on a different schedule than currently required under the KSURP and IDCP, such that all of the available Residential GFA will be constructed in a single phase as soon as possible given the technical parameters of the Eversource Project. The Parties will propose new phasing and delivery requirements in the aforementioned zoning petition and KSURP amendment for consideration. In this case, assuming the zoning petition and KSURP amendment are approved, Boston Properties will advance the Housing Project consistent with those new requirements and will make the Residential GFA payment utilizing the Fixed Price upon the issuance of a building permit for the single phase.

Sincerely,

CAMBRIDGE REDEVELOPMENT AUTHORITY



Kathleen Born, Chair

AGREED AND ASSENTED TO:

BOSTON PROPERTIES LIMITED PARTNERSHIP

By: Boston Properties, Inc., its general partner



By: *DAVID C. PROCTOR*
SVP

duly authorized

Exhibit A: 135 Broadway Schematic Design Progress Set