

COOPERATION AGREEMENT (“AGREEMENT”)
**BETWEEN THE CITY OF CAMBRIDGE AND THE CAMBRIDGE REDEVELOPMENT
AUTHORITY FOR THE REDEVELOPMENT OF THE FOUNDRY BUILDING**

The **Cambridge Redevelopment Authority** (“CRA”) and the **City of Cambridge** (“City”) (collectively, the “Parties”) hereby agree to the following conditions related to the amendment of the Governing Documents (defined below) and the design, construction and operation for the redevelopment of the City-owned foundry building at 101 Rogers Street, Cambridge, Massachusetts (the “Foundry”).

RECITALS

1. The Foundry consists of the building and grounds of parcel 27-82 at 101 Rogers Street in Cambridge, Massachusetts (the “Site”) and was acquired by the City in 2012.
2. The Foundry requires significant capital investment, as well as a thorough programming and building operational management structure in order to be put into productive use as a community asset for the City.
3. The CRA is authorized by G.L. c. 121B, § 46(f) to carry out demonstration plans that are aimed at, in part, developing methods and techniques to accomplish results consistent with the CRA’s statutory authority.
4. The CRA and the Cambridge City Council approved a Demonstration Project Plan to implement the redevelopment of the Foundry (the “Project”) on December 17, 2014 and May 4, 2015 respectively. The Demonstration Plan Amendment was approved by the CRA and the Cambridge City Council on September 13, 2017 and September 25, 2017 respectively (the “Demonstration Plan”).
5. The Demonstration Plan states that the vision for the Foundry is to be “a creative, innovative center that offers a collaborative environment with a mix of cultural, educational, manufacturing, and commercial uses. The renovated multipurpose building will be designed for flexibility and is accessible, inclusive, and welcoming to the public. The activities within will be multigenerational and multicultural providing a citywide and neighborhood resource that is financially sustainable for years to come.”

6. The Parties entered into a 50-year lease on July 13, 2015 (the "Lease") designed to be consistent with the Demonstration Plan.
7. At the time of the execution of the Lease, the City had appropriated six million dollars (\$6 million) toward the capital improvements to the Foundry, and the CRA had committed two million dollars (\$2 million) toward reserve funds for the Foundry's on-going operation.
8. The City has expended approximately upwards of \$785,630 of its \$6 million appropriation (the "City Expended Funds") on initial demolition of the interior of the Foundry. The CRA has expended approximately \$500,000 of its funds on matters related to the Foundry.
9. The Governing Documents contemplate that the City Manager will appoint members of an advisory committee for the Foundry, and he has so appointed members of the Foundry Advisory Committee (the "FAC") which has been functioning as described in the Demonstration Plan.
10. Through additional community processes, including public meetings with the CRA and the Cambridge City Council, the Demonstration Plan was revised to be consistent with the current vision for the Foundry, which will require that significantly greater public investment of funds will be necessary for the implementation of that vision.

Consistent with that background and those understandings, the Parties agree as follows:

AGREEMENT

A. OBLIGATIONS OF THE PARTIES WITH RESPECT TO THE FOUNDRY

1. The CRA and the Cambridge City Council have worked together to develop a mutually-acceptable Demonstration Plan that reflects the current vision for the Foundry and the significantly greater investment of funds necessary for implementation of that vision.
2. The Parties agree that this Agreement sets forth the process for the procurement and other actions that are addressed in the Demonstration Plan.
3. Pursuant to the Demonstration Plan following its amendment in September 2017, the principal remaining activities related to the Project, involve a "Design and Construction Phase" during which the Project will be designed and constructed, and an "Operations Phase" which shall be

initiated following the issuance of the certificate of occupancy for the Foundry.

4. As set forth in more detail in this Agreement, the Parties anticipate that:
 - a. the City's total financial contribution toward the Foundry will be approximately \$24,000,000 (the "City's Project Contribution") which shall be used in the Design and Construction Phase. The Parties acknowledge that the City Expended Funds shall be credited towards the City's Project Contribution to the Project; and
 - b. the CRA's financial contribution toward the Foundry shall be \$9,000,000 (the "CRA's Project Contribution") which shall not be more than \$7,000,000 during the Design and Construction Phase and \$2,000,000 during the Operations Phase (as set forth in the Demonstration Plan).
5. The City's Project Contribution and the CRA's Project Contribution shall be used for the purposes and in the manner set forth in this Agreement, and the financial contributions of each Party will be re-evaluated following the completion and review by the Parties of the Feasibility Study ("First Decision Point"), after the City receives responses to the trade bids for the Core and Shell Project ("Second Decision Point"), at the time the certificate of occupancy is issued ("Third Decision Point"), and at the Closeout of Construction ("Fourth Decision Point") (collectively the "Decisions Points"). More specifically, in the event that the Parties determine that the total costs of the Design and Construction Phase are less than anticipated at the time this Agreement is executed, then the financial contributions of each Party will be reduced by the same proportion as their financial contributions (the City's Project Contribution and the CRA's Project Contribution, respectively) and put toward the Design and Construction Phase as set forth in this Agreement. Any proportional savings from the Design and Construction Phase will be transferred into the Capital Reserve Fund as described below.
6. The Parties will establish a "Foundry Project Team" that will include representatives of the City and the CRA to guide the implementation of this Agreement to support the redevelopment of the Foundry.
7. The Parties shall also report on progress to and receive feedback from the FAC at key points in the process through a regular reporting protocol.
8. The CRA shall provide support to the FAC and shall otherwise manage the public outreach process for the Project in cooperation with the City.
9. Defined terms used in this Agreement are further identified in Exhibit A.

B. OBLIGATIONS OF THE PARTIES WITH RESPECT TO PHYSICAL REDEVELOPMENT

The Parties have agreed to the following in order to carry out the physical redevelopment of the Foundry building:

- Design and Construction Process in General

1. All procurement processes, design decisions and permitting activities will include close coordination between the Parties. During the Design and Construction Phase, the Operator will make recommendations on the scope of the Fit-Out Project with the Contractor, subject to the approval of the OPM. The City will lead the permitting processes for all design and construction activities.
2. The City shall utilize an "owner's project manager" (the "OPM") to develop, in coordination with the CRA, a Request for Qualifications ("RFQ") for designer services. The City shall coordinate with the CRA prior to posting the RFQ.

- Design and Designer Selection Matters

3. The City shall select and manage a designer (the "Designer") according to a designer selection process conducted in consultation with CRA staff, pursuant to G.L. c. 7C, §§ 44-57, including use of a Designer Selection Committee. The CRA shall have at least two representatives on the Designer Selection Committee. The Operator is expected to be consulted during the Design process as described in Section C below.
4. The Designer will work closely with the Foundry Project Team to create a design for the Core and Shell Project and the Fit-Out Project (collectively, the "Design") and shall generally follow the process set forth in Exhibit B. The Designer will first conduct a Feasibility Study to assist the Parties in defining the scope of the Design. At the Decision Points, the Parties shall re-evaluate the Project's budget as discussed above in Section A.5 and shall refine the allocation and payment schedule for the City's Project Contribution and the CRA's Project Contribution.

- Construction and Contractor Selection Matters

5. Following selection of the Designer, the City shall apply to the Commonwealth of Massachusetts' Office of the Inspector General ("OIG") to utilize the Construction Manager at Risk process outlined in G.L. c. 149A ("CM at Risk") for major capital improvements (the "CM at Risk Application").

6. If the CM at Risk Application is approved, the City shall select and manage a contractor ("Contractor") through the CM at Risk process for major capital improvements to the Foundry (the "Construction") to complete the Core and Shell Project, consistent with the Design.
7. If the CM at Risk Application is denied, the City shall select, contract with and manage a Contractor through G.L. c. 149, on a lowest responsible bidder basis. All bidding processes for the Contractor, regardless of method, will be managed by the City.
8. After the Feasibility Study and prior to the City's execution of the contract with the Contractor, the City and the CRA shall determine whether the Fit-Out Project will use the same design team and the same contractor or whether there will be a separate procurement.
9. If the Fit-Out Project is procured separately through the applicable public procurement process, the CRA will manage it; otherwise, the CRA will coordinate the completion of the furnishings and finishes that are part of the Core and Shell Project with the City, the Designer, the Contractor, and in consultation with the Operator.

- Environmental Matters

10. The Parties acknowledge that environmental remediation of the Site may be required, that remediation work is ongoing on a property adjacent to the Site, and that the City has entered into a License Agreement with the owner of that property. The City shall conduct soil testing and design a remediation plan for the Site, if necessary, and shall implement the remediation plan as a part of the Core and Shell Project. The process to be followed for remediation of the Site shall be determined by the Parties.

- Costs and Cost Sharing During the Design and Construction Phase

11. The estimated costs of the Design and other soft costs related to the Design are seven million dollars (\$7,000,000). Upon the City's appropriation of funds toward the Design and Construction Phase, the CRA shall pay to the City two million dollars (\$2,000,000) of the CRA's Project Contribution to be used toward Design costs. The City will pay for the remaining costs of the Design.
12. The estimated cost of the Core and Shell Project is twenty million dollars (\$20,000,000) ("Core and Shell Cost Estimate"). At intervals to be agreed upon by the Parties, but in no event later than June 1st of the fiscal year in which the City's expenditure is made, the CRA shall reimburse the City one million dollars (\$1,000,000) of the CRA's Project Contribution for the Core and Shell Project. The City will pay for the remaining costs of the Core and Shell Project.

13. The estimated cost of the Fit-Out Project is four million dollars (\$4,000,000). At intervals to be agreed upon by the Parties, but in no event later than June 1st of the fiscal year in which the City's expenditure is made, the CRA shall reimburse the City an estimated four million dollars (\$4,000,000) of the CRA's Project Contribution for the Fit-Out Project ("CRA's Fit-Out Contribution"). In the event that the City's Project Contribution is less than \$24,000,000 and the Fit-Out Project does not require the entirety of the CRA's Fit-Out Contribution, then the remainder of the CRA's Project Contribution shall be applied to the Capital Reserve Account. In the event that the City's Project Contribution is more than \$24,000,000 and the Fit-Out Project does not require the entirety of the CRA's Fit-Out Contribution, then the remainder of the CRA's Project Contribution shall be used to reimburse the City up to the amount by which the City's Project Contribution exceeds \$24,000,000, whereafter any remainder shall be applied to the Capital Reserve Account.

C. OBLIGATIONS WITH RESPECT TO BUILDING OPERATION

The Parties have agreed to pursue the following in order to activate, program, and maintain the Foundry through the duration of the Lease:

- Core Details Pertaining to Operations Phase
 1. All operations functions will be managed by the CRA as the tenant of the Foundry. The CRA shall provide regular updates to the City throughout the procurement process and Term of the Lease.
 2. The CRA will procure a building operator team ("Operator") as described in this Section C below. The Operator will work at the direction of the CRA in a contractual relationship that will enable the CRA to oversee the operation of the Foundry.
 3. The Parties contemplate that subleases will be entered into with sub-tenants for market-rate spaces ("Market-Rate Tenants") and that subleases will be entered into with tenants for community space for which rent or usage fees may be reduced under certain conditions to be determined by the Parties ("Community Users") with the goal of balancing the revenues and costs of Foundry operations.
 4. The Operator will participate as an advisor in the Design and Construction Phase of the Project and will have three major roles during the Operations Phase: Property Manager, Program Manager, and Leasing Agent, as described in more detail in this Section C below.
 5. If the Operator is not capable of performing all three major operational roles at any time during the Lease, the CRA shall manage the roles separately until an Operator is able to integrate all three roles.

6. The CRA will cause the FAC to meet not less than quarterly to monitor progress in achieving the vision as set forth in the Demonstration Plan and success measures to be determined by the Parties. The FAC will report to the City Manager and shall submit an annual report on such measures to the City Manager.

- Procurement of Operator

7. The CRA will select the Operator through the Building Operator Procurement in coordination with the City. As part of the Building Operator Procurement, the CRA, in consultation with the City, will develop a scope of work that details the Operator's responsibilities during the Design and Construction Phase and the Operations Phase.

8. The CRA will use a "request for information" process (the "RFI") developed in coordination with the City (that may include one-on-one meetings with respondents at the CRA's discretion) to solicit feedback and information regarding prospective building operator teams on the design of the scope of services, the procurement process, and the plan for governance of the Foundry, all of which shall constitute one or more public process(es) for the procurement of the Operator (the "Building Operator Procurement"). The CRA may adjust the assumptions of the Building Operator Procurement based on feedback from the RFI with concurrence from the City. Such adjustments will not alter the CRA's financial commitment.

9. The CRA will conduct the Building Operator Procurement in parallel with the City's Designer selection process so as to have the prospective Operator collaborate with the Parties on the scope of the Design. The CRA will consult with the City on a regular basis during the Building Operator Procurement.

10. The CRA shall seek input on the Building Operator Procurement from the FAC from time to time in accordance with the protocol established pursuant to Section A.7 above.

- Building Operator Roles

11. The Operator is expected to assume the following three roles, subject to the management and oversight of the CRA:

- a. Property Manager: An Operator will manage the routine and normal upkeep of the Foundry through the Lease Term, as defined in Section D below, including capital maintenance costing less than fifty thousand dollars (\$50,000) in the aggregate per year and all routine maintenance. The Operator shall be responsible for the administrative and custodial functions of the Foundry, including

such functions as utilities, cleaning of common and private spaces, snow removal, landscape maintenance, and insurance and regularly anticipated building management activities. The Operator will be responsible for defining responsibilities and overseeing custodial functions between shared users.

- b. Program Manager: The Operator will manage the marketing, scheduling, and coordination of the use of all public spaces and spaces available for municipal or community uses. The Operator will seek anchor community tenants to utilize and program the community spaces and will partner with community tenants and other organizations to program and activate shared spaces and public spaces. The Operator will also conduct outreach into the Cambridge community to raise awareness of the Foundry's events and programs. The Operator will negotiate subleases and other agreements with Community Users to specify rents, membership fees, and other revenues; to define Community Users' rights and responsibilities to utilize shared resources and participation as building occupants; and to define responsibilities for all fit-out and furnishings.
- c. Leasing Agent: The Operator will manage the marketing of the Foundry and identify prospective Market-Rate Tenants. The CRA may authorize the Operator to negotiate agreements with Market-Rate Tenants to specify rents, membership fees, and other revenues and define the Market-Rate Tenants' rights and responsibilities to utilize shared resources and participate as building occupants, and to define responsibilities for fit-out and furnishings.

- Financial Matters Pertaining to Operations

- 12. The Operator will be provided with an annual operational budget that will be required to align with revenues from Community Users, Market-Rate Tenants, charitable contributions, third-party funders, and any other sources (collectively, "Project Revenues"). If the Operator is not capable of performing all three major operational roles at any time during the Lease, the CRA I, in consultation with the City Manager, will determine the budget allocation to each party conducting an operational role according to that party's operational role responsibilities.
- 13. Project Revenues will be paid into an account designated by the CRA for use at the Foundry consistent with the Governing Documents. In addition, the CRA will allocate a total of two million dollars (\$2,000,000) (the "CRA's Operations Funding") of the CRA's Project Contribution to the day-to-day operations of the Foundry as detailed below.

14. Based on the projected rental stream and operational costs, the CRA will hold the Project Revenues and the CRA's Operations Funding in the following three accounts, allocated based on sound budgeting practices and need:
 - a. Operation and Maintenance Account: an account dedicated to funding day-to-day programming, operations and maintenance and reimbursing such expenses, including the Operator's annual budget.
 - b. Operating Reserve Fund: an account dedicated to funding building operations and programming goals in response to unforeseen changes in revenues or operational needs.
 - c. Capital Reserve Fund: an account dedicated to funding future updates or new furnishings and finishes made in conjunction with the Core and Shell Project. The Parties anticipate that these improvements shall be made every ten (10) to twelve (12) years until the end of the Lease Term as part of the Foundry's self-sustaining financial model. The Building Operator Team may request disbursements from the Capital Reserve Fund to facilitate repairs and improvements to Community User spaces as approved by the City.
15. The CRA will allocate a portion of its Operations Funding to the Operation and Maintenance Account to support the initial year of operations, which is anticipated to require one million dollars (\$1,000,000) during tenant recruitment and program ramp up. The Operations Funding will help compensate the Building Operator Team for the costs of capacity-building, initial staffing, community outreach and other costs ahead of occupancy. The CRA and Operator will seek third-party funding sources for this capacity-building expense.
16. The CRA will allocate a portion of its Operations Funding to the Operating Reserve Fund, an amount that will be one million dollars (\$1,000,000) to cover unforeseen costs in the Foundry's operations (the "Operating Reserve Fund"). The Capital Reserve Fund will be funded by ongoing rental and other revenue streams.
17. The Parties will review the financial status of the Operation and Maintenance Account, the Operating Reserve Fund, and the Capital Reserve Fund at the end of the first year of the Lease Term, and general operating conditions every ten (10) years, pursuant to the terms of the Lease and more frequently as necessary.

D. TERM

The Term of this Agreement (the "Term") shall begin as of the date of last execution below and shall continue through the end of the Term of the Lease (the "Lease Term").

E. NOTICES, REPORTS AND COMMUNICATIONS

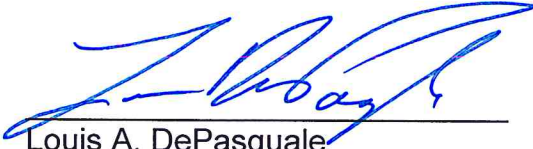
The Parties agree to cooperate with each other in satisfying their respective obligations under this Agreement. In connection therewith, the City hereby appoints the City Manager (the "City's Authorized Representative") to be its authorized representative with respect to any matter set forth in this Agreement which does not require additional action by the City in accordance with Massachusetts or local law, and the CRA appoints its Executive Director (the "CRA's Authorized Representative") to act on the CRA's behalf with respect to any matter set forth in this Agreement which does not require additional action by the CRA in accordance with Massachusetts or local law.

Any notice required or permitted to be given under this Agreement and all requests for information related to any matter covered by this Agreement, shall be directed to the City's Authorized Representative with a copy to the City Solicitor and the CRA's Authorized Representative, as appropriate. This Agreement may be executed in counterparts, with each counterpart representing one and the same document.

In consideration of the agreements set forth above, the City and CRA have respectively caused this Agreement to be duly executed as a sealed instrument as of the date last written below.

City of Cambridge

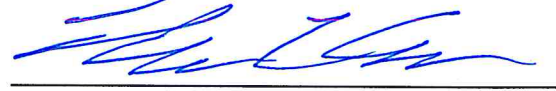
By:



Louis A. DePasquale
City Manager

**Cambridge Redevelopment
Authority**

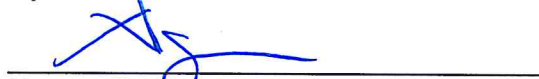
By:



Tom Evans
Executive Director

Approved as to Form

By:



Nancy E. Glowa
City Solicitor

Dated: December 14, 2017

EXHIBIT A – Definition of Terms

Agreement – The Cooperation Agreement between the City of Cambridge and the Cambridge Redevelopment Authority for the Redevelopment of the Foundry Building.

Building Operator Procurement – The process by which the CRA will select the Operator.

City – The City of Cambridge.

City-Expended Funds – The approximately \$782,450 expended by the City on the initial demolition of the interior of the Foundry building and site preparation work on the Site.

City's Authorized Representative – The City Manager, who will represent the City with respect to the Agreement.

Closeout of Construction – The date upon which the Core and Shell Project shall be completed by the Contractor and the one (1) year warranty period shall commence.

CM at Risk Application – The City's application to utilize the construction manager at risk process for selecting the Contractor.

Community Users – Users of public and community spaces in the Foundry including organizations facilitating community programs.

Contractor – The contractor that will construct the Core and Shell Project and Fit-Out Project.

Core and Shell Project – The major capital improvements required for the Foundry.

CRA – The Cambridge Redevelopment Authority.

CRA's Authorized Representative – The Executive Director of the CRA, who will represent the CRA with respect to the Agreement.

Designer – The designer of the Core and Shell Project and Fit-Out Project.

Design – The design of the Core and Shell Project and Fit-Out Project.

FAC – The Foundry Advisory Committee.

Fit-Out Project – The interior finishing, furnishing, and equipping of sub-tenant space at the Foundry. The scope and cost of the Fit-Out Project shall be established by the Feasibility Study and incorporated by reference herein.

Foundry – The City-owned Foundry building at 101 Rogers Street, Cambridge, MA.

Foundry Project Team – The team composed of representatives of the City and CRA that will guide the implementation of the Agreement and the Project.

Governing Documents - The Lease, the Demonstration Project Plan, the Disposition Report and such other documents related to the use of the Property, all as agreed upon by Landlord and Tenant.

Lease – The 50-year lease between the Parties, entered into on July 13, 2015 and as subsequently amended.

Lease Term – The term of the Lease.

Market-Rate Tenants –Users that will pay prevailing rents for office or similar uses.

OIG – Office of the Inspector General.

OPM – The City's Owner's Project Manager.

Operator – The entity selected by the CRA as part of the Building Operator Procurement.

Parties – The City and the CRA.

Project – The redevelopment of the Foundry.

RFI – The Request for Information to be used by the CRA as part of the Building Operator Procurement.

RFQ – The Request for Qualifications to be used by the OPM to procure design services.

Site – The building and grounds of parcel 27-82 at 101 Rogers Street, Cambridge, MA.

Soft Costs – Design, fees, and other administrative costs that are separate from and in addition to construction costs.

Term – The period between the date of last execution of the Agreement and the end of the Lease Term.

EXHIBIT B

Anticipated Project implementation steps Including Designer Selection, Core and Shell Project and Fit-Out Project

(Assuming Office of the Inspection General (OIG) approval of Construct Manager at Risk process):

1. City Manager Appoints Design Selection Committee
2. Preparation of RFQ for Designer
3. Selection Committee reviews RFQ prior to issuance
4. RFQ sent to Central Register
5. RFQ issued for Designer Services
6. Designers prepare RFQ
7. Distribute RFQ to Selection Committee
8. Selection Committee meets and shortlists design firms to interview
9. Selection Committee interviews shortlisted firms
10. Selection Committee makes recommendation to City Manager
11. Selection Committee request Proposal for Feasibility Study from the selected firm
12. Proposal Prepared by Selected Firm
13. Review and Negotiate Feasibility Study Proposal
14. Design Team prepares Feasibility Study
15. Review and Acceptance of Feasibility Study
16. Submit Application to OIG/approval within 60 days
17. Assuming OIG approval - submit RFQ to Central Register
18. RFQ issued for Construction Manager at Risk (CMaR) Services
19. CMaR prepare RFQ
20. Distribute RFQ to Selection Committee
21. Selection Committee meets and shortlists CMaR firms to interview
22. Short-listed Firms prepare presentation
23. Selection Committee interviews top 3 minimum shortlisted CMaR firms
24. Selection Committee makes CMaR recommendation to City Manager
25. Notice to Award CMaR services for Pre-Con Services
26. Design Phase
27. TRADE Bidding Phase - Early Packages TBD
28. Trade Bids received
29. Construction Phase
30. Fit out of spaces
31. Close out