

OPEN SPACE RESTRICTION COVENANT

THIS OPEN SPACE RESTRICTION COVENANT (the “Covenant”) is made as of the ____ day of _____, 2016 by MORTIMER B. ZUCKERMAN, MICHAEL A. CANTALUPA AND BRYAN J. KOOP, AS TRUSTEES OF TWO CAMBRIDGE CENTER TRUST under Declaration of Trust dated March 15, 1985 and recorded with the Middlesex South District Registry of Deeds (the “Registry”) in Book 16221, Page 423, as amended (“Two CC Trust”), MORTIMER B. ZUCKERMAN, MICHAEL A. CANTALUPA AND BRYAN J. KOOP, AS TRUSTEES OF THREE CAMBRIDGE CENTER TRUST under Declaration of Trust dated May 14, 1985 recorded with the Registry in Book 16221, Page 433, as amended (“Three CC Trust”) and BP FOUR CC LLC, a Delaware limited liability company (“BP Four CC LLC”). Two CC Trust, Three CC Trust and BP Four CC LLC are each sometimes hereinafter referred to individually as a “Grantor” and collectively as the “Grantors.”

The following are facts relevant to the execution of this Covenant:

A. The Grantors are parties to (i) that certain Open Space Restriction Covenant dated August 6, 1982 recorded with the Registry in Book 14692, Page 111 and filed with the Middlesex South Registry District of the Land Court (the “Land Court”) as Document No. 626277 (as modified by a certain Modification of Open Space Restriction Covenant dated October 17, 2012 recorded with the Registry in Book 60453, Page 440 and filed with the Land Court as Document No. _____) and (ii) that certain Open Space Restriction Covenant No. 2 dated September 25, 1986 recorded with the Registry in Book 17438, Page 57 and filed with the Land Court as Document No. 722720 (as modified by a certain Modification of Open Space Restriction Covenant dated October 17, 2012 recorded with the Registry in Book 60453, Page 447 and filed with the Land Court as Document No. _____) (the instruments described in clauses (i) and (ii) being hereinafter referred to as the “Existing Covenants”).

B. BP Four CC LLC is the owner of Tract II as described in the Existing Covenants, including the registered portion of Tract II shown as Lot 3 on Land Court Plan 4356C and described in Certificate of Title No. 132269 filed with the Land Court in Registration Book 791, Page 119.

C. Two CC Trust is the owner of that portion of Tract III as described in the Existing Covenants now constituting Tract IIIA, as shown on that certain plan entitled “Easement Plan of Land, Cambridge, Mass.” (the “Easement Plan”) dated November 19, 1985, revised to September 5, 1986, prepared by Allen & Demurjian, Inc. recorded with the Registry in Book 17438, Page 93 as Plan No. 1334 of 1986 (4 sheets), including the registered portion of Tract IIIA shown as Lot 2 on Land Court Plan No. 4356C, and described in Certificate of Title No. 178988, filed with the Registry District in Registration Book 1025, Page 38.

D. Three CC Trust is the owner of that portion of Tract III as described in the Existing Covenants now constituting Tract IIIB as shown on the Easement Plan.

E. BP East Garage LLC, a Delaware limited liability company, is the successor-in-title to First Parking Trust by virtue of an Assignment of Ground Lease and Quitclaim Deed to BP East Garage LLC, dated November 30, 2006, recorded with the Registry in Book 48591, Page 2 and filed with the Land Court as Document No. 1428738, as to the tenant's interest in a Ground Lease between Four CC Trust, as landlord (now held by the Trust), and the Trustees of First Parking Trust, as tenant, Notice of which Ground Lease is dated August 6, 1982, recorded with the Registry in Book 14692, Page 129 and filed with the Land Court as Document No. 626279, as affected by (i) a Notice of Termination of Trust vesting tenant's interest in First Cambridge Center Parking Associates, the beneficiary, dated June 25, 1993 recorded with the Registry in Book 23375, Page 440 and filed with the Land Court as Document No. 1156590, (ii) an Assignment of Ground Lease to First Cambridge Center Parking, Inc. dated September 5, 1997, recorded with the Registry in Book 28027, Page 498 and filed with the Land Court as Document No. 1156591 and (iii) an Assignment of Ground Lease and Quitclaim Deed to CRP-IILP Cambridge G, LLC dated July 25, 2006, recorded with the Registry in Book 47939, Page 193 and filed with the Land Court as Document No. 1418318.

F. The properties described in Items B, C and D above are sometimes hereinafter referred to collectively as the "Grantors' Property."

G. Grantors have agreed to dedicate of record those portions of the Grantors' Property shown as Parcel A and Parcel B on that certain Easement Plan dated October 1, 2012 prepared by Allen & Major Associates, Inc. and recorded with the Registry on November 9, 2012 as Plan No. 825 of 2012 (hereinafter, the "Open Space Area") as public open space for the benefit of the general public and to use the Open Space Area for the purpose of installing and maintaining grass, walkways, shrubs and other forms of landscaping and public amenities.

H. By the dedication thereof as set forth herein, the Open Space Area shall constitute public open space under Section 14.42 of the Zoning Ordinance for the City of Cambridge.

NOW THEREFORE, the Grantors hereby impose the following restrictions on the Open Space Area, and assume the following obligations in connection therewith:

(a) The Open Space Area shall be used only: (1) to provide light and air to the surrounding buildings and improvements; (2) for scenic, recreational, or similar purposes; (3) for subsurface utility services (including, without limitation, gas, electric, telephone and cable), water service and stormwater drainage; and (4) for pedestrian ingress and egress to and from the buildings and other improvements that may be constructed from time to time on the Grantors' Property. In connection with the foregoing, the Grantors agree to pursue a series of public programs to activate the Open Space Area, consistent with other similar programs being sponsored by the Grantors' affiliates in other open spaces areas within the MXD District.

The Open Space Area shall be open and available to the community use of residents and lessees of, and visitors to, the MXD District, seven days a week, during the period

commencing one hour after sunrise and ending one hour before sunset: provided that Grantors may (i) after 15 days' prior written notice to the Executive Director of the Cambridge Redevelopment Authority ("CRA"), or his successor or designee, adopt reasonable rules and regulations for the purposes of safety and security to persons and property, with respect to the use and operation of the Open Space Area, which rules and regulations may, inter alia, modify the days and hours during which the Open Space Area shall be open and available for community use as aforesaid; and (ii) adopt such additional rules and regulations as may be approved by said Executive Director, or his successor or designee, which approval shall not be unreasonably withheld or delayed. The notice to said Executive Director hereinabove required shall set forth the proposed rules and regulations, a brief explanation of the reason for such rules and regulations, the proposed effective date of such rules and regulations and an offer to meet with said Executive Director, or his successor or designee, at least 10 days prior to the implementation of such proposed rules and regulations.

(b) No such rules and regulations shall be valid if they frustrate the requirements of the Zoning Ordinance that the Open Space Area be open and available to the community use of the residents, lessees and visitors to the MXD District for reasonable amounts of time on a regular basis.

(c) Subject to rules and regulations which may be adopted as aforesaid, the Grantors covenant that such residents, lessees and visitors shall be entitled to use all pedestrian ingress and egress access and easement areas as were granted by the Grantors under the Existing Covenants and as more particularly described therein, including, without limitation, all stairways and elevators constructed as part of the improvements located upon the Grantors' Property and leading to the roof of said improvements.

(d) The aforesaid restriction regarding the use and enjoyment of the Open Space Area shall be a burden on the Grantors' Property, and shall run to the benefit of, and shall be enforceable by, the CRA. The Open Space Area is subject to those easements, encumbrances and other title exceptions in effect as of the date hereof. Without limiting the generality of the foregoing, it is expressly understood and agreed that during any period of time when both this Covenant and the Existing Covenants are in effect (i) this Covenant shall be subordinate to the Existing Covenants, (ii) in the event of any conflict or inconsistency between this Covenant and the Existing Covenants, the Existing Covenants shall govern, and (iii) the CRA may, without further approval of the Grantors, assign this Covenant to the City of Cambridge. In the event of such an assignment, the CRA and the Grantors intend that this Covenant shall be enforceable by the City of Cambridge, that the actions of the Executive Director of the CRA as set forth herein shall be assumed by the City Manager of the City, and that Covenant, as so assigned, may only then be amended, modified or terminated by a majority vote of the City Council of the City of Cambridge.

(e) From and after the expiration of the Existing Covenants, the Grantors covenant and agree to keep in effect, or cause to be kept in effect, at all times, general liability insurance naming the CRA as an additionally insured party, with limits of not less than \$1,000,000/\$5,000,000 against claims for injury to or death of one or more than one

person, not less than \$500,000 for property damage and not less than \$50,000 for medical payments (or such greater limits as the CRA, or its successor public body, may reasonably request from time to time) due to alleged incidents occurring on or about the Open Space Area. Upon request therefore, the Grantors shall promptly furnish, or cause to be furnished promptly, to the CRA, evidence, reasonable satisfactory to the CRA, that the aforesaid insurance is being maintained.

(f) The Grantors covenant and agree to maintain, or cause to be maintained, the Open Space Area and all improvements thereon (including, without limitation, any landscaping) in an attractive, good, clean and sanitary condition, free of debris, and all pedestrian paths and passageways located on the Open Space Area shall be maintained sufficiently free of snow and ice to provide adequate and safe pedestrian access in accordance with City of Cambridge Department of Public Works' guidelines.

(g) This Covenant shall terminate automatically without the requirement of the execution or recordation of any further instrument of termination, upon the earlier of (i) the date on which the buildings located on the Grantors' Property, or any substantial part thereof, no longer exist by reason of casualty or taking; or (ii) June 30, 2115.

(h) Subject to the provisions of the preceding paragraph (f), this Covenant may not be amended, modified or terminated except by vote of the Members of the CRA and with the approval of the Grantors, their respective successors-in-title and assigns. The Grantors and the CRA agree that an assignment of this Covenant in accordance with the preceding paragraph (d) shall not be deemed an amendment, modification or termination.

(i) The rights and obligations of the Grantors hereunder (including, without limitation, the right to adopt rules and regulations pursuant to the terms thereof) shall be appurtenant to and a burden upon the Open Space Area and the Grantors' Property and shall run to the benefit of, and be enforceable by, the CRA.

[page ends here]

IN WITNESS WHEREOF, the undersigned have caused this Covenant to be duly executed, under seal, on the day and year first above written.

TWO CAMBRIDGE CENTER TRUST

By: _____
Michael A. Cantalupa, for himself and
his fellow Trustees, but not individually

THREE CAMBRIDGE CENTER TRUST

By: _____
Michael A. Cantalupa, for himself and
his fellow Trustees, but not individually

BP FOUR CC LLC

By: Boston Properties Limited Partnership,
its sole member

By: Boston Properties, Inc.,
its general partner

By: _____
Name: Michael A. Cantalupa
Title: Senior Vice President,
Development

BP East Garage LLC, for itself and its successor and assigns, hereby joins in this Covenant for the purpose of confirming that its rights and obligations under the Ground Lease shall remain at all times subject and subordinate to such rights granted in the Covenant and such obligations imposed thereby.

BP EAST GARAGE LLC

By: Boston Properties Limited Partnership,
its sole member

By: Boston Properties, Inc.,
its general partner

By: _____
Name: Michael A. Cantalupa
Title: Senior Vice President,
Development

COMMONWEALTH OF MASSACHUSETTS)
)
COUNTY OF SUFFOLK)

On this ___ day of _____, 2016, before me, the undersigned notary public, personally appeared Michael A. Cantalupa, proved to me through satisfactory evidence of identification, which were _____, to be the person whose name is signed on the preceding and acknowledged to me that he signed it voluntarily for its stated purpose as Trustee of Two Cambridge Center Trust but not individually.

_____ (official signature and seal of notary)

My commission expires: _____

COMMONWEALTH OF MASSACHUSETTS)
)
COUNTY OF SUFFOLK)

On this ___ day of _____, 2016, before me, the undersigned notary public, personally appeared Michael A. Cantalupa, proved to me through satisfactory evidence of identification, which were _____, to be the person whose name is signed on the preceding and acknowledged to me that he signed it voluntarily for its stated purpose as Trustee of Three Cambridge Center Trust but not individually.

_____ (official signature and seal of notary)

My commission expires: _____

COMMONWEALTH OF MASSACHUSETTS)
)
COUNTY OF SUFFOLK)

On this ___ day of _____, 2016, before me, the undersigned notary public, personally appeared Michael A. Cantalupa, proved to me through satisfactory evidence of identification, which were _____, to be the person whose name is signed on the preceding and acknowledged to me that he signed it voluntarily for its stated purpose as Senior Vice President of Boston Properties, Inc., the general partner of Boston Properties Limited Partnership, the sole member of BP Four CC LLC.

_____ (official signature and seal of notary)

My commission expires: _____

COMMONWEALTH OF MASSACHUSETTS)
)
COUNTY OF SUFFOLK)

On this ___ day of _____, 2016, before me, the undersigned notary public, personally appeared Michael A. Camtalupa, proved to me through satisfactory evidence of identification, which were _____, to be the person whose name is signed on the preceding and acknowledged to me that he signed it voluntarily for its stated purpose as Senior Vice President of Boston Properties, Inc., the general partner of Boston Properties Limited Partnership, the sole member of BP East Garage LLC.

_____ (official signature and seal of notary)

My commission expires: _____