

To: Cambridge Redevelopment Authority Board

From: Alexandra Levering, Project Manager

RE: 325 Main Street Escrow Agreement and Certificate of Completion

Date: June 8th, 2022

On March 28, 2019 the Cambridge Redevelopment Authority (CRA) Board approved Boston Properties' 325 Main Street, Commercial Building B Schematic Design to replace the existing Three Cambridge Center building in the Kendall Square Urban Redevelopment Plan (KSURP). After the approval of Schematic Designs, review of 325 Main Street per the Design Review and Document Approval Procedures (DRDAP), was separated into two phases as requested by Boston Properties (BXP) in a letter dated April 26, 2019. As agreed by the CRA and City of Cambridge (City), Phase I includes the base building tower design and Phase II includes public realm elements. Phase I base building Construction Documents (CDs) were approved with conditions on July 24, 2019 and Phase II public realm CDs were approved with conditions on July 29, 2020. Construction began after the ground-breaking ceremony on January 17, 2020.

After two years of construction, 325 Main Street is now nearing completion. Per the Cambridge Center Development Agreement with BXP, the CRA must provide a Certificate of Completion for the project ahead of building occupancy, which may include remaining items, particularly in the public realm, that are to be completed after building occupancy. A draft Escrow Agreement between Boston Properties, Three Cambridge Center Trust and the CRA is included below. Exhibit A of the Escrow Agreement will be a punch list of incomplete items of work. Draft remaining items of work are identified below, and will be finalized after the CRA Board completes its walkthrough of 325 Main Street, scheduled for June 6, 2022, and after CRA staff coordinate with City departments. Exhibit B is a draft Certificate of Completion. Additionally, under the KSURP and the MXD Zoning, the CRA must provide the Inspectional Services Division a Cumulative GFA Chart tabulating all the completed and planned development withing the KSURP.

Current Outstanding Items of Work

- Paving work between 325 Main Street and the MBTA Headhouse
- Art bike racks
- Main Street bus shelter relocation
- Roof Garden Furniture
- Second Level Terrace Ipe decking
- Roof Garden truss sign installation
- Broadway hoist open space completion
- Bike parking sliding door
- Wayfinding signage
- Gas screen panels
- Metal trim completion at Google egress stair in public lobby
- Proto ground floor equipment removal/clean up
- Clean-up/touch up paint at flashing along terracotta band behind the MBTA Headhouse
- Remaining art implementation on social stair
- Curtainwall joints/weepers at ground floor – pending feasibility
- 355 and 325 Main Street gasket connection.

ESCROW AGREEMENT

AGREEMENT made as of the ____ day of June, 2022 by and among the Cambridge Redevelopment Authority (the “Authority”), a public body, corporate and politic, duly organized and existing pursuant to the General Laws of Massachusetts, having its office at 255 Main Street, Cambridge, Massachusetts 02142 and Three Cambridge Center Trust (“3 CCT”), a Massachusetts nominee trust, having its office c/o Boston Properties, Inc. at 800 Boylston Street, Boston, Massachusetts 02199.

WITNESSETH:

WHEREAS, 3 CCT is the owner of the property known as and numbered 325 Main Street, Cambridge, Massachusetts (the “Property”), which property is shown as Tracts IIIB and V on that certain plan entitled “Kendall Sq. Urban Renewal Area, Cambridge, Mass.” prepared by Allen and Demurjian, Inc and dated September 5, 1986, recorded with the Middlesex South District Registry of Deeds as Plan No. 1334 of 1986 (the “Plan”). It is acknowledged and agreed that a portion of the Property consists of a parcel of land originally acquired from the Authority for which a Certificate of Completion had already been issued with respect to the original (now demolished) improvements constructed thereon.

WHEREAS, 3 CCT has constructed certain improvements on the Property (the “Improvements”).

WHEREAS, 3 CCT has represented to the Authority that, except for those incomplete items of work (the “Work”) described in Exhibit A annexed hereto and made a part hereof, all of the Improvements have been completed in accordance with the plans previously submitted to and reviewed by the Authority;

WHEREAS, 3 CCT has requested that the Authority issue a certificate (the “Certificate of Completion”) certifying as to its approval of the completed Improvements; and

WHEREAS, the Authority would not agree to issue its Certificate of Completion unless 3 CCT agreed to make the escrow deposit and complete the Work under the terms and conditions of this Escrow Agreement;

NOW, THEREFORE, in consideration of these presents and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. The Authority, by its execution of this Agreement, acknowledges receipt of an unconditional and irrevocable letter of credit (the “Letter of Credit”), in the face amount of _____ (\$ _____) issued to the Authority by _____ (the “Bank”), which Letter of Credit shall be held and disposed of in accordance with the provisions of this Agreement.

2. The Authority herewith delivers 3 CCT its Certificate of Completion in the form of Exhibit B annexed hereto and made a part hereof, which Certificate of Completion 3 CCT shall be entitled to record.

3. 3 CCT hereby covenants and agrees to complete in a good and workmanlike manner, and in accordance with plans and specifications approved previously by the Authority and free and clear of any claims or liens for labor or materials, on or before _____, which date shall be automatically extended for such periods of time as the completion of the Work is delayed because of causes beyond 3 CCT’s control and without its fault or negligence, including, but not restricted to, acts of God or of the public enemy, acts of the Government (including, without limitation, the delay or refusal of any governmental authority to issue permits, approvals and the like when the application therefor conforms to all legal requirements and is based upon plans

approved by the Authority), acts of the Authority, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, unusually severe weather, delays of contractors or subcontractors or materials shortages (such date, as it may be so extended, being hereinafter referred to as the “Completion Date”), the Work described in Exhibit A hereto. Upon completion of the Work as aforesaid, 3 CCT shall certify in writing to the Authority that the Work has been completed as aforesaid. Upon completion of the Work described in Exhibit A hereto, the Authority, promptly after receipt of such certification and the determination by the Authority that the Work has been completed, which determination shall not be unreasonably withheld or delayed, shall surrender the Letter of Credit to 3 CCT. If 3 CCT does not receive any objections in writing from the Authority to its certificate so certifying to completion of the Work within five (5) Business Days (hereinafter defined) after receipt by the Authority of such certifying party’s completion certificate, then, for all purposes hereof, completion of the Work shall be deemed to have occurred. As used herein, “Business Days” shall mean a day when federally chartered banks in Boston, Massachusetts are open for business.

4. If there is a failure to complete the Work as aforesaid, the Authority shall have the right to convert that amount of the Letter of Credit attributable to the Work not completed by the Completion Date into cash (the “Cash Proceeds”) and shall forthwith return to 3 CCT the remainder of the Letter of Credit attributable to the Work completed by the Completion Date, but only upon the following terms and conditions:

(i) the Authority shall have the right, by written notice sent to 3 CCT to elect to complete or not to complete the Work. Failure of the Authority to send such notice within such forty-five (45) day period shall be deemed, for all purposes hereunder, an election by the Authority not to complete the Work. If the Authority shall elect to complete the Work or any part thereof, the Authority shall be entitled to the Cash Proceeds and, promptly upon its receipt thereof, shall commence and thereafter diligently prosecute such Work or part thereof to completion. In such circumstance, 3 CCT hereby grants to the Authority the right to enter upon the Land and Improvements in order to perform the Work. Upon

completion of the Work, or any part thereof, the Authority shall certify to 3 CCT that it has completed the Work or such part thereof. The Authority shall have the right to retain, as liquidated damages, any portion of the Cash Proceeds not required in connection with the completion of the Work or portion thereof as aforesaid.

(ii) If the Authority shall elect or shall be deemed to have elected not to complete the Work, as aforesaid, and if, prior to the date on which the election shall have been made (or shall have been deemed to have been made) not to complete the Work, then, in such event only, the Cash Proceeds shall be paid over to the Authority and the Authority shall have the right to retain the amount thereof as liquidated damages for the failure of 3 CCT to fulfill its obligations hereunder.

5. If the Authority elects to perform the Work, 3 CCT shall indemnify the Authority and hold it harmless against any and all losses, liabilities, claims, damages and expenses, including reasonable attorneys' fees, arising from such performance (the "Performance Costs"). If the Cash Proceeds are less than the Performance Costs, 3 CCT shall pay to the Authority the amount of such deficiency within ten (10) days after demand therefor.

6. Any notice, communication or document, including the Letter of Credit, required or permitted to be given or delivered by any party hereunder shall be in writing and shall be deemed given or delivered when personally delivered or mailed by certified or registered first-class mail, postage prepaid, and

(i) in the case of 3 CCT is addressed to 3 CCT c/o Boston Properties, Inc. at 800 Boylston Street, Suite 1900, Boston, Massachusetts 02199, Attention: Mr. David Provost (with copies to Boston Properties, Inc., 800 Boylston Street, Suite 1900, Boston, Massachusetts 02199, Attention: Madeleine C. Timin, Esq.); and

- (ii) in the case of the Authority, is addressed to the Authority at 255 Main Street, Cambridge, Massachusetts 02142, Attention: Kathleen L. Born, Chair; and to Foley Hoag LLP, 155 Seaport Boulevard, Boston, Massachusetts 02210, Attention: Jeffrey Mullan, Esquire;

or such changed address as the party to be notified shall have communicated in writing to the other party. Upon receipt by the Authority from the Mortgagee of its identity and address to which communications and notices are to be sent, the Mortgagee so named, for all purposes hereof, shall be treated as a party to this Agreement just as if it had been a party signatory to this Agreement on the date hereof.

7. This Agreement shall inure to the benefit of and bind the respective heirs, legal representatives, successors and assigns of the parties hereto and shall be construed and enforced in accordance with the laws of The Commonwealth of Massachusetts.

[signatures appear on next page]

IN WITNESS WHEREOF, this Agreement has been duly executed under seal by the parties as of the day and year first above written.

CAMBRIDGE REDEVELOPMENT AUTHORITY

By: _____

Name: _____

Title: _____

DRAFT
ELEVEN CAMBRIDGE CENTER TRUST

David C. Provost, Trustee, for himself and his fellow Trustees but not individually

EXHIBIT A TO ESCROW AGREEMENT

REMAINING WORK

DRAFT



EXHIBIT B TO ESCROW AGREEMENT

CERTIFICATE OF COMPLETION

CAMBRIDGE REDEVELOPMENT AUTHORITY (the “Authority”), a public body, politic and corporate, duly organized and existing pursuant to the General Laws of Massachusetts, as amended, and having its principal office at 255 Main Street in the City of Cambridge, Middlesex County, Massachusetts, DOES HEREBY CERTIFY that it approves of the improvements completed by Three Cambridge Center Trust (the “Trust”) on the land shown as Tracts IIIB and V on that certain plan recorded with the Middlesex South District Registry of Deeds as Plan 1334 of 1986, which such land was conveyed to the Trust by (i) that certain quitclaim deed dated as of September 25, 1986 recorded with the Registry of Deeds in Book 17438, Page 99 and (ii) that certain quitclaim deed dated as of September 24, 1986 recorded with the Registry of Deeds in Book 17438, Page 104 (as amended by that certain Amendment of Deed dated April 1, 1988 recorded with the Registry of Deeds in Book 20757, Page 597).

IN WITNESS WHEREOF said CAMBRIDGE REDEVELOPMENT AUTHORITY has caused this CERTIFICATE to be executed and its seal to be hereto affixed by its officers thereunto duly authorized, as of the ____ day of June 2022.

ATTEST:

CAMBRIDGE REDEVELOPMENT
AUTHORITY

By: _____

Name: _____

Title: _____

COMMONWEALTH OF MASSACHUSETTS

_____, ss.

_____, 2022

On this __ day of June, 2022, before me, the undersigned notary public, personally appeared _____, 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/she signed it voluntarily for its stated purpose as _____ for the Cambridge Redevelopment Authority.

Notary Public

My Commission Expires:

Kendall Square Urban Redevelopment Area

Aggregate GFA of Development - Sum of GFA of all buildings which are, are being, or may be constructed. As per Article 2.0 in the Zoning Ordinance, parking garages and accessory parking facilities shall not be included in the calculation of GFA.

Per the MXD Zoning 14.32.3 (2) and the Kendall Square Urban Renewal Plan, the CRA shall provide an Aggregate GFA record to ISD and CDD with a building permit or certificate of occupancy utilizing infill GFA.

GFA Cap in MXD	4,473,000
GFA Residential Only	600,000
BZA Variance for 415 Main Street	29,100
Total Allowable GFA	5,102,100

MXD DISTRICT

Parcel Data				Development Program										
Parcel Number	Project Name	Owner	Aggregate Total (sf)	Completed GFA (sf)					Under Development (sf)					
				TOTAL	Office	Residential	Hotel	Retail/Recreational Use	Pool	TOTAL	Infill Residential	Infill Office	Infill Retail	
2	105 Broadway / 10 CC	BP	145,603	145,603	145,603									
2	145 Broadway / 11 CC	BP	441,614	441,614	432,877			8,737						
2	115 Broadway / 12 CC	Biogen	233,945	233,945	96,537					137,408				
2	250 Binney / 14 CC	BP	429,836	62,576	62,576						367,260		367,260	
2	125 Broadway / 15 CC	Biogen	218,288	218,288						218,288				
2	300 Binney / 17 CC	BP	188,079	188,079						188,079				
2	290 Binney Street	BP	432,740	-							432,740		432,740	
2	135 Broadway	BP	403,040	-							403,040	403,040		
Sub-total Parcel 2			2,493,145	1,290,105	737,593	-	-	8,737	543,775	1,203,040	403,040	800,000		
3	Residence Inn / 6 CC	Xenia Development	187,474	187,474					185,356	2,118				
3	415 Main / 7 CC	BP / MIT	194,096	194,096	181,641					12,455				
3	150 Broadway / 8 CC	BP	176,562	176,562										
3	Whitehead / 9 CC	Whitehead	257,519	197,519	130,310					67,209	60,000		60,000	
3	75 Ames St (1)	Broad	263,999	250,000	246,249			3,751			13,999		13,999	
Sub-total Parcel 3			1,079,650	1,005,651	734,762	-	185,356	18,324	67,209	73,999			73,999	
4	255 Main / 1 CC	BP	110,377	215,377	115,342					100,035	(105,000)		(105,000)	
4	Marriott / 2 CC	BP	330,058	330,058			250,000	40,245	39,813					
4	325 Main / 3 CC	BP	383,479	383,479	343,093			40,386						
4	90 Broadway / 4 CC (2)	BP	221,237	221,237	196,844					24,393				
4	355 Main / 5 CC	BP	260,243	272,387	231,919					14,507	25,961	(12,144)	(12,144)	
4	88 Ames	BP	212,477	212,477	10,492	197,107			4,878					
Sub-total Parcel 4			1,517,871	1,635,015	897,690	197,107	250,000	100,016	190,202	(117,144)			(117,144)	
TOTALS			5,090,666	3,930,771	2,370,045	197,107	435,356	127,077	801,186	1,159,895	403,040	756,855		

- (1) Official documentation for 75 Ames pending
- (2) 4,486 SF of office space is allocated as temporary office, and will return to retail space on 9/30/38 as per the MOU between the CRA/BXP dated XXX

Total GFA Built To Date	3,930,771
Planned GFA Non-Multi-Family	600,000
GFA Multi-Family	403,040
Total Allowable SF	5,102,100
Aggregate Total	5,090,666
Projected GFA Under Cap	11,434

Ames Street Sub-District

Parcel Data				Development Program										
Parcel Number	Project Name	Owner	Aggregate Total (sf)	Completed GFA (sf)					Under Development (sf)					
				TOTAL	Office	Residential	Hotel	Retail	Pool	TOTAL	Infill Residential	Infill Office	Infill Retail	
3	75 Ames St	Broad	263,999	250,000	246,249					3,751	13,999		13,999	
4	255 Main / 1 CC	BP	110,377	215,377	115,342					100,035	(105,000)		(105,000)	
4	Marriott / 2 CC	BP	330,058	330,058			250,000	40,245	39,813					
4	325 Main / 3 CC	BP	383,479	383,479	343,093			40,386						
4	90 Broadway / 4 CC	BP	221,237	221,237	196,844					24,393				
4	355 / 5 CC	BP	260,243	272,387	231,919					14,507	25,961	(12,144)	(12,144)	
4	88 Ames	BP	212,477	212,477	10,492	197,107			4,878					
Sub-total Parcel 4			1,781,870	1,885,015	1,143,939	197,107	250,000	103,767	190,202	(103,145)			(103,145)	

Total GFA Built To Date	1,885,015
Projected Build Out Non-Multi-Family	(103,145)
Projected Build Out Multi-Family	-
Aggregate Total	1,781,870