

AMENDMENT TO DEVELOPMENT AGREEMENTS (2017)

AMENDMENT TO DEVELOPMENT AGREEMENTS (2017) (hereinafter the “2017 Amendment” or the “Amendment”) dated as of January \_\_, 2017 (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, Fourth 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 Renewal Area (the “Urban Renewal 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 “Development Area” and hereafter sometimes referred to as the “Parcel 3 Development Area” 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; and
- Amendment No. 15 to Parcel 3 and 4 Development Agreement dated December 12, 2016

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 Kendall Square Urban Renewal 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; and
- Amendment No. 8 to Parcel 2 Development Agreement dated July 14, 2004.

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 Amended and Restated Kendall Square Urban Renewal Plan dated December 31, 2015 (as so amended, the “KSURP”).

5. The Authority and the Developer 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. Reference is made to the KSURP and to that certain Ordinance Number 1377 issued by the City of Cambridge on December 21, 2015, each of which increased the overall square feet of gross floor area available for development in the MXD District by 940,000 square feet (which such additional gross floor area is defined in said Ordinance Number 1377, and is hereinafter referred to, as “Infill GFA”), which increased the “Aggregate GFA” allowed in the MXD District to 4,273,000 square feet, and which represents all of the remaining Aggregate GFA to develop in the MXD District.

2. The Parties agree: that 926,000 square feet of the Infill GFA is located within the Development Area and is proposed for development by the Developer in one or more projects (each, an “Infill Project” and, collectively, the “Infill Projects”), that 14,000 square feet of Infill GFA is proposed for development by others, and that an additional 60,000 square feet of gross floor area that does not constitute Infill GFA is proposed for development within the Development Area by others. For the purposes of this Amendment, “Infill GFA” shall refer to the 926,000 square feet of GFA proposed for development by the Developer.

3. (A) The purchase price for the Infill GFA (the “Infill GFA Purchase Price”) shall be an amount equal to (x) the product of (i) the number of gross square feet of Infill 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 on an the Infill Development Concept Plan submitted by the Developer to the City of Cambridge on August 9, 2016 (the “2016 Concept Plan”) 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 Base Purchase Price of the Infill GFA (as hereinafter defined); provided, however, that the Infill GFA Purchase Price for the first Infill Project to be developed on the Infill GFA shall be increased by the KSTEP Costs (as hereinafter defined).

For the purposes hereof:

- (i) The Base Purchase Price of the Infill GFA shall be calculated in accordance with the formula set forth in Paragraph B(2)(a) of the Original Parcel 2 Development Agreement, as modified by Paragraph B(9) of the Amendment to Development Agreements dated January 14, 1991 (the “1991 Amendment”); provided, however, that (a) all references in such paragraphs to Parcel 2 of the Development Area shall be deemed to be references to Parcels 2, 3 or 4 of the Development Area, and (b) the Infill GFA Purchase Price shall be established as of the date of the Authority’s approval of the schematic design of the Infill Project.

- (ii) In connection with the foregoing, it is acknowledged and agreed that (x) as of the Date of this Amendment, the Base Purchase Price for the Infill GFA for the Infill Projects shown on the 2016 Concept Plan shall be \$38.09 per square foot for those components of an Infill Project not used for Office Uses under any of the provisions of Section 14.21.2 of Article 14.000 of the Zoning Ordinance and \$76.18 per square foot those components of an Infill Project used for Office Uses under any of the provisions of said Section 14.21.2, and shall be increased as provided in Exhibit B attached to this Amendment, and (y) as of the Date of this Amendment, the Authority has approved the schematic design of the Infill Project located at 145 Broadway (formerly known as Eleven Cambridge Center).
- (iii) The “KSTEP Costs” shall be \$3,000,000, calculated as fifty (50%) percent of the lump sum KSTEP funding as set forth in that certain Kendall Square Transit Enhancement Program Memorandum of Understanding dated October ----, 2016 between the Authority, the Massachusetts Bay Transportation Authority, and the Massachusetts Department of Transportation (the “MOU”) (it being understood and agreed that the Authority shall fund the lump sum KSTEP funding as required by the MOU, and that the Developer shall have no obligation therefor beyond the payment of the KSTEP Costs as set forth herein).

(B) Notwithstanding anything contained in the Development Agreements to the contrary, it is understood and agreed that the Infill GFA Purchase Price as set forth herein: (i) shall be payable by the Developer upon the issuance by the City of Cambridge of a building permit for the Infill Project and shall be documented as paid and received in accordance with this Amendment at such time; and (ii) shall be in addition to the purchase price that has already been paid by the Developer for the Individual Parcel(s) upon which the Developer shall utilize the Infill GFA (it being acknowledged and agreed that the Authority no longer holds title to any of the Individual Parcels in the Development Area upon which the Infill GFA may be utilized).

4. It is acknowledged and agreed that:
  - (i) The Developer may be demolishing certain existing buildings within the Development Area and developing an Infill Project on the applicable Individual Parcels utilizing a combination of the gross floor area originally allocated to the existing buildings as reflected on the Certificates of Completion issued by the Authority therefor (such originally allocated gross floor area being hereinafter referred to as the “Existing GFA”) and Infill GFA.
  - (ii) The Developer may be redeveloping portions of existing buildings within the Development Area for uses that are excluded from the calculation of Aggregate GFA pursuant to the terms of the Zoning Ordinance and the KSURP, and utilizing the Existing GFA from such redeveloped portions within an Infill Project located elsewhere in the Development Area.
  - (iii) The Developer has not yet utilized ----- square feet of Aggregate GFA that does not constitute Infill GFA (hereinafter referred to as “Remaining GFA”), which

Developer retains the right to access in accordance with the Development Agreements.

In connection with the foregoing, and notwithstanding anything contained herein or in the Development Agreements to the contrary, the Authority hereby agrees that: (x) the Authority shall permit and document the reuse of Existing GFA (after confirming compliance with the applicable provisions of the Zoning Ordinance and the KSURP, in the case of any Existing GFA that is made available as the result of redevelopment of existing space for uses that are excluded from the calculation of Aggregate GFA) and/or Remaining GFA as part of the development of an Infill Project; (y) there shall be no additional purchase price payable by the Developer to the Authority on account of the Developer's reuse of Existing GFA; and (z) the purchase price for any Remaining GFA shall be determined in accordance with the applicable provisions of the Development Agreements.

5. It is acknowledged and agreed that Ordinance Number 1377 requires that the review and approval of an "Infill Development Concept Plan" under Section 14.32.2 of the Ordinance and subsequent building design review of projects utilizing Infill GFA under Section 14.32.2.4 of the Ordinance shall be conducted jointly by the City of Cambridge Planning Board and the Authority in the manner consistent with the Design Review Process, Submission Requirements, and Review Factors attached as Exhibit C, which shall be deemed to replace and supersede in its entirety the Design Review, Submission Requirements, and Guidelines document attached to the Development Agreements as Exhibit C.

6. It is acknowledged and agreed that the Infill GFA will be utilized by the Developer on Individual Parcels which have previously been conveyed by the Authority to the Developer and/or its affiliates pursuant to supplemental land disposition contracts and quitclaim deeds (collectively, the "Conveyance Documents") and that Certificates of Completion have previously been issued for the improvements constructed on such Individual Parcels. Notwithstanding anything contained in the Development Agreements or the Conveyance Documents to the contrary, the Authority and the Developer hereby agree that:

- (i) an Infill Development Concept Plan and any subsequent materials submitted by the Developer and meeting the requirements of Sections 14.32.2 and 14.73 of the Ordinance as shall be deemed to satisfy all requirements for the submission of Concept Design Plans under the Development Agreements and the Conveyance Documents; and
- (ii) the Authority's approval of the Infill Development Concept Plan and any subsequent materials submitted by the Developer and meeting the requirements of Sections 14.32.2 and 14.73 of the Ordinance shall be deemed to satisfy any and all requirements of the Conveyance Documents that the Authority approve (x) any change in use of any amount of gross floor area in the improvements constructed on any of the Individual Parcel and (y) any reconstruction, demolition, subtraction, addition or extension to previously completed improvements; and
- (iii) the Authority shall issue a Certificate of Completion for each Infill Project at such time as the improvements have been completed in accordance with the

requirements of the Infill Development Concept Plan special permit (or amendments thereto) and Exhibit C to this Amendment.

7. Except as herein amended, the Development Agreements shall remain unchanged and in full force and effect. 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.

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:

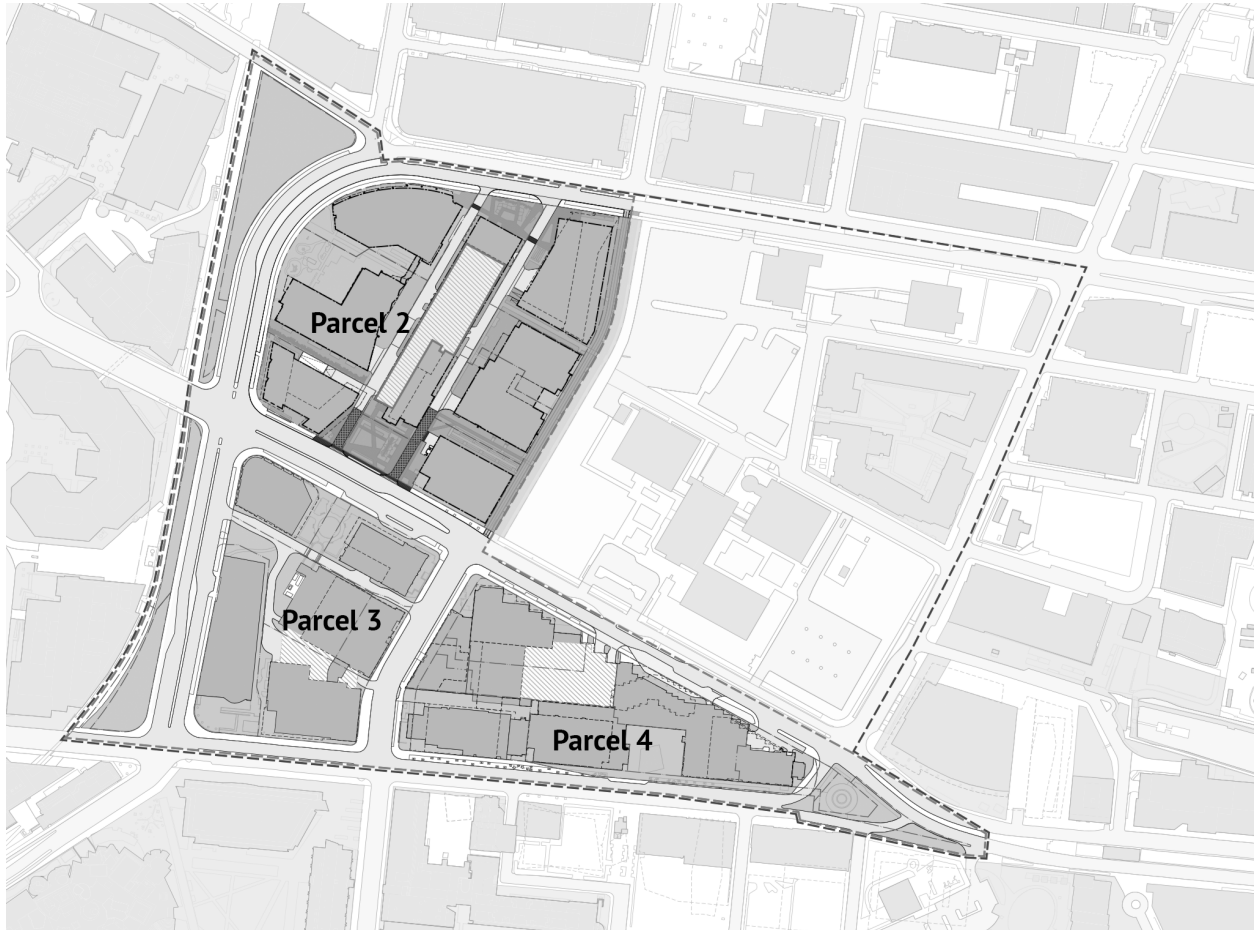
A – Plan of Development Area

B – Calculation of Base Purchase Price for Infill GFA

C – Design Review, Submission Requirements, and Guidelines

EXHIBIT A

Plan of Development Area



## EXHIBIT B

Calculation of Infill GFA Purchase Price**I. Background on the Base Purchase Price of Infill GFA**

Reference is made to Paragraph B(2)(a) of the Original Parcel 2 Development Agreement, as modified by Paragraph B(9) of the Amendment to Development Agreements dated January 14, 1991 (the "1991 Amendment"), which establish the formula for the calculation of the purchase price for Individual Parcels within Parcel 2 of the Development Area. That text is reproduced below:

*B 2 (a) The purchase price for each Individual Parcel, in the supplemental land disposition contract relating thereto (but subject to adjustment as hereinafter provided), product of (i) the number of square feet of gross floor area to be constructed on the land in the Individual Parcel shown in the complete Preliminary Design Phase submission for the improvements to be built on such Individual Parcel (not including the structured parking) as approved by the Authority in accordance with Exhibit C, multiplied by (ii) the Base Purchase Price. The Base Purchase Price shall be the following price per square foot of gross floor area to be constructed as in effect at the time of such approval of such complete Preliminary Design Phase submission:*

<i>Price per Square Foot of Gross Floor Area Built</i>	<i>Period after the Date of the First Parcel Approval</i>
<i>\$1.40</i>	<i>Within 1 year</i>
<i>\$1.54</i>	<i>Within 2 years</i>
<i>\$1.69</i>	<i>Within 3 years</i>
<i>\$1.86</i>	<i>Within 4 years</i>
<i>\$2.05</i>	<i>Within 5 years</i>
<i>\$2.26</i>	<i>Within 6 years</i>
<i>\$2.49</i>	<i>Within 7 years</i>
<i>\$2.74</i>	<i>Within 8 years</i>
<i>\$3.01</i>	<i>Within 9 years</i>
<i>\$3.31</i>	<i>Within 10 years</i>

*and an additional \$0.35 per square foot of gross floor area built (increased by 10% per year cumulatively) within each successive 1-year period thereafter.*

*In the event that the number of square feet of gross floor area constructed on the land in the Individual Parcel prior to the issuance by the Authority of a Certificate of Completion for such Individual Parcel is greater than the number of square feet of gross floor area shown as to be constructed in the complete Preliminary Design Phase submission for such Individual Parcel approved by the Authority, the Developer shall, concurrently with the issuance of such Certificate of Completion, pay to the Authority an additional sum on account of the purchase price of such Individual Parcel equal to the product of (i) the number of such additional square feet of gross floor area, and (ii) the Base Purchase Price in effect at the time of the approval by*



*the Authority of the Preliminary Design Phase submission. In the event that at any time prior to the later of (a) the sale of the last Individual Parcel to the Developer pursuant to this Agreement or (b) the expiration of the Renewal Plan, the number of square feet of gross floor area constructed or to be constructed on the land in any Individual Parcel increases or is proposed to be increased after the issuance by the Authority of a Certificate of Completion for such Individual Parcel, the Developer shall, concurrently with the filing of an application for a building permit for such increased construction or the commencement of such construction, whichever is later, pay to the Authority an additional sum on account of the purchase price of such Individual Parcel equal to the product of (i) the number of such additional square feet of gross floor area, and (ii) the Base Purchase Price in effect at the time such additional sum is payable as aforesaid.*

*Notwithstanding the foregoing, if the gross floor area constructed or to be constructed on any Parcel 2 Individual Parcel is used or is to be used as allowed within the classification of Office Uses under any of the provisions of Section 14.212 of Article 14.000 of the Cambridge Zoning Ordinance, and if the total gross floor area constructed or to be constructed for any of such Office Uses (including any development of such Uses permitted under Section 14.322(5) of said Article 14.000) thereon and on all of the Parcel 2 Development Area at the time shall exceed five hundred thousand (500,000) square feet, then the Base Purchase Price for any such Parcel 2 Individual Parcel for which a Preliminary Design Phase submission is submitted after September 1, 1995 shall be calculated such that any excess of such gross floor area over said 500,000 square feet shall have a Base Purchase Price equal to two hundred percent (200%) of the Base Purchase Price as otherwise determined pursuant to the terms of Paragraph B(2)(a) of the Original Parcel 2 Development Agreement at the time set forth in said Paragraph B(2)(a) for making such determination.*

## **II. Meaning of Above Provision as Applied to this Amendment**

As stated in the Amendment, the Parties have agreed that the formula set forth in Section I above shall apply to the calculation of the Infill GFA Purchase Price, subject to the modifications set forth in the Amendment and in this Exhibit B.

For the purpose of clarity and consistency, it is understood and agreed by the Parties that the above-referenced language results in the calculation of the Infill GFA Purchase Price Per Square Foot as per the chart included in Section III below.

As stated in the Amendment, for the first purchase of Infill GFA for any Infill Project, the Infill GFA Purchase Price shall be increased by the KSTEP Costs.

### III. Exhibit B, Table 1

#### Infill GFA Purchase Price Per Square Foot Table for the Remaining Years of the KSURP

##### **Infill Development GFA**

Calculation Based on Section B.2(a) of Parcel 2 Development Agreement

Development Agreement Dated April 14, 1982

Modified by 1991 Amendment to Development Agreements

Base Price	Period	Residential/Retail/ Industrial Project GFA Price			Office / R&D Project GFA Price	
		\$ Per FAR	Initial Increment	10% Premium	Annual Increment	200% Premium
5/21/16	1 (33)	38.09	3.49	0.35	3.84	76.18
5/21/17	2	41.93	3.84	0.38	4.22	83.86
5/21/18	3	46.15	4.22	0.42	4.64	92.30
5/21/19	4	50.79	4.64	0.46	5.10	101.58
5/21/20	5	55.89	5.10	0.51	5.61	111.78
5/21/21	6	61.50	5.61	0.56	6.17	123.00
5/21/22	7	67.67	6.17	0.62	6.79	135.34
5/21/23	8	74.46	6.79	0.68	7.47	148.92
5/21/24	9	81.93	7.47	0.75	8.22	163.86
5/21/25	10	90.15	8.22	0.82	9.04	180.30
5/21/26	11	99.19	9.04	0.90	9.94	198.38
5/21/27	12	109.13	9.94	0.99	10.93	218.26
5/21/28	13	120.06	10.93	1.09	12.02	240.12
5/21/29	14	132.08	12.02	1.20	13.22	264.16
5/21/30	15	145.30	13.22	1.32	14.54	290.60