

MEMORANDUM

MAY 16, 2013

TO: BOSTON REDEVELOPMENT AUTHORITY AND
PETER MEADE, DIRECTOR

FROM: HEATHER CAMPISANO, DEPUTY DIRECTOR FOR DEVELOPMENT
REVIEW
DAVID CARLSON, BCDC EXECUTIVE DIRECTOR/SENIOR
ARCHITECT
LAUREN WILLIAMS, PROJECT MANAGER

SUBJECT: PUBLIC HEARING TO CONSIDER THE SECOND AMENDED AND
RESTATED DEVELOPMENT PLAN FOR 371-401 D STREET, SOUTH
BOSTON, WITHIN PLANNED DEVELOPMENT AREA NO. 50, TO
CONSIDER THE D STREET DEVELOPMENT PROJECT AS A
DEVELOPMENT IMPACT PROJECT AND TO ADOPT A
DEMONSTRATION PROJECT PLAN AND AUTHORIZE A PILOT
AGREEMENT, CONTINGENT UPON AN ORDER OF TAKING FOR A
PORTION OF THE D STREET DEVELOPMENT PROJECT, AND TO
TAKE ALL OTHER RELATED ACTIONS

SUMMARY: This Memorandum requests, as part of a scheduled public hearing, that the Boston Redevelopment Authority (the "BRA") (i) approve the Second Amended and Restated Development Plan for 371-401 D Street, South Boston, Within Planned Development Area No. 50 (the "PDA Plan") pursuant to Section 80C of the Boston Zoning Code (the "Code"); (ii) authorize the Director to petition the Zoning Commission for approval of the PDA Plan pursuant to Sections 3-1A.a and 80C of the Code; (iii) approve the D Street Development Project (the "Proposed Project") as a Development Impact Project pursuant to Section 80B of the Code; (iv) authorize the Director to issue a Determination waiving further review pursuant to Section 80A-6 of the Code in connection with a Notice of Project Change filed for the Proposed Project (the "NPC Determination"); (v) adopt a Demonstration Project Plan under Massachusetts General Laws Chapter 121B, Section 46(f) for a portion of the Proposed Project; (vi) adopt certain findings relating to the Demonstration Project Plan; (vii) authorize the Director to enter into Payment in Lieu of Taxes ("PILOT") Agreement for a portion of the Proposed Project with the City of Boston and the designated developer of such portion of the Proposed Project, contingent upon an Order of Taking (viii) authorize the Director to issue one or more Certifications of Consistency or Partial Certifications of

Consistency with the terms of the PDA Plan for the Proposed Project and/or for each component of the Proposed Project as described in the PDA Plan pursuant to Section 80C-8 of the Code; (ix) authorize the Director to issue one or more Certifications of Compliance or Partial Certifications of Compliance for the Proposed Project and/or for each component of the Proposed Project pursuant to Section 80B-6 of the Code; and (x) authorize the Director to execute and deliver one or more Cooperation Agreement(s), Development Impact Project Agreement(s), Boston Residents Construction Employment Plan(s), Boston Permanent Employment Agreement(s), and any and all other documents, certifications or agreements as may be necessary and appropriate in connection with the foregoing and, or otherwise in connection with the Proposed Project.

PROJECT SITE

On December 17, 2012 the Massachusetts Convention Center Authority (the "Proponent") submitted a Notice of Project Change notifying the Boston Redevelopment Authority (the "BRA") of proposed changes to the previously approved residential project planned for the site located at 371-401 D Street in the South Boston neighborhood. The property consists of a total of approximately 243,181 square feet (approximately 5.6 acres) (the "Project Site").

The Project Site, which is located across D Street from the Boston Convention & Exhibition Center (the "BCEC"), is currently a vacant and fenced site with frontage of approximately 1,100 feet on D Street.

On February 22, 2013 the Proponent filed a Second Amended and Restated Development Plan for 371-401 D Street, South Boston, within Planned Development Area No. 50 (the "PDA Plan") for a proposed mixed-use project as further described and defined below (the "Proposed Project").

THE PROPOSED PROJECT

The Proposed Project consists of two components; the first component comprises two hotels containing approximately 510 rooms, including restaurant and other hotel services and facilities (the "hotels component"), and the second component comprises a parking garage for approximately 1,350 spaces which may include retail and/or restaurant space (the "garage component"), as well as landscape improvements, site drives and service drives (collectively, the "Proposed Project"). Each component is more particularly described herein. The hotels component comprises two hotels, containing a total of approximately 510 rooms/suites, with amenities; which may

include a restaurant and other hotel services and facilities. The hotels are expected to be constructed within the northern portion of the Project Site.

The hotels are based on a model incorporating two complementary mid-priced hotels. One hotel, in the “select service” category, is oriented to business travelers with short stays. This hotel incorporates standard hotel rooms and includes amenities aimed at the business traveler, such as a business center, bar, and media pods. The common area is a multi-function space that transitions over the course of the day from breakfast area, to lounge, to bar. The second hotel, in the “extended stay” category, aims to accommodate guests who typically stay for longer periods (averaging three to five days). The typical guestrooms incorporate a small kitchen (studio concept). A full breakfast area is included and a common area is provided in lieu of a bar. Major conference and dining areas are absent.

The garage component is a proposed parking garage on the southern portion of the Project Site, in connection with the contemplated expansion of the BCEC. The parking development will contain approximately 1,350 parking spaces and will replace surface parking for the BCEC and service hotel guest parking needs. It is expected to provide ground floor retail/restaurant space along D Street.

In addition, the Proponent proposes to construct landscape improvements and several east-west side streets or site drives, some of which may be open to public travel, as well as several north-south service drives, in order to facilitate traffic flow to, from and around the Proposed Project.

The total development cost is approximately \$190,000,000.

PROJECT HISTORY

The Project Site is the subject of two previous PDA Development Plans approved by the BRA and the Boston Zoning Commission. On September 21, 2000 the BRA approved a PDA Development Plan for a 695-unit residential project, proposed by Cathartes/AEW 371-401 D Street, LLC (“Cathartes”), which was approved by the Boston Zoning Commission on October 20, 2000. The BRA had issued a Scoping Determination pursuant to Article 80 of the Boston Zoning Code (the “Code”) on November 15, 1999, which required Carthartes to prepare a Draft Project Impact Report (“DPIR”), and on September 21, 2000 authorized the issuance of a Preliminary Adequacy Determination Waiving Further Review under Article 80B of the Code. The Cathartes-proposed project was never built and in 2005, the site was sold to Intercontinental Fund IV 371-401 D Street, LLC and Intercontinental Real Estate Fund IV, LLC (“IREC”). IREC filed a Notice of Project Change and an Amended and Restated Development Plan (the “IREC PDA Plan”) for PDA No. 50 on June 5, 2006. The BRA approved the IREC-proposed project on September 7, 2006 (which approval included

authorization to issue a Determination under Section 80A-6 of the Code waiving further review of the IREC-proposed project), and the Boston Zoning Commission approved the IREC PDA Plan on October 18, 2006. In October 2012, the site was purchased by the Proponent. The PDA Plan would amend, restate, and supersede, the IREC PDA Plan in its entirety.

ARTICLE 80 REVIEW

On December 17, 2012 the Proponent filed a Notice of Project Change (“NPC”) with the BRA. A Scoping Session was held on January 7, 2013. One community meeting was held, at the BCEC during the NPC public comment period, on January 14, 2013. On February 22, 2013 the PDA Plan was filed by the Proponent. A second community meeting was held at the BCEC regarding the PDA Plan on March 18, 2013. The Proposed Project appeared before the Boston Civic Design Commission (“BCDC”) on February 5, 2013, March 5, 2013, and again on April 2, 2013. The comment period associated with Article 80B and 80C of the Code ended on April 8, 2013 and was extended until April 22, 2013 at the request of the community and the Proponent.

ZONING AND PLANNED DEVELOPMENT AREA

The proposed PDA Plan is attached hereto. On February 22, 2013 the PDA Plan was filed with the BRA by the Proponent. Since the filing, the Proponent, working with the BRA, has made certain design and other minor changes to the PDA Plan, which are reflected in the copy attached hereto. Approval of the PDA Plan requires a public hearing before the BRA and the Boston Zoning Commission.

DEVELOPMENT IMPACT PROJECT EXACTIONS

The Proponent and its tentative designated developer of the hotels component will comply with the Development Impact Project (“DIP”) requirements under Section 80B-7 of the Code with respect to the hotels component of the Proposed Project. Based on the present plans for the hotels component, the Proponent will provide a total of approximately \$2,180,640 in linkage payments, comprising a payment contribution to the Neighborhood Housing Trust of approximately \$1,817,970 and a payment contribution to the Neighborhood Jobs Trust of approximately \$362,670. These estimated linkage payments are calculated as follows:

Housing Linkage:

DIP Uses	331,000	square feet (estimated)
Exclusion:	<u>-100,000</u>	
	231,000	
	x <u>\$7.87</u>	/square foot
	\$1,817,970	

Jobs Linkage:

DIP Uses	331,000	square feet (estimated)
Exclusion	<u>-100,000</u>	
	231,000	
	x <u>\$1.57</u>	/square foot
	\$362,670	

The approximate calculations above reflect the DIP uses in the hotels component only and not the garage component. Once design plans for the garage component are further refined, the Proponent will address any DIP uses with the BRA in a separate DIP Agreement for the garage component, if required.

PUBLIC BENEFIT AND MITIGATION

The Proponent’s mission is to generate significant regional economic activity by attracting conventions, tradeshow, and other events to its world-class facilities while maximizing the investment return for the residents and businesses in the Commonwealth of Massachusetts.

The Proposed Project will include numerous additional benefits to the neighborhood, the City of Boston, and the Commonwealth including:

- An improved performance for the BCEC due to more hotel rooms within walking distance of the facility.
- Moving the BCEC towards being a “Top 5” convention center in North America, which will elevate Boston’s status for conventions and boost tourism in the City and State.
- New construction and permanent jobs.
- Increased revenue for the City and State related to increased economic activity from the BCEC.
- New hotel rooms which will bring more people to the South Boston Waterfront, supporting its growing number of restaurants, shops and attractions.
- Enliven the Project Site, which is currently vacant, and provide an appealing, pedestrian-friendly streetscape along D Street
- A decreased need for shuttle buses from the Back Bay hotels to the BCEC, which will have a positive impact during peak travel hours and on air quality.
- Improved stormwater runoff with the development of a currently vacant site used for storage.

DEVELOPMENT TEAM

The development team consists of:

Proponent: Massachusetts Convention Center Authority

Design/Planning
Consultants: Utile Inc. & Sasaki Associates, Inc.

Proponent Counsel: Goulston & Storrs, P.C.

MCCA Tentative
Designated Developer for
the hotels component: Commonwealth Ventures, LLC

Developer's Architect: Elkus/Manfredi

Developer's Counsel: Edwards Wildman Palmer LLP

DEMONSTRATION PROJECT PLAN

The Proponent is proposing the significant redevelopment of the Project Site, the creation of public amenities that will improve access and accommodations to the Project Site, and the creation of public ways. In order to effectuate the redevelopment of this long vacant site, and to create jobs and economic activity, the Proponent is requesting that the BRA adopt a Demonstration Project Plan pursuant to M.G.L. Chapter 121B, section 46(f), as amended, which will allow the BRA to acquire a property interest in a portion of the Project Site from the Proponent by eminent domain.

In an effort to effectuate the development of the Proposed Project and improve the public realm, the BRA may adopt under Massachusetts General Laws Chapter 121B, Section 46(f), a demonstration project plan, which grants authorization for the BRA to acquire by eminent domain, for a temporary period, a property interest in a portion of the Project Site. Once the demonstration project plan is established, the BRA may proceed with a taking by eminent domain pursuant to Massachusetts General Laws Chapter 79. Attached as Exhibit B is a demonstration project plan filed by the Proponent.

TAKING

As set forth in the demonstration project plan, the BRA will acquire a property interest in a portion of the Project Site for a temporary period. The area affected by the taking is

situated off the southeasterly side of D Street, and consists of the northern portion of the Project Site where the two hotels will be constructed. The taking will not include the garage component. The taking will be further reviewed and proposed for authorization by the BRA Board at a later date. In addition, in connection with the taking, the Proponent or its tentative designated developer will be required to enter into an indemnification agreement with the BRA for the BRA's property interest in the portion of the Project Site so taken. The BRA must acquire the taking in such portion of the Proposed Project in order for the hotels component of the Proposed Project to qualify for real estate tax relief as described below.

PILOT AGREEMENT

The hotels component of the Proposed Project qualifies for tax relief through the adoption of a demonstration project plan pursuant to M.G.L. c.121B, Section 46(f), and the BRA's interest in the portion of the Project Site acquired pursuant to the taking. Those actions allow the BRA, the developer of the hotels component of the Proposed Project, and the Proponent to enter into a Payment In Lieu Of Taxes ("PILOT") Agreement with the City of Boston. The parties have been negotiating a PILOT Agreement with the City for a term of seven (7) years, which is close to being finalized. At this time, authorization for the Director to enter into a PILOT Agreement will be contingent upon the taking. The parties need to finalize the business terms of the PILOT Agreement in order for the Proponent and its designated developer to obtain financing and prepare for their ground lease closing. The taking will not be recorded until the closing date is scheduled; therefore, the parties anticipate seeking approval for the taking at the next scheduled BRA Board date.

RECOMMENDATIONS

BRA staff have been working with the City and have reviewed the NPC, the PDA Plan, the Application for Adoption of a Demonstration Project, and the request by the Proponent and recommend that the BRA take the following actions related to the Proposed Project: (1) approve the PDA Plan; (2) authorize the Director to petition the Zoning Commission for approval of the PDA Plan; (3) approve the Proposed Project as a Development Impact Project; (4) authorize the Director to issue a NPC Determination waiving further review pursuant to Section 80A-6 of the Code; (5) adopt a Demonstration Project Plan under Massachusetts General Laws Chapter 121B, Section 46(f) for the Proposed Project; (6) adopt certain findings relating to the Demonstration Project Plan; (7) authorize the Director to enter into the PILOT Agreement, such PILOT Agreement to be contingent upon an Order of Taking; (8) authorize the Director to issue one or more Certifications of Consistency or Partial Certifications of Consistency for the Proposed Project and, or for each component of the Proposed Project as described in the PDA Plan pursuant to Section 80C-8 of the Code, upon successful completion of the Article 80 Process, including completion of design review by the BRA; (9) authorize the

Director to issue one or more Certifications of Compliance or Partial Certifications of Compliance for the Proposed Project and, or for each component of the Proposed Project pursuant to 80B-6 of the Code, upon successful completion of the Article 80 Process, including completion of design review by the BRA; and (10) authorize the Director to execute and deliver one or more Cooperation Agreements, Boston Residents Construction Employment Plans, Development Impact Project Agreements, Boston Permanent Employment Agreements and any and all other documents, certifications and/or agreements that the Director deems appropriate and necessary and in the best interest of the BRA in connection with approval of the PDA Plan, NPC Determination, Demonstration Project Plan, or PILOT Agreement for the Proposed Project.

Appropriate votes follow:

VOTED: The Boston Redevelopment Authority hereby finds and determines that the proposed D Street Development (the "Proposed Project"), as described in the Notice of Project Change dated December 17, 2012 submitted by the Massachusetts Convention Center Authority, conforms to the general plan for the City of Boston as a whole, and that nothing in such Proposed Project will be injurious to the neighborhood or otherwise detrimental to the public welfare: and

FURTHER

VOTED: That, in connection with the Second Amended and Restated Development Plan for 371-401 D Street, South Boston, Within Planned Development Area No. 50 (the "PDA Plan"), presented at a public hearing duly held at the offices of the Boston Redevelopment Authority ("BRA") on May 16, 2013, and after consideration of evidence presented at and in connection with the hearing and in connection with the D Street Development Project consisting of two components; the first component comprises two hotels containing approximately 510 rooms, including restaurant and other hotel services and facilities (the "hotels component"), and the second component comprises a parking garage for approximately 1,350 spaces which may include retail and/or restaurant space (the "garage component"), as well as landscape improvements, site drives and service drives (collectively, the "Proposed Project"), the BRA finds that: (a) the PDA Plan is not for a location or proposed project for which Planned Development Areas are forbidden by the underlying zoning; (b) the PDA Plan complies with any provisions of the underlying zoning that establish use, dimensional, design, or other requirements for proposed projects in Planned Development Areas; (c) the PDA Plan complies with any provisions of the underlying zoning that establish planning and development criteria, including public benefits, for Planned Development Areas; (d) the PDA Plan conforms to the plan for the district, sub-district,

or similar geographic area in which the PDA No. 50 is located and to the general plan for the City of Boston as a whole; and (e) on balance, nothing in the PDA Plan will be injurious to the neighborhood or otherwise detrimental to the public welfare, weighing all the benefits and burdens; and

FURTHER

VOTED: That the Director be, and hereby is, authorized to petition the Zoning Commission of the City of Boston for approval of the PDA Plan in substantial accord as presented to the BRA on May 16, 2013; and

FURTHER

VOTED: That the Director be, and hereby is, authorized to issue a Notice of Project Change Determination pursuant to Section 80A-6 of the Code ("NPC Determination") waiving further review and waiving the requirement to file and review a Final Project Impact Report for the Proposed Project, such that the NPC Determination shall provide that the Project Notification Form submitted on September 2, 1999 and the Draft Project Impact Report submitted on May 26, 2000, as modified by the Notice of Project Change submitted on August 25, 2000, the Notice of Project Change submitted on June 5, 2006, and Notice of Project Change submitted on December 17, 2012: i) adequately describe the impacts of the Proposed Project, and (ii) include any conditions necessary for the mitigation of the impacts of the Proposed Project; said NPC Determination shall be deemed to be the Preliminary Adequacy Determination waiving further review as set forth in Section 80B-5.4(c)(iv) of the Code and the requirements of said Section 80B-5.4(c)(iv) of the Code shall be followed in connection with said NPC Determination; and

FURTHER

VOTED: That the Director be, and hereby is, upon successful completion of the Article 80 Process, including completion of design review by the BRA, authorized to issue one or more Certifications of Consistency or Partial Certifications of Consistency pursuant to Section 80C-8 of the Code for the Proposed Project and, or for each component of the Proposed Project when the Director finds that: (a) the Proposed Project (or such component, as applicable) is described adequately in the PDA Plan; (b) the Proposed Project (or such component, as applicable) is consistent with the PDA Plan, and (c) the PDA Plan has been approved by the BRA and the Boston Zoning Commission in accordance with the applicable provisions of Section 3-1A.a and Section 80C of the Code; and

FURTHER

VOTED: That the Director be, and hereby is, upon successful completion of the Article 80 Process, including completion of design review by the BRA, authorized to issue one or more Certifications of Compliance or Partial Certifications of Compliance pursuant to Section 80B-6 of the Code for the Proposed Project and, or for each component of the Proposed Project upon the successful completion of the Article 80B Large Project review process; and

FURTHER

VOTED: That the application presented at the May 16, 2013 meeting of the BRA, also attached hereto as Exhibit B, entitled, "371-401 D Street, South Boston: Application for adoption of a demonstration project plan pursuant to M.G.L. Under c.121B, Section 46(f)as amended" be, and hereby is, accepted as a Demonstration Project Plan pursuant to Massachusetts General Laws Chapter 121B, section 46(f) for the Proposed Project and adopted by the BRA; and

FURTHER

VOTED: That the BRA, in connection with certain property interests owned by the Massachusetts Convention Center Authority (the "Proponent"), in order to effectuate the development of the Proposed Project, improve public infrastructure, attract and retain jobs, and improve the public realm in the City of Boston, hereby finds and determines as follows:

- (a) In order to eliminate urban blight and effectuate private and public development, it is in the public interest for the BRA to acquire by eminent domain certain property interests owned by the Proponent in a portion of the Project Site (the "Taking"); and
- (b) The development of the Proposed Project cannot be achieved without the assistance of the BRA; and
- (c) Based on (a) and (b) above, the adoption of the Taking constitutes a "demonstration project" under General Laws Chapter 121B, Section 46(f), as amended, and (a) and (b) shall collectively constitute the Demonstration Project Plan; and

FURTHER

VOTED: That the Director be, and hereby is, authorized to enter into a Payment in Lieu of Taxes ("PILOT") Agreement in connection with the hotels component of the Proposed Project subject to such terms and conditions as the Director deems to be appropriate and necessary and in the best

interest of the BRA, and contingent upon an Order of Taking for a portion of the Proposed Project; and

FURTHER

VOTED: That the Director be, and hereby is, authorized to execute any and all related instruments, agreements and documents which the Director, in his sole discretion, deems appropriate and necessary, and upon terms and conditions determined to be in the best interest of the BRA, in connection with the Demonstration Project Plan, and the PILOT Agreement; and

FURTHER

VOTED: That the Director be, and hereby is, authorized to execute all agreements and any and all other documents, certifications and/or agreements deemed necessary and appropriate by the Director in connection with the approval of the PDA Plan, NPC Determination, Demonstration Project Plan, and PILOT Agreement for the Proposed Project (or applicable portion thereof), including, without limitation, one or more Cooperation Agreements, Development Impact Project Agreements, Boston Residents Construction Employment Plans and Boston Permanent Employment Agreements, subject to such terms and conditions as the Director deems to be in the best interest of the BRA, and to take such other actions deemed necessary and appropriate by the Director in connection with the foregoing.