

**COOPERATION AGREEMENT**

**FOR**

**BLOCK P PROJECT OF THE SEAPORT SQUARE PROJECT**

This **COOPERATION AGREEMENT** (this "Agreement") is made as of the 16th day of October, 2019 between the **BOSTON REDEVELOPMENT AUTHORITY**, a public body politic and corporate created and existing pursuant to Chapter 121B of the Massachusetts General Laws, as amended, acting in its capacity as the planning board for the City of Boston pursuant to Chapter 652 of the Acts of 1960, as amended, and having a principal place of business at One City Hall Square, Boston, Massachusetts 02201-1007, together with its successors and assigns, d/b/a Boston Planning & Development Agency (hereinafter, the "BPDA"), and **SEAPORT N/P TITLE HOLDER LLC**, a Delaware limited liability company, with an address c/o WS Asset Management, Inc., 33 Boylston Street, Suite 3000, Chestnut Hill, MA 02467 and its successors, assigns and legal representatives (hereinafter, the "Applicant"). The BPDA and the Applicant, collectively, are sometimes referred to herein as the "Parties."

**RECITALS**

WHEREAS, the Applicant wishes to undertake the construction of a mixed-use building with an underground parking garage on an approximately 131,643 square foot site (including approximately 65,404 square feet at and below grade, along with approximately 35,452 square feet of easement area beneath the Summer Street Bridge and approximately 30,787 square feet of adjacent air rights areas), comprising the future Block P and Block N of the Seaport Square Project (defined below), bounded by East Service Road, Congress Street, Summer Street and West Service Road in the South Boston Waterfront District of the South Boston neighborhood of

Boston, Massachusetts, as more particularly described in Exhibit A attached hereto and incorporated herein (the “Project Site”); and

WHEREAS, the project as proposed by the Applicant will consist of the construction of a 17-story building, containing a total of approximately 591,000 square feet of Gross Floor Area (“GFA”), to be comprised of approximately 30,000 square feet of GFA of Retail/Entertainment/Restaurant/Service Uses (as defined in the PDA Plan (defined below)), approximately 561,000 square feet of GFA of Office and Research Uses (as defined in the PDA Plan) and a subsurface garage containing approximately 525 parking spaces (collectively, the “Block P Project”); and

WHEREAS, the Block P Project is currently located on a parcel of land owned by the Applicant and comprising future Block P and Block N of the Seaport Square Project (defined below); and

WHEREAS, the Applicant intends to construct the Block P Project, subdivide the Project Site or form a condominium to create Block P and Block N, and convey Block P and Block N to separate affiliates of the Applicant (the “Block P Owner” and the “Block N Owner”, respectively), which conveyance will include the portions of the underground garage located on the newly created Block P and Block N; and

WHEREAS, following such conveyance, the Block N Owner may construct a building and related improvements (collectively, the “Block N Project”) above the portions of the garage owned by the Block N Owner, and upon completion of the Block N Project, the Block N Project will share use of the garage with the Block P Project; and

WHEREAS, the Block P Project is a discrete part of a multi-phase, mixed-use development to contain residential, commercial, office, cultural and other uses, known as the

Seaport Square Project (the "Seaport Square Project"), for which the proponent is Seaport Square Development Company LLC ("SSDC") and its affiliates (collectively, the "Proponent"); and

WHEREAS, in accordance with the Large Project Review requirements of Article 80 of the Boston Zoning Code (the "Code") and the requirements of the Massachusetts Environmental Policy Act ("MEPA"), a joint Project Notification Form (the "PNF") and Environmental Notification Form (the "ENF") for the Seaport Square Project was submitted by the Proponent's predecessor-in-interest MS Boston Seaport, L.L.C. (the "Original Proponent") to the BPDA and the MEPA Office on June 2, 2008. The ENF requested a waiver of further MEPA review of Blocks A, H and J within the Seaport Square Project. Notice of the BPDA's receipt of the PNF was published on June 2, 2008 in the Boston Herald. The BPDA issued a Scoping Determination dated November 19, 2008, as well as a Scoping Determination Waiving Further Review for Block A of Seaport Square dated December 1, 2008. On November 30, 2009, the Original Proponent submitted a combined Draft Environmental Impact Report/Draft Project Impact Report for the Seaport Square Project (the "DPIR"). Notice of the BPDA's receipt of the DPIR was published on November 30, 2009 in the Boston Herald; and

WHEREAS, on April 14, 2010, the BPDA issued a Request for Additional Materials, and the Original Proponent filed Additional Materials with the BPDA on June 4, 2010; and

WHEREAS, on September 21, 2010, the BPDA voted, pursuant to Section 80B-5.4(c)(iv) of the Code, to authorize the issuance of a Preliminary Adequacy Determination waiving the requirement for the filing and review of a Final Project Impact Report and approving the DPIR for the Seaport Square Project (the "PAD"), and the BPDA issued such PAD on November 19, 2010; and

WHEREAS, on April 23, 2010, the Original Proponent filed a Development Plan for the proposed Seaport Square Planned Development Area pursuant to Section 80C-5(2) of the Code, and on September 21, 2010 the BPDA approved the Development Plan for PDA No. 78, Seaport Square (the "Original PDA Plan"), and authorized the Director to petition the Boston Zoning Commission for approval of the Original PDA Plan; and

WHEREAS, the Boston Zoning Commission voted at a duly noticed public hearing to approve the Original PDA Plan on October 13, 2010, as well as a First Amendment to the Original PDA Plan on December 12, 2012, a Second Amendment on January 8, 2014, a Third Amendment on September 3, 2014, a Fourth Amendment on May 20, 2015, a Fifth Amendment on February 23, 2016, and a Sixth Amendment on May 18, 2016; and

WHEREAS, the Original Proponent constructed a number of public realm improvements, and conveyed Blocks A, B, C, H, J, K, L-1, L-2, M-1, and M-2 to third party developers for the development of such Blocks, and such Blocks have been completed or are currently under construction; and

WHEREAS, SSDC and its affiliates acquired the undeveloped Blocks, Blocks D, F, G, L3-L6, N, and P (the "NPC Blocks"), as well as certain open space parcels within the Seaport Square Project from the Original Proponent in October 2015; and

WHEREAS, the Proponent filed a Notice of Project Change (the "NPC") with the BPDA on February 7, 2017 proposing changes to the development program for the NPC Blocks and to certain public realm improvements associated with the Seaport Square Project (the "NPC Project"), which initiated a public comment period ending on March 27, 2017, and on June 23, 2017, the BPDA issued a Revised Scoping Determination on the NPC; and

WHEREAS, on September 12, 2017, the Proponent filed a Supplemental Impact Report (the “SIR”) with the BPDA, which initiated a public comment period ending on October 27, 2017, and on September 15, 2017, the Proponent filed an Amended and Restated Planned Development Area Plan for Planned Development Area No. 78 (the “PDA Plan”), which initiated a public comment period ending on October 30, 2017; and

WHEREAS, following the submission of the NPC, the BPDA convened meetings of the Impact Advisory Group constituted for the NPC Project on March 13, 2017, September 20, 2017, and November 8, 2017, and community meetings were held on February 2, 2017, February 16, 2017, February 27, 2017, September 27, 2017, and October 4, 2017; and

WHEREAS, on November 7, 2017, the Boston Civic Design Commission voted to approve the NPC Project; and

WHEREAS, on November 16, 2017, the BPDA voted, pursuant to Section 80A-6.2 of the Code, to authorize the issuance of a Determination Waiving Further Review of the NPC and approval of the NPC Project as a Development Impact Project, and the BPDA issued such determination on November 1, 2018 (the “NPC Determination”); and

WHEREAS, in connection with the Applicant’s construction of the Block P Project, the Applicant and the BPDA have entered into this Agreement for the purposes of: (1) setting forth the mitigation measures and other public benefits which the Applicant has agreed to provide in connection with the construction and occupancy of the Block P Project; and (2) ensuring compliance of the Block P Project with the development review provisions of Article 80 of the Code.

## AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the BPDA and the Applicant agree as follows:

A. ZONING APPROVAL, PLANNING AND DESIGN CONSISTENCY, AND DEVELOPMENT REVIEW

1. The Applicant and the BPDA hereby acknowledge that the BPDA issued the PAD on November 19, 2010, and that such PAD, as affected by the NPC Determination, serves as the Final Adequacy Determination for the Block P Project for all purposes under Article 80 of the Code. The Applicant shall proceed with planning and design for the Block P Project in a manner that is consistent with the development concept and land uses contemplated in the NPC, as supplemented by the SIR, as approved by the BPDA.

2. The design review process to be observed by the Parties for the Block P Project shall be as set forth in the BPDA's "Development Review Guidelines, dated 2006" which can be found on the BPDA's website (the "Development Review Guidelines"), and Article 80 of the Code. Capitalized terms used and not defined herein shall have the meanings ascribed to them in the Development Review Guidelines.

3. Following approval of the design of the Block P Project by the BPDA, the Applicant shall not make any material modifications to the design of the exterior of the Block P Project nor to any interior lobbies which are visible from the exterior of the Block P Project until such modifications have been approved by the BPDA. Such changes shall be processed in the manner provided in the following section.

4. Throughout the construction of the Block P Project, it is the Applicant's responsibility to notify the BPDA of proposed changes to all exterior elements of the Block P Project, open spaces, landscaping and any interior lobbies that are visible from the exterior of the Block P Project, and where the same constitute changes from previously approved submissions (other than refinements of details generally consistent with such previously approved submissions) ("Material Changes"), the Applicant shall obtain approval from the BPDA prior to incorporating such changes into the final drawings and specifications for the Block P Project. Notwithstanding the foregoing, the BPDA acknowledges and agrees that the landscaping and furnishing (as long as such furniture is movable) of any terraces of the Block P Project shall not be subject to the foregoing requirement. The BPDA shall perform its review and approval and other functions pursuant to the provisions of this Section A.4 with reasonable dispatch, and shall approve or disapprove any such proposed Material Changes in writing within thirty (30) days of submission to the BPDA. If the BPDA disapproves any such Material Changes, its disapproval shall include a detailed written explanation therefor. If the Applicant receives no notification from the BPDA of disapproval within thirty (30) days after the submission of any such proposed material deviation to the BPDA, such material deviation shall be deemed approved; provided, however, that any written request for approval of a material deviation shall be in conformance with the provisions of Section D.5 of this Agreement.

5. The Applicant agrees to use a construction wrap/sign for the Block P Project that is designed and approved by BPDA design staff. The Applicant shall be responsible for all costs associated with the construction wrap/sign.

B. MITIGATION COMMITMENTS

1. Transportation. Prior to the issuance of the initial building permit for the Block P Project, the Applicant shall enter into a Transportation Access Plan Agreement for the Block P Project (the “TAPA”) with the City of Boston Transportation Department (“BTD”) reasonably satisfactory in form and substance to BTD and the Applicant. The TAPA shall address monitoring mechanisms and mitigation measures to address any negative transportation impacts which may be created by the construction or operation of the Block P Project. For the purposes of this Agreement, a “building permit” shall not be deemed to include any permit for excavation and/or foundation work. Upon the execution of the TAPA, the Applicant shall submit to the BPDA a true, complete and correct copy of such TAPA.

2. Construction Impacts. Prior to the issuance of the initial building permit for the Block P Project, the Applicant shall submit to BTD a Construction Management Plan (“CMP”) for such project in accordance with the City of Boston’s Construction Management Program. The CMP shall identify construction parking and traffic impacts and specific mitigation measures to be implemented during the construction of the Block P Project. Such measures may include limitations on the hours of construction and designated construction traffic routes. Prior to commencing any excavation work at the Project Site, the Applicant shall supply BTD with such construction logistics plans relating thereto as BTD may request. Upon the execution of the CMP, the Applicant shall submit to the BPDA a true, complete and correct copy of such CMP.

3. Construction Employment. The Block P Project is a “Covered Project” pursuant to the “Ordinance Amending the Boston Residents Jobs Policy and Boston Employment Commission,” dated January 9, 2017, approved by the Boston City Council and filed with the City Clerk on January 25, 2017 (the “Boston Residents Jobs Policy”), attached hereto as Exhibit C. The Boston Residents Jobs Policy requires that:



- (a) at least 51% of the total work hours of journey people and 51% of the total work hours of apprentices in each trade on a Covered Project shall be by bona fide residents of the City of Boston;
- (b) at least 40% of the total work hours of journey people and 40% of the total work hours of apprentices in each trade on a Covered Project shall be by people of color; and
- (c) at least 12% of the total work hours of journey people and 12% of the total work hours of apprentices in each trade on a Covered Project shall be by women.

The Applicant agrees to adhere to the Boston Residents Jobs Policy in all respects including the procedures specified therein regarding electronic project registration, monitoring, meetings, updates, referrals, record keeping, site visits as well as the applicable compliance review, oversight and sanctions available to the Boston Employment Commission.

4. Housing Payments. As set forth in Section XVI.g(iii) of the PDA Plan, the rate of the Housing Grant (defined below) with respect to the total amount of GFA permitted under the Original PDA Plan shall be at the rate set forth in the Development Impact Project Agreement for the Seaport Square Project dated October 13, 2010 by and between the Original Proponent and the BPDA (as partially assigned to the Applicant with respect to the Project Site, the "Master DIP Agreement"), and the rate of the Housing Grant with respect to the additional amount of GFA permitted by the PDA Plan is set as \$8.34 per square foot of GFA of Development Impact Uses (defined in the Code). In satisfaction of the requirements of Section 80B-7 of the Code and pursuant to the Master DIP Agreement and the separate Development Impact Project Agreement that will be entered into by the Applicant for the Project Site dated on or about the date hereof (the "DIP Agreement"), the Applicant shall contribute approximately \$4,732,480 ((418,000 s.f. x \$7.87/s.f.) + (173,000 s.f. x \$8.34/s.f.)) of Housing Exaction funds (as defined in the DIP Agreement) in installments to the Neighborhood Housing Trust (the "Housing Grant"). Pursuant to the Master DIP Agreement, the Seaport Square Project received a single 100,000 square foot

DIP Exemption (as defined in the Master DIP Agreement) that has been claimed by and allocated to other projects within the Seaport Square Project. Therefore, there is no remaining DIP Exemption to be allocated to the Block P Project.

5. Jobs Grant. As set forth in Section XVI.g(iii) of the PDA Plan, the rate of the Jobs Grant (defined below) with respect to the total amount of GFA permitted under the Original PDA Plan shall be at the rate set forth in the Master DIP Agreement, and the rate of the Jobs Grant with respect to the additional amount of GFA permitted by the PDA Plan is set as \$1.67 per square foot of GFA of Development Impact Uses (defined in the Code). In satisfaction of the requirements of Section 80B-7 of the Code, the Applicant shall contribute approximately \$945,170 ((418,000 s.f. x \$1.57/s.f.) + (173,000 s.f. x \$1.67/s.f.)) (the “Jobs Grant”) to the Neighborhood Jobs Trust in accordance with the DIP Agreement.

6. Public Realm Improvements: The Block P Project will provide or cause to be provided those public realm improvements allocated to Block P as set forth in Exhibit C to the PDA Plan, as further described in this Section 6.

(a) Block P State Commitment Improvements. Reference is made to that certain Commitment for Commonwealth Funding dated April 25, 2018, by and between the Commonwealth of Massachusetts (acting through the Executive Office of Housing and Economic Development, the Massachusetts Department of Transportation “MassDOT”) and Amazon.com Services, Inc., and joined by SSDC and the Applicant (the “State Commitment”). Pursuant to the State Commitment, the Commonwealth has agreed to grant \$20,000,000 to fund the construction of certain infrastructure and public realm improvements associated with the Seaport Square Project. Certain of the

improvements to be funded and constructed pursuant to the State Commitment are associated with the Block P Project and described in paragraphs (i) and (ii) below (the “Block P State Commitment Improvements”).

The Applicant shall fully design and permit, or cause SSDC to fully design and permit, the Block P State Commitment Improvements, and MassDOT or the City of Boston will construct the Block P State Commitment Improvements pursuant to the State Commitment. The final dimensions, design, and construction of each of the improvements described below shall be subject to the BPDA’s development review as set forth in Section A.2, and to the cooperation and approval of BTM, the City of Boston Public Improvement Commission, and other city and state agencies and departments, as applicable.

- i. Summer Street Viaduct Improvements: The Applicant shall fully design and permit, or cause SSDC to fully design and permit, and MassDOT and/or the City of Boston will construct (i) sidewalk improvements along the portions of the Summer Street Viaduct adjacent to Block P, and (ii) a “Mobility MicroHUB” along the Summer Street Viaduct (at the top of the Summer Street Steps (defined below)), which is an area within the public right of way that is reserved for car-share parking, ride-share or shuttle pick-up and drop-off, in order to improve traffic flow and safety within the Block P Project (the “Summer Street Mobility MicroHUB”). As set forth in Section XVI.e.i(e) of the PDA Plan, the Summer Street Mobility MicroHUB will involve the construction of a pedestrian crossing of Summer Street and will be designed to function in concert with the existing Massachusetts Bay Transportation Authority bus network. The Summer Street Mobility MicroHUB shall be an obligation of the Block P Project only if the construction on Block P is completed before the Block N Project is completed. In the event that the phasing of the Seaport Square Project changes, such that the Summer Street Mobility MicroHUB becomes the obligation of the Block N Project, the delivery of such benefits shall be included as the obligation of the Block N Project in the Cooperation Agreement for the Block N Project (the “Block N Cooperation Agreement”), the Applicant shall have no

responsibility for such benefit, and the BPDA's issuance of the Certificate of Completion pursuant to Section C.6 below shall confirm that such improvements are not required in connection with the Block P Project and were completed, delivered, or are underway in connection with a different Block or phase of the Seaport Square Project.

- ii. Congress Street Improvements: The Applicant shall fully design and permit, or cause SSDC to fully design and permit, and MassDOT and/or the City of Boston shall construct sidewalk improvements along the portions of Congress Street adjacent to Block P.

The Block P State Commitment Improvements are expected to be constructed by MassDOT or the City of Boston prior to the completion of the Block P Project, provided however, that the timing shall be subject to MassDOT's or the City of Boston's completion of construction. In the event that MassDOT or the City of Boston, as applicable, has not commenced construction of the Block P State Commitment Improvements at the time of completion of the Block P Project, the Applicant shall commence, or cause SSDC to commence, the construction of the Block P State Commitment Improvements. In such event, the Applicant or SSDC, as applicable, shall use commercially reasonable efforts thereafter to advance and complete the construction of the Block P State Commitment Improvements. So long as MassDOT or the City of Boston is reasonably advancing construction of the Block P State Commitment Improvements, or the Applicant or SSDC is using commercially reasonable efforts to advance the construction of the Block P State Commitment Improvements, the BPDA shall issue a Certificate of Completion for the Block P Project if all other conditions precedent to such issuance as set forth in Section C.6 of this Agreement have been met; provided, however, that such Certificate of Completion may describe the status of the Block P State Commitment Improvements if such improvements are not yet complete,

and the Applicant shall have a continuing obligation to complete such improvements pursuant to this Agreement.

(b) Summer Street Steps: In the event that the Block P Project is completed before the Block N Project, the Applicant shall construct public steps between Block N and Block P and an accessible route from Congress Street to Summer Street within the adjacent building (collectively, the "Summer Street Steps"). In the event that the phasing of the Seaport Square Project changes, such that the Summer Street Steps become the responsibility of the Block N Project based on the timing requirements set forth in the PDA Plan, the delivery of such benefits shall be included as the obligation of the Block N Project in the Block N Cooperation Agreement, the Applicant shall have no responsibility for such benefit, and the BPDA's issuance of the Certificate of Completion pursuant to Section C.6 below shall confirm that such requirements are not required in connection with the Block P Project and were completed or delivered in connection with the Block N Project.

7. Block P Building: The Applicant shall provide the following public benefits in connection with the construction and occupancy of the Block P building:

(a) Green Building: The Block P Project will be certifiable under the U.S. Green Building Council's Leadership in Energy and Environmental Design ("LEED") green building rating system or will pursue LEED certification under LEED-NC or LEED-CS. The Block P Project will pursue LEED at a target rating level of Silver.

8. Additional Public Benefits Required for the Seaport Square Project. The PDA Plan provides that the following public realm improvements and public benefits are required to be delivered by the Seaport Square Project, but based on the construction schedule for the Block

P Project and the currently-planned phasing of other Blocks of the Seaport Square Project, such benefits are not expected to be required in connection with the Block P Project. In the event that the construction phasing of the Seaport Square Project changes, such that the construction of the Block P Project triggers the delivery of such public benefits pursuant to the PDA Plan, the Applicant will provide, or will cause SSDC to provide, such improvements or benefits in connection with the Block P Project. In the event that the construction of the Block P Project does not trigger the requirements set forth below, then the BPDA's issuance of the Certificate of Completion pursuant to Section C.6 below shall confirm that such requirements are not required in connection with the Block P Project. Such benefits are described further in the PDA Plan sections referenced below:

- (a) West Service Road Bicycle Improvements (PDA Plan Sec. XVIII): In the event that the Block P Project is the first of the NPC Blocks to complete construction, the Applicant shall construct, or cause SSDC to construct, bicycle improvements on West Service Road from Congress Street to Melcher Street Extension (the "West Service Road Bicycle Improvements"). The Parties acknowledge that the West Service Road Bicycle Improvements are public realm improvements under the State Commitment, and that such obligation for completion, if any, shall be subject to the provisions of Section B(6)(a) above.
- (b) Operating Subsidy for Water Shuttle or Silver Line (PDA Plan Sec. XVI(e)(ii)). An annual operating subsidy to be paid to MassDOT in annual installments of \$250,000, or on an accelerated basis at MassDOT's election, beginning upon the completion of construction of the 6,335,000 square feet of GFA approved in the Original PDA Plan and continuing for ten (10) years.

### C. PROJECT COMPLETION

1. Development Period. As of the date hereof, the Applicant anticipates that the development of the Block P Project will be completed within a period of three (3) years from the date hereof.

2. Certification of Consistency. Pursuant to and in accordance with Section 80C-8 of the Code, the BPDA shall issue to the Commissioner of the City of Boston Inspectional Services Department (“ISD”) a Certification of Consistency with the PDA Plan with respect to the Block P Project when appropriate in accordance with Section 80C-8 of the Code.

3. Certification of Compliance. Pursuant to and in accordance with Section 80B-6 of the Code, the BPDA shall issue to the Commissioner of ISD a Certification of Compliance with respect to the Block P Project when appropriate in accordance with Section 80B-6 of the Code.

4. Abandonment of Block P Project. If, in the future, the Applicant shall decide not to proceed with the whole or any portion of the Block P Project, then in such case and after substantiation by the Applicant deemed reasonably adequate by the BPDA of the Applicant’s reasons for not proceeding with the Block P Project or any portion thereof, then the BPDA shall cooperate with the Applicant to modify, alter, or amend its previous approvals of the Block P Project and this Agreement in order to allow the Applicant the opportunity to reasonably develop the Project Site.

5. BPDA Cooperation. The BPDA will informally advise the Applicant concerning, and will actively cooperate with and publicly support, the Applicant’s efforts to obtain from the appropriate municipal, state and federal bodies and agencies, all such permits, licenses and approvals and exceptions, variances, special orders and other departures from the normal application of the applicable zoning and building codes and other ordinances and statutes which may be necessary in order to carry out the development of the Block P Project and to fulfill the Applicant’s obligations hereunder in the most expeditious and reasonable manner. The BPDA shall cooperate with the Applicant to obtain approvals for any reconfiguration of the Block P

Project, if any, required by other permit-granting agencies and authorities and approved by the BPDA, which approval shall not be unreasonably delayed, withheld, or conditioned.

6. Certificate of Completion. The Block P Project shall be deemed completed when the construction of such project has been substantially completed in accordance with the applicable Contract Documents approved by the BPDA pursuant to the Development Review Procedures and is ready for occupancy, except for (i) interior work to be performed to tenant specifications, (ii) items of work and adjustment of equipment and fixtures which can be completed after occupancy has occurred, and (iii) landscaping and other similar work which cannot then be completed because of climatic conditions or other reasons beyond the reasonable control of the Applicant.

The BPDA shall, within forty (40) days after receipt of the Applicant's written request therefor: (a) issue a Certificate of Completion for the Block P Project as so requested, or (b) provide written notice to the Applicant that the BPDA has determined that construction of the Block P Project has not been completed in accordance with the Contract Documents approved by the BPDA. Such Certificate of Completion shall be in suitable form for recording in the Registry of Deeds for Suffolk County, Commonwealth of Massachusetts. Such certificate shall be conclusive evidence that the construction of such project has been completed in accordance with the PAD, as affected by the NPC Determination, the SIR, the Contract Documents approved by the BPDA, the PDA Plan, and this Agreement.

If the BPDA has determined that construction of the Block P Project has not been completed in accordance with the Contract Documents and that the requested Certificate of Completion cannot be issued, the BPDA shall, within such forty (40) day period, provide the



Applicant with a written statement indicating with specificity (a) in what respect(s) the Applicant has failed to complete the Block P Project in accordance with the Contract Documents approved by the BPDA or is otherwise in default of its construction obligations to the BPDA; and (b) what measures or actions will be necessary for the Applicant to undertake or perform in order to comply with the Contract Documents approved by the BPDA and obtain the requested Certificate of Completion. Upon compliance by the Applicant with the requirements specified in such statement with respect to the Block P Project, the BPDA shall issue a Certificate of Completion to the Applicant. Notwithstanding anything to the contrary set forth in this Agreement, the BPDA shall have no obligation to issue a Certificate of Completion if there is any outstanding material default under this Agreement and the BPDA has provided or provides notice thereof to the Applicant after valid receipt of the request for the Certificate of Completion.

Upon the execution of the Block N Cooperation Agreement, which agreement shall include the Block N Project, this Agreement shall no longer govern the portion of the Block P Project on Block N, and such improvements shall be governed by the Block N Cooperation Agreement.

D. GENERAL PROVISIONS

1. Binding Agreement. This Agreement is binding upon and enforceable against, and inures to the benefit of, the Parties hereto and their successors and assigns (including, without limitation, any successor owner or owners of the improvements on the Project Site, but excluding mortgagees of the Project Site or those claiming through mortgagees of the Project Site, unless said mortgagee obtains title to the Project Site and proceeds with development of the Block P Project).

2. Transfer of Interest. The Applicant shall have the right to transfer or assign its rights and interests under this Agreement or in all or any portion of the Block P Project or the Project Site to another party or parties, provided that:

- (a) at the time of such transfer or assignment, the Applicant is not then in default (beyond applicable notice and cure periods) of the terms and conditions of this Agreement imposed as of such date;
- (b) the successor or assignee shall expressly assume and agree to perform and comply with all of the covenants and agreements of this Agreement to be performed by the Applicant (unless notwithstanding a transfer or assignment of the Applicant's rights and interest hereunder, such covenants and agreements are to remain those of the Applicant); and
- (c) the Applicant shall deliver to the BPDA prior to or promptly after such transfer or assignment, a copy of the instrument or instruments evidencing any such assignment to and assumption by the successor or assignee.

Notwithstanding the foregoing, the provisions of this Section shall not be applicable to any pledge, financing, or refinancing of all or any portion of the Block P Project or the Applicant's interest therein, subdivision or the creation of a commercial condominium regime at the Project Site. Further, to reflect any such subdivision or condominium creation of the Project Site to create Block P and Block N, at the request of the Applicant the BPDA shall enter into an amendment to this Agreement to replace the legal description attached hereto as Exhibit A, in accordance with Section 10 herein, at which time the portion of the Block P Project located on Block N will be removed from the Project Site and no longer subject to this Agreement and such improvements shall be governed by the Block N Cooperation Agreement.

3. Liability. The liability of the Applicant or its successors or assigns (including, without limitation, mortgagees or lenders) arising under this Agreement shall be limited solely to the interests of the Applicant in the Project Site, and no manager, member, officer, director or employee of the Applicant, or of their respective successors or assigns, or any person or entity

directly or indirectly holding any interests in any of the foregoing from time to time, or any such person's or entity's separate assets or property shall have or be subject to any personal or individual liability with respect to any obligation or liability hereunder, nor shall such person or entity be answerable or liable hereunder in any equitable proceeding or order beyond the extent of its interest in the Project Site. No holder of a mortgage on all or any portion of the Project Site, as the case may be, shall be liable to perform, or be liable in damages for failure to perform, any of the obligations of the Applicant hereunder unless and until such holder acquires title to the Project Site by foreclosure or deed in lieu of foreclosure and, if the Block P Project has not yet been constructed, pursues the completion of such project in accordance with the provisions of this Agreement. The Applicant shall be liable hereunder only for matters occurring or claims arising during its ownership of the Project Site.

4. Notices. All notices and other communications required or permitted under this Agreement must be in writing, signed by a duly authorized officer or representative of the BPDA or the Applicant, as the case may be, and shall be (i) hand delivered, (ii) delivered by nationally recognized overnight delivery service, or (iii) mailed by certified or registered mail, return receipt requested, postage prepaid, to the Parties at the following addresses or such other addresses as each may have specified to the other by such a notice:

BPDA: Boston Redevelopment Authority  
One City Hall Square  
Boston, MA 02201-1007  
Attention: Director

With a copy to: Boston Redevelopment Authority  
One City Hall Square  
Boston, MA 02201-1007  
Attention: General Counsel

Applicant: Seaport N/P Title Holder LLC

c/o WS Asset Management, Inc.  
33 Boylston Street, Suite 3000  
Boston, MA 02467  
Attention: Richard A. Marks

With a copy to: WS Asset Management, Inc.  
33 Boylston Street, Suite 3000  
Chestnut Hill, MA 02467  
Attention: Yanni Tsipis

and:

Goulston & Storrs PC  
400 Atlantic Avenue  
Boston, MA 02210  
Attention: Peter N. Kochansky, Esq.

Any such notice shall be deemed to have been given on the date received or refused during normal business hours.

5. BPDA Approval. Whenever the consent or approval of the BPDA is required hereunder, under the Development Review Guidelines, or otherwise in connection with the development of the Block P Project, such consent or approval shall not be unreasonably delayed, conditioned or withheld, nor shall it be made contingent upon or structured so as to require, directly or indirectly, the payment of any fee or charge by the Applicant or any other interested party. Wherever there is a requirement that any thing, act or circumstance shall be satisfactory to the BPDA or shall be done and performed to the BPDA's satisfaction or there is any other requirement of similar import, the standards of reasonableness and customary practice with respect to projects of similar size, location and complexity shall be used by the BPDA in determining the adequacy and sufficiency of the Applicant's performance. Any request for approvals made to the BPDA by the Applicant where such approvals shall be deemed granted after a period of non-reply by the BPDA shall, as a condition to the effectiveness thereof, be prefaced with the following language printed in capital letters in boldface type:

**“NOTICE**

**THIS REQUEST FOR APPROVAL REQUIRES A PROMPT RESPONSE FROM  
THE BOSTON REDEVELOPMENT AUTHORITY. THE FAILURE  
TO RESPOND WITHIN [BUSINESS] DAYS SHALL RESULT  
IN AN AUTOMATIC APPROVAL.”**

6. Certificate of Status of Agreement. The BPDA shall, within fifteen (15) business days after a written request therefor by the Applicant or any mortgagee of the Project Site or any portion thereof, or any other lender providing financing for the Block P Project, provide a certificate in writing, as requested or applicable, that this Agreement or any particular section hereof specified by the requesting party is in full force and effect and unmodified, or in what respects this Agreement is no longer in force or effect or has been modified, that the Applicant is in compliance with this Agreement or any particular section hereof specified by the requesting party, or in what respects there is noncompliance, or as to any other matter reasonably related to the Block P Project, the Project Site, or this Agreement which the requesting party may reasonably request of the BPDA. The Applicant or such mortgagee, as well as any other lender providing financing for the Block P Project, may rely on such certificate issued by the BPDA.

7. Authority of Director of BPDA. The BPDA has authorized the Director of the BPDA to take any action hereunder or in connection with the Block P Project on behalf of the BPDA (including, without limitation, the granting of consents or approvals and the execution and delivery of certificates and agreements hereunder or under the Development Review Guidelines, except for the issuance of a Certification of Completion pursuant to Section C.6 of this Cooperation Agreement, which shall be subject to approval by the BPDA), and any action so taken shall be binding upon the BPDA.

8. Severability. If any term or provision of this Agreement, or the application thereof to any person or circumstance, shall to any extent be determined to be invalid and unenforceable, the remainder of this Agreement, or the application of such terms to persons or circumstances other than those to which it is invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and shall be enforced to the extent permitted by law.

9. Governing Law. This Agreement shall be governed and construed by the laws of the Commonwealth of Massachusetts, without regard to conflict of law principles.

10. Amendments. This Agreement may be amended only by a written instrument signed by the Parties.

11. Business Days. As used herein, the term "Business Day" shall mean any day other than a Saturday, Sunday or legal holiday in Suffolk County, Commonwealth of Massachusetts.

12. Term. This Agreement shall expire ten (10) years from the date hereof, and the provisions herein shall be void and null as of such date of expiration.

13. Execution in Counterparts/Multiple Originals. This Agreement may be executed in counterparts. Both such counterparts shall be deemed to be originals and together, shall constitute but one and the same instrument. The Parties have agreed to execute multiple original copies of this Agreement.

14. Enforcement. It is the intention of the Parties that the provisions of this Agreement may be enforced only by the Parties, and that no other person or persons shall be

authorized to undertake any action to enforce any provisions hereof without the prior written consent of the Parties.

15. Recitals. The recitals set forth on pages 1-5 hereof are incorporated herein by reference, as if fully re-stated herein.



16. Construction of the Block P Project. Neither the Applicant nor any mortgagee that takes title to the Project Site shall have any liability hereunder unless and until it undertakes construction of the Block P Project.


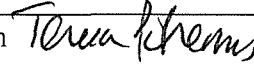
[Signatures on next page]

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed as an instrument under seal in their behalf by their respective officers thereunto duly authorized as of the day and year first above set forth.


Approved as to Form:

BOSTON REDEVELOPMENT AUTHORITY  
d/b/a Boston Planning & Development Agency

  
Renee E. LeFevre, Esq.   
General Counsel

By:   
~~Brian P. Golden~~   
Director  
*Actual*

SEAPORT N/P TITLE HOLDER LLC,  
a Delaware limited liability company

By:   
Name: Daniel B. Preysman  
Title: Authorized Real Property Signatory  
As Authorized Representative of, and on  
behalf of each of its Members

Exhibits:

- Exhibit A: Legal Description of Project Site
- Exhibit B: PAD and NPC Determination
- Exhibit C: Ordinance Amending the Boston Residents Jobs Policy and Boston Employment Commission



**EXHIBIT A**

**LEGAL DESCRIPTION OF PROJECT SITE**

**PILL PARCEL:**

A parcel of land in the City of Boston, South Boston District, County of Suffolk, southerly of and including a portion of relocated Congress Street, southerly of Boston Wharf Road, westerly of and including a portion of Ramps C and I, northerly of Summer Street and easterly and northerly of West Service Road Extension, all shown on a plan entitled "Pill Parcel, Plan of Land in Boston, Massachusetts, South Boston District, Suffolk County, Scale 1"=20', 29 March 2006", Drawing Number 570.09M prepared by Gunther Engineering, Inc., and recorded with Suffolk County Registry of Deeds in Plan Book 2006, Page 275, and more particularly described as follows:

Beginning at the southwesterly corner of said parcel, being on the northeasterly side of Summer Street and the easterly side of West Service Road Extension, thence running

S 58°42'21" E	422.83 feet by Summer Street to the northerly location line of State Highway Layout No. 6863; thence
N 29°41'18" E	60.30 feet along said location line of Layout 6863 to the southerly sideline of former Congress Street; thence
S 49°19'16" E	25.47 feet along said location line of Layout 6863 to the southerly location Line of State Highway Layout No. 6967; thence
N 40°41'02" E	75.00 feet along said location line of Layout 6967 to the northerly sideline of former Congress Street; thence
N 49°19'16" W	71.00 feet by the sideline of former Congress Street to the northwesterly sideline of Ramp C; thence
N 40°42'28" E	100.31 feet by the sideline of Ramp C to a non-tangent point of curvature; thence
Westerly	7.52 feet by a curve to the left with a radius of 5.00 feet to a point of reverse curve at the southwesterly side of Congress Street; thence
Westerly	196.58 feet along the southwesterly side of Congress Street by a curve to the left with a radius of 1,095.00 feet to a point at the sideline of former Congress Street; thence
N 49°19'16" W	293.75 feet by the sideline of former Congress Street to the division line separating the private side of former Congress Street from the public side of Congress Street; thence
S 29°43'32" W	76.39 feet along said division line and crossing said Congress Street to the southerly sideline of Congress Street; thence
S 49°19'16" E	88.80 feet along said sideline of former Congress Street to the easterly line of West Service Road Extension; thence
Westerly	39.39 feet by a curve to the left of 40.00 foot radius to a point of tangency on the easterly line of West Service Road Extension; thence

S 29°54'54" W 74.49 feet thence  
S 28°32'22" W 19.82 feet to the point of beginning, the last two courses being along the easterly line of West Service Road Extension, to the point of beginning.

Containing 88,679 square feet or 2.036 acres or 8,239 square meters, more or less.

Being a portion of the premises conveyed to Seaport II, LLC by deed of Seaport I, LLC dated February 12, 2004, recorded in Book 33847, Page 72, and described in Exhibit A-6 thereto, plus those certain parcels of land described as Area A Abandonment and Area B Abandonment in the deed of The Commonwealth of Massachusetts to Seaport II, LLC dated September 21, 2005, recorded in Book 38098, Page 292.

**“AIR RIGHTS” PARCELS:**

Included within the foregoing parcel are the following three parcels which, are subject to easements for public way purposes as set forth in the following: 1. Taking by the Commonwealth of Massachusetts Department of Highways of a limited access State Highway for the purpose of construction of the extension of Interstate Route 90, dated March 15, 1995, recorded at Book 19669, Page 57 (Parcel 65-E-20), and 2. Taking by the Commonwealth of Massachusetts Department of Highways of a limited access State Highway for the purpose of construction of the extension of Interstate Route 90, dated March 20, 1996, recorded at Book 20465, Page 337 (Parcels 65-E-23 and 65-E-24), as affected by the Omnibus Settlement Agreement, as amended (referred to in item 7 of Schedule B, Part II hereof). These three parcels are subject to the foregoing easements for public way purposes (a) below an elevation of 17' 6" above the final roadway of Ramp C and Ramp I as those ramps are shown on Plan Book 2006, Page 275, with no upper limit, as to Parcel 2A and 2B, and (b) as set forth in Book 19669, Page 57 with respect to Parcel 2C.

Said air rights parcels are more particularly described as follows:

The following volumetric parcels of air rights are located above the public ways as shown in Plan Book 2006, Page 275, recorded at Suffolk County Registry of Deeds:

**Parcel 2A:** Commencing at a point in the easterly sideline of East Service Road having the following 1983 North American datum coordinates N 2,952,372.9243, E 778,816.4837  
N40°42'28" E a distance of 68.63 feet, thence  
S 49°19'16" E a distance of 45.56 feet, thence  
S 29°41'18" W a distance of 60.30 feet, thence  
N 58°42'21" W a distance of 57.87 feet to the point of beginning.

Said parcel has an area of 3,308± s.f.

**Parcel 2B:** Commencing at a point in the easterly sideline of East Service Road having the following 1983 North American datum coordinates N 2,952,424.9493, E 778,861.2446  
N40°42'28" E a distance of 75.00 feet, thence  
S 49°19'16" E a distance of 71.00 feet, thence  
S 40°41'02" W a distance of 75.00 feet, thence  
N49°19'16" W a distance of 71.03 feet to the point of beginning.

Said parcel has an area of 5,326± s.f.

**Parcel 2C:** Commencing at a point in the southerly line of Congress Street having the following 1983 North American datum coordinates N 2,952,595.8722, E 778,777.4519 thence on a curve concave to the northeast, said curve having a radius of 1095.00 feet, a central angle of 07°49'30" southwesterly along said curve a distance of 149.55 feet, thence N65°26'59" W a distance of 36.32 feet, thence on a curve concave to the south having a radius of 40.00 feet, a central angle of 27°47'02" Southwesterly along said curve a distance of 19.37 feet, thence N49°19'16" W a distance of 88.80 feet, thence N 29°43'32" E a distance of 76.39 feet, thence S49°19'16" E a distance of 293.75 feet to the point of beginning. Said parcel contains an area of 14,634± s.f.

Also, those certain air rights parcels in the City of Boston, South Boston, Suffolk County, Massachusetts, shown as "Parcels 120-AR-1, 120-AR-2A, 120-AR-3 and 120-AR-4" on a plan entitled "Massachusetts Department of Transportation, Plan of Land in the City of Boston, Suffolk County, Showing Location of Air Rights Parcels Conveyed by the Massachusetts Department of Transportation, Highway Division, Scale: 20 Feet to the Inch," prepared by Feldman Land Surveyors and recorded with the Suffolk County Registry of Deeds at Plan Book 2019, Page 125 (the "Plan"), and more fully described below:

### **PARCEL 120-AR-1**

A parcel of land in the City of Boston, County of Suffolk, comprising a portion of the State highway layouts of the extension of Interstate Route 90, adjoining the location line of the July 27, 2005 (Layout No. 7819) State highway alteration at Congress Street, and bounded by the line described as follows:

Beginning at a point on the bearing N 60°28'36" W and 12.72 feet distant from station 288+05.61 of the Main baseline location of the October 10, 1991 (Layout No. 6863) State highway layout at Congress Street and extending thence, N 49°18'58" W 71.00 feet to a point on the location line of the July 27, 2005 (Layout No. 7819) State highway alteration; thence following said location line N 40°42'28" E 100.48 feet; thence along a non-tangent curve to the left with a radius of 5.00 feet and an arc length of 7.52 feet; thence by a non-tangent curve to the left with a radius of 1,095.00 and an arc length of 35.87 feet; thence S 1°01'23" W 76.98 feet; thence S 40°41'02" W 63.68 feet to the point of beginning; containing about 7,100 square feet.

The lower limit of said parcel defined vertically by a plane constituted by the lower surfaces of said parcel ranging in elevation from 36.0 feet to 37.0 feet (Boston City Base).

The parcel has no upper limits.

Being shown as Parcel 120-AR-1 on the Plan. Included in this parcel are any rights in this parcel held by MASS DOT as successor to the Massachusetts Turnpike Authority pursuant to that Grant

of Easements to Massachusetts Turnpike Authority, dated December 13, 1995, recorded with the Registry, Book 20226 Page 172 (the "MTA Easement").

For title, see the Order of Taking, dated December 19, 1991, recorded with said Deeds, Book 17212 Page 30 and Taking, dated March 21, 1995, recorded with said Deeds, Book 19669, Page 57. See also Certificate of Transfer of Title from the Commonwealth of Massachusetts Department of Highways to the Massachusetts Department of Transportation, dated November 4, 2009, recorded with said Deeds, Book 45797 Page 65.

### **PARCEL 120-AR-2A**

A parcel of land in the City of Boston, County of Suffolk, comprising a portion of the State highway layouts of the extension of Interstate Route 90 at Summer Street and Congress Street, and bounded by the line described as follows:

Beginning at a point bearing N 60°28'36" W and 12.72 feet distant from station 288+05.61 of the Main baseline location of the October 10, 1991 (Layout No. 6863) State highway layout at Congress Street and extending thence, S 49°18'58" E 52.79 feet; thence S 1°01'23" W 97.42 feet; thence N 49°18'58" W 114.97 feet; thence N 40°41'02" E 75.00 feet to the point of beginning; containing about 6,291 square feet.

The lower limit of said parcel defined vertically by a plane constituted by the lower surfaces of said parcel ranging in elevation from 36.7 feet to 39.3 feet (Boston City Base).

The parcel has no upper limits.

Being shown as Parcel 120-AR-2A on the Plan.

For title, see Order of Taking by the Commonwealth of Massachusetts Department of Public Works, dated October 10, 1991, recorded with the Registry, Book 17091 Page 304; Order of Taking dated September 28, 1994, recorded with the Registry, Book 19366 Page 99; and Order of Taking, dated March 21, 1995, recorded with the Registry, Book 19669, Page 57. See also Certificate of Transfer of Title from the Commonwealth of Massachusetts Department of Highways to Massachusetts Department of Transportation, dated November 4, 2009, recorded with the Registry, Book 45797 Page 65.

### **PARCEL 120-AR-3**

A parcel of land in the City of Boston, County of Suffolk, comprising a portion of the State highway layouts of the extension of Interstate Route 90 at Summer Street and Congress Street, and bounded by the line described as follows:

Beginning at a point bearing N 60°28'36" W and 52.36 feet distant from station 286+76.84 of the Main baseline location of the October 10, 1991 (Layout No. 6863) State highway alteration

at Summer Street and Congress Street and extending thence, N 29°41'19" E 60.11 feet; thence S 49°18'58" E 140.40 feet; thence S 1°01'23" W 43.05 feet; thence N 58°42'21" W 158.54 feet to the point of beginning; containing about 7,090 square feet.

The lower limit of said parcel defined vertically by a plane constituted by the lower surfaces of said parcel ranging in elevation from 35.4 feet to 38.8 feet (Boston City Base).

The parcel has no upper limits. Included in this parcel are any rights in this parcel held by MASS DOT under the MTA Easement.

Being shown as Parcel 120-AR-3 on the Plan.

For title, see order of Order of Taking, dated October 10, 1991, recorded with the Registry, Book 17091 Page 304. See also Certificate of Transfer of Title from Massachusetts Department of Highways to Massachusetts Department of Transportation, dated November 4, 2009, recorded with the Registry, Book 45797 Page 65.

#### **PARCEL 120-AR-4**

A parcel of land in the City of Boston, County of Suffolk, comprising a portion of the State highway layouts of the extension of Interstate Route 90 at Congress Street, and bounded by the line described as follows:

Beginning at a point bearing N 60°28'36" W and 12.72 feet distant from station 288+05.61 of the Main baseline location of the October 10, 1991 (Layout No. 6863) State highway layout at Congress Street and extending thence, leaving said location line N 40°41'02" E 63.68 feet; thence S 1°01'23" W 82.72 feet; thence N 49°18'58" W 52.79 feet to the point of beginning; containing about 1,681 square feet.

The lower limit of said parcel defined vertically by a plane constituted by the lower surfaces of said parcel ranging in elevation from 36.1 feet to 36.8 feet (Boston City Base).

The parcel has no upper limits. Included in this parcel are any rights in this parcel held by Grantor under the MTA Easement.

Being shown as Parcel 120-AR-4 on the Plan.

#### **SUBSURFACE EASEMENT:**

There is appurtenant to the Pill Parcel the right to use the so-called subsurface easement under the Summer Street Bridge described in an instrument dated September 16, 1999, recorded in Book 24237, Page 140. Said easement is described as follows:

A sub-surface parcel of land in the City of Boston beneath an elevated roadway, being a portion of existing Summer Street in the Fort Point area of South Boston, between West Service Road Ext. and Ramp "C," shown on plans entitled "Boston Redevelopment Authority, Summer Street

Taking, Boston, Suffolk County, Massachusetts, Delivery Parcel Plan, Summer Street Bridge Parcel, 27 May 1999, Scale 1"=20', Drawing No's. 469.24M and 469.25M, sheets 1 of 2 and 2 of 2 respectively, prepared by Gunther Engineering, Inc. recorded in Book 23975, Page 91, and more particularly described as follows:

Beginning at the northwesterly corner of said parcel, at the intersection of the northerly sideline of Summer Street and the line of the proposed back of sidewalk; thence running:

S 58°42'21" E	366.28 feet by the sideline of Summer Street and by land now or formerly of McCourt-Broderick Limited Partnership to a line 7 feet westerly of a proposed face of curb; thence
S 40°39'06" W	45.44 feet by said line 7 feet westerly of proposed face of curb; thence
N 58°42'21" W	5.76 feet thence
S 31°17'39" W	10.33 feet thence
S 58°42'21" E	4.05 feet to said line 7 feet westerly of proposed face of curb; thence
S 40°39'06" W	45.44 feet by said line 7 feet westerly of proposed face of curb to the southerly sideline of Summer Street and land of the United States Postal Service, the last five courses being by the remaining portion of Summer Street; thence
N 58°42'21" W	343.79 feet by the southerly sideline of Summer Street and by said land of the United States Postal Service to said proposed back of sidewalk; thence
N 27°51'15" E	100.18 feet by the proposed back of sidewalk, and by the remaining portion of Summer Street to the northerly sideline of Summer Street, to said land of McCourt-Broderick and to the point of beginning.

Containing 35,452 square feet or 3,294 square meters, more or less.

The upper limits of said parcel are defined vertically as the plane or planes constituted by the lower surfaces of the proposed horizontal structural girders of the proposed Summer Street bridge, and said lower surfaces ranging in elevation from 33.85 feet to 35.53 feet Boston City Base, more or less. The lower limits of said parcel are defined vertically as the area and space above the egress stairwell, egress tunnel or headhouse or above elevation minus 170.00 feet Boston City Base, all as shown on said plan.

Said easement is also shown as "Parcel 2 Appurtenant Easement, 35,452± S.F." on the Survey entitled "ALTA/ACSM Land Title Survey, Boston Seaport Square - Parcel NP Boston, Massachusetts" prepared by Nitsch Engineering, Inc. dated September 30, 2015, last revised October 22, 2015 File: 11066\_PARCEL\_N+P.dwg.

Together with Declaration of Covenants, Restrictions, Development Standards and Easements, dated as of December 22, 2011, recorded at Book 48846, Page 1; as affected by Agreement of Declarant dated December 27, 2011 and recorded in Book 48869, Page 252; as further affected by First Amendment to Agreement of Declarant dated January 16, 2013 and recorded in Book

52661, Page 283, as further affected by Assignment and Assumption of Declarant's Rights dated October 23, 2015 and recorded in Book 55221, Page 267; as further affected by First Amendment to Declaration of Covenants, Restrictions, Development Standards and Easements dated October 23, 2015 and recorded in Book 55221, Page 229; as further affected by Second Amendment to Declaration of Covenants, Restrictions, Development Standards and Easements dated July 7, 2017 and recorded in Book 58200, Page 221; and as further affected by Third Amendment to Declaration of Covenants, Restrictions, Development Standards and Easements dated February 16, 2018 and recorded in Book 59200, Page 294.

**EXHIBIT B**

**PAD AND NPC DETERMINATION**

*[See attached.]*



# Boston Redevelopment Authority

Boston's Planning & Economic  
Development Office

Thomas A. Menino, *Mayor*  
Clarence J. Jones, *Chairman*  
John F. Palmieri, *Director*

One City Hall Square  
Boston, MA 02201-1007  
Tel 617-722-4300  
Fax 617-248-1937

November 19, 2010

Mr. John B. Hynes  
Boston Global Investors  
One Post Office Square  
Suite 3150  
Boston, MA 02109

Re: Preliminary Adequacy Determination Waiving Further Review  
Seaport Square  
Boston, Massachusetts

Dear Mr. Hynes:

Please be advised that on September 21, 2010 the Boston Redevelopment Authority ("BRA") Board voted its authorization for the Director to issue a Preliminary Adequacy Determination under Section 80B-5.4(c)(iv) of the Boston Zoning Code (the "Code") which (i) finds that the Draft Project Impact Report ("DPIR") adequately describes the potential impacts arising from the proposed Seaport Square project and provides sufficient mitigation measures to minimize these impacts and (ii) waives further review of the project under subsection 4 of Section 80B-5 of the Code, subject to continuing design review by the BRA. MS Boston Seaport, L.L.C. (the "Proponent") proposes the construction of up to 22 new buildings (not including park pavilions and MBTA headhouses), and devoting approximately 37% (approximately 8.6 acres) of the site owned by the Proponent, to sidewalks and open space (the "Proposed Project"). The Proposed Project includes up to 6,335,200 square feet of residential, retail, office, hotel, innovation, civic and cultural uses, as well as approximately 6,375 below-grade parking spaces. Such uses include approximately 1,250,000 gross square feet of retail and entertainment uses; 2,840,000 gross square feet of residential uses; 1,145,000 gross square feet of office and research uses; 860,000 gross square feet of hotel uses and approximately 243,000 gross square feet of cultural uses. Most buildings will include retail, restaurant, entertainment, innovation space, or other active uses at the street level and the project site will have a floor area ratio of up to 6.3. The Proposed Project consists of buildings ranging in maximum building height from approximately 24 feet to 270 feet.

Pursuant to the September 21, 2010 vote by the BRA, I hereby issue to you, this Preliminary Adequacy Determination waiving further review under Section 80B-5.4(c)(iv) of the Code in connection with the Proposed Project which (i) finds that the DPIR adequately describe the potential impacts arising from the Proposed Project and

provide sufficient mitigation measures to minimize the impacts and (ii) waives further review of the Proposed Project under subsections 4 of Section 80B-5 of the Code, subject to continuing design review by the BRA.

This Preliminary Adequacy Determination waiving further review shall not become final until nineteen (19) days after the date hereof. I hereby invite the public to comment on the conditions the BRA requires in this Preliminary Adequacy Determination for the mitigation of the Proposed Project's impacts. Such comments must be submitted in writing to the BRA within fourteen (14) days hereof and must be based on significant new information not submitted during the public comment period or scoping session required by Section 80B-5.4(b) and (c) of the Code. The BRA shall consider any comments received and may modify this Preliminary Adequacy Determination to add, delete, or modify the conditions set forth therein, provided that any such changes shall be made no later than the date on which the Preliminary Adequacy Determination becomes final.

Sincerely,

A handwritten signature in black ink, appearing to read "John F. Palmieri". The signature is written in a cursive style with a large initial "J" and "P".

John F. Palmieri  
Director



November 1, 2018

Mr. Jeremy Sclar  
Mr. Richard A. Marks  
Seaport Square Development Company LLC  
c/o WS Development  
Chestnut Hill, MA 02467

Re: Notice of Project Change - Determination Waiving Further Review  
Seaport Square Project, South Boston

Dear Messrs. Sclar and Marks:

Please be advised that on November 16, 2017, the Boston Redevelopment Authority d/b/a Boston Planning & Development Agency ("BPDA") Board authorized the Director of the BPDA to issue a Determination waiving the requirement of further review of the Notice of Project Change for the Seaport Square Project pursuant to Section 80A-6.2 of the Boston Zoning Code (the "Code"), and to approve the NPC Project (defined below) as a Development Impact Project. This Determination finds that the Notice of Project Change dated February 7, 2017, submitted by Seaport Square Development Company LLC and its affiliates (the "Proponent") as supplemented by the Supplemental Impact Report (the Notice of Project Change and the Supplemental Impact Report collectively, the "NPC") adequately describes the impacts of the changes proposed to the previously-approved Seaport Square Project.

The Seaport Square Project site (the "Project Site") consists of approximately 23 acres of land, defined by an L-shaped series of development blocks and generally bounded by Northern Avenue and Seaport Boulevard (between Old Sleeper Street and Pier 4 Boulevard) and by Stillings Street, Boston Wharf Road, East Service Road and Pier 4 Boulevard and B Street (between Seaport Boulevard and Summer Street). In 2010, the Seaport Square Project received approval for the construction of approximately 6,335,200 square feet of Gross Floor Area of mixed uses from the BPDA under Article 80B of the Code (the "Code"). The City of Boston Zoning Commission (the "BZC") approved a Planned Development Area Development Plan for Planned Development Area No. 78 on October 13, 2010 (the "Original PDA Plan"), which has since been amended six times (as amended, the "Amended PDA Plan"). The area governed by the



Amended PDA Plan, which includes publicly-owned streets and other land, is approximately 1,444,765 square feet (approximately 33 acres). As described in the Amended PDA Plan, for development purposes the Seaport Square Project has been divided into lettered blocks (each a “Block”). The NPC Project will be developed in phases; each Block, Block grouping, building or group of buildings is referred to as a “Project Component.” The project described in the Amended PDA Plan is referred to herein as the “Original Project”.

Following the adoption of the Original PDA Plan, the Proponent’s predecessor-in-interest MS Boston Seaport, L.L.C. (the “Original Proponent”) constructed a number of public realm improvements (known as “Early Action Public Benefits” in the Amended PDA Plan), and conveyed Block A, Blocks B and C, Block H, Block K, Block J, Block L1, Block L2, and Blocks M1 and M2 (collectively the “Developed Blocks”) to third party developers for the development of such Blocks.

Seaport Square Development Company LLC and its affiliates (the “Proponent”) acquired the undeveloped Blocks and certain open space parcels within the Seaport Square Project in October 2015, and proposed an updated and enhanced vision for the district, detailed in the NPC. The Proponent filed an Amended and Restated Planned Development Area Plan for Planned Development Area No. 78 (the “PDA Plan”) on September 15, 2017.

The project described in the NPC, proposes to develop approximately 13 acres of land comprising approximately nine individual building sites currently owned by the Proponent and its affiliates (the “NPC Project Site”) which remain occupied largely by surface parking lots, or, in the case of Blocks F and Q, are developed or partially developed but are the subject of certain changes as described in the NPC (the “NPC Project”). The Blocks that are the subject of the NPC are Blocks D, F, G, L3-L6, N, P, and Q (the “NPC Blocks”). The term “Overall Project” shall be used herein to describe the totality of the structures and other improvements within the Seaport Square Project, already completed or currently underway as part of the Original Project (the Developed Blocks), in addition to those planned as part of the NPC Project.

The NPC proposed an increase to the Project Site area from approximately 1,008,370 square feet to approximately 1,023,396 square feet to encompass a larger air rights parcel adjacent to Block P that the Proponent is in the process of acquiring from MassDOT. The PDA Plan area, as described in the Map Amendment and the PDA Plan, will increase from approximately 1,444,765 square feet to approximately 1,460,572 square feet. The PDA Plan, which was approved by the BZC on December 13, 2017 and



effective that same date, supersedes the Original PDA Plan to allow changes to the NPC Blocks, as well as modifications and enhancements to the public realm improvements and public benefits to be provided in conjunction with the development of the NPC Blocks. The changes described in the PDA Plan allow an increase in the total Gross Floor Area of the Overall Project from 6,335,200 square feet to 7,723,110 square feet, which would include approximately 3.2 million square feet of residential uses, 2.8 million square feet of office/research/innovation uses, 1.1 million square feet of retail/entertainment/performing arts uses, 480,000 square feet of hotel uses, 19,700 square feet of civic uses, as well as cultural/community uses. The Overall Project will include up to approximately 5,500 underground parking spaces, reduced from approximately 6,375 spaces in the Original Project, and approximately 200 on-street parking spaces.

Pursuant to the November 16, 2017 vote by the BPDA, I hereby issue this NPC Determination waiving further review under Section 80A-6 of the Code in connection with the NPC Project, subject to continuing design review by the BPDA, and approve the NPC Project as a Development Impact Project.

Sincerely,

A handwritten signature in black ink, appearing to read "Brian P. Golden".

Brian P. Golden  
Director

**EXHIBIT C**

**ORDINANCE AMENDING THE BOSTON RESIDENTS JOBS POLICY AND BOSTON  
EMPLOYMENT COMMISSION**

*[See attached.]*

COUNCILOR MEXINO



# CITY OF BOSTON

SUBSTITUTION

IN THE YEAR NINETEEN HUNDRED AND EIGHTY SIX

## AN ORDINANCE.

### ESTABLISHING THE BOSTON EMPLOYMENT COMMISSION

Be it ordained by the City Council of Boston, in accordance with the provisions of Massachusetts General Laws Chapter 43B, Section 13, and any other applicable law, as follows:

1. Preamble: Policy of the City of Boston

2. WHEREAS there is a need to ensure that Boston residents  
3. receive maximum benefits from the growing private economy of  
4. their city and the economic resurgence of office, hotel,  
5. retail, institutional, and unsubsidized residential  
6. development, including the permanent jobs which emanate from  
7. this economic expansion; and

8. WHEREAS there is unemployment and underemployment in the  
9. City of Boston, both among majority and minority residents; and

10. WHEREAS Boston is experiencing a resurgence in its economy  
11. that is creating the potential for unprecedented economic  
12. opportunity; and

13. WHEREAS Boston has fully established itself as the economic  
14. center for the entire New England region and is generating  
15. wealth and revenues for people throughout the region; and

16. WHEREAS one principal aspect of a strong and vibrant city  
17. is the ability of its breadwinners to gain access to secure  
18. jobs that pay a living wage; and

## AN ORDINANCE

1. have historically been underrepresented in the workforce; a
2.       WHEREAS an Ordinance establishing the Boston Residents
3. Policy, Ordinances of 1983, Chapter 30, was promulgated to
4. insure that Boston residents, minorities, and women receive
5. preference in projects that have city funds or state or fed
6. funds administered by the city; and
7.       WHEREAS the Mayor issued an Executive Order relating to
8. Boston Residents Jobs Policy, dated July 12, 1985, which
9. established Resident Construction Employment Standards to
10. further ensure employment for Boston residents, minorities
11. women; and
12.       WHEREAS under the Boston Residents Jobs Policy, Boston
13. residents are enjoying greatly improved access to jobs in
14. downtown construction industry; and
15.       WHEREAS it is the policy of this City government to en
16. sure that all people enjoy fair and open access to employment i
17. permanent jobs in the private sector; and
18.       WHEREAS it can be shown that broader cooperation from
19. private sector can produce meaningful employment opportuni
20. for Boston residents who want and need them; and



## AN ORDINANCE

1. WHEREAS job placement is contingent upon proper job training  
2. and without necessary skills some Boston residents cannot  
3. secure permanent jobs; and

4. WHEREAS it is essential to the success of the 1983 Boston  
5. Residents Jobs Policy Ordinance and the 1985 Mayor's Executive  
6. Order that projects and employment plans be monitored, that  
7. findings be made with respect to compliance, and that  
8. recommendations for sanctions be determined, and that all th  
9. be done in a manner that provides for the due process rights  
10. all parties; and

11. WHEREAS it is essential to engender an atmosphere of  
12. cooperation between the public and private sectors with resp  
13. to permanent jobs for Boston residents, minorities, and wome  
14. and

15. WHEREAS the following is declared to be in the public  
16. interest; now

17. THEREFORE, be it ordained as follows:

18. SECTION ONE: Definitions

19. For the purposes of this Ordinance, the following  
20. definitions shall apply, unless the context otherwise requir

AN ORDINANCE

1. (1) "Best Efforts." Developers and contractors may rely on  
2. traditional referral methods in the hiring of journeymen,  
3. apprentices, advanced trainees and helpers. Developers and  
4. contractors also shall implement affirmative action steps which  
5. include the following to the extent that such steps do not  
6. conflict with any applicable collective bargaining agreements:

7. As to Contractors:

8. (i) The contractor shall designate and shall require  
9. each subcontractor to designate an individual to  
10. serve as a compliance officer for the purpose of  
11. pursuing the Boston Residents Construction  
12. Employment Standards ("Standards").
13. (ii) Prior to the start of construction, the contractor  
14. and each subcontractor then selected shall meet  
15. with appropriate representatives of the  
16. construction trade unions, representatives from the  
17. Mayor's Office of Jobs and Community Services, and  
18. the awarding or contracting authority for the  
19. purpose of reviewing the Standards and the  
20. estimated employment requirements for construction

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1. activity over the construction period of the Covered Project.

2. (iii) Whenever any person involved in the construction  
3. a Covered Project makes a request to a union hiring  
4. hall, business agent or contractor's association  
5. for qualified construction workers, the request  
6. shall ask that those qualified applicants referred  
7. for construction positions be referred in the  
8. proportions specified in the Boston Resident  
9. Construction Employment Standards and shall,  
10. further, contain a recitation of such Standards.  
11. However, if the requesting party's workforce  
12. composition at any time falls short of any one or  
13. more of the proportions specified in the Standards,  
14. the requesting party shall adjust his or her  
15. request so as to seek to more fully achieve the  
16. proportions specified in the Standards. If the  
17. union hiring hall, business agent or contractor's  
18. association to whom a request for qualified  
19. employees has been made fails to fully comply with  
20. such request, the requesting party's compliance

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1. officer shall seek written confirmation from the hall, agent or  
2. association that there are insufficient employees in the  
3. categories specified in the request and that such insufficiency  
4. is documented on the unemployed list maintained by the hall,  
5. agent or association. Copies of any confirmation so obtained  
6. shall be forwarded to the Commission. Copies of any requests  
7. for qualified employees made at a time that the requesting  
8. party's workforce composition falls short of any one or more of  
9. such Standards shall be forwarded contemporaneously to the  
10. Skills Bank.

11. (iv) All persons applying directly to the Contractor or  
12. any subcontractor for employment in construction on  
13. a Covered Project who are not employed by the party  
14. to whom application is made shall be referred by  
15. said party to the Mayor's Office of Jobs and  
16. Community Services, and a written record of such  
17. referral shall be made by said party, a copy of  
18. which shall be sent to such Office of Jobs and  
19. Community Services.

20. (v) Contractors shall maintain a current file of the

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1. names, addresses, and telephone numbers of each Boston  
2. resident, minority, and woman who has sought employment with  
3. respect to a Covered Project, or who was referred to the  
4. contractor by the Mayor's Office of Jobs and Community Service  
5. but was not hired. The contractor shall maintain a record of  
6. the reason any such person was not hired. If the construction  
7. of the Covered Project is subject to any union collective  
8. bargaining agreements, it shall be deemed a sufficient reason  
9. for failure to hire that the applicant for employment was not  
10. union member.

11. (vi) The contractor shall in a timely manner complete  
12. and submit to the Commission a projection of  
13. workforce needs over the course of the construction  
14. of the Covered Project. Such a submission shall  
15. reflect needs by trade for each month of the  
16. construction process.

17. (vii) The contractor shall obtain from each worker  
18. employed in the construction of the Covered Project  
19. a sworn statement containing the worker's name and  
20. place of residence.

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- 1. (viii) One week following the commencement of construct
- 2. of the project, and each week thereafter until s:
- 3. work is completed, the contractor shall complete
- 4. and submit to the Mayor's Office of Jobs and
- 5. Community Services for the week just ended a rep
- 6. which reflects (a) for each employee, the
- 7. employee's name, place of residence, race, gende
- 8. trade and the total number of worker hours he or
- 9. she worked, and (b) the total worker hours of its
- 10. total workforce. . . . .
- 11. (ix) The contractor and each subcontractor shall
- 12. maintain records reasonably necessary to ascertain
- 13. compliance with the steps detailed in clauses (i
- 14. through (viii) hereof for at least one year after
- 15. the issuance of a Certificate of Occupancy for a
- 16. Covered Project. In its review of records of a
- 17. construction project submitted to demonstrate
- 18. compliance with these steps, the Commission shall
- 19. take into consideration any affirmative action
- 20. outreach programs and affirmative action job

## AN ORDINANCE

1. training programs of the particular trades participating in the  
2. Covered Project.

3. As to Developers:

4. (x) Developers of Covered Projects shall incorporate in  
5. every general construction contract or construction  
6. management agreement an enumeration of the  
7. Standards and shall impose a responsibility upon  
8. any such general contractor or construction manager  
9. to take all steps enumerated in clauses (i) - (ix)  
10. in Section One (1) and to incorporate such  
11. Standards in all subcontracts and impose upon all  
12. subcontractors the obligation to take such steps.

13. (xi) The developer shall meet with the contractor no  
14. less frequently than weekly throughout the period  
15. of construction of the Covered Project to review  
16. the contractor's compliance with such Standards and  
17. steps. The developer shall maintain minutes of  
18. such meetings and shall forward a copy of such  
19. minutes to the Mayor's Office of Jobs and Community  
20. Services within ten (10) days of each such meeting.

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1. (xii) The developer shall comply with the escrow deposit  
2. requirements of Section Eight hereof.

3. (2) "Boston Employment Commission", hereinafter  
4. "Commission." There shall be in the City a Commission known as  
5. the Boston Employment Commission, consisting of seven (7)  
6. members, all appointed by the Mayor. The Commission shall have  
7. the powers and duties set forth in Section Three herein. The  
8. members of the Commission shall be deemed special municipal  
9. employees for purposes of Chapter 268A of the Massachusetts  
10. General Laws.

11. (3) "Boston Resident." Any person for whom the principal  
12. place where that person normally eats and sleeps and maintains  
13. his or her normal personal and household effects is within the  
14. city limits of the City of Boston.

15. (4) "Boston Residents Construction Employment Standards."  
16. The standards as contained below:

17. (i) At least fifty percent (50%) of all Worker-Hours  
18. a craft-by-craft basis in Covered Projects shall  
19. worked by Boston Residents;

20. (ii) At least twenty-five percent (25%) of all



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1. Worker-Hours on a craft-by-craft basis in Covered Projects  
2. shall be worked by Minority Persons;

3. (iii) At least ten percent (10%) of all Worker-Hours on a  
4. craft-by-craft basis in Covered Projects shall be  
5. worked by women.

6. (5) "Boston Resident New Hire Goals" The Commission will  
7. determine baseline hiring goals for Boston residents,  
8. minorities and women, such determination to be based upon a  
9. consideration of:

10. (i) current workforce composition;

11. (ii) the composition of the workforce that is unemployed;

12. (iii) numbers and categories of new job opportunities  
13. being created in Boston; and

14. (iv) an examination of employment trends in Boston over  
15. the last 5 years.

16. The Commission shall reevaluate annually, and modify if  
17. appropriate, such goals based upon the number of permanent  
18. full-time equivalent new hires of Boston residents, minorities  
19. and women during the previous calendar year.

20. (6) "Covered Projects." All projects, contracts, or

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1. agreements within the jurisdiction of:

2. (i) the Boston Residents Jobs Policy, Ordinances of  
3. 1983, Chapter 30 (hereinafter referred to as "Jobs  
4. Ordinance") and for which the contract or agreement  
5. is executed after the effective date of this  
6. ordinance; and

7. (ii) any new construction or substantial rehabilitation  
8. project in the city to which any partial or full  
9. building permit has not already been issued for  
10. this specific construction or rehabilitation,  
11. dedicated to a retail, restaurant, and/or  
12. institutional use as defined in the Boston Zoning  
13. Code, which requires approval by the Zoning Board  
14. of Appeals and in which it is proposed to erect a  
15. structure or structures having a total gross floor  
16. area (exclusive of all accessory parking garage  
17. space) in excess of one hundred thousand (100,000)  
18. square feet or to enlarge or extend a structure or  
19. structures so as to increase its (or their) gross  
20. floor area (exclusive of all accessory parking

## AN ORDINANCE

1. garage space) by more than one hundred thousand (100,000)  
2. square feet or to substantially rehabilitate a structure or  
3. structures having, or to have, after rehabilitation, a gross  
4. floor area (exclusive of accessory parking garage space) of  
5. more than one hundred thousand (100,000) square feet.

6. (7) "Major Employer." Any corporation, partnership,  
7. individual, or institution which employs more than five hundred  
8. people to work within the City of Boston.

9. (8) "Mayor's Office of Jobs and Community Services,"  
10. hereinafter "OJCS". The agency within the City of Boston  
11. government responsible for compiling compliance information in  
12. accordance with the Boston Residents Construction Employment  
13. Standards and the Minority Business Enterprise/Women's Business  
14. Enterprise Programs.

15. (9) "Minority Business Enterprise" ("MBE") A business  
16. organization in which 51% in the aggregate of the beneficial  
17. ownership is held by one or more minority persons.

18. (10) "Womens Business Enterprise" ("WBE") A business  
19. organization in which 51% in the aggregate of the beneficial  
20. ownership is held by one or more women.

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1. (11) "Minority Person" or "Minority". Any person who is  
2. Black, Hispanic, Asian, or Native American, as these terms are  
3. defined by the United States Census Bureau.

4. (12) "Permanent Job." Any full-time position, or its  
5. equivalent, that an employer would fill year-round and continue  
6. to fill indefinitely in a particular location.

7. (13) "Skills Bank." A job screening and referral bank  
8. maintained by OJCS, which shall refer residents to available  
9. jobs and/or to appropriate training programs, including but not  
10. limited to, programs offered at the Hubert Humphrey  
11. Occupational Resource Center.

12. (14) "Voluntary Employment Plan." Any plan to promote  
13. hiring for jobs in Boston of Boston residents, minorities,  
14. and/or women developed by a Major Employer or a group of Major  
15. Employers.

16. (15) "Worker-Hours." The sum total of all hours worked by  
17. all persons performing construction work.

### 18. SECTION TWO: Scope of Jurisdiction

19. The Commission's jurisdiction shall extend to: (1) Covers  
20. Projects and (2) assistance in the formulation and monitoring

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of Voluntary Employment Plans.

SECTION THREE: Powers and Duties

A. Covered Projects

(1) The Commission shall make determinations as to compliance by developers and contractors with the Boston Residents Construction Employment Standards. The Commission shall gather and receive compliance information from OJCS, investigate noncompliance complaints, make compliance determinations and, where appropriate, shall recommend sanctions to the awarding or contracting authority. The Commission may gather compliance information at any time and shall make compliance determinations in phases for each Covered Project in accordance with Sections Five, Six and Seven herein. For projects under construction upon the passage of this ordinance, all existing contracts and agreements shall remain in full force and effect and the provisions of this ordinance shall not otherwise apply.

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1. (2) The Commission shall have the authority to  
2. require developers of Covered Projects to submit:  
3. (i) detailed plans which show how the developer  
4. intends to meet the Boston Residents Construction  
5. Employment Standards; and (ii) detailed plans  
6. which show how the developer intends to meet  
7. MBE/WBE goals contained in or applicable to City  
8. contracts.

9. (3) In the review of such detailed plans, the  
10. Commission shall consider any affirmative action  
11. outreach programs and affirmative action job  
12. training programs of the particular trades  
13. participating in the Covered Project and  
14. participation, if any, of the developer or the  
15. contractor in any such program.

16. (4) The Commission shall monitor MBE/WBE goals  
17. contained in or applicable to City contracts. The  
18. Commission shall receive compliance information  
19. from OJCS and shall recommend to the awarding or  
20. contracting authority appropriate remedies for

AN ORDINANCE

1. noncompliance.

2. (5) The Commission shall monitor Davis-Bacon Act  
3. requirements contained in City agency or authority  
4. contracts. The Commission shall receive  
5. compliance information and shall forward any  
6. information concerning apparent noncompliance to  
7. appropriate federal agencies.

8. B. Voluntary Employment Plans

9. (1) The Commission shall meet with a group of  
10. representatives of Major Employers to review  
11. voluntary aggregate hiring goals set by said  
12. employers.

13. (2) The Commission shall receive information  
14. concerning the success in meeting the voluntary  
15. aggregate hiring goals.

16. The Commission shall encourage a group representing  
17. the Major Employers to issue an annual public  
18. report on the success of this effort and of  
19. voluntary business programs such as Boston Summer  
20. Jobs Program, the Boston Compact and BostonWorks.

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(3) The Commission shall encourage Major Employer to adopt Voluntary Employment Plans, which promote a collaboration between the public and private sectors to expand employment opportunities for Boston residents, minorities and women. The Commission shall encourage Major Employers to incorporate the Boston Resident New Hire Goals in their Voluntary Employment Plans. The Commission shall advise OJCS and other City agencies of the amounts and types of assistance identified by Major Employers as being necessary to achieve the goals included in their Voluntary Employment Plans. Such assistance may include, but is not limited to, job training, adult literacy and referral services. The Commission may conduct surveys to assess the progress made toward hiring goals as to Boston residents, minorities and women.

C. General

(1) The Commission shall have the authority to promulgate regulations as to matters within the



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1. Commission's purview after public notice and hearing and upon  
2. majority vote of all members.

3. (2) The Commission shall cause to be created, in  
4. conjunction with the Mayor's Office of Jobs and  
5. Community Services, a job training program. Said  
6. job training program shall be conducted at the  
7. appropriate sites which may include the Hubert  
8. Humphrey Occupational Resource Center, or its  
9. successor, or other appropriate skills training  
10. facilities. The purpose of said training program  
11. is to provide skills training to any Boston  
12. Resident in order to be fully qualified for entry  
13. into existing apprenticeship programs or jobs.  
14. Subject to appropriation by the Mayor and the City  
15. Council, any fines levied against the escrow fund  
16. set out in Section Eight shall be for the benefit  
17. of this jobs training program and no other.

### 18. SECTION FOUR: Composition

19. The Commission shall be composed of seven (7) members, 21  
20. of whom shall be appointed by the Mayor. The Commission shall

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1. be representative of the interests of business, minorities,  
2. women, organized labor, Boston Building Trades Council, and the  
3. Mayor's Jobs Liaison Committee. Members of the Commission  
4. shall have demonstrated commitment to equal employment  
5. opportunity. All members of the Commission shall be Boston  
6. residents or shall maintain their principal place of business  
7. in Boston.

8. (1) Term of Office

9. Commission members shall be appointed to two-year terms,  
10. and members shall serve until their successors are duly  
11. appointed. If a vacancy on the Commission occurs before a term  
12. expires, that vacancy shall be filled by appointment by the  
13. Mayor for the balance of the unexpired term.

14. (2) Removal

15. The Mayor may remove a member for just cause by filing a  
16. written statement to that effect with the City Clerk. Reason  
17. for just cause shall include but not be limited to a pattern  
18. nonattendance, lack of residency or employment in the City of  
19. Boston, noncompliance with the procedures established under  
20. Section Five herein, failure to disclose conflicts of interest

## AN ORDINANCE

1. incapacity due to illness, or conviction of a crime. The  
2. Mayor's determination that just cause for removal exists shall  
3. be conclusive.

### 4. (3) Chair

5. The Chairperson of the Commission shall be designated by  
6. the Mayor and shall serve in that capacity for a term of two  
7. years.

### 8. (4) Quorum

9. In no event shall a quorum be fewer than four members of  
10. the Commission.

### 11. (5) Voting

12. Every vote of the Commission shall require an affirmative  
13. vote of no fewer than four (4) members of the Commission.

## 14. SECTION FIVE: Procedures

15. Actions or determinations under Section Seven, Eight or  
16. Nine herein shall be taken or made in accordance with the  
17. following administrative procedures:

18. (1) Hearings and Notice to Parties. A party subject to  
19. the jurisdiction and recommendation power of the  
20. Commission shall be entitled to a hearing and shall

## AN ORDINANCE

1. be given at least fourteen (14) calendar days notice of any  
2. such hearing directly affecting his or her interests, such  
3. notice to be in writing to the party and sent by mail, postage  
4. prepaid, first class, to the party's usual place of business.

5. (2) Method. Decisions to recommend sanctioning a party  
6. shall require a majority vote of the Commission.  
7. The Commission shall adopt procedures, voted by a  
8. majority of all members, to establish the time,  
9. place, and manner for its members to meet and vote  
10. and for making determinations of compliance and  
11. recommendations to awarding authorities or  
12. agencies. All protections necessary to fulfill  
13. due process requirements shall be incorporated in  
14. the aforementioned procedures. Such procedures and  
15. any revisions to such procedures shall be submitted  
16. in writing to the Mayor and OJCS within twenty-one  
17. (21) calendar days of their scheduled adoption.

18. (3) Public Meetings. The Commission shall be subject  
19. to the requirements of the Massachusetts Open  
20. Meetings Law, G.L. c.39, §23A-C.

## AN ORDINANCE

1. incapacity due to illness, or conviction of a crime. The  
2. Mayor's determination that just cause for removal exists shall  
3. be conclusive.

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17. following administrative procedures:

18. (1) Hearings and Notice to Parties. A party subject to  
19. the jurisdiction and recommendation power of the  
20. Commission shall be entitled to a hearing and shall

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(4) Records.

1. The Commission shall keep records of its meetings  
2. and shall record no less than the following: the  
3. time and place of the meeting; the topic(s)  
4. discussed at the meeting; members in attendance at  
5. the meeting; any votes taken; and any disclosure  
6. members of conflicts of interest. The Chairperson  
7. or his or her designee shall maintain such records  
8. in a good and legible condition. The records shall  
9. be available for inspection by any member of the  
10. public upon reasonable notice.  
11.

12. SECTION SIX. Standards for Compliance

13. The Commission shall use the Boston Residents Construction  
14. Employment Standards to monitor compliance of Covered Projects  
15. with this ordinance. A Covered Project shall be deemed to be  
16. in compliance if (1) the statistical monitoring data at the  
17. relevant determination date, as set forth in Section Seven  
18. hereof shows compliance with the Boston Residents Construction  
19. Employment Standards; or (2) if the Commission determines that  
20. Best Efforts have been made to comply with the Boston Residents

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1. Construction Employment Standards.

2. SECTION SEVEN: Determination of Compliance

3. The Commission shall make determinations as to compliance  
4. by developers and contractors of Covered Projects with the  
5. Boston Resident Construction Employment Standards at time  
6. intervals as set out in one of the following two schedules,  
7. whichever allows for more frequent determinations:

8. (1) When the Covered Project is 25, 50, 75 and 100 percent  
9. complete, or,

10. (2) Every three months from the date of commencement of  
11. the Covered Project.

12. "Percent complete" shall be measured by the percentage of  
13. the total worker hours expected to be worked on the project.  
14. The Commission shall monitor that percentage and shall include  
15. it in its monitoring reports.

16. SECTION EIGHT: Establishment of Escrow Fund

17. An escrow fund shall be established for each project which  
18. is a Covered Project, as defined in Section One (6)(ii)  
19. herein. Payment into the escrow fund shall be made by the  
20. developer when the developer secures permanent financing for

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1. the Covered Project. The developer shall pay into the escrow  
2. fund an amount equal to one-tenth of one percent (.1%) of the  
3. total construction cost of the project as stated in the  
4. building permit application for the Covered Project; provided,  
5. however, that if either the developer or contractor has been  
6. subject to a determination of noncompliance at more than two  
7. determination dates in any prior Covered Project in which they  
8. have participated in the preceeding twenty-four months, the  
9. amount of the escrow fund required for the Covered Project  
10. shall be two-tenths of one percent (.2%) of such construction  
11. cost. The developer shall deposit these funds with an escrow  
12. agent agreed upon by the parties pursuant to an escrow  
13. agreement to which the Commission, the awarding or contracting  
14. agency and the developer are parties, who shall hold said fund  
15. for the purpose of satisfying any accrued fines levied in  
16. relation to a project.

17. The escrow agent, at the time of deposit into the escrow  
18. account, shall deduct all fines which have accrued against the  
19. fund to that date. There shall be a written escrow agreement  
20. detailing the terms under which the escrow funds are held.



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1. Such agreement shall provide, at a minimum, that any demand for  
2. payment from the escrow account which is made upon the escrow  
3. agent by the awarding or contracting authority shall be made in  
4. writing and shall be accompanied by a written statement of the  
5. reason for such demand, including any factual findings  
6. supporting such reason. The demand shall further instruct the  
7. escrow agent that he/she is to take no action on the demand for  
8. at least forty-eight (48) hours after receipt. A copy of the  
9. demand shall be simultaneously served upon all other parties to  
10. the escrow agreement.

11. Interest, if any, accrued by the fund, shall remain in and  
12. become a part of the escrow fund until such time as the fund  
13. shall be released. When all necessary permits for the use of  
14. the building have been issued to the developer, including but  
15. not limited to an occupancy permit and a finding of compliance  
16. has been made by the Commission, all monies in the escrow fund  
17. including any accrued interest, shall be released and returned  
18. to the developer.

### 19. SECTION NINE: Sanctions

20. The Commission shall have the authority to recommend to the

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1. awarding or contracting agency that sanctions against the  
2. developers and contractors of Covered Projects be imposed for  
3. noncompliance with the Boston Residents Construction Employment  
4. Standards and/or for non-compliance with section Three (A)(2)  
5. of this ordinance. The Commission shall recommend the  
6. imposition of any or all three of the following sanctions:

7. (1) Fines to a maximum of three hundred dollars  
8. (\$300.00) for each violation as determined by the  
9. Commission when such developer or contractor was  
10. not in compliance, as defined in Section Six, each  
11. day of non-compliance to be considered as a  
12. separate violation, to be levied  
13. against the escrow fund as established by Section  
14. Eight herein, provided that fines may still be  
15. levied and will still be due if the escrow account  
16. is exhausted;

17. (2) Preclusions from the award of municipal contracts  
18. and competitions for public development rights for  
19. a period of up to three (3) years, provided that  
20. this sanction may only be recommended at the

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1. completion of the Covered Project; or

2. (3) Sanctions as authorized by the Jobs Ordinance or  
3. incorporated in contracts.

4. The recommendation of sanctions under this section shall  
5. not preclude and shall be in addition to any action or sanction  
6. authorized by contract or agreement or otherwise authorized by  
7. law.

8. SECTION TEN: Staffing

9. The Commission shall have staff consistent with the  
10. Commission's purpose. The Director of OJCS shall be the  
11. Executive Director of the Commission, provided, however, that  
12. said Director shall be wholly compensated for his/her duties as  
13. Director from the budget of OJCS.

14. SECTION ELEVEN: Conflicts of Interest

15. No member shall appear before the Commission or represent  
16. any person, firm, corporation or other entity in any matter  
17. pending before the Commission. Members shall not participate  
18. in a discussion or a decision of the Commission on any matter  
19. in which they are directly or indirectly interested in a  
20. personal or a financial sense. Any disclosure of conflict of

AN ORDINANCE

1. interest shall be entered into the records of the Commission

2. SECTION TWELVE: Severability

3. The provisions of this ordinance are severable, and if a  
4. provision shall be held invalid or unconstitutional by a  
5. decision of any court of competent jurisdiction such invalid  
6. shall not impair, or otherwise affect, any other provisions  
7. this ordinance.

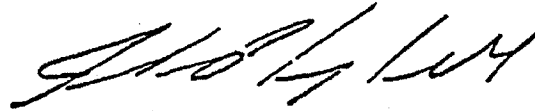
8. SECTION THIRTEEN: Effective Date

9. This ordinance shall take effect 30 days after enactment

10. In City Council July 30, 1986. Passed.

11. Approved by the Mayor August 12, 1986.

Attest:



City Clerk



# CITY OF BOSTON

IN THE YEAR NINETEEN HUNDRED AND

## AN ORDINANCE

AMENDING THE BOSTON EMPLOYMENT COMMISSION

As it ordained by the City Council of Boston, in accordance with the provisions of Massachusetts General Laws Chapter 41B, Section 13, and any other applicable law, as follows:..

1. SECTION ONE: The Ordinance establishing the Boston Employment
2. Commission is hereby amended in section one (v) by striking the last
3. sentence as it appears and inserting the following in place thereof
4. "If the construction of a the Covered Project is subject to any union
5. collective bargaining agreements, it shall be required that the employee
6. complies with any lawful union security clauses contained in such agreement."
7. SECTION TWO: This Ordinance shall take effect upon passage.

- 8.
- 9.
- 10.
- 11.
- 12.
- 13.
- 14.
- 15.
- 16.
- 17.
- 18.
- 19.

In City Council September 10, 1986. Passed.  
Approved by the Mayor September 26, 1986.

Attest:

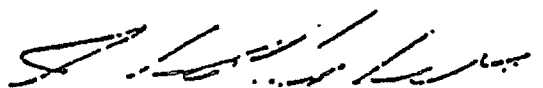
  
City Clerk

EXHIBIT B

Projected Work Force Form (to be completed by Contractor)

[See attached]

Project: \_\_\_\_\_

Contractor: \_\_\_\_\_ GEN: \_\_\_\_\_ SUB: \_\_\_\_\_

Funding Source: \_\_\_\_\_

Address: \_\_\_\_\_

Date of Pre-construction: \_\_\_\_\_

Date Submitted: \_\_\_\_\_

**PROJECTED WORKFORCE:**

\*R-RESIDENTS

\*M-MINORITIES

\*F-FEMALES

<u>TRADE</u>	<u>UNION/ NON-UNION WAGE</u>	<u>HOURLY**</u>	<u>NAME AND ADDRESS</u>	<u>*R</u>	<u>*M</u>	<u>*F</u>

\* The required employment percentages apply to workhours by trade, not number of workers. This form however is intended to show your overall commitment.

TOTAL: \_\_\_\_\_

Signature: \_\_\_\_\_  
Company Official

EXHIBIT C

Residency Verification Form

[See attached]



RESIDENCY VERIFICATION FORM

Project: \_\_\_\_\_

Contractor or  
Subcontractor: \_\_\_\_\_

To be completed by Employee:

Name of Employee: \_\_\_\_\_

Employee's Residential  
Address: \_\_\_\_\_

I hereby state under the pains and penalties of perjury that the foregoing information is true.

Signature  
of Employee: \_\_\_\_\_

Date: \_\_\_\_\_

To be completed by Contractor or Subcontractor:

The foregoing information was verified by the following:

Driver's License \_\_\_\_\_  
Utility Bill \_\_\_\_\_  
Rent Receipt \_\_\_\_\_  
Return Mail \_\_\_\_\_  
Receipt \_\_\_\_\_  
Other \_\_\_\_\_  
(Please specify) \_\_\_\_\_

The foregoing information was not verified: \_\_\_\_\_

Signature of Contractor  
or Subcontractor: \_\_\_\_\_

Date: \_\_\_\_\_

PLEASE INCLUDE A COPY OF ONE OF THE ABOVE DOCUMENTS AS PROOF OF RESIDENCY

EXHIBIT D

Form of Weekly Utilization Report

[See attached]

**BOSTON REDEVELOPMENT AUTHORITY / COMPLIANCE AND ENFORCEMENT DIVISION**

**WEEKLY UTILIZATION REPORT**

**AWARD DEPT.**

**PERCENT COMPLETED**

**PROJECT DATE OF COMI**

WEEK OF \_\_\_\_\_ TO: \_\_\_\_\_

Name of Contractor ( ) or Sub-Contractor ( )

Address

Phone Number

**CODES:** Caucasian 1.  
 Black 2.  
 Hispanic 3.  
 Asian 4.  
 Other 5.

Project Location

Project or Contract No.

**Only necessary for Federal Contracts**

Social Security # Name & Address	Sex M/F	Work Classification	Ethnicity (See Codes)	OT ST	Hours Worked Each Day							Total Hours	Rate of Pay	Gross- Amount Earned	Only necessary for Federal Contracts										
					S	M	T	W	Th	F	S				FICA	With- holding Tax	State w/h	Union	Total						
Name & Title	Signature													Total	Date	Contractors/Sub-Contractors should forward this form to: <b>BOSTON REDEVELOPMENT AUTHORITY                  CONTRACT COMPLIANCE DEPARTMENT                  1 CITY HALL SQUARE                  BOSTON, MA 02201</b>									

The willful falsification of any of the above statements may subject the contractor or sub-contractor to civil or criminal prosecution. See section 1001 of title 18 and section 231 of title 31 of the United States Code.



EXHIBIT E

Form of Notice of Boston Residents Construction Employment Standards

[See attached]

**WORK FORCE REQUEST DOCUMENTATION FORM  
FOR UNION HIRES AND TRANSFERRED WORKERS**

PROJECT \_\_\_\_\_

REQUESTOR: \_\_\_\_\_ DATE REQUESTED: \_\_\_\_\_

SUBCONTRACTOR: \_\_\_\_\_ DATE REQUIRED: \_\_\_\_\_

REQUEST MADE TO: \_\_\_\_\_

NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_

LOCAL #: \_\_\_\_\_

**I. REQUESTS**

TRADE: \_\_\_\_\_

TOTAL	RESIDENTS	MINORITY	FEMALE

**II. REFERRAL(S) FROM UNION HALL**

TOTAL	RESIDENTS	MINORITY	FEMALE

DATE REFERRALS RECEIVED: \_\_\_\_\_

IF ANY WORKERS ARE TRANSFERRED PLEASE DOCUMENT THEIR NAME, ADDRESS, SEX, ETHNICITY AND SOCIAL SECURITY NUMBER BELOW (ALL WORKERS HIRED FROM THEIR RESPECTIVE UNION HALL REQUIRE THE SAME INFORMATION ATTACHED TO THIS SHEET OR WRITTEN ON THE BACK):

Name \_\_\_\_\_

Address \_\_\_\_\_

Sex \_\_\_\_\_ Ethnicity \_\_\_\_\_ Soc. Sec. \_\_\_\_\_