

COOPERATION AGREEMENT  
FOR  
THE BOSTON COLLEGE  
INSTITUTIONAL MASTER PLAN  
AND  
STUDENT RESIDENCE HALL  
AT 2150 COMMONWEALTH AVENUE, BOSTON

This COOPERATION AGREEMENT (this "Agreement") is made as of the 7 day of August, 2014 by and between the **BOSTON REDEVELOPMENT AUTHORITY**, a public body politic and corporate, created pursuant to Chapter 121B of the Massachusetts General Laws, as amended, and acting in its capacity as the Planning Board of the City of Boston pursuant to Chapter 652 of the Acts of 1960, as amended, with offices at One City Hall Plaza, Boston, Massachusetts 02201-1007 (the "Authority"), and **Trustees of BOSTON COLLEGE**, a Massachusetts non-profit private institution of higher education and research, having its usual place of business at 140 Commonwealth Avenue, Chestnut Hill, Massachusetts 02467 ("Boston College"). The Authority and Boston College are sometimes referred to collectively herein as the "Parties", and each as a "Party".

RECITALS

WHEREAS, on December 5, 2007, Boston College filed an Institutional Master Plan Notification Form for a new Institutional Master Plan, for proposed development of its Chestnut Hill and Brighton Campuses;

WHEREAS, the Authority issued a Scoping Determination pursuant to Article 80D-5.3 of the Boston Zoning Code (the "Code") on February 21, 2008 requiring the filing of an Institutional Master Plan;

WHEREAS, in June, 2008, Boston College filed an Institutional Master Plan (the "IMP") in response to the Authority's Scoping Determination, and thereafter, in response to community comments filed an Institutional Master Plan Supplement with the Authority on January 29, 2009;

WHEREAS, following a vote by the Authority on January 29, 2009 to approve and transmit the IMP, as supplemented and further amended by the Authority, to the Zoning Commission for consideration under Section 80D-6 of the Code, Boston College filed with the Boston Zoning Commission a fully restated IMP on March 19, 2009;

WHEREAS, the Boston Zoning Commission approved the Boston College IMP on May 6, 2009, which approval became effective on June 10, 2009;

WHEREAS, on May 2, 2013 Boston College submitted to the Authority (i) an Institutional Master Plan Notification Form for the renewal and amendment of the IMP (the "IMP Amendment", which, together with the IMP, shall be herein referred to as the "Amended IMP"), which outlined certain de minimus dimensional modifications to the proposed Residence Hall (the "Residence Hall Project") at 2150 Commonwealth Avenue; and (ii) an Expanded Project Notification Form (the "PNF") pertaining to such Residence Hall Project; and

WHEREAS, on October 8, 2013, the Authority voted, among other actions, to authorize the Director, to (i) issue an Adequacy Determination pursuant to Article 80D-5.4 of the Code, approving the IMP Amendment; (ii) to issue a Scoping Determination waiving the requirement of a Draft Project Impact Report pursuant to Section 80B-5.3(d) of the Code for the Residence Hall Project; (iii) to issue a Certificate of Consistency with respect to the Residence Hall Project and other projects approved in the Amended IMP (referred to herein as "IMP Projects"), upon the Director making such findings as are required by the Code; and (iv) to execute any and all documents deemed necessary and appropriate relative to the IMP, the Residence Hall Project and other IMP Projects, including, but not limited to, a Cooperation Agreement;

WHEREAS, the Authority and Boston College desire to enter into this Cooperation Agreement for the purpose of (i) setting forth the mitigation measures and other public benefits which Boston College has agreed to provide in connection with the Amended IMP, the Residence Hall Project and other IMP Projects set forth in the Amended IMP , and (ii) ensuring compliance with Article 80 of the Code.

### AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the Authority and Boston College hereby agree as follows:

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

##### **1. THE AMENDED IMP AND FUTURE IMP PROJECTS**

a. Boston College and the Authority hereby acknowledge that, the Authority issued an Adequacy Determination for the IMP Amendment pursuant to Section 80D-5.4(c) of the Code of even date herewith (Copy attached hereto as Exhibit A).

b. Boston College will continue to proceed with the planning of its Lower and Brighton Campus and, more specifically, with the development of the IMP Projects in a manner consistent with the development concept, land uses and density contemplated in the Amended IMP, subject to the Development Review Process set forth in Paragraph A.1.c herein. In connection with the development of IMP Projects, Boston College will conduct any additional planning and reviews reasonably requested by the Authority as may be required under the terms of the Authority's "Development Review Guidelines" dated 2006, which are attached hereto as Exhibit B and incorporated herein ("Development Review Guidelines"), and Article 80 of the Code. No IMP Project structure shall be erected, reconstructed or structurally changed or extended within the Amended IMP unless all drawings and specifications therefor shall have been subject to design review and approval by the staff of the Authority pursuant

to its Development Review Guidelines. Further, Boston College shall not cause or permit any substantial change or extension of any use within the Amended IMP unless the same shall either constitute an Exempt Project, or shall have been approved in the Amended IMP or any amendment thereto.

c. Boston College and the Authority hereby agree that the development review process to be observed by the Parties ("Development Review Process") shall be as set forth in the Development Review Guidelines, including reviews of the Development Concept, Schematic Design, Design Development and Contract Documents. Capitalized terms used and not defined herein shall have the meanings ascribed to them in the Development Review Guidelines.

d. Boston College will endeavor to advise the Authority of the identity of the architect(s) selected for other IMP Projects when the same has been selected.

e. Throughout the Development Review Process discussed in Paragraph A.1.c above and in connection with the development of a IMP Project, the Boston College will submit to the Authority the submissions required by the Development Review Guidelines. It shall be Boston College's responsibility to promptly notify the Authority of proposed material changes to public lobbies visible from the exterior of buildings, open spaces and landscaping and exterior features of buildings from previously approved submissions, and to obtain approval from the Authority prior to incorporating such proposed changes into the drawings and specifications. The Authority shall perform its functions under this provision promptly and with all reasonable dispatch and in accordance with the provisions of this Agreement.

f. Once Contract Documents for an IMP Project have been approved, the only further submissions to be made by Boston College to the Authority for review and approval hereunder will be contract addenda and requests for change orders involving any subsequent material changes in design or materials to exterior features of the building, portions of public lobbies that are visible from the exterior of buildings, open

spaces and landscaping (“Change Orders”). Change Orders shall receive approval from the Authority prior to implementation. The Authority shall perform its functions under this provision (reserving the right, to the extent consistent with the Development Review Guidelines, to consult with the Task Force) promptly and with reasonable dispatch, and shall (i) approve or disapprove Change Orders within fifteen (15) days of their submission to the Authority, and (ii) when the Authority disapproves a Change Order, include with such disapproval a detailed written explanation therefor. If Boston College receives no notification from the Authority of such disapproval within fifteen (15) days after submission of said Change Order, such Change Order shall be deemed approved. Notwithstanding the foregoing, the Authority's approval shall not be required for change orders effecting changes which will not be visible from the exterior of the building, including changes to portions of public lobbies that are not visible from the exterior of the building.

g. The Authority will informally advise Boston College concerning, and will actively cooperate with and publicly support, at no cost to the Authority, Boston College's efforts to obtain from the appropriate municipal, state and federal bodies and agencies all such permits, licenses and approvals, and exceptions, variances, deviations and other departures from the normal application of the applicable zoning and building codes and other ordinances and statutes, which may be necessary or convenient in order to carry out the development of the Boston College Institutional Master Plan subdistrict and Institutional Master Plan Areas in accordance with the Amended IMP and to fulfill Boston College's obligations hereunder in the most expeditious and reasonable manner.

## 2. THE RESIDENCE HALL PROJECT

a. The Residence Hall Project will include a proposed student residence building which will house 490 students in a mixture of 4-bed and 6-bed apartments and will be up to 80 feet in height. The 245,000 gross square foot, 6-story building also includes 2 adult-in-residence apartments, common areas, outdoor spaces, and a new

home for the Boston College Health Services Department. The Residence Hall Project will be located on a parcel of land consisting of approximately 146,575 square feet of land area at 2150 Commonwealth Avenue.

b. The Authority has completed its development review of the Residence Hall Project in accordance with Article 80B of the Code. Boston College and the Authority hereby acknowledge that, as indicated above, the Authority issued a Scoping Determination waiving further review for the Residence Hall Project on July 3, 2014 (Copy attached hereto as Exhibit C).

c. Boston College will continue with the design for the Residence Hall Project in a manner consistent with the development concept, land uses, dimensions and density contemplated in the Amended IMP and the PNF, as approved by the Authority.

d. The design review process to be observed by the parties for the Residence Hall Project and other IMP Projects shall be as set forth in Section A.1 herein. Following approval of the design of the Residence Hall Project by the Authority, Boston College will not make any Material Changes (as defined below) to such projects until the modifications have been approved by the staff of the Authority. Such changes shall be processed in the manner provided in this Agreement, including the timetable for Authority action set forth therein.

e. Throughout the construction of the Residence Hall Project it is Boston College's responsibility to notify the Authority of proposed material changes to the visible elements of the design of the exterior, open spaces and landscaping, where the same constitute changes from previously approved submissions (other than refinements of details generally consistent with such previously approved submissions) (collectively, "Material Changes"), and to obtain approval from the Authority prior to incorporating such Material Changes into the final drawings and specifications. The Authority shall perform its review and approval and other functions pursuant to the

provisions of this Agreement with reasonable dispatch, and shall use best efforts to notify Boston College of its approval or disapproval of any such proposed Material Changes within fifteen (15) business days after receipt thereof. When the Authority disapproves any such change, or any other matter, its disapproval shall include a detailed written explanation therefor. If the Authority shall refuse or fail to provide such an approval or disapproval of a change within fifteen (15) business days after Boston College's submission of a Material Change, then such submission shall be deemed approved; provided, however, that any written request for approval of a change shall be in conformance with the provisions of Sections A.1.c and D.5 of this Agreement.

## **B. MITIGATION COMMITMENTS**

1. Construction Impacts. Prior to the issuance of a building permit for the Residence Hall Project and any IMP Project, Boston College shall submit a Construction Management Plan (the "CMP") for the applicable Project to the City of Boston Transportation Department ("BTD") in accordance with the City of Boston's Construction Management Program. The CMP shall identify construction-related, traffic and parking impacts and specify mitigating measures to be implemented during the construction of the Project that are reasonably satisfactory to BTD. Upon the execution of the CMP, Boston College shall submit to the Authority a true, complete, and correct copy of the fully-executed CMP.

2. Transportation. Prior to the issuance of a building permit for the Residence Hall Project and any IMP Project, Boston College shall enter into a Transportation Access Plan Agreement ("TAPA") for the applicable Project with the BTD reasonably satisfactory in form and substance to BTD and Boston College. Upon the execution of the TAPA, Boston College shall submit to the Authority a true, complete, and correct copy of the fully-executed TAPA.

3. Construction Employment. Prior to the issuance of the initial building permit for the construction of the Residence Hall Project and any IMP Project, Boston College will execute a Boston Residents Construction Employment Plan ("BRCEP") for the applicable Project, consistent with the requirements of the Boston Residents Jobs Policy established by Chapter 30 of the Ordinances of 1983 and the Mayor's Executive Order Extending the Boston Residents Jobs Policy dated July 12, 1985, which sets forth in detail Boston College's plan to ensure that its general contractor and those engaged by said general contractor for construction of the applicable Project, use Best Efforts (as defined in Chapter 12 of the Ordinances of 1986, as amended) to meet the following Boston Residents Construction Employment Standards on a craft by craft basis: (1) at least 50% of the total employee worker hours in each trade shall be by bona fide Boston residents; (2) at least 25% of the total employee worker hours in each trade shall be by minorities; and (3) at least 10% of the total employee worker hours in each trade shall be by women. Said plan shall include provisions for monitoring, compliance and sanctions. Worker hours, as defined in said plan, shall include on-the-job training and apprenticeship positions.

4. Boston Permanent Employment Agreement. If requested by the Authority, prior to the issuance of the initial building permit for the construction of any Large Project within the Amended IMP, Boston College shall execute a Boston Permanent Employment Agreement, or similar agreement. This agreement shall set forth an Employment Opportunity Plan which presents Boston College's good faith effort to provide certain employment opportunities created by each Large Project will be made available to Boston Residents.

5. Development Impact Projects. Boston College agrees that only one 100,000 square foot exclusion will be allowed for IMP Projects containing Development Impact Uses as defined in Section 80B-7.2(c) of the Boston Zoning Code ("DIP Uses")



under the Amended IMP, as the same may be amended. Said 100,000 square foot exclusion shall be used for the first 100,000 square feet of DIP Uses in the IMP Projects.

6. The Amended IMP

As mitigation for the impacts attributable to the IMP Projects (including but not limited to the Residence Hall Project) upon the Allston and Brighton neighborhoods, Boston College shall undertake the civic, charitable, and general contributions and commitments outlined below. With the exception of a CMP, TAPA and BRCEP, as such may be applicable to future IMP Projects, Boston College shall not be required to provide additional mitigation commitment or public benefits in connection with further review of such IMP Projects under Article 80B or 80E of the Code, nor in connection with any renewal or amendment of the IMP meeting the requirements for a waiver of review under Section 80D-5-2(e) of the Code during the Master Plan Term (as defined in subparagraph 1 a. below). On or before July 1, 2015, and for every subsequent year of the Master Plan Term, Boston College will submit to the BRA and the Allston-Brighton Boston College Community Task Force (the "Task Force"), a report describing progress in fulfilling the public benefits commitments made in this Cooperation Agreement and the IMP.

a. Neighborhood Improvement Fund. Boston College shall establish a Neighborhood Improvement Fund (the "Fund") in the amount of \$2,564,000. The goal of the Fund is to finance projects that enhance the public realm and for which public sources of financing may be unavailable or inadequate. Projects may include improvements in public parks and open space, neighborhood beautification, transportation and roadway improvements, public safety projects and public art. Projects should be of broad public benefit to the Allston-Brighton neighborhood. The fund shall be held by Boston College in a separate account. The parties to this Agreement shall make reasonable efforts to identify, review and select projects, in accordance with the procedure outlined below, such that the Fund will be disbursed in

full over the term of the IMP, ending on June 30, 2020 (referred to herein as the “Master Plan Term”). If any of the Fund remains unexpended on June 30, 2020, such amounts shall be used to fund similar public benefit commitments contained in the subsequent or renewed Boston College Institutional Master Plan. Boston College and the Authority shall establish a procedure for the selection of projects that will include (i) consultation with the Task Force and (ii) joint approval by the Authority and Boston College, as follows:

- Neighborhood Improvement Fund projects may be proposed by (i) Allston-Brighton civic organizations, (ii) Boston College, (iii) the City of Boston, (iv) Commonwealth of Massachusetts agencies that maintain public parks, open spaces, roadways or other public facilities in Allston-Brighton, and (v) non-profit institutions that maintain facilities in the Allston and/or Brighton neighborhoods and serve Allston-Brighton residents.
- The Task Force shall review Neighborhood Improvement Fund proposals according to uniform procedures and criteria to be determined in consultation with Boston College and the Authority in Task Force meetings. The Task Force’s review shall include presentations by applicants at public meetings of the Task Force. Following such review the task Force will vote to recommend or not recommend proposals to the Authority and Boston College, giving reasons therefor.
- From the recommended proposals, the Authority and Boston College shall select mutually acceptable proposals to be funded; provided, however, in the event of any disagreement with a Task Force recommendation by either Boston College or the Authority, the dissenting party (or parties) shall present

the reasons for their position at a public meeting of the Task Force. No proposed project may be funded unless there is a joint determination by the Authority and Boston College that the project merits funding.

b. **Undergraduate Scholarships.** Boston College agrees to award on an annual basis for the period beginning September 2014 and continuing through the balance of Master Plan Term, fifteen (15) full-tuition scholarships (each such scholarship eligible for renewal for up to four-years of full-time enrollment) to qualified Boston residents (with preference to residents of Allston-Brighton). For sake of clarity, it is noted that the number of recipients of such scholarship may number as many as 60 in an academic year. Recipients must be admitted as full-time undergraduates to the Boston College first-year class through the usual admission process, must have resided in Boston continuously for four years at a minimum prior to matriculation, and must be from families demonstrating a financial need in excess of \$15,000 pursuant to uniform financial-aid criteria (which shall require FAFSA certification) , and must maintain academic good standing for scholarship renewal.

c. **Woods College Scholarships.** Boston College agrees to award on an annual basis for the period beginning September 2014 and continuing through the balance of Master Plan Term up to five (5) scholarships for the Woods College of Advancing Studies to qualified Boston Residents (with preference to residents of Allston-Brighton). Each scholarship shall be in an annual amount equal to tuition charges for six courses (three courses per semester). Awards shall be renewable for up to four consecutive academic years, provided the recipient maintains good academic standing and is enrolled in a degree program. In the event there remain unassigned scholarships in any year after awards are made to degree seeking candidates, Boston College may at its discretion to be exercised on a case by case basis award scholarship to students taking courses outside of a degree program, with preference for Allston-Brighton residents. (To avoid doubt, there may be a maximum of fifteen scholarships outstanding in any

academic year, depending on renewals and possible awards to non-degree seeking students.) Awards shall be made according to uniform procedures, and applicants must have resided in Boston for four consecutive years at a minimum prior to matriculation and be from families demonstrating a financial need pursuant to uniform financial-aid criteria, which includes FAFSA certification. Information concerning application procedures shall be made available at the Woods College offices and the Boston College Neighborhood Center.

d. **Relocated and Expanded Boston College Neighborhood Center.** Boston College has relocated the Boston College Neighborhood Center to 480 Washington Street in Brighton. The new location provides enhanced space for programming and community meetings, handicapped accessibility and parking. Neighborhood Center programming during the Master Plan Term will include work force development and resume workshops, career counseling, and use of social media in job searches, as well as hours for evening classes and tutoring.

e. **Boston College Community Fund.** Boston College will continue its annual contribution of \$75,000 to the BC Community Fund during the Master Plan Term. As in prior years the Fund shall be administered and distributed by an Advisory Committee consisting of ten (10) members, including six (6) members designated by the Mayor's Office of Neighborhood Services, two (2) representatives of the City of Boston designated by the Mayor, and two (2) members designated by Boston College. The Advisory Committee shall establish certain minimum standards which each applicant must meet to be considered for grants, appropriate limits on the amounts that may be disbursed to any one grantee, as well as uniform application procedures, including a standard application form and published application deadlines. All grants shall be made to support organizations, programs, or purposes benefiting the citizens and neighborhoods of the Allston Brighton neighborhood. No portion of the Fund shall be used in any manner for any program or purpose which is (or to support any organization or group whose activities are) in whole or in part (i) adverse to the

interests of Boston College or (ii) contrary to the teachings and beliefs by the Catholic Church or the culture and traditions of Boston College or the Society of Jesus.

f. **Annual Job Fairs and Computer Training.** Boston College will sponsor two annual job fairs during the Master Plan Term to publicize open staff positions at the University. For qualified candidates living in Allston or Brighton, the University will provide annual funding during the Master Plan Term for up to ten (10) candidates to take training workshops or classes in Office Word, Excel, Power Point or Photo Shop to enhance future job prospects. Awards will be made on a rolling basis and application materials will be available at the job fairs.

g. **Construction Employment.** During the Master Plan Term, Boston College will contribute to Building Pathways, a union pre-apprentice training program, offered by the Boston Building Trades Council for various trades including laborers, electricians, carpenters, iron workers, and painters, to assist in employment of Allston-Brighton residents on Boston College construction projects. Boston College will sponsor up to five Allston-Brighton candidates annually and shall make good faith efforts during the Master Plan Term to promote hiring of program graduates by contractors working at the University.

h. **“Walk to Work” Mortgage Assistance Program.** Boston College will assist full-time employees purchasing homes in Allston-Brighton for their primary residence by funding on a grant basis mortgage origination points and other closing costs customarily payable by Buyer up to a maximum payment of \$3,900. The program will provide such funding for up to two qualified employees per year, or a total of 13 employees over the Master Plan Term.

i. **First-Time Homebuyer Assistance Program.** Boston College will provide annually during the Master Plan Term two \$5,000 matching grants toward the purchase of a home in Allston or Brighton by Allston or Brighton residents who have successfully completed a first-time homebuyer education program and have saved at least \$5,000.

towards their home purchase. Boston College will work with the Authority's staff to establish guidelines for the program and selection of recipients. All grant payments will be made at closing directly to fund amounts due from Buyer as shown on a final RESPA settlement statement, and accordingly grants funds will not be available to fund good-faith deposits under an offer to purchase or purchase and sale agreement.

j. St. Columbkille Partnership School. During the Master Plan Term, Boston College will continue to contribute approximately \$400,000 per year to the St. Columbkille Partnership School to help fund academic programs, financial aid, teacher training, curriculum development and facility improvements.

k. Other Continuing Programs. During the Master Plan Term, Boston College shall continue its funding and participation at current levels in the following community programs: partnerships with the Boston Public Schools (subject to continuing grant awards to Boston College), the Mayor's Summer Employment Program in partnership with the Private Industry Council (PIC) Program and the Community Assistance Program.

### C. IMP PROJECT COMPLETION

1. Development Period for the Residence Hall Project. Boston College anticipates commencing construction of the Project in the second quarter of 2014, with substantial completion of the Residence Hall Project planned for approximately the third quarter of 2016.

2. Abandonment of the IMP Projects

If, in the future, Boston College shall, in its reasonable judgment, determine that it has become infeasible to proceed with the whole or any portion of the Residence Hall Project, or other IMP Projects then in such case and after substantiation by Boston College deemed reasonably adequate by the Authority of the reasons for not being able to proceed, the Authority shall in accordance with the provisions of Article 80D of the

Code cooperate with Boston College, at no cost to the Authority, to modify, alter, or amend its previous approval of the Boston College IMP and this Agreement in order to allow Boston College the opportunity to reasonably develop the Residence Hall site and other IMP Project sites, in accordance with all requirements of Article 80 of the Code. Nothing in this Agreement shall be construed to subject Boston College to enforcement actions, claims for damages, or other remedies at law or in equity for failure to construct or complete the Residence Hall Project or other IMP Projects or any portion thereof; provided, however, that the Authority reserves the right to require Boston College to obtain approval of a further IMP amendment in the event the planning components of the Amended IMP are rendered inadequate due to the abandonment of certain IMP Projects. If and to the extent that the Residence Hall Project is undertaken by Boston College, the sole obligation of Boston College is to adhere to this Agreement to the extent provided herein.

### 3. Authority Cooperation

The Authority will informally advise Boston College concerning, and will actively cooperate with and publicly support, at no cost to the Authority, Boston College's efforts to obtain from the appropriate municipal, state, and federal bodies and agencies all permits, licenses, approvals, exceptions, variances, deviations, and other departures from the normal application of the applicable zoning and building codes and other ordinances and statutes which may be necessary and convenient in order to carry out the development of the Residence Hall Project and other IMP Projects in accordance with the Boston College's IMP and Article 80 Filings and Agreements, and to fulfill Boston College's obligations hereunder in the most expeditious and reasonable manner. The Authority shall cooperate with Boston College, at no cost or expenses to the Authority, to obtain approvals for any revision, amendment, or reconfiguration of the Residence Hall Project, or other IMP Projects, if required by other permit-granting agencies and authorities and approved by the Authority, which approval shall not be unreasonably delayed, withheld, or conditioned.

4. IMP Project Completion/Certificate of Completion

An IMP Project shall be deemed completed when Boston College has substantially completed construction of such IMP Project in accordance with approved Contract Documents and such IMP Project is ready for occupancy, except for (i) items of work and adjustment of equipment and fixtures which can be completed after occupancy has occurred, e.g. so-called punch list items, (ii) landscaping and other similar work which cannot then be completed because of climatic conditions or other reasons beyond the reasonable control of Boston College and (iii) with respect to tenant space, items of work normally left for completion pursuant to the requirements of specific occupancy agreements and interior work to be performed to tenants' specifications. Upon completion of an IMP Project, the Authority shall issue to Boston College a Certificate of Completion, which shall be in recordable form and shall be conclusive evidence that such IMP Project has been completed in accordance with the Amended IMP, the Article 80 Documents, and this Cooperation Agreement and that all obligations to the Authority under the Amended IMP, the Article 80 Documents, and this Cooperation Agreement have been fulfilled (except any obligation hereunder which by its terms survives the completion of construction of such IMP Project, which obligation when cited in the Certificate of Completion shall survive the issuance of the Certificate of Completion).

Within forty (40) days after Boston College's request, the Authority shall issue either (i) a Certificate of Completion to Boston College and to any mortgagee of an IMP Project, or (ii) a written statement ("Non-Completion Statement"), indicating with specificity in what respect the Applicant has failed to complete such IMP Project in accordance with the Amended IMP, the Article 80 Documents and this Agreement or is otherwise in default of its obligations to the Authority and what measures or actions will be necessary, in the reasonable opinion of the Authority, for Boston College to take or perform in order to obtain such Certificate of Completion. Upon compliance by Boston College with the requirements of any Non-Completion Statement for such IMP



Project the Authority shall issue a Certificate of Completion for such IMP Project. Such Certificate of Completion shall be in suitable form for recording in the Registry of Deeds for Suffolk County, Commonwealth of Massachusetts ("Deeds"). If the Authority shall refuse or fail to provide either a Certificate of Completion or a Non-Completion Statement to Boston College or any such mortgagee within forty (40) days of a request for a Certificate of Completion, then the Certificate of Completion requested shall be deemed to have been issued; provided, however, that any transmittal of any request for the issuance of a Certificate of Completion shall recite that approval by the Authority is due within forty (40) days of receipt, or said Certificate of Completion shall be deemed to have been issued. Boston College and any such mortgagee may record an affidavit with said Deeds, which affidavit shall attest to the adequacy of notice to the Authority, the elapse of forty (40) days without response, and the completion of the IMP Project in accordance with the provisions of this Agreement. Such affidavit shall be conclusive evidence as to the facts stated therein and as to the substantial completion of the IMP Project in accordance with the Amended IMP, the Article 80 Documents, and this Agreement.

In the event that the construction of an IMP Project shall have been substantially completed so as to warrant the issuance of a Certificate of Completion in accordance with this Section except for items listed in clauses (i) - (ii) in the first grammatical paragraph of this Section 12 (it being expressly agreed that no escrow shall be required for the item listed in clause (iii) of such paragraph) or other reasons beyond the reasonable control of Boston College as may reasonably be determined by the Authority, then at the option of Boston College, upon forty (40) days' written notice to the Authority, either (i) an escrow shall be established pursuant to the provisions of this Section, or (ii) Boston College shall obtain for the Authority at Boston College's sole cost and expense a surety or performance bond or completion guarantee in a form satisfactory to the Authority (in an amount which, in the reasonable opinion of the Authority, would be sufficient to cover the cost of completion) guaranteeing the

completion of such aspects of the work and the Authority shall forthwith issue a Project Certificate of Completion for such IMP Project.

If an escrow is established for the completion of any incomplete work which, in the reasonable opinion of the Authority, should be completed prior to the issuance of a Certificate of Completion (a "BRA Completion Escrow") and the Authority issues a Certificate of Completion prior to completion of an IMP Project, then Boston College shall deposit with the Authority, or, if required by any mortgagee, with the holder of the first mortgage on the IMP Site pursuant to an escrow or holdback agreement approved by the Authority in its reasonable discretion, as security for the completion of said items, an amount which, in the reasonable opinion of the Authority, would cover the cost of such completion. Said deposit, if deposited with the Authority, shall be in the form of a certified or bank check, treasury bills or by other security reasonably satisfactory to the Authority and shall be deposited simultaneously with the issuance of the Certificate of Completion. Upon the completion of any items of work for which the BRA Completion Escrow was established, the portion of the escrow fund designated for such item of work shall be paid over to Boston College forthwith, or if such work is not so completed to the satisfaction of the Authority, within a reasonable time after the issuance of such Certificate of Completion, and in the event within one (1) year of such issuance, then the Authority may apply such deposit to completion of said work.

#### **D. GENERAL PROVISIONS**

1. Binding Agreement. This Agreement shall be binding upon and enforceable against the successors and assigns of the parties hereto (other than mortgagees of any IMP Project or those claiming through mortgagees of such IMP Project, unless said party obtains title to such IMP Project and proceeds with development of the IMP Project), it being understood and agreed that Boston College shall have the right to transfer or assign its rights, obligations and interests under this

Agreement or in all or any portion of an IMP Project to another party or parties, provided that Boston College complies with paragraph 9 below.

2. Severability. If any term or provision of this Agreement, or the application thereof to any person or circumstance, shall to any extent be invalid or 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.

3. Limited Liability. The liability arising under this Agreement of Boston College and of each successor or assign of all or any part of Boston College's interest in any IMP Project shall be limited solely to such person's or entity's interest in such Project, and no partner, trustee, beneficiary, shareholder, officer, director or the like or any such person or entity, from time to time, or any such person's or entity's separate assets or property shall have or be subject to any personal liability with respect to any obligation or liability of such person or entity hereunder.

4. Reasonable Consent. Whenever the consent or approval of the Authority is required hereunder or otherwise in connection with an IMP Project, such consent or approval shall not be unreasonably withheld or delayed, and wherever there is a requirement that any thing, act or circumstance shall be satisfactory to the Authority or shall be done and performed to the Authority's satisfaction or any other requirement of similar import, the Authority covenants not to be unreasonable with respect thereto.

5. Estoppel Certificates. The Authority shall, within ten (10) business days after written request therefor by Boston College or any mortgagee of an IMP Project or any portion thereof, provide a Certificate in writing, as requested or as 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 the Agreement is no longer in force or effect or has been modified, that Boston College is in compliance with this

Agreement or any particular section hereof specified by the requesting party, or in what respects there is non compliance, or as to any other matter reasonably related to the Project which the requesting party may reasonably request of the Authority.

6. Authorization. The Authority has authorized the Director of the Authority to take any action hereunder on behalf of the Authority (including, without limitation, the granting of consents or approvals and the execution and delivery of certificates, except for the issuance of a Certificate of Completion) and any action so taken shall be binding upon the Authority.

7. Notices. All notices or other communications required or permitted to be given under this Agreement shall be in writing, signed by a duly authorized officer or representative of the Authority or Boston College , as the case may be, and shall be either hand delivered or mailed postage prepaid, by registered or certified mail, return receipt requested and shall be deemed given when delivered, if by hand, or upon receipt or refusal to accept delivery, if mailed to the principal office of the party to which it is directed, which is as follows unless otherwise designated by written notice to the other party:

Applicant: Boston College  
140 Commonwealth Avenue  
Chestnut Hill, Massachusetts 02467  
Attention: Executive Vice President

with a copy to: Boston College  
140 Commonwealth Avenue  
Chestnut Hill, Massachusetts 02467  
Attention: General Counsel

Authority: Boston Redevelopment Authority  
One City Hall Square, 9th Floor  
Boston, MA 02201 1007  
Attention: Director

with a copy to: Boston Redevelopment Authority  
One City Hall Square, 9th Floor

Boston, MA 02201 1007  
Attention: General Counsel

The parties shall promptly notify each other of any changes of their respective addresses set forth above.

8. Approval Requests. Whenever the consent or approval of the Authority is required under this Agreement or any other IMP Project Document, the Development Review Guidelines, or otherwise in connection with the development of an IMP Project or the IMP Site, such consent or approval shall not be unreasonably withheld or delayed, nor shall it be made contingent upon or made in any way to require, directly or indirectly, the payment of any fee or charge by Boston College or any other interested party. Wherever there is a requirement that any thing, act or circumstance shall be satisfactory to the Authority or shall be done and performed to the Authority's satisfaction or any other requirements of similar import, the Authority shall be subject to the standards of reasonableness and customary practice in determining the adequacy and sufficiency of Boston College's performance.

Any requests for approvals made to the Authority by Boston College where such approval will be deemed to have been granted if the Authority fails to respond within a specified period of time 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. FAILURE OF THE BOSTON REDEVELOPMENT AUTHORITY TO RESPOND WITHIN \_\_\_\_ ( ) BUSINESS DAYS SHALL RESULT IN AN AUTOMATIC APPROVAL.”**

9. Conditions to Assignment. Prior to the sale of or assignment of its interest in any IMP Project (except in connection with any financing relative to the Project), Boston College shall comply with the following conditions: (a) Boston College shall not

be in material 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 the covenants and provisions of this Agreement on the part of Boston College; and (c) there shall be promptly delivered to the Authority the original or a duplicate original of the instrument or instruments containing such assignment to and assumption by the successor or assignee; provided, however, that the foregoing conditions shall not apply to the sale or assignment of Boston College's interest in the Project in connection with the foreclosure of a mortgage on the Property or the delivery of a deed in lieu of foreclosure.

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

11. Amendment. This Agreement may be amended only by a written instrument signed by the Parties.

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

13. Expiration. This Agreement shall expire six (6) years from the date hereof, and the provisions herein shall be null and void as of such date of expiration.

14. Counterparts. This Agreement may be executed in counterparts. All such counterparts shall be deemed to be originals and together shall constitute one and the same instrument. The Parties have agreed to execute multiple original copies of this Agreement.

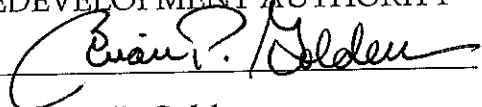
15. Enforcement by Parties. It is the intention of the Parties that the provisions of this Agreement may be enforced only by the Parties hereto, and that no

other person or persons shall be authorized to undertake any action to enforce any provisions hereof without the prior written consent of the Parties.

IN WITNESS WHEREOF, the Parties hereto have caused this instrument to be executed on their behalf by their respective officers thereunto duly authorized as of the day and year first above written.

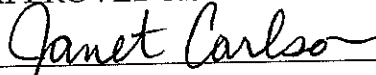
BOSTON REDEVELOPMENT AUTHORITY

By: \_\_\_\_\_

  
Name: Brian P. Golden

Acting Director

APPROVED AS TO FORM:

  
\_\_\_\_\_

*for* Kevin J. Morrison   
General Counsel  
Boston Redevelopment Authority

BOSTON COLLEGE

By: \_\_\_\_\_

  
Name: Patrick J. Keating

Title: Executive Vice President

Exhibits:

Exhibit A: Adequacy Determination

Exhibit B: Authority's Development Review Guidelines

Exhibit C: Scoping Determination waiving further review