

GREENWAY BUSINESS IMPROVEMENT DISTRICT
IMPROVEMENT PLAN

This is the improvement plan (the “improvement plan”), as that term is defined pursuant to Chapter 400 of the Massachusetts General Laws (“G.L. c. 400”), for the Greenway Business Improvement District (the “BID”). All terms used herein, except as otherwise defined, shall have the meanings provided in G.L. c. 400.

I. PURPOSE OF THE BID

The purpose of the BID is to (1) facilitate the maintenance and operations of the Rose F. Kennedy Greenway park (the “Greenway”), so as to ensure that the Greenway is and remains a first-class publicly-accessible park, by incorporating private-sector management and resources with the funds and services provided by the Massachusetts Department of Transportation (the “State”), the City of Boston (the “City”) and the Rose Fitzgerald Kennedy Greenway Conservancy (the “Conservancy”), and (2) enhance and improve the overall experience for everyone who works, lives, or visits the defined “BID District”, which includes the Greenway, to develop attractive business conditions throughout the BID District, and preserve and enhance property values through the BID District, through its contribution and involvement in the maintenance, improvement and programming of the Greenway

The Greenway is located on State-owned land substantially above the Central Artery tunnel. Pursuant to acts of the Massachusetts legislature, the Conservancy is the designated steward of the Greenway in charge of the Greenway’s operation, management, improvement and maintenance, which rights and obligations of the Conservancy are more particularly set forth in that certain lease agreement by and between the State and the Conservancy. Pursuant to that certain Memorandum of Understanding dated June 19, 2017, by and among the State, the City, the Conservancy, and A Better City on behalf of its Greenway Abutters Committee (the “MOU”), the parties set forth a framework for the creation of the BID and the anticipated funding contributions by the State, the City, the Conservancy and the BID to support the future operation, management, improvement and maintenance of the Greenway. The funding contributions by the State and the City, as reflected in the Funding Schedule of the MOU, are material preconditions for the funding contribution by the BID (and similarly, the funding contributions by the BID are material preconditions for the funding contributions by the State and the City).

II. MANAGEMENT ENTITY

A private non-profit corporation known as the Greenway Business Improvement District Corporation (the “BID Corporation”) has been created to receive funds to carry out, implement,

and oversee the purposes of the Greenway Business Improvement District and this improvement plan. The BID Corporation shall be located in Boston, Massachusetts. **[NOTE TO DRAFT: The BID Corporation by-laws will establish the size and composition of the Board]**

III. SUPPLEMENTAL SERVICES

The BID Corporation shall provide, or cause to be provided, supplemental services and programs for and within the BID District. Such services may include, without limitation, the following (collectively, the “supplemental services”):

- (a) Maintenance. Implementing and supporting a maintenance program that provides a high level of cleanliness throughout the BID District, which program may include: cleaning services; trash removal; street sweeping; sidewalk or walkway pressure washing; seasonal snow removal from pedestrian areas; maintenance and upkeep of landscaping and plantings; and removal of handbills, gum, and graffiti.
- (b) Physical Enhancement. Implementing and supporting a physical enhancement program that enhances the Greenway’s assets, including its design and functional excellence, at the highest standard reasonably achievable and creates a sense of place and uniformity throughout the BID District, which program may include: Greenway-branded banners and decorations, trash receptacles, plantings, signage, street furniture, and lighting; upgrading landscaping and plantings, banners and decorations, and other furniture or improvements in and around the Greenway and other public areas; and coordinating beautification activities in the BID District.
- (c) Programming and Advocacy. Supporting the development of creative and vibrant programming and activation of the Greenway to benefit the public realm and BID District. Supporting marketing efforts for the thoughtful commercial utilization of the Greenway to finance Conservancy expenses. Fostering collaboration with social service organizations and others to address issues of homelessness, substance abuse, and/or other social issues affecting the BID District.
- (d) Any other supplemental services that would further the purposes of the BID.

In furtherance of the provision of these supplemental services, the BID Corporation shall have all the rights and powers of a BID granted under G.L. c. 40O, §2. The supplemental services shall be provided in addition to the standard governmental functions, programs, activities, facilities, improvements, and other services which the City and/or the State, as the case may be, have historically performed, are required to perform, or otherwise perform for the BID District.

IV. FEE STRUCTURE

Supplemental services within the BID District shall be funded primarily through special annual fees paid by the owners of all real property within the BID District except owner-occupied residential tax parcels (the "participating property owners"). All participating property owners shall pay an assessed fee, which shall be calculated on an annual basis in accordance with the formula set forth below, collected in quarterly installments by the City of Boston, and disbursed in full to the BID Corporation as provided in G.L. c. 400, §8. The total revenue from the fees shall be used for the provision of the supplemental services and for costs associated with administering the BID.

For purposes of this section, the term "owner-occupied residential tax parcels" mean (i) all one (1) to four (4) family residential properties, and (ii) all residential condominium units located within the BID District. No fee shall be assessed on owner-occupied residential tax parcels.

The fee imposed on each tax parcel owned by a participating property owner shall be calculated annually based on (A) such tax parcel's assessed value, as determined by the City of Boston Assessing Department, and (B) the use of such tax parcel as follows:

- (a) for taxable properties with an assessed value of \$200,000,000 or less, the fee shall be \$0.37 per \$1,000 of such assessed valuation;
- (b) for taxable properties with an assessed value greater than \$200,000,000, the fee shall be \$0.37 per \$1,000 of assessed valuation up to \$200,000,000, plus \$0.11 per \$1,000 of assessed valuation over \$200,000,000;
- (c) for nontaxable properties and for taxable properties with an assessed value of less than \$10,000,000 as of the date on which the Boston City Council votes to initially approve and establish the BID, no fee shall be assessed to such property, except, however, if the property subsequently becomes taxable or if the assessed value of the property is \$10,000,000 or greater in any subsequent fiscal year, then the fee for such property thereafter shall be as described in subparagraphs (a) and (b) above;
- (d) for properties owned by corporations and other entities organized pursuant to Chapter 121A of the Massachusetts General Laws, the fee shall be as described in subparagraphs (a) and (b) above;
- (e) for commercial condominium units within a single condominium building which have a combined assessed value greater than \$200,000,000, the fee shall be determined by allocating the \$200,000,000 threshold proportionately among the units, so that the aggregate fee is the same as if the units were taxed as a single tax parcel. For example, a condominium consisting of two units having assessed valuations of \$160,000,000 and \$90,000,000 would be assessed as follows: (i) the first

- condominium unit would be assessed at the rate of \$0.37 per \$1,000 of assessed valuation up to \$128,000,000 and \$0.11 per \$1,000 of the assessed valuation above \$128,000,000; and (ii) the second condominium unit would be assessed at the rate of \$0.37 per \$1,000 of assessed valuation up to \$72,000,000 and \$0.11 per \$1,000 of the assessed valuation above \$72,000,000;
- (f) for properties where the owner can demonstrate to the BID Corporation that a single building is on more than one tax parcel having the same owner, and where the combined assessed value of such tax parcels is greater than \$200,000,000, the fee shall be determined by allocating the \$200,000,000 threshold proportionately among the parcels, so that the aggregate fee is the same as if the parcels were assessed as a single tax parcel;
 - (g) for charitable, religious, educational, government, and other properties exempt from taxation pursuant to Chapter 59 of the Massachusetts General Laws, the fee (if any) shall be as detailed in negotiated participation agreements, entered into from time to time between the BID Corporation and the owner of each such participating property, providing for contributions of cash, in-kind services or other support to the BID Corporation;
 - (h) for properties where the owner can demonstrate to the BID Corporation that a residential rental building is on the tax parcel and more than fifty percent (50%) of the assessed value of such tax parcel is assessed by the City of Boston Assessor at the applicable residential tax rate, the fee shall be the sum of (1) \$0.185 per \$1,000 of assessed valuation that is assessed at the applicable residential tax rate, and (2) \$0.37 per \$1,000 of assessed valuation that is assessed at the applicable commercial rate, if applicable; and
 - (i) with respect to the parcel of land comprising South Station, which is partially located within the BID District, the following shall apply: (1) fee for any property within such parcel which is classified as tax-exempt and used for transportation purposes (e.g., property owned by the Massachusetts Bay Transportation Authority), the fee shall be as described in subparagraph (g) above; (2) for the leased parcel comprising the commercial components of the South Station headhouse building (e.g., tax parcel number 0305364100), the fee shall be as described in subparagraph (a) and (b) above; and (3) if after the date hereof any portion of the air rights above the South Station headhouse building is developed as a commercial building (e.g., the first phase of the presently proposed South Station Air Rights Project), then such building (except for any portion thereof constructed as owner-occupied residential property) shall be responsible for paying a fee calculated pursuant to subparagraph (a), (b), (e) or (h) above, above as applicable, beginning in the first fiscal year after the issuance

of a certificate of occupancy for such building. Additional phases of any such air rights project shall not be included in the BID District or responsible for paying a fee pursuant to this improvement plan.

To the extent the foregoing fee formulas generate a revenue surplus in excess of the Board-approved budget for expenses for a fiscal year, the Board shall establish a surplus account (the "Surplus Account"), of an amount approved from time to time by the Board in its sole discretion but not to exceed nine percent (9%) of such Board-approved budget (the "Surplus Account Amount"), to protect against future declines in property fee revenues (i.e., on account of declines in taxable property assessed values). The BID Corporation shall apply a credit to all participating property owners who, at the time of the allocation, do not have any outstanding or unpaid BID fees over thirty (30) days from the date of initial billing (each an "eligible participating property owner") an amount equal to their proportionate shares of any surplus revenue amounts collected in excess of (a) the Board-approved budget for expenses for the following fiscal year, and (b) Surplus Account Amount (such excess amount, the "Excess Revenue"), which proportionate share shall be based on the total annual BID fees assessed to the eligible participating property owners for the fiscal year in which the Excess Revenue was collected. The BID Corporation shall apply the applicable credit amounts, if any, against the fees to be collected from the eligible participating property owners in the first quarter of the fiscal year following the fiscal year in which generated the Excess Revenue, and to the extent the applicable credit amount exceeds the applicable fee to be collected in the first quarter of the applicable fiscal year, the BID Corporation shall apply any excess credit amount against the fee to be collected in the second quarter of the applicable fiscal year (and so on for each subsequent quarter to the extent there may be credit amounts in excess of the applicable fees to be collected for such subsequent quarter).

The Board may elect, in its sole discretion, to utilize all or a portion of the funds in the Surplus Account for Board-approved Budget expenses in any fiscal year for which there is a shortfall of property fee revenues on account of a decline in the assessed values for taxable properties within the BID District.

In accordance with G.L. c. 400, §8, all fees billed by or on behalf of the BID Corporation and unpaid after thirty (30) days from the date of initial billing shall become a lien on the property, which shall have priority over all other liens except as otherwise required by law.

V. BUDGET STRUCTURE

Revenues. The BID Corporation's estimated annual revenues for the first fiscal year (ending June 30, 2019) are expected to be approximately \$1,600,000, broken down as follows:

Property Fees Revenue:	\$1,600,000
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Expenses. The BID Corporation shall undertake the supplemental services set out in this plan in accordance with a detailed operating budget established annually by the directors. The budget may include such reasonable reserves as the directors deem necessary, and annual expenditures shall generally be in accordance with the following percentage allocations:

Supplemental Services:	60% (\$1,000,000)
Annual Priorities:	30% (up to \$500,000)
Administration and Overhead:	6-10% (approximately \$100,000)

The actual annual budget for the BID will be dependent upon the assessed value of taxable properties within the BID district from year to year. The “Annual Priorities” budget category will be allocated by the Board, as part of the annual budget, to reflect the Board’s priorities for the particular year or such other timeframe as the Board may determine, except, however, in the first fiscal year this category shall be applied toward the Supplemental Services in accordance with the MOU. In subsequent years, this category may be applied to capital improvements, equipment upgrades or replacement, and/or additional supplemental services, or alternatively the Board may elect to withhold all or a portion of the “Annual Priorities” budget in the second year and allocate such portions to the “Annual Priorities” expenditures in subsequent years. The Annual Priorities budget will be allocated equitably among the parks and/or regions within the Greenway at the discretion of the Board and consistent with the Board’s priorities for the particular year or such other timeframe as the Board may determine.

The fiscal year of the BID shall be from July 1 to June 30, or as otherwise determined by the Board.

VI. UPDATING THE IMPROVEMENT PLAN

The BID Corporation shall update or amend, pursuant to the requirements and limitations of G.L. c. 400, this improvement plan periodically as it deems necessary. In the event of any inconsistencies between the provisions of this improvement plan (including any amendments or updates to this improvement plan) and G.L. c. 400, the provisions of G.L. c. 400 shall be deemed to control to the extent of such inconsistencies; provided, however, that any such inconsistencies shall not impair or affect in any manner the validity, enforceability or effect of any other provisions of this improvement plan.

VII. SIGNIFICANT FINANCIAL HARDSHIP WAIVER

In addition to such other actions as may be approved by the Board from time to time, the BID Corporation may, solely at its discretion, temporarily waive or reduce the annual fee for any

participating property owner for whom the imposition of such a fee would create a significant financial hardship due to exceptional circumstances, considering such criteria as:

- (a) Protection sought under the Massachusetts or federal laws of bankruptcy or insolvency;
- (b) Foreclosure by a mortgage holder; or
- (c) Occupancy of less than 50% of usable space and area.

In the case of such a significant financial hardship, a participating property owner may petition the Board or such other committee as may be designated by the Board from time to time for temporary relief from the applicable fee. Such petition shall be in the form of a letter containing a description of the circumstances giving rise to the significant financial hardship, the relief requested and the name, telephone number and email address of a person to be contacted for further information concerning such hardship. The Board or such other committee, as applicable, will consider the request within thirty (30) days, and may grant or deny such request, or may partially grant such request by waiving a portion of the applicable fee. Any waiver or partial waiver shall apply only to a single fiscal year. A participating property owner may re-apply for subsequent fiscal years, following the procedures outlined above. The decision of the Board or other committee, as applicable, shall be final.

VIII. FIVE-YEAR RENEWAL

No later than three months prior to the fifth anniversary of the date of the establishment of the BID under G.L. c. 400, § 4 and thereafter no later than three months prior to the fifth anniversary of the date of the then-most recent renewal of the BID under G.L. c. 400, § 4, the Board shall call a renewal meeting of the participating property owners to review the preceding five-year history of the BID, propose an updated improvement plan to succeed the then current improvement plan and consider whether to continue the BID. The Board will hold the renewal meeting at a location within the District during normal business hours, and notice will be given by mail, email, or other customary method of notification to participating property owners at least thirty days prior to the meeting.

The BID will be continued after each renewal meeting only if a majority of the participating property owners present at the meeting, or voting by proxy in accordance with procedures to be established in the BID Corporation by-laws for member meetings, and a majority of the Largest Owners (as defined below) present at the meeting or voting by proxy, elect to renew the BID for an additional five-year term. The term "Largest Owners" shall mean the owners of the participating properties in the BID District that have an assessed valuation of more than \$200,000,000 based on the most current assessed valuation as provided by the City of Boston Assessing Department. The BID Corporation shall determine the list of Largest Owners prior to

the meeting, and its determination shall be conclusive absent manifest error. For purposes of determining the list of Largest Owners, the BID Corporation shall consider multiple tax parcels located within the same condominium or building as one property in accordance with the provisions of section IV.

If the participating property owners do not elect to continue the BID, the Board will wrap up the business of the BID prior to the sixth anniversary of the BID's creation (or the prior renewal, as the case may be) and proceed to discontinue the BID. Notice of the discontinuation vote will be given to the Boston City Council, which shall formally declare the BID dissolved as of such sixth anniversary; provided, however, that the BID shall not be dissolved until it has satisfied or paid in full all of its outstanding indebtedness, obligations, and liabilities; or until funds are on deposit and available therefor; or until a repayment schedule has been formulated and approved by the City Council. The BID shall be prohibited from incurring any new or increased financial obligations after such sixth anniversary. Upon the dissolution of a BID, any remaining revenues derived from the sale of assets acquired with fees collected shall be applied to repay obligations of the BID and then to the improvement of the BID District in accordance with an improvement plan approved by the City Council.