

**FIRST AMENDMENT TO
DEVELOPMENT AGREEMENT**

This First Amendment to Development Agreement (this “First Amendment”) is entered into this 23 day of March, 2023, by and between the **Town of Wellesley** (the “Town”), acting by and through its Select Board, and **John Hancock Life Insurance Company (U.S.A.)**, a Michigan corporation (the “Owner,” and together with the Town, the “Parties”).

RECITALS

WHEREAS, the Town and the Owner entered into that certain Development Agreement dated as of April 9, 2019, (the “Development Agreement”) concerning certain real property comprising approximately 26 acres of land known as the Wellesley Park located along Boylston Street (Route 9), Wellesley, Norfolk County, Massachusetts (the “Site”);

WHEREAS, the Development Agreement established a framework to supplement the Wellesley Park Smart Growth Overlay District, Sec. XIVJ.1. of the Zoning Bylaw of the Town (the “District Bylaw”), an overlay zoning district adopted pursuant to G.L. c. 40R and accompanying regulations at 760 CMR 59.00;

WHEREAS, the Town is seeking approval by Wellesley Town Meeting (the “Town Meeting”) of an amendment to the District Bylaw (the “Zoning Amendment”) modifying the permitted uses and density by (i) eliminating the ability to construct a 175-room hotel and (ii) substituting in its place the ability to construct an additional 250 multi-family Dwelling Units (as defined in the District Bylaw)(any Dwelling Units constructed upon the Site in excess of 600 Dwelling Units, the “Additional Dwelling Units”);

WHEREAS, it is the intent of the Parties that any Development Project (as defined in the District Bylaw) or phase thereof that contains one or more Additional Dwelling Units (each, an “Additional Dwelling Project”) or homeownership housing units be subject to the relevant terms of this First Amendment;

WHEREAS, this First Amendment is entered into by the Parties in an effort to facilitate the Zoning Amendment and the development of the Additional Dwelling Units;

NOW, therefore, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

AGREEMENT

1. Capitalized Terms. Unless specifically defined herein, capitalized terms used in this First Amendment shall have the meanings given to such terms in the Development Agreement.
2. Number of Units. Section 1.1 of the Development Agreement is hereby amended by: (i) deleting the number “600” in the first sentence and replacing it with “850”; and (ii) deleting the number “250” in the first sentence and replacing it with “500”.
3. Housing Style. Section 1.2 of the Development Agreement is replaced in its entirety by the following:

Housing Style. The Owner agrees that, of the 850 dwelling units allowed on the Site, at least 600 shall be apartment style.

4. Affordable Housing. Section 1.3 of the Development Agreement is replaced in its entirety by the following:

Affordable Housing. The Owner agrees that no less than twenty five percent (25%) of all residential rental housing units developed upon the Site up to the maximum of 850 units allowed under the District Bylaw shall be affordable units, qualifying for enumeration under G.L. c. 40B, Sections 20-23 (the "Affordable Units"). The Owner further agrees that, to the extent that a Development Project (as defined in the District Bylaw) is developed as homeownership housing units, twenty five percent (25%) of the Dwelling Units comprising such Development Project shall be affordable units, comprised of the following affordability mix: (i) fifteen percent (15%) shall be made available to Eligible Households (as defined in the District Bylaw); (ii) five percent (5%) shall be made available to individuals or households whose annual income is at or below sixty percent (60%) or seventy percent (70%), at the Town's discretion, of the area-wide median income ("AMI" as determined by the United States Department of Housing and Urban Development ("HUD"), adjusted for household size, with income computed using HUD's rules for attribution of income to assets; and (iii) five percent (5%) shall be made available to individuals or households whose annual income is at or below between one hundred ten percent (110%) and one hundred forty percent (140%) of the AMI, at the Town's discretion. Notwithstanding the foregoing, if the Town chooses sixty percent (60%) AMI in (ii), above, then the Town shall choose between one hundred twenty percent (120%) and one hundred forty percent (140%) of AMI in (iii), above.

5. Transportation. With respect to any Additional Dwelling Project, the Owner reaffirms its commitment to Section 3.2 of the Development Agreement, Future Phase Traffic Improvements, including its obligation to implement additional traffic mitigation measures for an Additional Dwelling Project as may be warranted.

6. Emergency Response Services.

- a. Article 4 of the Development Agreement is amended by inserting the following as a new Section 4.2:

4.2 Feasibility Study. Within 120 days of the Owner's receipt of notice of the Town's receipt of DHCD's "Letter of Approval" of the Zoning Amendment, the Owner shall contribute up to One Hundred Thousand Dollars (\$100,000) to the Town to be utilized for the completion of a study assessing the feasibility of developing a third fire station in the Town.

- b. Article 4 of the Development Agreement is amended by inserting the following as a new Section 4.3:

4.3 Public Service Office. In the course of the design and permitting the first Additional Dwelling Project, the Owner shall coordinate with the Town and the Town's police and fire departments to integrate within the development or on the Site at least 200 square feet of space suitable for use as a multi-use office that may be utilized by emergency service personnel and Town-employed social workers (the "Public Service Office") at no cost to the Town. Use of the Public Service Office shall be subject to reasonable rules and regulations by the Owner for the purpose of regulating access and promoting safety, order, and cleanliness.

- c. Article 4 of the Development Agreement is amended by inserting the following as a new Section 4.4:

4.4 Public Safety Contribution. Prior to the issuance of a building permit for vertical construction of the first Additional Dwelling Project, the Owner shall contribute Three Hundred Fifty Thousand Dollars (\$350,000) to the Town to be utilized for the development of a third fire station within the Town or for other Town public safety needs.

7. Environmental Strategies.

- a. With respect to any Additional Dwelling Project, the Owner reaffirms its commitment to Section 5.2 of the Development Agreement, Future Phase Environmental Strategies, including its obligation to diligently pursue and implement, as appropriate to the stage of development, measures, including, but not limited to, the installation of electric vehicle charging stations, bicycle parking, and expanded Transportation Demand Management Measures.
- b. Article 5 of the Development Agreement is amended by inserting the following as a new Section 5.3:

5.3 Additional Dwelling Project Electrification. The Owner agrees to implement beneficial electrification for any Additional Dwelling Project. Furthermore, with respect to any Additional Dwelling Project, the use of natural gas shall be restricted to outdoor amenities in conformance with then-applicable Town laws and regulations.

- c. Article 5 of the Development Agreement is amended by inserting the following as a new Section 5.4:

5.4 Additional Dwelling Project Environmental Strategies. In addition to the obligations contained in Section 5.2, prior to the issuance of a certificate of occupancy for the first Additional Dwelling Project, the Owner agrees to (i) diligently pursue, in conjunction with the Massachusetts Department of Conservation and Recreation, further trail network improvements on or adjacent to the Site that may enhance pedestrian connectivity and provide for recreational and fitness amenities;

and (ii) develop, either within the Site or within the first Additional Dwelling Project, a “tot lot” or playground equipment for young children in a size and scope appropriate for the anticipated needs of the Additional Dwelling Project and in conformance with all state, local, and municipal regulations.

8. Effective Date. This First Amendment shall become effective upon approval of the Zoning Amendment by Town Meeting. In the event that (i) the Zoning Amendment is disapproved by DHCD or the Massachusetts Attorney General, or (ii) Owner fails to obtain or maintain all final and effective discretionary federal, state and local permits necessary to allow for the construction and operation of the first Additional Dwelling Project, upon Owner’s delivery of written notice to the Town, this First Amendment shall be null and void.
9. Notice of this First Amendment. A notice of this First Amendment in a form reasonably acceptable to the Owner may be recorded with the Norfolk Registry of Deeds.
10. Captions. The captions in this First Amendment are inserted for convenience of reference and in no way define, describe or limit the scope or intent of this First Amendment or any of the provisions hereof.
11. Miscellaneous. Except as expressly modified or amended by this First Amendment, all of the terms, covenants and conditions of the Development Agreement are hereby ratified and confirmed. Delivery of this executed First Amendment by PDF format, DocuSign or other electronic format by any party shall represent a valid and binding execution and delivery of this First Amendment by such party.

[Remainder of this page intentionally left blank. Signature page follows.]

EXECUTED under seal as of the date and year first above written,

TOWN OF WELLESLEY SELECT BOARD

By: *Lise M Olney*

Name: *Lise M Olney*

Its: *Chair*

JOHN HANCOCK LIFE INSURANCE COMPANY (U.S.A.)

By: *Jeffrey C. Wolfe*

Name: Jeffrey C. wolfe

Its: Vice President