

## MANAGEMENT AND OPERATION AGREEMENT

The Winthrop Connector  
Boston, Massachusetts

This MANAGEMENT AND OPERATION AGREEMENT (the "Agreement") is made and entered into as of ~~January 3~~ <sup>01/16/2024</sup>, 2024 (the "Effective Date"), by and between MCAF Winthrop LLC (together with its successors and assigns, "Owner"), and the Boston Redevelopment Authority d/b/a Boston Planning & Development Agency (together with its successors and assigns, "BPDA") (each a "Party" and collectively the "Parties").

WHEREAS, Owner is in the process of redeveloping 115 Winthrop Square, also known as 115 Federal Street, to be known as Winthrop Center (the "Building"). Owner is constructing an approximately 12,000 square foot multi-usage space, located on the first floor between Devonshire Street and Federal Street, herein after referred to as The Connector ("The Connector") and as shown on Exhibit A attached hereto. In accordance with that certain Cooperation Agreement, dated September 20<sup>th</sup>, 2018 (the "Cooperation Agreement") between Owner and the BPDA, the Parties agreed that The Connector shall be an active, publicly accessible space providing the operational structure and architectural scaffolding to accommodate a variety of educational, civic, performance and cultural experiences.

WHEREAS, The Connector, currently under construction, will be an extraordinary, captivating public space intended for all to enjoy and be inspired by; the entire Building has been designed and purposed to be consistent with the vision of The Connector. While The Connector serves as a means of connection between Devonshire and Federal Street, it will also serve as a connector of communities, cultures and ethnicities that the city of Boston is already enriched by.

WHEREAS, the anticipated programming and revenues generated by The Connector shall enhance how the public experiences the space and shall maintain its reasonable availability for both civic and community organizations in the immediate neighborhood and across the City; the parties' goal is that The Connector will be self-sustaining without compromising the primary public purpose.

WHEREAS, the Building opened in the Spring of 2023 to early tenants, with The Connector opening in late 2023 or early 2024 and programming commencing in the summer of 2024.

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

### *WITNESSETH:*

1. **Uses of The Connector.** For so long as the Building shall exist, the Connector shall be made available in accordance with the terms of this Agreement and for the following five (5) categories of use:
  - 1) **Public Use:** The Connector shall predominantly be used as a civic space open to the general public without fee but subject to reasonable rules and regulations.
  - 2) **Civic or Charitable Use & Open to the Public:** The Connector may be used from time to time to host civic or charitable events in portions of The Connector that are not available to the general public but during which the general public may still access

The Connector . The Manager may charge the event host for the direct costs (e.g., chair rental, cleanup), in accordance with rules and criteria established by the Manager, with input from the Board of Advisors, with the goal of minimizing costs for community users, and if possible, subsidizing some of such users based upon need.

- 3) Commercial Use & Open to the Public: The Connector may be used from time to time to host events and other special events which are not available to the general public but during which the general public may still access The Connector. For commercial events, an appropriate fee in excess of the additional costs to operate The Connector for such event will be charged, and will be applied as provided in the next section.
- 4) Other Civic or Charitable Use: The Connector may be used from time to time to host civic or charitable events that are not open to the public and which require closure of The Connector.
- 5) Other Commercial Use: The Connector may be used from time to time to host special events that are not open to the public and require closure of The Connector. Fees from such use will be charged an appropriate fee in excess of the additional costs to operate the Connector for such event and will be applied as provided in the next section. Additionally, The Connector may be used from time to time for branding and advertising purposes (including sponsorships) in order to generate revenue, and such revenue will be applied to The Connector's operating costs and/or subsidies as provided in the next section.

In addition to event uses, there will be a variety of seating options in The Connector for public use, and may include free-standing kiosks which provide a variety of food and beverage options and/or merchandise for people to enjoy, and revenue from such uses will be applied as provided in the next section. Owner will provide free wi-fi access in The Connector and the public will be welcome, except, and to the extent, that the space is being utilized for an event or is closed for construction, safety or security reasons.

2. Costs/Revenues of The Connector. The Connector will be accessible, active and civic in nature and made available to the public in a self-sustaining manner over the long term. Commercial users of The Connector will pay market rates for events, exhibits, branding and marketing, free-standing kiosks or other commercial uses of such space at market rates, while The Connector will be made available at subsidized rates to appropriate civic and community users. All rents, fees and other consideration paid for the use or occupancy of The Connector shall be paid to the Owner and shall be utilized solely to offset operating, maintenance and programming costs for The Connector, which shall be the sole responsibility of the Owner and not the City. For the avoidance of doubt, rent paid by commercial users adjacent to The Connector will not be used for such purposes but will accrue to the owner of such space as shown and delineated in Exhibit A.
  - a) Initial Operating Subsidy. In order to address operating shortfalls in the first year, Owner, or its successors, will provide an initial operating subsidy of up to \$1,000,000, which amount shall be used, as necessary, solely for operating costs, curating events, initial programming and procedures or other expenses of The Connector. After the initial period, Owner expects that The Connector shall be self-sustaining and such subsidy will not be required.

- b) Financial Sustainability Plan. In order to assure that revenues anticipated to be generated by private commercial events will subsidize the operating and maintenance programming costs of The Connector sufficiently to make the space available for community and civic events at reduced rates, Owner will also cause the residential condominium association at Winthrop Center (the "Residential Condominium Association") to contribute \$75,000 annually (increasing with inflation) to defray operating costs of The Connector.
  - c) Operation and Management Agreement Updates. The Owner will submit proposed updates to this Agreement within two (2) years after issuance of the certificate of occupancy for The Connector, and every five (5) years thereafter. Such updates shall reflect input from all relevant stakeholders. Upon receipt of the updates, BPDA shall review and the Parties shall amend this Agreement as needed subject to the provisions of Section 10.
  - d) Annual Reports. Commencing within ninety (90) days after the first full calendar year of operations of The Connector, and within ninety (90) days after each subsequent year, the Owner will provide a report to the BPDA summarizing the operations of The Connector during the preceding year, thereafter, describing how The Connector is being utilized for public, civic and community uses, and detailing any deviations from this Agreement during such year. Annual reports that demonstrate deviations with any term contained in this Agreement shall trigger a review by the BPDA where the Parties shall discuss potential amendments to this Agreement to prevent continued deviations including, but not limited to, changes to the rules and regulations attached hereto in Exhibit B.
  - e) Budgets. Each year, the Owner shall use reasonable efforts to develop a budget which shall attempt to ensure The Connector will be self-sustaining. To the extent that The Connector fails to be self-sustaining, despite the contribution from the residential condominium association and the initial operating subsidy of up to \$1 million, the Owner will revise the operating plan as necessary, and will work with the BPDA and the Board of Advisors with the goal of returning The Connector to self-sufficiency without compromising the primary public purpose. Even in the absence of sufficient Connector revenue, Owner will keep the Connector open for public access as provided herein.
  - f) Revenue Generation. Any and all revenue received from use of The Connector by the Owner shall be applied solely to the costs of capital, operating and programming costs of The Connector and for no other purpose.
3. Management. Owner shall obtain the assistance and services of a manager (the "Manager") selected by the Owner. Initially, the Manager will be a management company affiliated with the Owner.
- a. Manager. The Manager shall be responsible for the daily operations and management of The Connector. The Manager will also be responsible for outreach to civic and community groups to encourage events and other uses of The Connector, including advising community groups on prototypical events setups and other logistical details. The Manager will establish clear directions, by website or other accessible medium, for civic groups seeking to utilize The Connector. The Manager shall work with the Downtown Boston Business Improvement District and other community organizations to coordinate programming and enhance the safety of The Connector. The Manager will also coordinate with the

amenity/conference center provider at Winthrop Center to encourage coordinated uses of the amenity space and The Connector and shall work with the hired food service provider in the building to coordinate food and beverage service events. The Manager, at the discretion of Owner, shall work with the board of advisors to ensure the space is used for a variety of public and private events.

- b. **Operations Plan.** The Manager shall develop a plan for the day-to-day operations of The Connector, including cleaning and maintenance, hours of operation, and proposed locations and layouts for various types of events. The Manager will engage a food services company and one or more event services companies to be the providers of tables, chairs, stage, audio/video equipment and the like for events. All costs of the event services company will be charged to users, but rates charged to civic and community users with limited budgets will be discounted.
  - c. **Rules and Regulations.** The Manager will also develop and post rules and regulations for the use of The Connector, including event protocols. The initial rules and regulations are attached hereto as **Exhibit B.** All events shall be consistent with event rules and regulations from time to time adopted by the Manager, and shall at all times be compatible with other uses in the Building.
  - d. **Maintenance and Access.** Access to The Connector may be restricted by Owner from time to time, and/or at regularly scheduled intervals for maintenance, security or other safety reasons, or as the Owner sees fit for any other appropriate reason in order to further the principles of The Connector.
4. **Board of Advisors.** Not later than sixty (60) days prior to the opening of The Connector for the events outlined in items 2 through 5 of paragraph one above, the Owner shall appoint a board of advisors (the "**Board**") comprised of (i) people who live or work in Winthrop Center or nearby buildings, (ii) representatives of the owner, (iii) community representatives, including not fewer than two (2) members from neighborhoods of Boston other than downtown and/or (iv) other persons with interests or experience in animating and programming public spaces. The purpose of the Board will be to advise the Manager on outreach activities to assure that The Connector is used for a wide range of civic and community uses, and that school groups, civic groups and neighborhood groups know about the availability of The Connector for its activities. The Board will also advise the Manager on policies and procedures concerning public use of The Connector, and on such other matters as the Manager may seek its input. The Board will not directly or indirectly be responsible for the activities or events taking place at The Connector, such responsibility shall lie solely with the Owner.
5. **Permanent Element.** The Owner will install and shall be responsible for maintaining a permanent art installation in The Connector. Such installation, which may change from time to time at the discretion of the Owner, shall act as a significant point of interest in The Connector.
6. **Assignment.** The Owner has converted the Building to a condominium form of ownership. The Connector is controlled by the commercial unit (i.e., the office portion of the Building). In connection therewith, the Owner may assign its rights and obligations under this Agreement to the owner of the commercial unit, and in such event the Owner shall have no further obligations hereunder and the commercial unit owner shall thereafter be the "Owner" hereunder. This Agreement may be further assigned only in connection with a transfer of the commercial unit (a

“Permitted Transfer”) or otherwise with the consent of the BPDA, not to be unreasonably withheld. Notice of any Permitted Transfer shall be provided to BPDA not more than thirty (30) days after such transfer and assignment. An Owner will only be responsible for the obligations hereunder which apply or occur during its period of ownership.

7. **Governing Law.** This Agreement shall be governed and construed by the laws of the Commonwealth of Massachusetts.
8. **Notice.** 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 Owner, 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, 9<sup>th</sup> Floor  
Boston, Massachusetts 02201-1007  
Attention: Director

with a copy to: Boston Redevelopment Authority  
One City Hall Square, 9<sup>th</sup> Floor  
Boston, Massachusetts 02201-1007  
Attention: General Counsel

**Owner:** MCAF Winthrop LLC  
c/o MP Boston/Millennium Partners  
240 Devonshire Street  
Boston, Massachusetts 02110  
Attention: Joseph Larkin

and to: Millennium Partners Management LLC  
1995 Broadway, Suite 1201  
New York, New York 10023  
Attention: Chief Financial Officer

with a copy to: DLA Piper LLP (US)  
33 Arch Street, 26<sup>th</sup> Floor  
Boston, Massachusetts 021190  
Attention: John E. Rattigan, Jr., Esq.

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

9. **Term of the Agreement:** For so long as the building exists this agreement shall ensure The Connector remain in good working order and compliant with all of the principles originally outlined

in Exhibit D of the Cooperation Agreement between the BPDA and Owner and all provisions contained herein.

10. **Effect on Cooperation Agreement; Conflict:** The terms of this Agreement shall supersede the Cooperation Agreement with respect to management and operation of The Connector. Where conflict exists between this Agreement and the Cooperation Agreement, this Agreement shall govern.
  
11. **Amendment:** This Agreement may be amended only by a written instrument signed by the Parties. Upon execution of any amendment, the BPDA shall send notice of such amendment to any Notice Party as defined herein. For the purposes of this Agreement, a Notice Party shall be (a) any person or entity that has made a loan to Owner and/or any person or entity that owns a direct or indirect interest in Owner that is secured by, among other things, the Building and/or the direct or indirect ownership interests in Owner; and (b) has been identified by Owner as a Notice Party and for which an appropriate email and mailing address of such Notice Party has been provided to the BPDA. The Owner shall update the BPDA from time to time, and at any time upon BPDA request, as to the names and email and mailing addresses of any Notice Party.
  
12. **Counterparts:** This Agreement may be executed in several counterparts, each of which shall be an original but all of which shall constitute but one and the same instrument. Counterparts may be delivered via facsimile, electronic mail (including pdf or any electronic signature process complying with the U.S. federal ESIGN Act of 2000) or other transmission method and any counterpart so delivered shall be deemed to have been duly and validly delivered and be valid and effective for all purposes.

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IN WITNESS WHEREOF, the parties hereto have signed this as a sealed instrument as of the Effective Date.

**OWNER:**

MCAF WINTHROP LLC,  
a Delaware limited liability company

DocuSigned by:  
*Mario Palumbo*  
By: \_\_\_\_\_  
Name: MARIO J. PALUMBO  
Title: VICE PRESIDENT

**BPDA**

APPROVED AS TO FORM:

BOSTON REDEVELOPMENT AUTHORITY

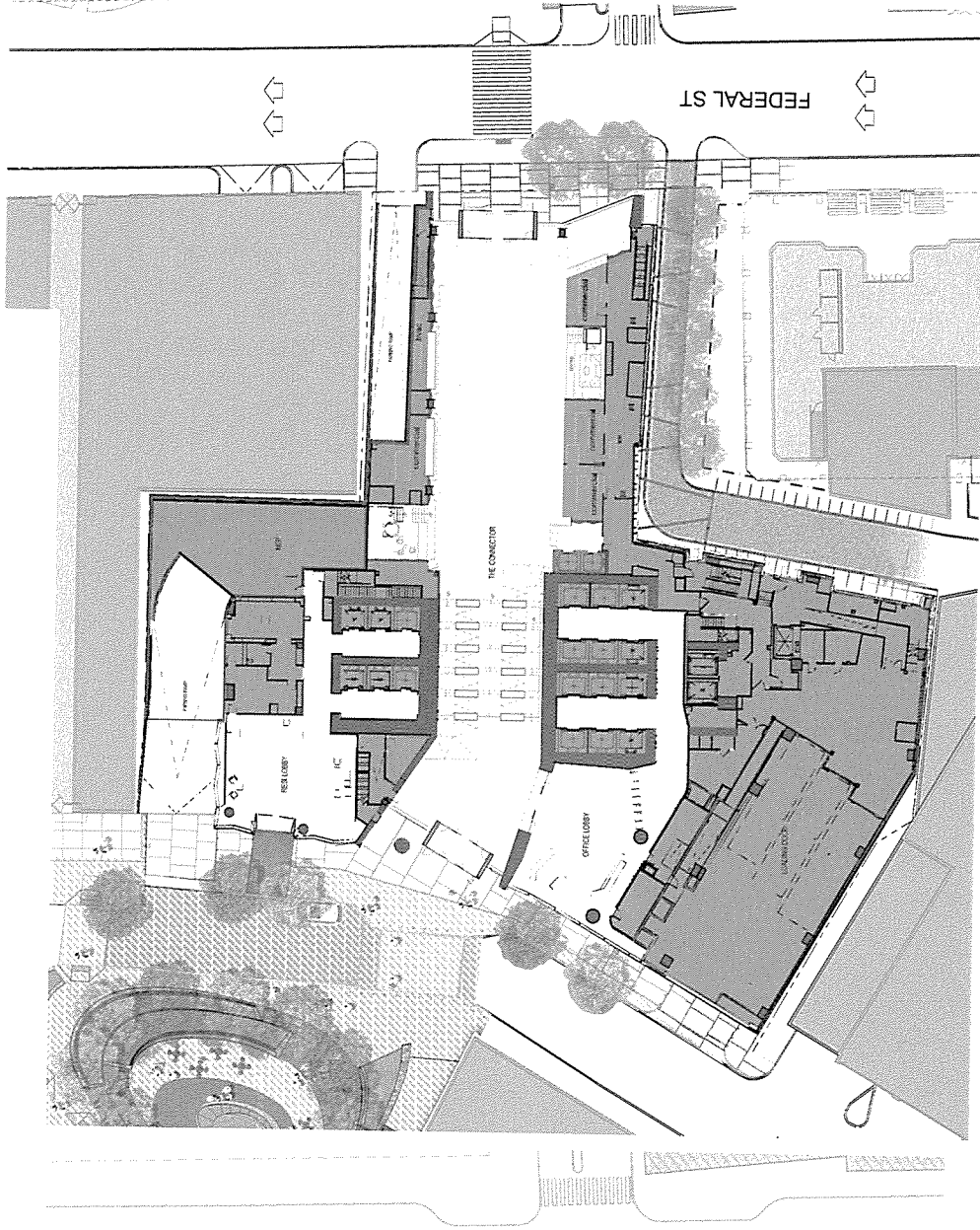
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*Lisa Herrington*  
By: \_\_\_\_\_  
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*James Arthur Jemison, II*  
By: \_\_\_\_\_  
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**Exhibits**

- Exhibit A: Floor Plan/Area of Connector
- Exhibit B: Rules and Regulations

# EXHIBIT A Management and Operating Agreement for the Winthrop Connector



THE CONNECTOR

: approx 12,000 sf  
: Not included



## **EXHIBIT B**

### Rules and Regulations

- a. The Connector is a private indoor space into which the public will be invited for their enjoyment, in common with others, subject to these rules and regulations, which may be revised from time to time by the Manager. Any change or revision to the Rules and Regulations which prohibit or limit public access to The Connector, except those restrictions contemplated in the Management and Operation Agreement, shall be permitted only with the prior written consent of the BPDA.
- b. Guests are expected to be respectful of The Connector and others utilizing The Connector at all times. No bullying or harassment of any kind shall be permitted. All persons shall be clothed and shall behave in a manner consistent with the other uses in the building.
- c. No guns, knives, or any other type of weapon are allowed inside or in the outside areas adjacent to The Connector.
- d. All garbage and trash must be placed in the proper receptacles for refuse disposal or collection.
- e. No animals shall be permitted within The Connector, except for documented service and support animals. Manager has the right to request such documentation from any individual bringing a pet into the Connector.
- f. Any activity that is perceived to be unsafe or dangerous by the Manager shall not be permitted.
- g. No shouting, loud noises or amplification of sound shall be permitted, except with the permission of the Manager in connection with Connector programming. Activities that would disrupt the quiet enjoyment of The Connector or any of the adjacent spaces shall not be permitted. Manager shall have the right in their sole discretion to have any individual causing such disruption to be removed from the Connector.
- h. Possession and/or consumption of alcohol shall not be allowed in The Connector except alcohol purchased at the premises and consumed within the confines of properly licensed areas or in connection with events which have obtained all appropriate licenses.
- i. Activities that might damage any physical element of The Connector, including any furniture, fixtures, windows, decorations or displays, is not permitted. No rollerblades, skateboards, bikes, scooters or motorized vehicles (except wheelchairs) are permitted in The Connector. No personal belongings other than a handbag, briefcase, backpack, or recently purchased merchandise are permitted inside The Connector.
- j. Solicitation or canvassing for money or alms shall not be permitted within The Connector.
- k. No improper, offensive or unlawful use shall be made of The Connector and all laws, zoning ordinances and regulations of all governmental agencies having jurisdiction thereof shall be observed.
- l. The Connector shall be open to the general public 16 hours a day, 7 days a week and 52 weeks of the year unless the space shall be made unavailable by Owner from time to time, and/or at regularly scheduled intervals for holidays, maintenance, security or other safety reasons, or as the Owner sees fit for any other appropriate reason in order to further the principles of The Connector.
- m. There shall be no smoking of cigarettes, pipes, cigars, e-cigarettes, marijuana and no vaping within The Connector.

- n. There shall be no businesses operated inside or outside of The Connector without a permit and the express written permission of Owner.
- o. Sleeping, laying down or loitering is not permitted inside or in the areas immediately outside of The Connector.
- p. Street performance is prohibited inside and in the areas immediately outside of The Connector.