

After recording return to:

City of Somerville Law Department
93 Highland Avenue
Somerville, MA 02143
ATTN: Catherine A. Lester Salchert, Esq.

RECORDING INFORMATION AREA

EASEMENT AND MAINTENANCE AGREEMENT

This EASEMENT AND MAINTENANCE AGREEMENT (this “Agreement”) is entered into by the CITY OF SOMERVILLE, a municipal corporation with an address of 93 Highland Avenue, Somerville, Massachusetts 02143 (the “City”) and BOYNTON GATEWAY OWNER, LLC, a Delaware limited liability company with an address of 76 8th Avenue 2nd Floor, NEW YORK, NY 10011 (“Property Owner”) (each, a “Party” and collectively, the “Parties”).

WITNESSETH:

A. Pursuant to that certain Decision issued by the Planning Board of the City of Somerville (“PB”) dated February 3, 2022, filed with the City Clerk on February 9, 2022, recorded on March 3, 2022 in the Middlesex South Registry of Deeds in Book 79770, Page 574 and in Case No. P&Z 21-009, (as the same may be amended from time to time, the “PB Approval”) for a commercial project (the “Project”), the Parties have each agreed to be responsible for certain maintenance obligations relating to certain sidewalks serving the Project and to grant each other various rights in connection with the use and maintenance of the same.

B. As of the date of this Agreement, Property Owner owns the real property on which the Project is located, the property being more particularly described on Exhibit A attached hereto and incorporated by reference (the “Private Property”), including certain landscaped areas and portions of sidewalks that will be subject to a pedestrian access easement granted herein.

C. The City is the owner of certain public roadways, portions of which are adjacent to the Project, specifically **Columbia Street and Webster Avenue (“Public Ways”)** including bike lanes that are located within the public right of way built by the Property Owner behind the curb. The bike lanes are included in the maintenance license area as shown on the “Sidewalk Easement Plan,” dated September 2025, prepared by VHB, 2 sheets, attached hereto as Exhibits B.1 and B.2 (the “Sidewalk Easement Plan”).

D. The City and Property Owner desire to enter into this Agreement in order to provide a public access easement over portions of the Private Property and to provide a maintenance

license over portions of the Public Property, and to allocate maintenance responsibilities in connection therewith, all as more specifically set forth herein.

E. The City has been authorized to accept the easements pursuant to a vote of the City Council of Somerville recorded separately herewith and also attached hereto as Exhibit D.

NOW, THEREFORE, for good and valuable consideration and for One Dollar (\$1.00), the receipt and sufficiency of which are hereby acknowledged, the City and Property Owner hereby agree as follows:

1. Grant of Maintenance License to Property Owner.

(a) The City hereby grants to the Property Owner a non-exclusive license on, over, across and through portions of the Public Property including the bike lanes adjacent to **Columbia Street** and **Webster Avenue**, as shown on the Sidewalk Easement Plan (collectively, the “Property Owner’s License Area ”) for the purpose of maintaining the sidewalk and the bike lanes. The Parties agree that the rights of the general public hereunder to utilize such sidewalks for pedestrian access shall not be curtailed.

2. Grant of Easements to the City. Property Owner hereby grants to the City a non-exclusive permanent easement, in common with Property Owner and all others now or hereafter entitled thereto, on, over, across and through those certain portions of the Private Property comprised of approximately 4,824.45 square feet in total and measuring approximately 5’ to 10’ feet in width and approximately 506’ in length on **Columbia Street** and measuring approximately 5’ 5” in width and approximately 128’ in length on **Webster Avenue**, as shown on the Sidewalk Easement Plan (collectively, the “Public Pedestrian Easement Area”) for the purpose of pedestrian access for the general public at all times, twenty four (24) hours a day, seven (7) days a week. The Parties agree that the rights of the general public hereunder to utilize such sidewalks for pedestrian access shall not be curtailed. To the extent that the City acquires a fee simple interest in all or any portion of the easement area, the easement (or portion thereof) shall be merged into the superior interest of the City and shall cease to exist.

3. Reservation of Rights. Notwithstanding the foregoing paragraph 2 above, Property Owner reserves for itself and its lessees, and its and their respective successors and assigns, the right to access the Public Pedestrian Easement Area for customary purposes incidental to Property Owner’s ownership and development of the Private Property, including, without limitation, the right to maintain, repair, and replace the buildings and improvements located on Property Owner’s land at Property Owner’s sole expense, so long as the same do not unreasonably interfere with the City’s use of such Owner Easement Area(s) for the purposes granted hereunder and provided further that all required permits for such activities have been obtained from the appropriate authorities.

4. **Property Owner Maintenance Obligations.** Property Owner shall maintain, repair and replace, at Property Owner's sole cost and expense, all sidewalks, fencing, and landscaped areas within, on, or adjacent to the Public Pedestrian Easement Area and Property Owner's License Area, together with any improvements installed by Property Owner including the bike lanes, subject to receipt of required approvals, in the Public Pedestrian Easement Area and Property Owner's License Area, including removal of snow and ice, in a manner consistent with other first class mixed use developments in the Boston, Massachusetts area and otherwise in accordance with any then-applicable federal, state and City of Somerville standards, including but not limited to those related to handicapped accessibility. All of Property Owner's said responsibilities shall be referred to herein collectively as the "Property Owner Maintenance Obligations."
5. **Insurance.** Property Owner shall and/or shall cause any contractor(s) responsible for performing any work in, on or under the Public Pedestrian Easement Area or in, on or under the Property Owner's License Area to (i) carry the types of insurance, and in the minimum amounts, listed on Exhibit C; and (ii) prior to the commencement of any work, or otherwise upon request by the City and no less than once a year, deliver a certificate evidencing the insurance required hereunder and naming the City as an additional insured on the applicable (Property Owner or contractor) general commercial liability and worker's compensation policies.
6. **City Maintenance Obligations.** Except as specifically otherwise set forth herein as being Property Owner's responsibility, the City shall maintain and repair all Public Ways, in accordance with City standards for the maintenance of public ways. The City's said responsibilities are referred to herein collectively as the "City Maintenance Obligations."
7. **Permits and Approvals.** Each Party must at all times as long as this Agreement remains in effect obtain and maintain permits and approvals to the extent required by law for the exercise of such Party's rights and performance of its obligations hereunder. Notwithstanding the foregoing, if Property Owner is prohibited from complying with any of its obligations hereunder as a result of a City agency, department or official denying any such required permit or approval, Property Owner shall not be in default of its obligations hereunder for failure to fulfill the applicable obligation provided that Property Owner has notified City of the inability to perform its obligations, provided that such denial is not due to Property Owner's failure to comply with requirements for issuance of the permit.
8. **No Agency.** Neither Party shall be deemed to be an agent of the other as a result of the Parties entering into, exercising their rights or performing their obligations under this Agreement.
9. **Good Faith; Diligence.** In performing the functions under this Agreement, both Parties shall act diligently and in good faith and cooperate with each other in all matters relating

to the services to be provided by either Party under this Agreement. Both Parties shall furnish all information in their possession or control that either Party reasonably requests and that is reasonably necessary in connection with performing duties and services under this Agreement.

10. **No Third-Party Beneficiaries.** None of the duties and obligations of Property Owner and the City under this Agreement shall in any way be construed as to create any liability for Property Owner or the City with respect to third parties who are not parties to this Agreement.
 11. **Notices.** All notices required or permitted hereunder shall be in writing and shall be deemed duly given if (a) mailed by certified or registered mail, postage and registration charges prepaid, on the third day after deposit in US Mail; (b) by overnight delivery service with receipt, on the next business day after deposit with the delivery service; or (c) by hand delivery on the day of actual receipt, to the parties at the addresses set forth below or to such other address for a Party as may be specified in a notice so given to the other Party:

The City: City of Somerville
Somerville City Hall
93 Highland Avenue
Somerville, MA 02143
Attention: Mayor

With a copy to: City of Somerville
Somerville City Hall – Law Department
93 Highland Avenue
Somerville, MA 02143
Attention: City Solicitor

Property Owner: **BOYNTON GATEWAY OWNER, LLC**
76 8th Avenue 2nd Floor
New York NY 10011
Attention: Eric Rubin

12. The recitals set forth above are incorporated in and made a part of this Agreement.
 13. This Agreement and the rights and obligations of the Parties hereunder shall be binding upon and inure to the benefit of the Parties hereto, their respective legal representatives, and the successors and assigns of the Parties, shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts and may not be modified or amended in any manner other than by a written agreement signed by both Parties hereto. The easements granted hereunder shall run with the land and inure to the

benefit of and be binding upon the Parties and their successors and assigns. The City shall not assign its rights or obligations under this Agreement without Property Owner's prior written consent. Property Owner may assign its rights and/or obligations in whole or in part to any affiliate of Property Owner that assumes, in whole or in part, ownership of the Project or to any other owner or Property Owner, in whole or in part, of the Project, in which event Property Owner or its successor in title shall endeavor to promptly provide notice to the City of such assignment, but failure to provide such notice shall not invalidate any transfer of the Property or the rights and obligations of the Parties hereunder.

14. Upon ten (10) business days' prior notice, given in connection with or in anticipation of the transfer, financing and/or refinancing of any portion of the Private Property and otherwise no more than once a year, the City shall provide to Property Owner, Property Owner's purchaser or lender, as the case may be, an estoppel certificate stating, to its actual knowledge: (a) whether the City knows of any defaults under this Agreement, and, if so, the nature thereof; (b) whether this Agreement has been assigned, modified or amended in any way and, if so, the nature thereof; and (c) that this Agreement is in full force and effect as of the date of the estoppel certificate.
15. No partner, member, shareholder, trustee, beneficiary, director, officer, manager or employee of Property Owner, or any partner of such parties, or any affiliate of any Party hereto, shall have any personal liability under this Agreement. In the event any person obtains a judgment against Property Owner in connection with this Agreement, such person's sole recourse shall be to the estate and interest of such party in and to its property described herein.
16. If any term or provision of this Agreement or the application thereof to any persons or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Agreement or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby, and each term and provision of this Agreement shall be valid and enforced to the fullest extent permitted by law.
17. This Agreement may be executed in counterparts, each of which shall be an original and all of which counterparts taken together shall constitute one and the same agreement.

EXECUTED as a sealed instrument this ____ day of _____, 2025.

PROPERTY OWNER:

BOYNTON GATEWAY OWNER, LLC

By: _____

Name: _____

Title:

Commonwealth of Massachusetts)
) ss.
MIDDLESEX County)

On this _____ day of _____, 2025, before me, the undersigned notary public, personally appeared _____, as _____ of **BOYNTON GATEWAY OWNER, LLC**, proved to me through satisfactory evidence of identification, which was my personal knowledge, to be the person whose name is signed on the preceding instrument and acknowledged the foregoing instrument to be his free act and deed and the free act and deed of **BOYNTON GATEWAY OWNER, LLC**.

Notary Public
My Commission Expires:

[Additional signature page follows]

THE CITY:

THE CITY OF SOMERVILLE

By: _____

Name: Katjana Ballantyne

Title: Mayor

Attest:

Approved as to form:

By: _____

Name: Cynthia Amara

Title: City Solicitor

Commonwealth of Massachusetts

)

ss.

MIDDLESEX County)

On this _____ day of _____, 2025, before me, the undersigned notary public, personally appeared Katjana Ballantyne, Mayor of CITY OF SOMERVILLE, proved to me through satisfactory evidence of identification, which was a [current driver's license] [a current U.S. passport] [my personal knowledge], to be the person whose name is signed on the preceding instrument and acknowledged the foregoing instrument to be her free act and deed and the free act and deed of CITY OF SOMERVILLE.

Notary Public
My Commission Expires:

EXHIBIT A

Private Property Description) 495 Columbia Street

THAT CERTAIN PARCEL OF LAND LOCATED IN SOMERVILLE, MIDDLESEX COUNTY, MASSACHUSETTS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE EAST LINE OF WEBSTER AVENUE AND THE SOUTH LINE OF COLUMBIA STREET;

THENCE TURNING AND RUNNING S79°26'30"E, BY THE SOUTH RIGHT OF WAY LINE OF COLUMBIA STREET, A DISTANCE OF 205.68 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 56.85 FEET AND A CHORD BEARING AND DISTANCE OF S43°35'05"E, 66.60 FEET;

THENCE RUNNING SOUTHERLY ALONG THE ARC OF SAID CURVE AND THE SOUTH RIGHT OF WAY LINE OF COLUMBIA STREET, THROUGH A CENTRAL ANGLE OF 71°42'44", AN ARC LENGTH OF 71.15 FEET;

THENCE RUNNING S07°43'40"E, BY THE WESTERLY RIGHT OF WAY LINE OF COLUMBIA STREET, A DISTANCE OF 230.48 FEET TO A POINT ON THE WESTERLY SIDE OF COLUMBIA STREET AT THE INTERSECTION WITH THE NORTH LINE OF COLUMBIA COURT;

THENCE RUNNING N89°33'03"W, ALONG THE NORTH LINE OF COLUMBIA COURT (A PRIVATE RIGHT OF WAY), A DISTANCE OF 119.62 FEET TO A POINT;

THENCE TURNING AND RUNNING N08°23'41"W, BY LAND NOW OR FORMERLY OF 80 WEBSTER AVENUE CONDOMINIUM, A DISTANCE OF 133.10 FEET TO A POINT;

THENCE TURNING AND RUNNING S82°02'41"W, BY LAND NOW OR FORMERLY OF 80 WEBSTER AVENUE CONDOMINIUM, A DISTANCE OF 62.64 FEET TO A POINT;

THENCE TURNING AND RUNNING N00°23'54"W, BY LAND NOW OR FORMERLY OF 80 WEBSTER AVENUE CONDOMINIUM, A DISTANCE OF 54.72 FEET TO A POINT ON THE SOUTH RIGHT OF WAY LINE OF BEACH AVENUE (A PRIVATE RIGHT OF WAY);

THENCE RUNNING ALONG THE END OF BEACH AVENUE (A PRIVATE RIGHT OF WAY) N89°45'07"W, A DISTANCE OF 10.00 FEET TO A POINT BEING THE CENTER OF BEACH AVENUE;

THENCE TURNING AND RUNNING S88°14'53"W, ALONG THE CENTER LINE OF BEACH AVENUE (A PRIVATE RIGHT OF WAY), A DISTANCE OF 56.33 FEET TO THE EAST RIGHT OF WAY LINE OF WEBSTER AVENUE N09°22'30"W A DISTANCE OF 129.10 FEET TO THE POINT OF BEGINNING.

CONTAINING 50,095.84 SQUARE FEET OR 1.15 ACRES, MORE OR LESS.

Title Reference (deed and or plan reference and dates)

For Property Owner's title, see deeds recorded with the Middlesex South District Registry of Deeds (the "Registry") on September 9, 2020 in Book 75565, Page 229, Book 75565, Page 233, Book 75566, Page 414, Book 75566, Page 436, and Book 75570, Page 486 and Confirmatory Quitclaim Deed recorded with the Registry on October 15, 2020 in Book 75896, Page 589.

See also Notice of Activity and Use Limitation Dated December 4, 2024 and recorded in Book 83549, Page 478 on December 5, 2024 with the Middlesex South Registry of Deeds.

EXHIBITS B.1 and B.2

Sidewalk Easement Plan

[SEE ATTACHED]

EXHIBIT C

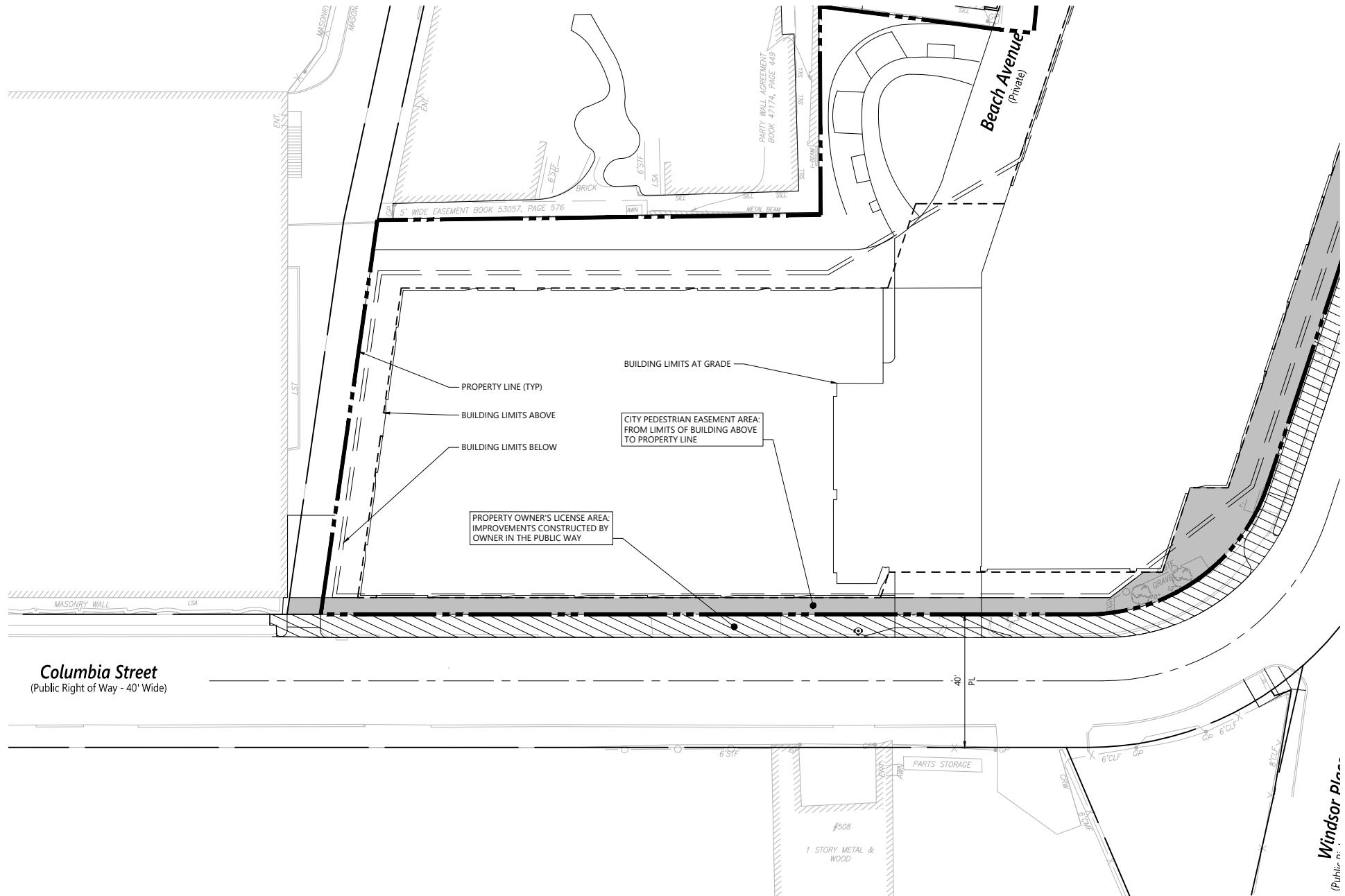
Insurance Requirements

- (a) **Worker's Compensation:** Statutory coverage including employer's liability with limits of not less than \$500,000 per accident, \$500,000 each employee for occupational disease, \$500,000 policy limit for occupational disease.
- (b) **Automobile Liability:** \$1,000,000 combined single limit per accident on bodily injury and property damage covering all owned, leased or hired vehicles used in performing the scope of work.
- (c) **Comprehensive General Liability:** At least \$1,000,000 combined single limit per occurrence on bodily injury, personal injury and property damage, \$2,000,000 aggregate. The policy shall include contractual liability and broad form property damage coverage. Grantor shall be named as an additional insured.
- (d) **Professional Liability:** In amounts that are customary and reasonable for the type of work to be performed, as applicable, as determined in the City's sole reasonable discretion

EXHIBIT D

Certified Vote of the City Council

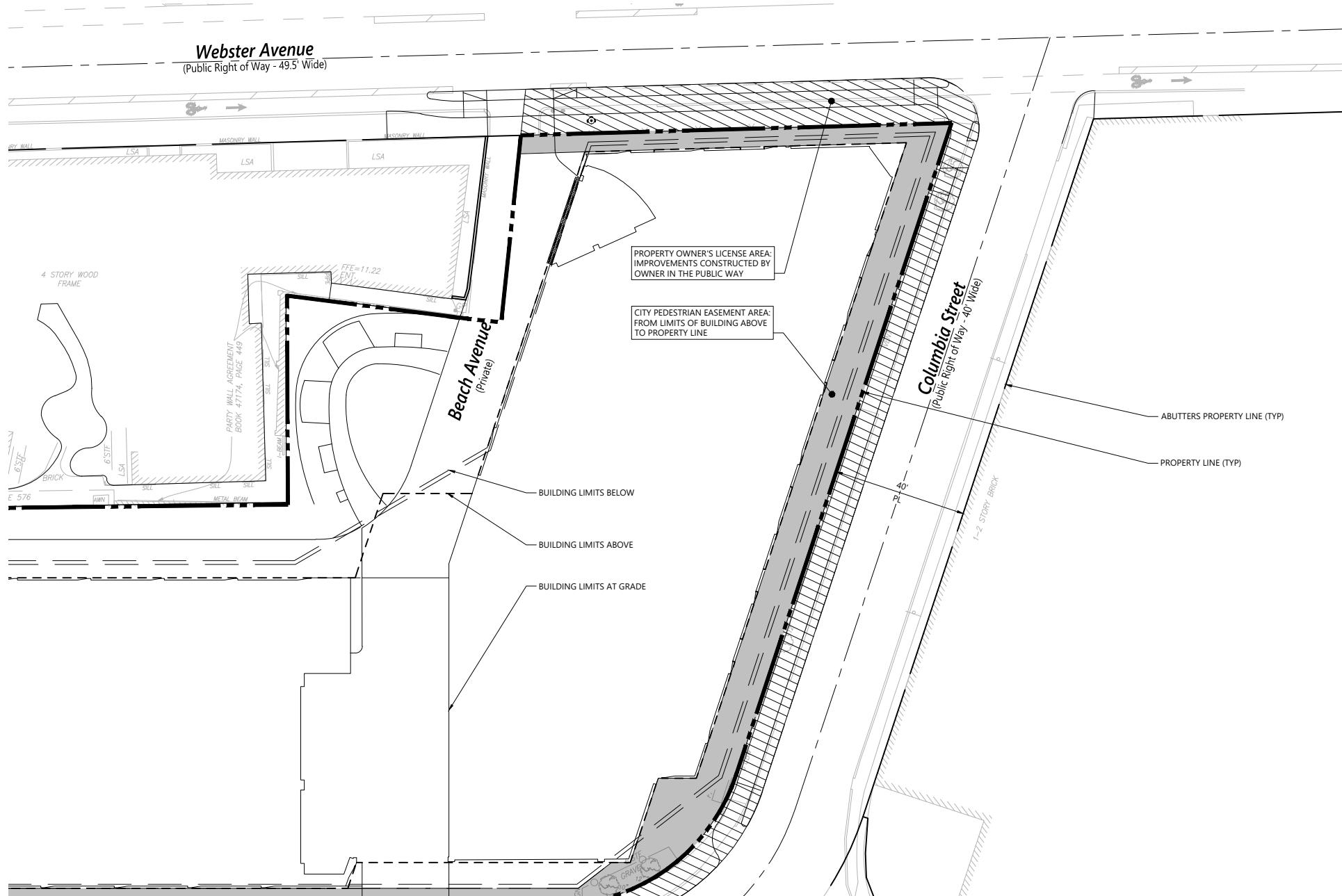
[See attached]



Sidewalk Easement Plan
Columbia East
Boynton Gateway Project
Somerville, MA

Exhibit B.1

September 2025



0 20 40 Feet



Sidewalk Easement Plan
Columbia North & Webster
Boynton Gateway Project
Somerville, MA

Exhibit B.2

September 2025