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AGREEMENT BY AND BETWEEN JAMES FITZGERALD
CAMBRIDGE, MASS.

AND CLARK W. FISHER, JR.

WHEREAS; James Fitzgerald (hereinafter called Fitzgerald) is owner in fee of that property known as 146 Prospect Street, Cambridge; and

WHEREAS; Clark W. Fisher (hereinafter called Fisher) is owner in fee of that property known as 142 and 144 Prospect Street, Cambridge; and

WHEREAS; said properties abut one another; and

WHEREAS; said properties are currently zoned C-1 and R-1 by the City of Cambridge; and

WHEREAS; Fitzgerald has petitioned the City of Cambridge to rezone Prospect Street from C-1 and R-1 to O-1, thereby permitting renovation of 146 Prospect Street for office use; and

WHEREAS; Fisher, as abuttor and interested party, could object and urge denial of Fitzgerald's petition to rezone from C-1 and R-1 to O-1; and

WHEREAS; the Cambridge Planning Board has approved Fitzgerald's petition contingent upon his granting an easement to Fisher across a portion of 146 Prospect Street and upon such other terms as the parties may agree;

NOW, THEREFOR, IN CONSIDERATION OF THE MUTUAL AGREEMENTS HEREIN CONTAINED, THE PARTIES COVENANT AND AGREE FOR THEMSELVES AND THEIR HEIRS, SUCCESSORS, AND ASSIGNS. AS FOLLOWS:

1. At such time as the Cambridge City Council approves Fitzgerald's petition to rezone Prospect Street to O-1 classification, Fitzgerald shall grant to Fisher a permanent easement across 146 Prospect Street (which easement shall be duly recorded in Middlesex South Registry of Deeds) as follows: a) Fisher and all tenants and licensees of 142 and 144 Prospect Street or any part thereof shall have a right of way at all times in common with Fitzgerald and all tenants and licensees of 146 Prospect Street or any part thereof, such right of way for pedestrian use only and across that portion of 146 Prospect Street from Prospect Street to Common Street and within fifteen (15) feet from the parties' common boundary (as more particularly described in said easement)

b) Fitzgerald shall not build or maintain, or permit to be built or maintained, any structure on the land over which said easement is granted

c) Fitzgerald shall not alter, clear, construct or "improve", or permit alteration, clearance, construction or "improvement" of any portion of the land over which said easement is granted without Fisher's prior written approval, which approval shall not be unreasonably withheld.


2. Any parking facilities maintained on the property known as 146 Prospect Street shall at all times be maintained

in compliance with the zoning by-laws and municipal ordinances of the City of Cambridge and in full compliance with the terms of the Special Permit issued by the City of Cambridge dated May 4, 1976 (Case No. +++3), which Permit is incorporated herein by reference.

3. The easements hereby granted, the restrictions hereby imposed, and the agreements herein contained shall be easements, restrictions and covenants running with the land and shall inure to the benefit of, and be binding upon, the parties hereto and their respective heirs, successors, and assigns, including, but without limitation, all subsequent owners of 146 Prospect Street and of 142 and 144 Prospect Street and all persons claiming under them.

IN WITNESS WHEREOF THE PARTIES HAVE SIGNED AND SEALED THIS AGREEMENT ON THIS 26th DAY OF JUNE, 1978.


James J. Fitzgerald


Clark W. Fisher, Jr.

D-40

Agreement by and Between James Fitzgerald
and Clark W. Fisher, Jr.

In City Council,

June 26, 1978

6/26/78

Filed with the
Petition of James
Fitzgerald

Second Copy of
Agreement to be filed
in Ordinances