



# City of Cambridge

## Executive Department

**YI-AN HUANG**  
City Manager

October 17, 2022

To the Honorable, the City Council:

I am hereby requesting the appropriation of a Housing Contribution made under the Incentive Zoning provisions of the Zoning Ordinance in the amount of \$1,565,953 from DIV 35 CPD, LLC to the Affordable Housing Trust Fund. These funds have been held in the City's Mitigation Fund and require appropriation by the City Council to be moved to the Affordable Housing Trust Fund.

DIV 35 CPD, LLC (the "Developer") is the former owner and developer of a commercial building at 35 Cambridgepark Drive. This development was subject to Article 11, Section 11.202 of the Zoning Ordinance, the Incentive Zoning provisions. Pursuant to these provisions, the Developer made a Housing Contribution Payment to the City to be deposited into the Affordable Housing Trust Fund prior to the completion of its development. When making this contribution, the Developer also challenged the City's determination of the applicable Housing Contribution. This challenge eventually resulted in litigation between the Developer and the City.

Incentive Zoning contributions are ordinarily paid directly to the Affordable Housing Trust Fund. However, in this case the Incentive Zoning contribution was deposited into the Mitigation Fund pending the outcome of the dispute, and not into the Affordable Housing Trust Fund. The City and the Developer have settled the litigation, resulting in the developer paying a Housing Contribution Payment in the amount of \$1,565,953. The funds continue to be held in the Mitigation Fund at present.

The Mitigation Fund is a stabilization fund created by the City Council pursuant to the provisions of G.L. c. 44, as a vehicle for the City to receive funds contributed by developers to mitigate the impacts of their approved projects and allow the Council to appropriate the funds for particular types of mitigation. This is separate and distinct from Incentive Zoning, which requires a contribution to the Affordable Housing Trust Fund based on criteria set forth in the Zoning Ordinance.



An appropriation by the City Council is required to transfer funds from the Mitigation Fund, including in this case to the Affordable Housing Trust Fund so that funds may be used by the Trust pursuant to the Incentive Zoning provisions of the Zoning Ordinance. Generally speaking, in ordinary circumstances in the future, as in the past, payments required by Article 11, Section 11.202 of the Zoning Ordinance will continue be paid directly to the Affordable Housing Trust Fund and not require additional appropriation by the City Council.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Yi-An Huang', with a stylized flourish at the end.

Yi-An Huang  
City Manager