

Contract Required by Section 6A  
Of Chapter 121A of the General Laws

AGREEMENT made this 28<sup>th</sup> day of December, 1983, by and between Madison Park IV Associates, a Massachusetts limited partnership having its main office at 122 DeWitt Drive, Roxbury, Massachusetts 02116 (the "Owner"), and the CITY OF BOSTON, a municipal corporation of the Commonwealth of Massachusetts (the "City"); acting under Massachusetts General Laws Chapter 121A, Section 6A and every other power and authority hereto enabling.

WHEREAS, there has been filed on behalf of the Owner with the Boston Redevelopment Authority of the Commonwealth of Massachusetts (the "Authority") an application dated October 1, 1981 (the "Application") under the provisions of Massachusetts General Laws, Chapter 121A, as amended, and Chapter 652 of the Acts of 1960, as amended, for approval of a project involving the construction of approximately 143 units of housing in 15 two-story townhouse structures for low and moderate income families and individuals, said project being more particularly described in the Application (the "Project"); and

WHEREAS, the Authority approved the Project by a vote on October 29, 1981; and

WHEREAS, the Mayor of the City of Boston approved the  
aforementioned vote of the Authority on November 12, 1981; and

WHEREAS, the Certificate of Vote of the Authority and the approval  
of the Mayor of the City of Boston were filed with the office of  
the City Clerk on November 17, 1981;

NOW THEREFORE:

1. The Owner hereby agrees with the City as follows:

a. The Owner shall carry out the Project by constructing,  
maintaining, and managing the same in accordance with the  
Application, the provisions of Massachusetts General Laws, Chapter  
121A, as now in effect, the Rules and Regulations of the  
Authority, as now in effect, and the Minimum Standards for  
Financing, Construction, Maintenance and Management of the  
Project, all as set forth in the Report and Decision of the  
Authority approving said Project.

b. The Owner shall perform all of the obligations as Owner  
under the Regulatory Agreement required pursuant to the provisions  
of Massachusetts General Laws, Chapter 121A, Section 18C.

c. The Owner shall pay to the Commonwealth of Massachusetts  
with respect to each year that this Agreement is in full force and  
effect, the urban redevelopment excise tax required under Section  
10 of said Chapter 121A.

d. The Owner shall pay to the City of Boston with respect  
to each of the calendar years this Agreement is in effect as

hereinafter defined in Paragraph 8, next following the year the Project is subject to said Chapter 121A, the respective amount, if any; by which the amounts hereinafter set forth exceed the excise tax payable for such calendar year pursuant to Section 10 of said Chapter 121A.

- (i) With respect to the period from initial loan closing on the Project until completion of the Project, as hereinafter defined, payments under this Agreement shall be the amount by which \$1,217.00 per month exceeds the said excise tax. In addition to such payment, the Owner shall pay to the City ten (10%) percent of gross residential income (including subsidy) from the Project, as hereinafter defined, with respect to such period. For purposes of the Agreement, the phrase, "Completion of the Project" means a certification of 100% completion from the appropriate funding source, or occupancy of 90% of the dwelling units in the Project, whichever occurs first.
- (ii) For the portion of the calendar year next following completion of the Project, and for the next two (2) full calendar years thereafter, the Owner shall pay ten (10%) percent of the gross residential income from the Project, as hereinafter defined.

Notwithstanding the foregoing, the parties hereto agree that with respect to the portion of the calendar year next following completion of the Project and for each of the two (2) calendar years next following the completion of the Project, the Owner shall be obligated to pay to the City an "additional" two (2%) percent of gross residential income, reduced to the extent that the Project suffers an operating loss by virtue of this obligation. However, to the extent that the Project cannot generate sufficient revenues to cover the additional two (2%) percent, the general partner of Madison Park IV Associates hereby agrees to guarantee payment to the City of Boston an amount equal to that generated by an additional two (2%) percent of gross residential income from the Project, as part of the payment in-lieu of taxes under this Agreement during the aforesaid two (2) year period.

- (iii) Commencing in the third calendar year next following completion of the Project, the percentage of gross residential income payable to the City shall be increased to thirteen (13%) percent and in every third year thereafter, the percentage of gross residential income paid by the Owner shall be increased by one (1%) percent until the Project is

paying a maximum of fifteen (15%) percent of gross residential income.

- (iv) Notwithstanding the above, the Owner's obligation to make payment of any increased percentage above twelve (12%) percent shall be conditional upon approval and funding of a special rent adjustment by the United States Department of Housing and Urban Development ("HUD") governing the Section 8 rental assistance program, or any successor subsidy program thereto, which approval Owner hereby undertakes to make its best efforts to secure.
- (v) Notwithstanding the above, subsequent to the calendar year in which the Owner shall have paid to the City twelve (12%) percent of residential income from the Project, if HUD shall not have approved and funded any percentage increase of residential income payable by the Owner in excess of twelve (12%) percent, the Owner shall nevertheless pay to the City so much of such increased percentage of residential income as set forth above as the Project can sustain without suffering an operating loss.

For purposes of this paragraph, whether the Project would suffer an operating loss, and the amount thereof, shall be determined by the certified operating statement submitted by the Owner to HUD for

the fiscal year to which such increased percentage would be applicable, adjusted for all non-cash items and for payments of mortgage amortization, capital acquisitions and the establishment of reserves accepted by HUD.

The phrase, "residential income from the Project" shall be deemed to mean the aggregate of the gross rentals received by the Owner from whatever source derived, including the occupants of the Project and all income received by the Owner pursuant to a Housing Assistance Payments Contract with the U.S. Department of Housing and Urban Development, pursuant to Section 8 of the Housing Act of 1937, as amended, or any similar successor subsidy program.

Without limiting the foregoing, it is the intent of the parties hereto that the Owner shall for any calendar year discharge its contractual obligation pursuant to this Agreement prior to the distribution to the Owner of any return on its investment in the Project.

Any payments which may become due to the City of Boston on account of the provisions of this Section 1(d) shall be paid to the City of Boston on or before

the first day of April of the year next following the year with respect to which such payment is due. Any overpayment applicable to one calendar year shall, at the election of the City be either refunded or applied to reduce the payment due in the succeeding calendar years except that with respect to the last calendar year in which the Project shall be subject to this Agreement, any overpayment by the Owner shall be refunded by the City. For purposes of this Agreement, an overpayment by Owner hereunder shall include any amounts paid by the Owner to the City of Boston as real estate taxes pursuant to Massachusetts General Laws, Chapter 59, with respect to the Project for any period during which this Agreement is in effect, whether assessed to Owner or to any predecessor in title of the Project.

If the Owner shall in any year pay to the Commonwealth of Massachusetts or any political subdivisions thereof, any excise or tax measured by the Owner's income from or investment in the Project additional to the excise provided for by Section 10 of said Chapter 121A as now in effect, the applicable amount stated in or computed in accordance with the

preceding paragraphs of this Agreement shall be reduced by the amount of such additional excise or tax.

e. The City shall provide to the Owner a credit of \$5,420.30, which represents the amount by which the \$5,542.00 paid by Owner to the Commonwealth for the Section 10 excise tax for calendar year 1981 exceeds the \$121.70 which was payable by the Owner to the City under this Agreement for the three-day period of its ownership of the Project in calendar year 1981. This credit shall be applied against amounts to be paid to the City under this Agreement in excess of the amount of the annual Section 10 excise tax until the \$5,420.30 shall have been credited in full.

f. The Owner shall file with the Commissioner of Assessing, Collector-Treasurer's Office and the Authority within fifteen (15) days of the end of each calendar year during which this Agreement is in effect a statement of the income and expenses of the Project and the amounts invested in the Project.

g. The Owner shall file with the Authority, the Collector-Treasurer's Office and the Commissioner of Assessing within ninety (90) days of the end of each calendar year during which this Agreement is in effect an audited report, prepared by a Certified Public Accountant, consisting of a statement of all rental and other income, operating cost, construction and replacement cost, a statement of profit and loss for the Owner, a balance sheet, and a statement of disposition of funds for the preceding calendar year,



and a certified copy of the Owner's urban redevelopment excise tax return as submitted to the Department of Corporations and Taxation.

2. If the Owner fails to submit the audited report required by Paragraph 1g, or if the City or the Authority have reasonable cause to be dissatisfied with such audited report, the City and/or the Authority may make an annual audit of all financial records pertaining to the operations of the Project and may engage the services of a private accounting firm to undertake such an audit at the reasonable expense of the Owner.

If the Owner is found to have deliberately withheld information on or misrepresented collection from the Project, relative to its payments under the Agreement, the Owner shall pay all arrearages plus interest on that amount owed the City (with interest rate equal to the rate charged in delinquent property tax accounts by the City's Assessing Department), and in addition shall pay and/or reimburse the City for all expenses incurred as a result of such withholding or misrepresentation.

3. The undersigned, Assessing Department of the City of Boston, pursuant to the authority conferred upon it by Section 10 of Chapter 121A of the General Laws, hereby determines that the following shall be the maximum fair cash value of the Project, and agrees that the values certified to the Department of Revenue and

to the Owner pursuant to said Section 10 shall not exceed the maximum fair cash values herein set forth:

For assessing date (1/1/82):	\$ 24,000.00
For assessing date (1/1/83):	\$1,400,000.00
For assessing date (1/1/84):	\$7,500,000.00
For assessing date (1/1/85):	\$8,200,000.00
For assessing date (1/1/86):	\$8,200,000.00

The parties acknowledge that if the fair cash value of the Project has not yet been determined, the Assessing Department of the City of Boston shall determine the fair cash value of the Project pursuant to Massachusetts General Laws Chapter 121A, Section 10, without reference to any other provisions of this Agreement.

4. The obligations of the Owner under this Agreement are conditioned in all respects upon the issuance to it of all permissions, including without limiting the generality of the foregoing: all variances, permits and licenses which may be required with respect to the construction, maintenance and management of the Project, as specified in the Application or reserved therein, and the closing of the mortgage loan for the Project. The Owner shall not be held in any way liable for delays which may occur in the construction, repair, maintenance or management of the Project, or otherwise, by reason of scarcity of materials or labor, labor difficulties, damage by fire or other casualty or any other cause beyond the Owner's reasonable control.

5. The Owner and the City further agree that without written approval of both parties any amendment, subsequent to the execution of this contract, of the rules and regulations and standards prescribed by the Authority now applicable to the Project shall not affect the Project.

6. If the Owner or any mortgagee of the Project proposes, acting either under the provisions of the last paragraph of Section 11 or under Section 16A of said Chapter 121A, to transfer the Project to a different entity, this Agreement may, upon such transfer, be assignable to a transferee or may be terminated, all in accordance with the provisions of said section, provided, however, that in the event of such assignment the assignee shall agree to such modifications in Section 1(d) hereof as may be required by the City. In the event of such a termination, the Owner shall be released from all obligations under this Agreement and under said Chapter 121A and at the time shall be divested of all powers, rights and privileges conferred by this Agreement and said Chapter 121A.

7. The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, legal representatives, executors, administrators, successors in office or interest, and assigns, except in the event a successor in interest elects under option (3) under the provisions of Section 16A of said Chapter 121A as now in effect.

8. The term of this Agreement shall be for a period that is coterminous with the U.S. Department of Housing and Urban Development's Section 8 Subsidy Program for the Project or any similar or successor subsidy program. In the event that the Project ceases to be subsidized under the said program, then this Agreement shall be amended to reflect this change.

9. No general or limited partner of the Owner shall have any personal liability for the performance of the obligations of the Owner hereunder.

Executed as a sealed instrument the day and year first above written.

By Madison Park IV Associates, a  
Massachusetts limited partnership

By Madison Park Housing  
Corporation, a Massachusetts  
corporation

By Ralph D. Smith  
Ralph D. Smith, President

ASSENTED TO:

By [Signature]  
Commissioner of Assessing  
[Signature]

CITY OF BOSTON

By Kevin H. White  
Kevin H. White, Mayor

APPROVED AS TO FORM:

By [Signature]  
Corporation Counsel

Revised: 10/7/82

**AMENDMENT TO CONTRACT BETWEEN NEW  
MADISON PARK IV LIMITED PARTNERSHIP AND THE CITY OF BOSTON  
PURSUANT TO SECTION 6A OF CHAPTER 121A OF THE  
MASSACHUSETTS GENERAL LAWS**

(Madison Park IV, Roxbury)

This Amendment to Contract Required By Section 6A of Chapter 121A of the General Laws (this "Amendment") is made as of this 14<sup>th</sup> day of March, 2005, by and between New **Madison Park IV Limited Partnership**, a limited partnership formed under the laws of the Commonwealth of Massachusetts (hereinafter called the "Owner") and the **City of Boston**, a municipal corporation of the Commonwealth of Massachusetts (hereinafter called the "City").

The following facts form the background to this Agreement:

- A. The Owner is the developer and owner of that certain project known as the Madison Park IV Apartments Chapter 121A Project (the "Project"), which consists of 143 townhouse affordable rental housing located at Madison Park Village in the Lower Roxbury neighborhood of the City of Boston.
- B. On December 14, 2004, the Boston Redevelopment Authority (the "Authority") voted to adopt the Fifth Amendment to the 1977 Report and Decision (the "Fifth Amendment to Report and Decision") based on the Application for Approval to Add Additional Financing and Related Matters Pursuant to General Laws Chapter 121A submitted by the Owner to the Authority. Such vote was approved by the Authority on December 14, 2004, and the vote as so approved was filed with the Clerk of the City of Boston on December 20, 2004, and such approval has become final and binding pursuant to the provisions of Chapter 121A.
- C. Pursuant to the provisions of Chapter 121A, and as required by the City, Madison Park IV Associates (the "Prior Owner"), the predecessor in interest to the Owner, and the City entered into that certain Contract Required By Section 6A of Chapter 121A of the General Laws, dated as of December 28, 1983 (the "Original 6A Contract") under Sections 6A, 10, 15 and 18C of Chapter 121A of the General Laws of the Commonwealth of Massachusetts.
- D. As of May 29, 1996, the Prior Owner and the Owner executed that certain Confirmatory Assignment and Assumption of 6A Contract, whereby the Prior Owner assigned all of its right, title and interest in the Original 6A Contract to the Owner and the Owner assumed all of the obligations of the Prior Owner under the Original 6A Contract.
- E. Pursuant to the provisions of Chapter 121A and the Fifth Amendment to Report and Decision, the City has required the Owner to enter into this Amendment, whereby the 6A payment percentage to be paid to the City under the Original 6A Contract will be reduced from fifteen percent (15%) of residential income from the Project to ten percent (10%) of residential income from the Project. The Original 6A Contract, as amended by this Amendment, is

hereinafter referred to as the "6A Contract". Any terms used herein but not otherwise defined herein, shall have the meaning attributed to them in the Original 6A Contract.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Owner and the City agree that the Original 6A Contract is hereby amended as follows:

1. Recitals. The foregoing recitals are hereby incorporated into the Original 6A Contract and made a part thereof.

2. Amendment to 6A Payment Percentage. The following new Section 1(d)(vi) is hereby added to the Original 6A Contract:

"(vi) Notwithstanding anything to the contrary contained in this Agreement, commencing with the calendar year 2005, for the payment to be paid to the City on or before the first day of April, 2006, and for each subsequent calendar year, the Owner shall pay to the City an amount equal to ten percent (10%) of residential income from the Project."

3. Invalidity. If any provision of this Amendment or the application thereof to any person or circumstance shall be invalid or unenforceable to any extent, the remainder of the 6A Contract and the application of such provisions to other persons and circumstances shall not be affected thereby and shall be enforced to the greatest extent permitted by law.

4. Confirmation of the Original 6A Contract. Except as amended hereby, the Original 6A Contract shall remain in full force and effect and is hereby ratified and confirmed in all respects.

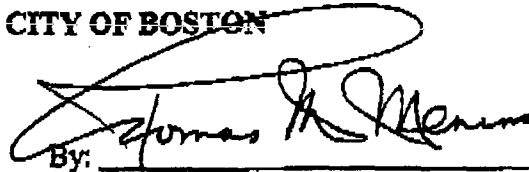
5. Governing Law. The laws of The Commonwealth of Massachusetts shall govern the construction, interpretation, validity and legal effect of this Amendment.

6. Successors and Assigns. This Amendment shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, successors and assigns.

*[Remainder of page left intentionally blank.]*

EXECUTED as a sealed instrument the day and year first above written.

**CITY OF BOSTON**



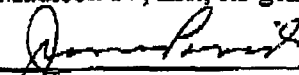
By: \_\_\_\_\_  
Thomas M. Menino, Mayor

By: 

By: \_\_\_\_\_  
Ronald W. Rakow,  
Commissioner of Assessing

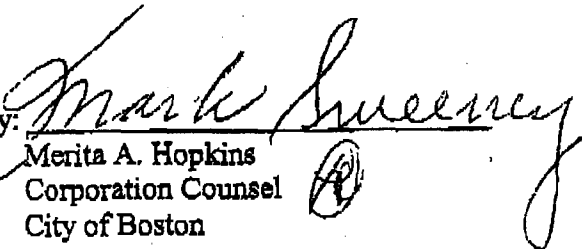

**NEW MADISON PARK IV LIMITED  
PARTNERSHIP**

By: New Madison IV, Inc., its general partner

By: 

Name: Jeanne Pinado  
Title: President and Assistant  
Treasurer

APPROVED AS TO FORM:

By:   
for Merita A. Hopkins  
Corporation Counsel  
City of Boston 

**SECOND AMENDMENT AND ASSIGNMENT OF  
CONTRACT REQUIRED BY SECTION 6A OF  
CHAPTER 121A OF THE GENERAL LAWS**

This SECOND AMENDMENT AND ASSIGNMENT OF CONTRACT AGREEMENT REQUIRED BY SECTION 6A OF CHAPTER 121A OF THE MASSACHUSETTS GENERAL LAWS ("Second 6A Amendment") is made as of this \_\_\_ day of March, 2012, by and among **NEW MADISON PARK IV LIMITED PARTNERSHIP**, a Massachusetts limited partnership organized under General Laws Chapter 109 and subject to General Laws Chapter 121A ("Chapter 121A") and the Acts of 1960, Chapter 652 ("Chapter 652"), both as amended to date ("Assignor"), **MADISON PARK IV 2011 LIMITED PARTNERSHIP**, a Massachusetts limited partnership organized under General Laws Chapter 109 and subject to Chapter 121A and Chapter 652 ("Assignee"), and the **CITY OF BOSTON**, a municipal corporation of the Commonwealth of Massachusetts ("City") acting pursuant to General Laws Chapter 121A, Sections 6A and 10 and every other power and authority.

Preliminary Statement

- A. Madison Park IV Associates, a predecessor-in-interest to Assignor, entered into that certain Contract Required by Section 6A of Chapter 121A of the General Laws dated as of December 28, 1983 with the City of Boston (the "Original 6A Contract") with respect to the project commonly known as "Madison Park IV Chapter 121A Project" located in the Roxbury neighborhood of Boston, Massachusetts, as more particularly described therein (the "Project").
- B. The Assignor entered into that certain Amendment to Contract Between New Madison Park IV Limited Partnership and the City of Boston Pursuant to Section 6A of Chapter 121A of the Massachusetts General Laws dated April 14, 2005 with the City of Boston (the "First 6A Amendment").
- C. The Boston Redevelopment Authority has approved an Tenth Amendment to Report and Decision for the Madison Park IV Chapter 121A Project by vote on February 16, 2012, which Tenth Amendment was approved by the Mayor of Boston on February 20, 2012 and filed with the Boston City Clerk on February 23, 2012, which approved Assignee to be an urban redevelopment limited under Chapter 121A of the Massachusetts General Laws and Chapter 652 of the Acts of 1960, and authorized the transfer of the Project to Assignee.
- D. Assignor has agreed to sell the Project to Assignee and Assignee has agreement to purchase the Project from assignor.
- E. Assignee and the City desire to provide for gap payment of real estate taxes upon the expiration of exemption under Chapter 121A.
- F. The Original 6A Contract, as amended by the First 6A Amendment, is hereinafter referred to as the Original 6A Contract as Amended. The Original 6A Contract as Amended, as amended by this Second Amendment is hereinafter referred to as the 6A Contract. Any terms used herein but not defined herein shall have the meaning attributed to them in the Original 6A Contract as Amended.



G. The parcels that are the subject of the 6A Contract are identified as being in Ward 9, and having Parcel numbers 09-02145-000, 09-02197-010, 09-02230-000 (excluding the portion of the parcel known as 40 Raynor Circle), 09-02344-000, 09-02346-000 and 09-03070-000.

NOW, THEREFORE, in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the parties agree as follows:

1. Recitals. The foregoing recitals are hereby incorporated into the 6A Contract.
2. Assignor assigns, transfers and conveys all of Assignor's right, title and interest in and to the Original 6A Contract as Amended and Assignee accepts such assignment as of the date of conveyance of the Project by Assignor to Assignee.
3. Assignee assumes and agrees to perform all of the covenants and obligations of Assignor under the Original 6A Contract as Amended.
4. Assignor and Assignee agree to apportion as of the date hereof all sums due and owing for calendar year 2012 under Sections 10 and 15 of Chapter 121A and the Original 6A Contract as Amended.
5. Gap Payment. The Original 6A Contract as Amended is further amended by inserting the following new Section 1(d)(vii):

“(vii) **Gap Payments**. Upon the termination of this Agreement, the Owner shall pay or cause to be paid a gap payment to cover the time period between such termination of of this Agreement and the date the Project becomes taxable pursuant to General Laws, Chapter 59. The gap payment shall be equal to the 6A Contract Payment that would have been made for such period if the Project had remained subject to this Agreement. The anticipated termination date of this Agreement is November 17, 2021, unless it is terminated at an earlier date in accordance with the other terms of this Agreement. The gap payment shall be paid within six (6) months following the month in which the 6A Contract terminates. The Project thereafter shall not be subject to the obligations of Chapter 121A, enjoy the rights and privileges thereunder, or be subject to the terms, conditions, and obligations of this Agreement as provided in Chapter 121A; provided, however, the deviations and permissions granted by the Authority pursuant to the Report and Decision, as the same may be amended from time to time, shall survive such termination and shall remain in effect.”

6. Assignor agrees to indemnify and hold Assignee harmless for any liability arising from the performance of any covenants or obligations to be performed by Assignor or which accrue under the 6A Contract on or before the date hereof. Assignee agrees to indemnify and hold Assignor harmless for any liability arising from the performance of any covenants or obligations to be performed by Assignee or which accrue under the 6A Contract after the date hereof.

7. Invalidity. If any provision of this Second 6A Amendment or the application thereof to any person or circumstance shall be invalid or unenforceable to any extent, the remainder of the 6A Contract and the application of such provisions to other persons and circumstances shall not be affected thereby and shall be enforced to the greatest extent permitted by law.

8. Confirmation of the Original 6A Contract as Amended. Except as amended hereby, the Original 6A Contract as Amended shall remain in full force and effect and is hereby ratified and confirmed in all respects.

9. Governing Law. The laws of the Commonwealth of Massachusetts shall govern the construction, interpretation, validity and legal effect of this Second 6A Amendment.

10. Successors and Assigns. This Second 6A Amendment shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, successors and assigns.

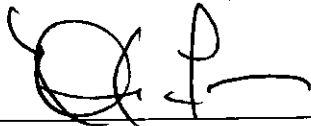
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IN WITNESS WHEREOF, Assignor and Assignee have executed and delivered this Second 6A Amendment as a document under seal as of the date first written above.

Assignor:

**NEW MADISON PARK IV LIMITED PARTNERSHIP**

By: New Madison Park IV, Inc., its general partner

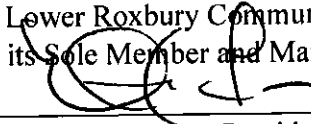
By:   
Elmer Freeman, President

Assignee:

**MADISON PARK IV 2011 LIMITED PARTNERSHIP**

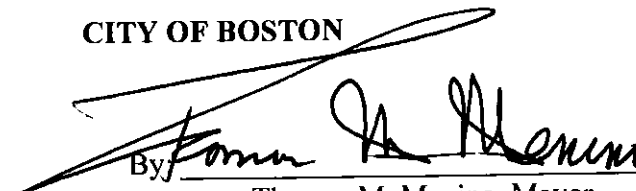
By: Madison Park IV GP LLC, its general partner

By: Lower Roxbury Community Corporation,  
its Sole Member and Manager

By:   
Elmer Freeman, President

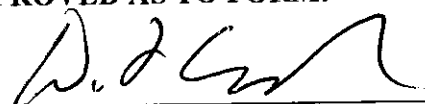
City:

**CITY OF BOSTON**

  
By: Thomas M. Menino, Mayor

By:   
Ronald W. Rakow, Commissioner of Assessing

**APPROVED AS TO FORM:**

By:   
Corporation Counsel, City of Boston *pw*