

**Contract between the City of Boston and
New Palmer Street Limited Partnership
Pursuant to Section 6A of Chapter 121A of the
Massachusetts General Laws**

This Agreement ("Agreement") made this 20th day of December, 2004, under Sections 6A, 10, 15 and 18C of Chapter 121A of the General Laws of the Commonwealth of Massachusetts is by and between New Palmer Street Limited Partnership, a Massachusetts limited partnership (hereinafter referred to as the "Partnership") and the City of Boston, a municipal corporation of the Commonwealth of Massachusetts (hereinafter referred to as the "City").

WITNESSETH THAT:

WHEREAS, the Partnership has filed with the Boston Redevelopment Authority (the "Authority") an application dated November 17, 2003 (the "Application") under the provisions of said Chapter 121A of the General Laws and Chapter 652 of the Acts of 1960, as amended (collectively, "Chapter 121A") for approval of a project (the "Project") more particularly described in the Application, including, but not limited to, acquiring the fee and other interests in the "Project Area" (as defined in the Application) commonly known as 8 Warren Street and 2-19A Palmer Street, Roxbury, Massachusetts, construction thereon of a commercial facility containing approximately 26,136 square feet of gross leasable area, designation of the Partnership as a 121A entity and authorization to undertake and carry out the Project; and

WHEREAS, the Authority approved the Project and consented to the designation of the Project Developer by vote on December 4, 2003, adopting a certain First Report and Decision Amendment on the Project and the Project Developer (the "Amended Report and Decision"); and

WHEREAS, the Mayor of the City approved the Authority's approval and consent on December 9, 2003; and

WHEREAS, the vote of the Authority and the approval of the Mayor of the City were filed with the office of the City Clerk on December 16, 2003, and such approval has become final and binding pursuant to the provisions of Chapter 121A; and

WHEREAS, pursuant to the provisions of Chapter 121A, the City and the Partnership have determined to enter into this Agreement.

NOW, THEREFORE, in consideration of the foregoing recitals and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. The Partnership hereby agrees with the City that all activities of the Partnership will be undertaken in accordance with the Application, the provisions of Chapter 121A as now in effect, the minimum Standards for the Financing, Construction, Maintenance and Management of the Project set forth in the Application, and the terms and conditions set forth in the Amended Report and Decision of the Authority approving the Project, consenting to the designation of the Partnership as a 121A entity and authorizing the Partnership to undertake the Project, which are incorporated herein by reference. Such activities of the Partnership will include, without limitation, acquiring fee simple title, or such other interests as are sufficient, in the Partnership's determination, to undertake and complete the Project, in all of the land comprising the Project Area and the construction, maintenance and operation of the Project in accordance with the Application.

2. (a) Excise Tax Payments: Subject to the provisions and limitations of this Agreement, the Partnership will pay to the Commonwealth of Massachusetts Department of Revenue or any successor department or agency ("DOR"), for each calendar year during which the Partnership is subject to Chapter 121A and has the benefit of the tax exemption provided thereunder, the urban redevelopment excise required under Section 10 of Chapter 121A (the "Excise Tax").

(b) Contract Payments: Subject to the provisions and limitations of this Agreement, the Partnership will pay to the City with respect to calendar year 2004 and each calendar year or portion thereof thereafter during which the Partnership is subject to Chapter 121A and has the benefit of the real estate tax exemption provided thereunder, an amount (the "Differential Amount") equal to the difference between (i) the product of the gross leasable floor area or land area, as applicable, of the Project multiplied by the rate for each square foot of gross leasable floor area, as set forth on Exhibit A hereto (the "Contract Amount"), and (ii) the Excise Tax paid.

For purposes of calculating the payments due under Section 6A of Chapter 121A, the term "Gross Income" shall mean all revenues received from the Project's tenants.

All payments to the City shall be made on or before April 1 of each year. Late payments will bear interest at the rate equal to the rate charged for delinquent real estate accounts by the City's Collector-Treasurer pursuant to M.G.L. c. 60. The City shall have all rights and remedies available to it for the collection of the Contract Amount in the event the Partnership breaches its duty to pay.

- (c) Payment of amounts due hereunder shall be equitably pro rated for any partial year during the periods set forth in this Section. Payment to the City of any Differential Amount shall be made by no later than April 1 of each calendar year in which such a payment is due.

3. The Partnership shall file with the Commissioner of Assessing and the Authority by February 10 following the end of each calendar year during which this Agreement is in effect the following: (a) a statement of the income and expenses of the Project and the amounts invested in the same during the preceding calendar year; (b) a Declaration of Liability Return, a form made available by the Assessing Department; (c) a rent roll identifying each tenant or occupant in the Project by name, address, rent due, rent collected, whether the area is being rented pursuant to a lease or a tenancy at will agreement; and (d) copies of all commercial leases. The Partnership shall allow representatives of the Commissioner of Assessing and/or the Authority to inspect any and all remaining portions of the Project at any reasonable time on five (5) days notice in writing.

4. The Partnership shall file with the Commissioner of Assessing, the Collector-Treasurer and the Authority by April 1 following the end of each calendar year during which this Agreement is in effect a completed and signed Declaration of Liability Return, a form made available by the Collector-Treasurer, an audited report, prepared by a Certified Public Accountant, consisting of a statement of profit and loss for the Partnership, a balance sheet, and a statement of disposition of funds for the preceding calendar year, and a certified copy of the Partnership's urban redevelopment excise tax return as filed with the DOR.

5. The Partnership shall allow the Commissioner of Assessing, or a representative of the Commissioner designated in writing, to examine all Excise Tax Returns, all attachments thereto filed by the Partnership with the DOR.

6. Overpayment: Any Overpayment shall, at the election of the City, be refunded to the Partnership or applied to reduce the 6A Contract Payment due in the succeeding calendar year or calendar years until such Overpayment has been exhausted. The Partnership shall give notice to the City of the discovery of the alleged Overpayment (the "Overpayment Notice") not later than sixty (60) days after the end of the Partnership's fiscal year on December 31. The notice shall be accompanied by supporting documentation, including but not limited to, ward and parcel number, the date payment was made to the DOR and/or to the City, the amount of the 6A Contract Payment and the Excise Tax paid, and copies of both sides of all relevant cancelled checks.

Notwithstanding the foregoing, the City shall not be obligated to refund any Overpayment and/or grant any credit for interest, late fees, penalties or fines that may have been assessed if such Overpayment was due to either the Partnership's failure to provide the financial information required by this 6A Contract not later than the date of the Overpayment Notice or to the Partnership's intentional provision of misleading financial information.

The Partnership shall provide the City with a detailed breakdown of what payments were sent to the Commonwealth of Massachusetts, including the ward and parcel number to which those payments were applied to.

7. Determination of Fair Cash Value: The Assessing Department hereby determines, in accordance with the seventh paragraph of Section 10 of Chapter 121A, that the fair cash value of the real and personal property constituting the Project, as of January 1, 2004, and for each succeeding-January 1 until and including the year next following the year in which the Partnership's property tax exemption under Chapter 121A shall terminate, shall be an amount which, when used in the computation of the Excise Tax for or with respect to the previous calendar year, would not result in an Excise Tax greater than the Contract Amount due for such prior year. The Assessing Department agrees to certify to DOR, pursuant to the second paragraph of Section 10 of Chapter 121A, on or before March 1 of each year a fair cash value calculated in accordance with the preceding sentence.

8. Pre-Conditions to Obligations of the Partnership: The obligations of the Partnership under this Agreement and the Amended Report and Decision are conditioned in all respects upon (i) the acquisition by the Partnership of fee simple title to undertake and complete the Project; and (ii) the Project being exempt from real estate taxation under Section 10 of Chapter 121A. If any of the conditions in the foregoing clauses (i) and (ii) are not met at any time during the term of the Partnership's designation under Chapter 121A pursuant to the Amended Report and Decision, then the Partnership shall have the right to seek the termination of the designation of the Project and the Partnership as set forth in the Application.

9. This Agreement shall continue for a term commencing on the Effective Date (as defined in Section 13 below) and terminating on the date on which the property tax exemption provided to the Partnership under Chapter 121A terminates. Notwithstanding the foregoing, upon the termination of this Agreement as to the Project, the Partnership shall pay or cause to be paid a pro-forma tax to cover the time period between such termination of this Agreement and the period under which the Project becomes taxable pursuant to Chapter 59 of the General Laws, which pro-forma tax shall be equal to the Contract Amount for such period if the Project or portion thereof had remained subject to this Agreement. Such amount for the balance of the calendar year during which this Agreement terminates shall be payable within six (6) months following the month in which this Agreement expires or terminates. Neither the Project nor the Partnership shall thereafter 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 set forth in the Application shall survive and remain in effect with respect to the Project).

10. Amendments to Chapter 121A or Rules and Regulations: Notwithstanding any language to the contrary in the Original Application or any other document entered into between the Authority and the Partnership, no amendment or modification of the terms and conditions of this 6A Agreement shall be binding on the City without the prior written consent of the City. The Partnership and the City further agree that, without mutual consent, any amendment subsequent to the delivery of this Agreement of any of

the provisions of Chapter 121A of the General Laws or of Chapter 652 of the Acts of 1960 or of the Rules, Regulations and Standards now applicable to the Project shall not affect this Agreement.

11. Notices: All notices required pursuant to this Agreement shall be in writing and delivered by hand or mailed postage prepaid, by registered or certified mail, addressed as follows:

If to the City: City of Boston Assessing Department
One City Hall Square, Room 301
Boston, MA 02201
Attn: Commissioner

If to the Partnership: New Palmer Street Limited Partnership
c/o New Covenant Christian Church
1500 Blue Hill Avenue
Mattapan, MA 02142

With Copy to: Goulston & Storrs, P.C.
400 Atlantic Avenue
Boston, MA 02110
Attn: William H. Dillon, Esq.

Each party may designate a different address provided that notice of said change is first given to the other party. Any such notice shall be deemed given when so delivered by hand or, if so mailed, two (2) days after such notice is deposited with the U.S. Postal Service.

12. The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their permitted successors and assigns. In the case of the Partnership no successor shall benefit from the provisions of this 6A Agreement unless it has been approved by the Authority. Each and every obligation and condition contained in this Agreement, in the Amended Report and Decision, in the Application, or in any agreement or undertaking relating to the Amended Report and Decision or the Application shall be construed to apply only to the Project. The liability of the undersigned shall be limited solely to its interest in the Project, and no partner, venturer, trustee, beneficiary, shareholder, officer, director, employee, agent, or the like of the Partnership or their respective successors or assigns (including, without limitation, mortgagees), or any person or entity directly or indirectly holding any interests in any of the foregoing from time to time, shall have or be subject to any personal liability hereunder or under any agreement or undertaking related hereto or required hereby. After any termination under Chapter 121A as to the Project, or authorized transfer of the Project and the Project Area to another party, or termination or transfer of any portion thereof, each in accordance with the Amended Report and Decision of the Authority, the Application or as otherwise approved by the Authority, the Partnership shall no longer be subject to the obligations hereof and shall have no further liability hereunder with respect

to the Project or such portion of the Project, as the case may be, the City agreeing to look solely to such transferee.

13. Notwithstanding the Approval Date or any other provisions of the Amended Report and Decision and this Agreement to the contrary, the "Effective Date" of this Agreement shall be the date on which the Partnership acquires fee simple title to undertake and complete the Project, in all of the land comprising the Project Area.

14. Term of Agreement: The Term of this Agreement shall commence as of December 16, 2003 and expire on December 16, 2018, the 15th anniversary of the issuance of the Authority's Report and Decision, subject to any rights of the Partnership to seek termination of the status of the Project as a 121A project as provided by law.

15. Invalidity: If any provision of this Agreement or the application thereof to any person or circumstance shall be invalid or unenforceable to any extent, the remainder of this Agreement 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.

16. Definitions:

Overpayment. For purposes of this Agreement, an Overpayment by the Partnership with respect to any calendar year shall include amounts paid by the Partnership to the Commonwealth of Massachusetts with respect to the Project pursuant to Sections 10 and 15 of Chapter 121A which exceed for such calendar year the Contract Amount, and any General Laws Chapter 59, as amended or any successor statute, real estate taxes paid by the Partnership to the City with respect to the Project for any period during which this Agreement is in effect, assessed to the Partnership.

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

APPROVED AS TO FORM:

Mark Sweeney
Corporation Counsel

ASSN

CITY OF BOSTON

Thomas D. Hanlon
By: _____
Mayor

GLWA
By: _____
Commissioner of Assessing

NEW PALMER STREET LIMITED
PARTNERSHIP

By NCCC Palmer Street
Corporation, its general partner

Gilbert A. Thompson
By: _____
Name: Gilbert A. Thompson
Title: President
Hereunto duly authorized

EXHIBIT A

TAX AMOUNTS/RATES

<u>Calendar Year</u>	<u>Amount</u>
2004	The fair cash value of the real and personal property constituting the Project shall be \$100,000.00, but the Excise Tax and the Contract Amount, in the aggregate, shall not be less than \$1,000.00
2005	The fair cash value of the real and personal property constituting the Project shall be \$100,000.00 but the Excise Tax and the Contract Amount, in the aggregate, shall not be less than \$3,000.00
2006	\$0.50 per square foot based on land area only (12,837 square feet) or, if a certificate of occupancy is issued for the project in calendar year 2006, \$1.00 per square foot of net leasable area of the project (26,136 square feet)
2007	\$1.25
2008	\$2.00
2009	\$2.50
2010	\$2.65
2011	\$2.75
2012	\$2.90
2013	\$3.05
2014	\$3.20
2015	\$3.35
2016	\$3.55
2017	\$3.90
2018	\$4.10
2019	\$4.30

(per square foot of net leasable area of the project (26,136 square feet) in years 2007 through 2019)