

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

AGREEMENT made this 9th day of November 1982, by and between Mt. Pleasant Associates - 1, a limited partnership organized pursuant to Mass. G.L. c. 109

(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 June 28, 1982, ^{as amended, October 21, 1982} (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 rehabilitation and development of 98 units of scattered site housing for low and moderate income persons to be located in the SAV-MOR section of Roxbury, a neighborhood strategy area

said project being more particularly described in the Application (the "Project"); and

WHEREAS, the Authority approved the Project by a vote on August 5, 1982 ; and

WHEREAS, the Mayor of the City of Boston approved the aforementioned vote of the Authority on August 16, 1982 ; 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 August 19, 1982 ;

NOW, THEREFORE:

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

a. The Owner shall carry out the Project by rehabilitating, 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 \$ 9,800.04 per year exceeds the said excise tax. In addition to such payment, the Owner shall pay to the City 10 percent of gross residential income from the Project, as hereinafter defined, with respect to such period.

For purposes of the Agreement, the phrase, "Completion of the Project" means 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 following completion of the Project, and for the next two (2) full calendar years thereafter, the Owner shall pay twelve (12%) percent of the gross residential income from the Project, as hereinafter defined.
- (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) 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, 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 United States Department of Housing and Urban Development, pursuant to Section 8 of the Housing Act of 1937, as amended, or any similar successor subsidy program.

(vi) The Project includes-----0-----square feet of commercial space.

If the Project includes commercial space as indicated in the preceding sentence, the Owner shall in addition make payments to the City, for each of the calendar years this Agreement is in effect, in the amount of thirty (30%) percent of the gross commercial income from the Project, as hereinafter defined.

The phrase "gross commercial income" shall be deemed to mean all income received by the Owner from occupants of any commercial space in the Project, from whatever source derived. If the commercial space is occupied by the Owner, or a related person or entity, an imputed "fair market rental value" will be attributed to the space so occupied, and will be calculated as gross commercial income for purposes of payment under this Agreement.

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 payments 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 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.

f. 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 1f, 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:

\$50,000 certification for assessment date January 1, 1983.

The parties acknowledge that if the fair cash value of the Project has not yet been so 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, 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 sections, 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 Mt. Pleasant Associates - 1 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..

Mt. Pleasant Associates - 1

By Lawrence R. Smith
Lawrence R. Smith, General Partner

ASSENTED TO:

CITY OF BOSTON

By Charles J. [Signature]
Commissioner of Assessing [Signature]

By Kevin H. White
Kevin H. White, Mayor
11/9/82

APPROVED AS TO FORM:

By Arnold [Signature]
Corporation Counsel [Signature]

**CONTRACT BETWEEN ROXBURY MOUNT PLEASANT LIMITED PARTNERSHIP
AND THE CITY OF BOSTON PURSUANT TO
SECTION 6A OF CHAPTER 121 OF THE GENERAL LAWS**

This Contract (the "6A Contract") made this ^{27th} day of March, 2002, by and between ROXBURY MOUNT PLEASANT LIMITED PARTNERSHIP, a Massachusetts limited partnership organized under General Laws, Chapter 109, as amended (the "Partnership"), and the CITY OF BOSTON, a municipal corporation of the Commonwealth of Massachusetts (the "City"), acting pursuant to Massachusetts General Laws Chapter 121A, Sections 6A and 10, as amended and applicable, and every other power and authority hereto enabling.

WITNESSETH THAT:

WHEREAS, on August 5, 1982, the Boston Redevelopment Authority (the "Authority") voted to adopt a Report and Decision on an application, dated June 28, 1982, (the "Report and Decision") on a project known as Mount Pleasant Apartments (the "Project"). Such vote was approved by the Mayor of the City of Boston (the "Mayor") on August 16, 1982 and the vote as so approved was filed with the Clerk of the City of Boston (the "City Clerk") on August 19, 1982 (the later date being the "Original Approval Date"). The Project, as more particularly described in the Report and Decision, consisted of a 98 unit low and moderate income, and elderly and handicapped housing project in separate rehabilitated buildings with related amenities, located in the Roxbury neighborhood of the City of Boston and operated, in part, pursuant to the requirements of a U.S. Department of Housing and Urban Development ("HUD") Section 8 Housing Assistance Payment Contract. Mt. Pleasant Associates, a Massachusetts limited partnership, was approved in the Report and Decision as the Chapter 121A entity to own, operate and manage the Project;

WHEREAS, on November 9, 1982, a certain "Regulatory Agreement Pursuant to Massachusetts General Laws Chapter 121A, Section 18C" was entered into by and between Mt. Pleasant Associates and the Authority (the "Original Regulatory Agreement");

WHEREAS, on November 9, 1982, a certain "Contract Required By Section 6A of Chapter 121A of the General Laws" was entered into by and between Mt. Pleasant Associates ("Associates") and the City of Boston (the "Original 6A Contract");

WHEREAS, as of September 28, 2001 an "Application for Approval to Transfer Project and Related Matters Pursuant to General Laws Chapter 121A" was filed, on behalf of the Partnership, which contains the proposed scope of the renovation work, and on November 7, 2001, Mt. Pleasant Associates filed a separate limited application (collectively, the "Application"). The Application requested approval, in part, of the following: (1) the transfer of the Project by Mt. Pleasant Associates to the Partnership; (2) new mortgage financing from the Massachusetts Housing Finance Agency ("MHFA"); (3) an increase in the allowable annual rate of return from 8% to 10% and the recalculation of the equity upon which the rate of return is

based; (4) and use and affordability restrictions;

WHEREAS, on November 14, 2001, the Authority voted to adopt a First Amendment to Report and Decision Amendment (the "First Amendment"). Such vote was approved by the Mayor on November 21, 2001 and the vote as so approved was filed with the City Clerk on November 19, 2001. The First Amendment, Section D(2), approved the transfer of the Project by Mt. Pleasant Associates to the Partnership;

WHEREAS, the First Amendment, Section D(10), in part, required the Partnership to enter into with the Authority a new Regulatory Agreement to replace in its entirety the Original Regulatory Agreement (the "new Regulatory Agreement") and on the date hereof, the new Regulatory Agreement was duly executed by the Partnership;

WHEREAS, the First Amendment, Section D(10), also, in part, required the Partnership to enter into with the City a new 6A Contract to replace in its entirety the Original 6A Contract, except as provided hereinafter (the "new 6A Contract") and this 6A Contract is the new 6A Contract; and

WHEREAS, the Report and Decision as amended by the First Amendment shall herewith be referred to hereinafter collectively as the "Amended Report and Decision".

NOW, THEREFORE, the parties hereto agree as follows:

1. The Partnership shall carry out the Project by renovating, maintaining and managing the same in accordance with the provisions of the Amended Report and Decision, including but not limited to the First Amendment, the new Regulatory Agreement and the applicable provisions of Chapter 121A of the Massachusetts General Laws ("Chapter 121A"), and the Massachusetts Acts and Resolves of 1960, Chapter 652 ("Chapter 652"), both as now amended and applicable. If there is any conflict or inconsistency between the terms of the new Regulatory Agreement and the First Amendment, those of the new Regulatory Agreement shall apply and govern.
2. The Partnership shall pay to the Commonwealth of Massachusetts, its Department of Revenue, or any successor department or agency ("DOR"), with respect to each calendar year, or any portion thereof, that this 6A Contract is in full force and effect, commencing with calendar year 2002, the Urban Redevelopment Excise Tax required under Section 10 of said Chapter 121A, as now amended or as may be amended in the future (the "Excise Tax").
3. The Partnership shall pay to the City, with respect to each calendar year or any portion thereof that this 6A Contract is in effect, commencing with calendar year 2002, an amount equal to the Agreed Percentage, as hereinafter defined, of all gross residential income, as hereinafter defined, received from the Project, less the Excise Tax. The "Agreed Percentage" is as follows:

Calendar Year 2002 through Calendar Year 2004: 8½%
Calendar Year 2005 through Calendar Year 2007: 9%
Calendar Year 2007 through Calendar Year 2009: 9½%
Calendar Year 2010 to the expiration or termination of this 6A Contract
and the Project: 10%

The phrase "gross residential income" shall be deemed to mean the aggregate of the gross rentals received by the Partnership from whatever sources derived, including the occupants of the Project and all income received by the Partnership pursuant to all local, state and federal government rental subsidy programs, including but not limited to any Housing Assistance Payments Contracts with HUD, pursuant to Section 8 of the Housing Act, as amended, or any successor subsidy legislation and/or program.

In addition, the Partnership shall make payments to the City, with respect to each calendar year or any portion thereof that this 6A Contract is in effect, commencing with calendar year 2002, an amount equal to 30% of the gross commercial income from the Project, as hereinafter defined.

The phrase "gross commercial income" shall be deemed to mean all income received by the Partnership from occupants of commercial space, from whatever sources derived. If any commercial space is occupied by the Partnership, or any related entity, an imputed market rental value, according to generally accepted standards, shall be attributed by the Assessing Department annually, to the space occupied by the Partnership, or any related entity, during the preceding calendar year, or portion thereof. For purposes of this provision, the Partnership shall notify the Assessing Department by February 10 following the end of each calendar year if the Partnership or a related entity has occupied any commercial space during the preceding calendar year.

Notwithstanding the foregoing to the contrary, all payments due to the City by Mt. Pleasant Associates or the Partnership for the calendar year 2001 shall be made by the Associates in accordance with the provisions of the Original 6A Contract.

4. Any overpayment applicable to a calendar year shall, at the election of the City, be either refunded or applied to reduce payments due in the succeeding calendar years except that with respect to the last calendar year, or portion thereof, in which the Project shall be subject to Chapter 121A and 652, any overpayment by the Partnership shall be refunded by the City. For purposes of this 6A Contract, an overpayment by the Partnership hereunder shall include any amounts paid by the Partnership to the City as real estate taxes pursuant to General Laws Chapter 59, as amended, ("Chapter 59") with respect to the Project Area for any period during which this 6A Contract is in effect, whether assessed to the Partnership or to any predecessor in title of the Project Area.
5. The Partnership shall file with the Commissioner of Assessing, Collector-Treasurer's Office and the Authority by February 10th following the end of each

calendar year during which this 6A Contract is in effect, a statement of the income and expenses of the Project during the preceding calendar year, or portion thereof, and a Declaration of Liability Return, a form made available by the Assessing Department.

6. The Partnership shall file with the Commissioner of Assessing, Collector-Treasurer's Office and the Authority by April 1st following the end of each calendar year during which this 6A Contract is in effect the following: (a) a Declaration of Liability Form, a form made available by the City's Collector-Treasurer's Office; (b) an audited report, prepared by a certified public accountant, consisting of a statement of all residential, commercial and other income, operating costs, a statement of profit and loss, a balance sheet, and a statement of disposition of funds for the preceding calendar year; and (c) a certified copy of the Owner's Urban Redevelopment Excise Tax Return as submitted to the DOR.
7. Furthermore, the City and/or the Authority can make an annual audit of all financial records pertaining to the operations of the Project under Chapter 121A and 652 and can engage the services of a private accounting firm to undertake such an audit at the reasonable expense of the Partnership.

If the Partnership is found to have deliberately withheld information on, or misrepresented, income collection from the Project, relative to its payments under this 6A Contract, the Partnership shall be required to pay all arrearages plus interest on that amount owed the City (with interest rate equal to the rate charged on delinquent property tax accounts by the City's Collector-Treasurer's Office), and in addition, the Partnership shall be required to pay and/or reimburse the City for all expenses incurred as a result of the withheld information or misrepresentation.

8. The obligations of the Partnership under this 6A Contract 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 renovation, maintenance and management of the Project, as specified in the First Amendment, and the closing of the MHFA mortgage loan for the Project and the transfer of ownership to the Partnership. The Partnership shall not be held in any way liable for delays which may occur in the renovation, maintenance or management of the Project, or otherwise, by reasons of scarcity of materials or labor, labor difficulties, damage by fire or other casualty or any other cause beyond the Partnership's reasonable control.
9. Except as provided in Section 2 hereof, the Partnership and the City further agree that without written approval of both parties any amendment subsequent to the execution of this 6A Contract, of the provisions of Chapter 121A and 652, as both now amended and applicable, or the rules and regulations and standards

prescribed by the Authority, shall not affect the Project.

10. Upon the expiration of the term of the Project's designation under Chapters 121A and 652 pursuant to the Amended Report and Decision or earlier termination of such designation, the Partnership shall pay or cause to be paid a so-called pro-forma tax to cover the time period between such expiration or termination and the date under which the Project becomes taxable pursuant to Chapter 59, which pro-forma tax shall be equal to the amount as set forth in Section 3 of this 6A Contract, for such period as if the Project had remained subject to Chapters 121A and 652. Such amount shall be payable on or before April 1 of the year following the end of the calendar year in which such designation expires or terminates.
11. No general or limited partner of the Partnership shall have any personal liability for the performance of the obligations of such Partnership under this 6A Contract.
12. This 6A Contract shall remain in effect for a period of 40 years from and after the Original Approval Date.
13. All notices or other communications given under this 6A Contract shall be in writing, signed on behalf of respectively the Partnership and the City, and shall be deemed delivered if mailed postage prepaid, or by hand delivery to the office of the party to which it is directed, which unless otherwise designated by written notice, shall be:

Partnership:

Roxbury Mount Pleasant Limited Partnership
33 Silver Street
Portland, ME 04101
ATTN: Christopher Poulin;

with a copy to:

Edward M. Doherty, Esq.
50 Franklin Street
Boston, MA 02110; and

City:

Commissioner of Assessing
City of Boston Assessing Department
City Hall, Room 301
One City Hall Square
Boston, MA 02201;

with a copy to:

Office of the Collector-Treasurer
City of Boston
City Hall
One City Hall Square
Boston, MA 02201
ATTN: Chapter 121A Manager; and

Boston Redevelopment Authority
One City Hall Square, 9th Floor
Boston, MA 02201-1007
ATTN: Director

Either party may change its address or the person or entity the notices are to be sent to by giving notice to the other party.

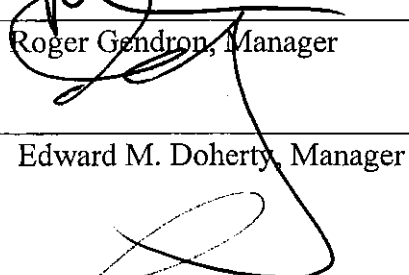
Executed as a sealed instrument as of the day and year first above written.

**Roxbury Mount Pleasant Limited
Partnership**

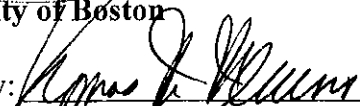
By: Waverly Street LLC, General Partner

By: 

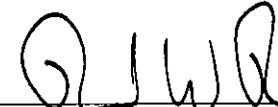
Roger Gendron, Manager

By: 

Edward M. Doherty, Manager

City of Boston
By: 

Thomas M. Menino, Mayor

By: 

Ronald W. -Rakow

Commissioner of Assessing

Approved As To Form:

Mark Sweeney