

**CONTRACT BETWEEN THE CITY OF BOSTON AND
GARAGE EXPANSION OWNER, LP
PURSUANT TO SECTION 6A OF CHAPTER 121A OF THE
MASSACHUSETTS GENERAL LAWS**

This Contract executed as of the 3 day of ~~December~~ ^{JANUARY}, 201~~3~~⁴, under Sections 6A, 10, 15 and 18C of Chapter 121A of the General Laws of the Commonwealth of Massachusetts, is by and between Garage Expansion Owner, LP, a Delaware limited partnership (hereinafter called the "Owner") and the City of Boston, a municipal corporation of the Commonwealth of Massachusetts (hereinafter called the "City").

WITNESSETH THAT:

WHEREAS, Boston Garden Development Corp. and Boston Properties Limited Partnership caused to be filed with the Boston Redevelopment Authority (the "**Authority**") an Application for Authorization and Approval by the Authority of a Project Under Chapter 121A of the General Laws of the Commonwealth of Massachusetts and Chapter 652 of the Acts of 1960, each as amended, dated September 3, 2013, revised on October 22, 2013 and updated on December 6, 2013 (collectively, the "**Application**"), with respect to a mixed-use development of approximately 1,870,000 square feet on a parcel of land more particularly described on Exhibit A attached hereto (the "**Project Area**");

WHEREAS, such Application was approved by the Authority by vote on December 19, 2013, adopting a certain Report and Decision (the "**Report and Decision**") subject to satisfaction of the Environmental Adequacy Condition described in Section H of the Report and Decision (the "**Environmental Adequacy Determination**");

WHEREAS, the Mayor of the City approved the Authority's approval on December ~~19~~, 2013;

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 ~~30~~ 30, 2013 (the "**Approval Date**");

WHEREAS, following acquisition of the portion of the Project Area described on Exhibit A-1 attached hereto (the "**Garage Expansion Project Area**"), the Owner will enter into a ground lease of the Garage Expansion Project Area (the "**Ground Lease**") with Garage Expansion Developer LLC, an affiliate of the Owner (the "**Developer**") for development of an underground garage for 800 vehicles (the "**Garage Expansion**");

WHEREAS, the City and the Owner desire to enter into this contract (this "**Contract**").

NOW, THEREFORE, subject to satisfaction of the Environmental Adequacy Condition, the Owner and the City agree, effective as January 1, 2015 (the "**Effective Date**"), as follows:

1. The Owner hereby agrees with the City that, subject to paragraph 8 hereof, all activities of the Owner will be undertaken in accordance with the provisions of Chapter 121A as now in effect, and the Report and Decision, including without limitation the Minimum

Standards for the Financing, Construction, Maintenance and Management of the Project referenced therein (collectively, the “**Approval**”), which are incorporated herein by reference. Such activities of the Owner will include acquisition of the Garage Expansion Project Area, leasing the Garage Expansion Project Area to the Developer, and causing the Garage Expansion to be constructed, maintained and managed.

2. Subject to the provisions and limitations of this Contract, the Owner will pay to the Department of Revenue of the Commonwealth of Massachusetts (“**DOR**”), for each calendar year during which the Owner 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**”).

3. Subject to the provisions and limitations of this Contract, the Owner will pay to the City with respect to each calendar year during which the Owner is subject to Chapter 121A and has the benefit of the tax exemption provided thereunder (and a pro-rated amount with respect to any portion of a calendar year during which the Owner is subject to Chapter 121A and has the benefit of the tax exemption provided thereunder), commencing on the Effective Date and ending on the date on which the Project is no longer subject to Chapter 121A, the amount (the “**Differential**”), if any, by which the following amounts (the “**Contract Amount**”) exceed the Excise Tax for such calendar year:

a. Construction Period. During the period (the “**Construction Period**”) commencing on the Effective Date and ending on the last day of the calendar year following the date on which “**Construction Completion**” (as such term is defined below) has been achieved, the Contract Amount payable by the Owner for each such calendar year shall equal the applicable annual fixed payment set forth below (pro-rated with respect to the first partial calendar year following the Effective Date):

2015	\$50,000
2016	\$100,000
2017	\$250,000

For purposes hereof, “**Construction Completion**” shall be deemed to have occurred when both of the following events shall have occurred: (i) a Certificate of Completion has been issued by the Authority for the Garage Expansion, and (ii) certificates(s) of occupancy (temporary or permanent) have been issued for all non-tenant portions of the Garage Expansion. If Construction Completion is not achieved by December 31, 2017 (or by December 31 of any following year), then the Owner will request the Authority to release the Garage Expansion from Chapter 121A and the applicable 121A Agreements, and request that its status under Chapter 121A shall terminate. Until such time as the release from 121A is effectuated, the Contact Amount payable with respect to the Garage Expansion shall be an equivalent to taxes under Chapter 59 as stated on Exhibit B.

Payments to the City, by and through its Collector- Treasurer, of any differential shall be made by no later than April 1 of each calendar year in which payment is due.

4. The Owner shall file with the Assessing Department by February 10th of each calendar year during which this Contract is in effect a computation for the prior calendar year under the applicable formula set forth in Section 3 above certified by an authorized representative of the Owner. Further, the Owner shall file with the Assessing Department and the Collector-Treasurer of the City by April 1st of each calendar year during which this Contract is in effect: (i) a certified copy of the Owner's urban redevelopment excise tax return for the preceding calendar year as filed with the DOR; (ii) a statement of Owner's profit and loss, a balance sheet and a statement of receipts and disbursements; and (iii) a statement of Developer's gross income from the Garage Expansion during the prior calendar year.
5. The Owner hereby authorizes the Commissioner of Assessing, or a representative of the Commissioner designated in writing, to examine from time to time all urban redevelopment excise tax returns and attachments thereto filed by the Owner with the DOR by the Owner. No further evidence of this authorization shall be required. In addition, the Owner shall provide to the City a copy of any filing made to the DOR within 30 days of such filing. For all payments made to the DOR, the Owner will provide a detailed breakdown indicating what portions of the payment, if any, were for penalties or interest, including the ward and parcel number to which those payments were applied.
6. Any Overpayment (as defined below) by the Owner with respect to any calendar year shall be refunded by the City to the Owner within sixty (60) days of the sending of a written notice to the City by the Owner of the discovery of such overpayment, and only if the Overpayment is not due to the Owner's failure to provide the financial information required by this contract or to the Owner's intentional provision of misleading financial information. In the event that the amount of any Overpayment is not refunded prior to the date on which the next payment by the Owner becomes due under this Contract, the Owner shall, notwithstanding anything else herein to the contrary, be entitled to offset the amount of such Overpayment against such next payment. For purposes of this Contract, an Overpayment by the Owner with respect to any calendar year shall include: (A) amounts paid by the Owner to the Commonwealth of Massachusetts with respect to the Garage Expansion pursuant to Sections 10, 15 and 18C of Chapter 121A which exceed for such calendar year the Contract Amount; and (B) any amounts paid by the Owner to the City as real estate taxes pursuant to Massachusetts General Laws, Chapter 59 with respect to the Garage Expansion for any period during which this Contract is in effect, whether assessed to the Owner or to any predecessor in title of the Owner; and (C) amounts paid as a different or additional tax resulting from the replacement of the current method of assessment of real estate taxes, in whole or in part, by a different method or type of tax or the imposition of an additional type of tax to supplement the current method of assessing real estate taxes, in either case upon the Owner, the Developer, the tenant(s), subtenant(s) and/or subsubtenants of the Owner, the Developer, or the Garage

Expansion (such different or additional tax, for example, would include a general or a specific assessment, user fee, tax on real estate rental receipts or any other tax imposed on or required to be collected and paid over by the Owner, the Developer under the Ground Lease, or subtenants thereof for the privilege of doing business in the City, for the employ of employees in the City or for the consummation of sales in or from the City or levied against real estate or upon the owners or users of real estate as such rather than persons generally for any period during which this Contract is in effect); and (D) any amounts paid by the Owner in excess of amounts actually due as a result of calculation error, inaccurate information, inadvertent mistake or other cause.

Notwithstanding the foregoing, the Fiscal Year 2015 assessment shall not be the basis of a claim of Overpayment.

7. 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 Garage Expansion, as of January 1, 2015, and for each succeeding January 1 of the year next following the year in which the Owner's property tax exemption under Chapter 121A shall terminate, shall be the amount which, when used in the computation of the Excise Tax for or with respect to the previous calendar year, would result in an Excise Tax no greater than the Contract Amount due for such prior calendar year. The Assessing Department agrees to certify as to each of the foregoing fair cash value dates and amounts to the Department of Revenue and the Owner on or before March 1 of each year during such periods, pursuant to the second paragraph of Section 10 of Chapter 121A.
8. The obligations of the Owner under this Contract and the Report and Decision are conditioned in all respects upon (i) the acquisition of the Garage Expansion Project Area by the Owner; (ii) the execution of the ground lease described in the Report and Decision; (iii) the issuance of all permissions, variances, exceptions, permits and licenses which may be required with respect to the construction, maintenance and management of the Garage Expansion; and (iv) the Garage Expansion being exempt from taxation under Section 10 of Chapter 121A as provided in the Report and Decision. The Owner shall not be held in any way liable for delays which may occur in the construction, repair and maintenance of the Garage Expansion, 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. The Owner agrees to use reasonable efforts to cause all such permissions, variances, exceptions, permits and licenses to be secured and all such delays to be overcome.
9. This Contract shall continue for a term commencing on January 1, 2015, and terminating on December 31, 2029, subject to any rights the Owner has under the Report and Decision to seek to terminate the status of the Garage Expansion as a 121A project.

Notwithstanding the foregoing, upon termination of this Contract the Owner shall pay or cause to be paid a gap payment to cover the time period between the termination date and the date the Garage Expansion becomes taxable pursuant to Chapter 59 of the General

Laws. The gap payment shall be equal to the Contract Amount that would have been made for such period if the Garage Expansion had remained subject to this Contract. The gap payment for the balance of the calendar year during which this Contract terminates shall be payable on or before March 15 of the year following the year in which the Contract terminates. Such amount for the first six (6) months of the year following the year in which this Contract terminates shall be payable on or before June 30 of the year following the year in which this Contract terminates. After termination, the Garage Expansion 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 Contract as provided in Chapter 121A; provided, however, the deviations and permissions granted by the Authority pursuant to the Report and Decision, shall survive such termination and shall remain in effect.

10. The Owner and the City agree that, without mutual consent, any amendment subsequent to the delivery of this Contract of any of the provisions of Chapter 121A of the General Laws or of Chapter 652 of the Acts of the 1960 or of the Rules, Regulations and Standards now applicable to the Garage Expansion shall not affect this Contract.
11. All notices required or permitted pursuant to this Agreement shall be in writing, signed by a duly authorized officer or representative of the City or the Owner, as the case may be, and shall be either hand delivered or mailed postage pre-paid, by registered or certified mail, return receipt requested and shall be deemed given when delivered, if by hand, or when deposited with the U.S. Postal Service, if mailed to the principal office of the party to which it is directed, which is as follows unless otherwise designated by written notice to the other party:

The Owner:

Garage Expansion Owner, LP
c/o Boston Garden Development Corp.
100 Legends Way
Boston, MA 02114
Tel: (617) 624-3051
Fax: (617) 624-3061
Attention: Christopher Maher, Vice President

with copies to:

Boston Properties Limited Partnership
800 Boylston Street, 19th Floor
Boston, MA 02199
Tel: (617) 236-3491
Fax: (617) 536-4233
Attention: Michael A. Cantalupa, Senior Vice President- Development

and

Goodwin Procter LLP
Exchange Place
Boston, MA 02109
Tel: (617) 570-1371
Fax: (617) 523-1231
Attention: Martin R. Healy, Esq.

and

Goulston & Storrs
400 Atlantic Avenue
Boston, MA 02110
Attention: Barry D. Green, Esq.

The City:

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

12. The provisions of this Contract shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. Each and every obligation and condition contained in this Contract, in the Approval or in any agreement or undertaking relating to the Approval is and shall be construed to apply separately to the owner of any separate portion of the Garage Expansion and a default by the owner of any separate portion of the Garage Expansion, under the Approval or under any such agreement or undertaking, shall not constitute a default by the owner of another portion or by the Owner. The liability of the undersigned shall be limited solely to its interest in the Project, and no partner, venturer, trustee, beneficiary, shareholder, officer, director or the like of the Owner or its 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. After any termination under Chapter 121A as to the Garage Expansion, or transfer of the Garage Expansion and the Garage Expansion Project Area to another party, or termination or transfer of any portion thereof, each in accordance with the Approval by the Authority or as otherwise approved by the Authority, the Owner shall no longer be subject to the obligations hereof and shall have no further liability hereunder with respect to the Garage Expansion or such portion of the Garage Expansion, as the case may be, the City agreeing to look solely to such transferee.
13. If any provision of this Contract or the application thereof to any person or circumstance shall be invalid or unenforceable to any extent, the remainder of this 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.

[Signatures follow]

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EXECUTED as of the 3 day of ~~December~~ ^{JANUARY 4 (2X)}, 2017.

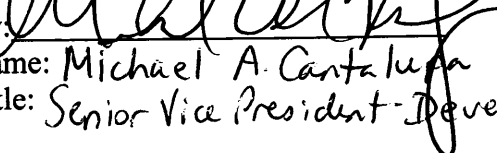
GARAGE EXPANSION OWNER, LP

By: GARAGE EXPANSION OWNER GP, LLC,
a Delaware limited liability company

By: BPNS GARAGE GENERAL LLC, a
Delaware limited liability company, a member

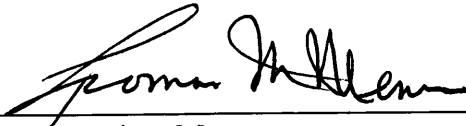
By: BOSTON PROPERTIES LIMITED
PARTNERSHIP, a Delaware limited
partnership, its sole member and manager

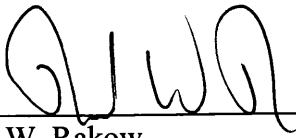
By: BOSTON PROPERTIES, INC., a
Delaware corporation, its general partner

By: 
Name: Michael A. Cantalupo
Title: Senior Vice President - Development

EXECUTED as a sealed instrument as of the day first above written.

CITY OF BOSTON

By: 
Thomas M. Menino, Mayor

By: 
Ronald W. Rakow
Commissioner of Assessing

APPROVED AS TO FORM:

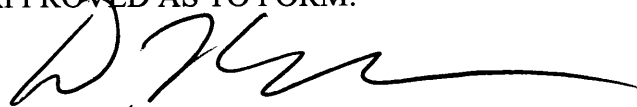
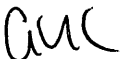

William F. Sinnot, Esq.
City of Boston Corporation Counsel 

EXHIBIT A TO GARAGE EXPANSION 6A AGREEMENT

Legal Description

Project Area

The Project Area is comprised of (i) a parcel of land with a legal address of 80 Causeway Street containing of 2.035 acres (88,645± square feet) shown as a lot marked “N/F New Boston Garden Corporation, a Delaware North Corporation, LC Confirmation 35699A” on a plan entitled “Subdivision Plan of Land in Boston, Mass. Prepared For New Boston Garden Corporation,” dated September 15, 1992, revised October 20, 1992, prepared by: Vanasse Hangen Brustlin, Inc., Consulting Engineers & Planners, recorded with the Suffolk County Registry of Deeds, in Book 17881, Page End; and (ii) the parcel of land known as “Legends Way” containing 33,022 square feet, shown on a plan entitled “Subdivision Plan of Land” prepared by Vanasse Hangen Brustlin, Inc. dated May 17, 2012, recorded with the Suffolk County Registry of Deeds, in Book 2012 Page 174.

The Project Area is located adjacent to TD Garden and North Station and is bounded by Causeway Street to the south, the TD Garden to the north, the pedestrian connection from Causeway Street to the TD Garden and North Station to the west and Interstate 93 to the east. The Project Area is the former site of the original Boston Garden before the arena’s demolition in 1998. The Project Area is currently being utilized as a paved surface parking lot with access directly from Causeway Street.

EXHIBIT A-1 TO GARAGE EXPANSION 6A AGREEMENT

Garage Expansion Parcel

The Parcel consisting of the volume of space commencing at and lying at the grade elevation - 6.0 feet (the "Upper Elevation") and extending to elevation -100.0 feet (the "Lower Elevation"), all above "mean sea level" as defined by the National Geodetic Vertical Datum of 1929, within the vertical planes of the perimeter of the parcel described below; in no event shall the within parcel extend above the Upper Elevation or below the Lower Elevation.

Beginning at a point on the northerly sideline of Causeway Street and 53.77 feet west of the westerly sideline of Legend's Way Parcel, being the southeasterly corner of the described parcel; thence

S 54°02'31" W a distance of three hundred seventy nine and seventy four hundredths feet (379.74') to a point, by the northerly sideline of Causeway Street; thence

N 35°57'29" W a distance of one hundred seventy three and eighty four hundredths feet (173.84') to a point, thence

N 54°02'31" E a distance of fourteen and seventy five hundredths feet (14.75') to a point; thence

N 35°53'01" W a distance of thirty one and forty five hundredths feet (31.45') to a point; thence

N 53°57'07" E a distance of three hundred sixty five and forty eight hundredths feet (365.48') to a point; thence

S 35°48'38" E a distance of two hundred five and eighty seven hundredths feet (205.87') to the point of beginning.

The Parcel also consisting of the volume of space commencing at and lying at grade (the "Upper Elevation") and extending to elevation -100.0 feet (the "Lower Elevation"), all above "mean sea level" as defined by the National Geodetic Vertical Datum of 1929, within the vertical planes of the perimeter of the parcel described below; in no event shall the within parcel extend above the Upper Elevation or below the Lower Elevation.

Beginning at a point on the northerly sideline of Causeway Street and 518.51 feet west of the easterly sideline of Legend's Way Parcel, being the southeasterly corner of the described parcel; thence

S 54°02'31" W a distance of twenty seven and three hundredths feet (27.03') to a point, by the northerly sideline of Causeway Street; thence

N 36°03'59" W a distance of two hundred five and nineteen hundredths feet (205.19') to a point, thence

N 53°53'52" E a distance of forty two and twenty one hundredths feet (42.21') to a point;

S 35°53'01" E a distance of thirty one and forty five hundredths feet (31.45') to a point; thence

S 54°02'31" W a distance of fourteen and seventy five hundredths feet (14.75') to a point; thence

S 35°57'29" E a distance of one hundred seventy three and eighty four hundredths feet (173.84') to the point of beginning.

The Owner reserves the right from time to time to substitute, amend or otherwise modify the above descriptions as more accurate site description information is developed.

EXHIBIT B TO GARAGE EXPANSION 6A AGREEMENT

CALENDAR YEAR	CONTRACT AMOUNT
2015	Construction Period
2016	Construction Period
2017	Construction Period
2018	Treated as taxable under Chapter 59
2019	Treated as taxable under Chapter 59
2020	Treated as taxable under Chapter 59
2021	Treated as taxable under Chapter 59
2022	Treated as taxable under Chapter 59
2023	Treated as taxable under Chapter 59
2024	Treated as taxable under Chapter 59
2025	Treated as taxable under Chapter 59
2026	Treated as taxable under Chapter 59
2027	Treated as taxable under Chapter 59
2028	Treated as taxable under Chapter 59
2029	Treated as taxable under Chapter 59