

**AGREEMENT BETWEEN THE CITY OF BOSTON
AND MORRISSEY BOULEVARD 121A LIMITED PARTNERSHIP
PURSUANT TO CHAPTER 121A, SECTION 6A OF
THE MASSACHUSETTS GENERAL LAWS**

900 MORRISSEY BOULEVARD CHAPTER 121A PROJECT

This AGREEMENT (the "Agreement") is made as of this 10 day of ~~February~~ ^{JUNE}, 2024, but effective as of the Effective Date (defined in Section 2 below), by and between Morrissey Boulevard 121A Limited Partnership, a Massachusetts limited partnership (the "Partnership") organized under General Laws Chapter 109, and subject to General Laws Chapter 121A and the Acts of 1960, Chapter 652, both as amended to date (collectively, "Chapter 121A"), and the CITY OF BOSTON, a municipal corporation of the Commonwealth of Massachusetts (the "City") acting pursuant to General Laws Chapter 121A, Sections 6A and 10 and every other power and authority. N/A

WITNESSETH THAT:

WHEREAS, an application entitled "Application of Morrissey Boulevard 121A Limited Partnership to the Boston Planning & Development Agency for Authorization and Approval of a Project under Massachusetts General Laws, Chapter 121A and Acts of 1960, Chapter 652, each as Amended" dated March 10, 2023 (the "Application"), was filed by the Partnership with the Boston Redevelopment Authority d/b/a the Boston Planning & Development Agency (the "Agency") under the provisions of Chapter 121A for approval of a proposed redevelopment as part of the acquisition and revitalization the existing hotel (the "Building") located at 900 Morrissey Boulevard, Dorchester, City of Boston, Suffolk County, Massachusetts (the "Property"), and development of affordable housing units, ancillary residential and office uses ancillary to the foregoing, as well as associated improvements (the "Project"); and

WHEREAS, the Project will create approximately 99 residential dwelling units, all of which will be permanently income-restricted to households earning no more than thirty percent (30%) of the Area Median Income ("AMI"), as established by the U.S. Department of Housing and Urban Development ("HUD") from time to time (such dwelling units, the "Affordable Units");

WHEREAS, the Project will include the Affordable Units and facilities accessory thereto that will be used exclusively for the benefit of the residents of the Affordable Units, including but not limited to, resident lounges, property management offices and storage spaces, social services offices, and wellness and fitness facilities (such portions of the Building are hereinafter referred to as the "Residential Space"), as well as site improvements on the Property; and

WHEREAS, the Project will only contain such Residential Space and shall not contain any non-residential uses such as commercial businesses and facilities and offices for non-profit, cultural and/or educational organizations; and

WHEREAS, the Agency approved the Application by a vote on May 11, 2023, adopting a Report and Decision (the "Report and Decision"); and

WHEREAS, the Mayor of the City (the “Mayor”) approved the above votes of the Agency on May 25, 2023; and

WHEREAS, the vote of the Agency and the approval of the Mayor with respect to the Report and Decision were filed with the City Clerk of the City of Boston (the “City Clerk”) on May 25, 2023 (the “Approval Date”), and such approval became final and binding pursuant to the provisions of Chapter 121A; and

WHEREAS, in accordance with the Report and Decision, the Partnership has entered into a Regulatory Agreement with the Agency, of even date, with respect to the development of the Project (the “Regulatory Agreement”); and

WHEREAS, the Partnership and the City desire to enter into this Agreement pursuant to Sections 6A and 10 of Chapter 121A for payments in-lieu-of taxes with respect to the Project.

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 hereto agree as follows:

1. **Operation of the Project.** The Partnership shall carry out the Project in accordance with, and subject to, the provisions of Chapter 121A, the provisions of the Report and Decision, and the provisions of the Regulatory Agreement with the Agency, as it may be amended from time to time.
2. **Term.** This Agreement shall take effect as of the date the Partnership acquires the Property and a deed evidencing the same is recorded with the Suffolk County Registry of Deeds (the "Effective Date"). The Partnership shall notify the Agency and the Commissioner of Assessing of the City (the "Commissioner of Assessing") in writing of said recording date, which notice shall be accompanied by a copy of the deed as so recorded. This Agreement shall have a term commencing on the first day of the month following the Effective Date (the "Term Commencement Date") and running for a period of eighteen (18) years therefrom, unless sooner terminated as provided herein (the "Term").
3. **Excise Tax Payments.** 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 Agreement is in effect and applicable, the Urban Redevelopment Excise Tax required under Chapter 121A, Section 10, as amended from time to time (the “Excise Tax”).
4. **6A Contract Payments.**
 - a. *Contract Amount.* Subject to the provisions of this Agreement, the Partnership will pay to the City with respect to 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 "6A Contract Payment") equal to the difference between: (i) the amounts set forth below (the "Contract Amount"), and (ii) the Excise Tax paid for such calendar year.

i. For calendar year 2024, the Contract Amount shall be a sum equal to Seventy Thousand Dollars (\$70,000.00). Any assessed property taxes in Fiscal Year 2024 will not be a credit towards the calendar year 2024 obligation nor will they be considered an Overpayment as defined in section 6 below.

ii. For calendar year 2025, the Contract Amount shall be a sum equal to Two Hundred Thousand Dollars (\$200,000.00).

iii. For calendar year 2026, and each calendar year thereafter during the Term, the Contract Amount shall be a sum equal to the amount of any real estate and personal property taxes that would have been paid to the City under G.L. c. 59 as amended or any successor statute, with respect to the 900 Morrissey Boulevard Parcel and personal property of the Owner, if such property were not subject to G.L. c. 121A.¹

b. *Due Date:* The Partnership shall pay to the City the 6A Contract Payments on or before April 1 following the end of each calendar year for which such payment is due

c. *Partial Payments:* The 6A Contract Payments shall be equitably pro-rated for any partial calendar year during the Term. The payment for calendar year 2024 reflects the partial year exemption and is not eligible for further pro ration in connection with this subsection.

d. *Late Payments:* Late 6A Contract Payments, and gap payments (as referenced in Section 5 below), or any portion thereof, shall bear interest at the rate allowed for in G.L. c. 60, as amended from time to time.

5. **Gap Payments.** Upon the termination of this Agreement, the Partnership shall pay or cause to be paid, a gap payment to cover the period between the termination date and the date the Project becomes taxable pursuant to Mass. 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 gap payment shall be paid within six (6) months following the month in which this Agreement terminates. Thereafter, the Project shall not be subject to the obligations of Chapter 121A, shall not enjoy the rights and privileges thereunder, and shall not be subject to the terms, conditions, and obligations of this Agreement; provided however, that the deviations and permissions granted by the Agency pursuant to the Report and Decision (as the same may be amended from time to time) shall survive such termination and shall remain in full force and effect.

6. **Overpayments.** An Overpayment (as defined below) applicable to a calendar year, or portion thereof, shall at the election of the City, be either refunded or applied to reduce

¹ For the purposes of this Agreement, any "amount equal to the amount of any real estate taxes that would have been paid to the City under G.L. c. 59 as amended or any successor statute" will utilize the valuation date of January 1 initiating said payment year. Additionally, to determine the applicable tax rate, the City will average the tax rates for the two fiscal years contained within the payment schedule's calendar year. For example, payment year 2030 will be based on a G.L. Chapter 59-derived value of the property as of 1/1/2030 and the tax rate applied to the Chapter 59 derived value will be the average of the applicable fiscal year 2030 tax rate and the applicable fiscal year 2031 tax rate.

the payments due in the succeeding calendar years, except with respect to the last calendar year, or portion thereof, in which the Project shall be subject to this Agreement, any Overpayment by the Partnership shall be refunded by the City. For purposes of this Agreement, an "Overpayment" shall include the following, to the extent that they exceed collectively the Contract Amount: (i) any amounts paid by the Partnership to the City as real estate taxes pursuant to Chapter 59; (ii) any amounts paid by the Partnership under Chapter 121A, Section 15, and (iii) any amounts paid by the Partnership to the Commonwealth of Massachusetts, or any political subdivisions thereof, under any general or special law, an excise or tax measured by its income from or investment in the Project, not including the excise prescribed by Chapter 121A, Section 10.

7. **Delivery and Examination of Financial Statements.**

a. The Partnership shall file with the Commissioner of Assessing and the Agency by February 10 following the end of each calendar year during the Term, the following: (i) a statement of income and expenses for the Project during the preceding calendar year or portion thereof, and (ii) a Declaration of Liability Return Valuation, a form to be made available each year during the Term by the Assessing Department.

b. The Partnership shall file with the Commission of Assessing, and the Collector-Treasurer of the City ("Collector-Treasurer") by April 1 following the end of each calendar year during the Term: (a) a Declaration of Liability Form, a form made available by the Collector-Treasurer; (b) an audited report, prepared by a Certified Public Accountant, consisting of a statement of all rental and other income, operating costs, a statement of profit and loss, a balance sheet, and a statement of disposition of funds for the preceding year, and (c) a certified copy of the Partnership's Excise Tax Return as submitted to DOR.

c. In addition to the above, for any calendar year during which any portion of the Contract Amount is based on an amount equal to the amount of any real estate taxes that would have been paid to the City under M.G.L. c. 59, as amended, or any successor statute (the "Chapter 59 Equivalent"), the Partnership shall file with the Commissioner of Assessing, responses to the form of information request attached to this Agreement as Exhibit B ("Information Request"). The Information Request shall be filed with the Commissioner of Assessing by February 1 following the end of an applicable calendar year. If the Information Request is not filed with the Commissioner of Assessing by February 1, the City will make its best efforts to estimate a Chapter 59 Equivalent and such estimate will be final and binding. In the event that information in the Information Request is not based on audited financials, the Partnership shall note this in the applicable Information Request, and audited financials covering the relevant time period shall be submitted to the Commissioner of Assessing no later than July 1. Furthermore, the City agrees that the responses and supplemental information submitted by the Partnership in response to such Information Requests shall remain confidential upon the same terms provided for in M.G.L. c. 59, Section 52B.

8. **Determination of Fair Cash Value.**

a. During the Term, the City of Boston Assessing Department shall determine the fair cash value of the Project in accordance with Section 10 of Chapter 121A; provided, however, that if the Partnership does not file with the Commissioner of Assessing the financial information set forth in Section 7 of this Agreement, the Assessing Department may, at the option of the Commissioner of Assessing, determine the "fair cash value" without regard to the limitations set forth in Section 10 of Chapter 121A. Upon the request of the Partnership, and based on reasonable cause, the Commissioner of Assessing may extend the period for filing the information required by Section 7.

b. The maximum "fair cash value" for the Project to be determined annually by the Assessing Department and certified to DOR under Chapter 121 A, Section 10 (second and seventh paragraphs thereof), shall be the amount which when used in calculating the Excise Tax under the applicable statutory formula, produces an Excise Tax equal to or less than the Contract Amount for such calendar year, as set forth in Section 4 above.

9. **Conditions.** The obligations of the Partnership under this Agreement are conditioned in all respects upon the issuance to it of all permissions, approvals, favorable reviews, permits and licenses which may be required by City, State, Federal or other authorities with respect to the development of the Project, whether or not the same were specified in the Application.

10. **Amendments to Chapter 121A or Rules and Regulations.** The Partnership and the City agree that any amendment, subsequent to the execution of this Agreement, of Chapter 121A (except for Section 10) and the rules, regulations and standards prescribed by the Agency, which otherwise might be applicable to the Project, shall not affect the same.

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

Partnership: Morrissey Boulevard 121A Limited Partnership
c/o The Community Builders, Inc.
185 Dartmouth Street
Boston, Massachusetts 02116

with a copy to: Sullivan & Worcester LLP
One Post Office Square
Boston, Massachusetts 02109
Attn: Jennifer R. Schultz, Esq.

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

12. **Counterparts.** This Agreement may be executed in counterparts, each of which when so executed and delivered shall be deemed an original, but such counterparts shall together constitute the same instrument.

13. **Successors and Assigns.** The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. The Partnership shall provide notice to the Commissioner of Assessing upon any conveyance of the Property.

14. **Governing Law.** Notwithstanding anything to the contrary, this Agreement shall be governed by the laws of the Commonwealth of Massachusetts and any suit, claim or action shall be brought in Suffolk County.

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. **Limited Liability.** The liability of the Partnership shall be limited solely to its interest in the Project. No partner, member, manager, venturer, trustee, beneficiary, shareholder, officer, director, employee or agent of the Partnership or of any successor or assign shall have any personal liability under this Agreement. The provisions of this Section 16 shall survive the termination of this Agreement.

17. **Certificate of Status.** Upon at least fifteen (15) business days' notice from the Partnership, the City shall provide written confirmation that, to the extent then true, this Agreement remains in full force and effect and is unamended, and there are no defaults by the Partnership hereunder. Such confirmation may be relied upon by the Partnership and/or any lender or investor providing financing in connection with the Property, and each such confirmation shall state the same and shall be binding upon the City.

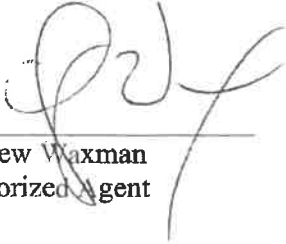
[Signatures on next page]

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


Morrissey Boulevard 121A Limited
Partnership,
a Massachusetts limited partnership

By: TCB Morrissey Boulevard 121A GP
LLC,
its General Partner

By: The Community Builders Inc.,
its sole member

By: 
Andrew Waxman
Authorized Agent

CITY OF BOSTON

By: 
Michelle Wu
Mayor

By: 
Nicholas P. Ariniello
Commissioner of Assessing

APPROVED AS TO FORM:

By:  
Adam Cederbaum
Corporation Counsel, City of Boston

Exhibit A Calendar Year 20__ Apartment Information Request

The following information shall be filed with the Commissioner of Assessing by February 1, on an annual basis. The data requested is for the calendar year immediately preceding the February 1 submission date.

General Information

Property Name: _____

Address: _____

Residential Rental Information

Provide the following rental information. The effective reporting date is January 1.

In addition, be sure to provide a pro forma income and expense statement, along with a full rent roll.

Also, provide details of any additional income derived from parking operations, billboards or telecommunications leases. The effective reporting date is January 1.

Unit Type	Number of Units		Range of Rents Per Month			
	Market-Rate	Affordable	Market-Rate		Affordable	
			Minimum	Maximum	Minimum	Maximum
0 BR			\$	\$	\$	\$
1 BR			\$	\$	\$	\$
2 BR			\$	\$	\$	\$
3 BR			\$	\$	\$	\$
4 BR			\$	\$	\$	\$
Other			\$	\$	\$	\$

Other Income

Amenity Fees

Examples: Pet fees,
concierge, storage

Amenity Type	Monthly Fee Per Unit	Annual Income
	\$	\$
	\$	\$
	\$	\$

Valet or

Parking

Residential
Commercial

Number of Spaces	Monthly Fee	Annual Income	Self-Park
	\$	\$	
	\$	\$	

Non-Apartment Lessees

Examples: Bank,
Restaurant, Office,
Storage, Day Care

Occupancy	Rentable Sq. Ft.	Rent per Sq. Ft. As of 1-1	Lease Basis (Gross, NNN)	Lease Start Date
		\$		
		\$		
		\$		
		\$		

Telecommunications

Equipment Type	Monthly Fee	Annual Income
Antenna	\$	\$
Satellite Dish	\$	\$
Other	\$	\$

Expenses

Provide the property expense information for the prior calendar year. Provide the actual annual costs to operate the building on an accrual basis; do NOT use "budgeted" or projected expense amounts.

Category	Annual Amount	Explanation
Administrative		Includes management/ administrative payroll, supplies, legal, & general services.
Security		Includes all Security costs, payroll, supplies.
Cleaning		Includes cleaning, payroll, supplies, contracts, trash /waste removal, windows, (also cleaning of HVAC equipment).
Repairs and Maintenance (R & M)		Includes R&M payroll, materials, supplies; includes R&M related to elevators, HVAC, electrical, plumbing; supplies and misc. expenses; building exterior; grounds, landscaping; snow removal.
Utilities		Includes building utilities expense, including heat, electric, tenant electric, gas, oil, water, sewer charges, plus other utility costs.
Advertising		Includes all Advertising costs related to Leasing of space.
Building Insurance		Includes annual building Insurance cost. (Does not include any Workman's Comp premiums).
Parking / Valet Expenses		Includes all costs related to parking and valet operations.
Total Operating Expense		Includes Total Annual Operating Costs for building. Does NOT include any real estate Taxes, Depreciation, Mortgage payments, Interest, property Liens, installment loans or unrelated fees.
Replacement Reserves		Include those annual amounts actually set aside by Owner for future replacement of short-lived assets.
Extraordinary Expenditures	(describe below)	Include large capital expense items, necessary for the continued operation of the building. Describe the item, cost, and the approx. number of years of expected, economic (useful) life.

Comments

Please provide an overview of the building's operations during the prior calendar year.

Affidavit

I hereby declare under oath that the above information and addenda are presented as being true, correct and complete to the best of my knowledge and belief and are submitted under the penalties of perjury

Signature: _____ Date: _____

Print Name: _____ Title: _____

Telephone: _____ E-mail: _____

Return Form to:
 City of Boston Assessing Dept.
 Room 301, Boston City Hall
 Boston, MA 02201
 Attn: Commissioner of Assessing