

INFRASTRUCTURE DEVELOPMENT ASSISTANCE AGREEMENT

by and among

THE COMMONWEALTH OF MASSACHUSETTS,

CITY OF BOSTON,

MASSACHUSETTS DEVELOPMENT FINANCE AGENCY,

FAN PIER DEVELOPMENT LLC

FIFTY NORTHERN AVENUE, LLC,

and

ELEVEN FAN PIER BOULEVARD, LLC

Dated as of November 14, 2011

Relating to:

Fan Pier Economic Development Project

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INFRASTRUCTURE DEVELOPMENT ASSISTANCE AGREEMENT

This INFRASTRUCTURE DEVELOPMENT ASSISTANCE AGREEMENT, dated as of November 14, 2011 (this "Agreement"), by and among THE COMMONWEALTH OF MASSACHUSETTS (the "Commonwealth"), acting by and through the Secretary of the Executive Office for Administration and Finance (the "Secretary"), the CITY OF BOSTON, a political subdivision of the Commonwealth (the "City"), the MASSACHUSETTS DEVELOPMENT FINANCE AGENCY, a body politic and corporate and public instrumentality of the Commonwealth established under Chapter 23G of the General Laws of the Commonwealth (with its successors, the "Agency"), FAN PIER DEVELOPMENT LLC, a Delaware limited liability company (with its successors and assigns as developer of all or any portion of the Fan Pier Economic Development Project (hereinafter defined) other than Building A and Building B (hereinafter defined), the "Developer"), FIFTY NORTHERN AVENUE LLC, a Delaware limited liability company (with its successors and assigns, the "Building A Owner"), and ELEVEN FAN PIER BOULEVARD LLC, a Delaware limited liability company (with its successors and assigns, the "Building B Owner" and, together with the Building A Owner, the "Owners" and singly an "Owner");

WITNESSETH:

WHEREAS, the Commonwealth is authorized by Sections 5 through 12A of Chapter 293 of the Acts of 2006 of the Commonwealth, as amended by Chapter 129 of the Acts of 2008 (the "Act"), to provide State Infrastructure Development Assistance (as defined in the Act) to the Agency to secure and pay the debt service payable on and with respect to bonds issued by the Agency to finance costs of public infrastructure improvements that are part of economic development projects approved by the Secretary; and

WHEREAS, the Developer and the City have filed with the Secretary the economic development proposal attached hereto as **Exhibit A** (as heretofore and hereafter amended and supplemented with the approval of the Secretary as provided in the Act, the "Economic Development Proposal") providing for the development by the Developer, the Owners and others of the Fan Pier Economic Development Project (as more fully defined herein, the "Economic Development Project") within the Economic Development District (hereinafter defined), including the development by the Building A Owner on Assessment Parcel A of Building A and by the Building B Owner on Assessment Parcel B of Building B and the construction by the Developer or the Owners at the direction of the Developer of certain public infrastructure improvements within or adjacent to the Economic Development Project (as herein defined, the "Fan Pier Public Infrastructure Improvements"); and

WHEREAS, as provided in the Act, the Secretary has filed with the Massachusetts Department of Revenue (the "Department"), the Agency and the Collector-Treasurer of the City his or her certificate (the "Secretary's Certificate") dated October 5, 2011 (the "Approval Date") declaring the Economic Development Proposal to be a Certified Economic Development Project (as defined in the Act); and

WHEREAS, the Economic Development Proposal provides for the issuance by the Agency of bonds (the "Bonds") following the construction and occupancy of Building A and Building B in an aggregate principal amount not exceeding Fifty Million Dollars (\$50,000,000) to finance costs of the Fan Pier Public Infrastructure Improvements and costs of issuing the Bonds; and

WHEREAS, the Agency has approved the Preliminary Economic Development Proposal and its Board of Directors has given preliminary approval to the issuance of the Bonds under and pursuant to a resolution adopted by its Board of Directors on June 9, 2011; and

WHEREAS, the Bonds will be issued in one or more tranches under and pursuant to a trust indenture (the "Indenture") to be executed and delivered by the Agency and the Trustee (as defined herein) upon or prior to the issuance of the Initial Bonds; and

WHEREAS, the Commonwealth has agreed to provide State Infrastructure Development Assistance for the Bonds pursuant to a Contract for State Infrastructure Development Assistance (the "Assistance Contract") to be executed and delivered by the Commonwealth and the Agency upon or prior to the issuance of any of the Bonds; and

WHEREAS, the Building A Owner has entered into a lease with Vertex Pharmaceuticals Incorporated ("Vertex," which term shall include its successors by sale, merger, recapitalization or reorganization) with respect to Building A and the Building B Owner has entered into a lease with Vertex with respect to Building B (collectively, the "Vertex Leases"); and

WHEREAS, as provided in the Act, the Commonwealth may be reimbursed for all or a portion of the State Infrastructure Development Assistance provided for the Bonds from Local Infrastructure Development Assistance (defined herein) provided by the City; and

WHEREAS, as provided in the Act, the City, with the agreement of the Owners, may be reimbursed for Local Infrastructure Development Assistance provided for the Bonds from the proceeds of Infrastructure Assessments (defined herein) on Assessment Parcel A and Assessment Parcel B; and

WHEREAS, all of the preconditions provided in the Act to the issuance of the Bonds and the provision of State Infrastructure Development Assistance therefor have been satisfied or will be satisfied prior to the issuance thereof; and

WHEREAS, all acts and proceedings required by law necessary to constitute this Agreement a valid and binding agreement for the uses and purposes herein set forth in accordance with its terms have been done and taken and the execution and delivery of this Agreement have been in all respects duly authorized by the respective parties hereto;

NOW, THEREFORE, in consideration of the premises and of the mutual agreements and covenants contained herein and for other valuable consideration, the receipt of which is hereby acknowledged, the parties hereto do hereby agree as follows:

ARTICLE 1

DEFINITIONS

Section 1.01 Definitions.

(a) In addition to the words defined in the preamble to this Agreement, the following terms shall have the meanings ascribed to them in this Section 1.01 for purposes of this Agreement.

“Additional Bonds” shall have the meaning given such term in Section 2.02 hereof.

“Additional Bond Public Infrastructure Improvements” shall mean any Fan Pier Public Infrastructure Improvements funded from the proceeds of any Additional Bonds.

“Additional Public Infrastructure Improvements” means the Public Infrastructure Improvements described in **Exhibit B-3** hereto.

“Annual Administrative Fee,” with respect to the Initial Bonds, means the annual amount of \$2,500 payable to the Agency, provided that such amount may be increased upon the mutual agreement of the Secretary and the Agency to an amount not exceeding \$5,000; the amount of the Annual Administrative Fee for any Additional Bonds shall be in the amount set forth in an amendment or supplement to this Agreement executed by the parties hereto in connection with the issuance of such Additional Bonds.

“Annual Certification of New State Tax Revenues” means the annual certificate the Commissioner is required to make to the Secretary and the Collector-Treasurer in accordance with Section 10(a) of the Act, the Regulations, the DOR Guidance and this Agreement regarding his or her determination of the New State Tax Revenues generated within the Economic Development District in the prior Fiscal Year, which annual certificate shall be issued in accordance with the Regulations and the DOR Guidance and shall clearly identify, for the prior Fiscal Year: the total New State Tax Revenues from the Economic Development District for such Fiscal Year, including the Annual Data, Displacement Factors, total New Revenue and total Dedicated Revenue upon which such determination is based; the portion of such New State Tax Revenues that is allocable to each Project Component in accordance with Section 4.01(b) hereof; the cumulative New State Tax Revenues for all prior Fiscal Years that is allocable to each Project Component in accordance with Section 4.01(b) hereof; a statement as to whether the cumulative New State Tax Revenues allocable to a Project Component equal or exceed the Net Debt Service on the Bonds allocable to the Project Component in accordance with Section 4.01(b) hereof; the Shortfall, if any, allocable to each Project Component in accordance with Section 4.01(b) hereof; and the Surplus New State Tax Revenues, if any, available to offset the Shortfall, if any, allocable to each Project Component in accordance with Section 4.02(c) hereof.

“Annual Data” means the following data that the Owner of each Project Component is required to annually submit or cause Vertex to submit to the Department in accordance with the process provided in the Regulations and the DOR Guidance: (i) Vertex’s taxpayer ID number; and (ii) aggregate actual wages paid by Vertex with respect to any Eligible New Jobs for the applicable fiscal year (x) from the Approval Date through the Occupied Project Date, anywhere

within the Commonwealth, and (y) after the Occupied Project Date, within any Commercial Component in the Economic Development Area.

“Applicable Project Approvals” means all federal, Commonwealth and City laws, rules, regulations, permits, approvals and agreements applicable to the design and construction of the Fan Pier Public Infrastructure Improvements, including without limitation the CWD (defined herein), and the Chapter 91 Public Realm License (defined herein), as applicable.

“Assessment Parcel A” means the parcel of land described on Exhibit J.

“Assessment Parcel B” means the parcel of land described on Exhibit K.

“Assessment Parcel” and “Assessment Parcels” means, singly, either Assessment Parcel A or Assessment Parcel B, as applicable, and, collectively, both Assessment Parcel A and Assessment Parcel B.

“Assessor” means the City’s Commissioner of Assessing.

“Bond Issuance Fee” means the fee payable to the Agency from the proceeds of the Initial Bonds and any Additional Bonds upon their issuance in accordance with the Indenture in an amount not exceeding one-half of one percent (.50%) of the principal amount of such Bonds.

“Building A” means the approximately 490,000 square foot office and research laboratory building to be constructed upon Assessment Parcel A as described in the Economic Development Proposal, constituting a Commercial Component of the Economic Development Project.

“Building B” means the approximately 460,000 square foot office and research laboratory building to be constructed upon Assessment Parcel B as described in the Economic Development Proposal, constituting a Commercial Component of the Economic Development Project.

“Chapter 91 Public Realm License” means License No. 11907 issued pursuant to M.G.L. c. 91 by the Massachusetts Department of Environmental Protection on September 25, 2007 recorded with the Suffolk County Registry of Deeds in Book 42568, Page 89.

“Collector-Treasurer” means the Collector-Treasurer of the City.

“Commercial Component” shall have the meaning given such term in the Act.

“Commissioner” means the Commissioner of the Department.

“Commitments” means the Vertex Leases.

“Construction Contract” means any contract between an Owner or the Developer and a contractor, subcontractor, or supplier of materials or services or other party relating to the construction of the Fan Pier Public Infrastructure Improvements.

“Cost” means any cost of the Fan Pier Public Infrastructure Improvements, including without limitation the costs described in **Exhibit B** hereto, incurred or to be incurred by the Developer and/or the Owners, including without limitation, the cost of construction, the actual cost of acquisition of all lands, structures, rights of way, franchises, easements and other property rights and interests and related riparian rights, the cost of demolishing, removing or relocating any buildings, structures or utilities on any lands to which such buildings, structures or utilities may be moved or relocated, the cost of preparing any lands including, without limitation, grading, excavation and environmental work; the cost of all labor, materials, machinery and equipment, financing charges, the cost of design, engineering, financial and legal services, plans, permits, specifications, studies, surveys, estimates of cost and of revenues, other expenses necessary or incidental to determining the feasibility or practicability of the Economic Development Project, administrative expenses for planning costs and other preliminary expenses and such other expenses as may be necessary or incidental to the Fan Pier Public Infrastructure Improvements, the financing thereof, placing of the same in operation and the issuance of Bonds; provided that the term “cost” shall include costs incurred prior to June 9, 2011 only to the extent that the dollar amount of such costs is the lesser of incurred Costs and the appraised value of the In-Place Public Infrastructure Improvements.

“CWD” means the Consolidated Written Determination pursuant to M.G.L. c. 91, respecting Waterways Application No. W02-0404-N (Fan Pier), dated June 28, 2002 (final decision dated November 21, 2002) issued by the Massachusetts Department of Environmental Protection for the Fan Pier Development, as extended by letter from the Massachusetts Department of Environmental Protection dated April 18, 2007 (extending the term of such determination until November 21, 2012).

“Debt Service,” with respect to any series of Bonds, means all principal, interest and premium, if any, due and payable on such Bonds in the amounts and on the dates set forth in the Assistance Contract or an amendment or supplement thereto.

“Declaration” means the Declaration of Covenants, Easements and Restrictions dated January 31, 2008 between the Developer and Fan Pier Owners Corporation, recorded with the Suffolk County Registry of Deeds in Book 43059, Page 1, as the same may be amended from time to time.

“Dedicated Revenue” means state tax revenue, if any, applicable to an Eligible New Job which is dedicated to (i) the Massachusetts Bay Transportation Authority and the State and Local Contribution Fund under the provisions of Section 35T of Chapter 10 of the General Laws; (ii) the Massachusetts School Building Authority and the School Modernization and Reconstruction Trust Fund under the provisions of Section 35BB of Chapter 10 of the General Laws; (iii) the Massachusetts Convention Center Authority and the Convention Center Fund under the provisions of Section 10 of Chapter 152 of the Acts of 1997; and (iv) the Massachusetts Tourism Fund under the provisions of Section 35J of Chapter 10 of the General Laws; in each case at the rates and other terms provided under laws and regulations in effect as of the date of this Agreement.

“Department” means the Department of Revenue of the Commonwealth.

“Displacement Factors” means discount factors to be used in calculating New Revenue and New State Tax Revenues to adjust for any estimated reduction in revenues resulting from jobs and commercial activity in the Commonwealth that are indirectly displaced as a result of new commercial activity within the Economic Development District; in the case of commercial activity resulting from the occupancy by Vertex of Commercial Components within the Economic Development District, the Displacement Factor shall be zero (“0”).

“DOR Guidance” means Technical Information Release 08-18 as modified by Technical Information Release 09-10 and any other guidance issued by the Commissioner pursuant to Section 12 of the Act.

“Economic Development District” means the real property or interests in the entire Fan Pier Site owned by the Developer, the Owners, or by the Developer’s affiliate, Fallon Cornerstone One MPD LLC, upon which the Economic Development Project shall be developed, as more fully described in the Economic Development Proposal and **Exhibit C** hereto.

“Economic Development Project” or “Project” means the Fan Pier Economic Development Project described in the Economic Development Proposal, including without limitation the acquisition, construction, expansion, improvement, or equipping of Building A, Building B and such other industrial, manufacturing, office, retail, hotel, research and development, residential, or commercial facilities, or any combination thereof, described therein, including facilities to be used by governmental or non-profit entities, and all lands, buildings, and other structures, equipment and property or interests therein forming a part thereof, located or to be located wholly or partially within the Economic Development District, and owned or to be owned by the Developer, the Owners, or any other person, and all Public Infrastructure Improvements within or adjacent to such Economic Development Project necessary or desirable for development of such Economic Development Project as more fully described in such Economic Development Proposal.

“Eligible New Job” means (i) a Retained Job; (ii) any new job represented by a Permanent Full-Time Employee employed by Vertex after the Approval Date and prior to the Occupied Project Date with the expectation that such employee would be located at or relocated to a Commercial Component within the Economic Development District after the Occupied Project Date; (iii) any new job represented by a Permanent Full-Time Employee employed by Vertex in a Commercial Component within the Economic Development District after the Occupied Project Date; and (iv), in the event that Vertex vacates any or all of the space in any Project Component, any eligible new job (as defined in the Act) determined by the Secretary or the Commissioner in accordance with the Act, the Regulations and the DOR Guidance to be represented by a Permanent Full-Time Employee employed by one or more successor tenants occupying such space; for purpose of the foregoing, an Eligible New Job shall be deemed created on the first day for which Massachusetts personal income tax withholding is required in connection with the compensation paid to the employee performing such job.

“Event of Default” shall have the meaning given such term in Section 6.01 hereof.

“Fan Pier Independent Consultant Analysis” means the I-Cubed Independent Consultant Analysis dated September 29, 2011 prepared by GLC Development Resources, for the

Massachusetts Executive Office for Administration and Finance, as the same may have been updated by such consultant prior to the Secretary's approval of the Economic Development Proposal in accordance with Section 51.13(2)(a) of the Regulations.

"Fan Pier Owners Corporation" or "FPOC" means that certain Massachusetts corporation organized under M.G.L. c. 180 for the purpose of owning and managing the public realm components of the Economic Development District, as required by the CWD and Chapter 91 License.

"Fan Pier Public Infrastructure Improvements" means the In-Place Public Infrastructure Improvements, the Vertex Buildings Public Infrastructure Improvements and the Additional Public Infrastructure Improvements.

"Fiscal Year" means the twelve month period commencing on July 1 in a calendar year and ending on the June 30 in the next succeeding calendar year.

"Governmental Entity" means, as applicable, the Commonwealth, the City including without limitation the City's Public Improvement Commission and the Boston Water and Sewer Commission, the Boston Redevelopment Authority or any other political subdivision, agency or instrumentality of the Commonwealth that will be own or be granted an easement in the Fan Pier Public Infrastructure Improvements financed in whole or in part by the Bonds following the completion thereof as provided in Section 3.06 hereof.

"Independent" means a person who is not an officer, director or employee of a party to this Agreement, or which is not a partnership, corporation or association having a partner, director, officer, member or substantial stockholder who is an officer, director or employee of a party to this Agreement; provided, however, that the fact that such person is retained regularly by or regularly transacts business with an officer, director or employee of a party to this Agreement shall not make such person an employee within the meaning of this definition.

"Independent Construction Agent" means either (i) an Independent engineer or firm of engineers registered and qualified to practice the profession of engineering under the laws of the Commonwealth and hired by the City in accordance with the Regulations to perform the duties described in Section 3.04 hereof or (ii) with the approval of the Commonwealth, an employee of the City designated by the City to perform the duties described in clause (i) of this definition.

"Infrastructure Assessments" means amounts assessed upon the Assessment Parcels due to a Shortfall as provided in Section 10 of the Act and Article 4 of this Agreement.

"Initial Bond Public Infrastructure Improvements" means such portion of the Fan Pier Public Infrastructure Improvements that are funded from the proceeds of the Initial Bonds.

"Initial Bonds" means the Bonds described in Section 2.01 hereof.

“Initial Bonds Funding Limit” means \$50,000,000.00 multiplied by the quotient derived from the following formula:

$$\frac{\text{Number of Eligible New Jobs at Occupied Project Date}}{1,741}$$

“In-Place Public Infrastructure Improvements” means the Public Infrastructure Improvements described in **Exhibit B-1** hereto.

“Issuer Expenses” means costs and expenses not otherwise funded by the Bonds that are incurred by the Agency in issuing and carrying the Bonds and otherwise in performing its obligations and duties pursuant to the Act, including without limitation the Annual Administrative Fee and all compensation, expenses, indemnities and other charges due the Trustee from time to time pursuant to the Indenture.

“Local Aid” shall have the meaning given to such term in Section 4.03(f).

“Local Infrastructure Development Assistance” shall have the meaning given such term in the Act and as more fully described in Section 4.02 hereof.

“Municipal Liquidity Reserve” means the liquidity reserve established by the City for an Assessment Parcel pursuant to Section 7 of the Act and the Regulations as more fully described in Section 4.06 hereof.

“Net Debt Service” means the Debt Service allocable to a Project Component less any payments previously made to the Commonwealth on account of a Shortfall allocable to any portion of such Debt Service.

“New Revenue” means revenue collected by the Commonwealth from and after the Approval Date as a result of the creation of an Eligible New Job, reduced by the amount of any tax incentives received by Vertex during the applicable period pursuant to an agreement with the Massachusetts Life Sciences Center under Section 5(b) of Chapter 23I of the Massachusetts General Laws, provided that the aggregate amount of reduction on account of such tax incentives shall not exceed \$10,000,000.

“New State Tax Revenues” means any New Revenue, less any Dedicated Revenue, collected by the Commonwealth from: (i) the taxes imposed by Chapter 62 of the General Laws on wages as defined in Section 1 of Chapter 62B of the General Laws and on a partner’s distributive share of earned income of a partnership that is subject to taxation as Part B taxable income in accordance with Section 17 of said Chapter 62; (ii) the excises imposed by Section 2 of Chapter 64H of the General Laws; and (iii) the excises imposed by Section 3 of Chapter 64G of the General Laws, Section 22 of Chapter 546 of the Acts of 1969 and paragraph (a) of Section 9 of Chapter 152 of the Acts of 1997; in each case at rates and other terms and conditions of such taxes and excises in effect on the date of execution of this Agreement.

“Occupied Project Component” shall have the meaning set forth in Section 2.01(e) of this Agreement.

“Occupied Project Date” means the first date on which both Project Components are Occupied Project Components.

“Parcel Owner,” at any time with respect to an Assessment Parcel, means the owner of record for such Assessment Parcel as shown in the records of the Suffolk Registry of Deeds, and shall include each Owner and each successive owner of record during their respective period of ownership; provided that a mortgagee or other person or entity that holds an interest solely to secure performance of an obligation is not a Parcel Owner unless and until such person takes actual possession and records legal title to the entirety of such Assessment Parcel by foreclosure or other proceeding in lieu thereof; as of the date of this Agreement, Assessment Parcel A is owned by the Building A Owner and Assessment Parcel B is owned by the Building B Owner.

“Payment Requisition” means a document, substantially in the form of Exhibit E hereto, to be used by the Developer or the Owners or their respective designees in requesting payment of or reimbursement for Costs of Fan Pier Public Infrastructure Improvements or portions thereof, as provided in Section 3.04.

“Permanent Full-Time Employee” means an individual who: (i) is in an employment relationship which, at its inception, does not have a termination date which is a date certain or which is determined with reference to the completion of some specified scope of work; (ii) works a minimum of 35 hours per week; and (iii) receives employee benefits equal to those provided to other full-time employees of the employer.

“Person” means any natural or corporate person, including bodies politic and corporate, public departments, offices, agencies, authorities, and political subdivisions of the Commonwealth, corporations, trusts, societies, associations, and partnerships and subordinate instrumentalities of anyone or more political subdivisions of the Commonwealth.

“Plans and Specifications” means the plans and specifications for the Fan Pier Public Infrastructure Improvements prepared by or on behalf of the Developer in a manner consistent with the Applicable Project Approvals and approved by the City. The Plans and Specifications for the Vertex Buildings Infrastructure Improvements are listed on the Schedule attached hereto as **Exhibit D**.

“Project Component” means, singly, Building A located on Assessment Parcel A and Building B located on Assessment Parcel B, exclusive of any Fan Pier Public Infrastructure Improvements.

“Project Fund” shall mean the fund so designated in the Indenture.

“Public Infrastructure Improvements” shall have the meaning given such term in the Act.

“Refunding Bonds” shall have the meaning given such term in Section 2.02 hereof.

“Regulations” means Chapter 51.00 of Title 801 of the Code of Massachusetts Regulations (801 CMR 51).

“Retained Jobs” means the jobs represented by all Permanent Full-Time Employees of Vertex in the Commonwealth determined, except as otherwise provided in Section 2.01(d)(iii) and Section 2.02(a)(i) hereof, as of the Approval Date, provided that the parties to this Agreement agree that the number of Retained Jobs as of the Approval Date was 1,343.

“Shortfall” means the amount determined annually by the Department in accordance with Section 4.02 hereof and certified by the Commissioner in the Annual Certification of New State Tax Revenues as the shortfall amount, if any, allocable to a Project Component.

“State Treasurer” means the Treasurer and Receiver General of the Commonwealth.

“Surplus New State Tax Revenues” shall have the meaning given such term in Section 4.02 hereof.

“Trustee” means the trustee under the Indenture and any successor thereto.

“Vertex Buildings Public Infrastructure Improvements” means the Public Infrastructure Improvements described in **Exhibit B-2** hereto.

(b) Except where the context otherwise requires, words importing the singular number shall include the plural number and vice versa, words importing persons shall include firms, associations and corporations and words of the masculine gender shall include correlative words of the feminine and neuter genders.

ARTICLE 2

THE BONDS

Section 2.01 The Initial Bonds.

(a) The Agency shall issue the Initial Bonds upon receipt of a certificate of the Secretary that the conditions provided in Paragraph (d) of this Section 2.01 have been satisfied. The Initial Bonds shall be issued in the aggregate principal amount, shall mature on the date or dates and in the amounts, shall bear interest at the rate or rates, shall be subject to redemption prior to maturity at the redemption price or prices, and shall otherwise bear terms and conditions as shall be approved by the Commonwealth, the City, the Developer and the Agency and set forth in the Indenture.

(b) As provided in the Act and the Indenture, the Initial Bonds shall be payable solely from State Infrastructure Development Assistance paid by the Commonwealth with respect to Debt Service on the Initial Bonds in accordance with the Assistance Contract and shall be secured by a pledge of and security interest in such State Infrastructure Development Assistance and the Agency’s rights to payment of the same and all moneys and securities on deposit in the accounts established within the debt service fund established under the Indenture, in each case subject only to the provisions of the Indenture permitting the application of amounts held thereunder for the purposes and on the terms and conditions set forth in the Indenture.

(c) The proceeds of the Initial Bonds, excluding investment earnings thereon, shall be applied to Costs of the Initial Bond Public Infrastructure Improvements and costs of issuing the Initial Bonds, including without limitation the Bond Issuance Fee, as provided herein and in the Indenture.

(d) Notwithstanding anything herein to the contrary, the parties hereto agree that the issuance of the Initial Bonds shall be subject to the satisfaction of the following conditions:

(i) The Project Components shall be Occupied Project Components;

(ii) Completion of the In-Place Public Infrastructure Improvements and the Vertex Building Public Infrastructure Improvements and acceptance by the City or another Governmental Entity of one or more easements for public access therein in accordance with Section 3.06 hereof;

(iii) Delivery by the Developer of evidence satisfactory to the Secretary that the projected amount of New State Tax Revenues to be collected by the Commonwealth in each Fiscal Year from and after the date of issuance of the Initial Bonds from (x) any Retained Jobs, determined solely for purposes of this Section 2.01(d)(iii) as of such date of issuance and (y) any new job represented by a Permanent Full-Time Employee that Vertex expects to employ in a Commercial Component within the Economic Development District after such date of issuance, plus the cumulative amount of Surplus New State Tax Revenues that are projected to be available to offset any Shortfall in such Fiscal Year, is at least equal to the Debt Service that will be payable on the Initial Bonds in such Fiscal Year;

(iv) The principal amount of the Initial Bonds shall not exceed the Initial Bonds Funding Limit;

(v) The Board of Directors of the Agency shall have given final approval to the issuance of the Initial Bonds;

(vi) The Agency and the Trustee shall have executed and delivered the Indenture and the Commonwealth and the Agency shall have executed and delivered the Assistance Agreement;

(vii) The Municipal Liquidity Reserve shall be funded pursuant to Section 4.06 hereof in the amount applicable to the Initial Bonds;

(viii) Satisfaction of the conditions, if any, to the issuance of the Initial Bonds provided in the Secretary's Certificate; and

(ix) Continued compliance by the Developer and the Owners with the Act and the Regulations.

(e) A Project Component shall be deemed to be an Occupied Project Component hereunder when the Owner of such Project Component certifies to the Secretary and the Agency that construction of the Project Component has been completed as evidenced by the

issuance of a temporary or permanent certificate of occupancy by the City for the office and research space within such Project Component, that Vertex has accepted and is paying rent with respect to such office and research space, and not less than 300 Permanent Full-Time Employees of Vertex are occupying such office and research space. The City shall have a right of review and an opportunity to contest the Owner's certification and shall be given thirty (30) days to inspect the Project Component and review records related to occupancy to confirm that the Project Component is in fact an Occupied Project Component as provided for herein. If the City challenges the Owner's certification, the Commonwealth shall have the right to inspect and make the final decision and certification as to whether or not the Project Component is in fact an Occupied Project Component based on the information that it has been provided by the Owner and the City. Once a Project Component has been certified as an Occupied Project Component, it shall thereafter always be considered an Occupied Project Component regardless of its level of occupancy.

(f) In the event that the amount of Initial Bonds that may otherwise be issued is reduced by the application of subsections 2.01 (d) (iii) or (iv) due to insufficient projected New State Tax Revenues or insufficient Eligible New Jobs at the Occupied Project Date, and at the time of issuance of Additional Bonds the Eligible New Jobs or projected New State Tax Revenues have increased such that the Developer would have qualified for a higher principal amount of Initial Bonds if the requirements of sections 2.01 were applied on such date using such increased amounts, then the difference between such higher principal amount and the actual principal amount of the Initial Bonds at issuance (referred to as the "Potential Make-up Amount") may be taken into account in determining the available amount of Additional Bonds, as provided in Section 2.02.

(g) In the event that the amount of Initial Bonds issued is \$50,000,000, such Initial Bonds will be allocated first to Vertex Buildings Public Infrastructure Improvements, including land and those costs that are required under M.G.L. c. 91, and second to In-Place Public Infrastructure Improvements.

Section 2.02 Additional Bonds; Refunding Bonds.

(a) In addition to the Initial Bonds, upon request of the Secretary, the Agency shall issue one or more additional series of Bonds (herein "Additional Bonds") for the costs of Additional Bond Public Infrastructure Improvements, to fund the Potential Make-up Amount and costs of issuing such Additional Bonds subject to the satisfaction of the following conditions:

(i) Delivery by the Developer of evidence satisfactory to the Secretary that the projected amount of New State Tax Revenues to be collected by the Commonwealth in each Fiscal Year from and after the date of issuance of such Additional Bonds from (x) any Retained Jobs, determined solely for purposes of this Section 2.02(a)(i) as of such date of issuance, and (y) any new job represented by a Permanent Full-Time Employee that Vertex expects to employ in a Commercial Component within the Economic Development District after such date of issuance, plus the cumulative amount of Surplus New State Tax Revenues that are projected to be available to offset any Shortfall in such Fiscal Year, is at least equal to the Debt

Service that will be payable in such Fiscal Year on all Bonds to be outstanding following issuance of such Additional Bonds;

(ii) The Board of Directors of the Agency shall have given final approval for the issuance of such Additional Bonds;

(iii) Execution and delivery by the Commonwealth and the Agency of one or more amendments or supplements to the Assistance Contract providing for the payment of State Infrastructure Development Assistance by the Commonwealth with respect to the Debt Service on such Additional Bonds;

(iv) Execution and delivery by the parties hereto of one or more amendments or supplements to this Agreement setting forth the terms of such Additional Bonds;

(v) Completion by the Developer of such Additional Bond Public Infrastructure Improvements and delivery by the Developer to the City or other applicable Governmental Entity of Plans and Specifications therefor and acceptance by the City or such Governmental Entity of one or more easements for public access in such Additional Bond Public Infrastructure Improvements in accordance with Section 3.06 hereof; and

(vi) The funding of the Municipal Liquidity Reserve in the amount applicable to such Additional Bonds in accordance with Section 4.06 hereof.

(b) The Commonwealth agrees to reserve for a period of five (5) years after the date of the Final Approval sufficient capacity under Section 7(d) of the Act to provide for the issuance of Additional Bonds in a principal amount equal to the difference between the aggregate principal amount of the Initial Bonds and \$50 million. Pursuant to the Final Approval, the approved amount of \$50 million will be held in reserve as follows: (i) the full approved amount of \$50 million through December 31, 2014 and (ii) up to \$20 million through September 27, 2016 if the Initial Bond issue is less than \$50 million.

(c) In addition to the Initial Bonds and any Additional Bonds, upon the request of the Secretary the Agency shall issue one or more additional series of Bonds (herein "Refunding Bonds") for the purpose of refunding any Bonds theretofore issued and outstanding and paying costs of issuing such Additional Bonds, subject to (1) adoption by the Board of Directors of the Agency of an appropriate resolution approving the issuance of such Refunding Bonds and (2), except as otherwise provided herein, the approval of the Owners, the Developer and the City. No approval of the Owners, the Developer or the City shall be required for the issuance of Refunding Bonds unless their issuance would result in an increase in Debt Service accrued or payable in any Fiscal Year or in the aggregate; or an increase in the Annual Administrative Fee; or extend the final maturity of the Bonds; or require the payment of additional Bond Issuance Fees by the City, the Owners, or the Developer or, in the reasonable opinion of the Owners, the Developer or the City, materially adversely affect the obligations of the Owners, the Developer or the City hereunder or under the Indenture or any other instrument or agreement evidencing or securing the Initial Bonds or any Additional Bonds or Refunding Bonds. Upon issuance of any series of Refunding Bonds, (i) the Agency and the Trustee shall execute and deliver and amendment or supplement to the Indenture providing for the issuance of

and security for such Refunding Bonds; (ii) the Commonwealth and the Agency shall execute and deliver an amendment or supplement to the Assistance Contract providing for the payment of State Infrastructure Development Assistance by the Commonwealth with respect to the Debt Service on such Refunding Bonds and reflecting the reduction, if any, in the State Infrastructure Development Assistance payable by the Commonwealth with respect to Debt Service on the Bonds refunded by such Refunding Bonds and the Infrastructure Assessments and Local Infrastructure Development Assistance payable hereunder with respect to such State Infrastructure Development Assistance; (iii) the parties hereto shall execute an amendment or supplement to this Agreement setting forth the terms of such Refunding Bonds; and (iv) the Developer, the Owners and the City shall execute and deliver such other documents, certifications and opinions required by the Commonwealth and the Agency to comply with federal and state laws and regulations.

(d) Additional Bonds and Refunding Bonds, if any, issued by the Agency in accordance with this Section 2.02 shall be issued in the aggregate principal amount, shall mature on the date or dates and in the amounts, shall bear interest at the rate or rates, shall be subject to redemption prior to maturity at the redemption price or prices, and shall otherwise bear terms and conditions as shall be approved by the Commonwealth, the City, the Developer and the Agency and set forth in the Indenture. As provided in the Act, Additional Bonds and Refunding Bonds, if any, shall be payable solely from State Infrastructure Development Assistance paid by the Commonwealth with respect to Debt Service on such Bonds in accordance with the Assistance Contract as amended or supplemented to reflect the issuance of such Bonds and shall be secured by a pledge of and security interest in such State Infrastructure Development Assistance and the Agency's rights to payment of the same as provided in the Act and the Indenture, in each case subject only to the provisions of the Indenture permitting the application of amounts held thereunder for the purposes and on the terms and conditions set forth in the Indenture.

ARTICLE 3

FAN PIER PUBLIC INFRASTRUCTURE IMPROVEMENTS

Section 3.01 Application of Article 3. Notwithstanding anything in this Agreement or the Economic Development Proposal to the contrary, the parties to this Agreement agree that the provisions of this Article 3 shall apply to the Owners, the Developer and to any other person carrying out the development and construction of the Fan Pier Public Infrastructure Improvements and, except as otherwise provided in this Article 3 or the context otherwise requires, the term "Developer" as used in this Article 3 shall mean and include the Owners, the Developer and any such other person or persons. The Owners and the Developer covenant and agree to include in any Construction Contract or other agreement with any such other person or persons such provisions as shall be necessary and appropriate to require such person or persons to comply with the provisions of this Article 3 applicable to such person or persons.

Section 3.02 Funding of Costs.

(a) The Agency shall issue the Initial Bonds and, upon compliance with Section 2.02 hereof, any Additional Bonds in accordance with the Indenture and shall deposit the net proceeds thereof in the funds and accounts provided in the Indenture. Neither the

Commonwealth, the City nor the Agency makes any warranty, express or implied, that the proceeds of the Bonds deposited and held in the Project Fund under the Indenture will be sufficient to pay all of the Costs of the Fan Pier Public Infrastructure Improvements to be financed by the Bonds. The Commonwealth, the City and the Agency shall not be obligated to pay for any Costs of the Fan Pier Public Infrastructure Improvements except from amounts deposited and held in the Project Fund or such similar fund. The Owners further acknowledge that any obligation of the Owners to pay Infrastructure Assessments as provided herein and in the Act is not in any way dependent on the sufficiency of proceeds of the Bonds or other amounts under the Indenture to pay for all of the Costs of the Fan Pier Public Infrastructure Improvements; but such obligation is expressly contingent upon (i) the issuance of the Bonds and (ii) except to the extent that an Event of Default shall have occurred and is continuing and the Commonwealth shall have exercised the remedy provided in Section 6.03(d) hereof, the availability of the proceeds of the Bonds to the Owners or the Developer for such purposes.

(b) The Developer further acknowledges and agrees that any insufficiency of amounts in the Project Fund to pay the Costs of Fan Pier Public Infrastructure Improvements financed by the Initial Bonds or any Additional Bonds, as applicable, shall in no way diminish the obligations of the Developer with respect to the construction of, or contributions for, the Fan Pier Public Infrastructure Improvements to which the Initial Bonds or such Additional Bonds pertain as provided in the Economic Development Proposal and any Applicable Project Approvals.

Section 3.03 Construction of Fan Pier Public Infrastructure Improvements.

(a) All of the Fan Pier Public Infrastructure Improvements shall be constructed by or caused to be constructed by the Developer in substantial conformance with the Economic Development Proposal, in compliance with the Applicable Project Approvals and pursuant to the Plans and Specifications. The Developer shall be solely responsible for awarding and administering all Construction Contracts for the construction of the Fan Pier Public Infrastructure Improvements and the Commonwealth, the City and the Agency shall not have any obligation to award or administer any such Construction Contract or have any liability thereunder. Nothing in this Agreement shall alter, in any respect, any of the requirements of the applicable Project Approvals with respect to the construction of the Fan Pier Public Infrastructure Improvements financed in whole or in part by the Bonds, and, except as the Secretary and the City shall otherwise agree, the Developer shall observe the requirements of the applicable Project Approvals with respect to the construction of such Fan Pier Public Infrastructure Improvements. The Developer shall perform or cause the performance of all of its obligations hereunder and under the Applicable Project Approvals with respect to such Fan Pier Public Infrastructure Improvements and shall conduct all operations with respect to the construction of such Fan Pier Public Infrastructure Improvements in a good, workmanlike and commercially reasonable manner, with the standard of diligence and care normally employed by a duly qualified person in the performance of comparable work and in accordance with generally accepted practices appropriate to the activities undertaken. The Developer shall employ at all times adequate staff or consultants with the requisite experience necessary to administer and coordinate all work related to the design, engineering, acquisition, construction and installation of the Fan Pier Public Infrastructure Improvements financed hereunder.

(b) In performing this Agreement and carrying out the construction of the Fan Pier Public Infrastructure Improvements, the Developer is an independent contractor and not the agent or employee of the Commonwealth, the City or the Agency, and the foregoing shall not be responsible for making any payments to any contractor, subcontractor, agent, consultant, employee or supplier of the Developer. The City and the Commonwealth shall have the right to inspect and monitor the construction of the Fan Pier Public Infrastructure Improvements and may hire the Independent Construction Agent for this purpose. In addition, the City shall hire the Independent Construction Agent subject to the approval of the Commonwealth to inspect the Fan Pier Public Infrastructure Improvements and the construction thereof as provided in Section 3.04 hereof in order to process Payment Requisitions as provided herein. The cost of the Independent Construction Agent shall be paid by the Developer and shall be a Cost eligible for reimbursement hereunder from the proceeds of the Initial Bonds or the Additional Bonds, as applicable. The Commonwealth, the City and the Agency shall have no responsibility as to the adequacy of the completed Fan Pier Public Infrastructure Improvements.

(c) Notwithstanding anything herein or in the Indenture to the contrary, prior to disbursement to the Developer of any amount in the Project Fund allocable to the Initial Bonds or to any Additional Bonds the Developer shall provide evidence to the Secretary and the City of having complied with the competitive procurement process for the selection of a contractor or contractors for the construction of the Fan Pier Public Infrastructure Improvements to be financed thereby that was proposed by the Developer in the Economic Development Proposal, with any modifications to the process that may have been required by the Secretary in his final approval of the Economic Development Proposal. The parties to this Agreement acknowledge that the conditions provided in this Section 3.03(c) have been satisfied with respect to the In-Place Public Infrastructure Improvements and the Vertex Buildings Public Infrastructure Improvements. The Agency and the Trustee may conclusively rely on a certificate of the Secretary that the conditions provided in this Section 3.03(c) have been satisfied with respect to any Additional Infrastructure Improvements financed hereunder.

(d) If and only if the proceeds of a series of Additional Bonds will be used to fund Costs of Additional Bond Public Infrastructure Improvements prior to the completion thereof, prior to the disbursement to the Developer of any amount in the Project Fund allocable to such Additional Bonds, either (i) the Developer shall have caused its contractors for the such Additional Bond Public Infrastructure Improvements to have obtained payment, performance, and lien bonds from providers satisfactory to the Secretary payable to the Developer and the Agency as co-obligees in an amount not less than the amount of the contract between the Developer and contractor to secure the contractors' obligations to complete the construction of such Additional Bond Public Infrastructure Improvements, or (ii) the Developer shall have provided a guarantee to complete such construction in form and substance satisfactory to the Secretary and the City.

Section 3.04 Disbursement of Bond Proceeds.

(a) In order to receive payment or reimbursement for Costs of Fan Pier Public Infrastructure Improvements from the Project Fund under the Indenture, the Developer shall deliver a Payment Requisition for such work to the Trustee (with a copy thereof to the Agency) substantially in the form of **Exhibit E** hereto, together with all attachments and exhibits required

by **Exhibit E** or the Indenture to be included therewith, including without limitation, an appropriately completed and executed AIA form, if applicable, and, except as otherwise provided herein, a certificate and approval of the Independent Construction Agent substantially in the form of **Exhibit F** hereto. The Developer shall also comply with all conditions set forth in the Indenture in connection with the payment or reimbursement for Costs of Fan Pier Public Infrastructure Improvements from the Project Fund.

(b) Upon receipt of a Payment Requisition for payment or reimbursement for Costs of Fan Pier Public Infrastructure Improvements financed by the Bonds, the Independent Construction Agent shall conduct a review in order to (i) verify that the work with respect to the Fan Pier Public Infrastructure Improvement for which payment is requisitioned was completed, (ii) verify that all Applicable Project Approvals pertaining to the construction of any such Fan Pier Public Infrastructure Improvements which has been completed to the date of such Payment Requisition have been received or approved, as applicable, and (iii) verify and approve the Cost of such work specified in such Payment Requisition. The Developer agrees to cooperate with the Independent Construction Agent in conducting each such review and to provide the Independent Construction Agent with any third party quality control testing that was conducted by or on behalf of the Developer on such Fan Pier Public Infrastructure Improvements during the applicable billing period and such additional information and documentation as is reasonably necessary for the Independent Construction Agent to conclude each such review. All fees and expenses of the Independent Construction Agent may be paid or reimbursed from the proceeds of the Bonds.

(c) Within ten (10) business days of receipt of any Payment Requisition requiring the approval of the Independent Construction Agent, the Independent Construction Agent shall (i) execute its certificate and approval of such Payment Requisition and forward the same to the Agency and the Trustee for payment or (ii) in the event the Independent Construction Agent disapproves the Payment Requisition, give written notification to the Developer and the Agency of the Independent Construction Agent's disapproval, in whole or in part, as applicable, of such Payment Requisition, specifying the reasons for such disapproval, in whole or in part, as applicable, of such Payment Requisition, and the additional requirements to be satisfied for approval of such Payment Requisition. If a Payment Requisition seeking reimbursement is approved only in part, the Independent Construction Agent shall specify the extent to which the Payment Requisition is approved and shall deliver such partially approved Payment Requisition and its certificate and approval of such partial payment to the Agency and the Trustee, and any such work shall be processed for partial payment notwithstanding such partial denial.

(d) Within five (5) business days of receipt of a Payment Requisition and, if required by this Section 3.04, approval by the Independent Construction Agent, the Agency shall cause the Trustee to pay to or upon the order of the Developer under the applicable provisions of the Indenture the amount provided in such Payment Requisition, or such lesser amount as provided in paragraph (c) of this Section 3.04, from available moneys in the Project Fund. Any Payment Requisition not paid due to an insufficiency of funds in such fund as herein provided shall be paid in accordance with Section 3.02 of this Agreement.

(e) Upon final payment of all Costs of Fan Pier Public Infrastructure Improvements to be funded from the proceeds of the Initial Bonds or any series of Additional

Bonds, as evidenced by the filing with the applicable Trustee of a certificate of the Developer approved by the Secretary, any balance remaining in the Project Fund under the Indenture shall be applied as provided in such Indenture.

Section 3.05 Insurance Requirements During Construction Period of Fan Pier Public Infrastructure Improvements.

(a) In addition to the insurance requirements, if any, of the Applicable Project Approvals, if and only if the proceeds of a series of Additional Bonds will be used to fund Costs of Fan Pier Public Infrastructure Improvements prior to completion of construction thereof, at all times prior to the final completion of such Fan Pier Public Infrastructure Improvements the Developer shall maintain and deliver to the Commonwealth, the City and the Agency evidence of and keep in full force and effect, or cause the development manager and general contractor(s) for such Fan Pier Public Infrastructure Improvements to maintain and deliver to Commonwealth, the City and the Agency evidence of and keep in full force and effect, not less than the following coverage and limits of insurance: (a) Workers' Compensation and Employer's Liability - Workers' Compensation coverage equal to at least the greater of (i) such limits as are required by law and (ii) \$500,000 per injury, \$500,000 per accident and \$500,000 per disease, and Employer's Liability - limits of at least \$500,000 per occurrence; (b) Comprehensive General Liability - limits of at least \$1,000,000 per occurrence and \$3,000,000 in the aggregate; and (c) Automotive Liability - Combined Single Limit - \$1,000,000. The automobile and general liability policies shall be accompanied by an umbrella policy with a combined limit of \$10,000,000. In addition, the Developer shall cause the architects, engineers and other professionals engaged by the Developer for the design and engineering of such Fan Pier Public Infrastructure Improvements to deliver to the Commonwealth, the City, and the Agency evidence of, and shall require such design professionals to keep in full force and effect while under contract with the Developer, professional liability insurance with limits of at least \$1,000,000 in the aggregate.

(b) All policies of insurance shall include the Commonwealth, the City and the Agency as an additional insured, shall be issued by companies licensed or approved by the Commonwealth's Insurance Commissioner and rated A-VII or better in the most recent edition of Best's Insurance Guide with respect to primary levels of coverage and shall be issued and delivered in accordance with Commonwealth law and regulations.

(c) At or prior to the issuance of any Bonds the proceeds of which will be used to fund Costs of Fan Pier Public Infrastructure Improvements prior to completion of construction thereof, the Developer shall deliver to the Commonwealth, the City and the Agency certificates of insurance for all required policies and endorsements thereto on forms which are acceptable to Commonwealth, the City and the Agency. In addition, all of the Developer's insurance policies shall contain an endorsement providing that written notice shall be given to Commonwealth, the City and the Agency at least 30 calendar days prior to termination, cancellation or reduction of coverage in the policy.

(d) The Developer may effect the insurance coverage provided herein under blanket insurance policies; provided, however, that (i) such policies are written on a per-occurrence basis, (ii) such policies comply in all other respects with the provisions of this

Section 3.05, and (iii) the protection afforded under any such policy shall be no less than that which would be available under a separate policy relating only to this Agreement.

(e) The foregoing requirements as to the types and limits of insurance coverage to be maintained by the Developer are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by the Developer under this Agreement and the Applicable Project Approvals or constitute a representation or warranty by Commonwealth, the City or the Agency that the coverage provided by such insurance is adequate for purposes of the Developer or for any other purpose.

(f) In addition to the insurance requirements of this Section 3.05, if and only if the proceeds of a series of Bonds will be used to fund Costs of Fan Pier Public Infrastructure Improvements prior to completion of construction thereof, the Contractor shall furnish evidence to the Department that, with respect to the operations the Contractor performs, the Contractor carries an umbrella insurance policy providing for a limit of not less than \$10,000,000.

(g) The Contractor's insurance policies required under clause (f) of this Section 3.05 shall name as additional insured those property owners who have granted temporary easements (grantor), the grantor's mortgagee, the grantor's tenant and the grantor's managing agent; and shall, upon request, provide evidence thereof.

Section 3.06 Grant of Easement in Fan Pier Public Infrastructure Improvements Upon Completion.

(a) No disbursement from the Project Fund shall be made for Costs pertaining to the In-Place Public Infrastructure Improvements or the Vertex Buildings Public Infrastructure Improvements until the Developer or the applicable Owner shall grant to the City or another Governmental Entity one or more easements for public access in the In-Place Public Infrastructure Improvements and the Vertex Buildings Public Infrastructure Improvements on terms satisfactory to the City or such other Governmental Entity. Upon completion of any Additional Public Infrastructure Improvements or any discrete phase or portion thereof, or at such other time as shall be satisfactory to the City, the Developer or the applicable Owner shall grant to the City or another designated Governmental Entity one or more easements for public access therein on terms satisfactory to the City or such Governmental Entity.

(b) The Developer or the Owners, as applicable, shall be solely responsible for all costs and expenses related to developing, holding, operating, and maintaining all lands and other properties within the Economic Development District other than the Fan Pier Public Infrastructure Improvements financed in whole or in part by the Bonds. Fan Pier Owners Corporation shall be solely responsible for the costs of operating and maintaining all Fan Pier Public Infrastructure Improvements financed in whole or in part by the Bonds in accordance with the terms of the Declaration. As provided in the Economic Development Proposal, easements granted to the City or any other Governmental Entity in or to the Fan Pier Public Infrastructure Improvements shall impose no obligation upon the grantee to develop, operate or maintain such Fan Pier Public Infrastructure Improvements.

Section 3.07 Equal Opportunity Provisions.

(a) During the performance of this Agreement, the Developer agrees as follows:

(i) The Developer will not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, sexual orientation or handicap. The Developer will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, national origin, sexual orientation, or handicap. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Developer agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause, provided that notice of such information in compliance with federal law shall be deemed compliance with the provisions of this paragraph.

(ii) The Developer will, in all solicitations or advertisements for employees placed by or on behalf of the Developer, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, national origin, sexual orientation, or handicap.

(iii) In the event of the Developer's non-compliance with the nondiscrimination clauses of this Agreement, which non-compliance is in violation of any law or regulation in force in the Commonwealth and binding upon the Developer, the Secretary may: fine the Developer for each instance of non-compliance; refrain from extending any further assistance to the Developer for the Fan Pier Public Infrastructure Improvements until satisfactory assurance of future compliance has been received from the Developer; and refer the case to the Office of the Commonwealth's Attorney General for appropriate legal proceedings.

(b) The Developer hereby agrees that it will incorporate or cause to be incorporated into each Construction Contract, or modification thereof, which is paid for in whole or in part with proceeds of the Bonds, an equal opportunity clause substantially in the following form:

During the performance of this contract, the contractor agrees as follows:

(i) The contractor will not discriminate against any employee or applicant for employment because race, color, religion, sex, national origin, sexual orientation, or handicap. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, national origin, sexual orientation, or handicap. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available

to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(ii) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, national origin, sexual orientation, or handicap.

(iii) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(iv) The contractor will furnish all information and reports reasonably required by the Secretary, and will permit access to his books, records, and accounts by the Secretary for purposes of investigation to ascertain compliance with the provisions of this Agreement and any applicable orders of the Secretary.

(v) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or any applicable orders of the Secretary, this contract may be canceled, terminated, or suspended in whole or in part.

(vi) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (i) through (v) in every subcontract or purchase order, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the Secretary may direct as a means of enforcing such provisions, including sanctions for noncompliance.

(c) The Developer agrees to assist and cooperate actively with the Secretary or his or her designee in obtaining the compliance of contractors and subcontractors with the provisions of this Section and relevant orders of the Secretary, and to furnish the Secretary such information as he or she may reasonably require for the supervision of such compliance, and to otherwise assist the Secretary in the discharge of his or her responsibility for securing compliance. The Developer further agrees that the Developer will refrain from entering into any Construction Contract or modification thereof subject to this Agreement with a contractor debarred from federal or state government construction contracts. In addition, the Developer agrees that if the Developer fails or refuses to comply with these undertakings, the Secretary may take any or all of the following actions: fine the Developer for each instance of non-compliance; refrain from extending any further assistance to the Developer for the Fan Pier Public Infrastructure Improvements until satisfactory assurance of future compliance has been received from such Developer; and refer the case to the Office of the Commonwealth's Attorney General for appropriate legal proceedings.

ARTICLE 4

INFRASTRUCTURE ASSESSMENTS AND LOCAL INFRASTRUCTURE DEVELOPMENT ASSISTANCE

Section 4.01 Infrastructure Assessments for Shortfalls against Project Components.

(a) The Project Components shall be responsible for any Shortfall with respect to Debt Service on the Bonds determined by the Commissioner in accordance with Section 4.02 hereof. In the event of a Shortfall, each Project Component will be severally liable for its share of such Shortfall, with 51% of the Shortfall allocated to Assessment Parcel A and 49% of the Shortfall allocated to Assessment Parcel B. In accordance with Section 10 of the Act and this Article 4, the City shall be obligated to pay Local Infrastructure Development Assistance to reimburse the Commonwealth for the amount of the Shortfall, if any, annually determined by the Commissioner. Local Infrastructure Development Assistance shall constitute a general obligation of the City to which its full faith and credit shall be pledged.

(b) Pursuant to Section 10(d) of the Act each Owner hereby agrees to allow the City to levy and collect an Infrastructure Assessment against its Project Component to the extent a Shortfall has been allocated to such Project Component by the Commissioner. As further provided in Section 10(d) of the Act, the obligation of the City to provide Local Infrastructure Assistance for any such Shortfall is assumed by the Owners and is limited to Infrastructure Assessments levied by the City and amounts drawn from the Municipal Liquidity Reserve in accordance with Section 4.03(d) below, but such assumption and limitation shall not relieve the City from its general obligation set forth in Section 4.01(b) above or preclude the Commonwealth from exercising its rights under Section 4.03(f) below. The foregoing obligations of the Owners shall run with the land and be binding on their respective successors and assigns as Parcel Owners and inure to the benefit of the City and its successors and assigns.

Section 4.02 Annual Certification of New State Tax Revenues.

(a) The Commissioner shall issue an Annual Certification of New State Tax Revenues for the Fiscal Year which includes the Approval Date, and for each Fiscal Year thereafter for as long as the City shall be obligated to provide Local Infrastructure Development Assistance hereunder, by not later than December 1 of the following Fiscal Year. To the extent necessary to permit the Commissioner to make the determination as to New State Tax Revenues and to issue the Annual Certification of New State Tax Revenues by December 1 of such Fiscal Year, each Owner shall provide or shall require Vertex to provide the Annual Data directly to the Commissioner not later than August 31 of such Fiscal Year, provided, however, that the failure to provide such information due to unavailability shall not constitute an Event of Default hereunder. In the event that the Annual Data is not provided to the Commissioner by August 31, the Annual Certification of New State Tax Revenues shall be based on information otherwise available to the Commissioner. Notwithstanding the preceding sentence, the Commissioner may, in his or her sole discretion, waive the August 31 deadline if the Annual Data is provided prior to December 1 with sufficient time for the Commissioner to make the required determination as to

New State Tax Revenues prior to December 1. The Annual Data submitted to the Commissioner will be kept confidential by the Department to the extent required or permitted by law.

(b) Prior to issuing its Annual Certification of New State Tax Revenues, the Commissioner will submit its draft findings to the City, Vertex and each Parcel Owner for review. The City, Vertex and each Parcel Owner will have at least thirty (30) days from the issuance of the draft findings to offer comment. If the City, Vertex or a Parcel Owner disagrees with any part of the draft, it must give a specific and verifiable analysis that leads to the disagreement, and must state its alternate conclusions. The Commissioner will review the comments, and within thirty (30) days of his or her receipt, the Commissioner will notify the City, Vertex and such Parcel Owner whether the Commissioner accepts the comment, accepts the comment in part, or rejects the comment.

(c) If the Commissioner determines that the aggregate amount of New State Tax Revenues generated in any Fiscal Year, plus the amount of Surplus New State Tax Revenues for such Fiscal Year, is less than the aggregate Debt Service for such Fiscal Year, the Commissioner shall declare a Shortfall. For purposes of the foregoing, the term "Surplus New State Tax Revenues" for any Fiscal Year shall mean the sum of (i) the cumulative aggregate amount by which the New State Tax Revenues generated in any prior Fiscal Year exceeded the Debt Service for such Fiscal Year; plus (ii) the aggregate amount of New State Tax Revenues generated from and after the Approval Date until the first Fiscal Year in which Debt Service is payable on the Initial Bonds; less (iii) the amount, if any, determined under clause (i) and clause (ii) which has been previously allocated to a Shortfall or has been applied to prepay an Owners obligation for Infrastructure Assessments pursuant to Section 4.05 hereof.

(d) In the event that the Commissioner's Annual Certification of New State Tax Revenues indicates that there was a Shortfall in the prior Fiscal Year for which the City is required to provide Local Infrastructure Development Assistance, the Commonwealth shall notify the City, Vertex and the Parcel Owners of the amount of such Shortfall and the amount thereof allocable to each Occupied Project Component within ten (10) days following the issuance of the Annual Certification of New State Tax Revenues by the Commissioner.

(e) Notwithstanding the foregoing provisions of this Section 4.02, once the cumulative New State Tax Revenues determined by the Commissioner in accordance with this Section 4.02 equal or exceed an amount equal to the principal amount of the Bonds plus an amount equal to all interest accrued on the Bonds to such date of determination, (i) the City shall have no further obligation to provide Local Infrastructure Development Assistance to the Commonwealth with respect to the Bonds, (ii) no further Infrastructure Assessments shall be levied against the Project Components with respect to such Debt Service, (iii) the Parcel Owners shall have no further obligation to fund a Municipal Liquidity Reserve with respect to such Debt Service, and (iv) the Commissioner will confirm the foregoing determinations in a certificate delivered to the City, Vertex, the Developer and the Owners.

Section 4.03 Collection of Infrastructure Assessments for Shortfalls.

(a) An Infrastructure Assessment against an Assessment Parcel shall be assessed by the City in the first Fiscal Year after the Fiscal Year in which the applicable Shortfall

occurred, and shall be collected and paid to the Commonwealth not later than July 1 of the second Fiscal Year following the Fiscal Year in which the Shortfall occurred.

(b) Within sixty (60) days following receipt of notice of a Shortfall allocable to a Project Component, the Assessor shall levy an Infrastructure Assessment against the applicable Assessment Parcel and shall notify the Collector-Treasurer of the amount due for the Infrastructure Assessment. The Infrastructure Assessment levied on any Assessment Parcel shall not exceed the amount of the Shortfall which is applicable to such Assessment Parcel. Such Infrastructure Assessment shall be payable on a schedule specified by the Collector-Treasurer, but in any event not sooner than thirty (30) days after the Parcel Owner's receipt of notice of the Infrastructure Assessment. Within ten (10) days after the receipt of the Parcel Owner's payment of the Infrastructure Assessment, the City shall remit to the Commonwealth the full amount thereof.

(c) In the event that the Parcel Owner shall fail to pay all or any portion of an Infrastructure Assessment made against an Assessment Parcel pursuant to this Section 4.03 on or prior to the due date provided therefor in Section 4.03(b), the City shall promptly institute such collection procedures as are available to it under law, including the initiation of tax lien foreclosure proceedings, and shall use all lawful means and diligent efforts to collect the full amount of the Infrastructure Assessment.

(d) In the event that the Parcel Owner shall fail to pay all or any portion of an Infrastructure Assessment made against an Assessment Parcel pursuant to this Section 4.03 on or prior to the date such Shortfall is to be reimbursed to the Commonwealth in accordance with Paragraph (a) of this Section 4.03, the City shall withdraw the amount of the deficiency from the Municipal Liquidity Reserve for such Assessment Parcel, first from any cash comprising the Municipal Liquidity Reserve, and in the event such cash is insufficient, by drawing on any letter of credit securing such Municipal Liquidity Reserve in an amount not to exceed the deficiency.

(e) In the event that the City withdraws funds from a Municipal Liquidity Reserve to pay all or any portion of a Shortfall and subsequently collects all or any portion of the Infrastructure Assessment the non-payment of which gave rise to the withdrawal from such Municipal Liquidity Reserve, such collected funds shall be applied first to satisfy all costs and expenses incurred by the City after the date of non-payment in connection with the collection of the Infrastructure Assessment, including without limitation, reasonable fees and expenses of attorneys and other costs of litigation and enforcement proceedings, then to pay to the City all interest accrued after the date of non-payment of the Infrastructure Assessment at the statutory rate, and the balance shall be deposited in the applicable Municipal Liquidity Reserve to satisfy any future Shortfall.

(f) As provided in the Act, to the extent the City shall fail to pay or provide for any or any portion of a Shortfall payable to or for the credit of the Commonwealth on or before the date by which such payment is due in accordance with Paragraph (a) of this Section 4.03, the Secretary may certify the amount that is unpaid to the State Treasurer and the State Treasurer shall reduce amounts distributable or payable by the Commonwealth to the City in accordance with Section 20 of Chapter 59 of the General Laws ("Local Aid") by the unpaid amount. Notwithstanding anything in this Agreement or the Regulations to the contrary, the

parties agree that (i) in no event shall the City's Local Aid be reduced or the City be obligated to provide Local Development Infrastructure Assistance to the extent a Shortfall results from (x) a change in state law reducing the rate of the taxes or excises or increasing the amount of Dedicated Revenues included in the calculation of New State Tax Revenues or (y) tax credits available to the Owner of a Project Component that are granted by the Commonwealth after the Approval Date and (ii) the time permitted to the City for paying any Shortfall shall be extended by the period of time the City has been delayed by the Commonwealth in its efforts to collect Infrastructure Assessments due to a failure by the Commonwealth to meet its obligations with respect to the calculation of Shortfalls.

Section 4.04 Priority of City Lien.

(a) Except as otherwise provided herein, the Infrastructure Assessments levied by the City in accordance with this Article 4 shall be collected and secured in the same manner as property taxes, betterments, and other special assessments owed to the City and shall be subject to the same penalties and to the same lien priority and sale procedures in case of delinquency as is provided in the General Laws for such property taxes, betterments, and special assessments. Liens imposed by the City for the payment of property taxes under Chapter 59 of the General Laws shall have priority in payment over any lien securing payment of any Infrastructure Assessment hereunder. The City may avail itself of such provisions of the General Laws relative to the assessment, apportionment, division, fixing, reassessment, revision, and collection of betterments and other special assessments by cities and towns, and the establishment of liens therefor and interest thereon, as the Collector-Treasurer and the Assessor shall deem necessary and appropriate for purposes of the assessment and collection of Infrastructure Assessments.

(b) Infrastructure Assessments levied by the City in accordance with this Article 4 shall be subject to any rules, regulations, or guidelines promulgated by the Secretary and the Commissioner pursuant to the Act, but shall not otherwise be subject to supervision or regulation by any department, division, commission, board, bureau or agency of the Commonwealth and shall not be subject to the provisions of Sections 20A and 21C of chapter 59 of the General Laws.

Section 4.05 Prepayment of Debt Service. Either Parcel Owner may be released from its obligation hereunder to pay any Infrastructure Assessments for Debt Service allocable to the Project Component owned by such Parcel Owner by paying to the Commonwealth an amount (determined by the Agency) equal to (i) an amount sufficient, together with investment earnings, if any, thereon, to redeem the principal amount of Bonds allocable to such Project Component on the next applicable redemption date thereof, plus all interest and premium, if any, payable upon redemption of such Bonds, less (ii) an amount equal to the Surplus New State Tax Revenues allocable to such Project Component on the date of such payment to the Commonwealth. For purposes of the foregoing, 51% of the Debt Service payable on the Bonds shall be allocable to Building A and 49% of such Debt Service shall be allocable to Building B. Payment shall be mandatory in the case of a sale or lease of a Project Component to a non-taxable, nonprofit or governmental entity that does not enter into a binding agreement with the City to pay future Infrastructure Assessments allocable to the Project Component. Following any optional or mandatory prepayment, the City shall also be released from its obligation to pay Local

Infrastructure Development Assistance with respect to such Bonds and the New State Tax Revenues thereafter allocable to such Project Component shall be treated as Surplus New State Tax Revenues.

Section 4.06 Municipal Liquidity Reserve.

(a) For as long as the City shall be obligated to provide Local Infrastructure Development Assistance for any Bonds, the City shall maintain a Municipal Liquidity Reserve allocable to each Project Component as required by Section 8 of the Act, which shall be funded in accordance with Section 7(c) of the Act and Section 51.12 of the Regulations. The Municipal Liquidity Reserve shall be established at the time of issuance of the Initial Bonds and held by the City as a segregated fund of the City for the benefit of the Commonwealth and shall be funded by the applicable Parcel Owner in whole or in part in cash or by one or more irrevocable, direct pay letters of credit paid for by a Parcel Owner and issued by a bank or other financial institution having a rating of not less than any two of the following: (i) A1 (long-term) and P-1 (short-term) by Moody's, (ii) A+ (long-term) and F-1 (short-term) by Fitch, or (iii) A+ (long-term) and A-1 (short-term) by Standard & Poor's Corporation. Letters of credit provided by a Parcel Owner shall name the Parcel Owner as the account party and the City as the beneficiary. In consideration of the current economy, the Secretary hereby waives the AA rating requirement for the Municipal Liquidity Reserve as set forth in 801 CMR 51.12(7)(b) provided that the ratings described in this 4.06(a) are achieved. The initial aggregate amount of each Municipal Liquidity Reserve shall be equal to twice the maximum annual Debt Service payable in any Fiscal Year on the Initial Bonds allocable to the applicable Project Component. For purposes of the foregoing, 51% of the Debt Service payable on the Bonds shall be allocable to Building A and 49% of such Debt Service shall be allocable to Building B. Upon issuance of any Additional Bonds, each Municipal Liquidity Reserve shall be increased, or one or more additional Municipal Liquidity Reserves shall be established, such that the aggregate amount of such Municipal Liquidity Reserve or Reserves shall be equal to twice the maximum annual Debt Service payable in any Fiscal Year on the Bonds then outstanding allocable to the applicable Project Component. At its option, a Parcel Owner may provide a letter of credit securing multiple Municipal Liquidity Reserves or separate letters of credit, each securing a different Municipal Liquidity Reserve.

(b) To the extent a Municipal Liquidity Reserve shall have been funded in whole or in part with a letter of credit as provided in Paragraph (a) of this Section 4.06, the applicable Parcel Owner may deposit, in substitution for such letter of credit, cash or one or more other letters of credit meeting the requirements set forth in Section 4.06(a). Upon receipt of such cash or substitute letter of credit, the letter of credit previously provided by the applicable Parcel Owner shall be promptly returned by the City to the account party named therein. The obligation to fund the Municipal Liquidity Reserve, in whatever form, shall run with the respective Assessment Parcels. Upon the transfer of any Assessment Parcel, the transferee may (i) provide the City with a substitute letter of credit meeting the requirements set forth in Section 4.06(a) to secure the applicable Municipal Liquidity Reserve, which letter of credit shall be in the same stated amount as the letter of credit then being held by the City to secure such Municipal Liquidity Reserve; or (ii) deposit cash with the City to serve as the Municipal Liquidity Reserve; or (iii) provide a combination of both. Upon receipt of such cash and/or substitute letter of credit, the City shall promptly return any letter of credit securing the transferring Owner's

Municipal Liquidity Reserve to the account party named therein and shall distribute to the transferring Owner any cash remaining in such Municipal Liquidity Reserve.

(c) In the event a letter of credit held for the account of a Municipal Liquidity Reserve shall expire in accordance with its terms prior to the termination of the City's obligation to provide Local Infrastructure Development Assistance with respect to the related Assessment Parcel, not less than thirty (30) days prior to the expiration date of such letter of credit the applicable Parcel Owner shall deposit with the City an extension of such letter of credit or a substitute letter of credit or cash, or any combination of the foregoing, in an amount equal to the stated amount of the expiring letter of credit; otherwise, the City shall draw the full amount of such letter of credit, or the remaining balance if the City has previously drawn on such letter of credit, and deposit the amount drawn in the applicable Municipal Liquidity Reserve.

(d) In the event of a draw on a letter of credit securing a Municipal Liquidity Reserve, such letter of credit shall be reduced by the amount of such draw, and the applicable Parcel Owner shall be under no obligation to increase the amount of such letter of credit or restore or replenish the Municipal Liquidity Reserve for the amount of such draw. In the event that the full amount of the letter of credit is drawn, the letter of credit shall be deemed cancelled and the Parcel Owner of the related Assessment Parcel shall not have any further obligation to fund or secure such Municipal Liquidity Reserve.

(e) The City shall provide the applicable Parcel Owner written notice of any draw on a letter of credit on the same day as the draw is made.

(f) When the City's obligation to provide Local Infrastructure Development Assistance with respect to an Assessment Parcel has terminated as provided in Section 4.02(e) or Section 4.05 hereof, the City shall within ten (10) business days thereafter return any letter of credit securing the Municipal Liquidity Reserve for such Assessment Parcel to the account party named therein and shall distribute any money remaining in such Municipal Liquidity Reserve to the Parcel Owner of the applicable Assessment Parcel, less any unreimbursed third party costs incurred by the City in the levy, collection and enforcement of Infrastructure Assessments with respect to such Assessment Parcel.

ARTICLE 5

REPRESENTATIONS, WARRANTIES AND COVENANTS

Section 5.01 Representations, Covenants, and Warranties of the Commonwealth. The Commonwealth represents, covenants, and warrants, solely on behalf of itself and not on behalf of any other party hereto, for the benefit of the other parties to this Agreement, that it has taken all necessary action and has complied with all provisions of the Constitution of the Commonwealth and the Acts required to make this Agreement the valid obligation of the Commonwealth which it purports to be; and, when executed and delivered by the parties hereto, this Agreement will constitute a valid and binding agreement of the Commonwealth enforceable in accordance with its terms, except as enforceability may be subject to the exercise of judicial discretion in accordance with general equitable principles and to applicable bankruptcy,

insolvency, reorganization, moratorium and other laws for the relief of debtors heretofore or hereafter enacted to the extent that the same may be constitutionally applied.

Section 5.02 Representations, Covenants, and Warranties of the City and the Agency. Each of the City and the Agency, as applicable, represents, covenants, and warrants, solely on behalf of itself and not on behalf of any other party hereto, for the benefit of the other parties to this Agreement, that (i) it is a body politic and corporate and political subdivision or public instrumentality of the Commonwealth, as applicable, established under the laws of the Commonwealth, with the power under and pursuant to the Act to execute and deliver this Agreement and to perform its obligations hereunder; and (ii) it has taken all necessary action and has complied with all provisions of the Act and other applicable laws of the Commonwealth required to make this Agreement the valid obligation of the City or the Agency, as applicable, which it purports to be; and, when executed and delivered by the parties hereto, this Agreement will constitute a valid and binding agreement of the City or the Agency, as applicable, enforceable in accordance with its terms, except as enforceability may be subject to the exercise of judicial discretion in accordance with general equitable principles and to applicable bankruptcy, insolvency, reorganization, moratorium and other laws for the relief of debtors heretofore or hereafter enacted to the extent that the same may be constitutionally applied.

Section 5.03 Representations, Covenants, and Warranties of the Developer and the Owners. Each of the Developer, the Parcel A Owner and the Parcel B Owner represents, covenants, and warrants, solely on behalf of itself and not on behalf of any other party hereto, for the benefit of the other parties to this Agreement, as follows:

(a) Each of the Developer, the Parcel A Owner and the Parcel B Owner is duly organized and validly existing under the laws of the state in which it was organized, is in compliance with all applicable laws of such state, and has the power and authority to own its properties and assets and to carry on its business as now being conducted and as contemplated by this Agreement.

(b) Each of the Developer, the Parcel A Owner and the Parcel B Owner has full legal right, power, and authority to enter into this Agreement, carry out its obligations hereunder, and carry out and consummate all transactions contemplated by this Agreement, and, to the best of their respective knowledge, has complied with the applicable provisions of the laws of the Commonwealth in all matters relating to such transactions.

(c) By proper action, each of the Developer, the Parcel A Owner and the Parcel B Owner has duly authorized the execution, delivery, and due performance of this Agreement, and this Agreement constitutes a legal, valid, and binding obligation of the Developer, the Parcel A Owner and the Parcel B Owner, respectively, enforceable in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, or other laws affecting creditors' remedies generally or the application of equitable principles and by the exercise of judicial discretion in appropriate cases.

(d) The execution and delivery of this Agreement and the consummation of the transactions herein contemplated by each of the Developer, the Parcel A Owner and the Parcel B Owner will not violate any provision of law, any order of any court or other agency of

government, or any indenture, material agreement, or other instrument to which each of the Developer, the Parcel A Owner and the Parcel B Owner is now a party or by which it or any of its properties or assets is bound, or be in conflict with, result in a breach of, or constitute a default (with due notice or the passage of time or both) under any such indenture, agreement, or other instrument, or result in the creation or imposition of any prohibited lien, charge, or encumbrance of any nature whatsoever upon any of the respective properties or assets of the Developer, the Parcel A Owner and the Parcel B Owner.

(e) There are no pending or, to the best of the knowledge of each of the Developer, the Parcel A Owner and the Parcel B Owner, threatened actions, suits, or proceedings before any court, arbitrator or governmental or administrative body or agency which may materially adversely affect the properties, business or condition, financial or otherwise, of the Developer, the Parcel A Owner and the Parcel B Owner.

Section 5.04 Tax Certificates. If any series of the Bonds is issued by the Agency with terms intended to qualify the interest thereon for exclusion from gross income of the holders thereof for federal income tax purposes (in this Section 5.04 referred to as "Tax Exempt Bonds"), the Commonwealth, the City, the Developer and the Owners covenant and agree to comply with the following provisions:

(i) The Commonwealth, the City, the Developer and the Owners acknowledge that the Agency expects to deliver on the date of issuance of the Tax Exempt Bonds a certificate (such certificate, as it may be amended and supplemented from time to time, being referred to herein as the "Agency Tax Certificate") containing covenants and agreements designed to satisfy the requirements of Sections 103 and 141 through 150, inclusive, of the Internal Revenue Code of 1986, as amended, and income tax regulations issued thereunder, and that states the Agency's reasonable expectations as to relevant facts, estimates and circumstances relating to the use of the proceeds of such Tax Exempt Bonds or of any monies, securities or other obligations on deposit to the credit of any of the funds and accounts created by the Indenture or otherwise that may be deemed to be proceeds of such Tax Exempt Bonds within the meaning of Section 148 of the Code (collectively, the "Proceeds"). At or prior to the date of issuance of the Tax Exempt Bonds, the Commonwealth, the City, the Developer and the Owners, upon the request of the Agency, each agree to execute and deliver to the Agency a tax certificate in form and substance satisfactory to the Agency containing such covenants and agreements regarding the use of such Proceeds, and setting forth such facts and estimates, as the Agency reasonably considers necessary to enable it to execute and deliver the Agency Tax Certificate. Such facts and estimates will be based on its reasonable expectations on the date of issuance of such Tax Exempt Bonds and will be, to the best of the knowledge of the officers of the Commonwealth, the City, the Developer and the Owners executing such tax certificates, true, correct and complete as of that date. The Commonwealth, the City, the Developer and the Owners further agree to make reasonable inquiries to ensure such truth, correctness and completeness.

(ii) The Commonwealth, the City, the Developer and the Owners will not make any use or investment of the proceeds of the Tax Exempt Bonds (including but not limited to, the use of any Fan Pier Public Infrastructure Improvements funded thereby) that would cause any of the covenants and agreements contained in the tax certificate executed and

delivered by such party to be violated or that would otherwise have an adverse effect on the exclusion of interest payable on such Tax Exempt Bonds from gross income for federal income tax purposes.

(iii) The Commonwealth, the City, the Developer and the Owners acknowledge that in the event of an examination, inquiry or related action by the Internal Revenue Service with respect to the Tax Exempt Bonds or the exclusion of interest thereon from the gross income of the holders thereof for federal income tax purposes, the Agency may be treated as the responsible party, and the Commonwealth, the City, the Developer and the Owners agree to respond promptly and thoroughly to the satisfaction of the Agency to such examination, inquiry or related action on behalf of and at the direction of the Agency.

Section 5.05 Indemnification.

(a) Each of the Developer and the Owners, regardless of any agreement to maintain insurance, will indemnify the Commonwealth, the City and the Agency, and their respective officers, directors, employees and agents against (a) any and all claims by any person (other than an indemnified party) related to the participation of Commonwealth, the City and the Agency in the transactions contemplated by this Agreement, including without limitation claims arising out of (i) the Developer's or such Owner's nonpayment under any contract between the Developer or such Owner and its consultants, engineers, advisors, contractors, subcontractors and suppliers, or any claims of persons employed by the Developer, an Owner or its agents to construct the Fan Pier Public Infrastructure Improvements; (ii) any accident, injury or damage to any person occurring in or about or as a result of any Fan Pier Public Infrastructure Improvements during the construction thereof and prior to the grant of an easement in such Fan Pier Public Infrastructure Improvements to the City or other applicable Governmental Entity, provided that no indemnification by the Developer or an Owner is provided hereunder to any indemnified party for claims arising from the willful misconduct of such indemnified party; and (iii) any breach by the Developer or an Owner of their respective obligations under this Agreement; and (b) all actual out-of-pocket costs, counsel fees, expenses or liabilities reasonably incurred in connection with any such claim or any action or proceeding brought thereon, provided that in no event shall this indemnity extend to special, consequential or punitive damages. In case any action or proceeding is brought against the Commonwealth, the City or the Agency, as the case may be, by reason of any such claim, the Developer or the applicable Owner will defend the same at its expense upon notice from the Commonwealth, the City or the Agency, as the case may be, and the Commonwealth, the City or the Agency, as the case may be, will cooperate with the Developer and such Owner, at the expense of the Developer or the Owner, in connection therewith. This indemnification shall survive the termination of this Agreement.

(b) Notwithstanding any contrary provision in this Agreement, the Commonwealth, the City and the Agency shall have the right to take any action not prohibited by law or make any decision not prohibited by law with respect to proceedings for indemnity against the liability of the Commonwealth, the City or the Agency and its officers, directors, employees and agents and for collection or reimbursement of moneys due to it under this Agreement for its own account. The Commonwealth, the City and the Agency may enforce its rights under this Agreement by legal proceedings for the specific performance of any obligation

contained herein or for the enforcement of any other legal or equitable remedy, and may recover damages caused by any breach by the Developer or either of the Owners of their respective obligations to it under this Agreement, including court costs, reasonable attorney's fees and other actual out-of-pocket costs and expenses incurred in enforcing such obligations.

Section 5.06 Further Assurances. Each of the parties to this Agreement covenants and agrees to adopt, deliver, execute, and make any and all further assurances, instruments, and resolutions as may be reasonably necessary or proper to carry out the intention or to facilitate the performance hereof and for the better assuring and confirming unto the other parties hereto of the respective rights and benefits provided to each of them herein.

ARTICLE 6

TERMINATION

Section 6.01 Termination Upon Satisfaction of Assessment Obligation or Full Repayment of Bonds. This Agreement shall terminate and expire, and be of no further force and effect, upon the earlier to occur of (i) all obligations of the Parcel Owners for payment of any Infrastructure Assessments with respect to any Bonds and all obligations of the City for the payment of any Local Infrastructure Development Assistance with respect to such Bonds shall have been fully satisfied and discharged in accordance herewith and the Act and (ii) full repayment of the principal, interest and premium, if any, on such Bonds. Notwithstanding such termination, the obligations of the Developer and the Owners set forth in Section 5.05 hereof shall survive such termination.

Section 6.02 Mutual Consent. This Agreement may be terminated by the mutual, written consent of the Commonwealth, the Agency, the City, the Developer and the Owners.

Section 6.03 Commonwealth Election to Terminate.

(a) The following events (each an "Event of Default") shall constitute grounds for the Commonwealth, at its option, to terminate this Agreement:

(i) The Developer, at any time prior to the completion of the Fan Pier Public Infrastructure Improvements, or either of the Owners shall voluntarily file for reorganization or other relief under any federal, Delaware or Commonwealth bankruptcy or insolvency law.

(ii) The Developer at any time prior to the completion of the Fan Pier Public Infrastructure Improvements or, either of the Owners have any involuntary bankruptcy or insolvency action filed against it, or shall suffer a trustee in bankruptcy or insolvency or receiver to take possession of its assets, or shall suffer an attachment or levy of execution to be made against the property it owns within the Economic Development District unless, in any of such cases, such circumstance shall have been terminated or released within ninety (90) days thereafter.

(iii) The Developer or the Owners shall breach any material covenant or default in the performance of any material obligation hereunder and such breach or default is not cured as provided below.

(iv) The Developer or the Owners shall at any time challenge the validity of any of the Bonds or the levy of any Infrastructure Assessments on any Assessment Parcel, other than on grounds that such levy was not made in accordance with the terms of the Act and this Agreement.

(b) If the Commonwealth proposes to terminate this Agreement, the Commonwealth shall first notify the Developer, the Owners and Vertex of the grounds for such termination and allow the Developer and the Owners a minimum of 30 days to eliminate or mitigate to the satisfaction of the Commonwealth the grounds for such termination. Such period shall be extended so long as the Developer or such Owners, to the reasonable satisfaction of the Commonwealth, are proceeding with diligence to eliminate or mitigate such grounds for termination. If at the end of such period (and any extension thereof), as determined solely by the Commonwealth, the Developer or the Owners have not eliminated or completely mitigated such grounds to the satisfaction of the Commonwealth, the Commonwealth may then terminate this Agreement by written notice to the Developer, the Owners and Vertex; provided, however, that the giving of such notice or the receipt thereof shall not be a condition precedent to such termination. In the event of the termination of this Agreement, the Developer is entitled to reimbursement for work related to any Fan Pier Public Infrastructure Improvements undertaken prior to the termination date of this Agreement solely from the Project Fund under the Indenture according to the terms and conditions set forth in this Agreement.

(c) Notwithstanding the foregoing, so long as any Event of Default has occurred, notice of which has been given by the Commonwealth to the Developer and the Owners, and such Event of Default has not been cured or otherwise eliminated by the Developer or the Owners, the Commonwealth may in its discretion cease approving payments for the Costs of Fan Pier Public Infrastructure Improvements under Article 4 hereof, provided that the Developer may receive payment of the Costs of any Fan Pier Public Infrastructure Improvement that was completed at the time of the occurrence of the Event of Default upon submission of a Payment Requisition and compliance with the other applicable requirements of this Agreement.

(d) In the event that this Agreement is terminated by the Commonwealth as a result of the occurrence of an Event of Default by the Developer or the Owners hereunder, in addition to other remedies available to it, the Commonwealth may apply all amounts then or thereafter on deposit in the Project Fund to redeem Bonds under the Indenture, and the Developer and the Owners shall have no claim or right to any further payments for the Costs of Fan Pier Public Infrastructure Improvements hereunder, except as otherwise may be provided upon the mutual written consent of the Commonwealth and the Developer.

(e) Notwithstanding anything herein to the contrary, termination of this Agreement by the Commonwealth as provided in this Section 6.03 shall not affect the obligation of the applicable Parcel Owners to provide Annual Data to the Commissioner, to the extent such obligations remain outstanding as provided herein; or the obligation of the City to pay or provide for Local Infrastructure Development Assistance for any Shortfall attributable to Debt Service

that is allocable to a Project Component as provided in Section 4.03 hereof; or the obligation of the City to levy Infrastructure Assessments in accordance with Article 4 hereof with respect to any such Shortfall; or the obligation of the applicable Parcel Owners to pay such Infrastructure Assessments in accordance with their terms.

Section 6.04 Court Proceedings. If an Event of Default occurs hereunder, the Commonwealth may enforce the provisions of this Agreement, and may do so with the City and the Agency, by appropriate legal proceedings for the specific performance of any covenant, obligation or agreement of the Developer or the Owners contained herein, or for the enforcement of any other appropriate legal or equitable remedy, and may recover damages caused by any material breach by the Developer or the Owners, respectively, of the provisions of this Agreement, including (to the extent this Agreement may lawfully and expressly provide) court costs, reasonable attorneys' fees and other actual out-of-pocket costs and expenses reasonably incurred in enforcing the obligations of the Developer or the Owners, as the case may be, hereunder, but shall in no event include incidental, special, punitive or consequential damages. This Agreement hereby expressly provides for the payment of court costs, reasonable attorneys' fees and other actual out-of-pocket costs and expenses reasonably incurred by the Commonwealth, the City and the Agency in enforcing the obligations of the Developer or the Owners hereunder.

Section 6.05 Force Majeure. Whenever performance is required of a party hereunder, that party shall use all due diligence and take all necessary measures in good faith to perform, but if completion of performance is delayed by reasons of floods, earthquakes, or other acts of God, war, terrorism, civil commotion, riots, strikes, picketing, or other labor disputes, damage to work in progress by casualty, material shortages, or by other cause beyond the reasonable control of the party (financial inability excepted), then the specified time for performance shall be extended by the amount of the delay actually so caused.

ARTICLE 7

MISCELLANEOUS

Section 7.01 Limited Liability of Parties. Each of the Commonwealth, the Agency, the City, the Developer, and the Owners agrees that any and all obligations of the Commonwealth, the Agency, the City, the Developer, and the Owners arising out of or related to this Agreement are special and limited obligations of such party and such party's obligations to make any payments hereunder are restricted entirely to the moneys described herein and from no other source. The obligations of the Developer, each Owner and each future Parcel Owner (each, a "Developer Party") shall be several and no Developer Party shall be responsible for any action or breach of this Agreement by any other Developer Party. No member of the governing board or body of the Commonwealth, the Agency, the City, the Developer or the Owners, or any staff member, employee, agent, general partner, limited partner, member, manager, officer, director, shareholder or agent of any party, shall incur any liability hereunder to any other party in their individual capacities by reason of their actions hereunder or execution hereof.

Section 7.02 Responsibility of the Governmental Parties. In performing its obligations under this Agreement, the Commonwealth, the City and the Agency (collectively, the

“Governmental Parties”) and their officers, directors, employees and agents shall be entitled to the advice of counsel (who may be counsel for any party) and shall not be liable for any action taken or omitted to be taken in good faith in reliance on such advice. They may rely conclusively on any communication or other document furnished to them under this Agreement and reasonably believed by them to be genuine. No such person shall be liable for any action (i) taken by it in good faith and reasonably believed by it to be within the discretion or powers conferred upon it, or (ii) in good faith omitted to be taken by it because reasonably believed to be beyond the discretion or powers conferred upon it, (iii) taken by it pursuant to any direction or instruction by which it is governed under this Agreement or (iv) omitted to be taken by it by reason of the lack of direction or instruction required for such action, nor shall it be responsible for the consequences of any error of judgment reasonably made by it. The Governmental Parties shall in no event be liable for the application or misapplication of funds, or for other acts or defaults by any person except its own officers, directors and employees. When any consent or other action by a Governmental Party is called for by this Agreement, it may defer such action pending such investigation or inquiry or receipt of such evidence, if any, as it may require in support thereof. No permissive right or power to act shall be construed as a requirement to act; and no delay in the exercise of any such right or power shall affect the subsequent exercise of that right or power.

Section 7.03 Audit. The Commonwealth, the City, and/or the designees of each shall have the right, during normal business hours and upon the giving of prior written notice to the Developer or the Owners, with a copy to Vertex, to review all books and records of the Developer or the Owners pertaining to Costs incurred by the Developer with respect to any of the Fan Pier Public Infrastructure Improvements which have been paid or reimbursed from the proceeds of the Bonds.

Section 7.04 Actions by Commonwealth or City. Except as otherwise expressly provided herein, whenever any provision of this Agreement requires or permits any action to be taken or notice or consent to be given by the Commonwealth or the City, such action, notice or consent shall be deemed sufficiently taken or given for all purposes of this Agreement if taken or given for the Commonwealth by the Secretary and for the City by the Collector-Treasurer.

Section 7.05 Notices. Any notice, payment or instrument required or permitted by this Agreement to be given or delivered to one or more of the parties to this Agreement shall be given or delivered to all of the parties to this Agreement. A notice shall be deemed to have been received on the same day when personally delivered, or transmitted by electronic mail or facsimile transmission with evidence of transmission; one (1) business day after deposit with FedEx or U.S. Express Mail or other nationally recognized overnight courier with a one-day service and tracking receipt, or three (3) business days following deposit of the same in any United States Post Office, registered or certified mail, postage prepaid, addressed to the parties to this Agreement, and their designees, and to Vertex, as applicable, as follows:

Commonwealth: Commonwealth of Massachusetts
Secretary of Administration and Finance
State House, Room 373
Boston, MA 02133
Attention: Jay Gonzalez, Secretary of Administration and Finance
with copies to:

Edwards Wildman Palmer LLP
111 Huntington Avenue at Prudential Center
Boston, MA 02199
Attention of: Kris A. Moussette, Esq.

City: City of Boston
Boston City Hall
1 City Hall Square
Boston, MA 02201-2013
Attention: Collector-Treasurer

with copies to:

City of Boston
Boston City Hall
1 City Hall Square
Boston, MA 02201-2013
Attention: Commissioner of Assessing

City of Boston
Boston City Hall
1 City Hall Square
Boston, MA 02201-2013
Attention: Corporation Counsel

Boston Redevelopment Authority
1 City Hall Square
Boston, MA 02201-2013
Attention: E. Renee LeFevre, Esq.

Edwards Wildman Palmer LLP
111 Huntington Avenue at Prudential Center
Boston, MA 02199
Attention of: Kris A. Moussette, Esq.

Agency: Massachusetts Development Finance Agency
160 Federal Street
Boston, MA 02110
Attention: Senior Vice President, Investment Banking, with a
copy to Deputy General Counsel

Developer: Fan Pier Development LLC
c/o The Fallon Company LLC
One Marina Park Drive
Suite 1500
Boston, MA 02210
Attention: Joseph F. Fallon

And to:

c/o Cornerstone Real Estate Advisers LLC
180 Glastonbury Boulevard, Suite 401
Glastonbury, Connecticut 06033
Attention: Michael Zammitti, Managing Director

Owners: Fifty Northern Avenue LLC
c/o The Fallon Company, LLC
One Marina Park Drive
Suite 1500
Boston, MA 02210
Attention: Joseph F. Fallon

And to:

c/o Cornerstone Real Estate Advisers LLC
180 Glastonbury Boulevard, Suite 401
Glastonbury, Connecticut 06033
Attention: Michael Zammitti, Managing Director

Eleven Fan Pier Boulevard LLC
c/o The Fallon Company, LLC
One Marina Park Drive
Suite 1500
Boston, MA 02210
Attention: Joseph F. Fallon

And to:

c/o Cornerstone Real Estate Advisers LLC
180 Glastonbury Boulevard, Suite 401
Glastonbury, Connecticut 06033
Attention: Michael Zammitti, Managing Director

With additional required copies to Developer's and Owners' counsel:

Choate, Hall & Stewart LLP
Two International Place
Boston, MA 02110
Attention: James R. Shea, Esq.

And to:

DLA Piper US LLP
33 Arch Street, 26th Floor
Boston, Massachusetts 02110
Attention: John E. Rattigan, Jr., Esq.

Vertex:

Prior to Occupied Project Date:

Vertex Pharmaceuticals Incorporated
130 Waverly Street
Cambridge, MA 02139-4211
Attention: Alfred Vaz, Jr., Senior Vice President

After Occupied Project Date:

Vertex Pharmaceuticals Incorporated
11 Fan Pier Boulevard
Boston, MA 02210
Attention: Alfred Vaz, Jr., Senior Vice President

And to:

Bowditch & Dewey, LLP
175 Crossing Boulevard, Suite 500
Framingham, MA 01702
Attn: Paul C. Bauer, Esq.

Each party to this Agreement or Vertex may change its address or addresses for delivery of notice by delivering written notice of such change of address to the other parties.

Section 7.06 Severability. If any non-material part of this Agreement is held to be illegal or unenforceable by a court of competent jurisdiction, the remainder of this Agreement shall be given effect to the fullest extent possible.

Section 7.07 Successors and Assigns.

(a) This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto.

(b) Except as provided in this subsection, this Agreement may not be assigned in whole or in part by the Developer without the prior written consent of the Commonwealth and the City, which consent shall not be unreasonably withheld or delayed. Any such assignment shall be in writing, shall clearly identify the scope of the rights or obligations assigned, and the rights and obligations, if any, retained by the assignor, and shall not be effective until approved (if required) in writing by the Commonwealth and the City. Notwithstanding the foregoing, such consent shall not be required with respect to any assignment by the Developer to an entity controlling, controlled by or under common control with the Developer, or the Developer's successor by merger or acquisition of all or substantially all of the assets of the Developer.

(c) Except as provided in this subsection, this Agreement may not be assigned in whole or in part by an Owner without the prior written consent of the Commonwealth and the City, which consent shall not be unreasonably withheld or delayed. Any such assignment shall be in writing, shall clearly identify the scope of the rights or obligations assigned, and the rights and obligations, if any, retained by the assignor, and shall not be effective until approved (if required) in writing by the Commonwealth and the City. Notwithstanding the foregoing, such consent shall not be required (i) with respect to any assignment by an Owner to an entity controlling, controlled by or under common control with the Owner, or the Owner's successor by merger or acquisition of all or substantially all of the assets of the Owner or (ii) in connection with a sale or transfer of an Assessment Parcel, if simultaneously therewith the buyer or transferee of such Assessment Parcel has complied with its obligations under Section 4.06(b) hereof with respect to any then-applicable Municipal Liquidity Reserve and assumes in writing all of the Owner's other obligations hereunder.

Section 7.08 Waiver. Failure by a party to insist upon the strict performance of any of the provisions of this Agreement by any other party, or the failure by a party to exercise its rights upon the default of any other party, shall not constitute a waiver of such party's right to insist and demand strict compliance by such other party with the terms of this Agreement thereafter.

Section 7.09 Merger. No other agreement, statement, or promise made by any party or any employee, officer, or agent of any party with respect to any matters covered hereby that is not in writing and signed by all the parties to this Agreement shall be binding.

Section 7.10 Parties in Interest. Nothing in this Agreement, expressed or implied, is intended to or shall be construed to confer upon or to give to any person or entity other than the Commonwealth, the Agency, the City, the Developer, and the Owners any rights, remedies, or claims under or by reason of this Agreement or any covenants, conditions, or stipulations hereof; and all covenants, conditions, promises, and agreements in this Agreement contained by or on behalf of the Commonwealth, the Agency, the City, the Developer, or the Owners shall be for the sole and exclusive benefit of the Commonwealth, the Agency, the City, the Developer, and the Owners.

Section 7.11 Amendment. This Agreement may be amended, in a manner consistent with the Act, by written amendment or supplement hereto executed by the Commonwealth, the Agency, the City, the Developer, and the Owners.

Section 7.12 Article and Section Headings, Gender, and References. The headings or titles of the several articles and sections hereof and the table of contents appended hereto shall be solely for convenience of reference and shall not affect the meaning, construction, or effect hereof, and words of any gender shall be deemed and construed to include all genders. All references herein to "Articles," "Sections," and other subdivisions or clauses are to the corresponding articles, sections, subdivisions, or clauses hereof; and the words "hereby," "herein," "hereof," "hereto," "herewith," "hereunder," and other words of similar import refer to this Agreement as a whole and not to any particular article, section, subdivision, or clause hereof.

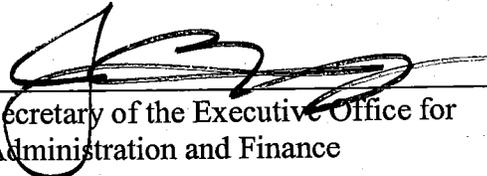
Section 7.13 Effective Date. This Agreement shall become effective as of the date first written above.

Section 7.14 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original.

Section 7.15 Governing Law. The provisions of this Agreement shall be governed by the laws of The Commonwealth of Massachusetts applicable to contracts made and performed in the Commonwealth, and the parties hereto agree that Massachusetts courts shall have sole jurisdiction over any actions at law or in equity arising out of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first-above written.

THE COMMONWEALTH OF
MASSACHUSETTS

By: 
Secretary of the Executive Office for
Administration and Finance

CITY OF BOSTON

By: _____
Thomas M. Menino, Mayor

Approved as to Form:

By: _____
William F. Sinnott, Corporation Counsel

By: _____
Meredith Weenick, Collector-Treasurer

MASSACHUSETTS DEVELOPMENT FINANCE
AGENCY

By: _____
Its:

FAN PIER DEVELOPMENT LLC
By: Cornerstone Real Estate Advisers, LLC,
Manager

By: _____
Its:

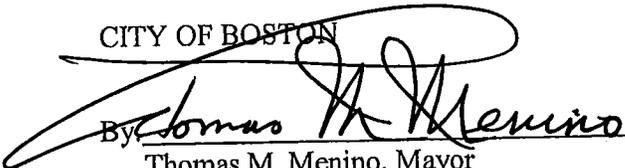
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IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first-above written.

THE COMMONWEALTH OF
MASSACHUSETTS

By: _____
Secretary of the Executive Office for
Administration and Finance

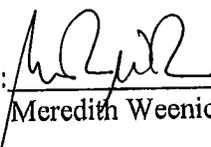
CITY OF BOSTON

By:  _____
Thomas M. Menino, Mayor

Approved as to Form:

By:  _____
William F. Sinnott, Corporation Counsel

anc

By:  _____
Meredith Weenick, Collector-Treasurer

MASSACHUSETTS DEVELOPMENT FINANCE
AGENCY

By: _____
Its:

FAN PIER DEVELOPMENT LLC
By: Cornerstone Real Estate Advisers, LLC,
Manager

By: _____
Its:

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THE COMMONWEALTH OF
MASSACHUSETTS

By: _____
Secretary of the Executive Office for
Administration and Finance

CITY OF BOSTON

By: _____
Thomas M. Menino, Mayor

Approved as to Form:

By: _____
William F. Sinnott, Corporation Counsel

By: _____
Meredith Weenick, Collector-Treasurer

MASSACHUSETTS DEVELOPMENT FINANCE
AGENCY

By: Laura J. Canter
Its: **Laura L. Canter**
Executive Vice President

FAN PIER DEVELOPMENT LLC
By: Cornerstone Real Estate Advisers, LLC,
Manager

By: _____
Its:

Section 7.15 Governing Law. The provisions of this Agreement shall be governed by the laws of The Commonwealth of Massachusetts applicable to contracts made and performed in the Commonwealth, and the parties hereto agree that Massachusetts courts shall have sole jurisdiction over any actions at law or in equity arising out of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first-above written.

THE COMMONWEALTH OF
MASSACHUSETTS

By: _____
Secretary of the Executive Office for
Administration and Finance

CITY OF BOSTON

By: _____
Thomas M. Menino, Mayor

Approved as to Form:

By: _____
William F. Sinnott, Corporation Counsel

By: _____
Meredith Weenick, Collector-Treasurer

MASSACHUSETTS DEVELOPMENT FINANCE
AGENCY

By: _____
Its:

FAN PIER DEVELOPMENT LLC
By: Cornerstone Real Estate Advisers, LLC,
Manager

By: Linda C. Houston
Its:

Linda C. Houston
Vice President

FIFTY NORTHERN AVENUE LLC

By: 50 Northern Avenue Member LLC,
its sole member

By: Massachusetts Mutual Life Insurance
Company, a member

By: Cornerstone Real Estate Advisers
LLC, its authorized agent

By: *Linda C. Houston*
Name: **Linda C. Houston**
Title: **Vice President**

ELEVEN FAN PIER BOULEVARD LLC,

By: 11 Fan Pier Boulevard Member LLC,
its sole member

By: Massachusetts Mutual Life Insurance
Company, a member

By: Cornerstone Real Estate Advisers
LLC, its authorized agent

By: *Linda C. Houston*
Name: **Linda C. Houston**
Title: **Vice President**