

RECORDING REQUESTED BY:

City of Redondo Beach

WHEN RECORDED MAIL TO:

City of Redondo Beach
City Attorney's Office
415 Diamond Street
Redondo Beach, California 90277
Attn: Mike Webb, Esq.

(No Fee per Government Code § 27383)

**AFFORDABLE HOUSING AGREEMENT
IMPOSING RESTRICTIONS ON REAL PROPERTY**

This AFFORDABLE HOUSING AGREEMENT IMPOSING RESTRICTIONS ON REAL PROPERTY ("Agreement"), entered into this ___ day of _____, 202_, by and between CITY OF REDONDO BEACH, a municipal corporation ("City") and NEW COMMUNE DTLA, LLC ("Developer") (City and Developer collectively are referred to as "Parties") with reference to the following:

A. Developer is the owner of certain real property in the City located at is 1021 N. Harbor Drive, Redondo Beach., Redondo Beach, CA 90277 (APNs 7503-013-016 & 7503-013-017) ("Property").

B. To satisfy the Parties' obligations under Government Code section 65589.5 and the City's obligations under the Regional Housing Needs Assessment prepared by the Southern California Association of Governments, the City requires that affordable units must be made available to income qualifying households at affordable housing cost in accordance with California Department of Housing and Community Development ("HCD") regulations and applicable provisions of the Government Code.

C. Developer intends to construct a total of thirty-five (35) residential condominium units on the Property ("Project"). The Project shall consist of twenty-eight (28) market rate condominium units ("Market Units") and seven (7) Lower Income Household affordable condominium units ("Affordable Units"). The Affordable Units are legally described in "Attachment A," which is attached hereto and incorporated herein by this reference. The Affordable Units are sometimes referred to herein, collectively, as the "Units" and, individually, as a "Unit."

D. This Agreement must be executed and recorded before issuance of a Certificate of Occupancy.

NOW, THEREFORE, it is mutually agreed by and between the undersigned parties as follows:

1. Satisfaction of Affordable Housing Obligations. To satisfy discretionary approvals for the Project, Developer shall provide, at affordable housing rent, the Affordable Units for a period of thirty (30) years commencing on the date the Certificate of Occupancy is issued by the City for the first Affordable Unit.

2. Terms Governing Provision of Affordable Units.

2.1 Obligation to Provide Affordable Units. Developer shall provide the Affordable Units in addition to the Market Units in the Project as shown on the Schematic Design, which is attached hereto as Exhibit "A." The allowable household income level of renters of the Affordable Units shall be as set forth at Health & Safety Code section 50079.5 for "Lower Income Households." The parties agree that this Agreement shall be recorded prior to issuance of a Certificate of Occupancy for the Project.

2.2 Designation, Priority and Occupancy of Affordable Units.

City acknowledges there may be limited periods during the term of the Agreement where one or more of the Affordable Units are not rented, provided however, that Developer and subsequent buyers of the Affordable Units shall make good faith efforts to assure that the Affordable Units are continually occupied by Lower Income Households meeting the requirements of this Agreement. Developer shall be deemed to have complied with this paragraph if the Affordable Unit is occupied by a Lower Income Household for at least ten (10) months of each calendar year.

2.3 Terms for Rental of Affordable Units.

2.3.1 Developer shall rent the Affordable Units to Lower Income Households. The definition of the maximum allowable income level for Lower Income Households is located at section 50079.5 of Health & Safety Code. The limits shall be as published by the Department of Housing and Community Development ("HCD") in the California Code of Regulations after adoption by the Secretary of Housing and Urban Development. In the event the federal standards are discontinued, the HCD shall, by regulation, establish income limits for Lower Income Households for all geographic areas of the state at 80 percent of area median income, adjusted for family size and revised annually.

2.3.2 For purposes of this Section 2.3, monthly gross rent shall mean monthly payments for (1) use and occupancy of the Affordable Unit and associated land and facilities; (2) separately charged fees and service charges assessed by Developer and required of all tenants, other than security deposits; and (3) a reasonable allowance for utilities not included in (1) or (2) above, as established by the City, but not including telephone service. The Developer shall be authorized to collect a security deposit and first and/or last month's rent in a manner consistent with State Law. In addition, except to the extent of Developer's and tenant's obligations set forth herein, all rights, obligations and remedies afforded to the Developer as landlord and to the tenant under State Law shall not be affected by this Agreement.

2.3.3 Developer shall obtain from each prospective tenant of an Affordable Unit written authorization to release to the Developer a current credit report, income

tax statements, employer's statement or other evidence of income sufficient to verify the prospective tenant's stated household income.

2.3.4 At any time a tenant occupying an Affordable Unit ceases to be qualified as a Lower Income Household, Developer may elect (but is not obligated or required) to evict or not renew the tenancy, provided that such eviction or non-renewal is in conformance with State Law.

3. Developer's Review of Prospective Tenants.

3.1 The Developer is not restricted by this Agreement in its selection of tenants of the Affordable Units so long as the tenant meets the definition of a Lower Income Household set forth herein, and Developer complies with the non-discrimination provisions of this Agreement and applicable local, state, and federal law. City acknowledges that Developer is not required to rent an Affordable Unit to a particular Lower Income Household if such household does not otherwise comply with the terms of a proposed tenancy or rental agreement that conforms to this Agreement.

3.2 Developer, its successors and assigns, shall not discriminate against prospective tenants on account of race, creed, color, religion, sex, marital status, physical handicap, medical condition, national origin or ancestry. Developer, its successors and assigns, shall not refuse to accept for occupancy an otherwise eligible household that is a holder of a certificate or voucher under 24 CFR part 982-Section 8 Tenant-Based Assistance: Unified Rule for Tenant-Based Assistance under the Section 8 Rental Certificate Program and the Section 8 Rental Voucher Program or to the holder of a comparable document evidencing participation in a HOME tenant-based rental assistance program because of the status of the prospective tenant as a holder of such certificate of family participation, rental voucher, or comparable HOME tenant-based assistance document.

4. Reporting and Compliance Monitoring. A report verifying compliance with the requirements of this Agreement covering rental of any Affordable Unit shall be provided to the City by the Developer or its successor on an annual basis on forms provided by the City. Such reports shall, at a minimum, include: (1) identification of the Unit; (2) number of persons residing in the Unit and names of tenants and their household members; (3) initial occupancy date; (4) rent paid per month; (5) gross household income per-year of any tenant; and (6) certification that monthly rent does not exceed the maximum allowed for Lower Income Households. This report will be prepared and submitted in compliance with the reporting time requirements set forth by the City.

5. Default. Failure of the Developer or subsequent buyer to cure any default under the terms of this Agreement within ninety (90) days after the delivery of a notice of default from the City (or where the default is of the nature which cannot be cured within such ninety (90) day period, the failure of the Developer or subsequent buyer to commence to cure such default within the ninety (90) day period or the Developer's or subsequent buyer's failure to proceed diligently to complete the cure of such a default within a reasonable time period but in no event not greater than 180 days) will constitute a default under this Agreement. An event of termination of a tenancy regarding an Affordable Unit shall not constitute a default under this Agreement. Upon

giving of notice and expiration of the applicable cure period, the City may exercise any lawful remedy available to it with respect to a default.

6. Appointment of Other Agencies: Enforceability. At its sole discretion, City may designate, appoint or contract with any other public agency, for-profit or non-profit organization to perform the City's obligations under this Agreement. The covenants established in this Agreement and any amendments hereto shall, without regard to technical classification and designation, be binding for the benefit and in favor of the City, its successors and assigns. The City is a deemed beneficiary of the terms and provisions of this Agreement and the covenants herein, both for and in its own right and for the purposes of protecting the interests of the community and other parties, public or private, for whose benefit this Agreement and the covenants running with the land have been provided. The City shall have the right if the covenants are breached, to exercise all rights and remedies, and to maintain any actions or suits at law or in equity or other proper proceedings to enforce the curing of such breaches to which it or any other beneficiaries of this Agreement and covenants are entitled.

7. Release of Property from Agreement. The covenants and conditions herein contained shall apply to and bind the Developer and the heirs, executors, administrators, successors, transferees, and assignees of the Developer and shall run with and burden the land until terminated or released by City in accordance with the provisions hereof.

8. Reserved.

9. Notices. All notices required pursuant to this Agreement shall be in writing and may be given by personal delivery or by registered or certified mail, return receipt requested, to the party to receive such notice at the address set forth below:

TO THE CITY OF REDONDO BEACH

CITY OF REDONDO BEACH
Planning Department
415 Diamond Street
Redondo Beach, California 90277

With a copy to:

City of Redondo Beach
City Attorney's Office
415 Diamond Street
Redondo Beach, California 90277

TO THE DEVELOPER:

With a copy to:

Any party may change the address to which notices are to be sent by notifying the other parties of the new address in the manner set forth above.

10. Integrated Agreement. This Agreement constitutes the entire Agreement between the parties and no modification hereof shall be binding unless reduced to writing and signed by the parties hereto.

11. Term of Agreement. The covenants and conditions contained in this Agreement shall remain in effect until the date that is thirty (30) years after the Certificate of Occupancy is issued by the City for the first Affordable Unit. Upon the first of the foregoing two events to occur, this Agreement will automatically terminate without any required action of City or Developer and be of no further force or effect. Upon such termination of this Agreement, City will promptly execute release document(s) to be recorded releasing the Affordable Unit(s) from this Agreement recorded against title thereto. This Agreement and all covenants and conditions contained in it will terminate upon the occurrence of any casualty to the Property that result in the need for new discretionary zoning and/or land use entitlements/approvals from the City.

12. Severability. In the event any limitation, condition, restriction, covenant, or provision contained in this Agreement is to be held invalid, void or unenforceable by any court of competent jurisdiction, the remaining portions of this Agreement shall nevertheless be and remain in full force and effect.

13. Estoppel Certificate. On or before twenty (20) days after the date of delivery of a request by Developer, the City shall execute and deliver to Developer, any purchaser of the Property or any mortgage lender an estoppel certificate binding upon the City stating that: (a) this Agreement has not been amended; (b) Developer or its successor is not in default under this Agreement and no event has occurred which if not cured after notice or passage of time would constitute a default of Developer under this Agreement; and (c) whether Developer or its successor has been released .

14. Amendment of Agreement. The Agreement, and any section, subsection, or covenant contained herein, may be amended only upon the written agreement of Developer and the City.

[Signatures on following page]

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed as of the day and year first above written.

DEVELOPER

CITY

NEW COMMUNE DTLA, LLC

CITY OF REDONDO BEACH
A municipal corporation

By: _____

Name: _____

Title: _____

By: _____

APPROVED AS TO FORM:

MIKE WEBB, City Attorney

By: _____

ATTACHMENT A

DESCRIPTION OF AFFORDABLE UNITS

