

SETTLEMENT AGREEMENT

This Settlement Agreement ("Settlement Agreement") is made and entered into as of the 9th day of May, 2023 ("Effective Date"), by and among NEBRASKA STUDIOS, LLC, 3025 OB MULTIFAMILY, LLC, 1925 BROADWAY, LLC, 1435 5TH STREET, LLC, 1514 7TH STREET, LLC, 1520 7TH STREET, LLC, 1524 7TH STREET, LLC, WSC 601 COLORADO AVE, LLC, NMS15437, LLC, 1547 7TH STREET, LLC, NMS YALE, LLC, 1437 6TH STREET, LLC, 1435 6TH STREET, LLC, LUXE 1441 LINCOLN, LLC, WSC 1238 7TH ST, LLC, 1238 10TH STREET, LLC, 1007 LINCOLN BOULEVARD, LLC, 1038 10TH STREET, LLC (collectively, "WS"), the City of Santa Monica ("City"), and the City of Santa Monica Rent Control Board ("RCB"). WS, City, and RCB may be referenced individually herein as "Party" and collectively herein as "Parties".

RECITALS

WHEREAS, WS filed fourteen housing development preliminary applications under the provisions of the Builder's Remedy statute of the Housing Accountability Act (Government Code Section 65589.5(d)).

WHEREAS, these preliminary applications are for the following properties: 1437 6th street (170 units), 601 Colorado Avenue (200 units), 1518-24 7th Street (213 units), 1443 Lincoln Boulevard (170 units), 3030 Nebraska Avenue (2000 units), 2901 Santa Monica Boulevard (222 units), 1415-27 5th Street (360 units), 1557 7th Street (215 units), 1238 7th Street (75 units), 1925 Broadway (340 units), 1433-37 Euclid Street (200 units), 1238-1242 10th Street (190 units), 1007 Lincoln Boulevard (90 units), 1038 10th Street (90 units).

WHEREAS, the Parties dispute the applicability of certain provisions of the Builder's Remedy statute as to these pending applications.

WHEREAS, in addition to the aforementioned dispute, the Parties have pending litigation against each other, as follows:

City of Santa Monica et al. v. 1238 10th Street, LLC., et al., Case No. 21SMCV01585 ("Ellis Act Case").

NMS 1539, LLC., et al. v. City of Santa Monica, et al., Central District of California Case No. 2:20-cv-11318-FLA(JPRx).

WHEREAS, 1238 10th Street, LLC, an affiliate of WS, has filed Case No. 20SMCP00149 against the RCB and tenants Richard Strom and Elena Kashtuyeva.

WHEREAS, the Parties have now agreed to settle the aforementioned disputes and pending litigation, subject to the provisions of this Settlement Agreement.

WHEREAS, each Party has consulted with its respective counsel concerning the provisions of this Settlement Agreement.

NOW, THEREFORE, in consideration of the mutual promises and undertakings set forth below, the Parties agree as follows:

1. WS PROJECT RELATED OBLIGATIONS

(a) Suspension of Builders Remedy Projects.

(i) As of the Effective Date, WS agrees to “suspend” its filing of thirteen of the fourteen pending Builders Remedy projects proposed at the following sites (collectively referred to herein as the “Suspended BR Projects”):

Location	Details	Case No.
3030 Nebraska Avenue/3025 Olympic Boulevard (“Nebraska/Olympic”)	1601 units/15 stories	23ENT – 0050
1925 Broadway	405 units/18 stories	23ENT – 0031
1435 5th Street	375 units/13 stories	23ENT – 0056
1518-1524 7th Street	200 units/11 stories	23ENT – 0041
601 Colorado Avenue	200 units/15 stories	23ENT – 0012
707 Colorado Avenue/1557 7th Street	200 units/16 stories	23ENT – 0028
2901 Santa Monica Boulevard	190 units/12 stories	23ENT – 0051
1435-1437 6th Street	170 units/16 stories	22ENT – 0319
1441-1443 Lincoln Boulevard	170 units/16 stories	23ENT – 0009
1238 7th Street	75 units/10 stories	22ENT – 0312
1238-1242 10th Street (“1242 10th Street”)	200 units/18 stories	23ENT – 0055
1007 Lincoln Boulevard	95 units/15 stories	23ENT – 0066
1038 10th Street	95 units/14 stories	23ENT – 0065

(ii) Developer has submitted full Development Review Permit (“DRP”) applications for the Suspended BR Projects. For purposes herein, Developer understands, acknowledges and agrees that the term “suspend” means that the pending applications for the Suspended BR Projects shall be deemed as temporarily withdrawn. If City satisfies the actions in Section 2, below, the Suspended BR Projects shall be deemed to be permanently withdrawn.

(b) Refiling of Suspended BR Projects.

(i) *Suspended BR Projects in the Commercial Zones.* WS has the option, but not obligation, to refile nine of the proposed Suspended BR Projects (excluding Nebraska/Olympic, 1038 10th Street, 1007 Lincoln Boulevard and 1238/1242 10th Street) as new Administrative Approval/State Density Bonus Law applications (“AA/DBL Applications”), with a credit for fees paid for the Suspended BR Projects against the fees

owed for the AA/DBL Applications correlating to these BR Projects, subject to the provisions of Section 2, below.

(ii) *Suspended BR Project in the Bergamot Area Plan.* WS has the option, but not obligation, to refile the pending Nebraska/Olympic Suspended BR Project as four separate contiguous project applications (the "Nebraska/Olympic AA/DBL Applications"). Each of the Nebraska/Olympic AA/DBL Applications would be processed concurrently under separate AA/DBL Applications (with State Density Bonus law benefits per Section 2, below) and associated lot line adjustments would be filed and recorded as necessary to establish the parcel configurations, subject to the provisions of Section 2, below. The nine AA/DBL Applications referenced in Section 1(b)(i) above, and the four Nebraska/Olympic AA/DBL Applications referenced in this Section 1(b)(ii) shall collectively be referred to hereafter as the "Thirteen AA/DBL Applications."

(c) Withdrawal of BR Projects. In the event that the City satisfies the provisions under Section 2, herein, the applications for the Suspended BR Projects proposed at the following three residential properties currently improved with rent controlled housing units shall be deemed to be permanently withdrawn: 1238/1242 10th Street, 1007 Lincoln Boulevard, and 1038 10th Street.

(d) Right of Return for Tenants at 1242 10th Street.

(i) WS agrees to guaranty the right of return at the prior rents subject to rent control for three (3) recently displaced tenants of 1242 10th Street, whose names are: Shruti Shankar (Unit 7), Gert Basson (Unit 8), and Elizabeth Reyes (Unit 9) (collectively, the "Prior Tenants"). For purposes of this Settlement Agreement, the Parties agree that the prior rents for the Prior Tenants include intervening general adjustments and are as follows: Shruti Shankar (\$1,659), Gert Basson (\$1,342), Elizabeth Reyes (\$1,777). If the Prior Tenants refuse the opportunity to return to their unit within six (6) months of WS offering the right of return then WS will be deemed to have satisfied the requirement of this paragraph.

(ii) WS and related defendants in the Ellis Act Case shall also provide each of the Prior Tenants their own and separate permanent relocation fee should the Prior Tenants elect to return to 1242 10th Street in accordance with Section 4.36.040 of the Santa Monica Municipal Code ("SMMC"), in amounts stated on the City's webpage (<https://www.santamonica.gov/housing-tenant-relocation-fee>) and in effect at the time of relocation (see e.g., 2022 Relocation Fee, as follows):

Housing Unit Type	2022 Relocation Fee (effective 7/1/2022)	Fee if Household Includes Senior/Disabled/Minor*
Single	\$17,250	\$18,000
One Bedroom	\$23,750	\$25,350

Two or More Bedrooms	\$33,050	\$35,200
*See SMMC Section 4.36.040(d).		
Fee is updated annually based upon the most current available Consumer Price Index (CPI) figure on July 1 of each year.		

(iii) WS shall provide evidence of compliance with Section 1(d)(i)-(ii) to the City as a condition to receiving any approvals by the City for any of the Thirteen AA/DBL Applications pursuant to this Settlement Agreement and in accordance with the Stipulated Judgment (Section 3(a), below).

(e) Tolling of Review and Approval Timelines. Concurrent with the suspension of the Suspended BR Projects, Developer acknowledges, understands, and agrees that all legally mandated processing timeframes and deadlines applicable to the Suspended BR Projects under SB 330 (Chapter 654, Stats. 2019)/SB 8 (Chapter 161, Stats. 2021), the Permit Streamlining Act (Government Code Sections 65920 *et seq.*), the California Environmental Quality Act (Public Resources Code Sections 21000 *et seq.*), and the Housing Accountability Act (Government Code Sections 65589.5), are inapplicable during the suspension period. The tolling of processing timeframes and deadlines does not apply to the Thirteen AA/DBL Applications, if filed.

(f) Demolished Rent Controlled Units. WS acknowledges, understands, and agrees that if any of the Suspended BR Projects are refiled as AA/DBL Applications and result in the removal of rent controlled units, then all units approved in the refiled AA/DBL Applications shall be subject to regulation under the City's Rent Control law (City Charter Section XVIII) as a condition to issuance of a Certificate of Occupancy for these new units, and regardless of whether a Certificate of Occupancy is issued within five years of removal, Ellis withdrawal or demolition of the rent controlled units.

(g) No Waiver of City's Regulatory Police Powers. WS acknowledges, understands, and agrees that nothing in this Settlement Agreement shall be interpreted as a waiver of City's police powers or regulatory authority to process any AA/DBL Applications in accordance with local and state laws, as determined by the City acting in its regulatory capacity, including, without limitation, any requirements to ensure WS's provision of adequate utility infrastructure for the projects contemplated in the AA/DBL Applications, if filed.

2. CITY PROJECT RELATED ACTIONS

(a) City's Processing of AA/DBL Applications. If WS files the AA/DBL Applications, the City shall process any and all of the Thirteen AA/DBL Applications consistent with the City's ministerial Administrative Approval requirements and State Density Bonus Law (Government Code Section 65915).

(b) Approval of Enhanced Affordable Housing and Development Standards.

(i) The City has the option, but not to the obligation, to adopt an ordinance authorizing the following enhanced local affordable housing, parking, and density bonus related flexibility and benefits to the applicant no later than August 1, 2023, subject to the City Council's full and absolute discretion.

In the event the City adopts the ordinance and a third party files litigation challenging this Settlement Agreement or the ordinance, WS (or its successor(s) in interest) shall have the right in its sole and absolute discretion to either (i) file one or more AA/DBL Application(s) (in lieu of the corresponding Suspended BR Project(s)) with on-site affordable units consistent with the adopted changes to the Zoning Code on April 11, 2023, to implement the Housing Element (without any of the enhanced development or affordable housing rights discussed below) subject to the expedited processing benefits provided in this Settlement Agreement or (ii) reactivate one or more of the Suspended BR Projects without any of the rights or benefits provided for in this Settlement Agreement. WS shall indemnify, defend and hold the City harmless against any third party litigation challenging the ordinance, and City shall have the right in its sole and absolute discretion to repeal the ordinance if adopted. City shall also have the right in its sole and absolute discretion to repeal the ordinance in the event a referendum is filed. If the City repeals the ordinance in response to the filing of litigation or a referendum, the City acknowledges WS' right to either pursue one or more AA/DBL applications consistent with the adopted changes to the Zoning Code on April 11, 2023, to implement the Housing Element (without any of the enhanced development or affordable housing rights discussed below) or reactivate the Builder's Remedy applications in its sole and absolute discretion, as outlined in this paragraph.

(ii) WS or its successors in interest/assignees retain the option (but not the obligation) to offsite any or all of the Thirteen AA/DBL Application projects' affordable housing obligations at any commercially or residential zoned parcel in the City (outside of the Pico Neighborhood Area) consistent with the underlying General Plan and zoning regulations (with available State DBL benefits available under AB 1763 [Chapter 666, Stats. 2019]) for 100 percent affordable projects) provided there are no existing residential units on the target offsite properties (the "Offsite Affordable Option.") For purposes herein, the Pico Neighborhood shall be defined in the SMMC Figure 9.40.020.A: "Pico Neighborhood Area". WS acknowledges, understands, and agrees that the Thirteen AA/DBL Applications shall not include 1433 – 1437 Euclid Street. The Offsite Affordable Option and corresponding implementing ordinance, if adopted, would authorize the following benefits that go beyond current proposed local requirements and State DBL benefits):

(A) **Affordable Units.** In exercising the Offsite Affordable Option, the market rate project would be required to provide fifteen (15) percent of the total number

of market rate base density (i.e., pre density bonus) units as offsite affordable housing units (i.e., five [5] percent Very Low, five (5) percent Low and five (5) percent Moderate, as defined in the SMMC), as opposed to the current twenty (20) percent offsite affordable requirement adopted as part of the adopted changes to the Zoning Code on April 11, 2023, to implement the Housing Element (without any of the enhanced development or affordable housing rights discussed below) . If the Offsite Affordable Option is exercised, the Affordable Units for the Offsite Option shall not count as the basis to award a market rate density bonus for the off-site project. However, the offsite units may be used to qualify for density bonus benefits (e.g., density bonuses, incentives/concessions, waivers of development standards and reduced parking) for a one hundred percent affordable housing project at the offsite location(s). Should WS or its successors in interest/assignees elect to satisfy the affordable housing requirement onsite in any of the Thirteen AA/DBL Applications it shall be fifteen (15) percent of the base density (i.e., pre-density bonus) project units consistent with the adopted changes to the Zoning Code on April 11, 2023, to implement the Housing Element (without any of the enhanced development or affordable housing rights discussed below).

(B) **State Density Bonus Benefits.** If exercised, the Offsite Affordable Option would enable WS to achieve the same State DBL benefits for the market rate Thirteen AA/DBL Application Projects (i.e., up to a fifty (50) percent market rate density bonus, three (3) permitted incentives/concessions and additional waivers of development standards) as if the affordable units were to be provided onsite.

(C) **Timing for Completion.** To the extent the developer exercises the Offsite Affordable Option the Offsite Affordable project would need to receive a certificate of occupancy prior to issuance of a certificate of occupancy for the related market rate development. However, nothing would stop the market rate building from obtaining a building permit and commencing construction concurrent with or prior to the corresponding offsite affordable project.

(D) **Parking.** The ordinance, if adopted, would permit any of the market rate Thirteen AA/DBL Application Projects located within the DCP area to include a maximum of one parking space per unit (as opposed to the current requirement of one-half [0.50] space per unit maximum).

(E) **EIR Consistency.** The ordinance, if adopted, would be consistent with the 6th Cycle Housing Element Environmental Impact Report [SCH No. 2020100575] certified by Council on October 12, 2021 with an Addendum to the EIR approved on October 11, 2022, to the extent required by law.

(c) **Expedited Timeframes for Review.** Each of the individual Thirteen AA/DBL Applications (and related Architectural Review Board applications) shall be subject to the following processing deadlines.

(i) The Applicant shall be entitled to expedited processing in accordance with the following deadlines:

(A) The City shall review the application for completeness within thirty (30) days of submittal.

(B) The City shall complete its first round of compliance review with all City zoning and other applicable codes and regulations as well as the State Density Bonus Law ("First Code Compliance Review") within (i) thirty (30) days of a determination of completeness for projects of 150 and fewer units and (ii) sixty (60) days of a determination of completeness for projects over 150 units.

(C) The City shall complete its second round of code compliance review ("Second Code Compliance Review"), if necessary, and provide any design related comments within (i) thirty (30) days for projects of 150 and fewer units and (ii) sixty (60) days for projects over 150 units.

(D) The City shall, upon review and confirmation that each of the separate projects associated with the Thirteen AA/DBL Applications complies with all terms and conditions of this Settlement Agreement and all other applicable laws including the State Density Bonus Law, issue a final AA/DBL approval within sixty (60) calendar days from the applicant's formal response to the First Code Compliance Review or sixty (60) days from the applicant's formal response to a Second Code Compliance Review, if necessary ("AA/DBL Approval Date").

(E) The City must schedule an ARB hearing and grant design review approval prior to the mandatory AA/DBL Approval date outlined in paragraph (D); provided, however, that the City may schedule a second ARB hearing provided that design review approval is granted in accordance with this paragraph (E).

(F) The Planning Department may stagger the ARB hearings for the Expedited Projects by scheduling multiple projects at a time during separate hearing dates.

(G) Notwithstanding the foregoing, and anything to the contrary in this Settlement Agreement, approval by the ARB of any of the Thirteen AA/DBL Applications shall be subject to appeal to the Planning Commission in accordance with SMMC Section 9.55.160.

(H) In the event of an appeal (or appeals) of the ARB's design review determination(s) to the City Planning Commission, a hearing shall be scheduled within sixty (60) days, and final determination must be issued for the appealed project(s) within thirty (30) days after said hearing in accordance with SMMC Section 9.55.160.

(I) Notwithstanding the foregoing, and anything to the contrary in this Settlement Agreement, the ARB, and the Planning Commission on appeal, cannot and do not prejudice or make commitments regarding approval of the Thirteen AA/DBL Applications, which shall be reviewed in accordance with SMMC Chapter 9.55. Nothing herein shall be deemed to be a waiver or infringement of the ARB's or Planning Commission's discretion, particularly its ability to grant an approval with conditions to bring any or all of the Thirteen AA/DBL Projects into conformance with the criteria set forth in SMMC Section 9.55.140.

(J) In the interest of achieving the expedited processing goals set forth in this Section, the City may only issue design related comments to WS and its design consultants prior to the scheduling of the first ARB hearing.

(K) The City's obligations for expedited processing of the AA/DBL Applications under this Section 2(c) shall only apply to AA/DBL Applications filed on or before the 2nd anniversary from the date that the ordinance contemplated under Section 2(b) becomes effective ("WS Filing Deadline"); if timeframes/deadlines are not satisfied for any specific project or projects filed before the WS Filing Deadline it would only constitute a breach of the settlement agreement but would not reactivate the Suspended BR Projects. However, if any delay in the processing deadlines for any AA/DBL Application or multiple AA Applications is solely caused by the City, then the general WS Filing Deadline shall be deemed to be extended by the delay time that is solely attributable to the City.

(ii) The Parties each understand, acknowledge, and agree that the sole pending Builders Remedy Application at 1433 Euclid Street (currently proposed at 200 units and 18 stories) ("Euclid BR Project")¹ shall proceed through the Development Review Permit process completely outside this Settlement Agreement, and nothing in this Settlement Agreement, including any negotiations and related communications regarding the Euclid BR Project, shall be deemed or interpreted by either Party as a waiver, reduction, or admission of either Party's rights or obligations under law to pursue (as to WS) or approve with or without conditions, subject to compliance with the California Environmental Quality Act or deny (as to City), the Euclid BR Project.

(iii) City hereby approves a Minor Modification to the Development Agreement associated with project located at 1560 Lincoln Boulevard (the "Denny's Project") to transfer the deed restriction for twenty (20) affordable units of the Denny's

¹ The SB 330/SB 8 preliminary application identified 12 stories for the Builders Remedy project originally proposed at 1433 Euclid. The DRP application later increased the number of units and square footage by the maximum 19.9 percent allowed under SB 330 and relocated all of the parking above grade, resulting in an 18 story building.

Project to the existing recently refurbished units at 1238/1242 10 Street,² not later than ten (10) days after execution of this settlement agreement.

(d) Description of Deed Restricted Units. All twenty (20) units at 1238/1242 10th Street must be deed restricted (the "Affordable Unit(s)"), in accordance with the following: eight (8) two (2)-bedroom Very Low Income Units (at 50% Area Median Income "AMI"), six (6) one (1)-bedroom units at Very Low Income, one (1) three (3)-bedroom unit at Very Low Income and five (5) three (3)-bedroom units at Low Income (80% AMI). All Affordable Units shall be subject to the Affordable Housing Production Program except as expressly modified in this Settlement Agreement. Affordable Rent shall have the same meaning as SMMC Chapter 9.64. The 1238/1242 10th Street Deed Restriction shall be recorded no more than fifteen (15) business days after execution of this settlement agreement and concurrent with recordation of a covenant affirmatively terminating the existing Denny's Project affordable deed restriction.

(e) Form of Deed Restrictions. Once recorded, the deed restrictions for the twenty (20) Affordable Units shall survive the termination of this Settlement Agreement and shall remain binding on Developer, its successor and assigns, and shall continue in effect for the greater of fifty-five (55) years from issuance of the certificate of occupancy or the life of the building. The deed restrictions shall be in the form of **Exhibit "A"** and shall be recorded separately from this Settlement Agreement.

(f) Prior Tenants Exempt from Deed Restrictions. The income/rent limitations in the deed restrictions shall not apply to any of the Prior Tenants who are not income qualified to occupy an Affordable Unit and who exercise a right of return to 1238/1242 10th Street at the prior rent in effect when they vacated, in which event those units would be subject to rent control as well as deed restricted. Subject to confirmation through the Stipulated Judgment that the Prior Tenants have declined to affirmatively accept the offer to return to their prior unit within six months of the offer by WS required by this Settlement Agreement then WS will be deemed to have satisfied the requirements of this paragraph.

(g) Existing Tenants Exempt from Deed Restrictions. Any existing tenants residing at 1238/1242 10th Street ("Existing Tenants") shall have the right to remain in their unit until they voluntarily vacate. The income/rent limitations in the deed restrictions shall not apply to any existing tenants who are not income qualified to occupy an Affordable Unit, in which event those units would be subject to the City's rent control law as well as deed restricted. The income restriction in the deed restriction applying to this unit shall be applicable to all new tenants once an existing tenant vacates the units. For purposes herein, WS acknowledges, understands, and agrees that Rick Strom (Unit 6) constitutes an Existing Tenant.

² Note that Section 2.4.3(c) of the Denny's Development Agreement (entitled "Modifications Requiring Amendment to this Agreement") only requires a DA amendment if the required affordable units are reduced in number. Thus, a transfer of the same twenty affordable units to 1038/1042 10th Street (which would result in an increase in the number of total affordable bedrooms) could be effectuated through a Minor Modification rather than a DA amendment.

(h) Release of Denny's Deed Restriction. The deed restriction on the Denny's Project property shall be terminated through a revised covenant recorded against the property no later than fifteen (15) business days after full execution of this settlement agreement concurrent with the recordation of the 1238/1242 10th Street deed restriction.

(i) Notice of Intent to Re-Rent. WS shall file a notice of intent to re-rent the units at 1238/1242 10th Street with the RCB on a form provided by RCB within five (5) calendar days of execution of this Settlement Agreement. Notwithstanding anything to the contrary herein, all deed restricted Affordable Units at 1238/1242 10th Street shall be subject to the City Rent Control Law.

3. PARTIES MUTUAL PENDING LAWSUIT RELATED OBLIGATIONS

The City, RCB and WS agree to file a stipulated judgment in the pending Ellis Act Case filed against WS and its related parties (the "Stipulated Judgment"), no later than ten (10) calendar days from full execution of the Settlement Agreement, subject to the following conditions:

(a) No later than five (5) calendar days from the entry of the Stipulated Judgment, WS's compliance with all conditions of this Settlement Agreement as to the Prior Tenants and Existing Tenants of 1238/1242 10th Street, which shall be incorporated as part of the Stipulated Judgment, to wit: Section 1(d)(i)-(iii); Section 2(f) and (g).

(b) Construction impact rent reductions shall be paid by WS and related defendants in the Ellis Act Case to former tenants in the following amounts no later than thirty (30) calendar days from entry of the Stipulated Judgment:

(i) Shruti Shankar - \$13,117, 1242 10th Street (Unit 7)

(ii) Gert Basson - \$13,645, 1242 10th Street (Unit 8)

(iii) Elizabeth Reyes - \$10,368, 1242 10th Street (Unit 9)

(c) Within five (5) calendar days of entry of the stipulated judgment, WS will confirm that it has provided Sharon Harris priority to occupy a deed restricted unit at 1238/1242 10th Street.

(d) *Case, 1238 10th Street, LLC v. SMRCB, et. Al., LASC Case No. 20SMCP00149*, shall be dismissed in its entirety with prejudice no later than ten (10) calendar days from entry of the Stipulated Judgment.

(e) Case, *NMS 1539, LLC., et al. v. City of Santa Monica, et al.*, Central District of California Case No. 2:20-cv-11318-FLA(JPRx), shall be dismissed with prejudice no later than ten (10) calendar days from entry of the Stipulated Judgment.

4. PARTIES MUTUAL PROJECT RELATED OBLIGATIONS

WS and the City shall prepare a mutually agreed upon press statement explaining the basis and terms of this Settlement Agreement.

5. NO FAULT

It is understood and agreed that this settlement is in compromise of dispute between the Parties, and that this Settlement Agreement shall not in any way be construed as an admission by WS, the City, or the RCB of fault, breach or a violation of any federal, state, or local laws, or a violation of any right of either party or any other person or entity.

6. CONTRACTUAL PROVISIONS

The Parties understand and agree that this Settlement Agreement and its terms are contractual and not mere recitals; that no promise, inducement or agreement not expressed in this Settlement Agreement has been made to them; and further understand and agree that this Settlement Agreement shall be final and binding upon them.

7. REVIEW BY COUNSEL

The Parties expressly acknowledge that they are entitled to and have had the opportunity to have the terms of this Settlement Agreement reviewed by counsel of their choice. Each party shall bear its own attorneys' fees and costs.

8. VENUE

The validity, meaning, and effect of this Settlement Agreement shall be determined in accordance with the laws of the State of California without regard to choice-of-law principles. Any litigation arising out of this Settlement Agreement may only be brought in either the United States District Court, Central District of California, or the Superior Court of California, County of Los Angeles, West District, as appropriate. The Parties agree that venue exists in either court, and each Party expressly waives any right to transfer to another venue. The Parties further agree that either court shall have personal jurisdiction over the Parties to this Settlement Agreement.

9. AMENDMENTS

This Settlement Agreement may only be modified, supplemented, or amended by written agreement signed by the Parties, and approved as to form by the City Attorney,

the RCB General Counsel, and WS's counsel. All Parties are to be considered the drafters of this Settlement Agreement.

10. BROAD INTERPRETATION

It is intended that this Settlement Agreement and the release contained herein receives the broadest possible application and interpretation in any dispute between the Parties.

11. NO THIRD PARTY BENEFICIARIES

This Settlement Agreement shall be binding upon and inure solely to the benefit of each Party hereto including WS' lenders, and nothing in this Settlement Agreement, express or implied, is intended to or shall confer upon any other person any right, benefit or remedy of any nature whatsoever under or by reason of this Settlement Agreement except as specifically provided herein.

12. SETTLEMENT BINDING ON SUBSEQUENT OWNERS/PURCHASERS

The terms herein shall apply to and bind subsequent purchasers, the heirs, successors and assigns of all the parties ("WS Successors") hereto and shall run with, burden and benefit the BR Project and properties for the benefit of the successor in interest(s), the City, the public and surrounding land landowners, until terminated in accordance with the provisions hereof. Any subsequent purchaser of any of the BR Project properties must sign and execute and assumption agreement acknowledging and assuming all obligations and benefits of this Settlement Agreement ("Assignment"). WS and WS Successors shall give written notice to the City, in accordance with Section 13, disclosing in such notice (a) the identity of the transferee of the property (the "**Property Transferee**") and (b) the address of the Property Transferee as applicable. The failure to execute an Assignment shall relieve the City of any obligations under this Settlement Agreement with respect to the Property Transferee unless otherwise agreed to, in writing, by the City.

13. NOTICE

Formal notices, demands and communications pertaining to this Settlement Agreement shall be deemed sufficiently given if delivered to the principal offices of the City or WS, as applicable, by (i) personal service, or (ii) express mail, Federal Express, or other similar overnight mail or courier service, regularly providing proof of delivery, or (iii) certified mail, postage prepaid, return receipt requested. Such notice shall be addressed as follows:

To City:

City of Santa Monica
1685 Main Street
Santa Monica, CA 90401
Attn: City Attorney

To WS or WS Successor:

Attn : Scott Walter
10960 Wiltshire Boulevard, Suite 800
Los Angeles CA 90024

Attn: Dave Rand
633 5th Street, 64th Floor
Los Angeles, CA 90071

Notice given in any other manner shall be effective when received by the addressee. Any party may change the addresses for delivery of notices to such party by delivering notice to the other party in accordance with this provision.

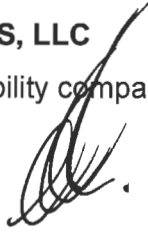
14. COUNTERPARTS

This Settlement Agreement may be signed in counterparts with the same effect as if the signatures to each counterpart were upon a single instrument, and all such counterparts together shall be deemed an original of this Settlement Agreement.

[SIGNATURE PAGES TO FOLLOW]

NEBRASKA STUDIOS, LLC

a Delaware limited liability company



By: _____

Name: Neil Shekhter

Its: Authorized Signatory

3025 OB MULITFAMILY, LLC

a Delaware limited liability company



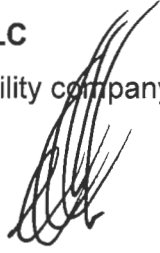
By: _____

Name: Neil Shekhter

Its: Authorized Signatory

1925 BROADWAY, LLC

a Delaware limited liability company

A handwritten signature in black ink, consisting of several overlapping loops and a final downward stroke, positioned above a horizontal line.

By: _____

Name: Neil Shekhter

Its: Authorized Signatory

1435 5TH STREET, LLC

a Delaware limited liability company

A handwritten signature in black ink, appearing to be 'Neil Shekhter', written over a horizontal line.

By: _____

Name: Neil Shekhter

Its: Authorized Signatory

1514 7TH STREET, LLC

a California limited liability company



By: _____

Name: Neil Shekhter

Its: Authorized Signatory

1520 7TH STREET, LLC

a California limited liability company



By: _____

Name: Neil Shekhter

Its: Authorized Signatory

1524 7TH STREET, LLC

a California limited liability company



By: _____

Name: Neil Shekhter

Its: Authorized Signatory

WSC 601 COLORADO AVE. LLC

a California limited liability company

A handwritten signature in black ink, appearing to be 'Neil Shekhter', is written over the company name and extends slightly below the 'By:' line.

By: _____

Name: Neil Shekhter

Its: Authorized Signatory

NMS15437, LLC

a California limited liability company



By: _____

Name: Neil Shekhter

Its: Authorized Signatory

1547 7TH STREET, LLC

a California limited liability company



By: _____

Name: Neil Shekhter

Its: Authorized Signatory

NMS YALE, LLC

a California limited liability company

A handwritten signature in black ink, appearing to read 'Neil Shekhter', is written over a horizontal line.

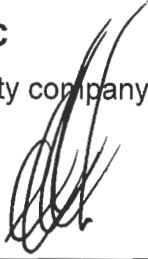
By:

Name: Neil Shekhter

Its: Authorized Signatory

1437 6TH STREET, LLC

a California limited liability company



By: _____

Name: Neil Shekhter

Its: Authorized Signatory

1435 6TH STREET, LLC

a Delaware limited liability company



By: _____

Name: Neil Shekhter

Its: Authorized Signatory

LUXE 1441 LINCOLN, LLC

a California limited liability company

A handwritten signature in black ink, appearing to read 'Neil Shekhter', is written over the company name and partially over the 'By:' line.

By: _____

Name: Neil Shekhter

Its: Authorized Signatory

WSC 1238 7TH ST, LLC

a California limited liability company

By:

A handwritten signature in black ink, appearing to be 'Neil Shekhter', written over a horizontal line.

Name: Neil Shekhter

Its: Authorized Signatory

1238 10TH STREET, LLC

a Delaware limited liability company

A handwritten signature in black ink, appearing to read 'Neil Shekhter', is written over a horizontal line.

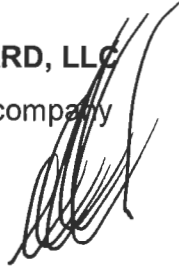
By: _____

Name: Neil Shekhter

Its: Authorized Signatory

1007 LINCOLN BOULEVARD, LLC

a Delaware limited liability company

A handwritten signature in black ink, consisting of several overlapping loops and strokes, positioned over the company name and partially over the signature line.

By: _____

Name: Neil Shekhter

Its: Authorized Signatory

1038 10TH STREET, LLC

a Delaware limited liability company

A handwritten signature in black ink, appearing to be 'Neil Shekhter', written over a horizontal line.

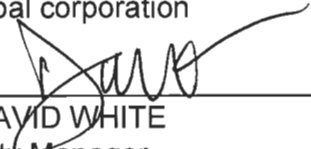
By:

Name: Neil Shekhter

Its: Authorized Signatory

CITY:

CITY OF SANTA MONICA,
a municipal corporation

By: 

DAVID WHITE
City Manager

ATTEST:

By: 

DENISE ANDERSON-WARREN
City Clerk

APPROVED AS TO FORM:

By: 

DOUGLAS SLOAN
City Attorney

THE CITY OF SANTA MONICA RENT CONTROL BOARD

a California municipal agency per the Santa Monica City Charter

By:

Tracy H. Condon

Name:

Tracy H. Condon

Its:

Administrator

Exhibit "A"
Form of Deed Restriction
[Behind this page]

Recording Requested By:

City of Santa Monica

When Recorded Mail To:

City Planning Division – Mail Stop 28
1685 Main Street
Santa Monica, CA 90401
Attention: Planning Manager

Space Above This Line For Recorders Use
No Recording Fee Required
Government Code Section 27383

AGREEMENT IMPOSING RESTRICTIONS
ON RENTS & OCCUPANCY OF REAL PROPERTY

THIS AGREEMENT IMPOSING RESTRICTIONS ON RENTS & OCCUPANCY OF REAL PROPERTY (hereinafter "this Agreement"), entered into this [] day of May 2023, by and between the CITY OF SANTA MONICA, a Municipal Corporation (hereinafter the "City"), and 1238 10TH STREET, LLC, a Delaware limited liability company (hereinafter the "Developer"), is made with reference to the following:

R E C I T A L S:

A. Developer is the owner of certain real property located at 1238-1242 10th Street in the City of Santa Monica (hereinafter the "City"), in the County of Los Angeles, California (hereinafter the "Subject Property"). The Subject Property is more particularly described in Exhibit "A" which is attached hereto and incorporated herein by this reference.

B. Developer intends to utilize two recently refurbished structures containing ten (10) dwelling units each (twenty [20] total dwelling units total) for required off-site affordable units (hereinafter the "10th Street Property") associated with an already-approved project located at 1560 Lincoln Boulevard (hereinafter the "Denny's Project").

C. The City has entered into a settlement agreement dated [] concerning issues related to fourteen (14) residential and mixed-use projects proposed by Developer and its associated entities throughout the City and pending litigation involving the Subject Property (hereinafter the "Settlement Agreement"). The City agreed to allow the release of deed restrictions for the twenty (20) affordable units associated with the Denny's Project and transfer those deed restrictions to the 10th Street Property. Developer also agreed to other provisions regarding three (3) recently displaced tenants¹ of the 10th Street Property

¹ The names of the Prior Tenants are: Shruti Shankar (Unit 7), Gert Basson (Unit 8), and Elizabeth Reyes (Unit 9).

(collectively hereinafter the "Prior Tenants") and the existing tenants² currently residing at the Subject Property (collectively hereinafter the "Existing Tenants"). Pursuant to the Settlement Agreement, existing tenants³ currently residing at the Subject Property (collectively hereinafter the "Existing Tenants") shall have the right to remain in their unit until they voluntarily vacate; and three (3) recently displaced tenants⁴ of the Subject Property (collectively hereinafter the "Prior Tenants") shall have the right of return at the prior rents (subject to rent control and associated protections) and remain in their units until they voluntarily vacate, if Prior Tenant accepts the right of return within six (6) months of Developer's offer.

D. The City entered into the Settlement Agreement, subject to the conditions of this Agreement, which are imposed for the benefit of the City, the public, and surrounding landowners.

E. The Developer has agreed to satisfy the applicable affordability restrictions Santa Monica Municipal Code Chapter 9.64 for the 10th Street Property and the Denny's Project, except as expressly modified in the Settlement Agreement, by fully complying with this Agreement.

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

1. RECITALS.

The Recitals stated above, are hereby incorporated by reference into this Agreement and adopted by the parties to this Agreement as true and correct.

2. DEFINITIONS.

2.1 **"Affordable Units"** means dwelling units within the Project that are available to and occupied by Fifty Percent Income Households or Eighty Percent Income Households at Maximum Affordable Rent. Affordable Units are subject to the City's rent control law.

2.2 **"Area Median Income or AMI"** means the median family income published from time to time by the United States Department of Housing and Urban Development ("HUD") for the Los Angeles-Long Beach Metropolitan Statistical Area.

2.3 **"Eighty Percent Income Household"** means a household whose gross income does not exceed the eighty percent income limits applicable to the Los Angeles-Long Beach Primary Metropolitan Statistical Area, adjusted for household size, as

² This Agreement acknowledges that Rick Strom (Unit 6) constitutes an Existing Tenant.

³ This Agreement acknowledges that Rick Strom (Unit 6) constitutes an Existing Tenant.

⁴ The names of the Prior Tenants are: Shruti Shankar (Unit 7), Gert Basson (Unit 8), and Elizabeth Reyes (Unit 9).

published and periodically updated by HUD. Eighty Percent Income Households include Fifty Percent Income Households.

2.4 **“Fifty Percent Income Household”** means a household whose gross income does not exceed the fifty percent income limits applicable to the Los Angeles-Long Beach Primary Metropolitan Statistical Area, adjusted for household size, as published and periodically updated by HUD.

2.5 **“Maximum Affordable Rent” means:**

(a) For Fifty Percent Income Households, the product of thirty (30) percent times fifty (50) percent of the area median income adjusted for household size appropriate for the unit.

(b) For Eighty Percent Income Households whose gross incomes exceed the maximum incomes for Fifty Percent Income Households, the product of thirty (30) percent times sixty (60) percent of the area median income adjusted for household size appropriate for the unit.

2.6 **“Rent”** has the same meaning as provided in Title 25, Section 6918 of the California Code of Regulations, as amended from time to time in accordance with law, and includes use and occupancy, fees and service charges and a reasonable allowance for utilities and parking required by the City for the Project, not included in other fees or charges.

2.7 **“Rent Controlled Units”** means dwelling units within the Project that are occupied by Existing Tenants or Prior Tenants who do not qualify as Fifty Percent Income Households or Eighty Percent Income Households. The number of Rent Controlled Units at the Subject Property shall be equal to the number of units occupied by Existing Tenants and Prior Tenants that reside at the Subject Property per the terms of the Settlement Agreement that do not qualify as Fifty Percent Income Households or Eighty Percent Income Households.

3. CONTRACT WITH CITY.

In exchange for such forms of assistance from the City, which are of financial benefit to the Developer, Developer has entered into this Agreement with this City and agreed to the other conditions of the Settlement Agreement, including the requirement to provide and maintain twenty (20) Affordable Units on the Subject Property for occupancy by qualified households who meet the requirements specified in this Agreement, except as provided in Section 7(a) of this Agreement.

4. DEVELOPER TO PROVIDE AND MAINTAIN TWENTY (20) AFFORDABLE UNITS.

(a) Upon the City's approval of a Minor Modification to the Denny's Development Agreement and recordation of a termination of the Denny's affordable units, Developer

shall provide and maintain twenty (20) Affordable Units on the Subject Property, as follows, except as otherwise provided in Section 7(a) of this Agreement:

- One (1), three (3)-bedroom Affordable Units (Unit 5 at 1242 10th Street) shall be available to and occupied by Fifty Percent Income Households at Maximum Affordable Rent
- Eight (8), two (2)-bedroom Affordable Units (Units 2, 3, 7, 8 and 9 at 1238 10th Street and Units 2, 3 and 6 at 1242 10th Street) shall be available to and occupied by Fifty Percent Income Households at Maximum Affordable Rent;
- Six (6), one (1)-bedroom Affordable Units (Units 4 and 6 at 1238 10th Street and Units 4, 7, 8 and 9 at 1242 10th Street) shall be available to and occupied by Fifty Percent Income Households at Maximum Affordable Rent and;
- Five (5), three (3)-bedroom Affordable Units (Units 1, 5 and 10 at 1238 10th Street and Units 1 and 10 at 1242 10th Street) shall be available to and occupied by Eighty Percent Income Households at Maximum Affordable Rent.

(b) The Affordable Units shall be rental units and the Maximum Affordable Rent shall be calculated pursuant to the formula set forth in Section 5 of this Agreement. The Rent Controlled Units shall not be subject to the Maximum Affordable Rent requirements of Section 5 of this Agreement until they are voluntarily vacated by Existing Tenants and leased/occupied by income qualified households from the City-developed list per Section 7(a) of this Agreement, and thus qualify as Affordable Units.

(c) The City shall execute and record a covenant terminating the Denny's Project's affordable deed restriction expressly contingent upon compliance with the terms of this Agreement. A breach of this Agreement shall be grounds for revoking the Certificate of Occupancy for the Denny's Project. The City shall provide reasonable notice and an opportunity to cure any breach of this Agreement prior to revoking the Certificate of Occupancy for the Denny's Project.

5. TERMS FOR THE RENTAL OF THE AFFORDABLE UNITS.

(a) The Maximum Affordable Rent for the Affordable Units on the Subject Property shall be calculated as follows:

For Fifty Percent Income Households

Area Median Income x 50% x Bedroom Adjustment Factor x 30% = Maximum Affordable Rent (Annual).

For Eighty Percent Income Households

Area Median Income x 60% x Bedroom Adjustment Factor x 30% = Maximum Affordable Rent (Annual).

(b) The Maximum Allowable Rent (Annual) figures must be divided by twelve to determine the Maximum Allowable Rent (Monthly).

(c) Area Median Income - As periodically published by HUD, currently \$91,100 (2022).

(d) Bedroom Adjustment Factors

1 Bedroom	0.80
2 Bedrooms	0.90
3 Bedrooms	1.00

(e) Maximum Allowable Rent (Monthly) for 2022:

	1-BR	2-BR	3-BR
Fifty Percent Income Household	\$911	\$1,025	\$1,139
Eighty Percent Income Household	\$1,458	\$1,640	\$1,822

(f) In the event the Area Median Income is no longer established or published by HUD, the parties shall substitute a similar standard established by the State of California.

(g) Minimum Occupancy Requirements

1 Bedroom	1 Occupant
2 Bedrooms	2 Occupants
3 Bedrooms	3 Occupants

(h) Rent Controlled Units are not subject to the Maximum Affordable Rent requirements contained in this Section.

(i) During the duration of this Agreement, Developer agrees to make reasonable efforts to rent vacant Rent Controlled Units and Affordable Units within sixty (60) days.

6. HOUSEHOLD ADJUSTMENT FACTORS.

The Household Adjustment Factors are as follows:

1 Person	0.7
2 Persons	0.8
3 Persons	0.9
4 Persons	1.0
5 Persons	1.08
6 Persons	1.16
7 Persons	1.24

7. TENANT SELECTION.

(a) Developer shall select households from the City-developed list of income qualified households; provided however that initial occupancy of the units are subject to the following:

(i) Existing Tenants and Prior Tenants who qualify as either a Fifty Percent Income Household or an Eighty Percent Income Household shall first be offered the opportunity to occupy an Affordable Unit.

(ii) Existing Tenants and Prior Tenants who do not qualify as either a Fifty Percent Income Household or an Eighty Percent Income Household shall instead occupy Rent Controlled Units in the Subject Property. Rent Controlled Units shall be subject to the City's rent control law, but shall not be subject to the income and rent limitations set forth in this Agreement; provided, however the income and rent limitations in this Agreement shall spring into effect when Rent Controlled Units are voluntarily vacated by any Existing and/or Prior Tenants who are ineligible to occupy an Affordable Unit, and subsequently shall be occupied by an eligible Fifty Percent Income Household or an Eighty Percent Income Household thus qualifying as an Affordable Unit.

(b) Only households selected from the City-developed list of income qualified households shall occupy any of the Affordable Units.

(c) Developer shall certify the income of prospective tenants for the Affordable Units to ensure that the occupancy requirements specified in Section 3 of this Agreement are met prior to selection for occupancy. The income certification shall be completed in accordance with the following:

(d) Developer shall require an income declaration from all household members eighteen (18) years of age and older.

(e) Developer shall obtain from prospective tenants of Affordable Units reasonably reliable verification for all income, which may include pay stubs, income tax returns, savings account statements, financial statements, stock certificates, etc. in order to verify the gross annual household income. Developer shall be entitled to rely on such verification of income and shall have no duty to independently verify or investigate the accuracy or authenticity of documentation provided by prospective tenants. For the purposes of this Agreement, "income" shall include employment income, social security, disability, pensions, supplementary benefits, support payments, income from the sale of real property, and income from assets over \$5,000 (not including automobiles or furnishings).

(f) Developer shall compute gross annual household income by totaling all income, and adjusting as follows:

(i) Deduct \$480 for each dependent, defined herein as a household member under 18 years of age;

- (ii) Deduct \$400 for any family with a head of household over 62 years old;
- (iii) Deduct medical expenses in excess of three percent (3%) of annual income for any household that includes a member who is over 62 years old; and
- (iv) For households whose total assets (excluding automobiles and furnishings) exceed \$5,000, the Developer must calculate the annual asset income by multiplying the value of those total assets by ten percent (10%). Developer shall then add the result to the other household income to obtain the adjustment gross annual income.

8. CITY APPROVAL OF DOCUMENTS.

Developer shall rent the Affordable Units and Rent Controlled Units pursuant to the terms and conditions of a lease or rental agreement approved by the City. Developer shall submit to the City Housing Division for review a copy of the lease agreement to be used prior to execution and occupancy by any tenant in the 10th Street Property. In addition to any other provision required by the City to ensure compliance with Chapter 9.64, except as specifically modified by the Settlement Agreement, said lease or rental agreement shall contain a provision prohibiting subleasing of the Affordable Units or revising the composition of the household without Developer's permission. Developer shall not approve any change that renders the Affordable Units in noncompliance with the household income requirements of this Agreement. The addition to the household of minor children, a spouse, or registered domestic partner shall not be deemed a change in the household requiring Developer's prior approval pursuant to this Section.

9. ATTORNEYS' FEES AND COSTS.

In the event of any controversy, claim or dispute between the parties hereto, arising out of or relating to this Agreement or breach thereof, the prevailing party shall be entitled to recover from the losing party reasonable expenses, attorneys' fees and costs.

10. APPOINTMENT OF OTHER AGENCIES.

The City may designate, appoint or contract with any other public agency to perform City's obligations under this Agreement.

11. SEVERABILITY.

In the event any limitation, condition, restriction, covenant or provision contained in this Agreement is held to be 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.

12. NOTICES.

All notices required under this Agreement shall be sent by certified mail, return receipt requested, to the following addresses:

TO THE CITY OF SANTA MONICA: City of Santa Monica
City Planning Division – Mail Stop 28
1685 Main Street
Santa Monica, California 90401
Attn: Planning Manager

With a copy to: City of Santa Monica
Housing Division
1685 Main Street
Santa Monica, California 90401
Attn: Housing Manager

TO THE DEVELOPER: 1238 10th Street, LLC
10960 Wilshire Boulevard, Suite 800
Los Angeles CA 90024
Attn: Neil Shekhter (authorized signatory)

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.

13. HOLD HARMLESS.

As between the City and the Developer, the Developer is deemed to assume responsibility and liability for, and the Developer shall indemnify and hold harmless the City and its City Council, boards and commissions, officers, agents, servants or employees from and against any and all claims, loss, damage, charge or expense, whether direct or indirect, to which the City or its City Council, boards and commissions, officers, agents, servants or employees may be put or subjected, by reason of any damage, loss or injury of any kind or nature whatever to persons or property caused by or resulting from or in connection with any act or action, or any neglect, omission or failure to act when under a duty to act, on the part of the Developer or any of Developer's officers, agents, servants, employees or subcontractors in his or their performance hereunder.

14. BURDEN TO RUN WITH SUBJECT PROPERTY.

The covenants and conditions herein contained shall apply to and bind the heirs, successors and assigns of all the parties hereto and shall run with and burden the Subject Property for the benefit of the City, the public and surrounding landowners, until terminated in accordance with the provisions hereof. Developer shall expressly make the conditions and covenants contained in this Agreement a part of any deed or other instrument conveying any interest in the Subject Property.

15. SALE OR CONVERSION OF SUBJECT PROPERTY.

In the event of sale or conversion of the Subject Property, any Conditions, Covenants and Restrictions (CC&R's) for the Subject Property, shall incorporate by reference all obligations and duties of the parties created by this Agreement. Reporting obligations set forth in Section 24 below, shall be set forth in the CC&R's if any, for the Project.

16. PROHIBITION AGAINST DISCRIMINATION.

Developer agrees not to discriminate against any actual or potential occupant of the subject property on the basis of sex, race, color, religion, ancestry, national origin, sexual orientation, age, pregnancy, marital status, disability, HIV, family composition, source of income, the use of a rental subsidy voucher, or the potential or actual occupancy of minor children. Developer further agrees to take affirmative action to ensure that no such person is discriminated against for any of the aforementioned reasons.

17. STANDING TO ENFORCE AGREEMENT.

Violation of this Agreement may be enjoined, abated or remedied by appropriate legal proceeding in a court of competent jurisdiction by any aggrieved party, including but not limited to, the parties hereto, or their respective successors, heirs and assigns.

The right to specific performance of this Agreement shall be an appropriate remedy for a breach of this Agreement because of the uniqueness of the Property and the inherent difficulty in calculating adequate damages.

18. 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.

19. APPLICABLE LAW.

All questions pertaining to the validity and interpretation of this Agreement shall be determined in accordance with the laws of California applicable to contracts made to and to be performed within the State.

20. CITY AUTHORITY TO ENFORCE LAW

The obligations of the Developer pursuant to this Agreement are in addition to, and in no way limit, the authority of the City to enforce all laws and regulation applicable to the Subject Property. Nothing in this Agreement shall limit the authority of the City to take appropriate action to enforce the terms of any permit issued by the City relating to the Subject Property.

21. DURATION OF AGREEMENT.

This Agreement as a whole shall terminate and become null and void fifty-five (55) years from the date the last Affordable Unit is occupied. However, pursuant to Section 7(ii) above, this Agreement's affordability restrictions may spring into effect some time in the future for certain units only after any Existing and/or Former tenants (who do not income qualify for Affordable Units) voluntarily vacate the Rent Controlled Units. Thus it is anticipated that the start and end dates of the 55 year deed restriction term will vary depending on the unit. This Agreement therefore permits any units for which the 55 year deed restriction term ends to be released as Affordable Units, even if the 55 year deed restriction term has yet to expire for other units within in the 10th Street Property.

22. AMENDMENT OF AGREEMENT.

This Agreement, and any Section, subsection, or covenant contained herein, may be terminated or amended only upon the written consent of all parties hereto.

23. RECORDING OF AGREEMENT.

The parties hereto shall cause this Agreement to be recorded in the Official Records of the County of Los Angeles.

24. YEARLY REPORT.

Developer shall issue a written report to City on an annual basis commencing one year from the recordation date of this Agreement continuing thereafter throughout the term of the Agreement. The report shall include documentation of tenant income and assets, and state the rent level then being charged for the Affordable Units, whether the occupants are assisted by a rental housing subsidy program, the number of occupants in the household, whether there have been any changes in the composition of the household, whether any vacancies have occurred during the reporting year, any changes in income of the residents of the affordable units, and such other information as may be required by City staff.

25. COMPLIANCE MONITORING.

Pursuant to City of Santa Monica Resolution 10635 and Santa Monica Municipal Code Sections 9.64.050 and 9.64.060, Developer shall pay the reasonable regulatory costs of ensuring compliance with this Agreement through a Compliance Monitoring Fee.

26. COUNTERPART SIGNATURE PAGES.

This Agreement may be executed in any number of counterparts, each of which shall be considered an original for all purposes; provided, however, that all such counterparts shall together constitute one (1) and the same instrument.

27. AUTHORITY TO EXECUTE.

The undersigned declare they have full authority to execute this Agreement on behalf of Developer and bind Developer to all the terms and conditions contained herein.

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

[SIGNATURE PAGE TO FOLLOW]

ATTEST:

"CITY"

CITY OF SANTA MONICA
a Municipal Corporation

Denise Anderson-Warren
City Clerk

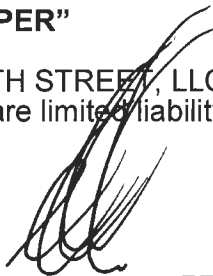
By: David White
Its: City Manager

APPROVED AS TO FORM:
SANTA MONICA CITY ATTORNEY

"DEVELOPER"

1238 10TH STREET, LLC,
a Delaware limited liability company

Douglas Sloan
City Attorney



By: Neil Shekhter
Its: Authorized Signatory

EXHIBIT A

Legal Description

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

On _____, 20__, before me, _____,
Notary Public, personally appeared _____, who proved
to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed
the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on
the instrument the person(s), or the entity upon behalf of which the person(s) acted,
executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the
foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Notary Public in and for said State

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

On _____, 20__, before me, _____,
Notary Public, personally appeared _____, who proved
to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed
the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on
the instrument the person(s), or the entity upon behalf of which the person(s) acted,
executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the
foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Notary Public in and for said State