HOMEBUYER AGREEMENT

HOME First-Time Homebuyer Down Payment Assistance Program

NOTICE TO HOMEBUYER: *This Agreement explains the terms of the purchase assistance you are receiving through the HOME Investment Partnerships Program. This Agreement is separately enforceable from the Note and Mortgage for the Term in Section 2, unless you sell and repay the balance specified in Section 7. Read each paragraph carefully and ask questions regarding any sections you do not fully understand before you sign.*

As the homebuyer, you are signing this Agreement in advance of the approval and signature by the City of New Rochelle. ***This Agreement will not be effective or binding until it has been signed by an authorized representative of the City*** *following its review of documentation submitted by and/or on behalf of the homebuyer.*

THIS AGREEMENT is entered into as of the date of the last signature hereto by and between the City of New Rochelle, New York by and through its Development Office, 515 North Avenue, New Rochelle, New York 10801 ("**City**") and (the "**Homebuyer**"), .

WITNESSETH

WHEREAS, the City is a Participating Jurisdiction under the HOME Investment Partnerships Program ("**HOME**" or "**HOME Program**") administered by the United States Department of Housing and Urban Development ("**HUD**") and is authorized by HUD to provide homebuyer assistance through its Consolidated Plan; and

WHEREAS, HOME regulations at 24 CFR 92 govern the City's implementation of the HOME Program and are made a part this Agreement; and

WHEREAS, as part of its overall HOME program the City has established a First-Time Homebuyer Down Payment Assistance ("**DPA**") program that provides eligible buyers with deferred potentially forgivable financing in connection with the purchase and financing of a new home; and

WHEREAS, the City has determined that the Homebuyer meets the HOME Program eligibility requirements to purchase the dwelling located at (the "**Property**") at the price of $ (the "**Purchase Price"**) and that Homebuyer will assume fee simple ownership upon closing.

NOW, THEREFORE, in accordance with the mutual understanding and agreements set forth herein, City and the Homebuyer agree as follows:

SECTION 1. FORM, AMOUNT, AND USE OF ASSISTANCE

Using HOME funds, the City will provide a loan to Homebuyer (the "HOME Loan"), initially projected to be in the amount of $ to assist Homebuyer with their lender-required down payment, therefore representing direct HOME assistance to the Homebuyer.

$15,000 of the total funds to be provided to Homebuyer are to come from the United States Department of Housing and Urban Development HOME Investment Partnerships (HOME) Program.

$ of the total funds to be provided to Homebuyer are to come from the City of New Rochelle through its Affordable Housing Trust Fund.

The amount of HOME assistance will not be final until the City has updated all necessary underwriting and subsidy layering requirements based on final Purchase Price and/or closing costs. The final amount of HOME assistance, which may increase (but in no case will exceed $15,000) or decrease as approved by the City, will be evidenced at closing by a Note and Mortgage. The City will include, as part of the notice to the Homebuyer anticipated in Section 3 below, the final HOME assistance amount, and such notice shall be deemed an Amendment to this Agreement to reflect the actual HOME assistance provided.

The assistance will be provided in the form of a deferred loan which, subject to compliance with the terms of this Agreement, is forgivable on a pro rata basis annually over the Affordability Period defined in Section 3 below.

The HOME Loan will be evidenced by a promissory note executed by the Homebuyer in favor of the City (the "**Note**") and by a mortgage securing the Note to be filed in the Office the Westchester County Clerk (the "**Mortgage**"). The terms and duration of the HOME Loan are specified herein and, in the Note, and Mortgage, and the Note and Mortgage will be released upon repayment under the terms set forth therein. The Homebuyer may, but is not required to, prepay the HOME Loan without penalty, in whole or in part, at any time. (A copy of the Note is attached hereto as Exhibit A, a copy of the Mortgage is annexed hereto as Exhibit B)

The Homebuyer agrees that the HOME assistance will be used at closing to cover a portion of the down payment to allow purchaser to qualify for a primary mortgage from a lender at potentially more favorable terms than would otherwise be available.

SECTION 2. AGREEMENT TERM.

This Agreement will automatically terminate if the Homebuyer does not close and take title to the Property on or before_____.

Otherwise, this Agreement will expire upon expiration of the Affordability Period as defined in Section 3 or satisfaction of the Mortgage, whichever is later.

This Agreement shall survive any prepayment of the HOME Loan and/or any release of the Mortgage that does not include a transfer of the Property and shall continue for the full Affordability Period, as defined in Section 3.

SECTION 3. AFFORDABILITY PERIOD

The Affordability Period for the Property will begin on the Completion date as determined by the City ("**Completion Date**") and shall end five (5) years after the Completion Date (the "**Affordability Period**"). As required by the HOME Program, the "**Completion Date**" is the date the activity is shown as completed in HUD's Integrated Disbursement and Information System (IDIS), the entry into which cannot be made until after closing on the Property has occurred. the City will provide a formal written Notice of Project Completion Date to the Homebuyer identifying the Completion Date and the resulting expiration of the Affordability Period and this Agreement and the Note and Mortgage. Upon issuance of such notice, this Agreement shall be deemed amended to reflect the expiration date of the Affordability Period.

If the Homebuyer sells or transfers ownership of the Property voluntarily or involuntarily, including via foreclosure or deed in lieu of foreclosure, the Affordability Period will end upon the recapture of ~~direct~~ HOME assistance by the City pursuant to Section 7 below.

SECTION 4. HOMEBUYER REPRESENTATIONS

By signing this Agreement, the Homebuyer attests to the following:

- The Homebuyer warrants that all information and documentation provided to the participating lender associated with Homebuyer's application for HOME assistance under the DPA Program is true and correct. Homebuyer further warrants and agrees that all such information and documentation shall be deemed to have been submitted by the Homebuyer to the City. The Homebuyer has fully disclosed all income and assets to the Participating Lender and the City and warrants that the Homebuyer's household or financial situation has not changed materially since the application for HOME assistance was made. The Homebuyer acknowledges that any material discrepancies or misstatements may result in the Homebuyer's disqualification from participation in the program and shall be deemed a breach of this Agreement and the HOME Loan, and the Homebuyer will be required to repay the entire HOME investment amount including any project-related costs (e.g., inspections required by the HOME program, etc.) paid by the City that are not otherwise included in the Homebuyer's HOME Loan balance .
- The Homebuyer has completed homeownership counseling as required by HOME.
- The Homebuyer has agreed to purchase a dwelling unit that meets HOME Program requirements, including that the dwelling unit must meet the City's property standards, established pursuant to the requirements of 24 CFR 92.251(c)(3) prior to purchase.
- The Homebuyer understands and agrees to the requirements stated in this Agreement for the Agreement Term.

SECTION 5. HOMEBUYER RESPONSIBILITIES

The Homebuyer agrees to the following to meet the requirements of this assistance:

- The Homebuyer will provide not less than 1% of the Purchase Price toward the total due from the buyer for the purchase price and closing costs (which may include any earnest money deposit, "paid outside of closing" buyer costs, and/or "cash due at closing").
- The Homebuyer will occupy the property as their principal residence for the Affordability Period as described in Section 6.
- The Homebuyer will maintain the property, maintain hazard insurance, and pay all required taxes during the term of this Agreement as described in Section 8.
- The Homebuyer will provide information as required by the City to monitor compliance with Program requirements.
- The Homebuyer will comply with the refinancing policy stated in Section 9.
- In the event of sale of the property during the Agreement Term, the Homebuyer will notify the City and comply with Recapture requirements in Section 7.
- To comply with all terms and conditions contained in any prior mortgage on the property and the Notes secured.

6. PRINCIPAL RESIDENCE

During the Affordability Period, barring a sale or transfer of title to the Property, which shall be governed by Section 7 below, the Homebuyer shall at all times maintain the Property as their principal residence. Should the Homebuyer cease to maintain the Property as their principal residence, rent all or a portion of the residence to another party, or convert all or a portion of the Property to a non-residential use, the Homebuyer will be in breach of this Agreement and subject to the Default and Enforcement provisions of Section 11.

SECTION 7. RECAPTURE OF DIRECT HOME ASSISTANCE

In compliance with the HOME Rule at 24 CFR 92.254(a)(5), if the Homebuyer sells or otherwise voluntarily or involuntarily transfers title to the Property during the Agreement Term, including transfer as a result of foreclosure or deed in lieu of foreclosure, the outstanding balance of the HOME Loan, representing direct HOME assistance to the Homebuyer, will be subject to recapture by the City (after accounting for any prorated forgiveness based on the Homebuyer's actual period of ownership).

Subject to the terms of the following paragraph, if the net proceeds are insufficient to repay the outstanding balance of the HOME Loan, then the entire net proceeds, will be recaptured and retained by the City to satisfy both this Agreement and the HOME Loan.

The term "net proceeds" is defined as the sale price less the balance due on superior secured non-HOME debt and less closing costs incurred by the Homebuyer at sale or transfer. In the event the net proceeds are projected to be less than the total outstanding HOME loan balance, the City reserves the right to determine whether the sales price is comparable to the sales price in an arms-length transaction for a similar unit and to evaluate the closing costs being charged to the Homebuyer to ensure they are reasonable and customary. If the sales price and/or closing costs are determined to not be reasonable and customary in the sole determination of the City, the City may refuse to accept the payoff and transfer or adjust the payoff to reflect net proceeds calculated using its estimates of arms-length market value and customary closing costs.

If the City refuses the payoff and transfer by reason of the determination that the sales price and/ or closing are not reasonable and customary, the balance remaining on the loan will remain a lien on the property and the Transferee will take subject to the lien.

Net proceeds of sale in excess of the outstanding HOME Loan will be retained by the Homebuyer.

To facilitate the expeditious administration of this Section, the Homebuyer shall provide notice to the City of any anticipated transfer of title, including but not limited to a sale or foreclosure.

If the Homebuyer is determined to be in violation of this Agreement, the entire original balance of the HOME Loan shall be due and payable as stated in Section 11.

SECTION 8. INSURANCE AND TAXES

At all times during the term of this Agreement, the Homebuyer shall maintain a valid and current hazard insurance policy on the Property for the current appraised value of the Property and naming the City as an additional loss payee in primary coverage. Failure to maintain a valid and current insurance policy will be considered a breach of this Agreement, and the City will have the right to secure insurance for the Property and charge such costs to the Homebuyer or to foreclose on its Mortgage, if necessary, to protect the HOME program investment. If the Property is in a 100-year floodplain, the Homebuyer shall maintain

a current and valid flood insurance policy on the Property. Evidence of insurance must be provided at closing of the HOME Loan and annually thereafter.

At all times during the term of this Agreement, the Homebuyer shall pay all property taxes and other similar assessments when due.

SECTION 9. REFINANCING

During the Agreement Term, the Homebuyer will notify the City of the intent to refinance any loan that is senior to the Mortgage. the City will only approve subordination of the HOME debt to a new senior mortgage which complies with the City's then current refinancing policy.

SECTION 10. CITY RESPONSIBILITIES

As the HOME Participating Jurisdiction, the City is ultimately responsible to HUD for compliance with all HOME requirements, including the ongoing enforcement of this Agreement regarding principal residency and recapture.

- the City has determined the Homebuyer to be eligible according to the HOME Program's income limits and other eligibility requirements and will review any changes to eligibility at time of closing.
- the City has determined the property to be eligible under the HOME Program's requirements, including Program purchase price limits and property standards.
- the City has completed the environmental review required by 24 CFR Part 58 and determined that the property meets federal requirements.
- the City has determined the amount of Homebuyer's assistance to be reasonable and in compliance with Program requirements and its underwriting policy and may adjust the assistance based on final price, costs, and underwriting.
- the City will review, monitor, or seek to confirm the Homebuyer's ongoing compliance with the terms of this Agreement and the HOME Loan, including but not limited to principal residency. the City will enforce the other provisions of this agreement and the recorded documents

the City may issue notices of violation, require corrective action, or seek specific performance using any and all legal remedies available.

SECTION 11. DEFAULT AND ENFORCEMENT

In the event the Homebuyer violates any terms of this Agreement, the Note, Mortgage or any other agreement between the Homebuyer and the City, the City shall issue a notice of violation to the Homebuyer. Upon receipt of such a notice, the Homebuyer agrees to remedy the violation within 30 days or, in the case of violations requiring longer cure periods, the City may allow for a period of up to 90 days to correct the violation. In such cases, the Homebuyer must take action to begin corrections within 30 days of the date of the City's notice of violation. Upon the Homebuyer's failure to correct the violation within the allotted time, the City may take additional corrective action including suing for specific performance, declaring a default in the HOME Loan and initiating foreclosure proceedings, and seeking any other available legal remedies.

In the event of the Homebuyer's uncured violation of the principal residency provisions of Section 6, any otherwise prorated forgiveness of the HOME Loan will be forfeited, and the Homebuyer will be required to repay the entire HOME investment in the Property which may include amounts expended by the City for project-related costs (e.g., inspections required by HOME regulations) not otherwise included in Homebuyer's HOME Loan.

SECTION 12. MISCELLANEOUS

This Agreement shall be construed and interpreted in accordance with New York law. In the event of legal action resulting from a dispute hereunder, the parties agree that the state and federal courts of the State of New shall have jurisdiction and that the proper forum for such action shall be Westchester County, New York.

None of the rights and remedies conferred upon or reserved to the City under this Agreement is intended to be exclusive of any other rights, and each and every right shall be cumulative and concurrent, and may be enforced separately, successively, or together, and may be exercised from time to time as often as may be deemed necessary by the City.

Each party has participated in negotiating and drafting this Agreement, so if an ambiguity or a question of interpretation arises, this Agreement is to be construed as if the parties had drafted it jointly. Any rules of construction relating to interpretation against the drafter of an agreement shall not apply to this Agreement and are expressly waived.

The paragraph headings contained herein are for convenience in reference to this Agreement and are not intended to define or to limit the scope of any provision of this Agreement. Where appropriate, all personal pronouns used herein, whether used in the masculine, feminine or neutral gender, shall include all other genders, and singular nouns used herein shall include the plural and vice versa.
The covenants herein contained shall bind, and the benefits and advantages shall inure to, the respective heirs, executors, administrators, successors, and assigns, of the parties.

Any modification or amendment of this Agreement, or additional obligation assumed by either party in connection with this Agreement, shall be effective only if placed in writing and signed by both Parties or by authorized representatives of each party.

Executed and effective as of the date upon which this Agreement was fully executed, evidenced by the latter of the signatures of the City, signing by and through its Authorized Representative, and the Homebuyer.

{Signature Pages Follow}

Homebuyer(s)

By: _____
NAME:

By: _____
NAME:

State of New York, County of , ss:

On the day of in the year , before me, the undersigned, personally appeared

, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(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 capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

CITY OF NEW ROCHELLE

By: _____

Name: _____

Title: _____

State of New York, County of , ss:
On the day of in the year , before me, the undersigned, personally appeared

, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(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 capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Exhibit A
NOTE

EXHIBIT B

MORTGAGE