

COMMUNITY BENEFITS AGREEMENT
Uptown Atlantic Redevelopment Project

Preamble

Whereas, the Community Redevelopment Agency of the City of Delray Beach Florida (“Agency” or “CRA”) intends to convey a six acre parcel of commercial property to Uptown Atlantic, LLC, a Florida limited liability company (“Developer”) pursuant to the redevelopment mission of the Agency;

Whereas, the Agency and Developer recognize that the support of the West Atlantic Redevelopment Coalition, and the Community Coalition (Village Elders, the Northwest Neighborhood Alliance and the Southwest Neighborhood Alliance) (collectively, the “Community Coalition”) is desirable in obtaining community support of the Purchase and Sale Agreement between the Agency and the Developer; and

Whereas, the parties and organizations referenced immediately above as the “Community Coalition” have agreed to support, and cooperate with, the Developer in connection with the development of the Project (as defined below), and the Developer has agreed to undertake certain activities on behalf of the Community Coalition, and the Community Coalition and the Developer wish to set forth their understanding with regard to the foregoing, all as hereinafter set forth.

Now, therefore, for and in consideration of mutual promises herein contained, the undersigned parties agree as follows:

ARTICLE I
Purpose and Incorporations

1.1 This Community Benefits Agreement (the “Agreement”) is intended to acknowledge that the development of the Project is to be for profit and that the Agreement is not to hinder or interfere with the commercial feasibility of the Project. Anything to the contrary contained in this Agreement notwithstanding, the terms of this Agreement shall not be construed, or be permitted, to interfere with or impede the orderly financing and development of the Project as determined by the Developer.

a. This Agreement is and shall be subordinate to financing (whether institutional or other financing) for the Project, and the Community Coalition and/or the West Atlantic Redevelopment Coalition is required to execute usual forms of subordination documents required by such lenders and equity investors.

b. If there is a foreclosure, the lender or the successors in ownership, may, but shall not be bound by this Agreement.

c. Provisions of this Agreement which a lender or equity investor deems objectionable, shall be ineffective and deleted.

d. No provision in this Agreement shall be construed or enforced in a way that negatively impacts the commercial feasibility or profitability of the Project.

Neither this Agreement nor any memorandum thereof shall be recorded in the public records eliminating the possibility of creating a cloud on title, and if recorded by any of the Community Coalition or West Atlantic Redevelopment Coalition, it shall cause this Agreement to be null and void.

ARTICLE II Scope of Agreement

2.1 This Agreement intends to describe the specific benefits to be conveyed to the local community in connection with the Uptown Atlantic Redevelopment Project, and the manner and timing by which such benefits will be conveyed and the rights and responsibilities of the undersigned parties involved.

ARTICLE III Definitions

3.1 As used in this Agreement, the following capitalized terms shall have the following meanings (all definitions include both the singular and plural form):

a. “Community Coalition” shall mean, collectively, the Northwest Neighborhood Alliance, Southwest Neighborhood Alliance, the Village Elders, and the West Atlantic Redevelopment Coalition.

b. “Community Redevelopment Agency” (or “Agency” or “CRA”) shall mean the Community Redevelopment Agency of the City of Delray Beach.

c. “Contract” shall mean a contract related to use, maintenance, or operation of the Development or part thereof.

d. “Contractor” shall mean a prime contractor, a subcontractor, or any other business entering into a contract related to the construction, use, maintenance, or operation of the Project or part thereof.

e. “Developer” shall mean Uptown Atlantic, LLC, or an affiliate thereof, or any development partner that is yet to be designated.

f. “Living wage” means a minimum wage to match that defined by the Palm Beach County Code of Ordinances Chapter 2, Article IV, Division 3.

g. “Locally Owned Small Business” shall mean any business that is wholly owned by individuals who reside in the Project Impact Area (Palm Beach Voting Precincts 7200, 7210 and 7212.) as defined herein. If a business is owned by a corporation, then the corporation must be wholly owned by individuals who reside in the Project Impact Area or whose business is located in Delray Beach. If the business is owned by a partnership or limited liability company, then at least 20% of its partners or members must reside in the Project Impact Area.

h. “Low-Income Individual” shall be based on the standard of income and eligibility in the Delray Beach Family Workforce Housing Ordinance (Article 4.7 as currently in effect).

i. “Project” shall mean the Uptown Atlantic Redevelopment Project.

j. “Project Employee Recruitment Area” refers to Palm Beach voting precincts: 4096, 4098, 7196, 7200, 7210, 7212

k. “Project Impact Area” shall be considered the NW/SW Neighborhoods comprised of Palm Beach Voting precincts 7200, 7210 and 7212.

l. “Project Site” shall mean the properties located on the Southside of West Atlantic Avenue, between SW 6th Avenue and SW 9th Avenue.

m. “Purchase and Sale Agreement” shall mean that Purchase and Sale Agreement between the Developer and the CRA regarding the purchase of the Project Site by the Developer and the development of the Project thereon.

n. “Referral System Agency” shall mean nonprofit agency(s) chosen to operate the Referral System.

ARTICLE IV Community Benefits

4.1 West Atlantic Hiring Initiatives

a. Creation of the West Atlantic Hiring Initiative is hoped to assist to facilitate customized training and employment of residents in the Project Employee Recruitment Area for potential jobs created by the Project;

(1) *Targeted recruitment* – The Community Coalition will work in partnership with one or more appropriate community-based job training organizations to provide referrals to market and recruit potential applicants from the Project Employee Recruitment Area.

(2) *Customized Training* – Employers may request specialized job training for potential job applicants they intend to hire, tailored to the employers’ particular needs by contacting a Referral System Agency. For example, CareerSource is a community-based job training organization that can ensure these applicants are provided with the requested training.

(3) *Localized Referral System* – The Developer will request potential employers (prime contractor & sub-contractors) to provide all new potential job referrals to a Referral System Agency of the Contractors choosing.

b. The Community Coalition will create a Small Business Support Initiative in order to assist returning and new small businesses participating in the Project to obtain the necessary management skills that will enable them to take advantage of new business opportunities and promote growth;

(1) The Community Coalition will initiate and fund a Business Support Center. The Business Support Center will work with private, public and nonprofit resources to build strong sustainable and successful local small businesses.

(2) The Developer will meet with two (2) representatives of the Community Coalition, on a monthly basis, to discuss suggestions with regard to the selection of tenants for the Project.

c. West Atlantic Hiring Initiative Program for Construction Jobs. The Developer will request the General (Prime) Contractor to:

(1) Work with the Community Coalition to identify up to 15 Project Employee Recruitment Area residents that would be part of the program;

(2) Residents are to be recruited by the Community Coalition. and the Developer will request the Prime Contractor to do so also;

(3) The Developer will request the General Contractor to notify the Community Coalition of any potential job, skilled or unskilled, the residents living in the Project Employee Recruitment Area may apply for, during the construction phase.

d. Goals for Construction Phase

(1) To help towards program success and create a model to build on for future developments;

(2) Anything to the contrary contained in this Agreement notwithstanding, all hiring for construction positions shall be at the sole discretion of the General Contractor.

e. West Atlantic Hiring Program for Permanent Jobs:

(1) The Developer will request the Property Manager to advertise for locally qualified persons for property management positions; provided, however, that all property management hiring decisions shall be at the sole discretion of the Property Manager;

(2) Community Coalition will track and monitor Project Employee Recruitment Area residents progress and provide additional support if needed;

f. Goals of the Community Coalition for Permanent Jobs.

(1) To help job applicants from the Project Employee Recruitment Area connect to a workforce support system (e.g. customized training);

(2) To help potential employers and the Developer establish ongoing and positive relationships with community organizations;

(3) To help provide a pathway to careers in permanent jobs for Project Employee Recruitment Area residents;

4.2 Critical Community Services.

The Developer, with the co-operation and support of the Community Coalition, will use commercially reasonable efforts to secure a full-service grocery store on the Project Site.

4.3 Livable Wages.

The Developers will request contractors to pay or cause to pay Living Wages for all new hires residing within the Project Employee Recruitment Area. This shall apply only to the initial construction phase.

4.4 Workforce Housing.

The Developers will set aside 20% of the residential units in the Project for workforce housing. Only eligible occupant households as defined in the City of Delray Beach Family Workforce Housing Ordinance (City of Delray Beach Ordinance- Article 4.7 FAMILY/WORKFORCE HOUSING) shall qualify for the Workforce Housing. (It is contemplated the City will require a Workforce Housing Covenant between the City and Developer. The Developer's right to Workforce Housing requires the approval of the City and the City's agreement). The Developer will use commercially reasonable efforts to enter into the agreement (Workforce Housing Covenant), with the City and thus, this provision is subject to City approval.

4.5 Additional Community Benefits.

a. The Developer, recognizing the importance of helping to preserve the culture of the African Diaspora and the significant contributions it has made to the founding of Delray Beach, will voluntarily pledge \$5,000.00 to the Spady Museum on an annual basis for five (5) years.

ARTICLE V Monitoring, Oversight and Termination

5.1 Formation and Operation.

The Community Coalition is the organizer of this Community Benefit Agreement and will be responsible to facilitate all ongoing dialogue and implementation of this Agreement with the Developer. As such and for the sole purpose of organizing parties to the Agreement, the Community Coalition will designate West Atlantic Redevelopment Coalition (WARC) as its signatory representative and Uptown Atlantic, LLC or its affiliate company and any development partner that is yet to be designated shall be its designated signatory.

A representative of the Developer and two (2) representatives of the Community Coalition who are selected by mutual agreement of the Developer and the Community Coalition shall be the single point of contact between the parties to this Agreement, and shall meet quarterly, unless it is mutually agreed that less frequent meetings are appropriate. The Agreement shall automatically terminate the later of 36 months after the date of execution or Developers closing of the purchase of the Project Site. If the Developer shall not close the purchase of the Project Site, this Agreement shall be null and void.

5.2 Annual Reports.

The Community Coalition shall prepare annual reports on the implementation of this Agreement and the progress of the Project's adherence to this Agreement, and it shall forward these reports to the Community Redevelopment Agency and the West Atlantic Redevelopment Coalition. These reports shall include a description of all material actions the Community Coalition and the Developer have taken to implement or comply with the requirements of this Agreement, with detail sufficient to determine compliance with this Agreement. Upon request from the Community Redevelopment Agency and the West Atlantic Redevelopment Coalition, the Community Coalition shall provide only records or information necessary to monitor compliance with the provisions of this Agreement.

ARTICLE VI
Enforcement & Dispute Resolution

6.1 If the Community Coalition and/or Developer alleges that the provisions of this Agreement are not being followed either aggrieved party at its own discretion and expense shall have the right to require a mediation pursuant to Florida Rules for certified and court-appointed mediators and Chapter 44 F.S. as amended (the "Mediation Ruler"). The mediator must be certified to hear all sides and to negotiate a resolution. If the Community Coalition and Developer cannot negotiate a resolution, the Community Coalition and/or Developer may pursue a legal action to enforce this Agreement and/or any term or covenant thereof, provided that any legal action can only be pursued after mediation and within 120 days after completion of the mediation.

6.2 Except as stated herein nothing in this Section shall derogate or limit the rights of the parties hereto, to enforce this Agreement through pursuit of any available legal or equitable remedies.

6.3 The parties hereto agree that monetary damages may not be a remedy for any breach of this Agreement. The agreed remedies set forth elsewhere in this Agreement shall not be construed to limit or derogate any legal or equitable remedy authorized by applicable law or a court's ability to determine facts, weigh evidence, and exercise its own discretion with respect to enforcement of any term or condition of this Agreement.

6.4 Any mediation shall be held in Palm Beach County, Florida and any litigation shall be in Palm Beach County, Florida.

6.5 Anything contained herein to the contrary notwithstanding, in no event shall any legal or equitable or administrative proceeding be permitted to delay or prevent the orderly progress of the financing and development of the Project, as determined by the Developer, it being understood by the Parties that it is of material importance to the CRA, the Community Coalition, and the Developer that the Project be completed at the earliest possible date.

ARTICLE VII
General Provisions.

7.1 Compliance with State and Federal Law.

This Agreement shall only be enforced to the extent that it is consistent with the laws of the State of Florida and the United States. If any provision of this Agreement is held by a court of law to be in conflict with state or federal law, the applicable law shall prevail over the terms of agreement, and the provisions of this Agreement shall not be enforceable.

7.2 Severability Clause.

If any term, provision, covenant, or condition of this Community Benefits Program is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the Agreement shall remain in full force and effect, provided that the deletion of any such invalid, void, or unenforceable provisions does not materially interfere with the development of the Project.

7.3 Material Terms.

There are no additional attachments to this Community Benefits Agreement.

7.4 Notices.

All notices shall be in writing and shall be addressed to the affected Parties at the addresses set forth below. Notices shall be: (a) delivered by in person service to the addresses set forth below, in which case they shall be deemed delivered on the date of delivery, as evidenced by the written report of the courier service, or (b) sent by certified mail, return receipt requested, in which case they shall be deemed delivered three business days after deposit in the United States mail. Any Party may change its address or the name and address of its attorneys by giving twenty (20) days' notice to the other parties of the Agreement. Notice of a change shall be effective only upon receipt. The addresses of the Parties for purpose of notices are:

- a. Developer: Uptown Atlantic, LLC
5100 PGA Blvd. Bldg. 2-4A
Palm Beach Gardens, FL 33418
- b. Community Coalition: C/O West Atlantic Redevelopment Coalition
20 North Swinton Avenue
Delray Beach, Florida 33444

7.5. Attorneys' Fees.

In the event of any dispute arising under this Agreement, the prevailing party in such dispute shall be entitled to recover all attorney's fees and costs incurred at the trial level and all appellate levels.

7.6 Merger.

This Agreement sets for the entire understanding between the parties and supersedes all prior understandings and agreements. This is an independent agreement and is not to be construed so as to affect the interpretation or enforcement of the Purchase and Sale Agreement with the CRA.

In witness whereof, the parties have executed this Agreement on the dates set forth below.

Witnesses:

UPTOWN ATLANTIC, LLC

Print Name: _____

By: _____
Print Name: _____
Its: _____

Print Name: _____

Date: _____

COMMUNITY COALITION

Print Name: _____

By: _____
Print Name: _____
Its: _____

Print Name: _____

Date: _____