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The City of San Buenaventura
Community Development Director
501 Poli Street, P.O. Box 99
Ventura, CA 93002


20161215-00185941-0 1/22
Ventura County Clerk and Recorder
MARK A. LUNN
12/15/2016 09:43:17 AM
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Assessor's Parcel Number: 071-0-260-375

**AMENDED AND RESTATED
HOUSING DECLARATION AND AFFORDABILITY AGREEMENT
BETWEEN
THE CITY OF SAN BUENAVENTURA
AND
VENTURA CANNERY APARTMENTS DEVELOPMENT, LLC**

THIS AMENDED AND RESTATED HOUSING DECLARATION AND AFFORDABILITY AGREEMENT ("Agreement") is entered into by and between the CITY OF SAN BUENAVENTURA, a California charter city ("City"), and Ventura Cannery Apartments Development, LLC a Limited Liability Company ("Developer") as the owner of that certain real property ("Property") located in the City of San Buenaventura, County of Ventura, State of California, commonly known as "The Cannery" and legally described in Exhibit A attached hereto and incorporated herein by this reference. This Agreement amends, replaces and supersedes in its entirety that certain Housing Declaration and Affordability Agreement by and between the City and Developer (the "Original Agreement"), which was recorded against the Property in the Official Records of Ventura County as Document No. 20150918-00140077-0.

WHEREAS, Developer has improved or intends to improve the Property with 78 condominiums, and related improvements (the "Project"), in accordance with the permits and approvals issued therefor (collectively, "Discretionary Approvals"), on file with the City; and

WHEREAS, pursuant to the Discretionary Approvals, Developer must set aside twelve (12) of the units developed on the Property for the sole use and occupancy of Very Low Income households (5 units) and Moderate income households (7 units) in compliance with the requirements of the Affordable Housing Program in the Merged San Buenaventura Redevelopment Project Area as set forth in Chapter 24R.250 of the San Buenaventura Municipal

Code, as it may be amended from time to time (“Inclusionary Housing Ordinance”), the Inclusionary Housing Implementation Plan prepared for the Project (the “Implementation Plan”) and consistent with the City’s Affordable Housing Program (“City AHP”), as set forth by City Council Resolution No. 88-92 as it may be amended from time to time;

WHEREAS, Developer and City previously entered into the Original Agreement in furtherance of the Implementation Plan; and

WHEREAS, the City has subsequently amended the Implementation Plan, and the City and Developer desired to enter into this Agreement to amend the terms of the Original Agreement consistent with the Implementation Plan, as amended;

NOW THEREFORE, in consideration of the mutual covenants and representations herein contained, the parties hereto covenant, represent and agree as follows:

ARTICLE 1 DEFINITIONS

Section 1.1. “Area Median Income” or “AMI” means the area median income for Ventura County Statistical Area, as adjusted for household size appropriate for the applicable Income Restricted Unit, as published by the U.S. Department of Housing and Urban Development on an annual basis.

Section 1.2. “Buyer” means the purchaser of an Income Restricted Unit.

Section 1.3. “Certificate of Compliance” means a certificate issued by the City or its designee verifying that both the seller and the prospective Buyer of an Income Restricted Unit have complied with all applicable requirements of the Inclusionary Housing Ordinance, the City AHP, this Agreement and the Implementation Plan prior to the consummation of a proposed sale of such Income Restricted Unit.

Section 1.4. “City” means the City of San Buenaventura or its designee.

Section 1.5. “City Council” means the City Council of the City.

Section 1.6. “Developer” means Ventura Cannery Apartments Development, LLC, and each of them and each and every of either of their successors and assigns.

Section 1.7. “Director” means the Director of the Community Development Department of the City.

Section 1.8. “Eligible Household” means as to any Moderate Income Restricted Unit a household whose income does not exceed one hundred twenty percent (120%) of the Area Median Income, adjusted for family size, and as to any Very Low Income Restricted Unit a household whose income does not exceed the very low income limit established for Ventura County by the U.S. Department of Housing and Urban Development, adjusted for family size. In addition to the above income qualifications, the Eligible Household must meet the “Minimum

Eligibility Requirements” attached hereto as **Exhibit D** and incorporated herein by this reference in order to qualify to purchase an Income Restricted Unit.

Section 1.9. “Implementation Plan” means that certain plan for implementing the sale of Income Restricted Units in the Project in accordance with the Inclusionary Housing Ordinance and City AHP on file with the Director, as it may be, from time to time, amended or revised consistent with the City’s ordinances and this Agreement.

Section 1.10. “Income Restricted Unit” means a residential unit on the Property which is restricted as to its sale or rental or occupancy, or any combination of the foregoing, as further set forth in the terms of this Agreement. The Income Restricted Units are shown and described on **Exhibit B** hereto. Except as may be further provided by this Agreement, each Income Restricted Unit designated on **Exhibit B** as a “Very-Low Income Unit” or a “Moderate Income Unit” must be reserved for sale to and occupancy by an Eligible Household.

Section 1.11. “Initial Sale” means the first sale of an Income Restricted Unit by Developer to an Eligible Household.

Section 1.12. “Low Income Restricted Unit” means a unit that is reserved for sale to Eligible Households whose income does not exceed the low income limit established for Ventura County by the U.S. Department of Housing and Urban Development, adjusted for family size.

Section 1.13. “Market Rate Units” shall mean all residential units to be constructed on the Property that are not Income Restricted Units.

Section 1.14. “Maximum Price” or “MP” shall mean the maximum purchase and sales price which may be paid for an Income Restricted Unit in the Initial Sale and all subsequent sales by the Owner of each Income Restricted Unit, as, determined according to the formula set forth in the City’s in the Methodology for Calculating Maximum Price as defined in Section 1.15 below.

Section 1.15. “Methodology for Calculating Maximum Price” shall mean the method for calculating the Maximum Price for Income Restricted Units, as more particularly described in **Exhibit C** to this Agreement, attached hereto and incorporated herein.

Section 1.16. “Moderate Income Restricted Unit” shall mean a unit that is reserved for sale to Eligible Households whose income does not exceed one hundred twenty percent (120%) of the Area Median Income, adjusted for family size.

Section 1.17. “Owner” means each person or entity holding fee title to an Income Restricted Unit, other than Developer.

Section 1.18. “Required Marketing Efforts” means marketing efforts that Developer is required to make in the sale of each Income Restricted Unit before Developer may submit to City a “Failure to Sell Notice”, pursuant to and as more fully described in the Implementation Plan (as defined in Section 1.9).

Section 1.19. “Subsequent Sale” means any sale of an Income Restricted Unit after the Initial Sale.

Section 1.20. “Term” means, with respect to each Income Restricted Unit, forty-five (45) years from the date of the close of escrow for the Initial Sale by Developer to an Eligible Household and the recordation of the *Resale Restriction and Affordability Agreement Secured by Deed of Trust* recorded against the Income Restricted Unit.

Section 1.21. “Very Low Income Restricted Unit” shall mean a unit that is reserved for sale to Eligible Households whose income does not exceed the very low income limit established for Ventura County by the U.S. Department of Housing and Urban Development, adjusted for family size.

ARTICLE 2 SALES RESTRICTIONS

Section 2.1. Initial Sales. No Income Restricted Unit may be sold for the first time except as provided for in this Agreement. Very-Low and Moderate Income Restricted Units may be sold in Initial Sales only to Eligible Households. Developer may only charge a sales price consistent with the MP for that Income Restricted Unit. As such, in the event of a sale of a Very-Low or Moderate Income Restricted Unit, the MP would be the price that could be charged to an Eligible Very-Low or Moderate Income Household. Developer shall request in writing that the City confirm the MP for each Income Restricted Unit not less than thirty (30) days prior to first offering such Income Restricted Unit for sale. City shall calculate and notify Developer of the MP within thirty (30) days of receipt of Developer’s written request.

Section 2.2. Resale Restriction Agreement. As a condition of the sale of each Income Restricted Unit designated on *Exhibit B*, the City and the Eligible Household purchasing an Income Restricted Unit shall enter into a Resale Restriction and Affordability Agreement Secured by Deed of Trust (hereafter “Resale Restriction Agreement”), and a Deed of Trust securing the Resale Restriction Agreement (the “Deed of Trust”), both in a form approved by the City Attorney, which shall be recorded in the Official Records of Ventura County against the Income Restricted Unit at or before the close of escrow on the Initial Sale. Failure to meet this condition shall constitute a material default under this Agreement. After a valid Initial Sale of an Income Restricted Unit to an Eligible Household is accomplished and the Resale Restriction Agreement and the Deed of Trust are entered into between the City and the Eligible Household and recorded in the Official Records of Ventura County, the City or its designee, and not Developer, is responsible for monitoring and enforcing compliance with the Resale Restriction Agreement and Deed of Trust for such Unit for the Term of the Resale Restriction Agreement.

Section 2.3. Non-Discrimination. Developer shall not discriminate against any person on the grounds of age, race, color, creed, religion, sex, ancestry, sexual preference, disability, marital status, sexual orientation, or medical condition, including the actual or perceived affliction of AIDS or the HIV virus, or national origin in the selection or approval of prospective buyers or Eligible Households, in the provision of services, or in any other manner.

Section 2.4. Failure to Sell.

2.4.1 *Notification to City.* If Developer is unable to effect a sale of an Income Restricted Unit to an Eligible Household despite continuously undertaking the Required Marketing Efforts for at least six (6) consecutive months following the later of issuance of a Certificate of Occupancy for the applicable Income Restricted Unit or approval of Developer's Marketing Program, in accordance with the requirements of the Implementation Plan, to sell such Unit in accordance with this Agreement and the Implementation Plan, Developer shall notify City (the "Failure to Sell Notice").

2.4.2 *City Review of Required Marketing Efforts.* Upon receipt of a Failure to Sell Notice, and such documentation as City may request evidencing Developer's efforts to sell the Unit to an Eligible Household, City shall make a determination as to whether Developer has complied with the Required Marketing Efforts in accordance with this Agreement and the Implementation Plan. City shall make such written determination within thirty (30) days of receipt of the Failure to Sell Notice. In the event City determines that Developer failed to comply with the Required Marketing Efforts, the City shall provide a written explanation of how Developer failed to comply with such requirements. If City notifies Developer that it has failed to comply with the Required Marketing Efforts ("Disapproval of Failure to Sell"), Developer shall thereafter engage in the Required Marketing Efforts until the Income Restricted Unit is sold, or for six (6) months from the date of receipt of the City's determination. If Developer is still unable to effect a sale of an Income Restricted Unit to an Eligible Household within such additional six (6) month period, Developer shall submit a new Failure to Sell Notice, which shall be subject to City review as set forth in this Section 2.4.2. In the event that City confirms that Developer has complied with the Required Marketing Efforts but still have failed to sell the Income Restricted Unit ("Approval of Failure to Sell"), the City shall proceed with one of its options as set forth in Sections 2.4.3 and 2.5 of this Agreement.

2.4.3 *City Options Following Approval of Failure to Sell.* After City has issued a written Approval of Failure to Sell to Developer, City may elect, in its sole and absolute discretion, to (i) purchase such Income Restricted Unit at the MP (the "City Purchase Option"), or (ii) locate a potential Eligible Household to purchase such Income Restricted Unit at the MP (the "City Assignment Option"), or (iii) authorize Developer to sell the Income Restricted Unit to a Buyer that is not an Eligible Household, subject to the conditions as set forth in Section 2.5(c) of this Agreement.

Section 2.5. City's Rights Upon Approval of Failure to Sell. Within thirty (30) days of City issuance of an Approval of Failure to Sell, City shall notify Developer in writing whether City intends to exercise the City Purchase Option or the City Assignment Option.

- (a) If City elects the City Purchase Option, City and Developer shall promptly enter into an escrow at an escrow holder selected by City, which escrow shall close within thirty (30) days. All fees and costs of escrow, including transfer tax, recording costs and title insurance, shall be allocated and paid in accordance with the customary practice in Ventura County.

- (b) If City elects the City Assignment Option, City shall first be required to locate a prospective Buyer that the City determines to be income-qualified, and provide the Developer with the name and contact information of such Buyer, at which point the Income Restricted Unit shall be sold to such prospective Buyer in accordance with the procedures set forth in Section 3 of the Implementation Plan.
- (c) If City notifies Developer in writing that City does not intend to exercise either the City Purchase Option or the City Assignment Option, or within thirty (30) days of receiving a Failure to Sell Notice, City fails to make an election, then (and only then) and notwithstanding any provision of this Agreement to the contrary, Developer may offer the Income Restricted Unit for sale to a Buyer that is not an Eligible Household, but only for the Maximum Price, and the Buyer shall be required to enter into a *Resale Restriction and Affordability Agreement Secured by Deed of Trust* with the City in a form approved by the City Attorney that restricts all Subsequent Sales of the Income Restricted Unit to Eligible Households as applicable to the Income Restricted Unit at the Maximum Price.

ARTICLE 3 GENERAL OBLIGATIONS

Section 3.1. Maintenance. Developer and any successors in interest in control of any Income Restricted Unit(s) shall keep and maintain the Income Restricted Unit(s) in good condition and repair in compliance with all applicable City codes prior to conveying an Income Restricted Unit.

Section 3.2. Inspection Rights. The City may inspect any Income Restricted Unit and any documents or records relating thereto, at any reasonable time, to determine Developer's compliance with this Agreement. The City shall have the right but not the duty to inspect any Income Restricted Unit, prior to close of escrow for the sale of such Unit to an Eligible Household, to determine whether the Unit is in a decent, safe and sanitary condition.

Section 3.3. Qualification of Eligible Households. In accordance with the Implementation Plan, Developer shall preliminarily determine whether the household income of a prospective Buyer may qualify them as an Eligible Household. Upon completion of this preliminary qualification by Developer, all documentation relating to the preliminary determination of income eligibility shall be promptly forwarded to City by Developer so that City may formally determine if the prospective Eligible Household is income-qualified, and so that these documents may be used by a lender of Buyer's choice in qualifying the prospective Eligible Household for financing.

Section 3.4. Requirement for Certificate of Compliance. Following City's determination that a prospective Buyer is income-qualified and City's receipt and approval of all other documentation required by the Implementation Plan and after qualification by a lending institution, the prospective Eligible Household shall be deemed to be an Eligible Household. Upon City's determination that the prospective Eligible Household is an Eligible Household in accordance with the Implementation Plan, City or its designee shall issue a Certificate of

Compliance and forward it to the escrow company. No escrow for the sale of an Income Restricted Unit shall close until a Certificate of Compliance is issued by City.

Section 3.5. Reporting. Beginning on the date the first sales contract for an Income Restricted Unit is executed by Developer and continuing until the last Income Restricted Unit is sold as an Initial Sale to an Eligible Household, Developer shall submit to the City monthly reports on the current sales status of all Income Restricted Units, as provided in the Implementation Plan. The City may periodically monitor/audit Developer's records concerning the Income Restricted Units and qualification of Eligible Households.

Section 3.6. Review of Agreements and Disclosure. Prior to executing a binding sales contract for the Initial Sale of an Income Restricted Unit, Developer shall disclose, provide copies of and fully explain to the potential Buyer, the provisions of this Agreement and the Resale Restriction Agreement and obtain written acknowledgment thereof from that potential Buyer.

Section 3.7. Covenants Running with the Land. The provisions of this Agreement shall constitute covenants that shall run with the land and shall be binding upon Developer and its successors, transferees and assignees, and all parties having or acquiring any right, title, or interest in the Property unless and until the Property or such portion thereof is released from the obligations of this Agreement. Any attempt to transfer title to, or any interest in, an Income Restricted Unit in violation of this Agreement shall be void.

Section 3.8. Release of Property from Agreement. When each Income Restricted Unit is sold in compliance with this Agreement and the *Resale Restriction and Affordability Agreement Secured by Deed of Trust* is entered into between the City and the Buyer, the portion of the Property that constitutes that Income Restricted Unit shall be released from the burdens of this Agreement through escrow for the Initial Sale of the Income Restricted Unit.

Section 3.9. Replacement of Units. If for any reason prior to the Initial Sale of an Income Restricted Unit(s), such Unit(s) becomes unavailable for use and occupancy by Eligible Households, it shall be replaced in kind prior to issuance of any building permit that is not necessary for reconstruction of the Unit(s), and prior to the issuance of any final building permit or certificate of occupancy for any other market rate unit or other building space within the Project.

Section 3.10. Implementation Plan. Developer, on behalf of itself and its heirs, successors, transferees and assignees, and all parties having or acquiring any right, title, or interest in any Income Restricted Unit, expressly acknowledges and agrees that the Implementation Plan may be amended by the City from time to time in the sole and reasonable discretion of the City as the City determines to be necessary or desirable to promote or achieve consistency with the City's Affordable Housing Program, the Inclusionary Housing Ordinance, the Housing Element of the City's General Plan, and applicable law in effect from time to time. Changes in the Implementation Plan shall apply prospectively, unless the Implementation Plan provides otherwise.

ARTICLE 4 DEFAULTS AND REMEDIES

Section 4.1. Default. If Developer breaches this Agreement, Developer shall have thirty (30) days after service upon it of written notice of such default or breach in which to cure such breach; provided, however, that for any such breach resulting from circumstances beyond Developer's reasonable control which cannot reasonably be remedied within thirty (30) days, Developer shall commence performance within thirty (30) days after service of written notice and diligently work thereafter to render full and complete performance.

Section 4.2. Enforcement. Developer or the City may enforce any of the terms, covenants or conditions contained in this Agreement through any proceedings at law or in equity. The parties may commence and maintain actions for damages or specific performance, or to restrain and enjoin any actual or threatened breach of any provision of this Agreement.

Section 4.3. Cumulative Remedies. Any remedy provided for herein shall not be exclusive or preclude Developer or the City from exercising any other remedy available under this Agreement, or under provisions of law, nor shall any action taken in the exercise of any remedy be deemed a waiver of any other rights or remedies available to such parties.

Section 4.4. No Waiver. It is understood and agreed that no waiver of a breach of any of the provisions of this Agreement shall be construed as a waiver of any other breach; nor shall failure to enforce any portion of this Agreement be construed as a waiver of any of the conditions of this Agreement.

ARTICLE 5 MISCELLANEOUS PROVISIONS

Section 5.1. Headings. Headings used in this Agreement are for convenience only and are not to be used to interpret the meaning of any of the provisions of this Agreement.

Section 5.2. Severability. The provisions of this Agreement are independent and severable, and the invalidity or partial invalidity, or unenforceability of any provision or provisions shall not invalidate any other provision.

Section 5.3. Construction. The provisions of this Agreement shall be liberally construed to effectuate its purpose. The singular shall include the plural and the plural the singular, unless the context requires the contrary. The masculine, feminine and neuter shall each include the genders not used.

Section 5.4. No Warranty. The City does not in any manner warrant that the Income Restricted Units meet requirement of the City's Municipal Code.

Section 5.5. Notices.

- (a) All notices to be given to the City shall be in writing, and delivered or mailed first-class postage prepaid to the City at the following address:

Community Development Director
City of San Buenaventura
501 Poli Street, P.O. Box 99
Ventura, CA 93002

With a copy to:

City Attorney
City of San Buenaventura
501 Poli Street, P.O. Box 99
Ventura, CA 93002

- (b) All notices to be given to Developer shall be in writing and delivered or mailed first-class postage prepaid to Developer at the following address:

Ventura Cannery Apartments Development, LLC
Attn: Derek Baak
12424 Wilshire Boulevard #670
Los Angeles, CA 90025

Section 5.6. Inconsistencies. If there is an inconsistency between any of the provisions of this Agreement and any exhibits hereto, the inconsistency shall be resolved by giving precedence to this Agreement.

Section 5.7 Integration. This Agreement contains the entire understanding between the parties relating to the transaction contemplated by this Agreement. All prior or contemporaneous agreements, understandings, representations and statements, oral or written, are merged in this Agreement and shall be of no further force or effect. Each party is entering this Agreement based solely upon the representations set forth herein and upon each party's own independent investigation of any and all facts such party deems material.

Section 5.8 Amendment. This Agreement may not be changed orally, but only by agreement in writing signed by City and Developer. City shall maintain authority to implement this Agreement through the City Manager (or his/her respective duly authorized representatives). The City Manager shall have the authority to make approvals, issue interpretations, execute documents, and/or enter into certain amendments of this Agreement, on behalf of City, including but not limited to reasonable requests of Developer, so long as such actions do not materially or substantially change the uses or development permitted on the Property, or add to the costs incurred or to be incurred by City. All other material and/or substantive interpretations, waivers, or amendments shall require the consideration, action and written consent of the City Council.

Section 5.9 Governing Law. This Agreement shall be construed in accordance with and be governed by the laws of the State of California. Any references herein to particular statutes or regulations shall be deemed to refer to successor statutes or regulations, or amendments thereto.

Section 5.10 Representations and Warranties of Developer. Developer hereby represents and warrants to City that Developer is a California limited liability company duly organized, validly existing, formed, and in good standing under the laws of the State of California that has the power and authority to own property and carry on business as is now being conducted.

Section 5.11 Successors and Assigns. This Agreement shall run with the land, and all of the terms, covenants and conditions of this Agreement shall be binding upon Developer and the successors and assigns of Developer. Whenever the term “Developer” is used in this Agreement, such term shall include any of Developer’s assignee(s) or transferee(s), or any other successors and assigns as herein provided.

Section 5.12 Relationship between City and Developer. It is hereby acknowledged and agreed that the relationship between City and Developer is not that of a partnership or joint venture or other investor partner and that City and Developer shall not be deemed or construed for any purpose to be the agent of the other. Accordingly, except as expressly provided in this Agreement, City shall have no rights, powers, duties or obligations with respect to the development, operation, maintenance or management of the Project.

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Section 5.13 No Third Parties Benefited. This Agreement is made and entered into for the sole protection and benefit of the City and Developer and their permitted successors and assigns, and no other person or persons shall have any right of action hereon.

IN WITNESS WHEREOF, the City of San Buenaventura and the Developer have caused this Agreement to be executed by their duly authorized representatives.

[SIGNATURES MUST BE NOTARIZED]

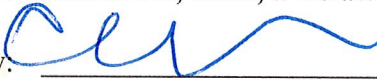
CITY OF SAN BUENAVENTURA, a California municipal corporation

By: 
Mark D. Watkins, City Manager

12/14/16
Date

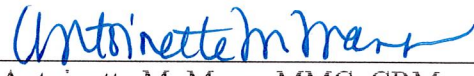
VENTURA CANNERY APARTMENTS DEVELOPMENT, LLC, a Limited Liability Company

By: **MEM&YL, LLC**, a Delaware Limited Liability Company

By: 
Michelle Denise Walker, Manager

12.8.16
Date

ATTEST

By: 
Antoinette M. Mann, MMC, CRM
City Clerk

APPROVED AS TO FORM

Gregory G. Diaz, City Attorney

By: 
Ethan Walsh, Special Counsel to the City

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

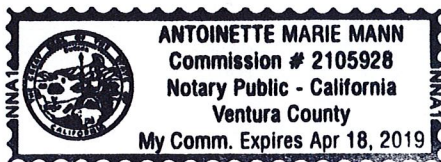
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
 County of Ventura)
 On December 14, 2016 before me, Antoinette Marie Mann, Notary Public
 Date Here Insert Name and Title of the Officer
 personally appeared Mark D. Watkins
 Name(s) of Signer(s)

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.



Signature Antoinette Marie Mann
 Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: _____ Document Date: _____
 Number of Pages: _____ Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator
☐ Other: _____
 Signer Is Representing: _____

Signer's Name: _____
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator
☐ Other: _____
 Signer Is Representing: _____

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**CIVIL CODE § 1189**

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.

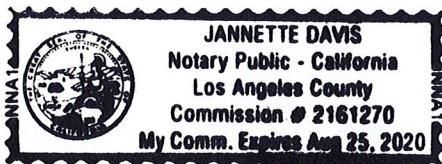
State of California)

County of LOS ANGELES)On DECEMBER 8, 2016 before me, JANNETTE DAVIS,
Date Here Insert Name and Title of the Officerpersonally appeared MICHELLE DENISE WALKER
Name(s) of Signer(s)

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.

Signature Jannette Davis
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: _____ Document Date: _____

Number of Pages: _____ Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

☐ Corporate Officer — Title(s): _____☐ Partner — ☐ Limited ☐ General☐ Individual ☐ Attorney in Fact☐ Trustee ☐ Guardian or Conservator☐ Other: _____

Signer Is Representing: _____

Signer's Name: _____

☐ Corporate Officer — Title(s): _____☐ Partner — ☐ Limited ☐ General☐ Individual ☐ Attorney in Fact☐ Trustee ☐ Guardian or Conservator☐ Other: _____

Signer Is Representing: _____

EXHIBIT A

LEGAL DESCRIPTION OF REAL PROPERTY

Parcel **1** Map No LD-1020 filed in Book 70, Pages 86-87, of Miscellaneous Records (Maps) in the Office of the County Recorder of Ventura County California. The land referred to herein is situated in the State of California, County of Ventura, and described as follows:

Units 2120 through 2127, 2220 through 2231, 2420 through 2422, Association Property, and Common Area of Phase 1.

Units 1101 through 1108 & 1112, 1201 through 1212, 1302 through 1312, 1408 through 1411, R1, R2, association property, and common area of Phase 2.

Units 3140 through 3145, 3240 through 3249, 3340, 3440 and 3441, Association Property, and Common Area of Phase 3.

APN 071-0-260-375

78 UNIT PROJECT WITH 12
INCLUSIONARY HOUSING UNITS



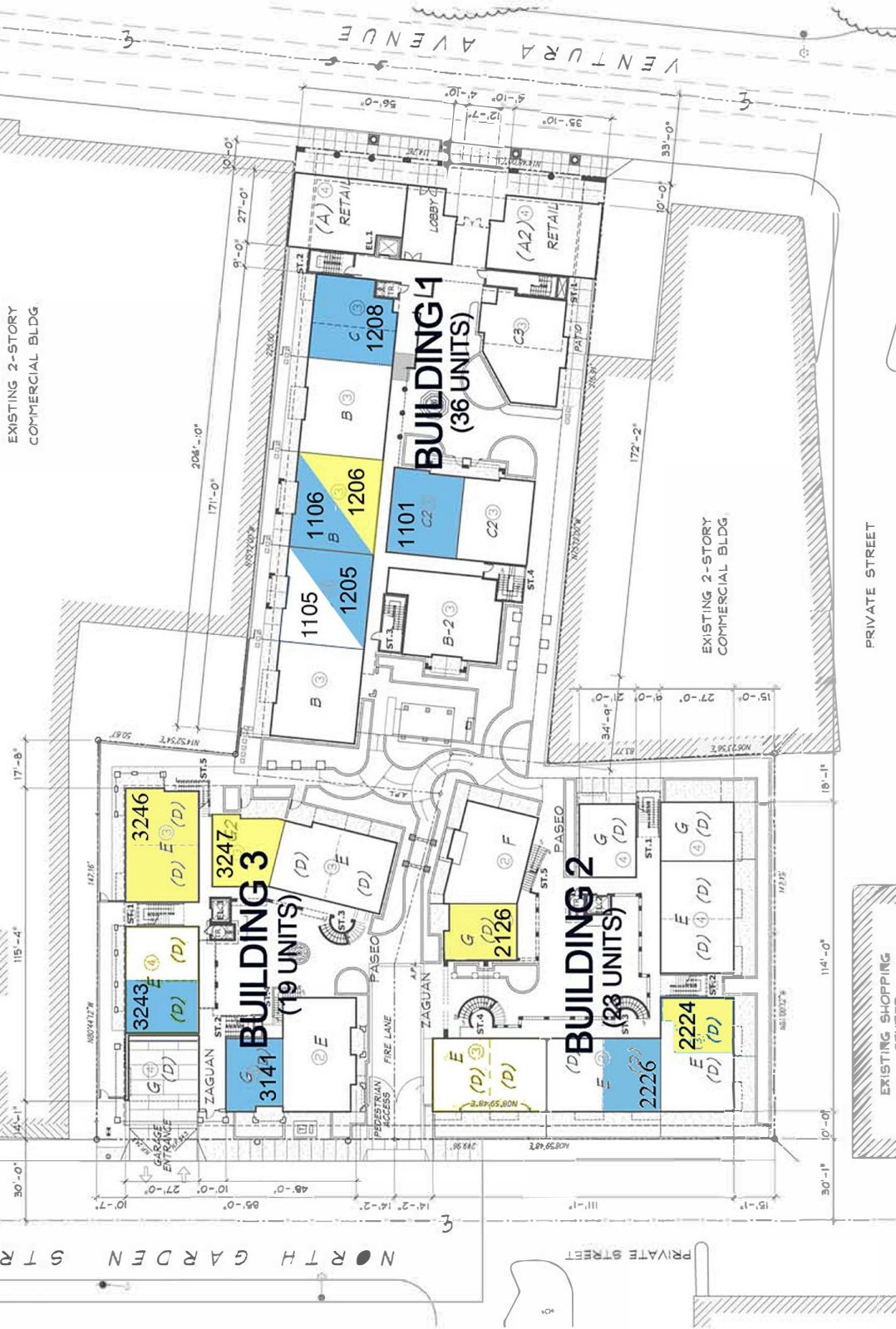
7 - MODERATE
INCOME UNITS
1101, 1106, 1205
1208, 2226, 3141,
3243



5 - VERY LOW
INCOME UNITS
1206, 2126, 2224,
3246, 3247

EXHIBIT B

EXISTING 2-STORY
COMMERCIAL BLDG



November 28, 2016

VENTURA CANNERY APARTMENT DEVELOPMENT LLC.

130 NORTH GARDEN STREET, VENTURA, CALIFORNIA

PAUL ESSICK ARCHITECTS

315 WASHINGTON BLVD. ST. 3 - MARINA DEL REY, CA 90292 (310) 305-1600 FX(310) 577-7545
COPYRIGHT © 2007 BY PAUL ESSICK ARCHITECTS ALL RIGHTS RESERVED. HTTP://WWW.PAULESSICKARCHITECTS.COM

EXHIBIT C

METHODOLOGY FOR CALCULATING MAXIMUM PRICE

[Attached behind this cover page]

METHODOLOGY FOR CALCULATING MAXIMUM PRICE

I. GENERAL POLICY

Income Restricted Units must be sold by Developer and subsequent owners at no more than the defined Maximum Price. This price will be calculated as set forth herein, based on the affordability level for the applicable Income Restricted Unit. The Maximum Price is the maximum price for which an Inclusionary Unit may be sold at the initial sale of the Income Restricted Unit and through the covenant period. The Maximum Price is calculated based on the requirements of the City's existing inclusionary housing ordinances and resolutions, which require that Income Restricted Units be sold to Eligible Households at a cost that will result in gross monthly housing expenses that do not exceed 30% of the gross monthly income for based on the household income levels described in Section II.A.2 of this Exhibit, adjusted for household size. The Maximum Price is likely to be lower than the fair market value of the property.

II. MAXIMUM PRICE CALCULATIONS

The Maximum Price is equal to the Supportable Mortgage (as defined below) plus a Benchmark Down Payment amount set at 10% of the Maximum Price. This Benchmark Down Payment amount is not tied to the actual down payment contributed by the home buyer. The City will calculate both the Supportable Mortgage and the Benchmark Down Payment using the form provided at the end of this Exhibit.

The amount of the Maximum Price is calculated on the basis of the identified variables as described below in Subsection A.

A. Variables used for Calculation of Maximum Price.

1. *Household Size*

The household income applied in the Affordable Housing Cost is calculated for a household based on the number of bedrooms in the unit plus one. For example, the imputed household size for a three-bedroom home is four persons. The imputed household size for a studio or 0-bedroom unit is one person. The household size determined for each unit is an assumption that is used to determine the Maximum Price, and is not meant to be an occupancy cap. It is simply a benchmark used to create a consistent methodology for determining the Maximum Price.

2. *Household Income*

The household income levels described below shall be used to calculate the Affordable Housing

Cost for each category of Income Restricted Units.

- i. Very-Low Income: The income level is assumed to be equal to the very low income limit established for Ventura County by the U.S. Department of Housing and Urban Development for a household size equal to the number of bedrooms in the unit plus one.
- ii. Low Income: The income level is assumed to be equal to the low income limit established for Ventura County by the U.S. Department of Housing and Urban Development for a household size equal to the number of bedrooms in the unit plus one.
- iii. Moderate Income: The income level is assumed to be equal to 110% of the Ventura County Median Income for a household size equal to the number of bedrooms in the unit plus one.

3. *Income Allocated to Housing Related Expenses.*

For each income level, this calculation methodology assumes that 30% of the benchmark household income (as described in Subsection 2, above) shall be allocated to housing related expenses, including mortgage and non-mortgage expenses, as described below:

4. *Housing Related Expenses (Mortgage and Non-Mortgage Expenses)*

Non-mortgage expenses will be calculated based on standards defined by the City. The expenses and standards are:

- i. Property Tax and Assessments: The tax rate applied to determine the annual property tax cost will be set at 1.25% of the purchase price of an inclusionary home.
- ii. Fire and Casualty Insurance: The City or its designee will periodically survey local insurance companies to determine the typical annual cost of insuring a home for its replacement value. A value will be determined based on each sized unit (based on the number of bedrooms) and will be published and updated once per year. In the event that fire and casualty insurance is included in the HOA fees, that cost will not be included in this category.
- iii. Utilities: The Planning Manager will estimate an annual utility cost based on data published by the Housing Authority of the City of San Buenaventura. This value will be published and updated once per year. In the event that certain utilities are included in the HOA fees, those will not be included in this category.
- iv. Homeowner Association Fees (HOA): The HOA fees based on the amount actually charged for the home being purchased.

5. *Supportable Mortgage Amount*

The Supportable Mortgage amount is the mortgage that can be supported by a mortgage payment equal to the income available to pay the Affordable Housing Cost after the deduction of the non-mortgage expenses described above. The mortgage interest rate used to calculate the “Supportable Mortgage” will be based on the interest rate set by Fannie Mae as the 60 day rate for a 30-year, fully-amortizing, fixed-interest rate, no points, no fees loans. The interest rate used in the calculation will be the pertinent rate published in the Wall Street Journal for the last day of the final quarter of the calendar year preceding the proposed home purchase.

The calculated mortgage is an assumed benchmark for purposes of calculating the Maximum Purchase Price. Each household’s actual mortgage may vary based on the interest rate available at the time they apply for a loan, the loans that the household qualifies for, and the actual amount of the downpayment, along with other variables.

6. *Benchmark Down Payment*

The Benchmark Down Payment used by the City to establish the Maximum Price is 10% of the Maximum Price. The actual down payment amount will vary from unit-to-unit.

B. *Maximum Price*

The Maximum Price will be equal to the sum of the Supportable Mortgage determined based on the variables outlined above, plus the Benchmark Down Payment.

EXHIBIT D

**MINIMUM ELIGIBILITY REQUIREMENTS FOR POTENTIAL
PURCHASERS OF INCOME-RESTRICTED AFFORDABLE HOUSING UNITS**

[Attached behind this cover page]

CITY OF SAN BUENAVENTURA
MINIMUM ELIGIBILITY REQUIREMENTS FOR POTENTIAL
PURCHASERS OF INCOME-RESTRICTED AFFORDABLE HOUSING UNITS

The following eligibility standards shall be used to evaluate the qualifications of Households interested in purchasing an income-restricted affordable housing unit.

A. Household Income Limits

See the definition of “Eligible Household” in Section 1.8 of the Resale Restrictions and Affordability Agreement Secured by Deed of Trust.

B. Down Payment and Closing Costs

Applicants must provide a 3% minimum down payment toward the purchase. Gift letters are acceptable in meeting a portion of this requirement as long as there are no repayment terms. However, the applicant must provide a minimum of one-half of the down payment requirement from their own personal assets. No portion of the applicant's down payment may be borrowed. Homebuyers will also be required to follow the down payment guidelines of the primary lender.

C. Treatment of Assets

When a household has net household assets in excess of \$5,000, then gross income shall include a 2% (Passbook rate) of the value of all such assets.

If the assets are less than \$5,000 no income is counted from assets. If the assets are \$5,000 or greater, count the income from all of the assets. Note it is the income from the assets that is counted, not the value of the assets. If there is no regular income from assets, the income is imputed to be 2.0%.

Note: if the assets are \$5,000 or more, but they are scheduled to be liquidated for the down payment, and they are deposited in escrow, they need not be counted in the income verification. Any assets not used for down payment must be considered.

Household assets: All checking and savings accounts, money market accounts, stocks, bonds and other forms of capital investments. Retirement accounts are not counted as assets for Income verification, if they are not accessible to the applicant, without penalty, retiring or terminating employment.

D. Maximum Housing Expense

The household housing cost should not exceed 35% of the household's gross monthly income. Housing costs include principal and interest, property taxes and insurance, private mortgage insurance, homeowner association dues, if any, and a utility allowance (established by The City of San Buenaventura).

E. Debt-to-Income Ratio

The applicant's debt-to-income ratio should not exceed 43%. The debt-to-income ratio will be based on the applicant's monthly housing cost and all other monthly debt.

F. Co-Signer

All applicants must qualify for both the primary and secondary source of financing utilizing the household's income only. The Program does not allow for co-signers to assist in qualifying the program.

G. Homebuyer Seminar

Applicants will be required to attend a seminar/workshop designed to provide information about becoming a homebuyer. Applicants must attend a HUD Certified home buyer seminar and submit evidence of attendance prior to receiving an approval from the City/Agency, preferably before making an offer to purchase a property.

H. Primary Loan and Other Loans

❖ Loan Type

The Primary Loan must be a fully amortized fixed rate loan. No negative amortization financing or stated income primary loans will be permitted and no balloon payments will be allowed.

❖ Loan Status

Buyers will be required to provide authorization, with their application, to permit the City/Agency to receive information at any time regarding the status of the primary loan, including monthly payments on the first trust deed loan recorded against the property.

❖ Request for Notice

Escrow will be required to record a Request for Notice of Default in favor of the City/Agency.

I. Principal Residence

The buyer/owner shall use and occupy the affordable unit as its principal place of residence. Buyers of an affordable unit cannot own another home at the time of escrow closing on the affordable unit.