

RECORDING REQUESTED BY:  
AND WHEN RECORDED MAIL TO:

City of Santa Ana  
Clerk of the Council  
20 Civic Center Plaza (M-30)  
P.O. Box 1988  
Santa Ana, California 92702  
Attention: Clerk of the Council

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*Free Recording pursuant to  
Government Code 27383*

**DENSITY BONUS HOUSING AGREEMENT  
(322 N. Harbor Boulevard, Santa Ana, California; APN: 198-051-17)**

This DENSITY BONUS HOUSING AGREEMENT ("Agreement"), made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2023 ("Effective Date"), by and between the City of Santa Ana, a charter city and municipal corporation of the State of California ("City"), and P & P Bros Corp., a California Corporation ("Developer"). City and Developer are sometimes referred to collectively as the "Parties" and individually as a "Party."

**RECITALS**

A. Developer is the owner of certain property located within the City of Santa Ana, County of Orange, State of California, commonly known as 322 N. Harbor Boulevard, Santa Ana, California, 92703, and legally described as set forth in Exhibit A attached hereto and incorporated herein by this reference as if set forth in full ("Property").

B. Developer is proposing to construct a residential development consisting of no more than twenty-two (22) residential rental units on the Property, as more particularly set forth in Density Bonus Application No. 2022-3 and Development Site Plan Review No. 2022-2 ("Project"). Without the density bonus, Developer would only be permitted to building seventeen (17) units on the Property.

C. Santa Ana Municipal Code sections 41-1600, *et seq.* ("City Density Bonus for Affordable Housing"), and California Government Code sections 65915, *et seq.* ("State Density Bonus Law"), set forth a process to provide increased residential densities and/or incentives, concessions, or waivers to property owners who guarantee that a portion of their residential development will be available to low income, very low income, or senior (also known as "qualified") households. These regulations are intended to materially assist the housing industry in providing adequate and affordable housing for all economic segments of the community and to provide a balance of housing opportunities for very low income, low income and senior households throughout the city.

D. The project is proposing a total of twenty-two (22) residential units, including two (2) units for very-low income households. Pursuant to California Government Code sections

65915(p)(2)(A), the Project will provide twenty-two (22) total onsite parking spaces or 1 space per one-bedroom and two-bedroom units. No parking concession is requested or provided.

E. For the purpose of implementing this State Density Bonus Law onsite parking standard incentive, Developer has agreed to restrict eleven percent (11%) of the units, in the Project to very low income households, which will result in two (2) Affordable Units, as defined.

F. The Project complies with the affordable housing requirements set forth in the State Density Bonus Law and City Density Bonus for Affordable Housing. For purposes of this Agreement, the Project shall be the "housing development" as defined in the State Density Bonus Law.

G. In light of the purpose of the State Density Bonus Law and City Density Bonus for Affordable Housing, and the express provisions of Government Code Sections 65915 (d)(1)(2)(B), and 65915(e)(1), the City has determined to approve the application with two (2) concessions and two (2) waivers.

H. This Agreement, and the exhibits attached hereto and incorporated herein by reference, are intended to set forth the terms and conditions for the implementation of the Project's requirement to provide affordable housing units in exchange for receiving the density bonus incentive set forth herein.

NOW, THEREFORE, in consideration of the above recitals, which are incorporated herein by this reference, and of the mutual covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

## 1. DEFINITIONS AND EXHIBITS

1.1 Definitions. In addition to the terms that may be defined elsewhere in this Agreement, the following terms when used in this Agreement shall be defined as follows:

1.1.1 **"Adjusted for family size appropriate to the unit"** shall have the meaning set forth by Health and Safety Code Section 50052.5(h).

1.1.2 **"Affordable Rent"** means the maximum Monthly Rent that may be charged to and paid by an Eligible Household for the Affordable Units, as required by the terms of this Agreement, and which shall not exceed one-twelfth (1/12) of the product of thirty percent (30%) times fifty percent (50%) times the Median Income for Orange County, as defined in Section 1.1.16. The Affordable Rent shall be adjusted to reflect a reasonable utilities allowance for utilities paid by the household using the Santa Ana Housing Authority Multi-Family Housing Utility Allowance Schedule, and shall be updated no less than annually.

1.1.3 **"Affordable Rent Schedule"** means a rent schedule established as of the date of issuance of an occupancy permit (exclusive of tenant utility payments or security deposits) for the required number/percentage of the total number of units in the Project which are to be

rented or available for rent to Very Low Income Tenants. Said Affordable Rent Schedule shall be established at the time of the issuance of the occupancy permit ("Initial Rent Schedule") and shall be created in accordance with the Orange County, California Primary Metropolitan Statistical Area ("PMSA") as published by the California Department of Housing and Community Development ("HCD"), adjusted for family size, and shall be updated no less than annually.

1.1.4 **"Affordable Units"** means two (2) units, which shall be comprised of two (2) one-bedroom units for Very Low Income Tenants. Any change to the number or distribution of Affordable Units is subject to City Manager approval.

1.1.5 **"Agreement"** means this Density Bonus Housing Agreement.

1.1.6 **"City"** means the City of Santa Ana, California

1.1.7 **"City Council"** means the City Council of the City of Santa Ana.

1.1.8 **"City Attorney"** means the City Attorney for the City of Santa Ana.

1.1.9 **"City Manager"** means the City Manager for the City of Santa Ana.

1.1.10 **"City's Planning Commission"** means the Planning Commission for the City of Santa Ana.

1.1.11 **"Density Bonus Housing Agreement Term"** means the period during which this Agreement shall be in full force and effect, as provided for in Section 6.1 below.

1.1.12 **"Developer"** means P & P Bros Corp, a California Corporation, and its permitted successors and assigns to all or any part of the Property. "Developer" may also be referred to as "Owner" interchangeably throughout the Agreement.

1.1.13 **"Effective Date"** means the date the City Council of City approves this Agreement and from then on this Agreement shall be in full force and effect.

1.1.14 **"Eligible Household"** means a Household whose income does not exceed the qualifying limit for a "Very Low Income Tenant" as defined herein.

1.1.15 **"Household"** means all persons residing in a Unit.

1.1.16 **"Median Income"** means the Orange County, California area median income, adjusted for family size appropriate to the unit, pursuant to California Health and Safety Code § 50052.5(h), as periodically published by HCD.

1.1.17 **"Monthly Rent"** means the total of monthly payments for (a) use and occupancy of each Affordable Unit and land and facilities associated therewith, (b) any separately charged fees or service charges assessed by Developer which are required of all tenants, other than security deposits, application fees or credit check fees, (c) a reasonable allowance for an adequate

level of service of utilities not included in (a) or (b) above, including garbage collection, sewer, water, electricity, gas and other heating, cooking and refrigeration fuels, but not including telephone or cable service, to the extent applicable and charged to a Household, and (d) possessory interest, taxes or other fees or charges assessed for use of the land and facilities associated therewith by a public or private entity other than Developer. In the event that certain utility charges are paid by the landlord rather than the tenant, no utility allowance shall be deducted from the rent for that type of utility charge.

1.1.18 **"Project"** means that certain residential development as more particularly described in Recital B and Section 2 of this Agreement.

1.1.19 **"Property"** means that certain real property more particularly described in the legal description in Exhibit A and improvements thereon.

1.1.20 **"State Density Bonus Law"** means Government Code sections 65915, et seq., as they exist on the Effective Date.

1.1.21 **"Unit"** means a residential dwelling unit within the Project to be constructed by the Developer pursuant to this Agreement.

1.1.22 **"Unrestricted Units"** means the Units within the Project to be constructed by Developer to a Household without restriction.

1.1.23 **"Very Low Income Tenant"** means a Household whose income does not exceed fifty percent (50%) of the area median income for the Orange County, California PMSA, adjusted for household size, as published by HCD.

1.2 Exhibits. The following documents are attached to, and by this reference made a part of, this Agreement:

1.2.1 **Exhibit A** – Legal Description of the Property

1.2.2 **Exhibit B** – Tenant Verification

1.2.3 **Exhibit C** – Annual Tenant Recertification

1.2.4 **Exhibit D** – Annual Rental Housing Compliance Report

1.2.5 **Exhibit E** – Notice of Affordability Restrictions on Transfer of Property

## 2. DEVELOPMENT OF THE PROPERTY

2.1 Project. Developer shall develop, operate, and maintain, or cause the development operation and maintenance of, the Property as a twenty-two (22) Unit residential development, with two (2) Affordable Units for Very Low Income Tenants.

2.2 Density Bonus. The base density for the Property is seventeen (17) dwelling units. By agreeing to provide two (2) Affordable Units, Developer understands and agrees that the State Density Bonus Law would allow a maximum density bonus of thirty-five percent (35%), which would equate to six additional units. Pursuant to this Agreement, Developer proposes and agrees to a Project that includes only five (5) additional Units (“Density Bonus Units”). Accordingly, the Project shall have twenty-two (22) Units, including two (2) Affordable Units, to be rented, occupied, operated, and maintained pursuant to the terms and conditions of this Agreement. Developer shall not construct or develop, or otherwise claim a right to construct or develop, any additional Units on the Property.

2.3 Development Incentives and Waivers. Developer petitioned for concessions, incentives, and waivers, and has been granted the following, as part of the approval of Density Bonus Application (DBA) No. 2023-02 for the Project:

2.3.1 Concessions. In accordance with Government Code Section 65915 (d)(1)(2)(B), Developer is granted the following concessions:

- (a) Relief from the 15-percent minimum common open space requirements as set forth in Table 3-9 (Onsite Open Space Requirements) as part of the Harbor Mixed-Use Transit Corridor Specific Plan (SP-2).
- (b) Relief from the frontage design types within the Corridor land use district, as set forth in Table 3-4 (Frontage Floor Height Minimums and Districts) as part of the Harbor Mixed-Use Transit Corridor Specific Plan (SP-2).

2.3.2. Waivers. In accordance with Government Code Section 65915(e)(1), Developer is granted the following waivers:

- (a) A waiver of the minimum lot width requirement of between 125 feet and 200 feet for Stacked Dwellings, as set forth in Table 3-3 (Building Type and Form) as part of the Harbor Mixed-Use Transit Corridor Specific Plan (SP-2), provided that the lot width is a minimum of 100 feet.
- (b) A waiver of the requirement for two-thirds of the common open space area to be open to the sky and placed at the rear or side yard, or in the front as a forecourt, as part of the Harbor Mixed-Use Transit Corridor Specific Plan (SP-2), provided that at least five-percent (5%) of the lot is open to the sky.

2.3.3. Parking Requirements. The Project’s onsite parking shall comply with Government Code section 65915(p)(2)(A). No additional parking concession is requested or provided. The Project will provide twenty-two (22) total onsite parking spaces or one (1) space per one-bedroom and two-bedroom units.

2.4 No Further Concessions or Incentives. Developer acknowledges and agrees that the incentives, concessions, and waivers set forth in section 2.3 above fully satisfy any duty City may have under the Santa Ana Municipal Code, the Density Bonus Law, or any other law or

regulation to provide any development incentive or to waive any building, zoning, or other requirement in return for providing Affordable Units. By this Agreement, Developer releases any and all claims Developer may have against City in any way relating to or arising from City's obligation to waive requirements of or provide development incentives pursuant to any state, federal, or local law, rule, or regulation applicable to the Project.

2.5 Unrestricted Units. The Project, for purposes of this Agreement, may have no more than twenty (20) Unrestricted Units, which shall be comprised of sixteen (16) one-bedroom units and four (4) two-bedroom units.

2.6 Affordable Units. The Project, for purposes of this Agreement, shall have no less than two (2) Units, which shall be comprised of two (2) one-bedroom units designated as Affordable Units pursuant to the terms and conditions of this Agreement. The Affordable Units shall be consistent with all City approvals, comparable in bedroom distribution and amenities to the Unrestricted Units, and shall be located throughout the Project as required under Santa Ana Municipal Code section 41-1602(c)(5).

2.7 Minimum Development Standards for Affordable Units. The Affordable Units shall be constructed with the same exterior appearance and interior features, fixtures, and amenities, and shall use the same type and quality of materials as provided for any Unrestricted Units.

2.8 Permits and Processing; Compliance with Laws. Developer, at its sole cost and expense, shall secure or cause to be secured any and all permits that may be required by City or any other federal, state, or local governmental entity having or claiming jurisdiction over the Property or Project. Upon securing any and all permits, Developer shall carry out and perform the development, operation, and maintenance of the Project in conformity with all applicable federal, state, and local laws and regulations, and all conditions of approval issued by the City Council and City's Planning Commission for the Project. Any changes to the Project shall be reviewed by the City to determine compliance with this Agreement. If any changes to the Project shall materially alter the ability of Developer to comply with any terms of this Agreement in City's sole determination, then City shall have the option to declare this Agreement null and void in its sole discretion.

2.9 Relocation Prior to Development of Project. If relocation is required prior to the completion of development of the Project, Developer shall have the sole and exclusive responsibility for providing relocation assistance and paying all relocation costs as may be required to comply with applicable federal and state laws and regulations. In addition to any other indemnity provided by Developer under this Agreement, Developer shall indemnify, defend (with counsel of City's choosing and the consent of Developer, which shall not be unreasonably withheld, and which may be joint defense counsel upon City's and Developer's consent), and hold harmless City and all of its officials, officers, employees, representatives, volunteers and agents from any and all alleged or actual claims, causes of action, liabilities, and damages from any third party for relocation assistance, benefits and costs prior to the completion of the development of the Project.

2.10 Local Sourcing Plan. Developer agrees to make a good faith effort to encourage contractors and suppliers to hire and procure locally, to the extent that it is cost effective and does not delay the overall project development schedule.

2.11 Mechanic's Liens; Indemnification. Developer shall take all actions reasonably necessary to remove any future mechanic's liens or other similar liens (including design professional liens) against the Property or Project, or any part thereof, by reason of work, labor, services, or materials supplied or claimed to have been supplied to Developer or anyone holding the Property or Project, or any part thereof, through or under Developer. Prior to the recording of this Agreement (or memorandum thereof) pursuant to Section 4.1 below, Developer shall provide evidence from the Title Company of any new recordings against the Property or Project. City hereby reserves all rights to post notices of non-responsibility and any other notices as may be appropriate upon a filing of a mechanic's lien. In addition to any other indemnity provided by Developer under this Agreement, Developer shall indemnify, defend (with counsel of City's choosing and the consent of Developer, which shall not be unreasonably withheld, and which may be joint defense counsel upon City's and Developer's consent), and hold harmless City and all of its officials, officers, employees, representatives, volunteers and agents from any and all alleged or actual claims, causes of action, liabilities, and damages from any third party by reason of a mechanic's lien or work, labor, services, or materials supplied or claimed to have been supplied to Developer or anyone holding the Property or Project, or any part thereof, through or under Developer.

### 3. AFFORDABILITY

3.1 Total Affordability Term. Each Affordable Unit shall be restricted to use and occupancy by an Eligible Household for a total period of no less than fifty-five (55) years ("Total Affordability Term"). The Total Affordability Term for an Affordable Unit shall commence on the date a certificate of occupancy is issued for the initial Affordable Unit.

3.2 Memorializing Commencement of Total Affordability Term. Developer shall keep detailed records of the commencement date of the Total Affordability Term for each Affordable Unit. City shall have the right to review and verify said records to ensure that the commencement date specified by Developer for an Affordable Unit coincides with the date that the initial Affordable Unit received all permits from City required for occupancy of the Unit. In the event that a conflict exists between the date specified by Developer for the commencement of the Total Affordability Term for an Affordable Unit and the date specified by City's issuance of all required permits for occupancy of the Unit, the date specified by City's issuance of all required permits for occupancy of the Unit shall control.

#### 3.3 Levels of Affordability.

3.3.1 Affordable Rent for Very Low Income Tenants. Developer covenants that no less than two (2) Affordable Units in the Project shall at all times during the Total Affordability Term be rented to, or held vacant and available for immediate occupancy by Eligible Households, at an Affordable Rent.

#### 4. OWNERSHIP AND OPERATION OF THE PROJECT BY DEVELOPER

4.1 Payment of Density Bonus Setup Fee. A Density Bonus Setup Fee in the amount of Four Thousand Six Hundred Seventy Five Dollars and Seventy Cents (\$4,675.70) will be charged to the Developer and must be paid prior to execution of this Agreement.

4.2 Recording of Documents. No later than issuance of building permits for the Project, Developer and the City shall record or cause to be recorded in the Official Records for Orange County, California, an executed original of this Agreement. City shall cooperate with Developer in promptly executing in recordable form this Agreement. The date of recording of the Agreement shall be the Effective Date of the Agreement. Upon the date of recording, the terms and conditions of this Agreement shall be binding upon and run with the Property and the Project for the Total Affordability Term. It is the express intent and agreement between the Parties that this Agreement shall remain binding and enforceable against the Property, the Project, and the Units to ensure compliance with the State Density Bonus Law and City Density Bonus Law, and to ensure the continued supply of Affordable Units in the Project, except as expressly set forth in this Agreement.

4.3 Rental of Units. Upon the completion of construction of the Project and receipt by Developer of all required permits for the occupancy of the Units, Developer shall rent or cause to be rented each Affordable Unit for the Total Affordability Term for such Affordable Unit in accordance with the terms and conditions set forth in this Agreement, which provide among other terms and conditions for the rental of each Affordable Unit at an Affordable Rent to an Eligible Household for the Total Affordability Term.

4.4 Location of Affordable Units. During the Density Bonus Housing Agreement Term, the Affordable Units shall be dispersed throughout the Project in accordance with the terms and conditions set forth in this Agreement. The Affordable Units shall be permitted to float among all twenty-two (22) apartment units in the Project, provided that the Affordable Units shall be comparable in amenities to the Unrestricted Units and reasonably dispersed throughout the Project. The location of the first two Affordable Units to be occupied will be subject to the City's approved Inclusionary Housing Plan, and identified in the Annual Compliance Report submitted to the City pursuant to Section 4.11.2.

4.5 Occupancy Levels. Subject to state or federal laws and regulations, the number of persons permitted to occupy each Affordable Unit shall not exceed two persons per bedroom, plus one person. In the event that a household residing in an Affordable Unit exceeds the permitted number of persons, then that household shall be placed on a waiting list for the appropriate-sized unit and be eligible for transfer when an appropriate-sized unit becomes available. The household will be placed on the waiting list for up to one-hundred and eighty (180) days. If an appropriate-sized unit does not become available during the 180 days, the Owner will have grounds to terminate that household's lease. If the household refuses to transfer to an appropriate-sized unit then the Developer will also have grounds to terminate that household's lease.

4.5.1 Written Notification. If an Eligible Household, during the term of its tenancy, adds members that exceed the maximum occupancy allowed under this section,



Developer shall provide written notification informing the household that: it is over-occupancy; has been placed on a waiting list for up to one-hundred and eighty (180) days; the expiration date of the waiting list; and the terms for terminating the lease. A written status update will be provided to the household at one-hundred and twenty (120) days, ninety (90) days, sixty (60) days and thirty (30) days if applicable.

4.6 Use of the Property. All uses conducted on the Property, including, without limitation, all activities undertaken by the Developer pursuant to this Agreement, shall conform to all applicable provisions of the Santa Ana Municipal Code and other applicable federal, state, and local laws, rules, and regulations. The Project shall at all times during the term of this Agreement be used as an apartment complex and none of the Affordable Units in the Project shall at any time be utilized on a transient basis, nor shall the Property or any portion thereof ever be used as a hotel, motel, dormitory, fraternity or sorority house, rooming house, hospital, nursing home, sanitarium or rest home, or be converted to condominium ownership. All of the community facilities and any social programs provided to the Project's residents shall be available on an equal, nondiscriminatory basis to residents of all Units at the Project.

4.7 Maintenance. Owner shall, at all times during the term of this Agreement, cause the Property and the Project to be maintained in a decent, safe and sanitary manner, regardless of cause of the disrepair. Owner shall be fully and solely responsible for costs of maintenance, repair, addition and improvements. City, and any of its employees, agents, contractors or designees shall have the right to enter upon the Property at reasonable times and in a reasonable manner to inspect the Project.

4.8 Marketing and Resident Selection Plan. Each Affordable Unit shall be leased to Eligible Households selected by the Developer who meet all of the requirements provided herein. Prior to Certificate of Occupancy, Developer shall prepare and obtain City's approval, which approval shall not be unreasonably withheld, of a marketing program and resident selection plan for the leasing of the Affordable Units at the Project ("Marketing Program"). The City shall approve or deny the Marketing Program within ten (10) business days of submittal by the Developer. In the event Marketing Program is neither approved nor denied within said time period, the Marketing Program shall automatically be considered approved. The leasing of the Affordable Units shall thereafter be marketed in accordance with the Marketing Program as the same may be amended from time to time with City's prior written approval, which approval shall not unreasonably be withheld. Upon request, Developer shall provide City with periodic reports with respect to the leasing of the Housing Units.

4.8.1 The Marketing Program shall include, but is not limited to, marketing and community outreach activities, proposed tenant selection criteria, occupancy standards, income requirements, timeline and details for outreach and marketing, data collection, record keeping and monitoring, procedures for complaints, and compliance assessment. Components of the resident selection plan shall include, but are not limited to, the application process, interview procedure, apartment offer and assignment, rejected applications, and wait list management. All requirements set forth herein shall be incorporated in the Marketing Program.

4.9 Rental Lease Agreement. Developer shall prepare and obtain City's approval, which approval shall not be unreasonably withheld, of a rental lease agreement ("Lease Agreement"). All Lease Agreements must 1) identify the names and ages of all members of the household who will occupy the Affordable Unit; and 2) state that the Household's right to occupy the Affordable Unit is subject to compliance with the Median Income requirements, adjusted for family size appropriate to the unit, as periodically published by HCD. All Lease Agreements must be consistent with the terms contained in this Density Bonus Agreement.

4.9.1 Prohibited Lease Terms. The Lease Agreement may not contain any of the following provisions:

- (a) Agreement to be Sued. Agreement by the tenant to be sued, to admit to guilt, or to a judgment in favor of the owner in a lawsuit brought in connection with the lease;
- (b) Treatment of Property. Agreement by tenant that the owner may take, hold, or sell personal property of household members without notice to tenant and a court decision on the rights of the parties. This prohibition, however, does not apply to an agreement by the tenant concerning disposition of personal property remaining in the housing unit after the tenant has moved out of the unit. The Developer may dispose of this personal property in accordance with State law;
- (c) Excusing Developer of Responsibility. Agreement by the tenant not to hold the Developer or the Developer's agent legally responsible for any action or failure to act, whether intentional or negligent;
- (d) Waiver of Notice. Agreement of the tenant that the Developer may institute a lawsuit without notice to the tenant;
- (e) Waiver of Legal Proceedings. Agreement by the tenant that the owner may evict the tenant or household members without instituting a civil court proceeding in which the tenant has the opportunity to present a defense, or before a court decision on the rights of the parties;
- (f) Waiver of a Jury Trial. Agreement by the tenant to waive any rights to a trial by jury;
- (g) Waiver of Right to Appeal Court Decision. Agreement by the tenant to waive the tenant's right to appeal, or to otherwise challenge in court, a court decision in connection with the lease; and
- (h) Tenant Chargeable with Cost of Legal Action Regardless of Outcome. Agreement by the tenant to pay attorney's fees or other legal costs even if the tenant wins in a court proceeding by the owner against the tenant. The tenant, however, may be obligated to pay costs if the tenant loses.

4.10 Selection of Tenants.

4.10.1 Developer shall be responsible for the selection of tenants for the Affordable Units in compliance with lawful and reasonable criteria and the requirements of this Agreement.

4.10.2 Subject to applicable laws and regulations governing nondiscrimination and preferences in housing occupancy, the Developer shall give preference in leasing the Affordable Units to Eligible Households that live and/or work in the City of Santa Ana or who have an active

Housing Choice Voucher issued by the Housing Authority of the City of Santa Ana or any other Public Housing Authority.

4.10.3 All applicants will be screened and “lotterized.” A waiting list will be created from a lottery generated from the initial pool of rental applications. The waiting list will track applicant name and contact information, lottery number (or designated number after the initial lottery), household income, household size, status of application, and any other information deemed necessary. The waiting list will be maintained as an electronic file and available for audit by the City of Santa Ana in accordance with resident selection procedures as set forth herein.

4.10.4 Prior to the rental or lease of an Affordable Unit to a tenant(s), Developer shall require the tenant(s) to execute a written lease and to complete a Tenant Income Verification Form (in substantially the form attached hereto as Exhibit B) certifying that the tenant(s) occupying the Affordable Unit is/are an Eligible Household and otherwise meet(s) the eligibility requirements established for the Affordable Unit. Developer shall verify the income of the tenant(s) as set forth herein.

#### 4.11 Income Verification and Certification.

Developer agrees to make a good faith effort to verify that the income and asset statement provided by an applicant in an income certification is accurate by taking, at a minimum, at least one of the following steps as a part of the verification process: (1) obtain three months consecutive pay stubs for the most recent pay period, (2) obtain an income tax return for the most recent tax year, (3) obtain an income verification form from the applicant’s current employer, (4) obtain an income verification form from the Social Security Administration and/or the California Department of Social Services if the applicant receives assistance from either of such agencies, or (5) if the applicant is unemployed and has no such tax return, obtain another form of independent verification.

4.11.1 Gross Household Income. Gross household income means all income from whatever source from all Adult Household members, which is anticipated to be received during the 12-month period following the date of the determination of Gross Household Income. The applicable sources of income are defined in California Code of Regulations Title 25 Housing and Community Development Section 6914.

4.11.2 Annual Recertification. Developer agrees to recertify household eligibility annually. Notification of Annual Tenant Recertification shall be sent to the household in substantially the form attached hereto as Exhibit C. An Annual Rental Housing Compliance Report (“Annual Compliance Report”) shall be sent to the City in substantially the form attached hereto as Exhibit D. The Annual Compliance Report shall be due to the City within 30 days of the anniversary of the commencement of the Total Affordability Term, which is the date that each building receives all required occupancy permits from the City.

4.11.3 Continued Income Qualification and Vacated Affordable Units. If the annual recertification demonstrates that a previously eligible tenant’s gross household

income exceeds the Median Income for the Affordable Unit, the pertinent actions from the following list must be taken:

- (a) The Developer may offer to rent the unit to the previously, but no longer, Eligible Household as an Unrestricted Unit without any limitations on rental rates. In that case, the Developer must then make available for rent to an Eligible Household another unit within the Project that meets the size and location requirements for Affordable Units under this Density Bonus Agreement. If there are no vacant units meeting those requirements, then the next available unit within the Project which does meet those requirements must be rented to an Eligible Household.
- (b) If the no longer Eligible Household either moves to another Unrestricted Unit within the Project or leaves the Project altogether, then the vacated Affordable Unit or, at Developer's election any other Unrestricted Unit within the Project which meets the size and location requirements for Affordable Units under this Density Bonus Agreement and has the same number of bedrooms as the vacated unit shall be rented as an Affordable Unit to an Eligible Household.

4.12 Monitoring and Recordkeeping. Throughout the Term of this Agreement, Developer shall annually complete and submit to City the Annual Compliance Report. Owner agrees to pay a reasonable fee, as set by City resolution, for the purpose of paying the actual costs associated with the City's obligation to monitor Owner's compliance with the affordability restrictions contained in this Agreement related to the Affordable Units, not to exceed monitoring costs for up to two (2) Affordable Units. Representatives of City shall be entitled to enter the Property if necessary after review of above documentation, upon at least forty-eight (48) hour notice, to monitor compliance with this Agreement, and shall be entitled to inspect the records of the Project relating to the Affordable Units and to conduct an independent audit or inspection of such records at a location within the City that is reasonably acceptable to the City. Developer agrees to cooperate with City in making the Property and the records of the Project relating to the Affordable Units available for such inspection or audit. Developer agrees to maintain each record of the Project for no less than five (5) years after creation of each such record.

Subject to tenants' rights under State and Municipal law, the Developer shall allow the City to conduct annual inspections of each of the Affordable Units on the Property after the date of construction completion, with reasonable notice. Developer shall cure any defects or deficiencies found by the City while conducting such inspections within ten (10) Business Days of written notice thereof, or such longer period as is reasonable within the sole discretion of the City.

4.13 Notice of Affordability Restrictions on Transfer of Property. In the event the Developer wishes to sell or transfer the Project during the Total Affordability Term, the City and the Developer shall execute and deposit into escrow, or record against the Property, a Notice of Affordability Restrictions on Transfer of the Property as contained herein (Exhibit E). The sale or transfer of the Property, shall not be effective unless and until the City and the transferee execute the documents necessary to transfer the Density Bonus Agreement obligations from the Developer to the transferee.

4.14 Onsite Parking Management Plan. Developer shall provide onsite parking for residents and visitors of the Project and actively monitor the parking demand of the Project site. Developer shall continually monitor and take the following measures to manage the parking demand of the Project site to mitigate the use of offsite parking spaces on private or public properties and/or right-of-way.

- a. Requiring onsite parking permits (such as stickers or hang-tags) for any parking in the onsite parking spaces for both residents and guests;
- b. Policies for maximum time vehicles may be parked in the surface parking spaces, including any guest parking; and
- c. Policies for towing unauthorized vehicles, vehicles parked in unauthorized locations (such as fire lanes), vehicles parking in surface guest parking without a sticker, hang-tag, or other identifiers, and vehicles parked longer than any maximum guest parking timeframes allowed.

Prior to issuance of the Certificate of Occupancy, Developer shall submit and obtain approval from the Planning and Building Agency (“PBA”) a Parking Management Plan (the “PMP”), including those measures above. The approved PMP shall be adhered to and be enforced by the Project at all times.

4.15 Alternative Transportation and Energy Source, Resource Conservation, and LEED Certification. While not a condition of the project’s Density Bonus, in recognition of the City’s desire to optimize the energy efficiency of the project, Developer agrees to consult with the project design team, a CABEC certified 2019 Certified Energy Analyst, a LEED AP Homes (low-rise and mid-rise), LEED AP BD+C (high rise), National Green Building Standard (NGBS) Green Verifier, or GreenPoint Rater (one person may meet both of these latter qualifications) early in the project design process to evaluate a building energy model analysis and identify and consider energy efficiency or generation measures. Prior to the meeting, the energy analyst shall complete an initial energy model based on either current T24 standards or, if the project is eligible, the California Utility Allowance Calculator using best available information on the project. To the extent financially feasible for the project, Developer agrees to incorporate and optimize energy efficient building materials, methods, and amenities.

4.16 Emergency Evacuation Plan. Developer shall submit and obtain approval of an Emergency Evacuation Plan (the EEP) from City Police and Fire Protection agencies prior to issuance of a Certificate of Occupancy. Up-to-date 24-hour emergency contact information for the on-site personnel shall be provided to the City on an ongoing basis and the approved EEP shall be kept onsite and also be submitted to the following City Agencies:

- a. Police Department
- b. Fire Department
- c. Planning and Building Agency
- d. Community Development Agency

4.17 Crime Free Housing. Developer shall work with City staff to formalize a crime free housing policy, procedure, and design plan (the “CFH Plan”), which includes the following provisions:

- a. Requiring parking areas and common interior areas (lobbies, elevators, etc.) to contain security cameras;
- b. Requiring routine unit inspections;
- c. Ensuring lobby/other entrance doors are secured and accessed via remote controls, fobs, etc.; and
- d. Have policies in place to ensure that common use areas such as hallways and trash enclosures are maintained in good condition and repair (e.g., well-lit, kept clean, etc.)

Developer shall submit and obtain approval from the PBA the CFH Plan meeting the requirements of this Subsection 4.18 prior to issuance of the Certificate of Occupancy. The approved CFH Plan shall be implemented and administered by Developer or a designated property manager.

4.18 [Intentionally Omitted]

5. [INTENTIONALLY RESERVED]

6. TERM OF THIS AGREEMENT

6.1 Term. The term of this Agreement ("Density Bonus Agreement Term") shall commence on the Effective Date and shall continue until the expiration of the Total Affordability Term.

7. DEFAULT AND TERMINATION; INDEMNIFICATION

7.1 Default. Failure or delay by any Party to perform any term or provision of this Agreement, which is not cured within thirty (30) days after receipt of notice from the other Party specifying the default (or such other period specifically provided herein), constitutes a default under this Agreement; provided, however, if such default is of the nature requiring more than thirty (30) days to cure, the defaulting Party shall avoid default hereunder by commencing to cure within such thirty (30) day period, and thereafter diligently pursuing such cure to completion within an additional sixty (60) days following the conclusion of such thirty (30) day period (for a total of ninety (90) days). Except as required to protect against further damages, the injured Party may not institute proceedings against the Party in default until the time for cure has expired. Failure or delay in giving such notice shall not constitute a waiver of any default, nor shall it change the time of default.

Notwithstanding the above, should the Developer elect to not proceed with the Project prior to commencement of construction, the Developer shall submit written notice of such termination (“Termination Letter”) to the City, which Developer, for itself, its successors and assigns, states that it waives, forfeits, and relinquishes any and all benefits under this Agreement. Upon City’s

receipt of the Termination Letter, the Parties agree to terminate this Agreement, except that the obligations of Section 4.1 and 7.3 shall survive termination. Developer shall, at its sole cost and expense, prepare and record a Termination of Agreement, which City shall review and approve, in the exercise of reasonable discretion. Such termination shall not be considered a default by any Party, but it shall result in a termination of the Agreement as provided for herein.

7.2 Rights and Remedies Cumulative. The rights and remedies of the Parties are cumulative, and the exercise by either Party of one or more of its rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other Party. Notwithstanding anything to the contrary contained in this Agreement, in no event shall either Party be liable for speculative, consequential, punitive, or other indirect damages arising from a breach of this Agreement, and each Party waives any right to collect speculative, consequential, punitive or other indirect damages against the other Party which arise from a breach of this Agreement.

7.3 Indemnification. In addition to any other indemnity specifically provided in this Agreement, Developer agrees to defend (with counsel of City's choosing and the consent of Developer, which shall not be unreasonably withheld, and which may be joint defense counsel upon City's and Developer's consent) indemnify and hold harmless City and its respective officers, officials, agents, employees, representatives, and volunteers (collectively, "Indemnitees") from and against any loss, liability, claim, or judgment arising from any act or omission of Developer in connection with its obligations under this Agreement, except to the extent caused by the active negligence or willful misconduct of Indemnitees..

## 8. ASSIGNMENT; COVENANTS RUN WITH THE LAND

### 8.1 Assignment by Developer.

8.1.1 Prohibited Transfers or Assignments. Developer shall not sell, transfer, or assign the Property or Project in whole or in part, or transfer or assign Developer's rights and obligations in this Agreement, in whole or in part, unless the sale, transfer, or assignment complies with this Section 8 ("Permitted Transfer"). If Developer seeks a Permitted Transfer, Developer shall request City's written consent, and City shall respond within fourteen (14) days with a written approval or denial. The City's determination shall not be unreasonable or arbitrary. If City approves such a request, then prior to any such sale, transfer or assignment, Developer shall pay City's reasonable fees as compensation for the City's review of the request. City's failure to respond to the request within fourteen (14) days shall be deemed an approval.

8.1.2 Sale of Property. Owner agrees and declares that the Property and the Project shall be held, conveyed, mortgaged, encumbered, leased, rented, used, occupied, operated, sold, and approved subject to all obligations set forth or incorporated in this Agreement, all of which are for the purpose of enhancing and protecting the value and attractiveness of the Property and the Project. All of the obligations set forth or incorporated in this Agreement shall constitute covenants which run with the land and shall be binding on Owner and its successors and assigns, and all parties having or acquiring any right, title or interest in, or to any part of the Property or Project. Owner further understands and agrees that the Density Bonus permit approvals received

for this Project have been made on the condition that Owner and all subsequent owners, or other successors and assigns of the Property and/or Project lease and rent the Affordable Units in accordance with the terms and conditions stipulated in Sections 4, 5 and 6 of this Agreement for a term of 55 consecutive years commencing upon the date that the Project is first occupied.

8.1.3 Subsequent Assignment. As used in this Agreement, the term "Developer" shall be deemed to include any such transferee or assignee after the date such sale, transfer, or assignment occurs in compliance with this Agreement.

8.1.4 Unpermitted Assignments Void. Any sale, transfer, or assignment made in violation of this Agreement shall be null and void, and City shall have the right to pursue any right or remedy at law or in equity to enforce the provisions of the restriction against unpermitted sales, transfers, or assignments.

8.2 Covenants Run with the Land. The Property shall be held, sold, conveyed, hypothecated, encumbered, used, occupied and improved subject to the covenants, conditions, and restrictions set forth herein. The covenants, conditions, restrictions, reservations, equitable servitudes, liens and charges set forth in this Agreement shall run with the Property and shall be binding upon Developer and all persons having any right, title or interest in the Property, or any part thereof, their heirs, and successive owners and assigns, shall inure to the benefit of City and its successors and assigns, and may be enforced by City and its successors and assigns. The covenants established in this Agreement shall, without regard to technical classification and designation, be binding for the benefit and in favor of City and its successors and assigns, and the parties hereto expressly agree that this Agreement and the covenants herein shall run in favor of City. City is deemed the beneficiary of the terms and provisions of this Agreement and of the covenants running with the land, for and in its own right and for the purposes of protecting the interests of the community and other parties, public or private, in whose favor and for whose benefit this Agreement and the covenants running with the land have been provided. Developer hereby declares its understanding and intent that the burden of the covenants set forth herein touch and concern the land and that the Developer's interest in the Property is rendered less valuable thereby. Developer hereby further declares its understanding and intent that the benefit of such covenants touch and concern the land by enhancing and increasing the enjoyment and use of the Property by the citizens of City and by furthering the health, safety, and welfare of the residents of City.

## 9. MISCELLANEOUS

9.1 Entire Agreement. This Agreement and all of its exhibits and attachments set forth and contain the entire understanding and agreement of the parties with respect to the Density Bonus Agreement, and there are no oral or written representations, understandings or ancillary covenants, undertakings or agreements which are not contained or expressly referred to herein. No testimony or evidence of any such representations, understandings or covenants shall be admissible in any proceeding of any kind or nature to interpret or determine the terms or conditions of this Agreement.



9.2 Amendment. Any alteration, change or modification of or to this Agreement, in order to become effective, shall be made in writing and in each instance approved by the City Council, or through the City Manager as detailed herein, and signed on behalf of each party. The City Manager shall have the authority to make approvals, issue interpretations, execute documents, waive provisions, and/or enter into amendments of this Agreement on behalf of City that further the intent of this Agreement. Any requested alteration, change or modification of the Agreement by Developer shall require the payment of fees or deposit by Developer to City, as applicable, for the City's review of the request. Each alteration, change, or modification to this Agreement shall be recorded against the Property in the Official Records of Orange County, California.

9.3 Notices.

9.3.1 Delivery. As used in this Agreement, "notice" includes, but is not limited to, the communication of notice, request, demand, approval, statement, report, acceptance, consent, waiver, appointment or other communication required or permitted hereunder. All notices shall be in writing and shall be considered given either: (i) when delivered in person to the recipient named below; or (ii) on the date of delivery shown on the return receipt, after deposit in the United States mail in a sealed envelope as either registered or certified mail with return receipt requested, and postage and postal charges prepaid, and addressed to the recipient named below; or (iii) two (2) days after deposit in the United States mail in a sealed envelope, first class mail and postage prepaid, and addressed to the recipient named below; or (iv) one (1) day after deposit with a known and reliable next-day document delivery service (such as Federal Express), charges prepaid and delivery scheduled next-day to the recipient named below, provided that the sending party receives a confirmation of delivery from the delivery service provider; or (v) the first business day following the date of transmittal of any facsimile, provided confirmation of successful transmittal is retained by the sending Party. All notices shall be addressed as follows:

If to City:	City of Santa Ana Community Development Agency 20 Civic Center Plaza (M-26) P.O. Box 1988 Santa Ana, California 92702 Attention: Housing Manager
With a copy to:	Office of the City Attorney City of Santa Ana 20 Civic Center Plaza, 7th Floor (M-29) Santa Ana, California 92702
If to Developer:	P & P Bros Corp 18685 Main Street, Ste. 101-385 Huntington Beach, California 92648 Attn: Thao Lisa Vu

9.3.2 Change of Address. Either Party may, by notice given at any time, require subsequent notices to be given to another person or entity, whether a party or an officer or

representative of a party, or to a different address, or both. Notices given before actual receipt of notice of change shall not be invalidated by the change.

9.4 Severability. If any term, provision, covenant or condition of this Agreement shall be determined invalid, void or unenforceable, the remainder of this Agreement shall not be affected thereby to the extent such remaining provisions are not rendered impractical to perform, taking into consideration the purposes of this Agreement.

9.5 Interpretation and Governing Law. This Agreement and any dispute hereunder shall be governed and interpreted in accordance with the laws of the State of California without regard to conflict of law principles. This Agreement shall be construed as a whole according to its fair language and common meaning to achieve the objectives and purposes of the Parties hereto, and the rule of construction to the effect that ambiguities are to be resolved against the drafting Party shall not be employed in interpreting this Agreement, all Parties having been represented by counsel in the negotiation and preparation hereof.

9.6 Section Headings. All section headings and subheadings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

9.7 Singular and Plural. As used herein, the singular of any word includes the plural, and vice versa, as context so dictates. Masculine, feminine, and neuter forms of any word include the other as context so dictates.

9.8 Joint and Several Obligations. If at any time during the term of this Agreement the Property and/or Project is owned, in whole or in part, by more than one Developer, all obligations of such Developer under this Agreement shall be joint and several, and the default of any such Developer shall be the default of all such Developers.

9.9 Time of Essence. Time is of the essence in the performance of the provisions of this Agreement as to which time is an element.

9.10 Computation of Days. Unless otherwise specified in this Agreement or any Exhibit attached hereto, use of the term "days" shall mean calendar days. For purposes of this Agreement and all Exhibits attached hereto, "business days" shall mean every day of the week except Saturdays, Sundays, official State holidays as recognized in Government Code Section 19853(a) or successor statute, and any days in which Santa Ana City Hall is closed for business.

9.11 Waiver. Failure by a Party to insist upon the strict performance of any of the provisions of this Agreement by the other Party, or the failure by a Party to exercise its rights upon the default of the other Party, shall not constitute a waiver of such Party's right to insist and demand strict compliance by the other Party with the terms of this Agreement thereafter.

9.12 Non-Discrimination. In performing its obligations under this Agreement, Developer shall not discriminate because of race, color, creed, religion, sex, marital status, sexual orientation, age, national origin, ancestry, or disability, as defined and prohibited by applicable law, in the recruitment, selection, training, utilization, promotion, termination or other related

activities. Developer affirms that it is an equal opportunity employer and shall comply with all applicable federal, state and local laws and regulations.

9.13 Third Party Beneficiaries. No person or entity, other than City and Developer shall have any right of action based upon any provision of this Agreement.

9.14 Force Majeure. Neither Party shall be deemed to be in default where failure or delay in performance of any of its obligations under this Agreement is caused by floods, earthquakes, other Acts of God, fires, wars, riots or similar hostilities, strikes and other labor difficulties beyond the Party's control (including the Party's employment force), court actions (such as restraining orders or injunctions), or other causes beyond the Party's control, including delays by any governmental entity (although the City may not benefit from this provision for a delay that results from City's failure to perform its obligations under this Agreement), or an insurance company of either party. If any such events shall occur, the term of this Agreement and the time for performance by either Party of any of its obligations hereunder may be extended by the written agreement of the Parties for the period of time that such events prevented such performance.

9.15 Mutual Covenants. The covenants contained herein are mutual covenants and also constitute conditions to the concurrent or subsequent performance by the Party benefited thereby of the covenants to be performed hereunder by such benefited Party.

9.16 Successors in Interest. The burdens of this Agreement shall be binding upon, and the benefits of this Agreement shall inure to, all permitted successors in interest to the Parties to this Agreement. All provisions of this Agreement shall be enforceable as equitable servitudes and constitute covenants running with the land. Each covenant to do or refrain from doing some act hereunder with regard to development of the Property: (a) is for the benefit of and is a burden upon every portion of the Property; (b) runs with the Property and each portion thereof; and (c) is binding upon each Party and each successor in interest approved pursuant to this Agreement during ownership of the Property or any portion thereof.

9.17 Counterparts. This Agreement may be executed by the Parties in counterparts, which counterparts shall be construed together and have the same effect as if all of the Parties had executed the same instrument.

9.18 Jurisdiction and Venue. Any action at law or in equity under this Agreement or brought by a Party hereto for the purpose of enforcing, construing or determining the validity of any provision of this Agreement shall be filed and tried in the Superior Court of the County of Orange, State of California, and the Parties hereto waive all provisions of law providing for the filing, removal or change of venue to any other court.

9.19 Project as a Private Undertaking. It is specifically understood and agreed by and between the Parties hereto that the development of the Project is a private development, that neither Party is acting as the agent of the other in any respect hereunder, and that each Party is an independent contracting entity with respect to the terms, covenants and conditions contained in this Agreement. No partnership, joint venture or other association of any kind is formed by this

Agreement. The only relationship between City and Developer is that of a government entity regulating the development of private property and the Developer of such property.

9.20 Further Actions and Instruments. Each of the Parties shall cooperate with and provide reasonable assistance to the other to the extent contemplated hereunder in the performance of all obligations under this Agreement and the satisfaction of the conditions of this Agreement. Upon the request of either Party at any time, the other Party shall promptly execute, with acknowledgment or affidavit if reasonably required, and file or record such required instruments and writings and take any actions as may be reasonably necessary under the terms of this Agreement to carry out the intent and to fulfill the provisions of this Agreement or to evidence or consummate the transactions contemplated by this Agreement. City hereby authorizes City Manager to take such other actions and negotiate and execute any additional agreements as may be necessary or proper to fulfill the City's obligations under this Agreement. The City Manager may delegate her or his powers and duties under this Agreement to an authorized management level employee of the City.

9.21 Estoppel Certificate. Within ten (10) business days following a written request by any of the Parties, the other Party shall execute and deliver to the requesting Party a statement certifying that (i) either this Agreement is unmodified and in full force and effect or there have been specified (date and nature) modifications to the Agreement, but it remains in full force and effect as modified; and (ii) either there are no known current uncured defaults under this Agreement or that the responding Party alleges that specified (date and nature) defaults exist. The statement shall also provide any other reasonable information requested. The failure to timely deliver this statement shall constitute a conclusive presumption that this Agreement is in full force and effect without modification, except as may be represented by the requesting Party, and that there are no uncured defaults in the performance of the requesting Party, except as may be represented by the requesting Party.

9.22 No Subordination. City's approval of the necessary land use entitlements that authorize Developer to develop, operate, and maintain the Project was based upon Developer's obligation to provide the Affordable Units pursuant to the State Density Bonus Law, City Density Bonus for Affordable Housing, and the terms and conditions of this Agreement. For the Term of the Density Bonus Housing Agreement, this Agreement shall have priority over any and all mortgages, deeds of trust, and other similar forms of secured financing recorded against the Property or any portion thereof. Developer expressly understands and acknowledges that state law requires preservation of affordability covenants in connection with the approval of this density bonus project.

9.23 Attorneys' Fees and Costs. If either Party to this Agreement commences an action against the other Party to this Agreement arising out of or in connection with this Agreement, the prevailing Party shall be entitled to recover reasonable attorneys' fees, expert witness fees, costs of investigation, and costs of suit from the losing Party.

9.24 Authority to Execute. The person or persons executing this Agreement on behalf of each Party warrants and represents that he or she/they have the authority to execute this Agreement on behalf of his or her/their corporation, partnership or business entity and warrants

and represents that he or she/they has/have the authority to bind the Party to the performance of its obligations hereunder.

**IN WITNESS WHEREOF**, the parties hereto have caused this Density Bonus Housing Agreement to be executed on the date set forth at the beginning of this Agreement.

**ATTEST:**

**CITY OF SANTA ANA**

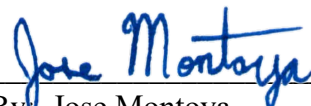
\_\_\_\_\_  
Jennifer L. Hall  
City Clerk

City Manager

\_\_\_\_\_  
Kristine Ridge

**APPROVED AS TO FORM**

Sonia R. Carvalho  
City Attorney

  
\_\_\_\_\_  
By Jose Montoya  
Assistant City Attorney

**RECOMMENDED FOR APPROVAL:**

**P & P BROS CORP, A CALIFORNIA  
CORPORATION**

\_\_\_\_\_  
Michael Garcia  
Executive Director  
Community Development Agency

\_\_\_\_\_  
Thao Lisa Vu

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**IN WITNESS WHEREOF**, the parties hereto have caused this Density Bonus Housing Agreement to be executed on the date set forth at the beginning of this Agreement.

**ATTEST:**

**CITY OF SANTA ANA**

\_\_\_\_\_  
Jennifer L. Hall  
City Clerk

City Manager

\_\_\_\_\_  
Kristine Ridge

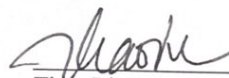
**APPROVED AS TO FORM**  
Sonia R. Carvalho  
City Attorney

\_\_\_\_\_  
By: Jose Montoya  
Assistant City Attorney

**RECOMMENDED FOR APPROVAL:**

**P & P BROS CORP, A CALIFORNIA  
CORPORATION**

\_\_\_\_\_  
Michael Garcia  
Executive Director  
Community Development Agency

  
\_\_\_\_\_  
Thao Lisa Vu

**EXHIBIT A**

LEGAL DESCRIPTION OF THE PROPERTY

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF SANTA ANA, IN THE COUNTY OF ORANGE, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

THE NORTH 100 FEET OF THE SOUTH 300 FEET OF THE EAST HALF OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 9, TOWNSHIP 5 SOUTH, RANGE 10 WEST, SAN BERNARDINO BASE AND MERIDIAN. EXCEPTING THEREFROM THE WEST 132 FEET. ALSO EXCEPT THEREFROM ALL OIL, GAS, MINERALS AND HYDROCARBONS, BELOW A DEPTH OF 500 FEET, WITHOUT THE RIGHT OF SURFACE ENTRY, AS RESERVED IN INSTRUMENTS OF RECORD.

APN: 198-051-17

EXHIBIT "B"

**INCOME VERIFICATION FORM**

Inclusionary Unit Address: \_\_\_\_\_

Head of Household (Print Name): \_\_\_\_\_

Current Address (if  
different from above): \_\_\_\_\_

Telephone Number: Home: \_\_\_\_\_ Work: \_\_\_\_\_ Cell: \_\_\_\_\_

Email address: \_\_\_\_\_

Date of Birth: \_\_\_\_\_ Social Security # or TIN: \_\_\_\_\_

Household Composition				
List All Household Members Living in the Inclusionary Unit				
Name	Sex	Age	Dependent (Y/N)	Social Security # or Taxpayer ID #

List additional household members on a separate sheet of paper.



EXHIBIT "B"  
**INCOME VERIFICATION FORM**

Monthly Gross Income \*

List All Sources of Income of All Household Members Living in the Inclusionary Unit

Part 1: Earned Income

		Head of Household	Other Household Members	Total
1.	Gross wages, before payroll deductions and including overtime pay, commissions, fees, tips and bonuses.	\$	\$	\$
2.	Net income from self employment, independent contractor work or a business.	\$	\$	\$
3.	Social security and any payments from annuities, insurance policies, pension/retirement funds, disability or death benefits received periodically.	\$	\$	\$
4.	Payment in lieu of earnings, such as unemployment, disability compensation, worker's compensation and severance pay.	\$	\$	\$
5.	Public assistance, welfare payments	\$	\$	\$
6.	Alimony, child support, other periodic allowances	\$	\$	\$
7.	Regular pay, special pay and allowances of members of the Armed Forces	\$	\$	\$
8.	Other	\$	\$	\$
Subtotal: Monthly Earned Income				\$
Total Monthly Earned Income x 12 = \$_____ Total Annual Household Gross Earned Income				

EXHIBIT "B"  
**INCOME VERIFICATION FORM**

Monthly Gross Income *  List All Sources of Income of All Household Members Living in the Inclusionary Unit  Part 2: Investment Income				
		Head of Household	Other Adult Household Members	Total Household Investment Income
1.	Interest paid on Bank and Savings accounts	\$	\$	\$
2.	Dividends and other payments from stocks and bonds	\$	\$	\$
3.	Income from real property (i.e. rental property)	\$	\$	\$
4.	Other (describe)	\$	\$	\$
Subtotal: Monthly Investment Income:				\$
Total Monthly Investment Income x 12 = \$_____ Total Annual Household Investment Income				

\*Note: The following items are not considered income: casual or sporadic gifts; amounts specifically for or in reimbursement of medical expenses; lump sum payments such as inheritances, insurance payments, capital gains and settlement for personal or property losses; educational scholarships paid directly to the student or educational institution; special pay to a serviceman head of family away from home and under hostile fire; relocation payments under federal, state or local law; foster child care payments; value of coupon allotments for purpose of food under Food Stamp Act of 1964 which is in excess of amount actually charged the eligible household; payments received pursuant to participation in the following programs: VISTA, Service Learning Programs, and Special Volunteer Programs, SCORE, ACE, Retired Senior Volunteer Program, Foster Grandparent Program, Older American Community Services Program, and National Volunteer Program to Assist Small Business Experience.

EXHIBIT "B"  
**INCOME VERIFICATION FORM**

Assets \*\*

List the Current Value of All Assets of All Household Members Living in the Inclusionary Unit

If the Asset generates income, that income must be specified In Part 2 above

		Head of Household Value	Other Adult Household Members Value	Total Value of Assets
1.	Bank and Savings accounts	\$	\$	\$
2.	Stocks and bonds	\$	\$	\$
3.	Real property (i.e. rental property)	\$	\$	\$
4.	Other (describe)	\$	\$	\$
Total Asset Value \$_____				

\*\*Note: Necessary items, such as furniture and automobiles, used for personal use are excluded from household assets. Collections of items for hobby, investment or business purposes must be included in household assets. If the total value of household assets exceeds \$5,000, the calculation of the household's annual income shall include the greater of the actual amount of income, if any, derived from all of the household assets; or 10% of the total value of the assets.

EXHIBIT "B"  
**INCOME VERIFICATION FORM**

If the total asset value exceeds \$5,000, perform the calculations in the following table. If the total asset value is less than \$5,000, the amount of investment income to be included in annual household income is \$0.

Calculation of Investment Income to be Included in Annual Household Income			
1.	Total Annual Household Investment Income		\$
2.	Total Asset Value	\$	x 10%
The Greater of #1 or #2 = Investment Income to be Included in Annual Household Income \$ _____			

Calculation of the Household's Total Annual Income	
Total Annual Household Gross Earned Income	\$
Total Investment Income to be Included in Annual Household Income	\$
Total Household Income	\$

Documentation Attach True Copies of the Relevant Documents Listed Below	
_____ Paycheck stubs from three most recent pay periods	_____ Bank/Savings account verification
_____ Employment verification	_____ Self-employment verification
_____ Three years Income tax returns for Title Holders	_____ Unemployment verification
_____ Social security verification	_____ Welfare verification
_____ Alimony/child support verification	_____ Disability income verification
_____ Other (Describe)	

EXHIBIT "B"  
**AFFIDAVIT**

This Affidavit is made with the knowledge that it will be relied upon by \_\_\_\_\_ and the City of Santa Ana to determine maximum income for eligibility to purchase the Inclusionary Unit listed above. (I/we) warrant that all information set forth in this document is true, correct and complete and based upon information (I/we) deem reliable and based upon such investigation as (I/we) deemed necessary.

(I/We) acknowledge that (I/we) have been advised that the making of any misrepresentation or misstatement in this affidavit will constitute a material breach of (my/our) purchase agreement and will additionally enable the seller to terminate the purchase contract and sell the Inclusionary Unit to another party.

(I/We) do hereby swear under penalty of perjury that the foregoing statements are true and correct and that this affidavit has been executed as of the date specified below by each adult member of the household which intends to occupy an Inclusionary Unit located at \_\_\_\_\_, Santa Ana, California.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name

Executed at \_\_\_\_\_, Santa Ana, California

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name

Executed at \_\_\_\_\_, Santa Ana, California

## **ATTACHMENT C – 2**

### **ANNUAL TENANT INCOME VERIFICATION FORM**

**TENANT INCOME VERIFICATION FORM**  
**2021 AFFORDABLE HOUSING OPPORTUNITY AND CREATION ORDINANCE**  
**CITY OF SANTA ANA**

Table 1: Annual Household Gross Earned Income <sup>1</sup>			
List All Sources of Earned Income for all Adult Household Members Living in the Inclusionary Unit			
	Head of Household	Other Adult Household Members	Total
1. Gross amount, before payroll deductions of wages, salaries, overtime pay, commissions, fees, tips and bonuses	\$	\$	\$
2. Net income from business	\$	\$	\$
3. Social security, annuities, insurance policies, pension/retirement funds, disability or death benefits received periodically	\$	\$	\$
4. Payment in lieu of earnings, such as unemployment, disability compensation, worker's compensation and severance pay	\$	\$	\$
5. Public assistance, welfare payments	\$	\$	\$
6. Alimony, child support, other periodic allowances	\$	\$	\$
7. Regular pay, special pay and allowances of members of the Armed Forces	\$	\$	\$
8. Other	\$	\$	\$
Subtotal: Monthly Earned Income			\$
Total Monthly Earned Income x 12 = \$ _____ Total Annual Household Gross Earned Income			

<sup>1</sup> The following items are not considered income: casual or sporadic gifts; amounts specifically for or in reimbursement of medical expenses; lump sum payments such as inheritances, insurance payments, capital gains and settlement for personal or property losses; educational scholarships paid directly to the student or educational institution; special pay to a serviceman head of family away from home and under hostile fire; relocation payments under federal, state or local law; foster child care payments; value of coupon allotments for purpose of food under Food Stamp Act of 1964 which is in excess of amount actually charged the eligible household; payments received pursuant to participation in the following programs: VISTA, Service Learning Programs, and Special Volunteer Programs, SCORE, ACE, Retired Senior Volunteer Program, Foster Grandparent Program, Older American Community Services Program, and National Volunteer Program to Assist Small Business Experience.

Table 2A: Household Assets <sup>2</sup>				
List the Value of All Assets Owned by all Adult Household Members Living in the Inclusionary Unit				
	Head of Household	Other Adult Household Members	Total	Return @ 10% of Total
1. Bank & savings accounts	\$	\$	\$	\$
2. Stocks and bonds	\$	\$	\$	\$
3. Real property	\$	\$	\$	\$
4. Other	\$	\$	\$	\$

Table 2B: Income Earned Annually from Household Assets			
List the Actual Annual Return on All Assets			
Owned by all Adult Household Members Living in the Inclusionary Unit			
	Head of Household	Other Adult Household Members	Total
1. Bank and savings accounts	\$	\$	\$
2. Stocks and bonds	\$	\$	\$
3. Real property	\$	\$	\$
4. Other	\$	\$	\$

The return on Household assets to be included in the Gross Income calculation is set at the greater of the two amounts shown on the following page:

<sup>2</sup> Necessary items, such as furniture and automobiles, used for personal use are excluded from household assets. Collections of items for hobby, investment or business purposes must be included in household assets. Under California Government Code Section 6914, if the total value of household assets exceeds \$5,000, the calculation of the household's annual income shall include the greater of the actual amount of income, if any, derived from all of the household assets; or 10% of the total value of the assets.



Table 2C Annual Asset Income to be Added to Annual Household Gross Earned Income			
	10% Annual Return	Actual Return	Return to be Applied
1. Bank and savings accounts	\$	\$	\$
2. Stocks and bonds	\$	\$	\$
3. Real property	\$	\$	\$
4. Other	\$	\$	\$
Total Annual Return to be Added to Annual Household Gross Earned Income			\$

The total Gross Household Income is equal to the sum of the following:

Table 3: Calculation of the Household's Total Annual Gross Income	
Annual Household Gross Earned Income (Table 1)	\$
Annual Asset Income (Table 2C)	\$
Total Annual Household Gross Income	\$

Income Documentation	
Attach True Copies of the Relevant Documents Listed Below	
Paycheck stubs from two most recent pay periods	Bank/Savings account verification
Employment verification	Self-employment verification
Income tax return	Unemployment verification
Social security verification	Welfare verification
Alimony/child support verification	Disability income verification
Other (Describe)	

## AFFIDAVIT

This Affidavit is made with the knowledge that it will be relied upon by the \_\_\_\_\_ City of Santa Ana, our landlord and the owner of our apartment building, to determine maximum income for eligibility. (I/we) warrant that all information set forth in this document is true, correct and complete and based upon information (I/we) deem reliable and based upon such investigation as (I/we) deemed necessary.

(I/We) acknowledge that (I/we) have been advised that the making of any misrepresentation or misstatement in this affidavit will constitute a material breach of (my/our) rental agreement with the property owner to rent the unit and will additionally enable the property owner to initiate and pursue all applicable legal and equitable remedies with respect to the unit and to me/us.

(I/We) do hereby swear under penalty of perjury that the foregoing statements are true and correct and that this affidavit has been executed as of the date specified below by each adult member of the household which intends to occupy an Inclusionary Unit located at \_\_\_\_\_, Santa Ana, California.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name

Executed at \_\_\_\_\_, Santa Ana, California

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name

Executed at \_\_\_\_\_, Santa Ana, California

## **ATTACHMENT C – 3**

### **NO INCOME CERTIFICATION**

**NO INCOME CERTIFICATION FOR  
HOUSEHOLD MEMBER**

I, \_\_\_\_\_ (NAME) certify that as of  
\_\_\_\_\_ (DATE), I am not receiving any type of income including, but not  
limited to, wages and salaries, overtime pay, commissions, fees, tips, bonuses, or any  
other compensation for personal services, net income from the operation of a business  
or profession, dividends or interest, net income from any kind of real or personal  
property, Social Security, annuities, retirement funds, pensions, death or disability  
benefits, unemployment or disability compensation, workers compensation, severance  
pay, welfare or other public assistance, alimony, or child support.

By this Certification, I declare under penalty of perjury that all of the foregoing  
information is true and correct. Misrepresentation or misstatement may be a violation  
of law that could result in a fine, criminal penalty or a default on the Inclusionary  
Housing Regulatory Agreement made in conjunction with the rental of this Inclusionary  
Unit.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Date

**ANNUAL RENTAL RESIDENTIAL DEVELOPMENT COMPLIANCE REPORT  
2021 AFFORDABLE HOUSING OPPORTUNITY AND CREATION ORDINANCE  
CITY OF SANTA ANA**

Date: \_\_\_\_\_

Reporting Period: \_\_\_\_\_

Number of Very Low Income Units: \_\_\_\_\_

**Phone Number:** \_\_\_\_\_

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8/22/2023



## **EXHIBIT E**

### **NOTICE OF AFFORDABILITY RESTRICTIONS ON TRANSFER OF PROPERTY**

NOTICE IS HEREBY GIVEN that the CITY OF SANTA ANA, a charter city and municipal corporation organized and existing under the Constitution and laws of the State of California, has entered into a Density Bonus Agreement with P & P Bros Corp., a California Corporation (“Property Owner”). The Density Bonus Agreement imposes income and affordability covenants on a twenty two (22) unit affordable housing development project (“Project”) located at 322 N. Harbor Boulevard, Santa Ana, Orange County, Assessor’s Parcel Number 198051-17, and further described in the legal description provided in Exhibit A to the Density Bonus Agreement.

The Density Bonus Agreement was recorded as Document/Instrument Number [TO BE INSERTED], and shall remain in effect until fifty five (55) years from the date a certificate of occupancy is issued for all units in the Project. Among other things, the Density Bonus Agreement requires as follows: (a) two (2) one-bedroom units (the “Affordable Units”) shall be restricted for occupancy to a household that qualifies as a “Very-Low Income Tenant,” which is defined to mean a household whose income does not exceed fifty (50%) of the area median income for the Orange County, California PMSA, adjusted for household size, and (b) the rent for the Affordable Unit shall not exceed one-twelfth (1/12) of the product of thirty percent (30%) times fifty percent (50%) times the Median Income for Orange County, as adjusted to reflect a reasonable utilities allowance.

In the event the Property Owner wishes to sell or transfer the Project during the Affordability Period, the City and the Property Owner shall execute and deposit into escrow this Notice of Affordability Covenants on Transfer of the Property. The sale or transfer of the Property shall not be effective unless and until the City and transferee execute the documents necessary to transfer the Density Bonus Agreement obligations from the Property Owner to the transferee. This Notice of Affordability Covenants on Transfer of the Property in no way modifies the provisions of the Density Bonus Agreement. In the event of any conflict between this Notice of Affordability Covenants on Transfer of the Property and the Density Bonus Agreement, the terms of the Density Bonus Agreement shall prevail.

IN WITNESS WHEREOF, the Parties hereto have duly executed this Notice of Affordability Restrictions on Transfer of Property as of the dates set forth below.

**[Signatures on Following Pages]**

**SIGNATURE PAGE  
TO  
NOTICE OF AFFORDABILITY RESTRICTIONS ON TRANSFER OF PROPERTY**

**CITY:**  
CITY OF SANTA ANA  
A California Charter City and Municipal  
Corporation

By: \_\_\_\_\_

Name: Kristine Ridge

Its: City Manager

Date: \_\_\_\_\_

APPROVED AS TO LEGAL FORM:

By: \_\_\_\_\_



**SIGNATURE PAGE  
TO  
NOTICE OF AFFORDABILITY RESTRICTIONS ON TRANSFER OF PROPERTY**

**PROPERTY OWNER:**

**P & P Bros Corp**

A California Corporation

By: \_\_\_\_\_

Name: Thao Lisa Vu

Its: \_\_\_\_\_

Date: \_\_\_\_\_