



# City of Palo Alto

## City Council Staff Report

(ID # 9801)

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**Report Type: Consent Calendar**

**Meeting Date: 12/10/2018**

**Summary Title: 3877 El Camino Real: Tentative Map for 17 Residential Condos and One Commercial Condo**

**Title: PUBLIC HEARING / QUASI-JUDICIAL: 3877 El Camino Real [17PLN-00321]: Recommendation on Applicant's Request for Approval of a one lot Vesting Tentative Map to Divide an Existing 0.75 Acre Parcel Into 17 Residential Condominiums and one Commercial Condominium.**

**Environmental Assessment: Mitigated Negative Declaration Adopted by Council on September 18, 2017. Zoning Districts: CS and RM-30**

**From: City Manager**

**Lead Department: Planning and Community Environment**

### **Recommendation**

Staff recommends City Council take the following action(s):

1. Find the project in conformance with the Initial Study and Mitigated Negative Declaration prepared for the associated development application (File No. 14PLN-00464) pursuant to the California Environmental Quality Act (CEQA), and
2. Approve the Vesting Tentative Map based on findings and conditions in Attachment B.

### **Executive Summary**

The applicant proposes a Vesting Tentative Map that would subdivide the 32,825 square foot "L" shaped lot into 17 Residential Condos and One Commercial Condo. The Tentative Map would facilitate construction of a new mixed-use building with 4,027 square feet commercial and six residential units and 11 townhouse units. The site includes two zoning designations; commercial and residential zoning with street frontage along El Camino Real and Curtner Avenue. The project was the subject of Site & Design Review and Design Enhancement Exception applications previously and received its entitlements. The intent of the subdivision request is to implement the approved project.

### **Background**

The Vesting Tentative Map was subject to Planning and Transportation Commission (PTC) review on August 29, 2018 (<https://www.cityofpaloalto.org/civicax/filebank/documents/66512>) where the Commission recommended approval to the City Council with conditions.

Prior to this application, the project required Site & Design Review and a Design Enhancement Exception, which required review by the Architectural Review Board, PTC and City Council (See the August 29, 2018 Commission staff report for prior actions with links to staff reports and videos).

## Discussion

The applicant requests approval of a Vesting Tentative Map for condominium purposes to create one 4,026 square feet commercial condominium, six residential flat condominium units in a mixed-use building, and 11 townhouse condominium units over a basement garage. The commercial space and each residential unit will be individually owned with the land and improvements being in common ownership. Attachment C provides a summary of the project's compliance with the zoning standards.

A Vesting Tentative Map is different from a standard Tentative Map in that it is intended to establish vested rights to proceed with a project in substantial compliance with the regulations in effect at the time the Vesting Map application is determined to be complete.

<u>Consistency</u>	<u>with</u>	<u>Application</u>	<u>Findings</u>
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The necessary findings for approval of the Vesting Tentative Map are contained in State law and incorporated into Title 21 of the Municipal Code. Under the Subdivision Map Act, the PTC and Council must make a series of "reverse" findings to justify approval. If the findings cannot be made, the subdivision must be approved. Under Government Code Section 66474, the Council shall disapprove the Vesting Tentative Map if it makes any of the following findings:

- a) That the proposed map is not consistent with applicable general and specific plans.
- b) That the design or improvement of the proposed subdivision is not consistent with applicable general and specific plans.
- c) That the site is not physically suitable for the type of development.
- d) That the site is not physically suitable for the proposed density of development.
- e) That the design of the subdivision or the proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.
- f) That the design of the subdivision or type of improvements is likely to cause serious public health problems.
- g) That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision.

Some relevant factors are discussed below and a detailed review of the proposed project's consistency with applicable Title 21 findings has been performed and can be found in Attachment B.

Consistency with the Comprehensive Plan, Area Plans and Guidelines

The project site has two land use designations. The El Camino frontage is Service Commercial, while the Curtner Avenue frontage is Multi-Family Residential. The proposed Vesting Tentative Map is consistent with the Comprehensive Plan, in that the site allows mixed-use development and residential development. Review of the project finds it consistent with several Comprehensive Plan Goals and Policies, as further described in Attachment B.

State Density Bonus / Below Market Rate Housing

Ownership housing projects with three or more units are required to meet the City's Below Market Rate Housing Program (BMR). In accordance with PAMC Section 18.14.030, this project's total BMR requirement is 2.55 units. When the BMR requirement results in a fractional unit, an in-lieu payment to the Residential Housing Fund may be made for the fractional unit instead of providing an additional BMR unit. Pursuant to project conditions of approval established during the review of the Site and Design Review, the project will enter into an affordable housing agreement with the City to meet these obligations, which includes construction of two BMR units and payment of in-lieu fees for the remaining 0.55 BMR requirement. That draft agreement is attached as Attachment F.

**Environmental Review**

The subject project has been assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and the environmental regulations of the City. Specifically, the project is covered by the previous Initial Study and Mitigated Negative Declaration prepared for the Site and Design application (File No. 14PLN-00464) adopted on September 18, 2017. The adopted Mitigation Monitoring and Report Program (MMRP) with identified mitigation for nesting birds is provided in Attachment E.

**Attachments:**

**Attachment A: Location Map(PDF)**

**Attachment B: Draft Record of Land Use Action (DOCX)**

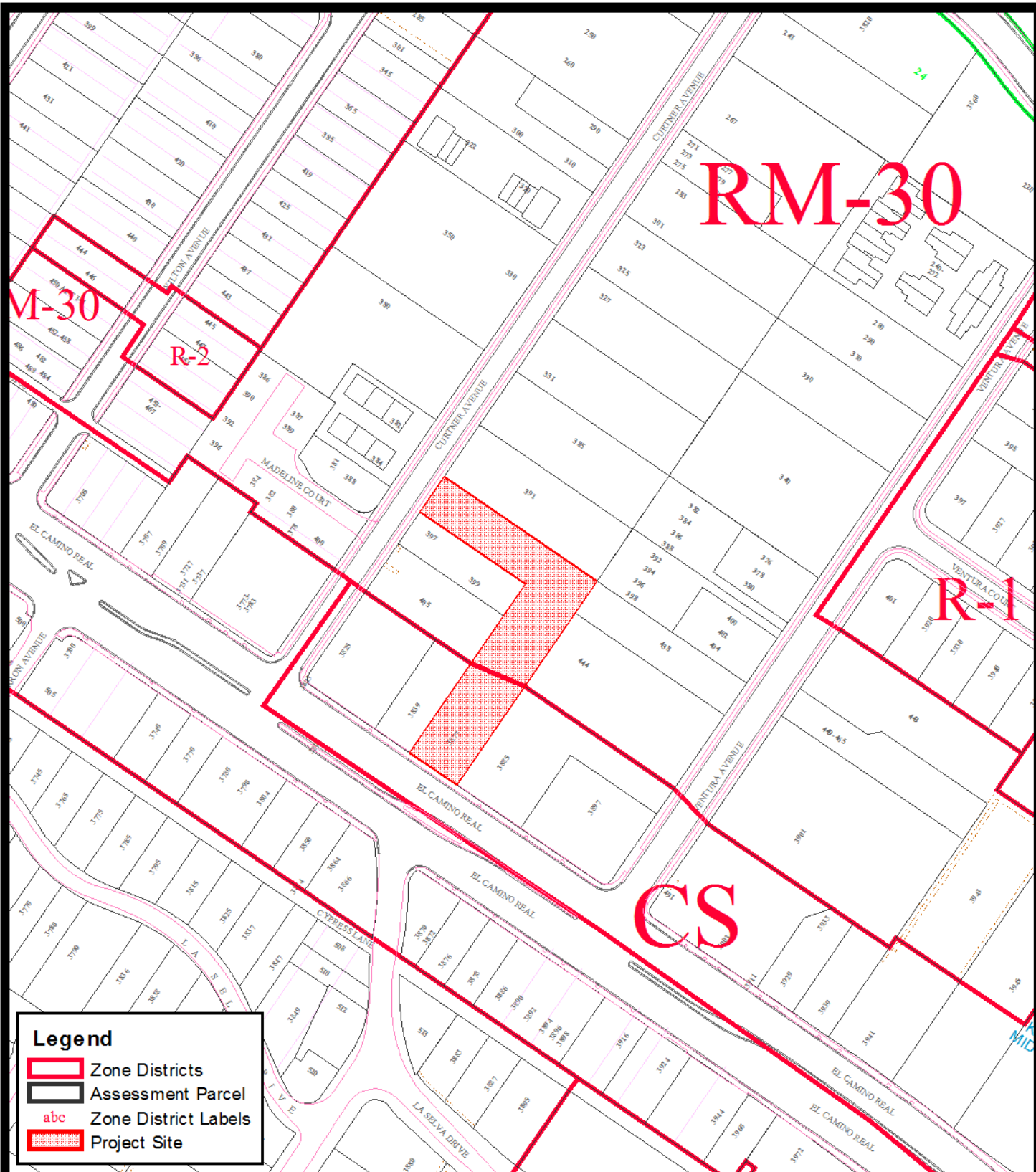
**Attachment C: Zoning Comparison Table (DOCX)**

**Attachment D: Applicant Project Description (PDF)**





**Attachment E: Mitigation Monitoring and Reporting Program (MMRP) (PDF)**

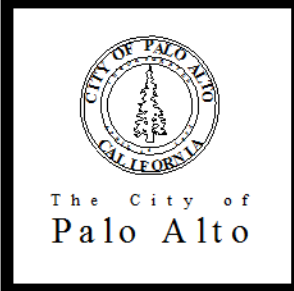
**Attachment F: Draft Density Bonus Agreement (PDF)**

**Attachment G: Project Plans (DOCX)**





**Legend**

-  Zone Districts
-  Assessment Parcel
-  Zone District Labels
-  Project Site



3877 El Camino Real  
Tentative Map  
17PLN-00321

This map is a product of the  
City of Palo Alto GIS

**ATTACHMENT B**  
**ACTION NO. 2018-XX**  
**DRAFT RECORD OF THE COUNCIL OF THE CITY OF PALO ALTO LAND USE ACTION FOR**  
**3877 EL CAMINO REAL: VESTING TENTATIVE MAP, 17PLN-00321**  
**(BRANDON ARIOLI, APPLICANT)**

At its meeting on **December 10, 2018**, the City Council of the City of Palo Alto (“City Council”) approved the Vesting Tentative Map for the development of a two-lot subdivision project making the following findings, determinations and declarations:

SECTION 1. Background.

A. On August 31, 2017, Brandon Arioli applied for a Vesting Tentative Map for the development of a one parcel condominium subdivision project with 17 residential units and 4,676 square feet of commercial space (“The Project”).

B. The project site is comprised of one existing lot (APN No. 132-41-091) of approximately 0.75-acres with two separate zoning districts (CS and RM-30). The site contains one existing commercial structure. Commercial land uses are located adjacent to the lot to the north, south and west. To the project’s east are residential land uses.

C. Following staff review, the Planning and Transportation Commission reviewed the project and recommended approval on August 29, 2018, subject to conditions of approval.

SECTION 2. Environmental Review.

The City as the lead agency for the Project has determined that the project is subject to environmental review under provisions of the California Environmental Quality Act (CEQA) under Guideline section 15070, Decision to Prepare an Initial Study-Mitigated Negative Declaration (IS-MND). An initial study was prepared for the project and it has been determined that there is potential for significant impacts that would require mitigation measures to reduce them to a less than significant level. These include mitigations for protection for nesting birds. The IS-MND was made available for public review beginning March 6, 2017 for 20 days, and adopted by the City Council on September 18, 2017. The Initial Study and Negative Declaration are contained as *Attachment G* in the September 18, 2017, City Council staff report (ID #8458).

SECTION 3. Vesting Tentative Map Findings.

A legislative body of a city shall deny approval of a tentative map, if it makes any of the following findings (California Government Code Section 66474). The City Council cannot make these findings for the following reasons:

1. *That the proposed map is not consistent with applicable general and specific plans as specified in Section 65451:*

The site is consistent with the Comprehensive Plan as described below.

2. *That the design or improvement of the proposed subdivision is not consistent with applicable general and specific plans:*

The Project is consistent with the following Comprehensive Plan policies:

- Policy L-1.3 Infill development in the urban service area should be compatible with its surroundings and the overall scale and character of the city to ensure a compact, efficient development pattern.
- Policy L-2.6 Create opportunities for new mixed-use development consisting of housing and retail.
- Policy L-2.11 Encourage new development and redevelopment to incorporate greenery and natural features such as green rooftops, pocket parks, plazas and rain gardens.
- Policy L-3.4 Ensure that new multi-family buildings, entries and outdoor spaces are designed and arranged so that each development has a clear relationship to a public street.
- Policy L-4.2 Preserve ground-floor retail, limit the displacement of existing retail from neighborhood centers and explore opportunities to expand retail.
- Policy L-6.1 Promote high-quality design and site planning that is compatible with surrounding development and public spaces.
- Policy L-6.7 Where possible, avoid abrupt changes in scale and density between residential and non-residential areas and between residential areas of different densities. To promote compatibility and gradual transitions between land uses, place zoning district boundaries at mid-block locations rather than along streets wherever possible.

The project includes a mixed-use building with frontage along El Camino Real with townhouse style residential buildings for the balance of the property. Parking is provided below grade and therefore allows for the integration of open space and plazas at-grade. The project complements the surrounding development and is consistent with the land-use designations for the property. The project was reviewed by the ARB, Planning & Transportation Commission and the City Council previously for design review.

3. *That the site is not physically suitable for the type of development:*

The site is an “L” shape lot with frontage on two streets. The design of the site includes appropriate separation between the mixed-use building and the solely residential component and the adjacent multi-family properties. The project is consistent with the City’s Performance Standards set forth in Palo Alto Municipal Code (PAMC) 18.23, ensuring compatibility between commercial and residential uses. Proposed lighting is directed downward to prevent spillover to adjacent properties. Trash enclosures are located in the basement of the project. The project provides the required setback above ground and includes vegetation and tree plantings within the setback and open spaces. Mechanical equipment areas are screened appropriately.

The site circulation facilitates access for all modes of transportation. The project includes short-term and long-term bike parking. On-site vehicular traffic will be directed underground, leaving the aboveground for pedestrians and bicyclist. Wide walkways and plazas surround the commercial areas and provide connectivity to the residential areas.

4. *That the site is not physically suitable for the proposed density of development:*

The allowed residential density for the site is 30 dwelling units per acre (Both CS and RM-30 districts), which based on the project site acreage amounts to 22 dwelling units that would be allowed. However, the project only proposes 17 dwelling units. The project is consistent with the maximum Floor Area Ratio and does qualify for an affordable housing density bonus. The density bonus floor area is applied to the below-market-rate units in accordance with the City’s Municipal Code.

5. *That the design of the subdivision or the proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat:*

As conditioned in the Final IS-MND approved by the City Council on September 18, 2017, the Project will not cause environmental damage or injure fish, wildlife, or their habitat, in that property is not adjacent to sensitive habitat areas and would incorporate mitigation measures to reduce impacts to nesting birds to a less than significant level.

6. *That the design of the subdivision or type of improvements is likely to cause serious public health problems:*

An environmental analysis identifies potentially significant impacts related to the associated development project’s improvements that would require mitigation measures to reduce them to a less than significant level. These include mitigations for protection for nesting birds as reported in the Final IS-MND approved by the City Council on September 18, 2017.

7. *That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision. In this connection, the governing body may approve a map if it finds that alternate easements, for access or for use, will be provided, and that these will be substantially equivalent to ones previously acquired by the public. This subsection shall apply*

*only to easements of record or to easements established by judgment of a court of competent jurisdiction and no authority is hereby granted to a legislative body to determine that the public at large has acquired easements for access through or use of property within the proposed subdivision.*

The design of the subdivision will not conflict with any easements for access through or use of the property. A public access easement will be dedicated with the Final Map to provide an additional four feet of sidewalk between the front property line and back of walk along the El Camino Real frontage to create a 12-foot effective sidewalk width.

**SECTION 4. Vesting Tentative Map Approval Granted.**

Vesting Tentative Map Approval is filed and processed in accordance to PAMC Section 21.13.020 and granted by the City Council under PAMC Sections 21.12 and 21.20 and the California Government Code Section 66474, subject to the conditions of approval in Section 7 of this Record.

**SECTION 5. Final Map.**

The Final Map submitted for review and approval by the City Council shall be in substantial conformance with the Vesting Tentative Map prepared by Langan titled “Vesting Tentative Map 3877 El Camino Real for Condominium Purposes,” consisting of seven (7) pages, stamped as received January 23, 2018, except as modified to incorporate the conditions of approval in Section 6. A copy of the Vesting Tentative Map is on file in the Department of Planning and Community Environment, Current Planning Division. Prior to the expiration of the Vesting Tentative Map approval, the subdivider shall cause the subdivision or any part thereof to be surveyed, and a Final Map, as specified in Chapter 21.08, to be prepared in conformance with the Vesting Tentative Map as conditionally approved, and in compliance with the provisions of the Subdivision Map Act and PAMC Title 21 and submitted to the City Engineer (PAMC Section 21.16.010[a]).

**SECTION 6. Conditions of Approval.**

**Planning Division**

1. MITIGATION MONITORING AND REPORTING PROGRAM. Mitigation Monitoring and Reporting Program (MMRP), prepared for this project in compliance with the California Environmental Quality Act (CEQA), shall be incorporated by reference as conditions of approval. The applicant shall comply with all specified mitigation measures in the timelines outlined in the project’s MMRP. Prior to requesting issuance of any related demolition and/or construction permits, the applicant shall meet with the Project Planner to review and ensure compliance with the MMRP, subject to the satisfaction of the Director of Planning of Planning and Community Environment.
2. BELOW MARKET RATE (BMR) HOUSING. A Density Bonus Developer and Regulatory Agreement in a form acceptable to the City Attorney for the two (2) BMR units shall be executed and recorded prior to final map approval or building permit issuance,



whichever occurs first. In addition, the payment for the 0.55 fractional unit shall be paid to the Residential Housing Fund prior to issuance of any building permits for the project; provided, however, that prior to issuance of the first building permit for the project, the applicant may elect to provide one additional inclusionary unit instead of paying the fractional in lieu payment (PAMC Section 16.65.060). All BMR units constructed under this condition shall be in conformance with the City's BMR Program rules and regulations. Failure to comply with the timing of this condition and any adopted BMR Program rules and regulations shall not waive its later enforcement.

3. ESTIMATED IMPACT FEE. Development Impact Fees, currently estimated in the amount of \$311,130.37 plus the applicable public art fee, per PAMC 16.61.040, shall be paid prior to the issuance of the related building permit.
4. IMPACT FEE 90-DAY PROTEST PERIOD. California Government Code Section 66020 provides that a project applicant who desires to protest the fees, dedications, reservations, or other exactions imposed on a development project must initiate the protest at the time the development project is approved or conditionally approved or within ninety (90) days after the date that fees, dedications, reservations or exactions are imposed on the Project. Additionally, procedural requirements for protesting these development fees, dedications, reservations and exactions are set forth in Government Code Section 66020. IF YOU FAIL TO INITIATE A PROTEST WITHIN THE 90-DAY PERIOD OR FOLLOW THE PROTEST PROCEDURES DESCRIBED IN GOVERNMENT CODE SECTION 66020, YOU WILL BE BARRED FROM CHALLENGING THE VALIDITY OR REASONABLENESS OF THE FEES, DEDICATIONS, RESERVATIONS, AND EXACTIONS. If these requirements constitute fees, taxes, assessments, dedications, reservations, or other exactions as specified in Government Code Sections 66020(a) or 66021, this is to provide notification that, as of the date of this notice, the 90-day period has begun in which you may protest these requirements. This matter is subject to the California Code of Civil Procedures (CCP) Section 1094.5; the time by which judicial review must be sought is governed by CCP Section 1094.6.

#### **Public Works Engineering Department**

5. OFF-SITE IMPROVEMENTS: Submit a copy of the off-site improvement plans that includes the replacement of curb, gutter, sidewalk, utilities, landscape, etc. Provide Caltrans standard details along the project frontage. Plans shall include the proposed public access easement, grades along the conforms.
  - a. STREET LIGHTING: The applicant is required to replace the existing street lights along the El Camino Real sidewalk project frontage. New pedestrian-scale luminaires, poles and bases shall be centered between the roadway lighting to provide a combined spacing of roughly 60-ft O.C. Decorative roadway and

pedestrian scale lighting standards are available from Public Works staff. Plot and label the new lights on the proposed Site Plan.

- b. SIDEWALK, CURB & GUTTER: As part of this project, the applicant must replace all existing sidewalk, curbs, gutters and driveway approaches in the public right-of-way along the frontage(s) of the property. The 4-foot wide extended sidewalk area along the El Camino Real property frontage shall be paved with City standard concrete and clear of obstruction such as planter or structures of any kind. On the Curtner Avenue frontage, the monolithic sidewalk, rolled curb and gutter shall be replaced in kind with any new street trees planted between the back of walk and the property line. Any existing non-compliant curb ramps adjacent to the required resurfacing work shall also be replaced. The site plan submitted with the building permit plan set must show the extent of the replacement work (at a minimum all curb and gutter and sidewalk along the project frontage) The plan must note that any work in the right-of-way must be done per Public Works' standards by a licensed contractor who must first obtain a Street Work Permit from Public Works at the Development Center. Include the 12-foot wide dimension on the plans and verify that the sidewalk is unobstructed.
6. Subdivider shall prepare and submit documents per PAMC 21.16.020 along with the Final Map.
  7. Subdivider provide closure calculations and cost estimate for the off-site improvements described above.
  8. PUBLIC ACCESS EASEMENT: Owner or designee shall create a public access easement for the additional area behind the property line needed to create a 12-foot wide sidewalk along El Camino Real. Plot and label the Public Access Easement along El Camino Real that provides the 12-foot wide sidewalk.
  9. A Subdivision Improvement Agreement is required to secure compliance with condition of approval and security of improvements onsite and offsite per PAMC Section 21.16.220.
  10. The Final Map shall include CITY ENGINEER STATEMENT, CITY SURVEYOR STATEMENT, BENEFICIARY STATEMENT, DIRECTOR OF PLANNING AND COMMUNITY ENVIRONMENT STATEMENT and CITY CLERK.
  11. The City of Palo Alto does not currently have a City Surveyor. The City retains the services of a contractor to review and provide approval on behalf of the City. The contractor will be reviewing, signing and stamping the Final Map associated with your project.

In effort to employ the services of the contractor, and as part of the City's cost recovery measures, the applicant is required to provide payment to cover the cost of the contract's review.

Our intent is to forward your Final Map to the contractor for an initial preliminary review of the documents. The contractor will then provide a review cost amount based on the complexity of the project and the information shown on the document. We will share this information with you once we receive it and ask that you return a copy acknowledging the amount. You may then provide a check for this amount as payment for the review cost. The City must receive payment prior to beginning the final review process.

12. Subdivider shall provide electronic copies of the documents provided.

PRIOR TO FINAL MAP RECORDATION.

13. The subdivider shall submit wet signed and stamped mylar copy of the Final Map to the Public Works for signature. Map shall be signed by Owner, Notary and Surveyor prior to formal submittal.
14. The subdivider shall provide a signed Subdivision Improvement Agreement and Security Bonds as described per PAMC 21.16.230.

PRIOR TO ISSUANCE OF A BUILDING PERMIT OR GRADING AND EXCAVATION PERMIT

15. A Final Map shall be recorded with County Recorder by the owner or designee.

SECTION 7. Term of Approval. Vesting Tentative Map. All conditions of approval of the Vesting Tentative Map shall be fulfilled prior to approval of a Final Map (PAMC Section 21.16.010[c]). Unless a Final Map is filed, and all conditions of approval are fulfilled within a two-year period from the date of Vesting Tentative Map approval, the Vesting Tentative Map shall expire and all proceedings shall terminate. An extension of time may be granted by the city council after recommendation of the planning commission, upon the written application of the subdivider, prior to the expiration of the Vesting Tentative Map approval, or any previous extension granted. Such extension(s) shall be subject to the maximum limitations set forth in the Subdivision Map Act.

PASSED:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

ATTEST:

APPROVED:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Interim Director of Planning and  
Community Environment

APPROVED AS TO FORM:

\_\_\_\_\_  
Deputy City Attorney

PLANS AND DRAWINGS REFERENCED:

Those plans prepared by Langan titled "Vesting Tentative Map 3877 El Camino Real for Condominium Purposes, City of Palo Alto, Santa Clara County, California" consisting of seven (7) pages, stamped, January 23, 2018.

**ATTACHMENT C  
ZONING COMPARISON TABLE**

3877 El Camino Real, File No. 17PLN-00321  
Tentative Map

**Table 1: COMPARISON WITH CHAPTER 18.13 (RM-30 DISTRICT)**

<b>Regulation</b>	<b>Required</b>	<b>Existing</b>	<b>Proposed</b>
Minimum Site Area	8,500 square feet	21,867.8 sf (0.50 ac)	21,867.8 sf (0.50 ac)
Minimum Site Width	70 feet	55 feet	55 feet
Minimum Site Depth	100 feet	180 feet	180 feet

**Table 2: COMPARISON WITH CHAPTER 18.16 (CS DISTRICT)**

<b>Regulation</b>	<b>Required</b>	<b>Existing</b>	<b>Proposed</b>
Minimum Site Area	None	10,957.5 sf (0.25 ac)	10,957.5 sf (0.25 ac)
Minimum Site Width	None	74 feet	74 feet
Minimum Site Depth	None	140 feet	140 feet



August 31, 2017

City's Current Planning Manager  
250 Hamilton Avenue  
Palo Alto, CA 94303

Nuvera Homes  
7041 Koll Center Parkway Suite #170  
Pleasanton, CA 94566

**Letter of Application**  
**For**  
**3877 El Camino Real (14PLN-00464)**

Dear City's Current Planning Manager,

On May 18th, 2017, the Architectural Review Board (ARB) recommended approval of the Site and Design Review and Design Enhancement Exception applications for the demolition of a 5,860 square foot commercial building and construction of a new mixed-use project. The project includes a three-story 35-foot tall, 4,027 square foot mixed use building and 17 two-story (29'-8") dwelling units (flats and townhouses). Parking for the project is provided in a basement and includes 62 parking spaces on a 32,825 square foot lot having two zoning districts (CS and RM-30). The project also includes a reduction in a rear setback for the basement from 10 feet to 6'-2". The City Council made its determination by making the following findings, determination and declarations

The proposed subdivision complies with the design criteria of PAMC Chapter 21.20 and 21.28 in the following ways:

- 1) The design of the proposed seventeen-unit mixed use development is consistent and compatible with applicable elements of the City's Comprehensive Plan in that the site is designated on the Comprehensive Plan land use map as Service Commercial and Multiple Family Residential and is located within the Service Commercial (CS) and Residential Multi-Family (RM-30) zoning districts and the Comprehensive Plan Table indicates compliance with applicable policies.
- 2) The design is compatible with the immediate environment of the site in that the proposed building is located within a CS and RM-30 zone district where other mixed-use buildings are common;
- 3) The design is appropriate to the function of the project in that the design makes the most functional use possible given the narrow constraints of "L" shaped parcel (0.75 acres) with street frontage on both El Camino Real (CS zoning district) and Curtner Avenue (RM-30).
- 4) The design promotes harmonious transitions in scale and character in areas between different designated land uses in that the scale of the proposed project creates a buffer between the commercial-properties along El Camino adjacent to the west of the project and the lower scale residential neighborhood to the east of the project; '

5) The design is compatible with approved improvements both on and off the site in that the proposed residential use of the building will be compatible with the other mixed-use buildings in the area;

6) The planning and siting of the various functions and buildings on the site create an internal sense of order and provide a desirable environment for occupants, visitors and the general community in that the proposed design makes good use of the available space on this narrow lot, accommodating the requirements for open space, parking and sufficient vehicular access;

7) The amount and arrangement of open space are appropriate to the design and the function of the structures in that ample open space is provided in the form of private patio areas and multiple balconies for each of the seventeen dwelling units as well as common open space along the commercial side of the property;

8) Sufficient ancillary functions are provided to support the main functions of the project in that the proposal includes sufficient parking and areas to accommodate trash and recycling needs of the development;

9) Access to the property and circulation thereon are safe and convenient for pedestrians, cyclists and vehicles in that adequate parking areas are proposed despite the narrowness of the lot;

10) Natural features are appropriately preserved and integrated with the project in that the proposal will ensure the preservation of existing trees;

11) The landscape design concept for the site, as shown by the relationship of plant masses, open space, scale, plant forms and foliage textures and colors create a desirable and functional environment in that the remaining open areas are fully planted and the utility equipment is screened as best is possible;

12) Plant material is suitable and adaptable to the site, capable of being properly maintained on the site, and is of a variety, which would tend to be drought resistant and to reduce consumption of water in its installation and maintenance;

In conclusion, the proposed project is consistent for all of the reasons and findings specified above.

# 3877 El Camino Real Project Mitigation Monitoring Program

## INTRODUCTION

Section 15097 of the Guidelines for the California Environmental Quality Act (CEQA) requires that, whenever a public agency approves a project based on a Mitigated Negative Declaration (MND) or an Environmental Impact Report (EIR), the public agency shall establish a mitigation monitoring or reporting program to ensure that all adopted mitigation measures are implemented.

This Mitigation Monitoring Program (MMP) is intended to satisfy this requirement of the CEQA Guidelines as it relates to the 3877 El Camino project. This MMP would be used by City staff and mitigation monitoring personnel to ensure compliance with mitigation measures during project implementation. Mitigation measures identified in this MMP were developed in the Initial Study prepared for the proposed project.

As noted above, the intent of the MMP is to ensure the effective implementation and enforcement of all adopted mitigation measures. The MMP will provide for monitoring of construction activities, as necessary, and in the field identification and resolution of environmental concerns.

## MITIGATION MONITORING PROGRAM DESCRIPTION

The City of Palo Alto will coordinate monitoring activities and ensure appropriate documentation of mitigation measure implementation. The table below identifies each mitigation measure for the 3877 El Camino Real Project and the associated implementation, monitoring, timing and performance requirements.

The MMP table presented on the following pages identifies:

1. the full text of each applicable mitigation measure;
2. the party or parties responsible for implementation and monitoring of each measure;
3. the timing of implementation of each mitigation measure including any ongoing monitoring requirements; and
4. performance criteria by which to ensure mitigation requirements have been met.

Following completion of the monitoring and documentation process, the final monitoring results will be recorded and incorporated into the project file maintained by the City's Department of Planning and Community Environment.

The mitigation measure numbering reflects the numbering used in the Initial Study prepared for the 3877 El Camino Real (Dudek 2016).



## 3877 El Camino Real Project Mitigation Monitoring Program

No mitigation measures are required for the following resources:		
<ul style="list-style-type: none"> <li>▪ Aesthetics</li> <li>▪ Agricultural Resources</li> <li>▪ Air Quality</li> <li>▪ Cultural Resources</li> <li>▪ Geology, Soils, and Seismicity</li> <li>▪ Greenhouse Gas Emissions</li> </ul>	<ul style="list-style-type: none"> <li>▪ Hazards and Hazardous Materials</li> <li>▪ Hydrology and Water Quality</li> <li>▪ Land Use and Planning</li> <li>▪ Mineral Resources</li> <li>▪ Noise</li> </ul>	<ul style="list-style-type: none"> <li>▪ Population and Housing</li> <li>▪ Public Services</li> <li>▪ Recreation</li> <li>▪ Transportation and Traffic</li> <li>▪ Utilities and Service Systems</li> </ul>

Mitigation Measure	Implementation Responsibility	Monitoring Responsibility	Timing	Performance Evaluation Criteria
<b>BIOLOGICAL RESOURCES</b>				
<p><b>Mitigation Measure BIO-1:</b> If feasible, vegetation on the project site shall be removed outside of the bird-nesting season. If the start of site clearing, tree removal, or building demolition occurs between February 1 and August 31, a pre-construction survey for nesting birds protected under the Migratory Bird Treaty Act shall be conducted by a qualified biologist to identify the location of nests in active use that were established prior to the start of project implementation activities. The pre-construction survey shall take place no more than 7 days prior to initiation of construction. All trees and shrubs on the site shall be surveyed, with particular attention to any trees or shrubs that would be removed or directly disturbed. Further, the project applicant shall retain a qualified biologist to perform additional nesting bird surveys at least every 2 weeks during all phases of construction that occur during the nesting season. If an active nest of a protected bird is found on site at any time, the biologist shall, in consultation with the California Department of Fish and Wildlife (CDFW), determine whether construction work would affect the active nest or disrupt reproductive behavior. Criteria used for this evaluation shall include presence of visual screening between the nest and construction activities, and behavior of adult</p>	Applicant	City of Palo Alto Department of Planning and Community Environment	Prior to issuance of demolition permit	<p>Pre-construction survey is completed prior to demolition.</p> <p>Surveys are repeated throughout construction.</p> <p>Protection measures are implemented during demolition and construction.</p> <p>Nesting birds are not disturbed until young have fledged.</p>

## 3877 El Camino Real Project Mitigation Monitoring Program

Mitigation Measure	Implementation Responsibility	Monitoring Responsibility	Timing	Performance Evaluation Criteria
<p>raptors in response to the surveyors or other ambient human activity. If construction could affect the nest or disrupt reproductive behavior, the biologist shall, in consultation with CDFW, determine an appropriate construction-free buffer zone around the nest to remain in place until the young have fledged or other appropriate protective measures are taken to ensure no take of protected species occurs.</p> <p>If it is determined that construction will affect an active raptor nest or disrupt reproductive behavior, then avoidance is the only mitigation available. Construction shall not be permitted within 300 feet of such a nest until a qualified biologist determines that the subject nests are no longer active.</p> <p>Prior to issuance of a demolition permit, the City of Palo Alto (City) shall verify that pre-construction surveys have been conducted within 7 days of the proposed start of demolition. If active bird nests are present, the City shall verify that CDFW has been consulted and either determined that construction will not affect an active bird nest or that appropriate construction-free buffer zones have been established or other appropriate protective measures have been taken.</p>				
<p><b>Mitigation Measure BIO-2:</b> A pre-construction survey shall be conducted by a qualified biologist (i.e., a biologist holding a California Department of Fish and Wildlife (CDFW) collection permit and a Memorandum of Understanding with CDFW allowing the biologist to handle bats) no earlier than 30 days prior to initiation of construction and demolition activities to determine if active bat roosts or maternal colonies are present on or within 300 feet of the construction demolition area. Surveys shall include the structures proposed for demolition.</p> <p>Should an active maternity roost be identified, the roost shall not be disturbed, and demolition and construction within 300 feet of the maternity roost shall be postponed or halted until the juveniles have fledged and the roost is vacated, as determined by a qualified biologist. Consultation with CDFW shall also be</p>	Applicant	City of Palo Alto Department of Planning and Community Environment	Prior to issuance of demolition permit	<p>Pre-construction survey is completed prior to demolition.</p> <p>Avoidance measures are implemented during demolition and construction.</p> <p>Nonbreeding bat hibernacula may be safely evicted under the direction of a qualified bat biologist and with</p>

## 3877 El Camino Real Project Mitigation Monitoring Program

Mitigation Measure	Implementation Responsibility	Monitoring Responsibility	Timing	Performance Evaluation Criteria
<p>initiated. Under no circumstance shall an active roost be directly disturbed.</p> <p>If nonbreeding bat hibernacula are found on the project site, the individuals shall be safely evicted under the direction of a qualified bat biologist and with consultation with CDFW. These actions shall allow bats to leave during nighttime hours, increasing their chance of finding new roosts with a minimum of potential predation during daylight.</p> <p>If it is determined that demolition or construction will not affect roosting behavior or disrupt a maternal colony, demolition or construction may proceed without any restriction or mitigation measure.</p> <p>If it is determined that demolition or construction will affect an active bat roost or disrupt reproductive behavior, then avoidance is the only mitigation available. Under no circumstance shall an active roost be directly disturbed. Demolition or construction within 300 feet shall be postponed or halted until the roost is naturally vacated as determined by a qualified biologist.</p> <p>Prior to issuance of a demolition permit, the City of Palo Alto (City) shall verify that pre-construction surveys have been conducted within 30 days of the proposed start of demolition. If bats are present, the City shall verify that CDFW has been consulted and either determined that construction will not affect an active bat roost or disrupt a maternal colony or that individuals in a nonbreeding bat hibernacula have been safely evicted.</p> <p>Due to regulations from the California Department of Public Health, direct contact by construction workers with any bat is not allowed.</p>				consultation with CDFW.

RECORDING REQUESTED BY AND  
WHEN RECORDED MAIL TO:

City of Palo Alto  
Office of City Attorney  
250 Hamilton Avenue  
Palo Alto, CA 94301

No fee for recording pursuant to  
Government Code Section 27383

(Space above for Recorder's Use)

## DENSITY BONUS DEVELOPER AND REGULATORY AGREEMENT AND DECLARATION OF RESTRICTIVE COVENANTS

This DENSITY BONUS DEVELOPER AND REGULATORY AGREEMENT AND DECLARATION OF RESTRICTIVE COVENANTS ("Agreement") is entered into as of this \_\_\_th day of \_\_\_\_ 20\_\_, by and between the CITY OF PALO ALTO, a charter city and municipal corporation (the "City"), and Zijin LLC, a Limited Liability Corporation (the "Developer"), (individually a "Party" and together the "Parties"), with reference to the following facts:

A. The City has adopted a Density Bonus Ordinance, Palo Alto Municipal Code Chapter 18.15, to conform with State Density Bonus Law (Government Code Section 65915 – 65918) (together "Density Bonus Law"). Density Bonus Law allows a density bonus, concessions, and other regulatory incentives when a developer proposes to provide rental housing affordable to Very Low Income or Low Income Households.

B. Developer is the owner of certain real property located at 3877 El Camino Real, Palo Alto, County of Santa Clara, California described in attached Exhibit A incorporated herein by this reference (the "Property"). In consideration of certain valuable land use and economic benefits conferred by the City upon the Property under Density Bonus Law, Developer, for itself, its successors, heirs, grantees and assigns, hereby agrees to comply with the requirements of Density Bonus Law as applied to the Property.

C. On September 18, 2017, Developer received the following discretionary approvals from the City to construct 17 dwelling units ("Units") and 4,035 square feet of commercial area (hereinafter referred to as the "Project") on the Property: Site and Design with a Design Enhancement Exception (the "Project Approvals"). As part of the Project, Developer has sought and agreed to construct 2 Units (15% of the total Units in the Project) to be affordable to **Low** Income Households (the "Affordable Units") for the Density Bonus Term as defined below and to pay an in-lieu fee for 0.55 fractional units. Developer will apply for a final subdivision map allowing the Units in the Project to be sold individually but intends to rent all Units in the Project upon completion of construction. To provide affordable units meeting the requirements of the Density Bonus Law, Developer shall sell or rent, as applicable, all Affordable Units to Eligible Households at Affordable Sales Prices and Affordable Rents as described in this Agreement.

D. Under Density Bonus Law, Developer has applied for, and the City has granted, the following regulatory incentives in exchange for the Developer's provision of the Affordable Units:

1. A density bonus of 0 additional Units (the "Density Bonus").
2. One concession, described as follows: As authorized in the City's zoning code (PAMC 18.15.050[d][iv]) the applicant selected an increase to residential floor area. The code allows an increase in the floor area ratio up to 25% or up to the square footage of the restricted affordable units, whichever is less (the "Concession(s)").

E. Density Bonus Law requires the City to ensure, and the Developer to agree to, continued affordability of the Affordable Units for the Density Bonus Term. To ensure their continued affordability for the Density Bonus Term, this Agreement shall be executed and recorded against the Property prior to the recordation of any parcel map or final subdivision map or issuance of building permits for the Project, whichever occurs first.

F. Developer acknowledges and agrees that the Project Approvals provided adequate and proper notice pursuant to Government Code Section 66020 of Developer's right to protest any requirements for fees, dedications, reservations, and other exactions as may be included in this Agreement, that no protest in compliance with Section 66020 was made within ninety (90) days of the date that notice was given, and that the period has expired in which Developer may protest any and all fees, dedications, reservations, and other exactions as may be included in this Agreement.

NOW, THEREFORE, it is mutually agreed by and between the Parties as follows.

## **AGREEMENT**

The Parties agree and acknowledge that the above recitals are true and accurate, and are incorporated into this Agreement by this reference.

## **ARTICLE 1. DEFINITIONS AND EXHIBITS**

Section 1.1. Definitions. When used in this Agreement, the following terms shall have the respective meanings assigned to them in this Article 1.

(a) "Affordable Rent" is the maximum allowable Rent for an Affordable Unit, equal to one-twelfth (1/12th) of thirty percent (30%) of sixty percent (60%) of Area Median Income adjusted for assumed household size of one person in a studio Affordable Unit, two persons in a one-bedroom Affordable Unit, three persons in a two-bedroom Affordable Unit, and one additional person for every additional bedroom thereafter.

(b) "Affordable Sales Price" means the maximum allowable sales price for an Affordable Unit in effect at the time of its sale by the Developer to an Eligible Household.

(c) "Affordable Units" are defined in Recital C.

(d) "Agreement" is defined in the first paragraph on page 1.

(e) "Area Median Income" is the median Household Income in Santa Clara County as determined periodically by the State of California pursuant to California Code of Regulations, Title 25, Section 6932 or successor provision.

- (f) "City" is defined in the first paragraph on page 1 of this Agreement.
- (g) "City Deed of Trust" means a Deed of Trust and Security Agreement securing performance under the Resale Restriction and City Note in a form substantially similar to that shown in Exhibit G.
- (h) "City Note" means a Promissory Note in favor of the City in a form substantially similar to that shown in Exhibit F.
- (i) "Concession" is defined in Recital C.
- (j) "Correction Costs" are defined in Section 3.5.
- (k) "Density Bonus" is defined in Recital C.
- (l) "Density Bonus Law" is defined in Recital A.
- (m) "Density Bonus Term" is the period that commences when the City and Developer record the Regulatory Certificate described in Section 3.4 and that terminates thirty (30) years after the date of the recordation of the Regulatory Certificate.
- (n) "Developer" is defined in the first paragraph on page 1 of this Agreement.
- (o) "Director" is the Director of Planning and Community Environment of the City or successor position.
- (p) "Eligible Household" is a household which has been determined to be eligible to rent or purchase an Affordable Unit in compliance with Density Bonus Law and this Agreement.
- (q) "Household Income" is the combined gross, pre-tax income of all adult occupants of the applicant household.
- (r) "Incentive" is defined in Recital C.
- (s) "Low Income Household" is a household with a Household Income between fifty percent (50%) and eighty percent (80%) of Area Median Income, adjusted for actual household size.
- (t) "Market Rate Units" are Units which are not Affordable Units.
- (u) "Party" or "Parties" are defined in the first paragraph on page 1 of this Agreement.
- (v) "Project" is defined in Recital C.
- (w) "Project Approvals" are defined in Recital C.
- (x) "Property" is defined in Recital B.
- (y) "Regulatory Certificate" is defined in Section 3.4.

(z) "Resale Restriction" means an Occupancy, Resale, and Refinancing Restriction Agreement, with Option to Purchase at Restricted Price in a form substantially similar to that shown in Exhibit E.

(aa) "Rent" is the total of monthly payments by the Tenant of an Affordable Unit for all of the following: (1) use and occupancy of the Affordable Unit and land and all facilities associated with the Affordable Unit, including but not limited to parking, bicycle storage, storage lockers, and use of all common areas; (2) any separately charged fees or service charges assessed by the Developer which are required of all tenants of Units in the Project, except security deposits; (3) an allowance for utilities paid by the Tenant as established by the Santa Clara County Housing Authority, including garbage collection, sewer, water, electricity, gas and other heating, cooking and refrigeration fuel, but not telephone service or cable TV; and (4) any other interest, taxes, fees or charges for use of the land or associated facilities that are assessed by a public or private entity other than the Developer and paid by the Tenant.

(bb) "Tenant" is a household occupying an Affordable Unit pursuant to a valid lease or rental agreement with the Developer.

(cc) "Tenant Lease" is defined in Section 3.2.

(dd) "Units" are defined in Recital C.

(ee) "Very Low Income Household" is a household with a Household Income at or below fifty percent (50%) of Area Median Income.

(ff) "Waiver" is defined in Recital C.

Section 1.2. Exhibits. The following exhibits are attached to and incorporated into this Agreement:

- Exhibit A Legal Description of the Property.
- Exhibit B Map Showing Initial Location of Affordable Units and Schedule of Affordable Units.
- Exhibit C Initial Affordable Rents and Maximum Income Level of Tenants for Affordable Units.
- Exhibit D Initial Sales Prices and Maximum Income Level of Eligible Households for Purchasing Affordable Units.
- Exhibit E Form of Resale Restriction.
- Exhibit F Form of City Note.
- Exhibit G Form of City Deed of Trust.

**ARTICLE 2.**  
**CONSTRUCTION OF PROJECT AND AFFORDABLE UNITS**

Section 2.1. Construction of Affordable Units. The Affordable Units shall be constructed in proportion to construction of the Market-Rate Units. No building permit shall be issued for any Market-Rate Unit unless a proportional number of building permits have been issued for Affordable Units, and no certificates of occupancy or final inspections shall be issued for any Market-Rate Units unless a proportional number of certificates of occupancy or final inspections have been issued for Affordable Units. The Director may approve a modified construction schedule if this timing requirement will create unreasonable delays in the issuance of certificates of occupancy for Market-Rate Units and if the Developer provides satisfactory assurance, as approved by the Director, that the Affordable Units will be completed prior to completion of all of the Market-Rate Units. Each Affordable Unit shall be inspected by the City prior to occupancy to determine that it meets the construction and other standards required by this Agreement.

Section 2.2. Affordable Units.

(a) To satisfy Developer's affordable housing requirements for the Project under Density Bonus Law, Developer must rent or sell a total of two (2) units at an Affordable Rent or at an Affordable Sales Price. In the event Developer wishes to satisfy this obligation in part by providing an affordable rental unit at initial project occupancy, Developer shall rent a maximum of one (1) Affordable Unit to Low Income Households at Affordable Rents, as specified in Article 3 below, for the Density Bonus Term or until the unit is offered for sale. In addition, at initial project occupancy, Developer shall sell at least one (1) Affordable Unit at an Affordable Sales Price pursuant to Sections 4.2, 4.3, 4.4 and 4.5 of this Agreement.

(b) In the event Rental Units in the Project are offered for sale, any Affordable Rental Units shall be sold at Affordable Sales Prices to Eligible Households.

(c) After the expiration of the Density Bonus Term., if Developer has not offered Rental Units in the Project for sale, Developer shall have no affordable housing obligations under this Agreement. Prior to the expiration of the Density Bonus Term, Developer shall provide all notifications required by Government Code Sections 65863.10 and 65863.11 or successor provisions or any other notification required by any state, federal, or local law.

Section 2.3. Appearance, Size and Bedroom Count of Affordable Units.

(a) Appearance and Maintenance of Affordable Units. The design, square footage, appearance, and general quality of the Affordable Units shall be compatible with those of the Market Rate Units and consistent with the designs provided for the Project Approvals. Developer shall allocate and assign parking spaces, bicycle storage, storage lockers, and other spaces reserved for use by individual Units to the Affordable Units on the same basis as for the Market-Rate Units, and Tenants of the Affordable Units shall have equal access to the Project's common areas as is given to the residents of the Market-Rate Units, but any fee charged for use of common areas or for spaces reserved for individual Units shall be included in the Tenant's Rent. Once completed, the Affordable Units shall not be kept vacant or used for any purpose except for residential use and, if vacant, shall be marketed concurrently with the Market-Rate Units and offered for rent to Eligible Households at Affordable Rents.



(b) Location and Characteristics of Affordable Units. Developer shall provide Affordable Units in the Project in accordance with the schedule shown in Exhibit B. As provided in Exhibit B, the Affordable Units shall be dispersed within the Project with a bedroom mix equivalent to the bedroom mix of the Market-Rate Units, except that the Developer may elect to provide the Affordable Units with more bedrooms.

(c) Change in Location of Affordable Units. If, after recordation of this Agreement, Developer desires to change the location of any Affordable Unit within the Project, Developer shall submit a written request for such change to the Director, who may approve such request provided that any relocated Affordable Units shall be comparable to those listed in Exhibit B and shall contain the same number of bedrooms.

Section 2.4 Calculation and Payment of In-Lieu Fees. In lieu of providing a third low income unit, Developer has elected to provide an in-lieu payment for 0.55 fractional units, as provided in Palo Alto Municipal Code section 16.65.030(c). The in-lieu fee shall be calculated using rates in effect at the time of payment and shall be paid prior to first building permit issuance.

### **ARTICLE 3. RENT REGULATORY PROVISIONS**

The provisions of this Article 3 are applicable until the earlier to occur of the following: (1) expiration of the Density Bonus Term; or (2) Developer's determination to offer Units in the Project for sale.

#### Section 3.1. Affordability and Occupancy Covenants.

(a) Occupancy Requirements. Subject to the provisions of subsection (e) of this Section below, Affordable Units shall be rented to and occupied by or, if vacant, available for occupancy by, Low Income Households. The Affordable Units shall not be kept vacant or used for any purpose except for residential use and shall be offered for rent to Eligible Households at Affordable Rents.

(b) Allowable Rent. Subject to the provisions of subsection (e) of this Section below, the maximum Rent charged to Tenants of the Affordable Units shall not exceed Affordable Rent.

(c) City Approval of Rents. Initial Rents for all Affordable Units shall be approved by the City prior to occupancy at the time the Developer submits to the City the marketing plan required by Section 3.3 below. The City shall review all proposed Rent increases to determine whether the proposed increases are consistent with the provisions of this Agreement. Developer shall certify to the City that Developer is not charging any fee other than Affordable Rent to Tenants of the Affordable Units for all of the components of Rent defined in Section 1.1 above.

(d) Schedule of Affordable Rents. The City has provided the Developer with a schedule of Affordable Rents for the Affordable Units in effect on the date of this Agreement, set forth in attached Exhibit C. The City annually determines Affordable Rents (including utility allowances) based on changes in Area Median Income and utility allowances, and Developer shall obtain a copy of the schedule from the Director.

(e) Increased Income of Tenants from Low Income to Above Low Income. If, upon recertification of a Tenant's Household Income, the Developer determines that the Tenant's Household Income has increased and exceeds the qualifying income for a Low Income Household, then the Tenant shall be given written notice that: (i) Tenant's Rent shall be increased sixty (60) days after the date in the notice to an amount to be determined by Developer but not to exceed Rent for a comparable Market-Rate Unit; and (ii) Tenant shall vacate the Affordable Unit six (6) months from the date of the notice or upon expiration of the Tenant's lease, whichever is later. If, prior to the date by which the Tenant must vacate the Affordable Unit, another Unit is vacated which is not designated as an Affordable Unit and is of appropriate bedroom size, the Developer may, at the Developer's option, request the Director to approve a change in the location of the Affordable Unit; allow the Tenant to remain in the original Unit; and designate the newly vacated Unit as an Affordable Unit if approved by the Director.

(f) Agreement to Limitation on Rents. The Project has received an Incentive from the City under the Density Bonus Law, which is a form of assistance specified in Chapter 4.3 (commencing with Section 65915) of Division 1 of Title 7 of the Government Code. Sections 1954.52(b) and 1954.53(a)(2) of the Costa-Hawkins Act provide that, where a developer has received such assistance, certain provisions of the Costa-Hawkins Act do not apply if a developer has so agreed by contract. The Developer hereby agrees to limit Rents and sales prices as provided in this Agreement in consideration of the Developer's receipt of the Incentives and further agrees that any limitations on Rents imposed on the Affordable Units are in conformance with the Costa-Hawkins Act. The Developer further warrants and covenants that the terms of this Agreement are fully enforceable.

Section 3.2. Lease Provisions. The Developer shall use a form of Tenant lease (the "Tenant Lease") approved by the City for the Affordable Units. The Tenant Lease shall, among other matters:

(a) provide for termination of the lease for failure: (1) to provide any information required under this Agreement or reasonably requested by the Developer to establish or recertify the Tenant's qualification, or the qualification of the Tenant's household, as an Eligible Household in accordance with this Agreement, or (2) to qualify as an Eligible Household as a result of any material misrepresentation made by such Tenant with respect to the Household Income computation or certification;

(b) provide that the Rent may not be raised more often than once every twelve (12) months. The Developer will provide each Tenant with at least sixty (60) days written notice of any increase in Rent applicable to such Tenant;

(c) prohibit subleasing of the Affordable Unit or any portion of the Affordable Unit or any spaces reserved for the use of the Tenant, contain nondiscrimination provisions, and include the Tenant's obligation to inform the Developer of any need for maintenance or repair;

(d) include reasonable rules of conduct consistent with California law;

(e) allow termination of the tenancy only for an increase in Tenant's Household Income above qualifying income for Low Income Households or for good cause, including violation of the terms and conditions of the Tenant Lease, violations of applicable federal, state, or local law, or other good cause;

(f) include, at Developer's option, the obligation for Tenant to provide a security deposit not exceeding two months' rent; and

(g) be consistent with Palo Alto Municipal Code Section 9.68, which requires that Tenants be offered a one-year lease, unless the Tenant is over-income, as described in Section 3.1(e) above.

Section 3.3. Marketing, Income Certification and Reporting.

(a) Required City Approvals. At least sixty (60) days before any Units in the Project receive a final inspection or certificate of occupancy, the Developer shall notify City of the availability of the Affordable Units and provide to the City its proposed marketing plan for the Affordable Units as described below; its management policies as described in Section 3.5 below; the proposed form of Tenant Lease to confirm conformance with the provisions of Section 3.2 above; and proposed Affordable Rents for the Affordable Units, all for City review and approval. The Affordable Units shall be marketed concurrently with the marketing of the Market-Rate Units.

(b) Marketing Plan. The Developer's marketing plan shall be consistent with the provisions of this subsection (b). Upon receipt of the marketing plan, the City shall promptly review the marketing plan and shall approve or disapprove it within thirty (30) days after submission. If the marketing plan is not approved, the Developer shall submit a revised marketing plan within thirty (30) days.

(i) Local Worker and Resident Preference. Eligible Households with a member who is either a resident of the City of Palo Alto or employed within the City limits shall be given preference for occupancy of the Affordable Units.

(ii) Section 8 Vouchers and Certificate Holders. The Developer will review applications from prospective tenants of Affordable Units, on the same basis as all other prospective tenants, of persons who are recipients of federal certificates for rent subsidies pursuant to the existing housing program under Section 8 of the United States Housing Act or any successor. The Developer shall not apply selection criteria to Section 8 certificate or voucher holders that are more burdensome than criteria applied to all other prospective tenants for the Affordable Units, nor shall the Developer apply or permit the application of management policies or lease provisions with respect to the Project which have the effect of precluding occupancy of Affordable Units by such prospective tenants.

(iii) Marketing Materials. The marketing plan submitted to the City shall include the following: means to be used to advertise Affordable Units to the public upon initial occupancy and as vacancies occur and maintenance of a waiting list; the amount of any application screening fee to be imposed by Developer, and information to be provided to applicants, including conditions and restrictions applicable to occupancy of the Affordable Units, current Affordable Rent, permitted Rent increases, maximum qualifying income for an Eligible Household, requirement for annual Household Income recertification, preferences, and requirement to vacate the Affordable Unit if the Tenant's Household Income exceeds the maximum qualifying income.

(c) Income Certification.

(i) Prior to Developer's entering into a lease with a prospective tenant of an Affordable Unit, the prospective tenant household shall be certified by the City or its assignee, currently the Palo Alto Housing Corporation, as an Eligible Household.

(ii) Annually thereafter, the Developer will obtain, complete and maintain on file Household Income certifications for each Tenant renting any of the Affordable Units. Developer shall make a good faith effort to verify that the Household Income statement provided by a Tenant is accurate by taking two or more of the following steps as a part of the verification process for all members of the Tenant household age eighteen (18) or older: (a) obtaining a minimum of the three (3) most current pay stubs; (b) obtaining an income tax return for the most recent tax year; (c) conducting a credit agency or similar search; (d) obtaining the three (3) most current savings and checking account bank statements; (e) obtaining an income verification form from a current employer; (f) obtaining an income verification form from the Social Security Administration and/or the California Department of Social Services if an adult member of the Tenant's household receives assistance from either of such agencies; or (g) if the Tenant is unemployed and has no such tax return, obtain another form of independent verification. Copies of annual Tenant Household Income certifications shall be provided to the City or its assignee for review.

(iii) As an alternative to the procedure described in subparagraph (ii) of this subsection (c), Developer may contract with a provider approved by the City to certify Tenant Household Incomes on an annual basis.

(d) Reports to City.

(i) Annual Report. The Developer shall submit to the City on April 1st of each year a report, in a form prescribed by or otherwise acceptable to the City, verifying compliance by Developer with the terms of this Agreement and certified as correct by the Developer under penalty of perjury. The annual report shall include without limitation the following information:

a. Certifications of eligibility for all Tenants of Affordable Units at the time of initial occupancy and upon the yearly anniversary of their continuing tenancies. Such certification shall include:

i. Verified Household Income statements. Developer shall retain in the Tenant's file all verifications of Tenant's Household Income obtained as required in subsection (c) of this Section.

ii. Number of persons in each Affordable Unit.

b. Certification of the amount of Rent charged for the year for all Affordable Units.

c. Other information reasonably required by the City.

(ii) Other Reports. Within fifteen (15) days after receipt of a written request, Developer shall provide any other information or completed forms requested by the City to ensure compliance with this Agreement.

Section 3.4. Commencement of Density Bonus Term. The Density Bonus Term shall commence on the date that the Developer and City record a certificate: (a) stating that all the Affordable Units are rented and occupied by Eligible Households; and (b) identifying the beginning and end dates of the Density Bonus Term (the "Regulatory Certificate").

Section 3.5. Management of Property and Property Maintenance.

(a) Management Responsibilities. The Developer is responsible for all management functions with respect to the Project, including, without limitation, the annual recertification of household size and Household Income (subject to review by the City or its assignee), selection of Tenants, maintenance of a waiting list for the Affordable Units, evictions, collection of Rents and deposits, maintenance, landscaping, routine and extraordinary repairs, replacement of capital items, and security. The City shall have no responsibility over management of the Project.

(b) Approval of Management Policies. The Developer shall submit its written management policies with respect to the Project to the City for its review and shall amend such policies if necessary to ensure that such policies comply with the provisions of this Agreement.

(c) Property Maintenance. The City places prime importance on quality maintenance to ensure that all developments within the City which include affordable housing units are not allowed to deteriorate due to below-average maintenance. Developer shall provide the Affordable Units with the same level and quality of maintenance, including performance of repairs and periodic replacement of fixtures as the Market-Rate Units. The Developer agrees to maintain all interior and exterior improvements, including landscaping, on the Property in good condition and repair (and, as to landscaping, in a healthy condition) and in accordance with all applicable laws, rules, ordinances, orders and regulations of all federal, state, county, municipal, and other governmental agencies and bodies having or claiming jurisdiction and all their respective departments, bureaus, and officials.

(d) Remedies. In the event that the Developer breaches any of the covenants contained in this Section 3.5 and such default continues for a period of ten (10) days after written notice from the City specifying the nature of the breach with respect to graffiti, debris, waste material, or a health or safety violation, or thirty (30) days after written notice from the City specifying the nature of the breach with respect to general maintenance, landscaping and building improvements, then the City, in addition to whatever other remedy it may have at law or in equity, shall have the right (but is not required) to enter upon the Property after ten (10) days' prior written notice to the Developer describing the nature of the City's intended actions and to perform or cause to be performed all acts and work necessary to protect, maintain, and preserve the improvements and landscaped areas on the Property, as specified in a correction plan approved by the City, and to attach a lien on the Property, or to assess the Property, in the amount of the expenditures incurred by the City or its agents arising from such acts and work of protection, maintenance, and preservation by the City and/or costs of such cure, plus an administrative charge equal to fifteen percent (15%) of the amount of such expenditures (the expenditures plus the administrative charges are the "Correction Costs"), if Developer does not remit the full amount of the Correction Costs to the City within thirty (30) days after City notifies Developer of the full amount of the Correction Costs.

(e) Taxes and Assessments. Developer shall pay all real and personal property taxes, assessments, if any, and charges and all franchise, income, employment, old age benefit, withholding, sales, and other taxes assessed against it, or payable by it, at such times

and in such manner as to prevent any penalty from accruing, or any lien or charge from attaching to the Property; provided, however, that Developer shall have the right to contest in good faith, any such taxes, assessments, or charges. In the event Developer exercises its right to contest any tax, assessment, or charge against it, Developer, on final determination of the proceeding or contest, shall immediately pay or discharge any decision or judgment rendered against it, together with all costs, charges and interest.

(f) Damage or Destruction of Project. If all of the Units on the Property are demolished, the Concession granted to Developer under Density Bonus Law shall terminate and the terms of this Agreement shall terminate and be of no further force and effect.

#### **ARTICLE 4. SALE OF BMR UNITS**

Section 4.1. Decision of Developer to Sell Units in the Project. In the event that the Developer determines to offer Rental Units in the Project for sale, the following shall apply.

(a) Notification to City. Developer shall notify City within five (5) business days of submitting an application to the Department of Real Estate for a public report to offer Units in the Project for sale. Developer shall also provide the City with a copy of Developer's application for a public report. At least one hundred twenty (120) days before offering an Affordable Unit for sale, the Developer shall provide the City with written notice of the proposed sale of the Affordable Unit including the Unit size (square footage and number of bedrooms), lot/building/unit number, street address, Developer name and Tract number, and required income level of the Unit. City shall notify Developer within thirty (30) days of the receipt of Developer's notification of the Affordable Sales Prices currently applicable to each Affordable Unit.

(b) Notification to Tenants. The Developer shall provide all notices to Tenants of the Affordable Units required by state law.

Section 4.2. Sale by Developer to Eligible Households.

(a) Developer shall sell the Affordable Units to Eligible Households at prices not in excess of the then-current Affordable Sales Prices provided by the City. The Affordable Sales Price shall be the absolute maximum price that the Developer or any other seller may receive as compensation for the sale of an Affordable Unit. The Developer or other seller may not charge or receive any additional amount for an Affordable Unit regardless of whether the additional amount is (a) for options, upgrades or additional improvements to the Affordable Unit, (b) paid through escrow or outside of escrow, (c) paid prior to, after or as part of the purchase escrow or (d) paid in cash or in kind, unless a reasonable accommodation is approved by the City for buyers requiring options or accommodations related to a disability, in which any additional cost shall be paid through escrow with prior written approval by City.

(b) The Developer shall actively market the Affordable Units, openly and in the same general manner as the Market-Rate Units, allow prospective buyers to view the Affordable Units, model units or floor plans, disclosure documents, and any other relevant sales materials, as may be available. Developer's sales agents shall provide the same general quality of customer service to the Affordable Unit buyers as provided to market-rate buyers, shall display information about the availability of the Affordable Units in a readily noticeable manner in the sales office and/or Project sales website, and shall disclose the Affordable Unit restrictions to any prospective buyers in a timely manner. Selected applicants shall be responsible for obtaining their own

financing for the Affordable Units. Developer shall comply with applicable fair housing laws in the marketing and sale of the Affordable Units. Purchase contracts between Developer and Eligible Households shall include requirements that buyers execute documents for the benefit of the City as described in Section 4.4 below.

(c) The City or its designee shall verify a potential buyer's eligibility pursuant to this Agreement before Developer may accept an offer to purchase an Affordable Unit. Developer agrees to pay a transaction fee in compliance with the City's then-applicable Master Fee Schedule, per sale of each Affordable Unit, or any such fee for the reasonable cost of administering this Agreement as may be adopted by resolution of the City Council.

(d) Eligible Households shall submit purchase offers directly to Developer, and Developer shall accept offers to purchase in the order received, provided that such offers include a letter from the City certifying buyer's eligibility, a valid check for the required good faith deposit, and a preliminary first mortgage loan approval. Developer shall conduct any additional screening of applicants deemed necessary and not in violation of fair housing laws.

(e) The Developer shall be independently responsible to make good faith efforts to market and sell the Affordable Units in compliance with this Agreement, and shall cooperate with City in good faith in the effort to sell the Affordable Units to Eligible Households in a timely manner.

Section 4.3. Affordable Sales Prices. The Affordable Units shall be sold to Eligible Households at sales prices that do not exceed Affordable Sales Prices established by the City. Affordable Sales Prices for the Affordable Units in effect on the date of this Agreement (and subject to change annually thereafter) are shown in Exhibit D attached hereto and incorporated herein. Developer acknowledges and agrees that Affordable Sales Prices are determined based on current income levels in Santa Clara County, changes to which are published annually by the State of California, Department of Housing and Community Development.

Section 4.4. Homebuyer Documents and Security Instruments. Prior to the sale of each Affordable Unit, the Developer shall ensure that:

(a) The Eligible Household and the City execute the Resale Restriction, which shall be recorded against the Affordable Unit at close of escrow on the sale to the Eligible Household. The Resale Restriction shall be recorded immediately following the grant deed to the Eligible Household, unless otherwise approved in writing by the City.

(b) The Eligible Household signs the City Note that obligates the Eligible Household to pay the City any excess sales proceeds or excess rents received by the Eligible Household if the Eligible Household fails to comply with the Resale Restriction on rental or resale of the Affordable Unit.

(c) The Eligible Household signs the City Deed of Trust to secure performance of the Eligible Household's covenants under the Resale Restriction and payment of the amounts due under the City Note if the Eligible Household fails to comply with the terms of the Resale Restriction. The City Deed of Trust shall be recorded against the Affordable Unit, subordinate only to the Resale Restriction and the lien for the first mortgage loan obtained by the Initial Buyer to finance the purchase of the Affordable Unit unless otherwise approved in writing by the City.

Section 4.5. Compliance Reports, Inspections, Monitoring. Within five (5) days following the sale of any Affordable Unit by the Developer to an Eligible Household, Developer shall forward, or shall cause escrow officer to forward to the City, copies of the buyer's and seller's settlement statement and all closing documents, including Resale Restriction, City Note, and City Deed of Trust executed in connection with the sale.

## **ARTICLE 5. ENFORCEMENT**

Section 5.1. Covenants Running with the Land. The City and Developer hereby declare their express intent that the covenants and restrictions set forth in this Agreement shall apply to and bind Developer and its heirs, executors, administrators, successors, transferees, and assignees having or acquiring any right, title or interest in or to any part of the Property and shall run with and burden such portions of the Property until terminated in accordance with Section 5.2. Until all or portions of the Property are expressly released from the burdens of this Agreement, each and every contract, deed or other instrument hereafter executed covering or conveying the Property or any portion thereof shall be held conclusively to have been executed, delivered, and accepted subject to such covenants and restrictions, regardless of whether such covenants or restrictions are set forth in such contract, deed or other instrument. In the event of foreclosure or transfer by deed-in-lieu of all or any portion of the Property prior to completion and sale of all of the Affordable Units, title to all or any portion of the Property shall be taken subject to this Agreement. Developer acknowledges that compliance with this Agreement is a requirement of Density Bonus Law and the Project Approvals, and that no event of foreclosure or trustee's sale may remove these requirements from the Property.

### Section 5.2. Release of Property from Agreement.

(a) If the Developer has not sold all the Affordable Units, prior to the expiration of the Density Bonus Term, Developer shall provide all notifications required by Government Code Sections 65863.10 and 65863.11 or successor provisions and any other notification required by any state, federal, or local law.

(b) Upon the expiration of the Density Bonus Term, City shall execute and record a release of the Project, the Property, and each Unit in the Project from the burdens of this Agreement within thirty (30) days following written notice from the Developer, if at the time the Developer is in compliance with all terms of this Agreement.

Section 5.3. Default. Failure of the Developer to satisfy any of Developer's obligations under the terms of this Agreement within thirty (30) days after the delivery of a notice of default from the City will constitute a default under this Agreement and a failure to satisfy the Project Approvals and Density Bonus Law. In addition to remedies for breach of this Agreement, the City may exercise any and all remedies available to it under the Subdivision Map Act, Density Bonus Law, or otherwise, including but not limited to:

(a) withholding, conditioning, suspending or revoking any permit, license, subdivision approval or map, or other entitlement for the Project, including without limitation final inspections for occupancy and/or certificates of occupancy;

(b) instituting against the Developer, or other parties, a civil action for declaratory relief, injunction or any other equitable relief, or relief at law, including without



limitation an action to rescind a transaction and/or to require repayment of any funds received in connection with such a violation;

(c) where one or more persons have received financial benefit as a result of violation of this Agreement or of any requirement imposed under the Density Bonus Law, the City may assess, and institute legal action to recover as necessary, a penalty in any amount up to and including the amount of financial benefit received, in addition to recovery of the benefit received;

(d) requiring the Developer or his/her successors in interest to the Property to pay the City Rent or any other payment received by the Developer for the Affordable Unit from the date of any unauthorized use of the Affordable Unit or in excess of Affordable Rent; and

(e) any other means authorized under the City of Palo Alto Municipal Code, Density Bonus Law, or any other federal or state statute.

Section 5.4. Remedies Cumulative. No right, power, or remedy given to the City by the terms of this Agreement or Density Bonus Law is intended to be exclusive of any other right, power, or remedy; and each and every such right, power, or remedy shall be cumulative and in addition to every other right, power, or remedy given to the City by the terms of this Agreement, Density Bonus Law, or by any statute or ordinance or otherwise against Developer and any other person. Neither the failure nor any delay on the part of the City to exercise any such rights and remedies shall operate as a waiver thereof, nor shall any single or partial exercise by the City of any such right or remedy preclude any other or further exercise of such right or remedy, or any other right or remedy.

## **ARTICLE 6. GENERAL PROVISIONS**

Section 6.1. Appointment of Other Agencies. At its sole discretion, the City may designate, appoint or contract with any other public agency, for-profit or non-profit organization to perform some or all of the City's obligations under this Agreement.

Section 6.2. Records. Developer shall retain all records related to compliance with obligations under this Agreement for a period not less than five (5) years from the date of origination of such records, and make them available to City employees or others designated by the City for inspection and copying on five (5) business days' written notice. The City shall be entitled to monitor compliance with this Agreement and Density Bonus Law, and Developer shall cooperate with City monitoring, including obtaining Tenant Rent and Household Income verification upon request of the City.

Section 6.3. Monitoring Fee. Developer agrees to pay an annual monitoring fee as may be adopted by resolution of the City Council which is in force and effect for a similar class of affordable units.

Section 6.4. Nondiscrimination. All of the Affordable Units shall be available for occupancy to members of the general public. The Developer shall not give preference to any particular class or group of persons in renting or selling the Affordable Units, except to the extent that the Affordable Units are required to be rented and sold to Eligible Households and as required by this Agreement, including, without limitation, as set forth in Section 3.3(b) above; provided, however, there shall be no discrimination against or segregation of any person or group of

persons, on account of race, color, creed, religion, sex, sexual orientation, marital status, national origin, source of income (e.g., SSI), age (except for lawful senior housing), ancestry, or disability, in the leasing, transferring, use, occupancy, tenure, or enjoyment of any Unit nor shall the Developer or any person claiming under or through the Developer, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy of Tenants of any Unit or in connection with the employment of persons for the construction, operation and management of the Project.

Section 6.5. Hold Harmless. Developer will indemnify and hold harmless (without limit as to amount) City and its elected officials, officers, employees and agents in their official capacity (hereinafter collectively referred to as "Indemnitees"), and any of them, from and against all loss, all risk of loss and all damage (including expense) sustained or incurred because of or by reason of any and all claims, demands, suits, actions, judgments and executions for damages of any and every kind and by whomever and whenever made or obtained, allegedly caused by, arising out of or relating in any manner to the Project, the Affordable Units, or Developer's performance or non-performance under this Agreement, including claims pursuant to California Labor Code Section 1720 et seq., and shall protect and defend Indemnitees, and any of them with respect thereto, except to the extent arising from the gross negligence or willful misconduct of the Indemnitees. The provisions of this Section shall survive expiration or other termination of this Agreement or any release of part or all of the Property from the burdens of this Agreement, and the provisions of this Section shall remain in full force and effect.

Section 6.6. Notices. All notices required pursuant to this Agreement shall be in writing and may be given by personal delivery or by registered or certified mail, return receipt requested, to the Party to receive such notice at the addressed set forth below:

TO THE CITY:

City of Palo Alto  
Office of City Attorney  
250 Hamilton Avenue  
Palo Alto, CA 94301

TO THE DEVELOPER:

Zijin, LLC  
6989 Melvin Drive  
San Jose, CA  
95129

Any Party may change the address to which notices are to be sent by notifying the other Parties of the new address, in the manner set forth above.

Section 6.7. Integrated Agreement. This Agreement constitutes the entire Agreement between the Parties and no modification hereof shall be binding unless reduced to writing and signed by the Parties hereto.

Section 6.8. Each Party's Role in Drafting the Agreement. Each Party to this Agreement has had an opportunity to review the Agreement, confer with legal counsel regarding the meaning of the Agreement, and negotiate revisions to the Agreement. Accordingly, neither Party shall rely upon Civil Code Section 1654 in order to interpret any uncertainty in the meaning of the Agreement.

Section 6.9. Amendment of Agreement; Approvals and Consents.

(a) Amendments to this Agreement, including any proposal to change any condition of the Project Approvals, shall be subject to the review and approval of the decision-making body which approved the Project. No amendment may be approved that is inconsistent with State law, the Palo Alto Municipal Code, or any adopted affordable housing guidelines. Upon approval, a new Agreement or amendments to this Agreement, as appropriate, shall be executed and recorded.

(b) The City has authorized the City Manager to execute this Agreement and has authorized the Director to deliver such approvals or consents as are required by this Agreement. Any consents or approvals required under this Agreement shall not be unreasonably withheld or made, unless it is specifically provided that a sole discretion standard applies.

Section 6.10. No Claims. Nothing contained in this Agreement shall create or justify any claim against the City by any person that Developer may have employed or with whom Developer may have contracted relative to the purchase of materials, supplies or equipment, or the furnishing or the performance of any work or services with respect to the Property or the construction of the Project or construction of the Affordable Units.

Section 6.11. Applicable Law. This Agreement shall be governed by California law. Venue shall be the County of Santa Clara.

Section 6.12. Waivers. Any waiver by the City of any obligation or condition in this Agreement must be in writing. No waiver will be implied from any delay or failure by the City to take action on any breach or default of Developer or to pursue any remedy allowed under this Agreement or applicable law. Any extension of time granted to Developer to perform any obligation under this Agreement shall not operate as a waiver or release from any of its obligations under this Agreement. Consent by the City to any act or omission by Developer shall not be construed to be a consent to any other or subsequent act or omission or to waive the requirement for the City's written consent to future waivers.

Section 6.13. Title of Parts and Sections. Any titles of the sections, subsections, or subparagraphs of this Agreement are inserted for convenience of reference only and shall be disregarded in interpreting any part of the Agreement's provisions.

Section 6.14. Multiple Originals; Counterpart. This Agreement may be executed in multiple originals, each of which is deemed to be an original, and may be signed in counterparts.

Section 6.15. Recording of Agreement. This Agreement shall be recorded against the Property in the Official Records of the County of Santa Clara prior to the recordation of any parcel map or final subdivision map or issuance of any building permit for the Project, whichever occurs first.


Section 6.16. Severability. In the event any limitation, condition, restriction, covenant, or provision contained in this Agreement is to be held invalid, void or unenforceable by any court of competent jurisdiction, the remaining portions of this Agreement shall nevertheless be and remain in full force and effect.

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

**DEVELOPER:**

**CITY:**

City of Palo Alto, a chartered city and municipal corporation

By: 

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

Its: Manager.

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

**APPROVED AS TO FORM:**

\_\_\_\_\_

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

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 SANTA CLARA )

On NOV - 1 - 2018, before me, Rinkoo R. Nat, Notary Public, personally appeared Ran Lin, 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.



Rinkoo R. Nat  
Notary Public

STATE OF CALIFORNIA )

COUNTY OF SANTA CLARA )

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

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

WITNESS my hand and official seal.

\_\_\_\_\_  
Notary Public

## EXHIBIT A

### LEGAL DESCRIPTION OF THE PROPERTY

The land referred to is situated in the County of Santa Clara, City of Palo Alto, State of California, and is described as follows:

#### PARCEL 1:

Beginning at the point of intersection of the Northeasterly line of the El Camino Real formerly known as the San Francisco and San Jose Road, with the Southeasterly line of Lot 1, as said Road and Lot are shown upon the Map of the J.J. Morris Real Estate Co.'s Sub., hereinafter referred to; running thence along said Northeasterly line of the El Camino Real North 56° 34' West 74.22 to the Northwesterly corner of the certain Parcel of land conveyed to Gonzalo Silvestre, et ux, by Deed dated January 21, 1946, and recorded March 21, 1946, in Book 1329 Official Records, Page 542, Santa Clara County Records; thence leaving said Northeasterly line of the El Camino Real and running North 33° 33' East along the Northwesterly line of the said Parcel conveyed to Gonzalo Silvestre, et ux, 165 feet to the Northeasterly line of said Lot 1 as shown on the Map hereinafter referred to; thence South 56° 34' East; along the Northeasterly line of said Lot 1 as shown upon the Map hereinafter referred to, 74.22 feet to the corner common to Lots 1, 2, 3 and 4 as said Lots are shown upon the Map hereinafter referred to; thence South 33° 33' West; along the Southeasterly line of said Lot 1, a distance of 165 feet to the point of beginning, and being a portion of Lot 1 as shown upon the Map entitled, "Map of the J.J. Morris Real Estate's Co.'s Subdivision of a part of the WM. M. Curtner Tract, being a part of the Rancho Rincon de San Francisquito", which Map was filed in the Office of the Recorder of the County of Santa Clara on March 30, 1905, in Book K of Maps, at Page 57. EXCEPTING THEREFROM the Southwesterly 10 feet of the above described property as set forth in Final Judgment of Condemnation recorded October 25, 1967, in Book 7907 of Official Records of Santa Clara County, at Page 376.

#### PARCEL 2:

Commencing at the point of intersection of the Northeasterly line of the El Camino Real, formerly known as the San Francisco and San Jose Road, with the Southeasterly line of Lot 1, as said Road Lot are shown upon the Map of the J.J. Morris Real Estate Co.'s Sub., hereinafter referred to; running thence along said Northeasterly line of the El Camino Real North 56° 34' West 74.22 feet to the Northwesterly corner of the certain Parcel of land conveyed to Gonzalo Silvestre, et ux, by Deed dated January 31, 1946, and recorded March 21, 1946, in Book 1329 Official Records, Page 542, Santa Clara County Records; thence leaving said Northeasterly line of the El Camino Real and running North 33° 33' East, along the Northwesterly line of said Parcel conveyed to Gonzalo Silvestre, et ux, 165 feet to the true point of beginning; thence continuing North 33° 33' East, along the Northeasterly line of said Parcel conveyed to Gonzalo Silvestre, 110 feet to the Northeasterly corner of that certain Parcel of land conveyed to Delmer F. Phelps, et ux, by Deed dated January 21, 1947, and recorded January 28, 1947, in Book 1419 Official Records, Page 321, Santa Clara County Records; running thence North 56° 34' West, along the Northeasterly line of said Parcel conveyed to Delmer F. Phelps, et ux, 190 feet to the most Westerly corner of that certain Parcel of the land conveyed to Gonzalo Silvestre by the Deed firstly hereinabove referred to, in the center line of Curtner Street, as said Street is shown upon the said Map hereinafter referred to; running thence North 33° 33' East along the center line of said Curtner Street 3.00 feet to the most Northerly corner of said Parcel conveyed to Silvestre; running thence South 56° 34' East, along the Northeasterly line of said Silvestre Parcel, 22.22 feet, more or less, to the Southeasterly line of said Curtner Street; running thence North 33° 33' East along said Southeasterly line of Curtner Street, 52.00 feet to the

Northeasterly line of Lot 4 as said Lot is shown upon the said Map hereinabove referred to; running thence South 56° 34' East, along the said Northeasterly line of said Lot 4, 242.00 feet to the corner common to Lot 3, 4, 5 and 6, as said Lots are shown upon the said Map hereinafter referred to; running thence South 33° 33' West 165 feet, along the Southeasterly line of Lot 4 as shown upon the Map hereinafter referred to, to the corner common to Lots 1, 2, 3 and 4 as shown upon the Map hereinafter referred to; thence North 56° 34' West 74.22 feet, along the Southwesterly line of Lot 4 as shown upon the Map hereinafter referred to, to the true point of beginning, and being a portion of Lot 4, as shown upon the Map entitled, "Map of the J.J. Morris Real Estate Co.'s Subdivision of a part of the WM. M. Curtner Tract, being a part of the Rancho Rincon de San Francisquito", filed in the Office of the Recorder of the County of Santa Clara, State of California on March 30, 1905, in Book K of Maps, at Page 57.  
APN: 132-41-091



**EXHIBIT B**

**LOCATION AND SCHEDULE OF AFFORDABLE UNITS**

**Attach site map showing the location of the Affordable Units.**

Number of Bedrooms	Affordable Units	Unit Numbers & Location		
		1 <sup>st</sup> Floor		
2	1	3877 El Camino Real #101		
2	1	395 Curtner Avenue #04		
<b>TOTALS:</b>	<b>2</b>			

**EXHIBIT C**

**MAXIMUM INITIAL AFFORDABLE RENTS FOR AFFORDABLE UNITS AND MAXIMUM  
INCOME LEVEL OF TENANTS**

**EXHIBIT D**

**INITIAL SALES PRICES AND MAXIMUM INCOME LEVEL OF ELIGIBLE HOUSEHOLDS  
FOR PURCHASING AFFORDABLE UNITS**

**EXHIBIT E**

**FORM OF RESALE RESTRICTION**

**EXHIBIT F**  
**FORM OF CITY NOTE**

**EXHIBIT G**

**FORM OF CITY DEED OF TRUST**

## Attachment G

### **Project Plans**

Hardcopies of project plans are provided to Commission members. These plans are available to the public online and/or by visiting the Planning and Community Environmental Department on the 5<sup>th</sup> floor of City Hall at 250 Hamilton Avenue.

#### **Directions to review Project plans online:**

1. Go to: [bit.ly/PAPendingprojects](http://bit.ly/PAPendingprojects)
2. Scroll down to find "3877 El Camino Real" and click the address link
3. On this project specific webpage you will find a link to the project plans and other important information

**A direct link to the project page is also provided here:**

<https://www.cityofpaloalto.org/news/displaynews.asp?NewsID=4333>