

[RECORDER'S SPACE]

**MOBILEHOME PARK MEMORANDUM OF UNDERSTANDING
AND AGREEMENT AFFECTING REAL PROPERTY**

THIS MOBILEHOME PARK MEMORANDUM OF UNDERSTANDING AND AGREEMENT AFFECTING REAL PROPERTY (the "MOU") is dated as of _____, 2024 by and among the CITY OF NATIONAL CITY (the "City"), a California municipal corporation, and the owners ("Owners") of the mobilehome parks ("Parks") identified in Exhibit A. Each individual Owner of a park will execute a substantively identical version of the MOU. This copy of the MOU is executed by _____, which is the Owner of that Park commonly known as: _____ ("Park").

RECITALS

This MOU will be between the City and each park within the City of National City and shall contain substantively identical terms for each park.

- A. The Effective Date ("Effective Date") of this MOU shall be January 1, 2025.
- B. In order to avoid the negative consequences of a rent stabilization ordinance, including potential costly litigation and to maintain cordial relationships with their tenants, the Owners have agreed to negotiate a memorandum of understanding with the City.
- C. This MOU is intended to: (1) operate as an alternative to a rent stabilization ordinance; (2) avoid excessive rent increases for the spaces in the Parks; and (3) provide the Owners with the opportunity to receive a reasonable return on their investment in the parks.
- D. During the period in which this MOU is in effect, the City intends not to enforce or impose the provisions of any City ordinance or regulation with respect to the amount of rent charged by Owner for occupancy of any Mobilehome Spaces or any City adopted rent stabilization ordinance, within the Park.
- E. In the event the Park becomes subject to a rent stabilization law or ordinance at some point after the Effective Date of this MOU, nothing in this MOU shall prevent Owner from applying for any rent increase Owner may be entitled to, including a Vega adjustment and/or a fair return adjustment.
- F. The City and Owners intend that this MOU will govern the Parks and the rights of the Owners, Mobilehome Owners and Mobilehome Residents in those Parks (who are third party beneficiaries) during the Term and provide protections and benefits to the Owners, Mobilehome Owners and Mobilehome Residents of those Parks. The real property comprising the above-named Park is set forth in Exhibit B and this MOU shall be recorded against that real property until such time as this MOU expires or terminates.

G. The Owners and the City acknowledge that the parties may discuss potential amendments to this MOU at any time during the term of this MOU, provided such amendments will be subject to approval by the City Council and the applicable Owner.

AGREEMENT

NOW, THEREFORE, for the consideration of the mutual benefits, promises, and other valuable consideration identified herein, the receipt of which is hereby acknowledged, City and Owner agree as follows:

1. DEFINITIONS

- A. “Consumer Price Index” or “CPI” means the All Urban Consumers/All Items component of the San Diego Metropolitan Area U (broader base) Consumer Price Index prepared by the Bureau of Labor Statistics. If the United States Bureau of Labor Statistics does not publish the San Diego Metropolitan Area U (broader base) Consumer Price Index or there is no alternative CPI All Urban Consumers/All Items index published by the Bureau of Labor Statistics that applies to National City, CPI will be defined as the California Consumer Price Index for All Urban Consumers for All Items as published by the California Department of Industrial Relations.
- B. “Mobilehome” has the same meaning as California Civil Code Section 798.3.
- C. “Mobilehome Space” means a portion of a mobilehome park designated or used for the occupancy of one mobilehome.
- D. “Mobilehome Park” or “Park” means an area of land where two or more Mobilehomes or Mobilehome Spaces are rented, or held out for rent, to accommodate Mobilehomes.
- E. “Mobilehome Owner” means a person who owns a mobilehome which is legally located in a Mobilehome Space within a Park in the City of National City.
- F. “Mobilehome Resident” or “Resident” means a person who occupies a mobilehome in a mobilehome park in the City of National City as a primary residence by virtue of having a rental agreement. “Mobilehome Resident” or “Resident” is inclusive of a Mobilehome Owner.
- G. “Percentage Change in CPI” means the percentage change in the CPI as defined above and computed as follows:

For Rent increases that take effect before August 1 of any calendar year, the following shall apply:

- 1. The percentage change shall be the percentage change in the CPI published for April of the immediately preceding calendar year and the CPI for April of the year before that.

2. If there is no CPI published in April, the percentage change shall be the percentage change in the CPI published for March of the immediately preceding calendar year and the CPI for March of the year before that.

For Rent increases that take effect on or after August 1 of any calendar year, the following shall apply:

1. The percentage change shall be the percentage change in the CPI published for April of that calendar year and the CPI for April of the immediately preceding calendar year.
2. If there is no CPI published in April, the percentage change shall be the percentage change in the CPI published for March of that calendar year and the CPI for March of the immediately preceding calendar year. The percentage change shall be rounded to the nearest one-tenth of one percent.

H. "Rent" means the consideration, including any bonus, benefit or gratuity, demanded or received in connection with the use and occupancy of a Mobilehome or Mobilehome Space in a Park, including services, or in connection with the transfer of a lease for a Mobilehome Space or the subleasing of a Mobilehome Space. "Rent" shall not include amounts paid by Residents for such separately metered utilities or services, as provided in California Civil Code Section 798.41, or any separate charge for those fees, assessments or costs which may be charged to a Mobilehome Residents pursuant to the California Civil Code.

2. TERM

The term of this MOU ("Term") shall commence on the Effective Date and continue for a period of ten (10) years.

This MOU shall automatically terminate prior to the end of its Term with respect to any Park that is closed in accordance with federal, State, or local law, including but not limited to the National City Municipal Code. Upon request of the Owner or a successor in interest to the Owner of a Park that is scheduled to close in accordance with law, the City and the Owner shall execute and deliver within a reasonable period of time such documents or other instruments as may be necessary to evidence the termination of this MOU with respect to the Park as of the date it closes pursuant to Mobilehome Residency Law, Cal. Civil. Code section 798.1 *et seq.*

Nothing in this MOU shall preclude any Owner from applying for a "Vega adjustment," which allows park owners to start rent calculations with a base date rent similar to other comparable properties and/or a rent increase based on fair return on investment, following the termination of this MOU and/or the enactment of any rent stabilization law that supersedes this MOU or is otherwise applicable to its Park.

3. APPLICABILITY AND EXEMPTIONS

- A. The provisions of this MOU shall apply to all Mobilehome Parks and all Mobilehome Spaces owned by Owner within the City, except as provided in subparagraph B.

B. This Agreement shall not apply to:

- 1) Any leases for a term exceeding one year; and, including
- 2) Leases of more than a year existing at the Effective Date; and any
- 3) New leases for a term exceeding one year, which are entered into after the Effective Date.
- 4) Mobilehomes owned by Park;
- 5) Recreational vehicles in a mobilehome space;
- 6) Mobilehomes spaces exempt from local or statewide rent control pursuant to state law, including but not limited to, Civil Code §§ 798.7, 798.21, 798.45, and Govt. Code § 66427.5.

C. This MOU shall not be effective for any purpose until it is recorded in the Official Records of the San Diego County.

D. This MOU only imposes obligations on the Owner with respect to the Park. Nothing in this MOU shall be deemed to impose any obligation upon the Owner with respect to any other Mobilehome Park.

4. ANNUAL PERMISSIVE RENT INCREASES AND NOTICES OF CPI

- A. Owner shall not over the course of any twelve-month period, increase the gross Rent for any Mobilehome Space more than three percent (3%) plus the Percentage Change in CPI, up to a maximum of five percent (5%), from the lowest Rent charged for the Mobilehome Space at any time during the twelve months prior to the effective date of the increase.
- B. If the same Mobilehome Owner or Mobilehome Resident maintains a tenancy in any Mobilehome Space over any twelve-month period, the Rent for the Mobilehome Space shall not be increased more than once during that twelve-month period.
- C. For a new tenancy for a Mobilehome Space in which no Mobilehome Owner or Mobilehome Resident from the prior tenancy for such Mobilehome Space remains in lawful possession of the mobile home space, Owner may establish the initial Rent not subject to subsection “A” of this section. Subsection “A” shall be applicable to subsequent increases after that initial Rent has been established.
- D. Owner shall provide notice of any increase in the rental rate, pursuant to subsection “A,” to each Mobilehome Owner and Mobilehome Resident in accordance with Civil Code Section 798.30.

5. PASS THROUGH ADJUSTMENTS

In addition to the Rent increases authorized in Section 4, the Owner may pass through to the Mobilehome Owners and Mobilehome Residents the following costs (“Pass Throughs”).

- a. Government Fees and Assessments. If the cost of government fees and assessments exceeds the cost for any such government fees and assessments from the prior fiscal

tax year by more than the annual CPI increase, the Owner may pass through to the Mobilehome Owners and Mobilehome Residents, the amount by which such government fees and assessments exceed the annual CPI increase. The Owner may increase the Rent for any Mobilehome Space by an amount equal to the government fees and assessments Pass Through divided by twelve (12) and then divided by the total number of spaces in the Park.

- b. Capital Improvements. “Capital Improvement” means any improvement, other than one made for purposes of maintenance and repair begun and completed after the Effective Date, which primarily benefits the Residents, and which is permitted to be amortized over the useful life of the improvement under the U.S. Internal Revenue Code or under generally accepted accounting principles.

The Owner may pass through to the Mobilehome Owners and Mobilehome Residents the amortized cost of any Capital Improvement. The amount of any Capital Improvement Pass Through shall be determined by amortizing the actual cost of the Capital Improvement plus interest at the actual rate of interest paid by the Owner for any financing associated with the Capital Improvement over the applicable amortization schedule of the U.S. Internal Revenue Code. The annual amortized amount determined in accordance with this subsection shall be divided by twelve (12) and then divided equally among all spaces in the Park. Any Capital Improvement Pass Through shall be eliminated as a Rent obligation at the conclusion of the amortization period.

- c. Capital Replacements. “Capital Replacement” means replacement of a previous capital improvement which is completed after the Effective Date, which qualifies under the U.S. Internal Revenue Code and applicable regulations, as a capital improvement and does not constitute maintenance and repair. Capital Replacements shall not include replacements of the gas or electric systems serving the Park but shall include replacements to the water and sewer systems.

The Owner may pass through to the Mobilehome Owners and Mobilehome Residents the amortized cost of any Capital Replacement. The amount of any Capital Replacement Pass Through, including a Capital Replacement necessitated by an emergency, shall be determined by subtracting from the actual cost of the Capital Replacement any insurance proceeds, rebates, tax credits or warranty payments received by the Owner defraying the costs of the Capital Replacement and amortizing the remaining cost of the Capital Replacement plus interest at either the actual rate of interest paid by the Owner for any financing associated with the Capital Replacement or the Prime Rate plus two percent (2%) over the applicable amortization schedule of the U.S. Internal Revenue Code. The annual amortized amount determined in accordance with this subsection shall be divided by twelve (12) and then divided equally among all spaces in the Park. Any Capital Replacement Pass Through shall be eliminated as a Rent obligation at the conclusion of the amortization period.

- d. Property Tax Increases. The Owner may pass through to the Mobilehome Owners and Mobilehome Residents the amount by which property taxes increase in any given fiscal tax year by more than two percent (2%) over and above the prior fiscal tax year's property taxes, subject to the following.

(1) A property tax Pass Through may be imposed in the amount of any property tax increase that exceeds two percent (2%) in a given fiscal tax year that is caused by an involuntary Property Tax reassessment including but not limited to a death of a person holding an ownership interest in the Park or as the result of any new general or special real estate property tax imposed by the City of National City, the County of San Diego or the State of California.

(2) If the Park is sold to a third party pursuant to an arms-length transaction, the Owner may pass through to the Mobilehome Owners and Mobilehome Residents the increase in property taxes resulting from a reassessment of the Park upon such sale to the extent that such increase exceeds two percent (2%) in a given fiscal tax year, provided, however, the total amount of any property tax Pass Through resulting from a sale shall be phased in over five (5) years with equal increases each year until the full amount of the property tax Pass Through has been implemented.

(3) Owner shall not be entitled to any property tax Pass Through due to an increase in property taxes which is triggered solely by or based upon a voluntary internal reorganization resulting in a "change of ownership" or a transfer of a joint venture or partnership interest among the current persons holding an ownership interest that triggers a reassessment of the Property or the Park.

(4) All property tax Pass Throughs shall be divided by twelve (12) and then shall be allocated equally among all spaces in the Park.

- e. Emergency or Disaster Related Costs. Owner may pass through to the Mobilehome Owners and Mobilehome Residents the amortized costs to repair damage to the Park arising from any Disaster Related Event in excess of the initial fifty thousand dollars (\$50,000) of such costs, provided such costs are amortized in accordance with the procedure for amortizing Capital Replacements under paragraph 5.c above and such costs are divided equally among all spaces in the Park. "Disaster Related Event" shall mean a sudden event resulting from earthquake, fire, flood, or other natural occurrence over which the Owner has no reasonable control, and which was not caused by the Owner's acts or negligence. Any Disaster Related Event costs passed through to the Mobilehome Owners and Mobilehome Residents shall be net of any insurance proceeds or disaster grants or assistance received by the Owner for such costs. Any Disaster Related Event Pass Through shall be eliminated as a Rent obligation at the conclusion of the amortization period. Owner shall not be entitled to pass through to the Mobilehome Owners and Mobilehome Residents any Disaster Related Event costs unless the Owner has continued to maintain throughout the term of this MOU the types and amounts of property insurance in

effect on the Effective Date, if those types and amounts of property insurance are commercially available throughout the term of this MOU. If those types and amounts of property insurance are not commercially available throughout the term of this MOU, Owner reserves the right, in its sole and absolute discretion, to purchase whatever property insurance it deems reasonable for the Park. Owner shall disclose Owner's property insurance coverage to any Mobilehome Owner or Mobilehome Resident so requesting, provided however, no Mobilehome Owner or Mobilehome Resident shall be entitled to such disclosure more than once in any twelve-month period.

f. Requirements Applicable to all Pass Throughs.

- (1) No Pass Through shall be implemented unless Owner gives the Mobilehome Owners and Mobilehome Residents at least ninety (90) days written notice of the Pass Through including documents evidencing the costs being passed through to the Mobilehome Owners and Mobilehome Residents and the calculations that serve as the basis for the Pass Through, and unless Owner holds a “meet and confer” meeting with the Mobilehome Owners and Mobilehome Residents regarding the Pass Through.
- (2) Pass Throughs shall be separately itemized in the monthly space rent bills.
- (3) Pass Throughs shall be considered the same as rent for purposes of the Mobilehome Residency Law (MRL). However, Pass Throughs shall not be deemed part of Rent for purposes of calculating the annual permissive rent increase pursuant to Section 4 of this Agreement.

6. OWNER’S BUSINESS PRACTICES

Each Owner hereby covenants with the City that the Owner will act in good faith in all the Owner’s dealings with the Mobilehome Owners and Mobilehome Residents in the Park under this MOU. No Owner shall declare a Mobilehome Space abandoned or seek to terminate a Mobilehome Space tenancy for purposes of obtaining a Rent increase or a Pass Through in contravention of this MOU.

Nothing herein shall preclude Owner from proceeding with abandonment and/or eviction proceedings to the full extent allowed by law, including, but not limited to the Mobilehome Residency Law.

7. ENFORCEMENT

The City may contract services for enforcing said MOU to an agency or agencies (“Enforcement Agency”) that have demonstrated experience providing mobile home consulting services and technical assistance and are familiar with federal, state, and local regulations surrounding mobile home parks and tenant rights.

8. If any Owner fails to comply with the terms of this MOU, the Enforcement Agency or the City may initiate an action on behalf of the affected Mobilehome Owners and Mobilehome Residents to enforce the terms of this MOU.

9. FUTURE RENT CONTROL ORDINANCES

During the period in which this MOU is in effect, the City currently intends not to enact any ordinance or regulation with respect to the amount of Rent charged by any Owner for occupancy of any Mobilehome Spaces or any rent stabilization ordinance.

10. COVENANTS RUNNING WITH THE LAND

The obligations of the Owner contained within this MOU with respect to the Park are covenants running with the land to the benefit of the City and to each present and future Mobilehome Owner and Mobilehome Resident. During the term of this MOU each present and future Mobilehome Owner and Mobilehome Resident shall be an intended third-party beneficiary to this MOU. The parties intend that these covenants touch and concern the Park, and that they shall be binding upon the Owner and all successors, heirs, and assigns of the Owner with respect to the Park during the term of this MOU. This executed and notarized MOU shall be recorded in the Official Records of the San Diego County Recorder's Office with respect to that real property legally described in Exhibit B. The obligations under this MOU and the covenants contained in this MOU shall terminate and cease to exist simultaneously with the termination of this MOU, at which time Owner may take any action allowed by law to remove or otherwise extinguish those covenants. The City shall cooperate in good faith to assist Owner in removing or otherwise extinguishing said covenants, including executing any documents that may be required by the San Diego County Recorder's Office to effectuate such a removal and/or extinguishment.

11. RESOLUTION OF DISPUTES

- a. Mediation. In the event any dispute arises between the Owner and City with respect to the enforcement of any provisions of this MOU, or between the Owner and any Mobilehome Owner or Mobilehome Resident (each of which is an intended third party beneficiary of this MOU) with respect to the interpretation or enforcement of any provisions of this MOU, the party claiming a violation of the MOU shall give written notice to the other party specifying the nature of the dispute, and if the party claiming a violation of the MOU is a Mobilehome Owner or Mobilehome Resident, the Mobilehome Owner or Mobilehome Resident shall give written notice to both the Owner and the City. If the issue raised in the written notice is not corrected within thirty (30) days of such notice, then the Owner and City agree that the parties will first try to resolve the dispute through mediation using a mutually acceptable third-party mediator or neutral hearing officer paid for equally by each party participating in the mediation. The parties shall attempt to resolve such dispute through mediation, as aforesaid, prior to filing any action or lawsuit or seeking judicial relief, unless doing so would cause any action or lawsuit to be barred by any applicable statute of limitations, in which case a protective action may be filed, without prejudice to the continuation of the mediation.

- b. Resolution of Disputes Not a Waiver of Rights or Benefits. None of the rights, liabilities, or obligations of the Owner, City, Mobilehome Owner, Mobilehome Resident, or prospective Mobilehome Owner or Mobilehome Resident to one another shall be waived, suspended, or delayed pending the recommendations of a mediator, or other person designated to administer and make recommendations under any dispute resolution proceeding of this MOU. For example, the Mobilehome Owner or Mobilehome Resident shall continue to have the right to occupy their Mobilehome Space and remain obligated to pay the amount of any Rent due, including the amount in dispute, during any dispute resolution proceeding.

12. GENERAL PROVISIONS

- a. Notices. All notices and other communications required or permitted under this MOU, unless otherwise expressly stated, shall be made in writing and shall be delivered to the party whom addressed by personal service or by deposit in any U.S. mail depository, first class postage paid, and shall be deemed received: (1) if personally delivered, upon the date of actual receipt by the person to receive such notice, or (2) if mailed, two business days after the date of any proof of deposit in the United States mail. Notices to any Owner shall be given to the address for such Owner listed on Exhibit A. Notices to the City shall be given to the City of National City, 1243 National City Boulevard, National City, CA 91950, Attention: City Manager, with a copy of such notice sent to such address to the attention of the City Attorney. The address for delivery of notices may be changed by either party by giving notice of such change to the other party in accordance with this paragraph.
- b. Complete Agreement. This MOU shall: (1) constitute the parties' entire agreement, (2) merge all prior discussions and negotiations between the parties, and (3) supersede and replace all prior agreements and understandings, whether oral or written, with respect to the subject matter hereof.
- c. Amendments. This MOU may not be amended, altered, or modified except by a writing signed by the City and the Owners, unless the amendment, alteration or modification impacts less than all of the Owners, in which case only the impacted Owner or Owners and the City must sign.
- d. Successors and Assigns. Except as provided in paragraph h below, this MOU shall be binding upon and inure to the benefit of the parties and their prospective successors and assigns.
- e. Severability. If any portion of this MOU shall be held by a court of competent jurisdiction to be invalid, void, or otherwise unenforceable, the remaining portions of this MOU shall remain in effect and enforceable to the fullest extent permitted by law, if such enforcement would not frustrate the overall intent of the parties as such intent is manifested by all provisions of this MOU. If the MOU or any portion of this MOU is held by a court of competent jurisdiction to be invalid, void, contrary to public policy, ultra-vires, or otherwise unenforceable (collectively, "Impairment") the City shall not be liable to the any Owner, any Mobilehome Owner or Mobilehome Resident, or any other party in law, equity, or in an action for damages for such Impairment.

- f. Extension Not a Waiver. The failure by any party or intended third party beneficiary to require strict performance of the obligations of another party to this MOU, or the failure to exercise or delay in the exercise of any power, remedy, or right provided in this MOU or otherwise available to any party or intended third party beneficiary, upon any failure of another party to perform the other party's obligations under this MOU, shall not be deemed a waiver and shall not impair or affect the right of such party or intended third party beneficiary to require strict performance and to exercise the power, remedy, or right on any other or subsequent occasion for the same or any other failure of the other party to perform its obligations under this MOU.
- g. Applicable Law. This MOU shall be construed in accordance with, and governed by, the law of the State of California. Nothing herein shall preclude any party from challenging any law, on its face, or as applied, on the ground that it violates the state or federal constitution.
- h. MOU Not Applicable to Resident-Owned Parks. In the event the Park to which this MOU applies becomes a "resident-owned" park, this MOU shall immediately and finally terminate with respect to the Park upon the Effective Date of the transfer of ownership. A "resident-owned" park shall mean a park in which fifty percent (50%) or more of the Spaces are owned by the Residents of the park, directly or indirectly, through any means of devices.
- i. Exhibits. Exhibits A and B are attached hereto and are incorporated herein by this reference.
- j. Execution in Multiple Counterparts. This MOU may be executed in multiple counterparts.
- k. Enforcement of Rules and Regulations. Nothing in this MOU shall preclude Owner from enforcing the Park's rules and regulations that are not in conflict with this MOU.

Signatures on the following page

[SIGNATURE PAGE]

APPROVED AND EXECUTED to be effective as of the Effective Date.

CITY OF NATIONAL CITY

By: _____
[NAME], CITY MANAGER

APPROVED AS TO FORM:

By: _____
[NAME], CITY MANAGER

BONITA PARADISE, LLC

By: _____

[NAME], TITLE

BONITA VISTA MHP

By: _____

[NAME], TITLE

HAPPY HOLLOW MHP LP

By: _____

[NAME], TITLE

KEYSTONE TP

By: _____

[NAME], TITLE

ACKNOWLEDGMENT

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 San Diego)

On _____, 2024, before me, _____, notary public, personally appeared _____ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature _____

(Seal)

ACKNOWLEDGMENT

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 San Diego)

On _____, 2024, before me, _____, notary public, personally appeared _____ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature _____

(Seal)

**EXHIBIT A
LIST OF PARKS**

KEYSTONE TRAILER PARK

HAPPY HOLLOW MOBILE HOME PARK

BONITA PARADISE

BONITA VISTA

EXHIBIT B

LEGAL DESCRIPTION OF REAL PROPERTY