

**MEMORANDUM OF UNDERSTANDING**  
**BY AND BETWEEN**  
**THE HOUSING AUTHORITY OF THE CITY OF ALAMEDA**  
**AND**  
**THE ALAMEDA UNIFIED SCHOOL DISTRICT**

**1. Parties.** This Memorandum of Understanding (hereinafter referred to as “MOU”) is made and effective as of May 23, 2018 (the “Effective Date”) by and between the Housing Authority of the City of Alameda (the “Authority”), whose address is 701 Atlantic Avenue, Alameda, CA 94501, and the Alameda Unified School District (the “District”), whose address is 2060 Challenger Drive, Alameda, CA 94501.

**2. Background.**

**A.** The Authority was formed by the City of Alameda (the “City”) in August of 1940 with the primary goal of providing a range quality, affordable and safe housing in the City.

**B.** The City is a party to that certain Settlement Agreement between Clayton Guyton and Modessa Henderson, executed in April of 1990 (as amended, the “Settlement Agreement”), pursuant to which the City agreed to undertake specific activities to further the production of affordable housing in the City. The City has a current outstanding obligation under the Settlement Agreement to produce approximately 300 housing units affordable to low-income families (the “Affordability Obligation”).

**C.** The District is a party to that certain Agreement between the Community Improvement Commission of the City of Alameda (the “CIC”) and the Alameda Unified School District Pursuant to Health and Safety Code Section 33401, dated as of November 12, 1991 (the “Pass-Through Agreement”). Pursuant to the Pass-Through Agreement, the CIC acted as the redevelopment agency for the City in relation to the Business and Waterfront Improvement Project (“BWIP”). In Section 3 of the Pass-Through Agreement, the CIC agrees to deposit eight percent (8%) of the tax increment (the “Housing Pass-Through”) generated by the BWIP into a “District Housing Fund” for use by the District for increasing the supply of low- and moderate-income housing within the City’s limits. The Pass-Through Agreement provides that the District’s use of monies shall be consistent with enforceable legal obligations imposed by the Settlement Agreement. Until the Affordability Obligation has been met by the City, the Pass-Through Agreement states that “the District’s use of the District Housing Fund shall be subject to the Settlement Agreement.”

**D.** In February of 2012, the California Legislature dissolved all redevelopment agencies in the State, including the CIC. As required by applicable law, certain rights and responsibilities of the CIC were transferred to the Successor Agency of the CIC (the “Successor Agency”).

**E.** Pursuant to that certain California Department of Finance (the “**DOF**”) determination letter dated May 17, 2016, regarding the 2016-2017 Annual Recognized Obligation Payment Schedule (the “**16-17 ROPS**,” or “**ROPS**” for future years, as applicable) submitted by the Successor Agency, the DOF approved \$1,475,000 for payment from the Redevelopment Property Tax Trust Fund (the “**RPTTF**”) relating to the Pass-Through Agreement, and the underlying housing obligations set forth in the 16-17 ROPS.

**F.** Pursuant to that certain DOF determination letter dated May 17, 2017, regarding the 2017-2018 Annual Recognized Obligation Payment Schedule (the “**17-18 ROPS**,” or “**ROPS**” for future years, as applicable) submitted by the Successor Agency, the DOF approved an additional \$800,000 for payment from the RPTTF relating to the Pass-Through Agreement, and the underlying housing obligations set forth in the 17-18 ROPS.

**G.** Pursuant to that certain DOF determination letter dated April 5, 2018, regarding the 2018-2019 Annual Recognized Obligation Payment Schedule (the “**18-19 ROPS**,” or “**ROPS**” for future years, as applicable) submitted by the Successor Agency, the DOF approved an additional \$992,000 for payment from the RPTTF relating to the Pass-Through Agreement, and the underlying housing obligations set forth in the 18-19 ROPS.

**H.** Section 7 of the Pass-Through Agreement imposes various limitations and restrictions on the District with respect to use of funds received from the Pass-Through Agreement, and explicitly provides the District with “the sole and absolute right to implement this section in any legal manner, including, but not limited to, the right and power to enter into agreements with other public or private entities....”

**3. Purpose.** The purpose of this MOU is to establish the terms and conditions under which the Housing Authority shall assist the District with the District’s obligations under the Pass-Through Agreement to use funds from the Pass-Through Agreement to increase the supply of low-income housing within the City’s limits while ensuring that District funds are used in a manner that addresses the housing needs of the District’s qualifying employees.

**4. Term of MOU.** This MOU is effective upon the Effective Date and shall remain in full force and effect until such date that the Affordability Obligation in the Settlement Agreement has been satisfied, unless terminated earlier by the District pursuant to Section 7.C. below.

**5. Responsibilities of Authority.**

**A.** Prior to October 1 of each year, the Authority shall provide to the District a list of prioritized housing programs and projects (the “**Development List**”) for which RPTTF funds may be allocated pursuant to the terms of the Pass-Through Agreement and the Settlement Agreement, and which are to be submitted to DOF in connection with the Successor Agency’s submission of its next due ROPS.

**B.** On the 1<sup>st</sup> business day of each month, or at any other reasonable time, the Authority may provide a request for release of funds (a “**Funding Request**”) for project costs, including, but not limited to, funds for reimbursement of costs, and refinancing or recapitalization of existing debt, that have been approved for reimbursement or payment by DOF. Authority’s Funding Request, relating to the 16-17 ROPS, is attached hereto as Exhibit A. Authority’s Funding Request, relating to the 17-18 ROPS, is attached hereto as Exhibit B. Authority’s Funding Request, relating to the 18-19 ROPS, is attached hereto as Exhibit C. Exhibit A, Exhibit B and Exhibit C are collectively referred to as the “**Exhibits**.” Each future Funding Request shall identify the (i) project, (ii) type of costs, (iii) number of units (including affordable units), and (iv) amount of funding requested, all in a form consistent to that set forth in the Exhibits.

**C.** Upon receipt of funds from a Funding Request, the Authority shall disburse such funds only to the project costs set forth in the applicable Funding Request.

**D.** Within four (4) months after the end of each fiscal year in which monies have been disbursed pursuant to a Funding Request, Authority shall provide the District with a report on the status and use of such disbursed funds.

**E.** If requested by the District for any project on the Development List (a “**District Assisted Project**”), which request shall be made in writing and delivered to Authority at least six (6) months prior to the time any such project is placed in service, the Authority shall use good faith efforts to require that such project, to the extent permitted by applicable law, provides priority to qualified employees of the District in the leasing of units reserved for income-qualified households earning no more than 80% of area median income. In furtherance of the Authority’s good faith efforts, the Authority hereby agrees that at least two (2) units at the 2437 Eagle Avenue development, shown as No. 4 on Exhibit B, shall provide priority to qualified employees of the District who apply for rental of such units. The Authority’s good faith efforts to provide priority to qualified employees of the District shall include, to the extent permitted by applicable law:

- i. Establishing a local preference that will provide additional preference point(s), separate from any other categories for which preference point(s) are currently awarded, for eligible employees of the District who apply for residency at a District Assisted Project; and
- ii. Establishing a set-aside at any future District Assisted Project equal to one (1) unit for each \$200,000 of RPTTF Funds allocated to such development, for occupancy by eligible employees of the District who apply for residency at a District Assisted Project.

6. **Responsibilities of District.**

A. **Redevelopment Property Tax Trust Fund.**

- i. For Funding Requests pursuant to any DOF-approved ROPS, including the Funding Requests attached to this MOU as Exhibits A, B, and C, the District shall instruct the Successor Agency to send RPTTF distributions directly to the Authority, pursuant to the Authority's wire instructions provided to the District. If the District receives RPTTF Funds allocated to a development in a Funding Request, the District shall wire to the Authority, within seven (7) days of the District's receipt, all funds from RPTTF distributions relating to such Funding Request.
- ii. If requested by Authority, District shall use good faith efforts to cooperate with Successor Agency with Successor Agency's submission of any ROPS to the DOF, including providing evidence of any necessary approvals, consents, resolutions, certifications and acknowledgments of projects on the Development List that appear on any current or future ROPS.

7. **Consideration to District.**

A. **Development Fee to District.** The Authority shall collect from each District Assisted Project a District development fee equal to five percent (5%) of the total funds received by the Authority from District for such District Assisted Project. The Authority shall pay the applicable development fee to the District within thirty (30) days of the date that any such District Assisted Project is placed in service.

B. **Preference Points for Non-District Assisted Projects.** The Authority shall use good faith efforts to work with the City to amend or supplement the Affordable Housing Guidelines, contained in the City's Inclusionary Housing Requirements for Residential Projects, as more fully detailed in the Alameda Municipal Code, Chapter XXX, Article 1, Section 30-16 et seq. (the "**Inclusionary Housing Program**"). To the extent permitted by applicable law, such amendment or supplement of the Affordable Housing Guidelines will include a policy that will provide preference point(s), separate from any other categories for which preference point(s) are currently awarded, for eligible employees of the District who apply for *purchase or rental* of any Inclusionary Units restricted to Moderate-Income Households, as such terms are defined in the Inclusionary Housing Program. The preference points shall be applied to the greater of (a) one Inclusionary Unit in any rental development subject to the Inclusionary Housing Program, or (b) one of every three Inclusionary Units in any rental development subject to the Inclusionary Housing Program.

C. **District Option.** The Authority and the District acknowledge and agree that if the City does not amend or supplement the Affordable Housing Guidelines as set forth in Section 7.B. above prior to September 1, 2018 (or such later date agreed to by the District in its

reasonable discretion), or at any time thereafter terminates the preference set forth in Section 7.B. above, the District shall thereafter have the option to terminate this MOU in its sole and absolute discretion by delivering a written notice of termination to the Authority (the “**Termination Date**”). The District shall have no obligation to disburse funds for any Funding Requests received on and after the Termination Date; provided, however, the MOU shall remain in full force and effect with respect to only those Funding Requests (a) received before the Termination Date and (b) relating to District Assisted Projects shown on Exhibits A and B.

## **8. General Provisions.**

**A. Amendments.** Either party may request changes to this MOU, provided that any amendment or modification to this MOU must be in writing executed by the parties hereto.

**B. Applicable Law.** The construction, interpretation and enforcement of this MOU shall be governed by the laws of the State of California.

**C. Notices.** Any notice, request, demand, statement, authorization, approval, consent or acceptance made hereunder shall be in writing and shall be hand delivered or sent by Federal Express or other reputable courier service, or by registered or certified mail, return receipt requested. Each party may designate a change of address by notice to the other party, given at least fifteen (15) days before such change of address is to become effective.

**D. Severability.** If any term, covenant or provision of this MOU shall be held to be invalid, illegal or unenforceable in any respect, this MOU shall be construed without such term, covenant or provision, and the remainder of the MOU shall continue in full force and effect, and either party may renegotiate the terms affected by the severance.

**E. Third Party Beneficiary Rights.** This MOU is made and entered into for the sole benefit of the District and the Authority, and their permitted successors and assigns. The rights, duties and obligations contained in this MOU shall operate only between the parties to this MOU and shall inure solely to the benefit of the parties to this MOU.

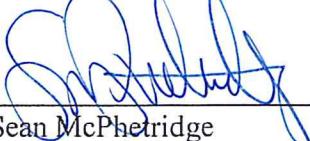
**F. Entirety of Agreement.** This MOU represents the entire and integrated agreement between the parties and supersedes all prior negotiations, representations and agreements, whether written or oral. Notwithstanding the foregoing, nothing contained in this MOU is intended or deemed to relieve the District of any obligation or requirement it may have under the Pass-Through Agreement.

[signatures on following page]

**IN WITNESS WHEREOF**, the parties to this MOU through their duly authorized representatives have executed this MOU on the days and dates set out below, and certify that they have read, understood, and agreed to the terms and conditions of this MOU as set forth herein.

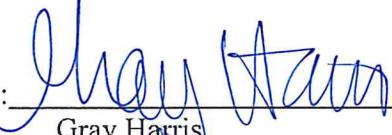
**DISTRICT**

ALAMEDA UNIFIED SCHOOL DISTRICT

  
Sean McPhetridge  
Superintendent

6/4/18  
Date

**BOARD RATIFICATION:**

By:   
Gray Harris  
Board President

6/4/18  
Date

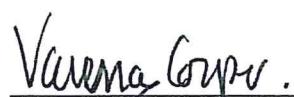
**APPROVED AS TO FORM:**

By:   
Chad Pimentel  
District Counsel

6/4/18  
Date

**AUTHORITY**

Housing Authority of the City of Alameda, a public body, corporate and politic

By:   
Vanessa Cooper  
Executive Director

6/4/18  
Date

## EXHIBIT A

### SUPPORTING DETAIL FOR SETTLEMENT AGREEMENT ROPS ENFORCEABLE OBLIGATION NO. 36 (7/1/16-6/30/17)

Housing Project Activities Funded (city-wide) July 1, 2016 – June 30, 2017

1)	Rosefield Village Redevelopment – pre-development work 20 new units / 16 Low	\$ 77,390
2)	North Housing – environmental and surveying 90 new units / 10 Low	\$ 12,805
3)	Alameda Point Collaborative – entitlements 67 new units / 22 Low	\$ 64,424
4)	2437 Eagle Avenue – (Under construction) 20 new units / 4 Low	\$ 1,117,217
5)	Del Monte Senior – 31 new units / 5 Low (Under Construction)	\$ 268,219

ELIGIBLE HOUSING ACTIVITIES	
Total Expended 16-17	\$ 1,540,055
<b>Total Approved for Reimbursement</b>	<b>\$ 1,475,000</b>

**EXHIBIT B**

SUPPORTING DETAIL FOR SETTLEMENT AGREEMENT  
ROPS ENFORCEABLE OBLIGATION NO. 36  
(7/1/17-6/30/18)

Housing Development Activities Approved (city-wide) July 1, 2017 – June 30, 2018

1)	Rosefield Village Redevelopment – pre-development work 20 new units / 16 Low	\$ 200,000
2)	North Housing – engineering, utilities and legal 90 new units / 10 Low	\$ 100,000
3)	Alameda Point Main Street – entitlements and design 67 new units / 22 Low	\$ 225,000
4)	2437 Eagle Avenue – (Under construction) 20 new units / 4 Low	\$ 350,000

ELIGIBLE HOUSING ACTIVITIES	
Total Budgeted 17-18	\$ 875,000
<b>Total Approved for Reimbursement</b>	<b>\$ 800,000</b>

## EXHIBIT C

### SUPPORTING DETAIL FOR SETTLEMENT AGREEMENT ROPS ENFORCEABLE OBLIGATION NO. 38 (7/1/18 - 6/30/19)

Housing Development Activities Approved (city-wide) July 1, 2018 – June 30, 2019

1)	Rosefield Village 80 new units / 40 Low (Pre-Development)	\$ 750,000
2)	Alameda Point Collaborative – 200 units / 20 Low (Pre-Development)	\$ 250,000

#### ELIGIBLE HOUSING ACTIVITIES

Total Budgeted 18-19	\$ 1,000,000
<b>Total Approved for Reimbursement</b>	<b>\$ 992,000</b>