



701 Atlantic Avenue - Alameda, California 94501-2161 - TEL: (510) 747-4300 - FAX: (510) 522-7848 - TDD: (510) 522-8467

## **PUBLIC NOTICE**

### **SPECIAL MEETING OF THE HOUSING AUTHORITY OF THE CITY OF ALAMEDA BOARD OF COMMISSIONERS**

**DATE & TIME**      **Wednesday, March 16, 2016, 4:30pm – 6:30pm**

**LOCATION**              Independence Plaza, Ruth Rambeau Memorial Community Room,  
703 Atlantic Avenue, Alameda, CA

A Special Meeting of the Housing Authority Board of Commissioners is being convened to allow a quorum of its members to participate in a joint meeting with the boards of Alameda Point Collaborative and Building Futures with Women and Children to discuss planned development at North Housing. ***This meeting is for discussion and informational purposes, only; no official actions will be taken.***

#### **Public Participation**

Anyone wishing to address the Board on agenda items or business introduced by Commissioners may speak for a maximum of three minutes per agenda item when the subject is before the Board. Please file a speaker's slip with the Housing Authority Executive Director if you wish to address the Board of Commissioners.

- If you need special assistance to participate in the meetings of the City of Alameda Housing Authority Board of Commissioners, please contact 510-747-4325 (TDD: 510-522-8467) or [dconnors@alamedahsg.org](mailto:dconnors@alamedahsg.org). Notification 48 hours prior to the meeting will enable the City of Alameda Housing Authority Board of Commissioners to make reasonable arrangements to ensure accessibility.
- Documents related to this agenda are available for public inspection and copying at the Office of the Housing Authority, 701 Atlantic Avenue, during normal business hours.
- **KNOW YOUR RIGHTS UNDER THE Ralph M. Brown Act:** Government's duty is to serve the public, reaching its decisions in full view of the public. The Board of Commissioners exists to conduct the business of its constituents. Deliberations are conducted before the people and are open for the people's review.
- In order to assist the Housing Authority's efforts to accommodate persons with severe allergies, environmental illnesses, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the Housing Authority accommodate these individuals.



# North Housing Development Project Update

Housing Authority of the City of Alameda

Alameda Point Collaborative

Building Futures with Women and Children

March 16, 2016

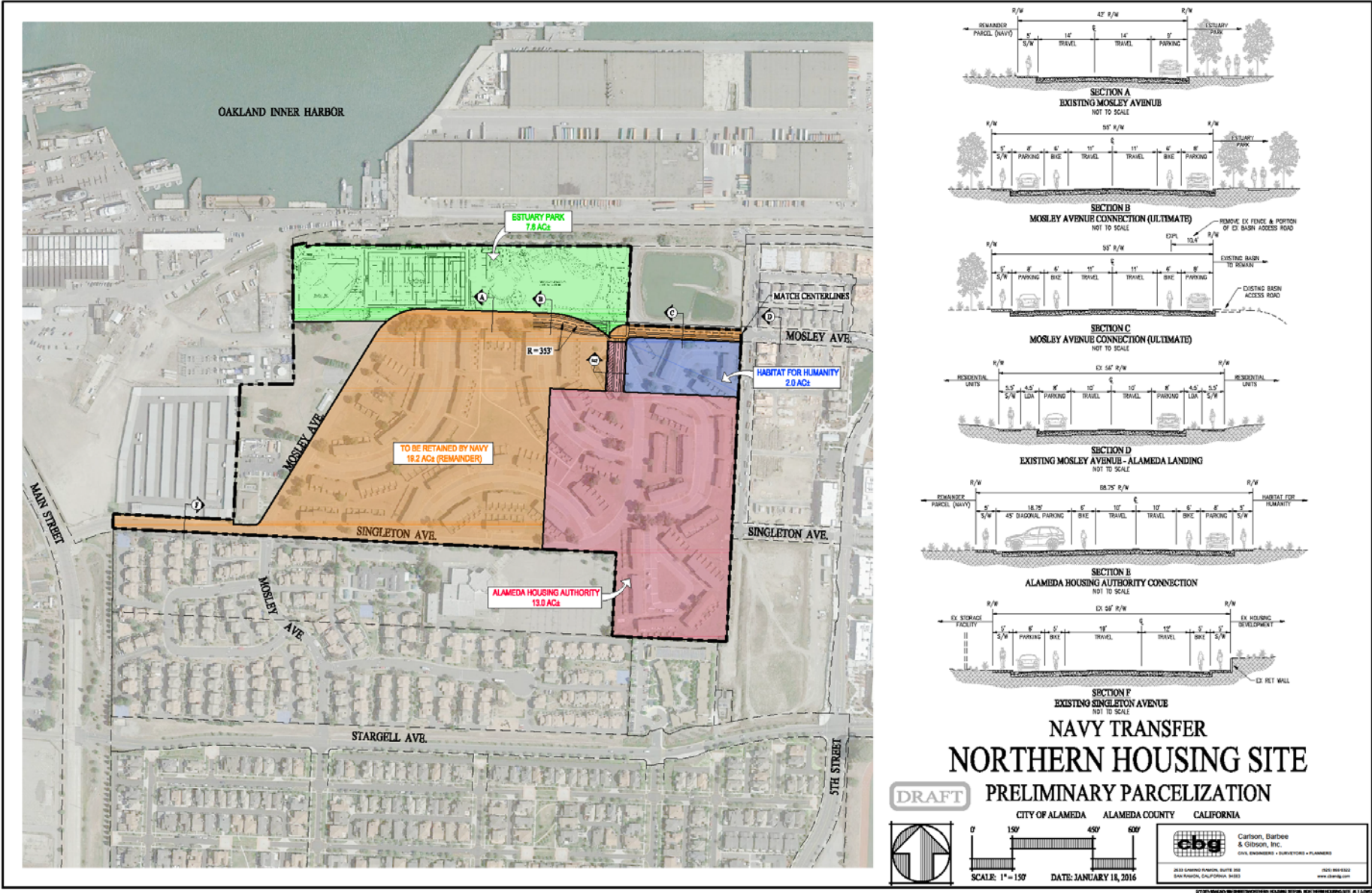
# Background and Definitions

- History of the proposal and the approved project (Doug)
  - Base Closure and Homeless Assistance Act presented opportunity to apply
  - Community Reuse Plan with focus on services and amenities
  - Community Benefit Conveyance approved by Navy and HUD
  - DEFINED TERMS:
    - *Homeless Persons - per McKinney-Vento*
    - *Supportive Housing Services/Programs*
    - *Reimbursable Costs*

# Approval Parameters

- Thirteen acres for 90 supportive housing units
- All heads of households shall be homeless (McKinney-Vento)
- Site conveyed to City (Local Reuse Authority or LRA) and then to Housing Authority
- AHA, APC and BFWC are the Partners; APC and BFWC are the Providers; quarterly planning meetings began in 2015
- Housing Authority to develop and property manage
- Social Services (in accordance with Continuum of Care) to be provided by APC and BFWC
- LRA has authority to approve amendment of LBA terms

# Project Site



# Context and Adjacencies

## Governing Documents

- Legally Binding Agreement between City and the parties: requires supportive housing for eligible residents; development to commence within 36 months of infrastructure
- Memorandum of Understanding among the parties: outlines roles and responsibilities; AHA provides providers with quarterly reports after conveyance; requires lease-up preference for provider clients; any developer fee earned to be shared among parties

## Overall North Housing site

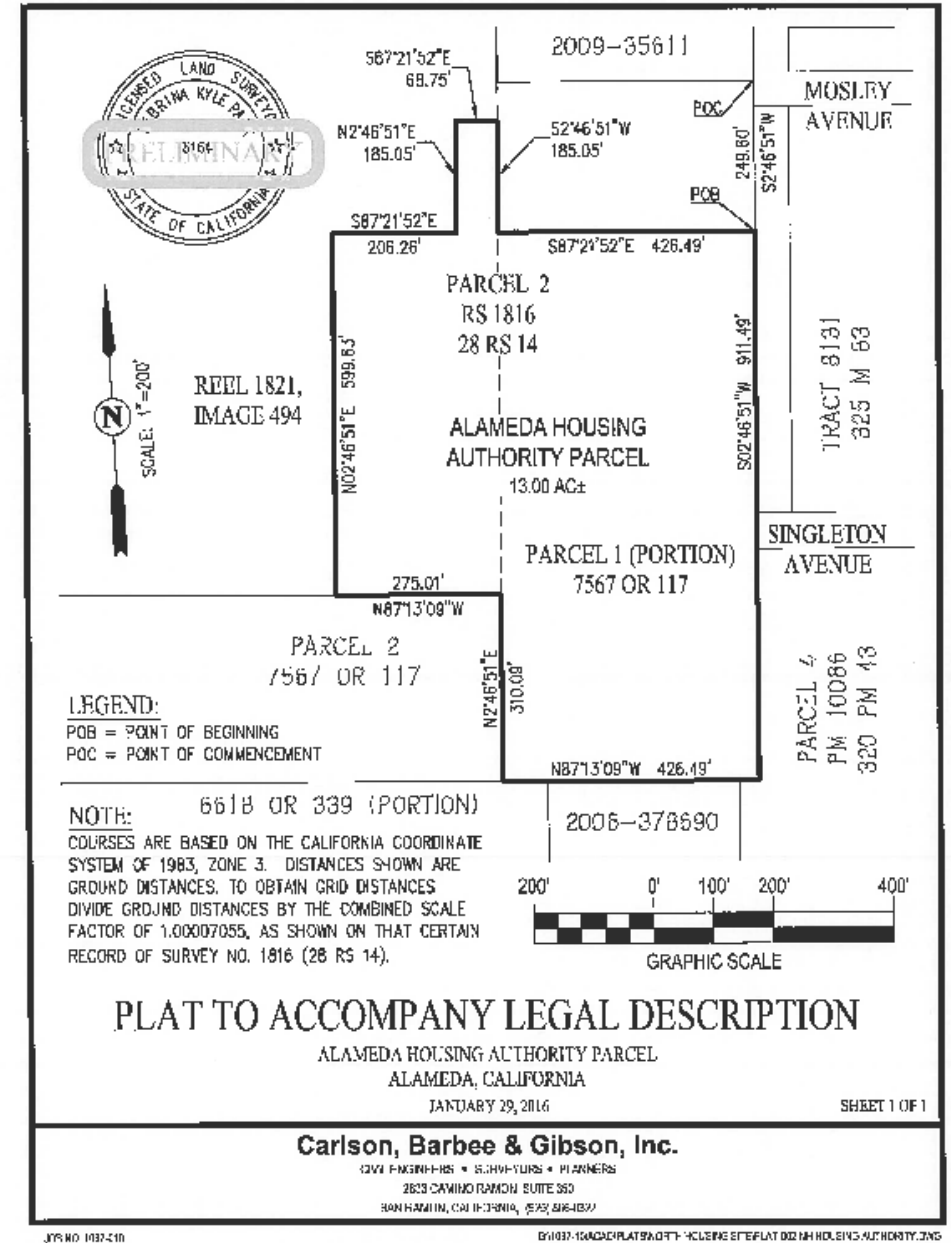
- 42 acres total
- Estuary Park: eight acres
- Supportive Housing Site: 13 acres
- Habitat for Humanity: two acres
- Navy to sell 19 acres to private developer
- AUSD seeks to reopen schools
- Mosley and Singleton to connect through to Alameda Landing

# Pre-development Work

- Survey and Legal Description prepared and provided to Navy
- AHA has retained legal counsel to assist with transfer
- Proposed Park and Road Improvements – AHA commitment to provide \$1 million to Estuary Park (will provide recreational amenity for North Housing residents)
- Building Study and Demolition Plan completed
- Environmental clean-up work completed by Navy (but not underneath buildings)

# Survey and Legal Description

Plat and legal description sent to Navy for cadastral division approval for North Housing and the Habitat parcels





# Estuary Park Improvements

Eight acres includes baseball field, regulation-size rectangular athletic field, playground, field and park lighting, pathways, pre-fabricated restroom and concession building, landscape and group picnic areas



Schematic Plan  
Estuary Park  
Athletic Field Complex Renovation  
Alameda, CA



LANDSCAPE ARCHITECTS  
CIVIL ENGINEERING  
SPORTS PLANNING & DESIGN  
2100 New Alameda, Ste. 200  
San Jose, CA 95136  
Tel: 408.962.7200  
Fax: 408.962.6465  
www.verdedesign.com

# FOST and Conveyance

- Final FOST (Finding of Suitability to Transfer) imminent
- Navy will then complete Alameda Point Phase II transfer
- North Housing will be Phase III - estimated in three months
- Environmental reports and clearances
  - Phase I Environmental Report complete
  - FONSI (Finding of No Significant Impact) underway
  - Hazardous Building Materials Study – Demolition plan for 20 structures on the site
  - PLL Insurance must be in place for site before transfer

# Habitat for Humanity



Site Plan



Typical Elevations

Alameda Northern  
Housing Site -- 2 Acres

Self-help ownership housing  
serving families with  
incomes below 80% AMI.

32 Units:

2 Bedroom: 8 @ 1,190 SF

3 Bedroom: 16 @ 1,341 SF

4 Bedroom: 8 @ 1,553 SF



# LBA and MOU Guidelines

- Purpose: create stable permanent housing for persons meeting the “literally homeless” qualifications as defined by HUD
- AHA will be the fee owner of the land and responsible for developing and managing the project
- A co-developer may be approved by the parties (Island City Development – AHA affiliate)
- APC and BFWC will provide case management and social services
- Case managers will be stationed on-site to provide day-to-day services
- A full range of services should be offered
- If site is determined infeasible, an alternate site may be identified
- Per MOU, the land or a portion thereof may be sold and a minimum of 40 units will be developed
- If land is sold, development costs are reimbursed (includes insurance and other costs) and proceeds distributed among the parties
- In event of default, land reverts to LRA, after costs are reimbursed, any proceeds are restricted for related purposes
- Project design and schedule to be mutually agreed upon by the parties
- MOU further states that parties shall cooperate to develop Management and Services Plans

# Development Funding

- CDBG - \$75,000 committed for survey and engineering
- AHA staff will request Board approval for pre-development costs including insurance premium, title and legal fees (\$1m)
- Low Income Housing Tax Credits awarded competitively – Some credits are set aside for special needs and homeless housing
- Funding sources vary by year and may target certain populations
- Seek special purpose vouchers or operating subsidy if available
- Develop with zero or minimal debt so income can be used to operate

# Project Timeline

- June 2016 - Due diligence and conveyance complete
- 2016-2017 – Anticipated sale of private developer parcel
- 2017 – Site planning and program selections
- 2018 – Infrastructure complete
- 2018 – Entitlements in place; commence funding applications
- 2019 – Continue funding applications
- 2020 – Start of construction

# Define and Meet Community Needs

- The Community Reuse Plan provides general historical context
- Coordinate with other AP redevelopment efforts
- Coordinate with existing homeless programs
- Determine role of CoC and other County programs
- Consider campus approach
- Establish goals for building and unit types
- Communication with Boards – quarterly reports and at least annual meeting

# Next Steps and Board Direction

- Secure PLL insurance
- Evaluate buildings for short term re-use
- City Council approval of the transfer
- Complete the conveyance
- Monitor sale of private parcel
- Amendment to LBA/MOU may be required



**RECORDING REQUESTED BY  
AND WHEN RECORDED RETURN TO:**

City of Alameda  
c/o Housing Authority of the City of Alameda  
701 Atlantic Avenue  
Alameda, CA 94501  
Attention: Executive Director

**Recorded for the Benefit of the City  
of Alameda and is exempt from  
recording fees pursuant to  
Government Code Sections 6103  
and 27383**

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**AMENDED AND RESTATED  
LEGALLY BINDING AGREEMENT**

**AMONG**

**CITY OF ALAMEDA**

**AND**

**HOUSING AUTHORITY OF THE CITY OF ALAMEDA,  
ALAMEDA POINT COLLABORATIVE, INC., AND  
BUILDING FUTURES WITH WOMEN AND CHILDREN**

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ALAMEDA POINT COLLABORATIVE, INC., AND  
BUILDING FUTURES WITH WOMEN AND CHILDREN**

THIS AMENDED AND RESTATED LEGALLY BINDING AGREEMENT (the "Agreement") is made as of June 20, 2012 ("Effective Date"), among the City of Alameda, a municipal corporation organized and existing under the laws of the State of California and its charter (the "LRA" (sometimes referred to herein as the "City")), the Federally recognized local redevelopment authority for the Naval Air Station, Alameda, California, and the Housing Authority of the City of Alameda, a public body, corporate and politic (the "Housing Authority"), Alameda Point Collaborative, Inc., a California nonprofit public benefit corporation ("APC"), and Cornerstone Community Development Corporation, a California nonprofit public benefit corporation, dba Building Futures with Women and Children ("BFWC"). The Housing Authority, APC and BFWC are collectively referred to herein as the "Providers". The LRA, the Housing Authority, APC and BFWC are each individually referred to herein as a "Party" or collectively referred to herein as the "Parties".

**WITNESSETH**

WHEREAS, Naval Air Station, Alameda ("NAS Alameda") located in the City of Alameda, California, was recommended for closure in 1993;

WHEREAS, the LRA's predecessor in interest, the Alameda Reuse and Redevelopment Authority (the "ARRA") was recognized by the Office of Economic Adjustment ("OEA"), on behalf of the Secretary of Defense, as the local redevelopment authority for NAS Alameda;

WHEREAS, in 1996, the ARRA approved the Naval Air Station Alameda Community Reuse Plan, as amended (the "Original Reuse Plan");

WHEREAS, the United States Department of Housing and Urban Development ("HUD") approved the Original Reuse Plan;

WHEREAS, Department of Defense ("DoD"), acting by and through the Department of the Navy ("Navy") approved the original no-cost economic development conveyance ("EDC") application, which provided for development of the North Housing Parcel (as defined below) in accordance with the Original Reuse Plan;

WHEREAS, pursuant to the Comprehensive, Environmental Response, Compensation and Liability Act ("CERCLA"), on August 30, 2007, the Navy finalized the

CERCLA Record of Decision Operable Unit 5/IR02 Groundwater for cleanup of groundwater beneath the southern portions of the North Housing Parcel (the "**Groundwater Cleanup ROD**") and on October 3, 2007, finalized the CERCLA Record of Decision Site 25 Soil for cleanup of soil at the North Housing Parcel (the "**Soils Cleanup ROD**"), then performed soil remediation on the North Housing Parcel (removed soil contaminated with polycyclic aromatic hydrocarbons ("**PAHs**"));

WHEREAS, the Original Reuse Plan contemplated residential development and related open space and roads for use by the U.S. Coast Guard (the "**Coast Guard**") of the North Housing Parcel pursuant to a transfer from the Navy to the Coast Guard (the "**Navy/Coast Guard Transfer**");

WHEREAS, the Navy and the Coast Guard reached agreement on the terms of a Navy/Coast Guard Transfer for certain real property which did not include the North Housing Parcel;

WHEREAS, the North Housing Parcel was declared surplus on November 5, 2007 and will be disposed of by the DoD pursuant to the Defense Base Closure and Realignment Act of 1990, as amended (the "**Base Closure Act**");

WHEREAS, the ARRA was the Federally recognized local redevelopment authority required by the Base Closure Act to amend the Reuse Plan to address the additional surplus acres comprising the North Housing Parcel;

WHEREAS, the ARRA approved an amendment to the Original Reuse Plan updating the Main Street Neighborhoods subarea (the "**Reuse Plan Amendment**") to address, among other things, (1) the North Housing Parcel without the Navy/Coast Guard Transfer, (2) accommodation of homeless housing, (3) development by the Providers of the Project (as defined in Section 2.2 below) in accordance with the Reuse Plan Amendment and the City of Alameda General Plan, and (4) the availability of general services such as transportation, police and fire protection, and utilities serving the North Housing Parcel;

WHEREAS, the ARRA filed the Reuse Plan Amendment with HUD and the Navy;

WHEREAS, the Original Reuse Plan, as amended by the Reuse Plan Amendment shall be referred to herein as the "**Reuse Plan**";

WHEREAS, in February 2008, the ARRA completed a Homeless Needs Assessment, which, among other things, identified unmet needs within the continuum of care and identified the need for permanent, supportive multifamily rental housing;

WHEREAS, pursuant to the screening process set forth in the Base Closure Community Redevelopment and Homeless Assistance Act of 1994, as amended (the "**Redevelopment Act**") and the Base Closure Act, the Providers submitted a Notice of Interest to the ARRA on March 7, 2008 to use a portion of the North Housing Parcel for homeless accommodation purposes, which was supplemented on May 13, 2008 (collectively, the "**NOI**");

WHEREAS, as a result of balancing the needs of the homeless with the needs of the community for economic and other development purposes, the ARRA requested the Providers revise their NOI to encompass approximately nine (9) acres (subsequently revised to thirteen (13) acres) of the North Housing Parcel with ninety (90) units of existing housing as shown on Exhibit A attached hereto (together with the improvements thereon (existing and in the future), the “**Designated Property**”),

WHEREAS, the Providers’ proposed use of the Designated Property as a site for development and operation of the Project (as defined in Section 2.2 below), is consistent with the long-term goals of the Reuse Plan to use the Designated Property for residential purposes and fills gaps in the existing continuum of care;

WHEREAS, the Redevelopment Act requires the local redevelopment authority to submit to HUD, as a component of a homeless assistance submission (“**Homeless Assistance Submission**”), a copy of the legally binding agreement that the local redevelopment authority proposes to enter into with representatives of the homeless selected by the local redevelopment authority to implement homeless programs that fill gaps in the existing continuum of care;

WHEREAS, the Providers entered into a memorandum of understanding to address the roles and obligations of the Providers with respect to the development and operation of the Project, and implementation and operation of the Programs (as defined in Section 2.3 below) and to address the Providers’ intention with respect to structuring the ownership and operation of the improvements to be constructed on the Designated Property;

WHEREAS, in accordance with the Redevelopment Act requirement, in 2009 the ARRA and the Providers entered into that certain Legally Binding Agreement (the “**Original LBA**”) and submitted it to HUD and the Navy;

WHEREAS, the Navy completed the environmental analysis of land pursuant to the National Environmental Policy Act, which included approximately forty-two (42) acres of land within NAS Alameda, comprised of three (3) parcels (collectively, the “**North Housing Parcel**”), and on December 8, 2009, the Navy issued a Finding of No Significant Impact for the Disposal and Reuse of the North Housing Area at Naval Air Station Alameda, California;

WHEREAS, the Community Improvement Commission of the City of Alameda, one of the two members of the ARRA joint powers authority, ceased to exist by operation of California State law on February 1, 2012 and the City became the sole member of the ARRA joint powers authority;

WHEREAS, by resolutions adopted on February 1, 2012 and February 8, 2012, the ARRA and the City, respectively, determined that the ARRA should assign and the City should accept the rights, assets, obligations, responsibilities, duties and contracts of the ARRA, subject to, among other things, OEA approval of the City as the local redevelopment authority for NAS Alameda;

WHEREAS, on March 9, 2012, OEA approved the City as the local redevelopment authority for NAS Alameda;

WHEREAS, this Agreement amends and restates the Original LBA, which was amended and restated in response to comments received by the Navy;

WHEREAS, this Agreement is intended to legally bind the Parties and to fulfill the Redevelopment Act requirement;

WHEREAS, the LRA and the Providers wish to enter into this Agreement to provide for the transfer of the Designated Property to the LRA, then to the Housing Authority for development and operation of the Project and Programs by the Providers for the benefit of homeless persons in the City, in order to comply with Federal laws, to address the needs of homeless persons, and to further the reuse and redevelopment of the North Housing Parcel in accordance with the terms and conditions set forth below;

NOW, THEREFORE, the Parties hereby agree as follows:

## ARTICLE 1

### LRA RIGHTS AND OBLIGATIONS.

1.1 **Transfer by Deed.** Upon approval by HUD and the Navy of the Homeless Assistance Submission and Reuse Plan Amendment, and issuance by the Navy of a Finding of Suitability for Transfer (“**FOST**”) or Finding of Suitability for Early Transfer (“**FOSET**”), as applicable, for the North Housing Parcel, completion of all actions under the Base Closure Act and Redevelopment Act and applicable Federal regulations necessary for the Navy’s transfer or sale (“**Transfer**”) of the North Housing Parcel, all consistent with the approved Reuse Plan and the terms of this Agreement, and contingent upon procurement of pollution legal liability insurance (the “**PLL Insurance**”) for the Designated Property (effective upon the transfer of the Designated Property), the LRA shall request that the Navy transfer the Designated Property, together with access easements over Singleton Avenue and Mosley Avenue (if such streets are not public streets), to the LRA by quitclaim deed (the “**Navy Deed**”) for no consideration. The LRA shall immediately thereafter transfer the Designated Property, together with the access easements (if applicable), to the Housing Authority by quitclaim deed (the “**LRA Deed**”) for no consideration pursuant to the terms hereof.

1.1.1 Upon the occurrence of any of the events described in this Section 1.1.1 and, if applicable, the failure to cure such event within the respective cure period, there shall be an event of default. If any of the following occur, the LRA shall provide the Providers written notice of such occurrence (the “**Noticed Default**”):

1.1.1.1 at any time following conveyance by the LRA of the Designated Property to the Housing Authority, all three of the Providers, and if applicable, the Homeless Housing Developer (as defined in Section 2.2.1 below), dissolve or otherwise cease to function and the LRA has not approved an assignee(s) of the Providers, or if applicable, the

Homeless Housing Developer, if necessary, which approval shall not be unreasonably withheld; or

1.1.1.2 after the date which is thirty-six (36) months, subject to Force Majeure (as defined below) (or as such date may be extended by the LRA), after substantial completion (as evidenced by written documentation provided by the City) by a Third Party Transferee (as defined in Section 2.7.1 below) of the upgrade and/or construction of backbone infrastructure serving the North Housing Parcel (including the Designated Property) as described in Section 4.1 below, (A) the Housing Authority, or if applicable, the Homeless Housing Developer, has not commenced construction of the Project or any phase thereof, including predevelopment activities in preparation for construction, or (B) following commencement of construction (and subject to Project phasing approved in writing by the LRA), all or substantially all of the Designated Property conveyed is abandoned, or (C) the Housing Authority fails to complete, or cause the completion of, construction of the Project (or each phase, as applicable) in accordance with the schedule mutually agreed upon in writing by the LRA and Providers (as such schedule may be mutually revised in writing from time to time); or

1.1.1.3 upon completion of construction of the Project (or each phase, as applicable), if (A) the Project (or the completed phase, as applicable) is not being operated or is not being used to implement the Programs (as defined in Section 2.3 below), or (B) the Providers are not operating the Project or implementing the Programs, or causing the operation or implementation of the Programs, in accordance with a "Continuum of Care System" as defined in 32 Code of Federal Regulations ("C.F.R.") § 176.5 (subject to modification pursuant to Section 2.3 below) and the implementation, intent and requirements of the Reuse Plan, or (C) if the Providers fail to comply with any provisions hereof, or (D) the Project ceases to be used for Homeless Persons (as defined below).

If the Providers fail to cure the Noticed Default within one hundred and twenty (120) days of the receipt of said notice, or, if such default is not subject to cure within one hundred twenty (120) days, the Providers fail to commence to cure within one hundred twenty (120) days and diligently prosecute such cure to completion within a reasonable time (subject to Force Majeure (as defined below)), the Designated Property (or, if applicable, the portion thereof on which a separate phase of the Project is constructed or will be constructed and where the Noticed Default is occurring, provided that such portion is legally subdivided) shall revert to the LRA pursuant to the provisions more particularly prescribed by the LRA in the LRA Deed. For purposes herein the term "Force Majeure" means reasons or causes reasonably beyond Provider's control (excluding Provider's financial inability), such as acts of nature or of public enemies, war, invasion, insurrection, rebellion, earthquake, riots, fires, floods, epidemics, quarantine restrictions, strikes, lockouts, freight embargoes, and unusually severe weather delays, or any similar cause.

1.1.2 If title to the Designated Property reverts to the LRA pursuant to Section 1.1.1 hereof, the LRA shall, to the maximum extent practicable, take appropriate steps to facilitate the utilization of the Designated Property by other homeless providers by contacting homeless provider representatives to develop the Designated Property and operate the Programs (as defined in Section 2.3 below). The term "appropriate steps" shall mean providing reasonable public notice of at least ninety (90) days to homeless providers in the vicinity of NAS Alameda

of the available facilities and of the types of programs that may qualify as a successor to the Programs, and negotiating in good faith with homeless providers that respond to said notice. If the LRA is unable to reach agreement with a successor homeless provider or providers following good faith negotiations, then:

1.1.2.1 if title to the Designated Property reverted to the LRA pursuant to Section 1.1.1.1 above, the LRA shall have no further obligations hereunder and this Agreement shall be (a) released as to the Designated Property, and (b) terminated and of no further force and effect with respect to all or any such portion, as applicable, (except for any rights and obligations pursuant to this Agreement which survive any termination); or

1.1.2.2 if title to the Designated Property (or portion thereof) reverted to the LRA pursuant to Section 1.1.1.2 above, the LRA shall sell the Designated Property (or portion thereof, as applicable) at fair market value based on the highest and best use consistent with the Reuse Plan, then the proceeds (net of the LRA's reasonable costs incurred from the sale (including, without limitation closing and escrow fees, broker's commissions, attorney's fees and other transactional costs)) shall first be distributed to the Providers for reimbursement of their reasonable costs incurred in connection with the Project (including architectural, engineering, consultant and staff costs, and attorney's fees related to design, construction and submittals for funding sources), then shall be used to support programs and facilities, including permanent or supportive service-enriched housing for homeless persons in the City with the highest priority given equally among the Providers to fund Programs (as defined below) and development of housing units and facilities. The LRA shall have no further obligations hereunder (as to all or that portion of the Designated Property, as applicable), and this Agreement shall be (a) released as to all or that portion of the reverted Designated Property, and (b) terminated and of no further force and effect with respect to all or any such portion, as applicable, (except for any rights and obligations pursuant to this Agreement which survive any termination).

1.1.2.3 if title to the Designated Property (or a portion thereof) reverted to the LRA pursuant to Section 1.1.1.3 above, the LRA shall have no further obligations hereunder (as to all or that portion of the Designated Property, as applicable) and this Agreement shall be (a) released as to all or that portion of the reverted Designated Property, and (b) terminated and of no further force and effect with respect to all or any such portion, as applicable, (except for any rights and obligations pursuant to this Agreement which survive any termination).

## ARTICLE 2

### PROVIDERS' RIGHTS AND OBLIGATIONS.

2.1 **Consent to NOI Objectives.** In consideration of the LRA Deed, the Providers shall accept the Designated Property and pursue redevelopment of the Designated Property as described in Exhibit B attached hereto. The Housing Authority, pursuant to Section 1.1 above, shall execute the LRA Deed to accept the Designated Property on behalf of the Providers.

2.2 **Description of the Project:** The Project shall consist of no fewer than ninety (90) units of permanent, supportive multifamily rental housing for Homeless Persons and related community space associated with the Providers' operations, as described in the NOI and on Exhibit B attached hereto (collectively, the "**Project**"). The Project shall be constructed on the Designated Property, unless the Providers agree to an alternative location(s) pursuant to Section 2.7 below. The Project may be developed in phases.

2.2.1 Following transfer of the Designated Property to the Housing Authority, the Providers may designate a nonprofit housing developer (including a limited partnership or limited liability company controlled by a Provider member) (a "**Homeless Housing Developer**") to develop and operate all or a portion of the Project on the Designated Property following satisfaction of all of the following preconditions:

2.2.1.1 The Housing Authority has reasonably determined that the Homeless Housing Developer has the financial and staff capacity and experience to develop and operate the Project on the Designated Property.

2.2.1.2 The Homeless Housing Developer has provided to the Housing Authority, and the Housing Authority has approved, a financing plan for the development and operation of the Project on the Designated Property, including satisfactory evidence that the Homeless Housing Developer holds sufficient funds and/or enforceable financing commitments to construct and operate the Project.

2.2.1.3 The Homeless Housing Developer has received all land use permits and obtained building permits necessary to construct the Project (or applicable phase thereof) on the Designated Property.

2.2.2 The LRA and Providers shall use reasonable efforts and cooperate in good faith with the Homeless Housing Developer to the extent feasible to satisfy the preceding conditions, consistent with all applicable federal, state, and local laws and regulations, including, without limitation, providing documentation reasonably required by potential lenders to facilitate the use of this Agreement to meet site control requirements in financing applications.

2.2.3 Following satisfaction of the conditions set forth in Section 2.2.1 above, the Housing Authority shall transfer all or a portion of the Designated Property, as applicable, to the Homeless Housing Developer, which transfer may be by long-term lease. The transfer shall be subject to recorded covenants in a form to be provided by the Housing Authority, with a minimum term of fifty-five (55) years from the date of transfer, restricting the Project to occupancy by persons who meet the definition of "homeless persons" as set forth in the McKinney-Vento Act (42 U.S.C. Sec. 11301 *et seq.*) and their families (collectively, "**Homeless Persons**"), and requiring the Homeless Housing Developer to operate the Project exclusively to benefit Homeless Persons, including by the regular and continuous delivery of the Programs (as defined below), which shall include commercially reasonable subordination language to protect lenders' rights, subject to compliance with the Base Closure Act, and shall be enforceable under California law (the "**Homeless Use Covenants**").



2.2.4 The Designated Property (or applicable portion thereof) shall be transferred to a Homeless Housing Developer, free and clear of liens of mortgages or deeds of trust, and providing for reversion of the Designated Property (or applicable portion thereof) to the Housing Authority in the event of noncompliance with this Agreement or the Homeless Use Covenants.

2.2.5 The Designated Property (or applicable portion thereof) shall be transferred by the Housing Authority to a Homeless Housing Developer at no cost, except for the Homeless Housing Developer's customary share of reasonable closing costs. Commencing on the date of transfer, the Homeless Housing Developer shall be responsible for all costs and expenses associated with the development, operation and maintenance of the Project and APC and BFWC shall be responsible for the delivery of the Programs to the residents of the Project.

2.2.6 Any subsequent transfer of the Project or of part or all of the Designated Property shall be subject to the approval of the Housing Authority, based solely on the Housing Authority's reasonable determination that: (a) the proposed transferee has the capacity and experience to develop (if applicable) and to operate and maintain the Project; or (b) that such portion of the Designated Property is not required for the development of the Project. Any subsequent transfers must require continued benefit to Homeless Persons.

2.3 **Programs.** The Providers shall operate the programs, as generally described in Exhibit B (collectively, the "**Programs**"), which fill gaps in the existing continuum of care. The Programs, including any future changes in the scope of services of the Programs, shall constitute services and activities under a Continuum of Care System (as defined in 32 C.F.R. § 176.5) and shall comply with the implementation, intent and requirements of the Reuse Plan. The Providers shall not change the Programs from permanent service-enriched supportive housing for homeless individuals and families without the prior written consent of the LRA in its sole discretion.

2.4 **Costs.** The Providers shall be responsible for all costs and expenses associated with the development, operation and maintenance of the Designated Property and the Project and for the operation of the Programs, which includes certain in-tract infrastructure costs described in Section 4.1 below.

2.4.1 The Housing Authority shall be responsible for construction, or causing construction, of the Project, including securing third party, construction-related financing for such development, provided, however, this Agreement does not obligate the Housing Authority to provide its funds for the Project.

2.4.2 Except if a default described in Section 1.1.1.2 above remains uncured, the Providers may (i) obtain financing to pay the costs of developing and operating the Project and operating the Programs and (ii) freely encumber the Designated Property to secure such financing, subject to requirements of local law.

2.5 **Environmental Analysis.** The Navy has performed soil remediation on the North Housing Parcel as required by the Soils Cleanup ROD (removed soil contaminated with PAHs as required by the Soils Cleanup ROD), is currently treating groundwater pursuant to

the Groundwater Cleanup ROD, and has determined that the Designated Property is suitable for residential purposes; therefore no alternative arrangements pursuant to 32 C.F.R. § 176.30(b)(3)(i) are necessary. However, the Soils Cleanup ROD imposes cleanup responsibilities on developers of the North Housing Parcel in connection with demolition and/or redevelopment of existing buildings and/or streetscape, and the Providers shall be obligated to comply with the Soils Cleanup ROD and any agreement(s) entered into between the Providers and the environmental regulatory agencies with respect to the Designated Property. Pursuant to the Groundwater Cleanup ROD, the Navy has full responsibility for the cleanup of groundwater in the vicinity of the North Housing Parcel.

**2.6 Communication to Agencies.** The Providers shall maintain, or cause to be maintained, complete copies of all final applications made to, and formal communications with, any local, state, or federal agency regarding the approval or implementation of any future development proposals, approvals or permits (including any related environmental documentation) relating to the Designated Property. Promptly following the LRA's request, the Providers shall provide, or cause to be provided, complete copies of such applications and/or formal communications to the LRA. The Providers shall meet with the LRA on a regular basis. In addition, each year the Providers shall provide a written annual report to the LRA regarding the development and operation of the Project and implementation of the Programs in compliance with this Agreement.

**2.7 Selection of Alternate Property.** The Providers retain the option at any time after the recordation of the LRA Deed to relocate or otherwise provide for the relocation of the Project pursuant to the provisions of this subsection.

**2.7.1** The Providers may voluntarily enter into an agreement with a Third Party Transferee (as defined below) providing for the relocation of all or part of the Project, at no cost or at limited cost to the Providers, to an alternative location(s) selected by the Providers within the City; provided that such relocation shall be at no cost to the LRA and the Providers shall be responsible for securing any and all approvals for the development and operation of the Project on such site(s). The alternative parcel(s) of land may be smaller than thirteen (13) acres if ninety (90) units of permanent supportive multifamily rental housing for homeless individuals and families and community space or the commensurate number of units and facilities, if applicable, to be relocated can be accommodated on such land. For purposes herein, a "**Third Party Transferee**" means a third party transferee or transferees (excluding any transferee obtaining title through a public benefit conveyance or homeless conveyance (including any homeless conveyance to the LRA and the Housing Authority)) pursuant to a Transfer by the Navy of any portion of the real property comprising the North Housing Parcel.

**2.7.2** Any alternative parcel(s) of land so selected pursuant to this subsection and transferred to the Housing Authority pursuant to Section 1.1 above, together with any portion of the Designated Property retained by the Housing Authority, shall thereafter be deemed to be, and referred to, collectively as the Designated Property for all purposes of this Agreement.

**2.7.3** The relocation of the Project to an alternative location(s) shall be subject to Homeless Use Covenants.

2.7.4 The LRA shall request that the Navy include the following provision in its "comfort" letter to HUD: "If any housing units to be constructed for purposes of accommodation of homeless housing on the North Housing parcels are relocated and constructed on another portion of the former Naval Air Station Alameda (now known as "Alameda Point") for such homeless housing accommodation purposes, then such housing units shall not be counted as part of the Residential Base Line Amount for purposes of Article 3(g) of that certain Memorandum of Agreement between the United States of America Acting By and Through the Secretary of the Navy, United States Department of the Navy and the Alameda Reuse and Redevelopment Authority for Conveyance of Portions of the Naval Air Station Alameda from the United States of America to the Alameda Reuse and Redevelopment Authority, as amended through Amendment No. 2."

### ARTICLE 3

#### CONTINGENCIES.

3.1 **Contingencies.** The obligations set forth in Article 1 and Article 2 of this Agreement are contingent upon the following events occurring (collectively, the "Contingencies"):

3.1.1 Approval of this Agreement by HUD;

3.1.2 Approval of the Reuse Plan Amendment by HUD;

3.1.3 The disposal of the Designated Property by the United States in a manner consistent with the Reuse Plan; and

3.1.4 The execution and recordation of the Navy Deed and the LRA Deed by parties thereto, respectively, subject to procurement of PLL Insurance pursuant to Section 1.1 above.

3.2 **Failure of Contingencies.** In the event that any of the Contingencies described in Section 3.1 fails to occur and is not waived, the Providers may consult with HUD for the purposes of indicating the Providers' continued interest in developing and operating the Project and Programs. In addition, if the failure of the contingency set forth in Section 3.1.4 above was due solely to the inability to procure PLL Insurance, then the LRA shall request pursuant to 32 C.F.R. § 176.45(c) that the Navy transfer the Designated Property to APC and BFWC by quitclaim deed for no consideration and APC and BFWC shall use commercially reasonable efforts to construct the Project and such quitclaim deed shall include a right of reverter in favor of Navy. If APC and BFWC are unable to construct the Project, the Housing Authority shall have the right to acquire the Designated Property from APC and BFWC for no consideration and may designate a Homeless Housing Developer to develop and operate all or a portion of the Project and transfer the Project or part or all of the Designated Property in accordance with Article 2 above.

## ARTICLE 4

### BACKBONE AND IN-TRACT INFRASTRUCTURE.

4.1 The Parties acknowledge that there is existing backbone infrastructure serving the North Housing Parcel (including the Designated Property), which includes an existing Navy-owned and operated sanitary sewer lift station, and that such backbone infrastructure may need to be upgraded and/or new infrastructure may be required in connection with the redevelopment of the North Housing Parcel. The Parties further acknowledge that the LRA and the Providers shall not be obligated to upgrade, construct or maintain backbone infrastructure, including but not limited to streets, sewer facilities, and utilities, serving the Designated Property. Contingent on the disposal of all of the North Housing Parcel by the Navy, the Parties anticipate that Housing Policy 2-25 provided in the Reuse Plan Amendment will be implemented, which requires, among other things, a Third Party Transferee to be responsible for development of backbone infrastructure serving the Designated Property in connection with redevelopment by the Third Party Transferee of the portion of the North Housing Parcel acquired by such Third Party Transferee. The Providers shall be responsible for construction of in-tract infrastructure for the Designated Property as part of the development of the Designated Property. For purposes herein the term "in-tract infrastructure" means utility and roadway infrastructure necessary to serve the improvements (existing and/or constructed) on the Designated Property and to connect to utilities and roadways constructed as backbone infrastructure and/or existing utilities and roadways.

## ARTICLE 5

### TERM.

5.1 The term ("Term") of this Agreement shall commence on the Effective Date and shall terminate on \_\_\_\_\_ (fifty-five (55) years from the Effective Date), unless earlier terminated (i) pursuant to Section 1.1.2 above, or (ii) in written instrument executed by all of the Parties.

## ARTICLE 6

### ENTIRE AGREEMENT, AMENDMENT, WAIVER.

6.1 This Agreement contains the entire agreement and understanding of the Parties with respect to all rights and responsibilities associated with the Designated Property, and may not be amended, modified or discharged nor may any of its terms be waived except by an instrument in writing signed by the Party(ies) to be bound thereby. The Parties hereto shall not be bound by any terms, conditions, statements, warranties or representations, oral or written, not contained herein. This Agreement supersedes and replaces any prior agreement by the Parties.

**ARTICLE 7**

**NOTICES.**

7.1 Any notice, request, demand, instruction or other document to be given or served hereunder or under any document or instrument executed pursuant hereto shall be in writing and shall be delivered personally (including by messenger) or by facsimile or sent by United States registered or certified mail, return receipt requested, postage prepaid or by courier, postage prepaid and addressed to the Parties at their respective addresses set forth below, and the same shall be effective upon receipt if delivered personally or by messenger or two (2) business days after deposit in the mail if mailed. A Party may change its address for receipt of notices by service or a notice of such change in accordance herewith.

If to LRA:                   City of Alameda  
2263 Santa Clara Avenue  
Alameda, CA 94501-5012  
Attention:     City Manager  
Telephone:    (510) 747-4700  
Facsimile:     (510) 747-4704

with copy to:             City of Alameda  
2263 Santa Clara Avenue  
Alameda, CA 94501  
Attention:     City Attorney  
Telephone:    (510) 747-4750  
Facsimile:     (510) 747-4767

If to Providers:

To Housing  
Authority:                 Housing Authority of the City of Alameda  
701 Atlantic Avenue  
Alameda, CA 94501-2161  
Attention:     Executive Director  
Telephone:    (510) 747-4325  
Facsimile:     (510) 522-7848

with copy to:             City of Alameda  
2263 Santa Clara Avenue  
Alameda, CA 94501  
Attention:     Housing Authority General Counsel  
Telephone:    (510) 747-4750  
Facsimile:     (510) 747-4767

and to APC: Alameda Point Collaborative, Inc.  
677 West Ranger Avenue  
Alameda, CA 94501  
Attention: Executive Director  
Telephone: (510) 898-7849  
Facsimile: (510) 898-7858

and to BFWC: Building Futures with Women and Children  
1395 Bancroft Avenue  
San Leandro, CA 94577  
Attention: Executive Director  
Telephone: (510) 357-0205  
Facsimile: (510) 357-0688

## ARTICLE 8

### MISCELLANEOUS

8.1 **Survival and Benefit.** All representations, warranties, agreements, obligations and indemnities of the Parties shall, notwithstanding any investigation made by any Party hereto, survive closing and the same shall inure to the benefit of and be binding upon respective successors and assigns of the Parties.

8.2 **Assignment.** Without written consent of the LRA not to be unreasonably withheld, this Agreement is not assignable by the Providers, either in whole or in part. This Agreement shall inure to the benefit of and be binding upon the successors and approved assigns of the Parties.

8.3 **Applicable Law.** This Agreement shall be governed by and construed in accordance with Federal law and the laws of the State of California, as applicable.

8.4 **Severability.** If any term or provision of this Agreement or the application thereof to a person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each such term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

8.5 **Entire Understanding of the Parties with Respect to Reuse Plan.** This Agreement constitutes the entire understanding and agreement of the Parties with respect to implementation of those portions of the Reuse Plan, as amended by the Reuse Plan Amendment, related to homeless needs and facilities pursuant to the Redevelopment Act and the Base Closure Act.

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

8.7 **Time is of the essence.** In performance of this Agreement, time is of the essence.

8.8 **Binding Agreement.** This Agreement constitutes legal, valid, binding, and enforceable obligations of the Parties hereto.

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

## ARTICLE 9

### EXHIBIT LIST.

9.1 The following exhibits are attached hereto and made a part of this Agreement:

Exhibit A	Designated Property
Exhibit B	Description of Use and Programs

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first set forth above.

**LRA:**

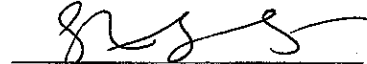
CITY OF ALAMEDA,  
a municipal corporation

By:

  
\_\_\_\_\_  
John A. Russo  
City Manager

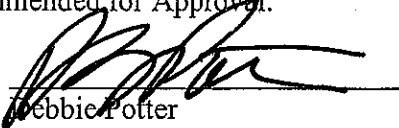
Approved as to form:

By:

  
\_\_\_\_\_  
Janet Kern  
City Attorney

Recommended for Approval:

By:

  
\_\_\_\_\_  
Debbie Potter  
Housing Development and  
Programs Manager

STATE OF CALIFORNIA )  
 )  
County of Alameda )

On July 9, 2012, before me, Lana F. Stoker,  
a Notary Public, personally appeared John Russo, 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.

Lana F. Stoker  
Signature of Notary Public



(Seal)

STATE OF CALIFORNIA )  
 )  
County of \_\_\_\_\_ )

On \_\_\_\_\_, before me, \_\_\_\_\_,  
a 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 of Notary Public

(Seal)



**HOUSING AUTHORITY:**

HOUSING AUTHORITY OF THE CITY OF ALAMEDA,  
a public body corporate and politic

By: *Michael T. Pucci*  
Michael T. Pucci  
Executive Director

Approved as to form

By: *Stephanie Garrabrant-Sierra*  
Stephanie Garrabrant-Sierra  
Assistant General Counsel

**APC:**

ALAMEDA POINT COLLABORATIVE, INC.,  
a California nonprofit public benefit corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**BFWC:**

CORNERSTONE COMMUNITY DEVELOPMENT CORPORATION,  
a California nonprofit public benefit corporation,  
dba BUILDING FUTURES WITH WOMEN AND CHILDREN

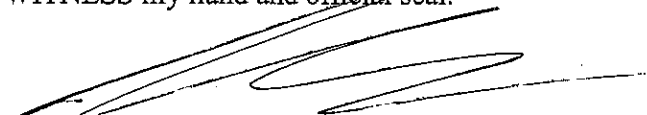
By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF CALIFORNIA )  
 )  
County of ALAMEDA )

On JUNE 19, 2012, before me, CLAUDIA MARIA YOUNG,  
a Notary Public, personally appeared ESLEEN DUFFY, 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 of Notary Public



(Seal)

STATE OF CALIFORNIA )  
 )  
County of \_\_\_\_\_ )

On \_\_\_\_\_, before me, \_\_\_\_\_,  
a 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 of Notary Public

(Seal)

**HOUSING AUTHORITY:**

HOUSING AUTHORITY OF THE CITY OF ALAMEDA,  
a public body corporate and politic

Approved as to form

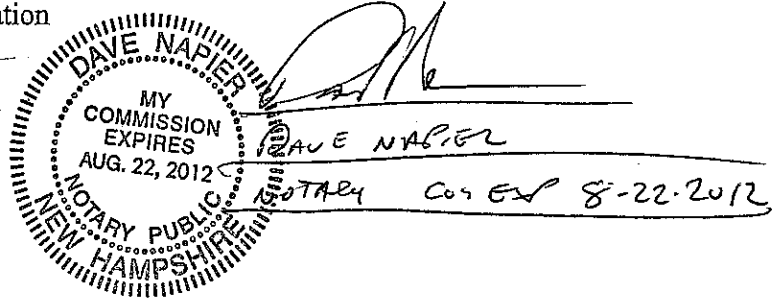
By: \_\_\_\_\_  
Michael T. Pucci  
Executive Director

By: \_\_\_\_\_  
Stephanie Garrabrant-Sierra  
Assistant General Counsel

**APC:**

ALAMEDA POINT COLLABORATIVE, INC.,  
a California nonprofit public benefit corporation

By: \_\_\_\_\_  
Name: DOKE BIGGI  
Title: EXECUTIVE DIR.



**BFWC:**

CORNERSTONE COMMUNITY DEVELOPMENT CORPORATION,  
a California nonprofit public benefit corporation,  
dba BUILDING FUTURES WITH WOMEN AND CHILDREN

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**HOUSING AUTHORITY:**

HOUSING AUTHORITY OF THE CITY OF ALAMEDA,  
a public body corporate and politic

Approved as to form

By: \_\_\_\_\_  
Michael T. Pucci  
Executive Director

By: \_\_\_\_\_  
Stephanie Garrabrant-Sierra  
Assistant General Counsel


**APC:**

ALAMEDA POINT COLLABORATIVE, INC.,  
a California nonprofit public benefit corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**BFWC:**

CORNERSTONE COMMUNITY DEVELOPMENT CORPORATION,  
a California nonprofit public benefit corporation,  
dba BUILDING FUTURES WITH WOMEN AND CHILDREN

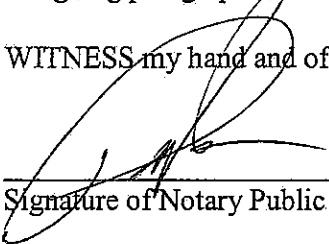
By:   
Name: Elizabeth Vank  
Title: Executive Director

NEW HAMPSHIRE  
STATE OF CALIFORNIA )  
County of HUSBOROUGH )

On 6-19-2012, before me, DAVE NAPIER,  
a Notary Public, personally appeared DAUGLAS ROBERT BIGGS, 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 of Notary Public

(Seal)



STATE OF CALIFORNIA )  
County of \_\_\_\_\_ )

On \_\_\_\_\_, before me, \_\_\_\_\_,  
a 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 of Notary Public

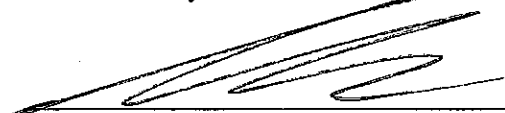
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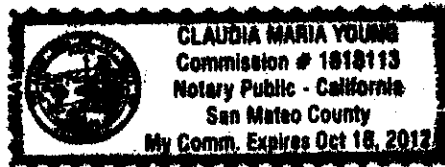
STATE OF CALIFORNIA )  
 )  
County of ALAMEDA )

On JUNE 20, 2012, before me, CLAUDIA MARIA YOUNG,  
a Notary Public, personally appeared ELIZABETH VARELA, 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 of Notary Public



(Seal)

STATE OF CALIFORNIA )  
 )  
County of \_\_\_\_\_ )

On \_\_\_\_\_, before me, \_\_\_\_\_,  
a 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 of Notary Public

(Seal)

EXHIBIT A

Depiction of Designated Property

[Attached]

## EXHIBIT B

### Description of Use and Programs

The defined terms used in this Exhibit B shall have the meanings ascribed to them in the Agreement to which this is attached, unless defined herein.

The Housing Authority, in collaboration with APC and BFWC, propose to create and operate the Project. The new development is intended to create stable, permanent options for those leaving Alameda's homeless programs, including shelter and transitional housing facilities. One or more housing units may be made available for a resident manager(s).

The Housing Authority will be the fee owner of the land and will be responsible for developing and managing the Project. Building on existing programs and infrastructures, APC and BFWC will be the lead service providers for the development and shall be responsible for providing supportive services, to the Project and its residents which fill gaps in the existing continuum of care.

BFWC will be the primary provider of case management services. Case managers will be stationed on-site in the development to provide day-to-day services for all residents. APC will expand on its already established community-based services to provide a variety of services. Together, the services menu will include a full range of services depending on the needs of the residents—these services could include case management, counseling, job training and placement; substance abuse counseling and support groups; domestic violence support groups; youth afternoon and evening activities and tutoring; computer training; individual, couple and family counseling; housing information and referral; household donations and emergency food, and other services necessary to meet the needs of homeless families and individuals in the City of Alameda.

Associated on-site uses may include a community center with rooms for provision of the supportive services; offices for APC and BFWC; vehicle parking for residents, guests, and the resident manager(s); laundry rooms; outdoor space; and landscaped areas.



AMENDED AND RESTATED  
MEMORANDUM OF UNDERSTANDING  
(North Housing Parcel – Authority and Providers)

This Amended and Restated Memorandum of Understanding (the “**Agreement**”) is entered into as of July 5, 2012 (“**Effective Date**”) by and among Alameda Point Collaborative, a California nonprofit public benefit corporation (“**APC**”), Cornerstone Community Development Corporation, a California nonprofit public benefit corporation, dba Building Futures with Women and Children (“**BFWC**”), and the Housing Authority of the City of Alameda (the “**Authority**”) (collectively, referred to herein as the “**Parties**” or individually as the “**Party**” and APC and BFWC shall be collectively referred to as the “**Providers**”).

**RECITALS**

This Agreement is entered into upon the following facts, understandings and intentions of the Parties:

A. On November 5, 2007, the Navy declared forty-two (42) acres of the former Alameda Naval Air Station (“**NAS Alameda**”) as surplus (the “**North Housing Parcel**”). The North Housing Parcel includes buildings and other improvements as follows: (i) family housing built in the late 1960s consisting of multi-family structures with two hundred eighty-two (282) individual housing units totaling approximately four hundred forty thousand and ten (440,010) square feet; (ii) approximately eight (8) acres of outdoor recreational facilities; (iii) paved areas and other surface areas, including but not limited to roads, sidewalks, and parking lots; and (iv) utility facilities.

B. Pursuant to the McKinney-Vento Homeless Assistance Act of 1987 (42 U.S.C. § 11412) (the “**Act**”) and the Base Closure Community Redevelopment and Homeless Assistance Act of 1994 (10 U.S.C. 2687) (“**BRAC**”), the North Housing Parcel must be made available to state and local governments and nonprofit organizations in order to meet the housing and service needs of the homeless population.

C. The Alameda Reuse and Redevelopment Authority (the “**ARRA**”) was recognized by the Office of Economic Adjustment (“**OEA**”), on behalf of the Secretary of Defense, as the local redevelopment authority for NAS Alameda.

D. Pursuant to BRAC, the ARRA, as the local redevelopment authority, was responsible for conducting the screening process for the North Housing Parcel. In accordance with BRAC, the ARRA published a Notice of Availability of Surplus Property on November 16, 2007 seeking Notices of Interests from homeless providers.

E. Providers are nonprofit public benefit corporations dedicated to coordinating and improving housing and supportive services for low-income and homeless individuals and families in the City of Alameda (“**City**”).

F. On March 7, 2008, the Authority and the Providers submitted a Notice of Interest (the “**NOI**”) that proposed the creation of a new development that would consist of one-hundred

and twenty (120) permanent affordable housing units with supportive services to homeless individuals and families (the “**Residents**”) in the City (the “**Proposed Project**”). On October 1, 2008, the ARRA recommended pursuing the Proposed Project with the modification that it be reduced in size to ninety (90) housing units on approximately nine (9) acres (subsequently revised to thirteen (13) acres).

G. The Parties entered into that certain Memorandum of Understanding effective as of June 15, 2009 (the “**Original MOU**”) to address the roles and obligations of the Parties with respect to development and operation of the Project (as defined below), implementation and operation of the Programs (as defined below) and to address the Parties’ intention with respect to structuring the ownership and operation of the improvements to be constructed on the Property (as defined below), which, among other things, provides for the Authority to receive and maintain ownership of the land.

H. In 2009, in accordance with the BRAC requirement, the ARRA and the Parties entered into that certain Legally Binding Agreement (the “**Original LBA**”) and submitted it to the United States Department of Housing and Urban Development (“**HUD**”) and the Navy.

I. The Community Improvement Commission of the City of Alameda, one of the two members of the ARRA joint powers authority, ceased to exist by operation of California State law on February 1, 2012 and the City became the sole member of the ARRA joint powers authority.

J. By resolutions adopted on February 1, 2012 and February 8, 2012, the ARRA and the City, respectively, determined that the ARRA should assign and the City should accept the rights, assets, obligations, responsibilities, duties and contracts of the ARRA, subject to, among other things, OEA approval of the City as the local redevelopment authority (“**LRA**”) for NAS Alameda.

K. On March 9, 2012, OEA approved the City as the local redevelopment authority for NAS Alameda.

L. The Parties intend to, or have entered into, that certain Amended and Restated Legally Binding Agreement (the “**LBA**”), which amended and restated the Original LBA in response to comments received by the Navy.

M. The LBA will provide for, among other matters, (i) the transfer by the LRA to the Authority by quitclaim deed (the “**LRA Deed**”) of a fee simple interest in a portion of the North Housing Parcel shown on the map attached as Exhibit A to this Agreement (the “**Property**”), and (ii) the Parties to develop ninety (90) units of supportive housing for homeless persons (the “**Project**”) on the Property and/or an alternative site(s), as more particularly described in the LBA.

N. In order to provide for the development of the Project in compliance with Section 26.2 of the City of Alameda Charter, the Property will be conveyed to, and owned by, the Authority and the Parties anticipate that it may be ground leased to a limited partnership or

limited liability company or other form of ownership if necessary to obtain funding (“**Project Ownership Entity**”) to construct, own the improvements to be constructed on the Property (but not the land, which would be owned by the Authority), and operate the Project.

O. The Parties agree that, subject to applicable funding limitations, the Parties shall establish a mechanism for a preference for occupying the Project units with clients from APC and BFWC programs.

P. This Agreement amends and restates the Original MOU, which was amended and restated for consistency with the LBA.

Q. The Parties are entering into this Agreement to affirm their commitment to work together on this endeavor, set forth their respective rights and obligations, and the policies and procedures for negotiations with the LRA, pre-development activities, and other efforts in furtherance of the Project.

NOW, THEREFORE, in consideration of the mutual promises and agreements set forth below, the Parties agree as follows:

#### ARTICLE 1.

##### DESCRIPTION OF THE PROJECT AND BASIC POINTS OF AGREEMENT

Section 1.1 Description of the Project. The Parties agree that the Project shall consist of approximately ninety (90) units of multifamily rental housing of assorted bedroom sizes for homeless individuals and families on approximately nine (9) acres (subsequently revised to thirteen (13) acres), in one or more phases or sub-projects, and subject to change pursuant to Section 1.3 below. Subject to acquisition of the Property by the Authority, the Project shall be constructed on the Property, unless the Parties agree to an alternate location pursuant to Section 1.3 below. The Property shall be owned by the Authority and the Parties anticipate that it may be transferred to a Project Ownership Entity to facilitate funding sources, which transfer may be by ground lease.

##### Section 1.2 Primary Responsibilities; PLL Insurance.

(a) As more specifically described in Article 3 below, the Authority shall be responsible for developing and managing the Project. The Providers shall be responsible for providing supportive services to the Project and its Residents, which fill gaps in the existing continuum of care, as described in Exhibit B attached hereto (collectively, the “**Programs**”). The Authority and the Providers shall be jointly responsible for marketing and Resident selection. Subject to the requirements of funding sources and the governing documents of the Project Ownership Entity, if applicable, all three Parties shall agree and approve the matters set forth in Exhibit C attached hereto and incorporated herein.

(b) Pursuant to Section 1.1 of the LBA, acquisition of the Property by the LRA is contingent on procurement of pollution legal liability insurance (the “**PLL Insurance**”) for the Property (effective upon the transfer of the Property). Furthermore, the Parties agree that

the cost of such PLL Policy shall not exceed Reasonable Cost (as defined below). In the Original LBA, the Parties agreed that "reasonable cost" meant an amount not to exceed Seven Hundred Seventy-Seven Thousand Dollars (\$777,000), which was based on a 2008 estimate for such insurance. Promptly following approval of the LBA by HUD and the Navy, (i) the Parties shall use best efforts to reasonably agree in good faith on an update of the 2008 estimated cost of PLL Insurance, and (ii) the Parties shall diligently pursue in good faith funding sources for the procurement of such PLL Insurance in an amount not to exceed the Reasonable Cost. For purposes herein "**Reasonable Cost**" shall mean the updated cost as agreed upon by the Parties pursuant to this Section 1.2(b).

Section 1.3 Alternate Property; Buy Out.

(a) If, after recordation of the LRA Deed, the Parties agree (i) to reasonably consider proposals from a master developer to provide an alternate site(s) for the Project, to change the number of units to be included in the Project, and/or to a "buy out" of all or a portion of the Project or the Property, and (ii) that the written consent of all three Parties shall be required for any such arrangement.

(b) Pursuant to Section 2.7.1 of the LBA, the Parties may voluntarily enter into an agreement with a master developer providing for the relocation of all or part of the Project, at no cost or at limited cost to the Parties, to an alternative location(s) selected by the Parties within the City; provided that such relocation shall be at no cost to the LRA and the Parties shall be responsible for securing any and all approvals for the development and operation of the Project on such site(s). The alternative parcel(s) of land may be smaller than thirteen (13) acres if ninety (90) units of permanent supportive multifamily rental housing for homeless individuals and families and community space or the commensurate number of units and facilities, if applicable, to be relocated can be accommodated on such land. Any alternative parcel(s) of land so selected pursuant to Section 2.7.1 of the LBA and transferred to the Authority for development of the Project, together with any portion of the original Property retained by the Authority (if any), shall thereafter be deemed to be, and referred to, collectively as the Property for all purposes of this Agreement and the LBA.

(c) If, after recordation of the LRA Deed, the Parties agree to a "buy out" of all or a portion of the Project or the Property by a master developer, then the proceeds of such buy out shall first be distributed to the Parties to reimburse each Party's reasonable costs incurred in connection with the Project and/or Property after the recordation of the LRA Deed and any balance shall be divided equally between the Parties. The Parties agree to meet and confer in good faith to identify such reasonable costs prior to entering into any such buy-out agreement. This Agreement, together with the LBA (with the written concurrence of the LRA), shall be released as to all or any portion of the Project and/or Property that is the subject of the buy out, and this Agreement, together with the LBA (with the written concurrence of the LRA), shall be terminated and be of no further force and effect with respect to all or any such portion, as applicable (except for any rights and obligations pursuant to this Agreement and/or the LBA, as applicable, which survive any such termination).

**EXHIBIT A**

**MAP SHOWING LOCATION OF PROPERTY**

**[ATTACHED]**

Section 1.4 Sale of Property; Use of Sale Proceeds.

(a) Prior to selling the Property, or any portion thereof, pursuant to Section 2.2.6 of the LBA, the Parties shall meet and confer in good faith to agree on such disposition(s), which shall require the written consent of all three Parties (which may be in the form of joint escrow instructions). If the Property, or any portion thereof, is subsequently sold by the Authority pursuant to Section 2.2.6 of the LBA, the Parties shall first use the sale proceeds to reimburse each Party's reasonable costs incurred in connection with the Project, then use the balance of the sale proceeds to diligently pursue construction and operation of the Project, or a portion thereof (at least forty (40) units), on an alternative site(s), which may include making a local match for a funding source for new construction. If after five (5) years from such sale of the Property, or a portion thereof, the Parties reasonably determine in good faith that construction of the Project, or a portion thereof, is infeasible, the sale proceeds shall be divided equally between the Parties and the Parties shall meet and confer to use such proceeds to maximize the benefit to Homeless Persons (as defined in the LBA), which may include funding operating expenses of, or programs serving, existing homeless accommodations within the City and/or pursuit of construction of a portion of the Project by one or more of the Parties.

(b) If the Providers obtain the Property pursuant to Section 3.2 of the LBA, then the Parties shall diligently pursue construction and operation of the Project and Programs in accordance with the LBA and this MOU.

(c) If title to the Property reverts to the LRA pursuant to LBA Section 1.1.1.2, the LRA is required pursuant to LBA Section 1.1.2.2 to sell the Property and distribute the proceeds (net of the LRA's reasonable costs incurred from the sale) first to reimburse the Providers for their reasonable costs incurred in connection with the Project (including architectural, engineering, consultant and staff costs, and attorney's fees related to design, construction and submittals for funding sources), and then to support programs and facilities, including permanent or supportive service-enriched housing for homeless persons in the City with the highest priority given equally among the Providers to fund Programs and development of housing units and facilities. In such event, the Parties will meet and confer in good faith to determine the feasibility of submittal of a joint application to the LRA to use the Property sales proceeds for funding an alternative version of the Project. In the event the Parties fail to agree to such joint application by the earlier of (i) three (3) months following the sale of the Property by the LRA, or (ii) such reasonable period after the LRA issues the solicitation for applications such that an application can be timely prepared and submitted by the due date, then each Party shall be free to apply individually to the LRA for all or a portion of such proceeds to use as required by Section 1.1.2.2 of the LBA.

Section 1.5 Project Agreements. The Parties anticipate that one or more of the Parties will enter into additional agreements in furtherance of the Project (collectively the "**Project Agreements**"), including, without limitation, agreements with financial consultants, organizational documents for the Project Ownership Entity, potentially a ground lease between the Authority and the Project Ownership Entity, services agreements setting forth the details of arrangements for the Providers to provide services to the Project, and, if necessary, a property management agreement providing for the Authority and/or a Property Manager (as defined

below) to manage the Project during operations. The Parties agree to cooperate and to use best efforts to make such Project Agreements consistent with the provisions of this Agreement.

## ARTICLE 2. ORGANIZATION AND OWNERSHIP

Section 2.1 Ownership of Property The Property shall be owned by the Housing Authority and the Parties anticipate that it may be ground leased to the Project Ownership Entity, which the Parties anticipate would construct and own the improvements to be constructed on the Property (but not the land, which would be owned by the Authority) and operate the Project.

### Section 2.2 Formation of Limited Partnership or Limited Liability Company.

(a) If a Project Ownership Entity is to be formed for the purposes described in Section 2.1 above, the Parties shall negotiate in good faith regarding such formation. All Parties shall approve the identity of all partners and/or members of the Project Ownership Entity, and all Parties shall have the right (but not the obligation) to participate in the Project Ownership Entity as a special limited partner with certain approval rights or as a non-managing member with certain approval rights depending on the form of the Project Ownership Entity.

(b) Regardless of whether any of the Parties participate in the Project Ownership Entity as a special limited partner or non-managing member, the Parties shall use best efforts to negotiate organizational documents of the Project Ownership Entity to include that: (i) the matters set forth in Exhibit C attached to this Agreement shall be approved by all three Parties to this Agreement in writing; and (ii) the development and operation of the Project shall be consistent with provisions of this Agreement, including without limitation the rights and obligations of the Parties set forth in this Agreement, as this Agreement may be amended from time to time in writing by all Parties.

(c) If a Project Ownership Entity is not formed pursuant to this Section 2.2, this Agreement, together with the LBA, and Project Documents, as applicable, as such agreements may be amended from time to time and supplemented by additional agreements, shall govern the rights and obligations of the Parties in connection with the Property and Project.

## ARTICLE 3. DEVELOPMENT AND OPERATION OF THE PROJECT

### Section 3.1 Development.

(a) The Authority shall have the obligation to develop the Project. The Authority may solicit and identify a nonprofit public benefit corporation to serve as the developer of the Project (a "**Developer**") in connection with the application for Project financing and an allocation of low income housing tax credits for the Project. All Parties shall approve the selection of the Developer.

(b) The Authority shall develop and implement a development plan, schedule, and budget for the Project, subject to review and input by the Providers. Following such review and input, the Authority shall be responsible for the following activities:

- (1) negotiating and securing predevelopment, construction and permanent financing for the development of the Project;
- (2) arranging for the commitment of operating funds and subsidies;
- (3) securing the consultants who will assist in the development of the Project, which includes, but is not limited to, the architect, general contractor and financial advisor;
- (4) overseeing, monitoring and directing the Developer, architect, engineer, and other professionals through the development process of the Project;
- (5) applying for and securing the necessary entitlement approvals for the Project; and
- (6) managing/construction oversight of the development of the Project.

(c) The Providers shall have direct input in connection with the selection of the architect selected for the design of the Project.

(d) The Authority and Providers shall work cooperatively with the project architect to develop the architectural program for the Project in a timely and expeditious manner.

(e) The Providers shall participate in key meetings with the project architect, such as the initial presentation, development of the architectural program, and final design development.

(f) The Parties shall cooperate to approve the final design plans for the Project, which approval shall not be unreasonably conditioned, withheld or delayed.

(g) The Authority shall provide Providers with quarterly reports after conveyance of the Property to the Authority. After predevelopment activities commence, the Authority shall provide regular progress updates informing the Providers regarding the development status of the Project. In addition, the Authority shall provide progress updates to the Providers per Providers' request to facilitate needs such as information necessary for grant proposals.

### Section 3.2 Management of Services Program.

(a) The Providers shall provide the Programs. In accordance with the LBA, the Programs, including any future changes in the scope of services of the Programs, shall constitute services and activities under a Continuum of Care System (as defined in



32 C.F.R. § 176.5) and shall comply with the implementation, intent and requirements of the Reuse Plan (as defined in the LBA). The Providers shall enter into a separate Memorandum of Understanding to set forth the respective obligations of the Providers in connection with the Programs (“**Providers MOU**”). Providers may enter into subcontracts with other services providers to implement the Programs, as needed.

(b) The Parties shall be jointly responsible for the following activities:

(1) marketing and outreach to obtain applicants to reside in the Project units;

(2) maintaining and managing waiting lists for Project units, subject to coordination and compliance with Section 8 or other funding requirements; and

(3) overseeing and coordinating Residents’ move-in and occupancy.

(c) The Providers shall be responsible for providing and coordinating all aspects of the Program, including, but not limited to:

(1) developing services plans, as necessary to apply for financing and tax credits for the Project;

(2) coordinating service provision with the Property Manager as needed;

(3) determining an appropriate level of supportive services for the Residents; and

(4) providing and coordinating case management services, job training and placement, counseling, support groups, trainings, events, activities, informational resources, referrals, and other relevant services.

(d) Providers’ obligations to provide services and to implement the Programs pursuant to this Section 3.2, are contingent on receipt of sufficient funding to provide such services, as reasonably determined by the Parties.

Section 3.3 Property Management.

(a) The Authority shall manage the Project. The Authority may solicit and identify a qualified property management company to provide property management services for the Project (the “**Property Manager**”). The Parties shall agree upon the selection of the Property Manager, which shall also be acceptable to project lenders and investors. The Authority shall oversee and direct the Property Manager. Procedures for day-to-day coordination among the Providers and the Property Manager on routine property management issues shall be developed with the Authority.

(b) The Authority is responsible for all property management functions with respect to the Project, including without limitation certification and recertification of household size and income, collection of rents and deposits, maintenance, landscaping, routine and extraordinary repairs, and replacement of capital items.

(c) The Providers and the Authority shall meet and confer in good faith to agree on the following matters related to Resident selection and occupancy:

- (1) the activities described in Section 3.2(b)(1) above;
- (2) screening applicants for program eligibility;
- (3) the activities described in Section 3.2(b)(2) above;
- (4) developing and implementing application procedures and policies for screening for program and income eligibility and selecting applicants for residency;
- (5) facilitating Resident screening and applications;
- (6) the activities described in Section 3.2(b)(3) above;
- (7) establishing Resident occupancy policies;
- (8) establishing Resident retention and eviction policy; and
- (9) establishing policies regarding the Authority's and the Property Manager's responsiveness to Residents.

(d) At least six (6) months prior to the anticipated commencement of construction of the Project, the Authority shall schedule a planning meeting with the Providers to develop a proposed management plan. At least six (6) months prior to the commencement of operation of the Project, the Parties shall jointly prepare and mutually agree on a proposed management plan (the "**Management Plan**") to be implemented upon commencement of operations of the Project.

(e) The Parties shall meet on a regular basis to coordinate the activities described in this Section 3.3.

#### Section 3.4 Management Plan Review.

(a) If the Providers determine, in their reasonable judgment, that the Project is not being operated and managed in accordance with the Management Plan, the Providers shall deliver a written request to the Authority outlining its concerns. Within fifteen (15) calendar days of receipt by the Authority of such written notice, the Parties shall meet in good faith to discuss the Provider's concerns. The Authority shall have a reasonable time (not to exceed sixty (60) days) to address the concerns. If, after such period, the Provider believes that the Project is

not being managed in accordance with the Management Plan, the Providers may request replacement of the Property Manager or on-site Resident manager. The Authority shall consider such request in good faith and shall evaluate the Property Manager or on-site Resident manager, as applicable, in accordance with the Authority's procedures. If the Authority determines that replacement of the Property Manager or on-site Resident manager, as applicable, is necessary, the Authority shall dismiss the then Property Manager or on-site Resident manager, as applicable, and shall engage a replacement Property Manager or on-site Resident manager, as applicable.

(b) Any contract for a Property Manager or on-site Resident manager entered into by the Authority shall provide that the contract can be terminated as set forth above.

Section 3.5 Rent. The Authority shall be responsible for calculating rents for the Project units and collecting rents from the Residents.

Section 3.6 Preferences in Tenant Selection.

(a) To the maximum extent permitted by applicable law, preferences in the selection of Residents for the Project shall be provided to clients of the Providers, including persons residing at properties of the Providers to the extent consistent with legal requirements of Project funding programs, provided that clients of the Providers who live and work in the City of Alameda shall have priority (subject to funding source requirements). If the Project utilizes Project-based Section 8 vouchers, the Parties shall use best efforts to establish a site-based waiting list for the Project.

(b) At least six (6) months prior to completion of construction of the Project, the Parties shall establish a referral system to facilitate admission of the clients of the Providers as Residents of the Project.

Section 3.7 Maintenance. The Authority shall be responsible for maintenance and repair of the Property and Project, which will be done in accordance with established Authority policy.

Section 3.8 Insurance; Indemnification.

(a) On or before the commencement of operations of the Programs, the Providers shall each furnish the Authority with certificates showing the type, amount, class of operations covered, effective dates and dates of expiration of insurance coverage in compliance with this Section 3.8. Such certificates shall also contain substantially the following statement: "Should any of the above insurance covered by this certificate be canceled or coverage reduced before the expiration date thereof, the insurer affording coverage shall provide thirty (30) days' advance written notice to the Housing Authority of the City of Alameda by certified mail." The Providers shall maintain in force at all times during the performance of the Programs and provision of services of the Project all appropriate coverage of insurance acceptable to the Authority's Risk Manager and licensed to do insurance business in the State of California. An

endorsement naming the parties required pursuant to Section 3.8(d) below as additional insureds shall be submitted with the insurance certificates.

(1) Each of the Providers shall maintain the following insurance coverage:

(A) Workers' Compensation: Statutory coverage as required by the State of California.

(B) Liability: Commercial general liability coverage in the following minimum limits:

1. Bodily Injury:

- a. \$1,000,000 each occurrence
- b. \$2,000,000 aggregate – all other

2. Property Damage:

- a. \$1,000,000 each occurrence
- b. \$2,000,000 aggregate

3. If submitted, combined single limit policy with aggregate limits in the amounts of \$1,000,000 will be considered equivalent to the required minimum limits shown above.

(C) Automotive: Comprehensive automobile liability coverage in the following minimum limits:

1. Bodily Injury:

- a. \$1,000,000 per accident
- b. \$2,000,000 aggregate

2. Property Damage: \$1,000,000 per accident

(D) Professional Liability: Professional liability insurance which includes coverage for the professional acts, errors and omissions of the Providers in the amount of at least \$1,000,000.

(2) The Providers agree that in the event of loss due to any of the perils for which it has agreed to provide comprehensive general and automotive liability insurance, that Providers shall look solely to their insurance for recovery. The Providers hereby grant to the Authority, on behalf of any insurer providing comprehensive general and automotive liability insurance to either the Providers or the Authority with respect to the services of the

Providers herein, a waiver of any right to subrogation which any such insurer of said Provider(s) may acquire against the Authority by virtue of the payment of any loss under such insurance.

(3) If the Providers should fail to secure or maintain the foregoing insurance, the Authority shall be permitted to obtain such insurance in the Provider's name(s) or as an agent of the Providers and shall be compensated by the Providers for the costs of the insurance premiums at the maximum rate permitted by law and computed from the date written notice is received that the premiums have not been paid.

(b) The Authority, its Board of Commissioners, Housing Commission, officers, employees and volunteers shall be named as additional insureds under all insurance required to be carried by the Providers pursuant to this Agreement. Any Project insurance carried by the Authority shall name the Providers, their boards, officers, employees and volunteers as additional insureds thereunder. The naming of an additional insured shall not affect any recovery to which such additional insured would be entitled under such policy if not named as such additional insured. An additional insured named herein shall not be held liable for any premium, deductible portion of any loss, or expense of any nature on such policy(ies) or any extension(s) thereof. Any other insurance held by an additional insured shall not be required to contribute anything toward any loss or expense covered by the insurance provided by such policy(ies).

(c) The insurance limits required by the Authority are not represented as being sufficient to protect the Providers. The Providers are advised to consult the Providers' insurance broker(s) to determine adequate coverage for the Providers.

(d) All insurance required by to be carried by the Providers pursuant to this Section 3.8 shall be evaluated for adequacy by the Authority's Risk Manager prior to commencement of operations of the Programs and not less frequently than every five (5) years thereafter. The Authority's Risk Manager shall have the right to request additional insurance provisions, such as those shown on Exhibit D attached hereto, which as of the date of this Agreement, are the current standard insurance requirements for community and social service providers offering counseling.

(e) Commencing as of completion of construction and commencement of management and operations of the Project, as evidenced by the first Resident residing in the Project:

(1) The Providers shall defend, indemnify, and hold harmless the Authority, its officers, officials, employees, and volunteers (collectively, the "**Authority Indemnitee(s)**") from and against all claims, damages, losses and expenses (including reasonable attorneys' fees) arising from any claim or actions against an Authority Indemnitee(s) for damages sustained by any third person(s), and/or on account of damaged property of any third person, including the loss of use thereof, in any way related to or arising out of the management and operation of the Programs by or through the Providers as described herein, caused in whole or in part by any negligent act or omission of a Provider(s), its contractor(s), anyone directly or indirectly employed by any of them, or anyone for whose acts any of them

may be liable, except where caused by the active negligence, sole negligence, or willful misconduct of the Authority.

(2) The Authority shall defend, indemnify, and hold harmless the Providers, their officers, employees, and volunteers (collectively, the “**Provider Indemnitee(s)**”) from and against all claims, damages, losses and expenses (including reasonable attorneys’ fees) arising from any claim or actions against a Provider Indemnitee(s) for damages sustained by any third person(s), and/or on account of damaged property of any third person, including the loss of use thereof, in any way related to or arising out of the management of the Project by or through the Authority as described herein, caused in whole or in part by any negligent act or omission of the Authority, its contractor(s), anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, except where caused by the active negligence, sole negligence, or willful misconduct of the Provider(s).

ARTICLE 4.  
FINANCIALS

Section 4.1 Accounting.

(a) The Authority shall function as the fiscal agent for Project and shall be responsible for the books and accounts in connection with the Project (the “**Project Books**”). The Providers shall have reasonable access to the Project Books. The Project Books shall be kept on the accrual accounting method. The fiscal accounting period shall be the fiscal year commencing on July 1 and ending on June 30.

(b) During the predevelopment period, the Authority shall provide the Providers with a quarterly accounting summary of the expenses to date of the Project and, if applicable, the Project Ownership Entity and the Providers shall provide the Authority with a monthly accounting summary of costs and expenses attributable to the Program.

(c) During the operating period, the Authority shall provide the Providers with a quarterly operating report of the Project, and the Providers shall provide the Authority with a quarterly accounting summary of costs and expenses attributable to the Program, together with an annual report of results achieved by the Providers with such funds.

Section 4.2 Funding Applications; Supplemental Funding. The Authority shall prepare and submit funding applications for predevelopment activities, construction, bridge and permanent financing, and the Providers shall prepare and submit funding applications for implementing the Programs, to various funding sources, including but not limited to HUD, state and local governments, and private funding sources.

(a) The Parties shall cooperate and meet and confer in good faith to (1) identify potential funding sources, (2) identify any such funding sources that may materially impact the proposed Project, Programs and/or Residents, and (3) agree on the funding sources to be sought for the Project and Programs.

(b) The Parties shall cooperate with each other in the preparation and submission of all applications for the funding sources agreed upon pursuant to Section 4.2(a) above.

Section 4.3 Section 8 Vouchers. If the Authority is permitted to participate in the HUD Moving to Work program or another program which provides similar flexibility to increase the number of Section 8 project-based vouchers, then Authority shall use best efforts to obtain all necessary awards and approvals to obtain and dedicate the maximum allowable number of Section 8 project-based vouchers for the Project.

Section 4.4 Program Costs and Expenses. Providers shall prepare an annual budget for the costs and expense of the Program (the "**Program Budget**"). The Program Budget shall include, but not be limited to the following: (a) the costs of staffing (including FTE, salary and benefits for each staff person) all aspects of the Program; (b) the costs of support services; (c) office costs; and (d) organizational overhead attributable to the delivery of services at the Project.

Section 4.5 Developer Fee. The Parties shall use best efforts to secure a share of a developer fee, if applicable. If a developer fee is available as compensation for work in developing the Project incurred by the Parties, it is the intention of the Parties that the amount shall be divided equitably among the Parties, subject to the approval of the California Tax Credit Allocation Committee and of lenders providing financing for the Project, as applicable.

Section 4.6 Distribution of Excess Cash Flow. The Parties agree that any cash flow generated by the Project shall be utilized for operation of the Project and, if applicable, the Programs, including adequate funding of operating and replacement of reserves. Any excess cash flow from the Project shall be distributed to the Authority.

## ARTICLE 5. DEFAULT AND REMEDIES

Section 5.1 Event of Default. The occurrence of any of the following events shall constitute an "**Event of Default**" under this Agreement, subject to the notice and cure provisions of Section 6.2 below:

- (a) Failure to comply with the conditions and requirements of this Agreement;
- (b) Failure to perform obligations under this Agreement; and/or
- (c) Failure to pay when due any sums payable under this Agreement.

Section 5.2 Notice of Default and Opportunity to Cure. A non-defaulting Party shall give written notice to a defaulting Party(ies) of any Event of Default by specifying: (a) the nature of the Event of Default or the deficiency giving rise to the default, (b) the action required to cure the deficiency, if an action to cure is possible, and (c) a date, which shall not be less than thirty (30) calendar days from the date of receipt of the notice or the date the notice was refused,

by which such action to cure must be taken or if a cure cannot be accomplished in thirty (30) days a reasonable time thereafter.

Section 5.3 Remedies. Upon an Event of Default which is not cured within the cure period set forth in Section 5.2 above, a non-defaulting Party is entitled to any and all available remedies at law or in equity.

## ARTICLE 6. GENERAL PROVISIONS

### Section 6.1 Good Faith Negotiations and Cooperation.

(a) The Parties shall jointly negotiate with LRA the terms and conditions of the LBA regarding the conveyance of the Property to the Authority, including, but not limited to, the following: (1) identification of the size and location of the Property; (2) the number of units in the Project; (3) the timing of executing the LBA; and (4) additional services and facilities not described in the Parties' NOI that serve the City of Alameda's homeless population.

(b) The Parties shall diligently and in good faith negotiate all documents required for the formation of the Project Ownership Entity, if applicable; all conveyance documents; all financing documents; and any and all other documents reasonably necessary for facilitating the development and operation of the Project. Upon completion of construction of the Project, the Parties shall diligently and in good faith cooperate in the management and operations of the Project.

Section 6.2 Approvals. Any approval required by any Party pursuant to the terms of this Agreement shall not be unreasonably conditioned, withheld or delayed. If the Parties disagree, the Parties shall promptly meet and confer in good faith to resolve the matter.

Section 6.3 Further Assurances. The Parties agree to execute and acknowledge such other or further documents, including Project Documents, as may be necessary or reasonably required to express the intent of the Parties or otherwise effectuate the terms of this Agreement. Each Party shall promptly provide to the other Parties accurate, true, correct and complete certificates, documents, or schedules as may be necessary and reasonably required.

Section 6.4 Alternative Dispute Resolution Procedures. The following procedures are subject to Section 2.2 and the requirements of any project lenders and/or investors, as applicable.

(a) If, after meeting and conferring in good faith pursuant to this Agreement, any dispute arises between the Parties under this Agreement, a Party may submit a written request to the other Party(ies) to have the dispute resolved in accordance with the provisions of this Section 6.4 (the "**Resolution Notice**").

(b) No later than twenty (20) business days following the receipt of the Resolution Notice by a Party(ies), one or more representatives of the applicable Parties shall meet and negotiate in good faith to resolve the dispute within thirty (30) days of the date of



receipt of the Resolution Notice or, if the dispute cannot be resolved within thirty (30) days of the receipt date of the Resolution Notice, then the resolution of such dispute shall commence within such thirty (30)-day period, and the Parties shall make good faith efforts to resolve the dispute within such thirty (30)-day period, or, if appropriate, sixty (60) days, (or such longer period as the applicable Parties may agree in writing). If a Party(ies) refuses or fails to meet for any reason or if the dispute cannot be resolved as a result of the meeting(s), the Parties shall in good faith attempt to resolve the dispute in accordance with the procedures described in Section 6.4(c) below.

(c) If the dispute cannot be resolved pursuant to Section 6.4(b) above within thirty (30) days of receipt of the Resolution Notice, or, if appropriate, sixty (60) days, (or such longer period as the applicable Parties may agree in writing), the dispute shall be submitted to mediation pursuant to the mediation procedures adopted by the American Arbitration Association or any successor thereto or to any other entity offering mediation services that is acceptable to the Parties, which acceptance the Parties shall not unreasonably withhold, condition or delay. Any Party may initiate such mediation procedures. No person shall serve as a mediator in any dispute in which the person has any financial or personal interest in the result of the mediation, except by written consent of all applicable Parties. The Parties shall require that prior to accepting any appointment, the prospective mediator shall disclose any circumstances likely to create a presumption of bias or prevent a prompt commencement of the mediation process.

(d) If mediation under Section 6.4(c) above fails to resolve the dispute, nothing in this Agreement shall prevent the Parties from mutually agreeing to arbitration of the dispute.

(e) The Parties to a mediation and, if applicable, arbitration, shall share equally the costs of the mediator and, if applicable, the arbitrator, but shall be separately responsible for any attorney's fees it may incur in connection with such mediation and, if applicable, arbitration.

Section 6.5 Assignment/Delegation. Except as provided in this Agreement, the Parties shall not assign, delegate or transfer any interest in or duty under this Agreement without the prior written consent of the other Parties, and no assignment, delegation or transfer shall be of any force or effect unless and until the other Parties have approved such assignment, delegation, or transfer in writing. This Agreement shall inure to the benefit of and be binding upon the successors and approved assigns of the Parties.

Section 6.6 Term. Parties agree that the term of this Agreement shall commence on the Effective Date of this Agreement and shall terminate on July 5, 2067 (fifty-five (55) years from the Effective Date), unless extended or earlier terminated by written instrument executed by all of the Parties. It is the Parties intent that this Agreement shall be coterminous with the LBA; provided, however, if the Authority is released from the LBA pursuant to Section 3.2 of the LBA, this Agreement shall terminate and be of no further force and effect (except any rights and obligations which this Agreement expressly provides survive such termination).

Section 6.7 Construction and Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California. When required by the context of this Agreement, the singular shall include the plural, and the neuter shall include the masculine and feminine.

Section 6.8 Limitation on Liability. No member, official or employee of the Authority shall be personally liable to the Providers in the event of any default or breach by the Authority, or for any amount which may become due to a Provider(s), or on any obligations under the terms of this Agreement. No member, official or employee of the Providers shall be personally liable to the Authority in the event of any default or breach by a Provider(s), or for any amount which may become due to the Authority, or on any obligations under the terms of this Agreement.

Section 6.9 Agency. Unless otherwise indicated, nothing in this Agreement shall be construed to make the Party the agent of the other Parties.

Section 6.10 Other Documents. The Parties understand that this Agreement does not constitute the final agreement between the Parties with respect to the Project. At various stages of the Project additional decisions and understanding may be required and may be memorialized by amendments to this Agreement or other documents, which the Parties shall negotiate in good faith.

Section 6.11 Non-Discrimination. There shall be no discrimination against or segregation of any person or group of persons on account of race, color, creed, religion, national origin or ancestry, political affiliation, sex, sexual orientation, age, disability, marital status or family status in the lease, sublease, use, or occupancy of any unit in the Project with reference to the selection, location, number, use or occupancy of Residents, lessees, or vendors of the Project.

Section 6.12 Nondisclosure. Information related to applicants, Residents, and former Residents of the Project shall be kept confidential in compliance with 24 C.F.R. Part 16, 42 U.S.C. 1437d(s), 42 U.S.C. 1437(d)(5); and 24 C.F.R. Part 5 et al.

Section 6.13 Notices. All notices, requests and demands required under this Agreement shall be given in writing, and shall be delivered personally (including by messenger) or by facsimile or sent by United States registered or certified mail, return receipt requested, postage prepaid or by courier, postage prepaid and addressed to the Parties at their respective addresses set forth below, and the same shall be effective upon receipt if delivered personally or by messenger or two (2) business days after deposit in the mail if mailed. Any Party may change its address for notice by sending a notice under the procedures set forth in this paragraph.

To Authority: Housing Authority of the City of Alameda  
701 Atlantic Avenue  
Alameda, CA 94501-2161  
Attention: Executive Director  
Telephone: (510) 747-4325  
Facsimile: (510) 522-7848

with copy to: City of Alameda  
2263 Santa Clara Avenue, Room 280  
Alameda, CA 94501  
Attention: Housing Authority General Counsel  
Telephone: (510) 747-4750  
Facsimile: (510) 747-4767

To APC: Alameda Point Collaborative, Inc.  
677 West Ranger Avenue  
Alameda, CA 94501  
Attention: Executive Director  
Telephone: (510) 898-7849  
Facsimile: (510) 898-7858

To BFWC: Building Futures with Women and Children  
1395 Bancroft Avenue  
San Leandro, CA 94577  
Attention: Executive Director  
Telephone: (510) 357-0205  
Facsimile: (510) 357-0688

Section 6.14 Titles of Parts and Sections. Any titles of the sections or subsections of this Agreement are inserted for convenience of reference only and shall be disregarded in interpreting any part of its provisions.

Section 6.15 Amendment. This Agreement may be modified at any time by the Parties. An amendment to this Agreement shall not be effective unless it is made in writing and signed by all Parties.

Section 6.16 Counterparts. This Agreement is executed in multiple originals each of which is deemed to be an original, and may be signed in counterparts.

Section 6.17 Force Majeure. No Party shall be deemed to be in default under this Agreement where delays or defaults are due to war; insurrection; strikes; lock-outs; riots; floods; earthquakes; fires; quarantine restrictions; freight embargoes; court order; or any other similar causes beyond the control of the Party whose performance is affected thereby. The Party whose performance is so affected shall make all reasonable efforts to remove such disability as soon as is reasonably possible.

Section 6.18 No Waiver. No waiver of any provision of this Agreement shall be valid unless contained in writing signed by the Parties. Failure or delay by a Party to enforce any provision of this Agreement shall not be deemed a waiver of that or any other provision.

Section 6.19 Authority. The person executing this Agreement on his/her organization's behalf represents and warrants that he/she has the proper authority to execute this Agreement.

Section 6.20 Severability. In the event any provision of this Agreement or its application to any person or circumstance shall be to any extent held to be invalid or unenforceable, the remainder of this Agreement, or the application of the term or provision to persons or circumstances other than those as to which it has been held invalid or unenforceable, shall not be affected by such holding, and each term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

Section 6.21 Entire Agreement. This Agreement together with the LBA constitute the entire agreement between the Parties with respect to the matters set forth herein. This Agreement together with the LBA shall completely and fully supersede all other prior understandings or agreements, both written and oral, between the Parties relating to the subject matter discussed in this Agreement.

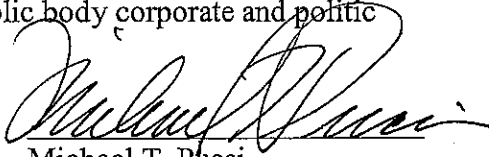
Section 6.22 Exhibits. Each Exhibit to this Agreement is incorporated herein and made a part hereof as if set forth in full.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the date first set forth above.

Authority:

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


By:



Michael T. Pucci  
Executive Director

Approved as to form:

By:

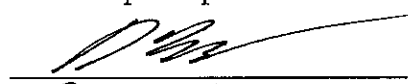


Stephanie Garrabrant-Sierra  
Assistant General Counsel

APC:

Alameda Point Collaborative, Inc.,  
a California nonprofit public benefit corporation

By:



Name:

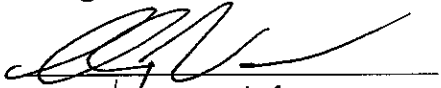
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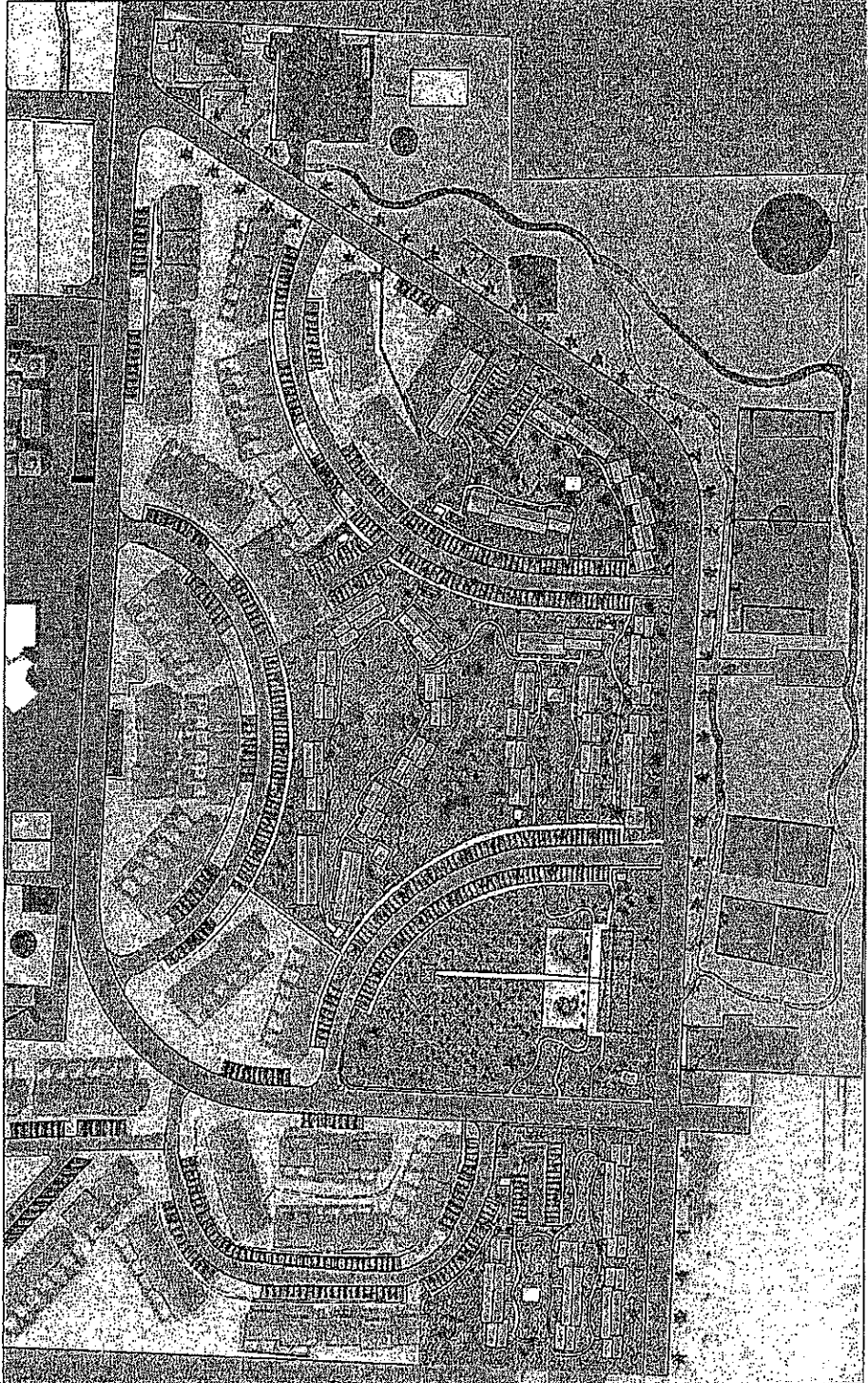
Title:

EXECUTIVE DIRECTOR

BFWC:

Cornerstone Community Development Corporation,  
a California nonprofit public benefit corporation,  
dba Building Futures with Women and Children

By:   
Name: Elizabeth Vanler  
Title: Executive Director



<p>PROJECT:</p> <p><b>COAST GUARD HOUSING PROPOSAL</b></p> <p>ALAMEDA HOUSING AUTHORITY</p>	<p>DRAWING TITLE:</p> <p><b>PROPOSED SITE PLAN</b></p> <p>SCALE: AS SHOWN</p> <p>SHEET # SCH/MA/TC - 1</p>	<p>DATE: FEBRUARY 27, 2008</p>	<p>ARCHITECT:</p> <p><b>SAUERBORN</b></p> <p>ARCHITECTS</p> <p>2145 FINE STREET, SUITE 400</p> <p>BERKELEY, CA 94704</p> <p>TEL: 510.841.1111</p> <p>FAX: 510.841.1117</p> <p>WWW.SAUERBORNARCHITECTS.COM</p>	<p>DATE: FEBRUARY 27, 2008</p>
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## **EXHIBIT B**

### Description of Use and Programs

The defined terms used in this Exhibit B shall have the meanings ascribed to them in the Agreement to which this is attached, unless defined herein.

The Authority, in collaboration with APC and BFWC, propose to create and operate the Project. The new development is intended to create stable, permanent options for those leaving Alameda's homeless programs, including shelter and transitional housing facilities. One or more housing units may be made available for a resident manager(s).

The Authority will be the fee owner of the land and will be responsible for developing and managing the Project. Building on existing programs and infrastructures, APC and BFWC will be the lead service providers for the development and shall be responsible for providing supportive services, to the Project and its Residents which fill gaps in the existing continuum of care.

BFWC will be the primary provider of case management services. Case managers will be stationed on-site in the development to provide day-to-day services for all Residents. APC will expand on its already established community-based services to provide a variety of services. Together, the services menu will include a full range of services depending on the needs of the residents—these services could include case management, counseling, job training and placement; substance abuse counseling and support groups; domestic violence support groups; youth afternoon and evening activities and tutoring; computer training; individual, couple and family counseling; housing information and referral; household donations and emergency food, and other services necessary to meet the needs of homeless families and individuals in the City of Alameda.

Associated on-site uses may include a community center with rooms for provision of the supportive services; offices for APC and BFWC; vehicle parking for Residents, guests, and the resident manager(s); laundry rooms; outdoor space; and landscaped areas.

## EXHIBIT C

### MAJOR DECISIONS REQUIRING WRITTEN CONSENT OF ALL PARTIES

The defined terms used in this Exhibit C shall have the meanings ascribed to them in the Agreement to which this is attached, unless defined herein.

1. Final Form of the LBA;
2. Designate location and size of the property to be transferred to the Authority or if applicable, ground leased to the Project Ownership Entity, including changes in location after LBA is signed;
3. Change in the project description from the description in the NOI;
4. Final Project Design;
5. Change orders during construction of the Project materially affecting community space and/or outdoor services space;
6. Subject to applicable law and funding source requirements, Project affordability levels, income requirements for Residents, and preferences in Resident selection, including any material changes in affordability levels, income requirements, and preferences;
7. RFP for Developer and selection of Developer;
8. Formation of Project Ownership Entity and addition of entities, as partners, limited partners, or members, as applicable;
9. Scope of Resident services consistent with LBA; and
10. Any financial buy out related to North Housing homeless accommodation or in connection with selection of alternate site.
11. The determination of funding sources pursuant to Section 4.2(a)(1) of the Agreement.



**EXHIBIT D**

**INSURANCE REQUIREMENTS FOR COMMUNITY AND SOCIAL SERVICES  
PROVIDERS OFFERING COUNSELING**

**[ATTACHED]**

# Insurance Requirements for Community and Social Service Providers Offering Counseling

Service Provider shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of or failure to perform the work hereunder by the Service Provider, its agents, representatives, employees, or sub-contractors.

## MINIMUM SCOPE OF INSURANCE

Coverage shall be at least as broad as:

1. Insurance Services Office Commercial General Liability coverage (*occurrence form CG 0 01 10 01*).
2. Insurance Services Office Additional Insured form (*CG 20 37 or CG 20 26*).
3. Insurance Services Office form number CA 00 01 06 92 covering Automobile Liability, Code 1 (*any auto*) [*require if scope of work includes driving on Authority property*].
4. Workers' Compensation insurance as required by State law and Employer's Liability Insurance.
5. Professional Errors and Omissions Liability insurance appropriate to Service Provider's profession.

## MINIMUM LIMITS OF INSURANCE

Service Provider shall maintain limits no less than:

1. General Liability: \$1,000,000 per occurrence for Bodily Injury, Personal Injury, and Property Damage (*including discrimination, fair housing, ADA violations, and sexual molestation*). If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the project/location or the general aggregate limit shall be twice the required occurrence limit.
2. Automobile Liability: \$1,000,000 per accident for Bodily Injury and Property Damage.
3. Workers' Compensation (*statutory*) and Employer's Liability: \$1,000,000 per accident for Bodily Injury or Disease.
4. Professional Errors and Omissions Liability: \$1,000,000 per occurrence.

**NOTE:** These limits can be attained by individual policies or by combining primary and umbrella policies.

## DEDUCTIBLES AND SELF-INSURED RETENTIONS

Any deductibles or self-insured retentions must be declared to and approved by the Authority. At the option of the Authority, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the Authority, its officers, officials, employees, and volunteers; or the Service Provider shall provide a financial guarantee satisfactory to the Authority guaranteeing payment of losses and related investigations, claim administration, and defense expenses.

## OTHER INSURANCE PROVISIONS

The General Liability, Discrimination, and Automobile Liability policies are to contain, or be endorsed to contain, the following provisions:

1. The Authority, its officers, officials, employees, and volunteers are to be covered as additional insured with respect to liability on behalf of the Service Provider including materials, parts, or equipment furnished in connection with such work or operations and with respect to liability arising out of work or operations performed by the Service Provider; or arising out of automobiles owned, leased, hired, or borrowed by or on behalf of the Service Provider.
2. For any claims related to this contract, the Service Provider's insurance coverage shall be primary insurance as respects the Authority, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the Authority, its officers, officials, employees, or volunteers shall be excess of the Service Provider's insurance.
3. Each insurance policy required by these specifications shall be endorsed to state that coverage shall not be cancelled or materially changed, except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the Authority.
4. Maintenance of the proper insurance for the duration of the contract is a material element of the contract. Material changes in the required coverage or cancellation of the coverage shall constitute a material breach of the contract by the Service Provider.

### **ACCEPTABILITY OF INSURERS**

Insurance is to be placed with insurers with a current A. M. Best's rating of no less than B+:VI. Bidders must provide written verification of their insurer's rating.

### **VERIFICATION OF COVERAGE**

Service Provider shall furnish the Authority with original certificates and amendatory endorsements effecting coverage required by these specifications. The endorsements should conform fully to the requirements. All certificates and endorsements are to be received and approved by the Authority in sufficient time before work commences to permit Contractor to remedy any deficiencies. The Authority reserves the right to require complete, certified copies of all required insurance policies, including endorsements effecting the coverage required by these specifications at any time.

### **SUB-CONTRACTORS**

Service Provider shall include all sub-contractors as insureds under its policies or shall furnish separate insurance certificates and endorsements for each sub-contractor in a manner and in such time as to permit the Authority to approve them before sub-contractors' work begins. All coverages for contractors or sub-contractors shall be subject to all of the requirements stated above. It is foreseeable that some specialty trades may perform work where different coverages than the above are needed. These decisions should be made by an insurance broker or the Authority.

**NOTE:** If a sub-contractor will be hired for work under this contract, that sub-contractor will be required to name the Authority, its officers, officials, employees, and volunteers as Additional Insureds on its insurance policies by endorsement.

Notwithstanding this provision, Contractor shall indemnify the Authority for any claims resulting from the performance or non-performance of the Contractor's sub-contractors and/or their failure to be properly insured.