

MEMORANDUM OF UNDERSTANDING
BETWEEN THE
ALAMEDA COUNTY TRANSPORTATION COMMISSION
AND THE
CITY OF SAN LEANDRO
FOR THE
**EAST BAY GREENWAY MULTIMODAL (PHASE 1) PROJECT – AFFORDABLE HOUSING AND
SUSTAINABLE COMMUNITIES APPLICATION**

This Memorandum of Understanding (“MOU”) is entered into this ____ day of _____, 2025 by and between the ALAMEDA COUNTY TRANSPORTATION COMMISSION, a joint powers agency (“ALAMEDA CTC”), and the CITY OF SAN LEANDRO (“CITY”), a public agency (together with ALAMEDA CTC, the “PARTIES” and each individually a “PARTY”).

RECITALS

WHEREAS, ALAMEDA CTC is both the Project Sponsor and Implementing Agency (as such terms are defined below) responsible for the overall project implementation including project delivery, management, and funding associated with the East Bay Greenway Multimodal (Phase 1) Project, which crosses multiple incorporated cities and unincorporated communities; and

WHEREAS, the East Bay Greenway Multimodal (Phase 1) Project within San Leandro will span approximately 3.5 miles and connect from the northerly San Leandro City Limit to the Bayfair area via San Leandro Boulevard and East 14th Street; and

WHEREAS, the State of California’s Strategic Growth Council (“SGC”) and Department of Housing and Community Development (“HCD”) issued a Notice of Funding Availability dated March 25, 2025 (the “AHSC NOFA”), under the Affordable Housing and Sustainable Communities (“AHSC”) Program; and

WHEREAS, the CITY in partnership with Pacific West Communities, Inc. (“Developer”) are applying for AHSC funds in response to the AHSC NOFA to provide funding for: (A) construction of an affordable housing project within San Leandro to be constructed by the Developer (the “Developer Obligations”); and (B) sustainable transportation infrastructure (“STI”) related to the East Bay Greenway Multimodal (Phase 1) Project within San Leandro implemented by ALAMEDA CTC (the “STI Obligations”). These improvements are described in more detail in the final funding application to be submitted by May 28, 2025 (collectively, the “AHSC Application”); and

WHEREAS, the PARTIES have agreed that the CITY and the Developer will submit an AHSC Application, and ALAMEDA CTC will be a non-applicant partner responsible for the completion of the STI Obligations pertaining to the completion of the East Bay Greenway Multimodal (Phase 1) Project within San Leandro; and

WHEREAS, the PARTIES are required to enter into this agreement in order to comply with the specific AHSC Program Guidelines stated in Section 103(a)(1)(A) and Section 103(f)(3) of the AHSC Program Round 9 Guidelines dated February 26, 2025. AHSC Program requires the AHSC Application

include an executed agreement between the Applicant and non-Applicant that demonstrates components proposed will be completed by the respective implementing agencies as stated within the AHSC Application.

WHEREAS, the PARTIES have agreed that if awarded AHSC funds for STI Obligations pertaining to the East Bay Greenway Multimodal (Phase 1) Project, the CITY will serve as the fund recipient and fiscal agent for the awarded AHSC funds, and will pass through the funds to ALAMEDA CTC for implementation of STI Obligations pertaining to the East Bay Greenway Multimodal (Phase 1) Project; and

WHEREAS, the AHSC Application seeks a funding award request of an aggregate amount of up to \$50,000,000 in AHSC funds consisting of: (A) not to exceed \$35,000,000 of AHSC funds for the construction of the Housing Project; and (B) not to exceed \$15,000,000 of AHSC funds for the East Bay Greenway Multimodal (Phase 1) Project

NOW, THEREFORE, the PARTIES mutually understand and agree to the following:

SECTION I INTRODUCTION

1.1 All of the foregoing recitals are true, correct and are incorporated herein by this reference.

1.2 This MOU shall be legally binding on the PARTIES, and by executing the same, each PARTY hereby acknowledges that its governing body has given all approvals necessary therefore.

1.3 The term “Project Sponsor” in this MOU shall mean the PARTY responsible for establishing the scope of a project, securing the financial resources to fund the work thereof, determining the schedule, and ensuring project scope, cost, funding, and schedule are accurately reflected in the regional Transportation Improvement Program (TIP).

1.4 The term “Implementing Agency” in this MOU shall mean the PARTY responsible for managing the scope, cost, schedule, and quality of the work activities and products of a project component.

1.5 The term “Applicant” in this MOU shall mean the PARTY responsible for submitting the AHSC Application.

1.6 The term “Non-Applicant” in this MOU shall mean the PARTY responsible for the completion of the STI Obligations proposed in the AHSC Application.

SECTION II CITY OBLIGATIONS AND AGREEMENTS:

2.1 The CITY shall be the Applicant responsible for submitting the AHSC Application.

2.2 The CITY agrees to serve as the fiscal agent for the AHSC Application, which involves passing through funds received from the AHSC Program to ALAMEDA CTC for the completion of the STI Obligations for the East Bay Greenway Multimodal (Phase 1) Project.

2.3. The CITY shall make a good faith effort to transfer appropriate funds to the ALAMEDA CTC no later than thirty (30) calendar days following receipt of an approved Request for Reimbursement that

documents actual costs incurred by ALAMEDA CTC for the STI Obligations for the East Bay Greenway Multimodal (Phase 1) Project.

2.4 The CITY shall be responsible in connection with the AHSC Program funding to enter into standard agreements, reimbursement agreements, regulatory agreements, and any other agreements required by HCD with HCD where the CITY will be liable for the full and timely performance by the parties to complete the obligations set forth therein, including completion of the Developer Obligations and STI Obligations, as such terms are defined in the AHSC Application.

2.5 The CITY shall have no obligation to pay costs to complete the Developer Obligations or STI Obligations irrespective of whether such costs exceed the relevant portions of the AHSC Grant.

SECTION III ALAMEDA CTC OBLIGATIONS AND AGREEMENTS:

3.1 ALAMEDA CTC shall be the Project Sponsor and Implementing Agency for the East Bay Greenway Multimodal (Phase 1) Project. ALAMEDA CTC shall have no obligations with respect to completion or paying any costs of the Developer Obligations.

3.2 ALAMEDA CTC shall be responsible for completing the STI Obligations for the East Bay Greenway Multimodal (Phase 1) Project and for all costs and expenses related thereto, as proposed in the AHSC Application, subject to reimbursements for certain costs from the AHSC Grant pursuant to this MOU. ALAMEDA CTC shall be responsible for paying all costs required to complete STI Obligations for the East Bay Greenway Multimodal (Phase 1) Project as they are incurred, irrespective of whether such costs exceed the AHSC grant.

3.3 ALAMEDA CTC shall be responsible for documenting costs and expenses related to the East Bay Greenway Multimodal (Phase 1) Project, as proposed in the AHSC Application, and submitting a Request for Reimbursement to the CITY once every six months at minimum.

SECTION IV IT IS MUTUALLY AGREED:

4.1 Neither CITY nor any official, officer, director, agent or employee thereof shall be responsible for any damage or liability occurring by reason of anything done or omitted to be done by ALAMEDA CTC under or in connection with any work, authority or jurisdiction delegated to ALAMEDA CTC under this MOU. It is understood and agreed that pursuant to Government Code section 895.4, ALAMEDA CTC shall fully defend, indemnify, and save harmless CITY from all suits or actions of every name, kind and description brought on, for, or on account of injury (as defined in Government Code section 810.8) occurring by reason of anything done or omitted to be done by ALAMEDA CTC under or in connection with any work, authority or jurisdiction delegated to ALAMEDA CTC under this MOU. The obligations contained in this provision shall survive any termination of this MOU.

4.2 Neither ALAMEDA CTC nor any official, officer, director, agent or employee thereof shall be responsible for any damage or liability occurring by reason of anything done or omitted to be done by CITY under or in connection with any work, authority, or jurisdiction delegated to CITY under this MOU. It is understood and agreed that pursuant to Government Code section 895.4, COUNTY shall fully defend, indemnify, and save harmless ALAMEDA CTC from all suits or actions of every name, kind and description brought on, for, or on account of injury (as defined in Government Code section 810.8) occurring by reason of anything done or omitted to be done by CITY under or in connection with any

work, authority or jurisdiction delegated to CITY under this MOU. The obligations contained in this provision shall survive any termination of this MOU.

4.3 Each provision, term, condition, covenant and/or restriction, in whole and in part, of this MOU shall be considered severable. In the event any provision, term, condition, covenant and/or restriction, in whole and/or in part, of this MOU is declared invalid, unconstitutional, or void for any reason, such provision or part thereof shall be severed from this MOU and shall not affect any other provision, term, condition, covenant and/or restriction of this MOU, and the remainder of the MOU shall continue in full force and effect.

4.4 This MOU constitutes the final, complete, and exclusive statement of the terms of the agreement between the PARTIES pertaining to the subject matter of this MOU, and supersedes all prior and contemporaneous understandings or agreements of the PARTIES, with the exception of any Project Funding Agreement(s) related to the PROJECT. Neither PARTY has been induced to enter into this MOU and neither PARTY is relying on any representation or warranty outside those expressly set forth in this MOU.

4.5 No action or failure to act by the CITY and/or ALAMEDA CTC shall constitute a waiver of any right or duty afforded the PARTIES under this MOU, nor shall any such action or failure to act constitute approval of or acquiescence in any breach thereunder, except as may be specifically provided in this MOU or as may be otherwise agreed to in writing.

4.6 The validity of this MOU and of any of its terms and provisions, as well as the rights and duties of the PARTIES hereunder, shall be governed by the laws of the State of California.

4.7 No alteration or variation of the terms of this MOU shall be valid unless made in writing and signed by both of the PARTIES hereto. This MOU shall be binding upon each PARTY, their legal representatives, and successors.

4.8 Both PARTIES shall retain all books, documents, papers, accounting records and other evidence pertaining to costs of the PROJECT mentioned herein for not less than three (3) years after the completion thereof. The CITY shall cooperate with ALAMEDA CTC in an audit of such funds should one be necessary or ordered by a State or Federal agency with jurisdiction over the use of such funds.

4.9 Both PARTIES each acknowledge and agree that the inability or failure by either party to fully and timely complete each party's respective improvements required by the AHSC Grant may affect the timing and right of the other party to receive reimbursement of AHSC funds due the other party notwithstanding the other party's full and timely performance of its obligations.

4.10 Both PARTIES agree to coordinate and produce required annual reports, progress reports in connection with the Developer Obligations and the STI Obligations, including any updates to the timeline for completion of these elements, and all additional reporting requirements as detailed in the AHSC Program Guidelines, NOFA, or as deemed necessary to monitor compliance and/or perform AHSC Program evaluation.

4.11 If any PARTY anticipates not meeting the targeted construction and grant disbursement milestones as established by an AHSC agreement, that PARTY will promptly notify the other PARTY in writing and will meet with the other PARTY to discuss the reasons why the milestone dates may not be met and what actions the delayed PARTY intends to take to meet the milestones or otherwise rectify the work schedule in order to maintain good standing with the terms and conditions established in the AHSC agreement.

4.12 In the event a grant award is received from AHSC, the PARTIES recognize that each PARTY may need additional assurances from the other PARTY regarding the AHSC Grant before commencement of construction of the Developer Obligations and the STI Obligations. The PARTIES agree to cooperate with each other to reach timely mutual agreement on amendments to this MOU, other implementation agreements or estoppel certificates necessary to provide reasonable assurances and indemnifications related to the disbursement of AHSC Grant funds. The PARTIES recognize that any such amendments to this MOU or execution of additional agreements may require approval of the governing bodies of the PARTIES.

4.12 This MOU may be executed in counterparts, including through the use of DocuSign or other electronic means, and each signed document will constitute the whole as if a single document was signed by both PARTIES.

[Signatures on following page]

CITY OF SAN LEANDRO

**ALAMEDA COUNTY
TRANSPORTATION COMMISSION
(ALAMEDA CTC)**

By: _____
Janelle T. Cameron Date
City Manager

By: _____
Carolyn Clevenger Date
Interim Executive Director

Recommended

By: _____
Vivek Bhat Date
Senior Director of Programming and
Projects

Reviewed as to Budget/Financial Controls:

By: _____
Patricia Reavey Date
Deputy Executive Director of
Finance and Administration

Approved as to Legal Form

Approved as to Legal Form:

By: _____
Richard Pio Roda Date
City Attorney
CITY OF SAN LEANDRO

By: _____
Fennemore LLP Date
Legal Counsel to ALAMEDA CTC