

**MEMORANDUM OF AGREEMENT
BETWEEN THE COUNTY OF ORANGE AND
THE CITY OF COSTA MESA REGARDING RECEIVING
REGIONAL HOUSING NEEDS ASSESSMENT ALLOCATIONS
PROGRESS CREDITS**

This Memorandum of Agreement ("**MOA**") between the COUNTY OF ORANGE, a political subdivision of the State of California ("**County**") and the CITY OF COSTA MESA, a municipal corporation ("**City**"), is dated, for the convenience of the parties, as the first date upon which it is executed by both the County and the City, as shown by the signatures of their authorized representatives below, and the various obligations established hereby shall take effect as provided herein.

RECITALS

A. The Orange County Board of Supervisors ("**Board**") approved a loan under the 2026 Supportive Housing Notice of Funding Availability (the "**2026 NOFA**") in the amount of \$4,100,000 on May 19, 2026, toward the completion of 78 units within a housing project (the "**Project**") on that certain real property located at 1400 Bristol Street, within the City of Costa Mesa, County of Orange, State of California.

B. The Board, acting as the Board of Commissioners to the Orange County Housing Authority, also approved the use of 48 Project-Based Housing Choice Vouchers, to further assist in the success of this Project.

C. The County desires to rely on housing proposed as part of the Project to meet certain affordable housing obligations imposed on the County by state law. Pursuant to Article 10.6 (the "**Housing Element Law**") (Government Code sections 65580 - 65589.8) of Chapter 3 of the Planning and Zoning Law, the Southern California Association of Governments ("**SCAG**") periodically adopts and assigns a Regional Housing Needs Assessment ("**RHNA**") allocation for each county and city in the County of Orange, including Orange County and the City of Costa Mesa. The current RHNA is designated as the sixth required revision by Government Code Section 65588, and is identified by SCAG as the 2021-2029 housing element planning period ("**2021-2029 Planning Period**"). The 2026 NOFA requires RHNA sharing for developments funded with County local revenue and regional revenue.

D. The City's RHNA allocation for the 2021-2029 Housing Element planning period is 11,760 units. Cities typically must plan for a 15% buffer (1,764 units) above the RHNA, resulting in the City's need to plan for approximately 13,524 units in various income categories.

E. The City's adopted Housing Element is currently being reviewed by the California Department of Housing and Community Development ("**HCD**") for substantial compliance with State Housing Element law. Based on 15% above the RHNA units needed, the City estimates that it is currently under capacity by at least 1,200 units; however is actively working on securing additional projects and sites to achieve the RHNA allocation and buffer.

F. The City submitted the 2025 Housing Element Annual Progress Report to the HCD, reporting 78 units in the Very-Low Income Category for the Project at 1400 Bristol Street. American Family Housing, developer of the Project, has indicated that the County is requesting 23 of the 78 units in the very low-income category to be credited to the County as a funding incentive. Reduction of the City's RHNA reporting by 23 units further jeopardizes the City's Housing Element's finding of substantial compliance.

G. At such time that the City has adequate capacity to meet its RHNA allocation and associated buffer, the City will share credit between the City and the County for affordable units permitted by the City using 2026 NOFA funds. This MOA is intended by the County and the City to serve as agreement to establish the RHNA credits to be claimed by the City and the County for this Project.

H. Approval and successful implementation of the MOA will support the County's and City's progress toward meeting their respective 2021-2029 RHNA allocations for the 2021-2029 Planning Period and complying with the various obligations set forth in their certified housing elements. The Parties agree that, notwithstanding any prior communications regarding this matter, this MOA is the final agreement concerning this matter and is binding on the Parties.

I. If the share of credit between the City and the County does not get effectuated in the 2021-2029 Planning Period, the Parties agree to discuss the transfer of the County's RHNA allocation obligation to the City for the 2029-2037 Planning Period, as allowed under Government Code Section 65584.07 or any successor statute ("**Section 65584.07**"). The transfer would apply to the 23 affordable units permitted by the City using the County's 2026 NOFA funds.

NOW, THEREFORE, in consideration of the mutual covenants, promises and agreements contained herein, the Parties hereto mutually agree as follows:

1. Housing Site. The "Housing Site" is incorporated by reference, and is identified as 1400 Bristol Street, in the City of Costa Mesa. The City will issue residential building permits for construction of affordable housing on the Housing Site during the 2021-2029 Planning Period. Issuance of building permits is subject to compliance with City and Building Code regulations. Occupancy Permits will also be issued for affordable housing on the Housing Site during the 2021-2029 Planning Period. The Housing Site remains in the City's jurisdiction, within the corporate boundaries of the City of Costa Mesa.

2. RHNA Allocation Credit.

- a. Extremely Low-Income Unit Credit For the 2021-2029 RHNA Planning Period, the County shall receive RHNA allocation credits for 23 units from the City's 78 unit development, contingent upon County approval of 2026 NOFA funds for the Project. For purposes of this paragraph, "extremely low-income units" shall mean units where the household income for eligibility to live in the unit does not exceed 30% of the local area median income (AMI) as established by state and federal law. The City shall receive RHNA allocation credits for 55 units.

- b. Once the City achieves adequate RHNA capacity to meet its RHNA allocation and buffer, the City will coordinate with the County in the following manner: 1) the City will reduce the RHNA unit reporting for 1400 Bristol by 23 units in the extremely low-income category either by 2) amending the 2025 APR; or b) documenting reduction of 23 units for 1400 Bristol on the next APR; and inform the County that it may report the above-mentioned units towards the County's RHNA.
- c. The Parties agree that the land and financial commitments described in the Recitals to assist in the success of the Project is full and adequate consideration for the County to receive RHNA allocation credits for 23 extremely low-income units contemplated in this Section 2.

3. Cooperation. The City and County shall take all steps reasonably necessary to comply with and to implement this MOA.

4. Indemnification. City shall, to the extent permitted by law, indemnify, defend, and hold harmless the County and its officers, agents, and employees, from and against any claim, action, suit, proceeding, loss, cost, damage, liability, deficiency, fine, penalty, punitive damage, or expense (including, without limitation, attorneys' fees), resulting from, arising out of, or based upon the negligence or wrongful act or omission of City or its City Council, boards and commissions, officers, agents, volunteers, or employees, in approving this MOA.

County shall, to the extent permitted by law, indemnify, defend, and hold harmless the City and its officers, agents, and employees, from and against any claim, action, suit, proceeding, loss, cost, damage, liability, deficiency, fine, penalty, punitive damage, or expense (including, without limitation, attorney's fees), resulting from, arising out of, or based upon the negligence or wrongful act or omission of County or its Board of Supervisors, committees and commissions, officers, agents, volunteers, employees, in approving this MOA.

5. Time. Time is of the essence in this MOA.

6. Management. Except as otherwise provided in this MOA, the approval of both the City and County shall be required for decisions regarding management of the Project during the term of the Project's affordability.

7. Successors and Assigns. This MOA shall be binding upon and shall inure to the benefit of the County and City and their respective heirs, personal representatives, successors and assigns. Neither Party shall have the right to assign this MOA or any interest or right under this MOA without the prior written consent of the other Party.

8. No Attorneys' Fees. In any action between the Parties to interpret, enforce, award, modify or rescind any of the terms or provisions of this MOA, or any action otherwise commenced or taken in connection with this MOA, both Parties shall be responsible for their own respective litigation costs and attorneys' fees, except as provided in Section 5, above, regarding indemnity.

9. Jurisdiction and Venue. This MOA shall be construed under the laws of the State of California in effect at the time of the signing of this MOA. The Parties consent to the jurisdiction of the California courts with venue in County of Orange.

10. Titles and Captions. Titles and captions are for convenience of reference only and do not define, describe or limit the scope or the intent of this MOA or of any of its terms. References are to section numbers in this MOA, unless expressly stated otherwise.

11. Interpretation. As used in this MOA, masculine, feminine or neuter gender and the singular or plural number shall each be deemed to include the others where and when the context so dictates. The word "including" shall be construed as if followed by the words "without limitation." This MOA shall be interpreted as though prepared jointly by both Parties.

12. No Waiver. A waiver by either Party of a breach of any of the covenants, conditions or agreements under this MOA to be performed by the other Party shall not be construed as a waiver of any other such breach or succeeding breach or of the same or other covenants, agreements, restrictions or conditions of this MOA.

13. Modifications. Any alteration, change or modification of or to this MOA, to become effective, shall be made in writing and in each instance signed on behalf of each Party.

14. Severability. If any term, provision, condition or covenant of this MOA or its application to any Party or circumstances shall be held, to any extent, invalid or unenforceable, the remainder of this MOA, and the application of the term, provision, condition or covenant to persons or circumstances other than those as to whom or which it is held invalid or unenforceable, shall not be affected, and shall be valid and enforceable to the fullest extent permitted by law.

15. Cooperation. Each Party agrees to cooperate with the other in the execution of this MOA and, in that regard, to sign any and all documents which may be reasonably necessary, helpful, or appropriate to carry out the purposes and intent of this MOA including, but not limited to, releases or additional agreements.

16. Counterparts. This MOA may be signed in multiple counterparts which, when signed by all Parties, shall constitute a binding agreement.

17. Notices. Any notice requirement set forth herein shall be in writing and delivered to the appropriate party at the address listed in this subparagraph. Addresses for notice may be changed from time to time by written notice to the other party. All communications shall be effective when actually received; provided, however, that nonreceipt of any communication as the result of a change in address of which the sending party was not notified or as the result of a refusal to accept delivery shall be deemed receipt of such communication.

To County: County of Orange
Attn: OC Public Works, Development Services
601 N. Ross Street
Santa Ana, CA 92701

To City: City of Costa Mesa
Attn: City Manager, Cecilia Gallardo-Daly
77 Fair Drive
Costa Mesa, CA 92626

IN WITNESS WHEREOF, the Parties hereto have caused this **MOA** to be executed by authority of their respective governing bodies on the dates set forth opposite their signatures.

COUNTY:
COUNTY OF ORANGE,
a political subdivision of the State
of California

By: _____
Dated: _____
Name: _____
Title: _____

APPROVED AS TO FORM:
OFFICE OF COUNTY COUNSEL
ORANGE COUNTY, CALIFORNIA

By: _____

CITY:
CITY OF COSTA MESA , a municipal corporation

By: _____
Cecilia Gallardo-Daly, City Manager

ATTEST:

By: _____
Brenda Green, City Clerk

APPROVED AS TO FORM:

By: _____
Kimberly Hall Barlow, City Attorney