

AGREEMENT BETWEEN
THE CITY OF SALINAS
AND
THE MONTEREY BAY ECONOMIC PARTNERSHIP
PROVIDING CONTRIBUTIONS TO THE MONTEREY BAY HOUSING TRUST

THIS AGREEMENT is made and entered into as of December 6, 2016, by and between the City of Salinas, a California Charter city and municipal corporation ("City") and MONTEREY BAY ECONOMIC PARTNERSHIP ("Partnership"), a California non-profit corporation.

RECITALS

A. The City and the Partnership acknowledge and agree that affordable housing is a region-wide issue and not limited to one particular city or the next and further acknowledge that residents of the tri-county region (Monterey, Santa Cruz, and San Benito Counties) work and live across cities and counties, so addressing the housing crisis is an endeavor in which all jurisdictions must work together.

B. In an effort to address the issue of affordable, available housing in the tri-county region, the Partnership has entered into an agreement with Housing Trust Silicon Valley (HTSV) (the HTSV Agreement) for the purpose of establishing the Monterey Bay Housing Trust (MBHT), a program of the Partnership that identifies regional affordable housing projects. (A copy of the HTSV Agreement is attached hereto as Appendix A.) Private individuals, corporations and public agencies may choose to participate in the program and support regional affordable housing projects by providing grants to the MBHT. MBHT in turn supports regional affordable housing projects through a revolving loan fund.

C. Pursuant to the HTSV Agreement the Partnership will provide local services to identify qualifying affordable housing projects and provide 20% of the loans to approved projects, and HTSV will provide 80% of the loans to approved projects. HTSV will also provide all credit analysis, underwriting, loan processing, and any default workout as needed. Loans to affordable housing projects, both private and non-profit, are expected to be primarily for land acquisition and pre-development to get projects initiated and prepared for commercial bank financing. Generally, commercial bank financing will pay out HTSV and MBHT loans so that funds can be reloaned to new affordable housing projects.

D. The City desires to increase, improve or preserve affordable housing for its residents, including persons and families of low and moderate income or very low income, by participating in the Partnership, as specified in this Agreement.

E. The purpose of this Agreement is therefore to enter into an agreement with the Partnership to increase, improve, and preserve affordable housing for persons and families of low and moderate income or very low income in the city of Salinas.

In view of the above, the parties agree as follows:

SECTION I AUTHORITY AND STATUS OF THE PARTNERSHIP

The Partnership represents and warrants that the information contained in this Agreement is true and accurate to the best of its knowledge, and that it is a duly organized, validly existing nonprofit corporation in good standing under the laws of the state of California; that its signatory to this Agreement is authorized by resolution, bylaws or constitution of the non-profit corporation, currently in full force and effect, to execute this Agreement on the Partnership's behalf.

SECTION 2 DEPOSIT OF CITY'S FUNDS INTO THE MONTEREY BAY HOUSING TRUST OF THE PARTNERSHIP

2.1 City agrees to provide funding to the Partnership in the total amount of \$[enter amount] (City's Housing Funds) for the purpose of supporting the development of qualifying affordable housing projects within its city limits, subject to Section 3.1.5, within thirty days of the mutual execution and delivery of this agreement. The City may choose at any time to provide additional funding to the Partnership. Any such additional funding shall be subject to the terms of this Agreement.

2.2 The Partnership shall set up an account into which the City's Housing Funds shall be deposited and maintained and shall keep such account and the City's Housing Funds separate from any other funds received by the Partnership, except as otherwise provided in Section 3.1.6.

SECTION 3 USE OF CITY'S HOUSING FUNDS BY THE PARTNERSHIP

3.1 The Partnership shall serve as the fiscal agent. The initial disbursement of the City's Housing Funds from the Partnership shall be used exclusively for one or more projects that meet all of the following criteria:

3.1.1 Any such project must increase, improve, or preserve affordable housing at any location within the City of Salinas limits.

3.1.2 Such housing must be affordable to persons and families of low or moderate income, or very low income households, as those terms are defined in Sections 50053, 50079.5, 50093, and 50105 of the California Health and Safety Code Sections, as applicable.

3.1.3 Any new or substantially rehabilitated housing that is developed, financed or

assisted, in whole or in part, with the City's Housing Funds shall remain available at affordable housing costs to persons and families of low or moderate income, or very low income households, as the case may be, and so restricted through a regulatory agreement or other appropriately restrictive document or agreement recorded at the time of the issuance of a certificate of occupancy.

3.1.4 There shall be no discrimination against or segregation of any person, or group of persons, on account of sex, race, color, religion, ancestry, national origin, disability, medical condition, genetic information, marital status, sexual orientation, citizenship, primary language, or immigration status in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of any such project, or any part thereof, nor shall any recipient of the City's Housing Funds, or any person claiming under or through such practice or practices of discrimination or segregation with reference to the selection, location, number use or occupancy of tenants, lessees, subtenants, sub-lessees, or vendees of any such project.

3.1.5 Subject to California law, the restrictions of this Section 3.1 shall apply only to the initial use of the entire amount of the City's Housing Funds by the Partnership. After the initial use of the entire amount of the City's Housing Funds by the Partnership, reinvestment of funds that are repaid to or otherwise recaptured by the Partnership shall not be subject to this Section 3.1, but shall otherwise assist affordable housing projects in the Monterey Bay region.

3.1.6 If any portion of the City's Housing Funds have not been disbursed in accordance with this Section 3.1 within forty-eight (48) months after the date of the City's deposit, then the funds will go into the general pool of the Monterey Bay Housing Trust and be used for affordable housing projects in the Monterey Bay region.

3.2 All disbursements by the Partnership shall be made with the advice and suggestion of the Housing Trust Silicon Valley (HTSV), which has been formed by its Board of Directors in accordance with its Articles of Incorporation or Bylaws. Through the HTSV Agreement, it is understood that MBHT will qualify and prioritize affordable housing projects and HTSV shall be responsible for credit analysis, underwriting, loan processing, and any default workout as needed. HTSV shall follow the recommendations regarding disbursement rendered by its Program & Policy Committee unless to do so would be a violation of law, this Agreement, or HTSV's Articles of Incorporation or Bylaws.

SECTION 4 INVESTMENT OF THE FUNDS

The Partnership shall hold, manage, invest and reinvest the MBHT funds in accordance with the "reasonably prudent person" standard.

SECTION 5 FINANCIAL REPORTS

5.1 The Partnership shall establish and maintain, in accordance with generally accepted accounting principles, a complete record of all financial transactions related to the Partnership's housing funds.

5.2 The Partnership shall provide the City with quarterly reports which shall set forth in detail all financial transactions related to the City's funds. The Partnership shall also provide the City on no less than an annual basis with a copy of the audited report of HTSV, prepared by independent certified public accountants.

5.3 The Partnership shall provide the City with a written report on the initial expenditure of the City's Housing Funds, including, at a minimum, for each project assisted with City's Housing Fund assisted project(s); number of units; rent or sale price income restrictions; and terms of restrictions.

SECTION 6 ADMINISTRATIVE FEES

The Partnership may charge an annual administrative fee equal to five percent of the City's Funds contributed to the Partnership in any fiscal year. The administrative fee shall be drawn from City Funds on deposit with the Partnership. The fee will be used to support the origination and structuring of affordable housing projects and loans, interface with HTSV to finance said projects, and ongoing reporting requirements to the City. The administrative fee shall apply only to the initial deposit of the City's Housing Funds and shall not apply once the entire amount of the City's Housing Funds has been exhausted. The Partnership shall report the fees charged against the City's funds in its quarterly and annual reports.

SECTION 7 NOTICES

Any communication or notice which either party is required to send to the other or which either party desires to send to the other, shall be in writing and shall be either personally delivered or mailed in the United States mail, postage prepaid, to the respective parties addressed as follows:

City:

City Manager
City of Salinas
200 Lincoln Avenue
Salinas, California 93901

With a Copy to:
City Attorney
City of Salinas
200 Lincoln Avenue
Salinas, California 93901

Partnership:

Monterey Bay Economic Partnership
Aka Monterey Bay Housing Trust
3180 Imjin Road, Suite 104B
Marina, CA 95110

Either party may change its address by sending notice of the new address to the other party pursuant to this section.

SECTION 8 COMPLIANCE WITH ALL LAWS

The Partnership shall comply with all applicable laws, ordinances, codes and regulations of the federal, state and local governments.

SECTION 9 MISCELLANEOUS PROVISIONS

A. The parties agree that this Agreement shall be governed and construed in accordance with the laws of the State of California. In the event that suit shall be brought by either party to this Agreement, the parties agree that venue shall be exclusively vested in the state courts of the County of Santa Cruz [Monterey or San Benito], or where otherwise appropriate, exclusively in the United States District Court, Northern District of California, San Jose, California.

B. The headings of the sections and subsections of this Agreement are inserted for convenience only. They do not constitute a part of this Agreement and shall not be used in its construction.

C. The waiver by any party to this Agreement of a breach of any provisions of this Agreement shall not be deemed a continuing waiver or a waiver of any subsequent breach of that or any other provisions of this Agreement.

D. Any and all exhibits which are referred to in this Agreement are incorporated herein by reference and are deemed a part of this Agreement. This Agreement may only be amended by formal written agreement executed by both parties.

E. If a court of competent jurisdiction adjudges any provisions of this Agreement as void or unenforceable, the remaining provisions shall not be affected hereby and shall remain in full force and effect; provided that construction of the agreement without the invalid or unenforceable provisions does not deprive the parties of the benefit of their bargain.

F. This Agreement may be terminated by either party with or without cause at any time upon written notice. In the event of such termination, any City Housing Funds provided pursuant to section 2.1 which have not been encumbered or otherwise dedicated for use pursuant to paragraphs 3.1.5 or 3.1.6 of this Agreement shall be returned to the City within thirty (30) days of the effective date of the termination.

Where this agreement refers to the City and no Officer of the City is named, the City's City Manager [or his/her designee] shall have the authority to act on the City's behalf.

The City of Salinas

Ray Corpuz, City Manager

APPROVED AS TO FORM & LEGALITY

Christopher A. Callihan, City Attorney

ATTEST:

MONTEREY BAY ECONOMIC PARTNERSHIP


Co-Chairman