



Agenda Item No: 5

Meeting Date: September 12, 2019

Cities Association of Santa Clara County Agenda Report

RHNA Subregion Task Force

Prepared by: Andi Jordan
Executive Director

TOPIC: REGIONAL HOUSING NEEDS ASSESSMENT (RHNA) SUBREGION FORMATION

SUBJECT: DISCUSSION OF APPROVAL FORMATION OF THE RHNA SUBREGION

EXECUTIVE SUMMARY:

It was the intent of the RHNA Subregion Task Force to ask for support of formation of the RHNA Subregion. On Friday, September 6, new information was shared by Association of Bay Area Governments (ABAG) regarding the timeline for RHNA Subregion with ABAG/California Department of Housing and Community Development (HCD). Specifically, state statute created different timelines for independent subregions versus Council of Governments (COGs). Therefore, the process that was identified, accepting ABAG's methodology and creating a reallocation, and submitting to HCD as our methodology, is not possible as envisioned or prepared in the Memorandum of Understanding (MOU) or Resolution.

The Task Force was not able to meet to discuss these changes; therefore, the Executive Board was consulted about next steps.

The Board is being asked to consider several options:

- 1. RHNA Light:** This is the Task Force's recommendation: form a RHNA Subregion entity, accept ABAG's numbers with the addition of a reallocation option as our methodology to HCD. The Task Force felt this was a good way to initiate collaboration and bring jurisdictions together while incurring limited consultant costs. Anticipated cost originally \$50,000. With new findings, this cost may exceed \$50,000. Consultant estimated 150 Hours of time.
- 2. RHNA All-In:** The Subregion would create own methodology (with a consultant), estimated 500-700 hours of consultant time. Resolution and MOU would need to be modified. This is estimated at \$150,000 - \$200,000
- 3. Planning Collaborative:** Embrace the goals of working as a region without forming the RHNA subregion and instead form a planning collaborative to further positive outcomes to the housing and homelessness challenges faced in Santa Clara County. Similar to 21 Elements, use the anticipate RHNA subregion funds designated in the MOU and RHNA Light Plan. Collaboration opportunities may include planning, housing element, "Home for All"/ADUs effort, RV dwellers, homelessness, legislative guidance by consultants.
- 4. Do nothing:** no effort, no cost, no changes to outcomes.

RECOMMENDATION:

RHNA Subregion Task Force Chair/San José Vice Mayor Chappie Jones recommends that the Association amend the MOU/Resolution of forming the subregion to support forming a regional planning collaborative via the Cities Association (option 3) to further mutual goals and address the critical housing and homeless needs of the cities and county.

BACKGROUND:

Under state law, the California Department of Housing and Community Development identifies the total housing need statewide and assigns housing numbers to the Council of Governments for an eight-year period. In the Bay Area, the Association for Bay Area Governments (ABAG) is the Council of Government. In turn, ABAG conducts a regional process to determine the methodology and distribute housing numbers to individual jurisdictions in the nine county Bay Area. Jurisdictions then adopt Housing Elements as part of their General Plans that indicate how many units they plan for at different affordability levels and where jurisdictions will accommodate future growth.

- In 2004, the Governor signed legislation that allows jurisdictions to voluntarily form RHNA subregions. Councils of Governments would provide these subregions with its own housing numbers. The legislation allows subregions to determine a methodology and to allocate housing numbers amongst its members. Members of the subregion must include the County, and any jurisdictions must be geographically contiguous. If the subregion fails to perform the allocation as required, or if a member or the County of the subregion withdraws from the subregional process, ABAG will step in to exercise default responsibility. Currently, San Mateo, Napa, and Solano Counties each have operational subregional frameworks.
- Since 2015, the Cities Association of Santa Clara County (Cities Association), a member-organization made up of the 15 cities of Santa Clara County, has convened a taskforce to assess the feasibility of a Santa Clara County RHNA subregion.
- The Santa Clara County Civil Grand Jury issued a report on June 21, 2018. The report recommended that the County pursue a RHNA subregion to increase communication and coordination among jurisdictions.
- September 2019 The Cities Association Board has voted to pursue a Santa Clara County RHNA subregion and was ready to ask for formal participation via a Memorandum of Understanding which emphasizes that the mission of the Santa Clara County RHNA subregion is to provide a forum for collaboration and discussion in the County. The Memorandum of Understanding also notes that all trades must be voluntary between jurisdictions and no jurisdiction has the power to force another to take on a certain share of housing numbers. The subregion includes one “vote” per jurisdiction. If there are any changes to state law that change the terms of the Memorandum of Understanding, each jurisdiction will review and reaffirm participation in the RHNA subregion.

- The Cities Association and ABAG have outlined the following timeline for the subregion:

June 2019	Cities Association Board of Directors Reviews/Approves RHNA Subregion Task Force Recommendation
September 2019	Cities/County Resolutions & MOU due to Cities Association
November/December 2019	Cities Association to submit Formation Documents to ABAG
February 2020	RHNA Formation Deadline
December 2020	Cities Association RHNA Subregion Methodology Due
January 2021	ABAG RHNA Methodology Due

ANALYSIS:

The goal of the Santa Clara County RHNA subregion is to provide a forum for cities and the county to discuss housing growth in the County and to encourage resource sharing. The structure of Santa Clara County RHNA subregion requires all trades to be mutually acceptable. Any changes in state law that would force jurisdictions in a subregion to accept numbers would trigger a review and reaffirmation of the MOU where the City can reevaluate its participation.

The Cities Association plans to use ABAG’s regional methodology to determine an individual jurisdiction’s RHNA share in Santa Clara County. With those numbers, jurisdictions can discuss any housing number trades and any resource sharing.

The state is experiencing a severe housing crisis at all income levels. The status quo of housing planning with individual jurisdictions acting without coordination is leading to a region where the homes are not located near jobs. This imbalance creates traffic, increases vehicle miles traveled and pollution, and makes it very expensive to live near employment centers. The Santa Clara County RHNA subregion is an opportunity to work collaboratively with other cities and the County to discuss solutions to this imbalance.

Solano, Marin, Napa, and San Mateo Counties each have operational subregional frameworks. These counties have reported increased dialogue between member jurisdictions on the housing challenge. In San Mateo County, Redwood City agreed to trade RHNA numbers. Santa Clara County may also see these benefits from forming a RHNA subregion.

On Friday, September 6, new information was shared by Association of Bay Area Governments (ABAG) regarding the timeline for RHNA Subregion with ABAG/California Department of Housing and Community Development (HCD). Specifically, state statute created different timelines for independent subregions versus Council of Governments (COGs). Therefore, the process that is identified in our MOU, accepting ABAG’s methodology and creating a reallocation, and submitting to HCD as our methodology, is not possible. In addition,

- Following the RHNA Light approach will cost more in resources and time than anticipated.
- Initially, the subregion would follow and adopt ABAG’s draft methodology process.
- However, at a time certain, the new subregion would have to run a parallel process which seems redundant and confusing to taxpayers and citizens as well as costly.

Therefore, the Board of Directors must decide if the RHNA subregion process is solely about RHNA allocation and numbers or if the desired outcome of regional solutions for housing and positive collaboration is the goal.

COMMUNITY OUTREACH: (if applicable)

Information is placed on Cities Association website under agenda.

FISCAL IMPACT:

RHNA LIGHT: \$50,000 (\$3200 per jurisdiction)

RHNA ALL-In: 500-700 hours of consultant time. \$150,000 - \$210,000

Planning Collaborative: \$50,000 (\$3200 per jurisdiction)

Do Nothing: \$0.0

OPTIONS:

The Board has these options to consider:

- 1. RHNA Light:** The Task Force's recommendation was to form a RHNA Subregion entity, accept ABAG's numbers with the addition of a reallocation option as the methodology to submit to HCD. The Task Force felt this was a good way initiate collaboration and bring jurisdictions incurring limited consultant costs. Anticipated cost originally \$50,000. With new findings, this cost may exceed \$50,000. Consultant estimated 150 Hours of time (\$300/hour)
- 2. RHNA All-In:** The Subregion would create own methodology, estimated 500-700 hours of consultant time. Resolution and MOU would need to be modified. \$150,000 - \$210,000
- 3. Planning Collaborative:** Embrace the goals of working as a region without forming the RHNA subregion and instead form a planning collaborative to further positive outcomes to the housing and homelessness challenges faced in Santa Clara County. Similar to 21 Elements, use the anticipate RHNA subregion funds designated in the MOU and RHNA Light Plan. Collaboration opportunities may include planning, housing element, "Home for All"/ADUs effort, RV dwellers, homelessness, legislative guidance by consultants. \$50,000
- 4. Do nothing:** no effort, no cost, no changes to outcomes.

RECOMMENDED ACTION:

Executive Board recommends pursuing subregion formation if ABAG's methodology may be used.

ATTACHMENTS:

1. MOU
2. Resolution
3. Santa Clara County Map
4. ABAG 2022-2030 Timeline (before additional information)

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**SANTA CLARA COUNTY AND CITIES
REGIONAL HOUSING NEEDS ALLOCATION SUBREGION**

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (MOU) is entered into by and among the following parties:

The City of Campbell, a California municipal corporation ("Campbell");
The City of Cupertino, a California municipal corporation ("Cupertino");
The City of Gilroy, a California municipal corporation ("Gilroy");
The City of Los Altos, a California municipal corporation ("Los Altos");
The Town of Los Altos Hills, a California municipal corporation ("Los Altos Hills");
The Town of Los Gatos, a California municipal corporation ("Los Gatos");
The City of Milpitas, a California municipal corporation ("Milpitas");
The City of Monte Sereno, a California municipal corporation ("Monte Sereno");
The City of Morgan Hill, a California municipal corporation ("Morgan Hill");
The City of Mountain View, a California municipal corporation ("Mountain View");
The City of Palo Alto, a California municipal corporation ("Palo Alto");
The City of San José, a California municipal corporation ("San José");
The City of Santa Clara, a California municipal corporation ("Santa Clara");
The City of Saratoga, a California municipal corporation ("Saratoga");
The City of Sunnyvale, a California municipal corporation ("Sunnyvale");
The County of Santa Clara, a political subdivision of the State of California ("County"); and
The Cities Association of Santa Clara County, an unincorporated association ("the Association").

The municipalities and the County are collectively referred to herein as "the Agencies."
The Agencies and the Association are collectively referred to herein as "the Parties."

RECITALS

A. Housing Element Law (Government Code sections 65580-65589.8) provides for a Regional Housing Needs Allocation ("RHNA") process by which the local council of governments, the Association of Bay Area Governments ("ABAG"), is responsible for periodically assessing the housing needs and allocating housing needs for each county, city, and town within its area of influence for the planning and development of adequate housing for households of all economic levels in each jurisdiction in its area.

B. In 2015, the representatives of the Agencies formed a RHNA Subregion Task Force to explore the proposed formation of a RHNA subregion and appointed various elected officials and supporting staff from among the Agencies to the Task Force which began meeting periodically in 2016.

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C. In 2018, the Agencies each adopted resolutions expressing interest to explore the creation of a RHNA subregion consisting of all of the Agencies to plan for housing growth in accordance with Government Code sections 65584.03-65584.07, and to authorize representatives from each Agency to collaborate to develop a workplan, budget, and schedule of actions leading to a County-wide housing needs allocation process among all the Agencies by consensus, and to advance to each Agency's governing board or council a recommendation and resolution for action to participate in a RHNA subregion for the 2022-2030 Housing Element cycle and following Housing Element cycles.

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D. The Agencies now desire to form a RHNA subregion consisting of all the Agency's respective jurisdictions in accordance with state law in effect upon the Effective Date of this MOU, adopt resolutions forming the RHNA subregion concurrently with the approval of this MOU, and pursue a delegation agreement between ABAG and the RHNA subregion.

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E. This MOU reflects the following mutual interests, concerns, and parameters expressed by the Agencies as essential for their participation in the RHNA subregion:

1. The Agencies will use the RHNA methodology and allocation by ABAG for the subregion and each Agency within the subregion as the basis for determining allocation and any reallocation of housing production goals among the Agencies.
2. ABAG's RHNA allocation for the subregion and for each Agency is the final allocation for the Agencies unless an Agency agrees to and provides express prior written consent to a reallocation of its ABAG RHNA allocation by duly adopted resolution of its governing board or council.
3. The Agencies enter into this MOU with the understanding that the MOU and the subregion shall be subject to and administered in accordance with state law in effect upon the Effective Date of this Agreement. Any change in state law after the Effective Date that either increase the power, authority, or duties of the subregion or affect the power, authority, or duties of the Agencies is cause for termination of this MOU by the Parties.
4. Any Agency may terminate its participation in the subregion. In accordance with the provisions of this MOU, cities and towns may terminate participation in the subregion at any time and the County may terminate participation in the subregion at the conclusion of the Housing Element cycle.

F. The purpose of this MOU is to memorialize how the Agencies will cooperate and work together to perform the work of the RHNA subregion, including the review of and input into ABAG's RHNA methodology and allocation for the subregion, advocacy regarding the RHNA subregion allocation as may be necessary or advisable, to seek to develop the RHNA allocation for all of the Agencies in a manner that is sensitive to the varied interests of all the Agencies, and the use of the services of the Association and consultants to assist the Agencies with this endeavor.

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G. Formation of the subregion is subject to final consideration and approval by ABAG and it is expected that the Agencies will review and execute an agreement with ABAG, upon terms acceptable to the Agencies, as a condition of formation of the subregion.

AGREEMENT

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

1. PURPOSES

The purposes of this MOU are to:

- a. Define the roles, rights, and responsibilities of the Parties with respect to activities relating to the formation of a RHNA subregion, including the ABAG RHNA allocation for the subregion and the RHNA allocations among the Agencies, and matters relating to acknowledgement of the subregion by ABAG and execution of an agreement between ABAG and the subregion setting forth the terms and conditions of the delegation of responsibility to the subregion;
- b. Define the roles, rights, and responsibilities of the Parties upon formation of the RHNA subregion by the Agencies;
- c. Explain the relationships among the Parties;
- d. Appoint a Policy Committee to serve as the coordinating committee and point of contact for the RHNA subregion; and
- e. Establish a voluntary process for resolving issues among the Agencies that may arise with respect to the RHNA allocation for any Agency.

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2. EFFECTIVE DATE

The effective date of this MOU is the date upon which all Parties have executed this MOU ("Effective Date").

3. TERM

This MOU shall govern the relationship among the Parties regarding the RHNA subregion process for the 2022-2030 Housing Element Cycle and shall automatically extend to future Housing Element Cycles unless this MOU is terminated pursuant to Section 10, herein. Notwithstanding the foregoing, an Agency may withdraw from this MOU in accordance with Section 11, herein and the MOU shall remain in effect for all remaining Parties unless such a withdrawal or withdrawals disrupts the geographic contiguity required by state law for a subregion in which event the MOU shall terminate in accordance with Section 10.

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4. RHNA POLICY COMMITTEE (PC)

- a. Authority.

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1. The primary role of the RHNA Policy Committee ("PC") is to provide initial policy input into the RHNA allocation process, review RHNA Technical Advisory Committee ("TAC") recommendations, and adopt a policy consensus for transmittal to the governing boards and councils of the Agencies regarding ABAG's RHNA allocation for the subregion and the distribution of the subregion's RHNA allocation among the Agencies.
2. The PC shall plan, organize, and maintain the work of the subregion and be responsible for its overall operation.
3. The PC shall oversee the processes for the delegation of authority from ABAG to the subregion, the communications with ABAG regarding RHNA allocations for the subregion, and the RHNA allocations for each Agency.
4. The PC shall review, provide input, and recommend for adoption by all of the Agencies adequate findings as required by state law to support the RHNA allocations for the subregion and each of the Agencies.
5. The PC shall make recommendations to the governing boards and councils of the Agencies regarding the following:
 - a. Proposed changes to this MOU;
 - b. ABAG's proposed RHNA allocation for the subregion;
 - c. The distribution of the subregion's RHNA allocation among the Agencies;
 - d. The adoption of resolutions and agreements forming the RHNA subregion among the Agencies and ABAG; and
 - e. Any other matter relating to the RHNA subregion and RHNA allocations.
6. The PC shall submit to ABAG for approval the RHNA housing allocation for all of the Agencies in the subregion that is approved by all of the Agencies' governing boards and councils pursuant to Section 9.b.
7. The PC may approve the selection and services of a consultant or consultants and authorize the Association or any one of the Agencies to hire such consultant(s). Any consultant selected to provide services shall have proven expertise and knowledge relating to RHNA allocation methodology, developing consensus regarding RHNA methodology and allocation among the Agencies, sensitivity to the concerns and desires of the various Agencies, and expertise and knowledge of the submittal process for proposed final allocation to ABAG for approval in accordance with the Housing Element Law including the RHNA subregion requirements in Government Code sections 65584.03-65584.07. The PC may only approve the hiring of a consultant if there exist sufficient funds for such a contract that are budgeted, allocated, and transmitted by each of the Agencies to the Association or other Agency selected to enter into and manage the consultant contract for this purpose in accordance with Section 6 herein.
8. The PC may adopt a resolution specifying an appeal process by which an Agency may appeal its recommended allocation to the PC; however, such appeal process shall be entirely voluntary by the appealing Agency and shall not bar any appealing Agency from withdrawing from this MOU in accordance with Section 11, or taking any other appropriate action with regard to its RHNA allocation. Nothing in this MOU shall prevent or preclude an Agency from discussing or negotiating an adjustment of its RHNA allocation with AGAB.

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9. Any Agency's governing board or council may, at the PC's request or its own initiative, provide recommendations, guidance, and direction to the PC on issues related to RHNA subregiona formation and RHNA allocation or any other matter related to the subregion or this MOU. The PC shall consider any input from the Agency and attempt in good faith to resolve any issues and concerns expressed by any Agency.

10. All PC meetings shall be conducted in accordance with the Ralph M. Brown Act (Government Code section 54950 *et seq.*) ("Brown Act").

b. Representatives. The PC shall consist of one representative from each Agency who is an elected official appointed by his/her respective elected body to serve on the PC and participate in all of the duties of the PC pursuant to this MOU.

c. Alternate Representatives.

1. Each Agency shall select one alternate representative of the PC who is an elected official appointed by his/her respective elected body to serve on the PC in the absence of the appointed representative.
2. In the event both the representative and the alternate representative will be absent from a meeting of the PC, the Agency may designate a substitute for that meeting and notify the Executive Director of the Association, the PC Chairperson, and the PC Vice Chair in writing of the designated alternate representative. The designated substitute representative is not required to be an elected official.

d. Absences. Unless resulting from an emergency or unforeseen event, if any representative fails to attend two (2) consecutive meetings of the PC without prior written notice to the Executive Director of the Association, the PC Chairperson, and the PC Vice Chair, the Chairperson will notify the elected body of the absent representative to encourage future participation.

e. Officers; Rules of Procedure.

1. The officers of the PC shall be a Chairperson and a Vice Chairperson (collectively "Officers") who shall serve in accordance with the Rules of Procedure attached hereto and incorporated herein by reference as Exhibit A.
2. The Rules of Procedure of the PC (Exhibit A) may be amended from time to time by resolution of the PC in accordance with Section 4.f with the exception of the following provisions, which shall require amendment of this MOU pursuant to Section 13:
 - a. Composition and membership of the PC (Sections 4.b and 4.c).
 - b. Conduct of PC meetings in accordance with the Brown Act (Section 4.a.10).
 - c. Quorum and voting requirements of the PC (Section 4.f).
 - d. Scope of authority granted to the PC by this MOU (Section 4.a).
 - e. PC Compensation prohibition. (Section 4.g).

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Commented [TV3]: Formerly in Section 10.d. A couple of agencies asked that language be added as follows: "...or from independently participating in the State and ABAG's RHNA process." The section as currently written is intended to provide the menu of adjustment and appeal processes for Agencies participating in the subregion. The suggested language would only apply to agencies that do not participate in the subregion as it defeats the purpose of the subregion, so it is not appropriate here.

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- f. Actions requiring Agency approval (Section 9) Quorum and Voting.
 - 1. A quorum of a majority of the total membership of the PC is required to hold meetings of the PC.
 - 2. Each PC representative shall have one vote. A majority vote of the total membership of the PC is required to approve any motion except for the actions to amend the PC Rules of Procedure specified in Section 4.e.2.
 - 3. Any motion by the PC to make a report, request, or recommendation from the PC to the governing boards and councils of the Agencies shall be conveyed to the governing boards and councils with an explanation of the reasons for the affirmative vote and shall also include the reasons stated, if given, for any dissenting vote.

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- g. No Compensation. All PC representatives and alternate representatives shall serve without compensation.

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5. RHNA Technical Advisory Committee (TAC)

- a. TAC Membership and Participation:
 - 1. The TAC shall consist of one member from each Agency, who are senior staff technical experts in the field of land use and/or housing.
 - 2. The Agencies, through their respective TAC members, may flexibly assign and delegate different staff to serve as the respective Agency's TAC member.
 - 3. The Agencies, through their respective TAC members, may also flexibly assign and delegate different staff to participate as a non-member in the TAC to contribute to and address specific subjects and issues within their expertise.
 - 4. A consultant or consultants may also be authorized by the PC to attend TAC meetings and to otherwise assist the TAC in its work.
- b. TAC Purpose and Authority:
 - 1. The purpose of the TAC is to provide technical expertise and development of recommended solutions to issues relating to the subregion's purposes, including ABAG's RHNA allocation for the subregion, the methodology for the RHNA allocations among the Agencies, the final recommendations for the RHNA allocations, and the findings required by law for the RHNA allocations for the relevant Housing Element cycle, including but not limited to any such work and reports that may be prepared by consultants or the Agencies for these purposes.
 - 2. Make reports and recommendations to the PC relating to RHNA allocations and related documents.
 - 3. The TAC shall work in good faith to facilitate and achieve consensus among the TAC members on TAC recommendations to the PC.
 - 4. The TAC may assist in presentations on RHNA allocation related matters to the governing boards and councils of the Agencies when asked to do so by the PC.

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- 5. The TAC shall prepare periodic reports and recommendations as it deems necessary or advisable, or as requested, on matters related to the subregion and RHNA allocation and any other activities to the chief administrators of each of the Agencies including the County Executive, each city manager, and each town manager.
- 6. The PC may direct the TAC to perform any other duties so long as those duties are reasonably related to the purposes of this MOU.
- 7. No TAC member, assignee, or delegate shall participate in or endorse any political activity involving any individual candidate for public office or ballot measure. The selection of Task Force representatives pursuant to this MOU is not a political activity subject to this section.

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6. CONSULTANTS

The PC may authorize the hiring of one or more consultants in accordance with Section 4.a.7 of this MOU to perform any or all of the following tasks:

- a. Assist the Parties, the PC, or the TAC in performing their duties relating to the RHNA allocation.
- b. Review and comment to the TAC and PC on the accuracy and adequacy of ABAG's RHNA allocations for the RHNA subregion.
- c. Advise and assist the TAC and PC regarding ABAG's RHNA allocation for the subregion if the Agencies determine that they do not agree with the ABAG RHNA subregion allocation.
- d. Work with ABAG to adjust the subregion's RHNA allocation if directed to do so by the PC.
- e. Facilitate and help develop consensus regarding RHNA methodology and allocation among the Agencies.
- f. Be sensitive to the concerns and desires of the various Agencies.
- g. Prepare adequate findings required by state law to support the RHNA allocations for the subregion and the jurisdictions of each of the Agencies for review by the TAC, the PC, and approval of the governing boards and councils of the Agencies.
- h. Assist in the submission of the proposed final allocation of the Agencies' RHNA allocations that is approved by the Agencies to ABAG for approval in accordance with the requirements of state law.
- i. Any other task related to the purposes of the subregion that is assigned to the consultant by contract or contract amendment approved pursuant to this MOU.

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7. THE ASSOCIATION

The Association shall do all of the following:

- a. Provide support to the PC and the TAC for the subregion allocation work.
- b. Plan, organize, and maintain the work of the subregion and be responsible for its day-to-day tasks under the direction of the PC and with the assistance of the

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TAC and any consultants performing work for the Association or Agencies pursuant to this MOU.

- c. Regularly advise the PC, City and Town Managers, County Executive, and the governing boards and councils of the Agencies of all significant activities relating to the subregion.
- d. Request recommendations from the PC and/or governing boards and councils of the Agencies when advisable or required pursuant to this MOU.
- e. The Association may reasonably delegate any or all of the tasks in this Section 7 to consultants, the TAC, or Agencies when specifically authorized to do so in writing by the PC.

d. ↓

8. FUNDING OF SUBREGION

- a. Initial Funding. The estimated total cost of the RHNA Subregion work to be performed by the PC for the 2011-2030 Housing Element cycle (including consultants) is Fifty Thousand Dollars (\$50,000.00) ("Base Funding"). Within 60 days of the date of execution of this MOU, each Agency agrees to pay an equal share of the Base Funding to the Association in the amount of Three Thousand One Hundred Twenty-Five Dollars (\$3,125.00) ("Base Payment") to be held in trust by the Association for work performed by the Association and any consultants pursuant to this MOU.
- b. Subsequent Funding. Following the Base Payment by the Agencies, the PC may recommend that the Agencies make additional payments to fund work performed pursuant to this MOU. Any PC recommendation for additional funding shall specify the additional services to be funded, the reasons for such additional services, the amount of additional funding requested, and a reasonable deadline for the payment of such additional funds by the Agencies.
- c. Unexpended Funds. Any funds that remain unexpended following the conclusion of all work performed by the Association and any consultants pursuant to this MOU shall be refunded in equal amounts to all of the Agencies that have paid their Initial Funding and all Subsequent Funding in full.

9. AGENCY APPROVAL REQUIRED

- a. Participation in the RHNA subregion and allocation process requires the execution of this MOU and the adoption of a resolution to form and participate in the RHNA subregion by the governing board or council of each of the Agencies. In the event an Agency fails to timely adopt any of the resolutions to form and participate in the RHNA subregion or execute this MOU, that Agency shall not be included in the subregion.
- b. The adoption by resolution of the governing board or council of an Agency is specifically required to approve the RHNA allocation for that Agency. Any resolution to adopt the final RHNA Allocation by an Agency that is allocated a

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¶ <#>The governing boards and councils of the Agencies may be requested to provide recommendations, guidance, and direction to the PC on issues related to the RHNA subregion formation and RHNA allocation. Any direction from the governing boards and councils of the Agencies on matters brought before them for a recommendation shall be considered by the PC, and the PC's actions shall attempt in good faith to resolve any issues and concerns expressed by any Agency. ¶ <#>The unanimous agreement of the Agencies is required to amend this MOU. ¶ <#>Agreement by two-thirds (2/3) of the Agencies is required to: ¶

- 1. Fund RHNA subregion work in accordance with Section 9; ¶
 - 2. Approve the RHNA allocation for the subregion; and ¶
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Commented [TV10]: Same comment as above.

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different share of regional housing or a different share of housing in a specified household income category than its ABAG Default Allocation as defined in Section 11.c shall:

1. Specify that the Agency approves and consents to the change in its ABAG Default Allocation; and
2. Authorize the approval of any agreement, or reference any previously approved agreement, specifying the terms and conditions of the approval of the change in the Agency's ABAG Default Allocation.

- c. An Agency's failure to timely adopt a resolution approving its RHNA allocation shall constitute a withdrawal from the subregion, and the Agency shall notify all Parties of its withdrawal from the MOU in accordance with Section 11 and shall be subject to the allocation and funding provisions in Sections 12.c and 12.d.

10. TERMINATION

OPTION 1

Unless extended by mutual agreement of the Parties in writing, this MOU shall terminate upon the earliest of the following occurrences:

- a. Expiration of the 2022-2030 Housing Element cycle;
- b. By mutual agreement of the Parties;
- c. Upon the withdrawal of any Agency or Agencies from the subregion which results in a lack of the geographic continuity of subregion Agencies required by Government Code section 65584.03; or
- d. Upon the effective date of any change in state law following the Effective Date of this MOU that would:
 1. Increase the power, authority, or duties of RHNA subregions;
 2. Decrease the authority of the Agencies with regard to the RHNA subregion or RHNA allocation; and/or
 3. Make any voluntary obligation mandatory.

OPTION 2

This MOU shall automatically extend with no further action of the Parties upon expiration of the 2022-2030 Housing Element cycle in accordance with Section 3 unless terminated as follows:

- a. By mutual agreement of the Parties;
 - b. Upon the withdrawal of any Agency or Agencies from the subregion which results in a lack of the geographic continuity of subregion Agencies required by Government Code section 65584.03; or
- Upon the effective date of any change in state law following the Effective Date of this MOU that would:
1. Increase the power, authority, or duties of RHNA subregions;
 2. Decrease the authority of the Agencies with regard to the RHNA subregion or RHNA allocation; and/or
 3. Make any voluntary obligation mandatory.

11. WITHDRAWAL OF AGENCY

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Commented [TV12]: County asks what is intended here. The intent is to have any consideration among agencies "trading" allocation to have the terms of the deal memorialized in an agreement at the same time that the allocation changes are approved so that it is enforceable by the affected agencies. It is not a requirement, but should be included in the resolution if there is any such agreement.

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Deleted: <#>in this MOU shall prevent or preclude an Agency from discussing and negotiating an adjustment of its RHNA allocation with ABAG and appealing any such allocation in accordance with applicable state law.

Commented [TV14]: Two options for termination of the MOU are provided. Some Agencies prefer Option 1 (terminates at end of this RHNA cycle unless expressly extended by the Parties), while County prefers Option 2 (automatic renewal unless expressly terminated by the Parties). Task Force should determine which option it will recommend.

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Adoption of the Final RHNA Allocation requires:
<#>The approval by resolution of the governing board or council of each of the Agencies in accordance with the voting requirements in Section 8; and
<#>Any resolution to adopt the final RHNA Allocation by an Agency that is allocated a greater or lesser share of regional housing or a greater or lesser share of housing in a specified household income category than its ABAG Default Allocation as defined in Section 13.c shall:

1. -> Specify that the Agency approves and consents to the increase or decrease in its RHNA allocation; and

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- a. Any city or town may withdraw from this MOU and from ~~the~~ RHNA subregion established hereunder by resolution of its governing board or council and by providing written notice of withdrawal to all of the Parties in accordance with Section 14. The rights and obligations of any such withdrawing city or town under this MOU shall terminate thirty (30) calendar days following receipt of such notice.
- b. The County shall not withdraw from this MOU after adoption of resolutions authorizing the formation of a RHNA subregion by the governing boards and councils of the Agencies except ~~that~~ the County may withdraw from the MOU under all of the following circumstances:
 - 1. Upon conclusion of a Housing Element cycle (i.e., the final adoption or approval of the RHNA allocation pursuant to Housing Element Law) and prior to the subregion's commencement of the RHNA allocation work for the following Housing Element cycle by the subregion Agencies, ~~which shall be presumed not to begin until at least five (5) years after ABAG's final approval of the RHNA application for the immediately preceding Housing Element cycle;~~ and
 - 2. Providing written notice of withdrawal to all of the Parties in accordance with Section 14; and
 - 3. The rights and obligations of the County under this MOU shall terminate sixty (60) calendar days following the date of its notice of withdrawal.
- c. Upon withdrawal ~~prior to the Agencies' approval of the RHNA allocation for the subregion and each Agency and submission to ABAG,~~ the withdrawing Agency shall use ABAG's allocation for its jurisdiction ("Default Allocation") and the remaining Agencies shall subtract the withdrawing Agency's ABAG Default Allocation from the subregion's total RHNA allocation. ~~Upon withdrawal after the Agencies' approval of the RHNA allocation for the subregion and each Agency and submission to ABAG, the withdrawing Agency shall use the subregion allocation for its Agency and the remaining Agencies shall subtract the withdrawing Agency's subregion allocation for the withdrawing Agency from the subregion's total RHNA allocation.~~
- d. Upon withdrawal, funds collected pursuant to Section 8 prior to withdrawal shall not be returned to a withdrawing Agency.

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Commented [TV15]: This was added by the County. County assumed no work would start for the next cycle for 5 years, but if this is erroneous we can modify the time period.

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Commented [TV16]: Modified to allow County to withdraw at the time of new Housing Element cycles.

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Commented [TV17]: This section was added because the original bylaws draft included a note that such a provision should be added. Do not believe it is necessary unless the PC and an Agency agree for an Agency to perform functions such as finance/accounting, contracting, etc., and then that contract can include such provision. Some of the Agencies agree that this is unnecessary. This is an abbreviated version for consideration by the Agency representatives,

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Deleted: , but instead, the Agencies agree that pursuant to Government Code section 895.4, each Agency agrees hereto to fully defend, indemnify and hold harmless the other Agencies to this Agreement from any claim, expense or cost, damage or liability imposed for injury (as defined by Government Code Section 810.8) occurring by reason of the negligent acts or omissions or willful misconduct of the indemnifying party, its officers agents or employees, under or in connection with or arising from any work, authority or jurisdictions delegated to such Agency under this Agreement...

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12. INDEMINIFICATION

In lieu of and notwithstanding the pro rata risk allocation which might otherwise be imposed among the Agencies pursuant to Government Code Section 895.6, the Agencies agree that any losses or liabilities incurred by an Agency that are in any way related to this MOU shall be borne by that Agency and shall not be shared pro rata. **No Agency, nor any officer, board member, employee or agent thereof shall be responsible for any damage or liability incurred by reason of the negligent acts or omissions or willful misconduct of another Agency hereto**, its officers, board members, employees or agents under or in connection with or arising from any work, authority or jurisdictions delegated to such Agency under this Agreement, including but not limited to any non-compliance by an Agency.

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13. AMENDMENT OF MOU

This MOU may be amended only by written agreement executed by all of the Parties.

14. NOTICES

Commented [TV18]: Each participant needs to include their specific information. Please add phone and email contact information too.

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Notices to the Parties shall be considered received within five (5) calendar days of placement in the U.S. Mail or by any other reasonably reliable means of delivery if delivered as follows:

PARTY NAME	With Copy To:
<u>County of Santa Clara</u> County Executive 70 W. Hedding Street, 11 th Floor, E. Wing San José, CA 95110	County Counsel County of Santa Clara 70 W. Hedding Street, 9 th Floor, E. Wing San José, CA 95110
<u>City of Campbell</u>	City Attorney
<u>City of Cupertino</u>	City Attorney
<u>City of Gilroy</u> City Administrator 7351 Rosanna Street Gilroy, CA 95020	City Attorney City of Gilroy 7351 Rosanna Street Gilroy, CA 95020
<u>City of Los Altos</u>	City Attorney
<u>Town of Los Altos Hills</u>	Town Attorney
<u>Town of Los Gatos</u>	Town Attorney

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<u>City of Milpitas</u>	City Attorney
<u>City of Monte Sereno</u>	City Attorney
<u>City of Morgan Hill</u> City Manager 17575 Peak Avenue Morgan Hill 95037	City Attorney City of Morgan Hill 17575 Peak Avenue Morgan Hill, CA 95037
<u>City of Mountain View</u>	City Attorney
<u>City of Palo Alto</u>	City Attorney
<u>City of San José</u> City Manager 200 E. Santa Clara Street, 17 th Floor San José, CA 95113	City Attorney City of San José 200 E. Santa Clara Street, 16 th Floor San José, CA 95113
<u>City of Santa Clara</u>	City Attorney
<u>City of Saratoga</u>	City Attorney
<u>City of Sunnyvale</u>	City Attorney

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<u>Cities Association of Santa Clara County</u>	Legal Counsel

15. SECTION HEADINGS

All section headings contained herein are for reference only and are not intended to define or limit the scope of any provision of this MOU.

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16. COUNTERPARTS

This MOU may be executed in counterparts and so executed shall constitute one MOU which shall be binding upon all Parties. A photocopy of the fully executed MOU shall have the same force and effect as the original.

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17. SIGNATURES

By affixing his/her signature below, each of the persons signing this MOU warrants and represents that he/she has read and understands the MOU, that he/she is authorized to sign this MOU, and that the Party on behalf of whom he/she signs agrees to be bound by its terms.

Commented [TV19]: Please include the relevant information for your agency.

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CITY OF CAMPBELL	APPROVED AS TO FORM: City Attorney
_____ [name] [title]	By: _____ [name] [title]
CITY OF CUPERTINO	APPROVED AS TO FORM: City Attorney
_____ [name] [title]	By: _____ [name] [title]
CITY OF GILROY	APPROVED AS TO FORM: City Attorney

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[name] [title]	By: [name] [title]
CITY OF LOS ALTOS	APPROVED AS TO FORM: City Attorney
[name] [title]	By: [name] [title]
TOWN OF LOS ALTOS HILLS	APPROVED AS TO FORM: Town Attorney
[name] [title]	By: [name] [title]
TOWN OF LOS GATOS	APPROVED AS TO FORM: Town Attorney
[name] [title]	By: [name] [title]
CITY OF MILPITAS	APPROVED AS TO FORM: City Attorney
[name] [title]	By: [name] [title]
CITY OF MONTE SERENO	APPROVED AS TO FORM: City Attorney
[name] [title]	By: [name] [title]

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CITY OF MORGAN HILL	APPROVED AS TO FORM: City Attorney
_____ [name] [title]	By: _____ [name] [title]
CITY OF MOUNTAIN VIEW	APPROVED AS TO FORM: City Attorney
_____ [name] [title]	By: _____ [name] [title]
CITY OF PALO ALTO	APPROVED AS TO FORM: City Attorney
_____ [name] [title]	By: _____ [name] [title]
CITY OF SAN JOSÉ	APPROVED AS TO FORM: City Attorney
_____ [name] [title]	By: _____ [name] [title]
CITY OF SANTA CLARA	APPROVED AS TO FORM: City Attorney
_____ [name] [title]	By: _____ [name] [title]
CITY OF SARATOGA	APPROVED AS TO FORM: City Attorney
_____ [name]	By: _____ [name]

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[title]	[title]
CITY OF SUNNYVALE	APPROVED AS TO FORM: City Attorney
	By:
[name] [title]	[name] [title]
COUNTY OF SANTA CLARA	APPROVED AS TO FORM: County Counsel
	By:
JEFFREY V. SMITH County Executive	[name] [title]
CITIES ASSOCIATION OF SANTA CLARA COUNTY	APPROVED AS TO FORM: Legal Counsel
	By:
[name] [title]	[name] [title]

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EXHIBIT A

RHNA POLICY COMMITTEE

RULES OF PROCEDURE

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The following are the Rules of Procedure for the RHNA Policy Committee ("PC") as established by the Memorandum of Understanding entitled "Santa Clara County and Cities Regional Housing Needs Allocation, Subregion Memorandum of Understanding" ("MOU") among the following Parties: the County of Santa Clara, the City of Campbell, the City of Cupertino, the City of Gilroy, The City of Los Altos, The Town of Los Altos Hills, the Town of Los Gatos, the City of Milpitas, the City of Monte Sereno, the City of Morgan Hill, the City of Mountain View, the City of Palo Alto, the City of San José, the City of Santa Clara, the City of Saratoga, the City of Sunnyvale, and the Cities Association of Santa Clara County.

1. OFFICERS.

- a. The officers of the PC shall be a Chairperson and a Vice Chairperson (collectively "Officers") who shall serve as follows:
 1. Upon formation of the PC, the PC shall at its first meeting elect the Officers.
 2. The Officers shall be PC representatives and shall be elected by majority vote of a quorum of the PC.
 3. The Officers shall serve for a term of one (1) calendar year commencing upon the date of the first PC meeting.
 4. The Chairperson and/or Vice Chairperson may be removed at any time by a majority vote of a quorum of the PC.
 5. If the Chairperson and/or Vice Chairperson is unable to serve or is removed, a new Chairperson and/or Vice Chairperson shall be elected by majority vote of a quorum of the PC.
- b. Chairperson, Powers and Duties. The Chairperson shall preside at all meetings of the PC.
- c. Vice Chairperson, Powers and Duties. The Vice Chairperson shall preside at meetings of the PC in the event of and during the absence, legally required abstention, or disability of the Chairperson.
- d. Chairperson Pro Tempore, Appointment. In the event of the absence, legally required abstention, or disability of the Chairperson and Vice Chairperson at any meeting of the PC, the PC shall appoint, by majority vote of the members present, so long as there is a quorum of the PC, one of the representatives as Chairperson pro tempore to preside over such meeting. Upon appointment, the Chairperson pro tempore shall have and perform all powers and duties of the Chairperson at the meeting for which he/she is appointed.

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e. Secretary. The Executive Director of the Association or his or her designee is hereby designated and appointed as the Secretary of the PC. The powers and duties of the Secretary may be performed by any duly appointed agent of the Secretary. The Secretary shall:

1. Post appropriate public notice of PC meeting agendas including the date, time, and location of the meetings.
2. Attend all meetings of the PC, and prepare a written record of minutes of all actions taken at such meetings.
3. Attest to all minutes of all PC meetings which shall have been approved by the PC, and maintain custody of the PC minutes.
4. Maintain and have custody of all books, records, and papers of the PC.

2. MEETINGS.

- a. All PC meetings shall be held in accordance with the Ralph M. Brown Act, Government Code section 54950 *et seq.*
- b. The PC shall establish by resolution the date, time, and place for regular PC meetings as required by the Ralph M. Brown Act.
- c. Adjourned meetings and special meetings may be held by the PC pursuant to and in accordance with the provisions of the Ralph M. Brown Act.
- d. The PC may meet in a study session, informational workshop, or retreat at such time(s) and place(s) as the PC may deem appropriate or advisable and in accordance with the provisions of the Ralph M. Brown Act. These meetings are to allow the PC to engage in informational or educational discussions on topic areas to be determined by the PC. No decisions, actions or votes may be taken by the PC at such meetings of the PC. These study sessions, workshops and retreats may be conducted with less than a quorum of the PC present and do not constitute doing business under the provisions of Section 5.j.7 hereinbelow.

3. AGENDA.

a. The Chairperson shall determine the agenda for each PC meeting. Agency representatives shall notify the Chairperson in writing of any items within the scope of the PC's authority that they desire to have placed on the agenda no later than 5:00 pm on the 15th calendar day before the meeting date. The Chairperson shall use his/her best efforts to include all items on the agenda that are requested by Agency representatives factoring time, availability of the Secretary and other necessary persons, and other resource constraints. Exceptions to the time requirements for agenda item requests may be made at the discretion of the Chairperson for urgent matters, but shall only be granted subject to compliance with the requirements of the Brown Act.

b. Any and all matters which are authorized by the Chairperson to be placed upon the agenda for consideration by the PC at a regular meeting shall be filed with the Secretary not later than 5:00 p.m. on the 10th calendar day immediately preceding the regular meeting at which the matters on such agenda shall be

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considered by the PC; and the Secretary shall on the day following said final filing date make up such agenda and shall on the same day cause a copy of such agenda to be mailed to each representative of the PC.

c. The PC shall not consider any matter that does not appear on the agenda.

4. QUORUM.

A majority of all the PC representatives shall constitute a quorum to do business; but a lesser number may conduct a study session, informational workshop or retreat pursuant to Section 2.d above, adjourn a meeting, or adjourn a meeting to a stated time and place.

5. VOTE REQUIRED.

- a. No action shall be taken by the PC unless it is taken in accordance with Section 4.f of the MOU, so long as there is a quorum present, except as follows:
- b. When less than a quorum is present, a majority of those present may adjourn the meeting, or adjourn the meeting to a specified time and place; or
- c. When less than a quorum is present for the hearing of an item before the PC, a majority of those present may continue the item to a specified time and place.

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6. DISCUSSION THROUGH CHAIRPERSON ONLY; LIMITATION OF DISCUSSION; DISQUALIFICATION OF REPRESENTATIVES.

Discourse shall not be had directly among representatives of the PC nor between persons in attendance and representatives of the PC. Persons in attendance may address the PC or representatives thereof only through the Chairperson.

7. MOTIONS, DEBATE THEREOF, DEBATE LIMITED TO PC REPRESENTATIVES.

No debate of a motion shall be permitted prior to a second of the motion. When a motion is made and seconded, the motion shall be re-stated by the Chairperson before being debated; and such debate shall be limited to representatives of the PC only. Representatives of the PC may speak in debate of a motion only upon addressing the Chairperson and being recognized by the Chairperson. After the Chairperson has started to take the vote on the motion there shall be no further debate except that representatives of the PC may be allowed to explain their vote, or present appropriate motions as governed by Rosenberg's Rules of Order.

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8. VOTING; AYES AND NOES.

- a. Every representative of the PC who is present at a meeting when a motion comes up for vote shall vote for or against the motion unless the PC representative has been recused from voting for any legal reason and abstains from voting because of such declared recusal.

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b. All voting by PC representatives shall be by roll call vote, or electronic vote, and the vote or abstention on that action of each representative present for the action shall be entered by the Secretary in the public record of the PC proceedings.

9. ORDER OF BUSINESS.

The order of business of the Committee shall be set by the Secretary. The PC Chairperson may at any time alter the above order of business at any meeting.

10. APPLICATION OF ROSENBERG'S RULES OF ORDER.

Except as otherwise expressly set forth in this Resolution, the general procedures to be followed by the PC at its meetings shall be those described in Rosenberg's Rules of Order, as those rules may be amended, updated or replaced from time to time; provided, however, that a failure to follow Rosenberg's Rules of Order by itself shall not invalidate any proceeding or action of the PC.

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There are several comments from the Agencies that this estimate appears to be low. There is a concern that there may be a need to request the Agencies for more funds in the future and that the total funding is not predictable. They are concerned with funding surprises. Some of the Agencies appear to prefer stating a more realistic total costs with contingency funding included so that they can adequately and accurately advise their boards and councils and budget accordingly. The Task Force needs to determine what this funding amount should be based upon information from Association and potential consultants.

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**SANTA CLARA COUNTY AND CITIES
REGIONAL HOUSING NEEDS ALLOCATION SUBREGION**

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (MOU) is entered into by and among the following parties:

The City of Campbell, a California municipal corporation ("Campbell");
The City of Cupertino, a California municipal corporation ("Cupertino");
The City of Gilroy, a California municipal corporation ("Gilroy");
The City of Los Altos, a California municipal corporation ("Los Altos");
The Town of Los Altos Hills, a California municipal corporation ("Los Altos Hills");
The Town of Los Gatos, a California municipal corporation ("Los Gatos");
The City of Milpitas, a California municipal corporation ("Milpitas");
The City of Monte Sereno, a California municipal corporation ("Monte Sereno");
The City of Morgan Hill, a California municipal corporation ("Morgan Hill");
The City of Mountain View, a California municipal corporation ("Mountain View");
The City of Palo Alto, a California municipal corporation ("Palo Alto");
The City of San José, a California municipal corporation ("San José");
The City of Santa Clara, a California municipal corporation ("Santa Clara");
The City of Saratoga, a California municipal corporation ("Saratoga");
The City of Sunnyvale, a California municipal corporation ("Sunnyvale");
The County of Santa Clara, a political subdivision of the State of California ("County"); and
The Cities Association of Santa Clara County, an unincorporated association ("the Association").

The municipalities and the County are collectively referred to herein as "the Agencies."
The Agencies and the Association are collectively referred to herein as "the Parties."

RECITALS

- A.** Housing Element Law (Government Code sections 65580-65589.8) provides for a Regional Housing Needs Allocation ("RHNA") process by which the local council of governments, the Association of Bay Area Governments ("ABAG"), is responsible for periodically assessing the housing needs and allocating housing needs for each county, city, and town within its area of influence for the planning and development of adequate housing for households of all economic levels in each jurisdiction in its area.
- B.** In 2015, the representatives of the Agencies formed a RHNA Subregion Task Force to explore the proposed formation of a RHNA subregion and appointed various elected officials and supporting staff from among the Agencies to the Task Force which began meeting periodically in 2016.

- C.** In 2018, the Agencies each adopted resolutions expressing interest to explore the creation of a RHNA subregion consisting of all of the Agencies to plan for housing growth in accordance with Government Code sections 65584.03-65584.07, and to authorize representatives from each Agency to collaborate to develop a workplan, budget, and schedule of actions leading to a County-wide housing needs allocation process among all the Agencies by consensus, and to advance to each Agency's governing board or council a recommendation and resolution for action to participate in a RHNA subregion for the 2022-2030 Housing Element cycle and following Housing Element cycles.
- D.** The Agencies now desire to form a RHNA subregion consisting of all the Agency's respective jurisdictions in accordance with state law in effect upon the Effective Date of this MOU, adopt resolutions forming the RHNA subregion concurrently with the approval of this MOU, and pursue a delegation agreement between ABAG and the RHNA subregion.
- E.** This MOU reflects the following mutual interests, concerns, and parameters expressed by the Agencies as essential for their participation in the RHNA subregion:
1. The Agencies will use the RHNA methodology and allocation by ABAG for the subregion and each Agency within the subregion as the basis for determining allocation and any reallocation of housing production goals among the Agencies.
 2. ABAG's RHNA allocation for the subregion and for each Agency is the final allocation for the Agencies unless an Agency agrees to and provides express prior written consent to a reallocation of its ABAG RHNA allocation by duly adopted resolution of its governing board or council.
 3. The Agencies enter into this MOU with the understanding that the MOU and the subregion shall be subject to and administered in accordance with state law in effect upon the Effective Date of this Agreement. Any change in state law after the Effective Date that either increase the power, authority, or duties of the subregion or affect the power, authority, or duties of the Agencies is cause for termination of this MOU by the Parties,
 4. Any Agency may terminate its participation in the subregion. In accordance with the provisions of this MOU, cities and towns may terminate participation in the subregion at any time and the County may terminate participation in the subregion at the conclusion of the Housing Element cycle.
- F.** The purpose of this MOU is to memorialize how the Agencies will cooperate and work together to perform the work of the RHNA subregion, including the review of and input into ABAG's RHNA methodology and allocation for the subregion, advocacy regarding the RHNA subregion allocation as may be necessary or advisable, to seek to develop the RHNA allocation for all of the Agencies in a manner that is sensitive to the varied interests of all the Agencies, and the use of the services of the Association and consultants to assist the Agencies with this endeavor.

- G.** Formation of the subregion is subject to final consideration and approval by ABAG and it is expected that the Agencies will review and execute an agreement with ABAG, upon terms acceptable to the Agencies, as a condition of formation of the subregion.

AGREEMENT

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

1. PURPOSES

The purposes of this MOU are to:

- a. Define the roles, rights, and responsibilities of the Parties with respect to activities relating to the formation of a RHNA subregion, including the ABAG RHNA allocation for the subregion and the RHNA allocations among the Agencies, and matters relating to acknowledgement of the subregion by ABAG and execution of an agreement between ABAG and the subregion setting forth the terms and conditions of the delegation of responsibility to the subregion;
- b. Define the roles, rights, and responsibilities of the Parties upon formation of the RHNA subregion by the Agencies;
- c. Explain the relationships among the Parties;
- d. Appoint a Policy Committee to serve as the coordinating committee and point of contact for the RHNA subregion; and
- e. Establish a voluntary process for resolving issues among the Agencies that may arise with respect to the RHNA allocation for any Agency.

2. EFFECTIVE DATE

The effective date of this MOU is the date upon which all Parties have executed this MOU ("Effective Date").

3. TERM

This MOU shall govern the relationship among the Parties regarding the RHNA subregion process for the 2022-2030 Housing Element Cycle and shall automatically extend to future Housing Element Cycles unless this MOU is terminated pursuant to Section 10 herein. Notwithstanding the foregoing, an Agency may withdraw from this MOU in accordance with Section 11 herein and the MOU shall remain in effect for all remaining Parties unless such a withdrawal or withdrawals disrupts the geographic contiguity required by state law for a subregion in which event the MOU shall terminate in accordance with Section 10.

4. RHNA POLICY COMMITTEE (PC)

a. Authority.

1. The primary role of the RHNA Policy Committee ("PC") is to provide initial policy input into the RHNA allocation process, review RHNA Technical Advisory Committee ("TAC") recommendations, and adopt a policy consensus for transmittal to the governing boards and councils of the Agencies regarding ABAG's RHNA allocation for the subregion and the distribution of the subregion's RHNA allocation among the Agencies.
2. The PC shall plan, organize, and maintain the work of the subregion and be responsible for its overall operation.
3. The PC shall oversee the processes for the delegation of authority from ABAG to the subregion, the communications with ABAG regarding RHNA allocations for the subregion, and the RHNA allocations for each Agency.
4. The PC shall review, provide input, and recommend for adoption by all of the Agencies adequate findings as required by state law to support the RHNA allocations for the subregion and each of the Agencies.
5. The PC shall make recommendations to the governing boards and councils of the Agencies regarding the following:
 - a. Proposed changes to this MOU;
 - b. ABAG's proposed RHNA allocation for the subregion;
 - c. The distribution of the subregion's RHNA allocation among the Agencies;
 - d. The adoption of resolutions and agreements forming the RHNA subregion among the Agencies and ABAG; and
 - e. Any other matter relating to the RHNA subregion and RHNA allocations.
6. The PC shall submit to ABAG for approval the RHNA housing allocation for all of the Agencies in the subregion that is approved by all of the Agencies' governing boards and councils pursuant to Section 9.b.
7. The PC may approve the selection and services of a consultant or consultants and authorize the Association or any one of the Agencies to hire such consultant(s). Any consultant selected to provide services shall have proven expertise and knowledge relating to RHNA allocation methodology, developing consensus regarding RHNA methodology and allocation among the Agencies, sensitivity to the concerns and desires of the various Agencies, and expertise and knowledge of the submittal process for proposed final allocation to ABAG for approval in accordance with the Housing Element Law including the RHNA subregion requirements in Government Code sections 65584.03-65584.07. The PC may only approve the hiring of a consultant if there exist sufficient funds for such a contract that are budgeted, allocated, and transmitted by each of the Agencies to the Association or other Agency selected to enter into and manage the consultant contract for this purpose in accordance with Section 6 herein.
8. The PC may adopt a resolution specifying an appeal process by which an Agency may appeal its recommended allocation to the PC; however, such appeal process shall be entirely voluntary by the appealing Agency and shall

not bar any appealing Agency from withdrawing from this MOU in accordance with Section 11 or taking any other appropriate action with regard to its RHNA allocation. Nothing in this MOU shall prevent or preclude an Agency from discussing or negotiating an adjustment of its RHNA allocation with AGAB, appealing its allocation in accordance with applicable state law, or pursuing any other legal remedies regarding its RHNA allocation.

9. Any Agency's governing board or council may, at the PC's request or its own initiative, provide recommendations, guidance, and direction to the PC on issues related to RHNA subregion a formation and RHNA allocation or any other matter related to the subregion or this MOU. The PC shall consider any input from the Agency and attempt in good faith to resolve any issues and concerns expressed by any Agency.
 10. All PC meetings shall be conducted in accordance with the Ralph M. Brown Act (Government Code section 54950 *et seq.*) ("Brown Act").
- b. Representatives. The PC shall consist of one representative from each Agency who is an elected official appointed by his/her respective elected body to serve on the PC and participate in all of the duties of the PC pursuant to this MOU.
- c. Alternate Representatives.
1. Each Agency shall select one alternate representative of the PC who is an elected official appointed by his/her respective elected body to serve on the PC in the absence of the appointed representative.
 2. In the event both the representative and the alternate representative will be absent from a meeting of the PC, the Agency may designate a substitute for that meeting and notify the Executive Director of the Association, the PC Chairperson, and the PC Vice Chair in writing of the designated alternate representative. The designated substitute representative is not required to be an elected official.
- d. Absences. Unless resulting from an emergency or unforeseen event, if any representative fails to attend two (2) consecutive meetings of the PC without prior written notice to the Executive Director of the Association, the PC Chairperson, and the PC Vice Chair, the Chairperson will notify the elected body of the absent representative to encourage future participation.
- e. Officers; Rules of Procedure.
1. The officers of the PC shall be a Chairperson and a Vice Chairperson (collectively "Officers") who shall serve in accordance with the Rules of Procedure attached hereto and incorporated herein by reference as Exhibit A.
 2. The Rules of Procedure of the PC (Exhibit A) may be amended from time to time by resolution of the PC in accordance with Section 4.f with the exception of the following provisions, which shall require amendment of this MOU pursuant to Section 13:
 - a. Composition and membership of the PC (Sections 4.b and 4.c).

- b. Conduct of PC meetings in accordance with the Brown Act (Section 4.a.10).
 - c. Quorum and voting requirements of the PC (Section 4.f).
 - d. Scope of authority granted to the PC by this MOU (Section 4.a).
 - e. PC Compensation prohibition. (Section 4.g).
 - f. Actions requiring Agency approval (Section 9).
- f. Quorum and Voting.
- 1. A quorum of a majority of the total membership of the PC is required to hold meetings of the PC.
 - 2. Each PC representative shall have one vote. A majority vote of the total membership of the PC is required to approve any motion except for the actions to amend the PC Rules of Procedure specified in Section 4.e.2.
 - 3. Any motion by the PC to make a report, request, or recommendation from the PC to the governing boards and councils of the Agencies shall be conveyed to the governing boards and councils with an explanation of the reasons for the affirmative vote and shall also include the reasons stated, if given, for any dissenting vote.
- g. No Compensation. All PC representatives and alternate representatives shall serve without compensation.

5. RHNA Technical Advisory Committee (TAC)

- a. TAC Membership and Participation:
- 1. The TAC shall consist of one member from each Agency, who are senior staff technical experts in the field of land use and/or housing.
 - 2. The Agencies, through their respective TAC members, may flexibly assign and delegate different staff to serve as the respective Agency's TAC member.
 - 3. The Agencies, through their respective TAC members, may also flexibly assign and delegate different staff to participate as a non-member in the TAC to contribute to and address specific subjects and issues within their expertise.
 - 4. A consultant or consultants may also be authorized by the PC to attend TAC meetings and to otherwise assist the TAC in its work.
- b. TAC Purpose and Authority:
- 1. The purpose of the TAC is to provide technical expertise and development of recommended solutions to issues relating to the subregion's purposes, including ABAG's RHNA allocation for the subregion, the methodology for the RHNA allocations among the Agencies, the final recommendations for the RHNA allocations, and the findings required by law for the RHNA allocations for the relevant Housing Element cycle, including but not limited to any such work and reports that may be prepared by consultants or the Agencies for these purposes.

2. Make reports and recommendations to the PC relating to RHNA allocations and related documents.
3. The TAC shall work in good faith to facilitate and achieve consensus among the TAC members on TAC recommendations to the PC.
4. The TAC may assist in presentations on RHNA allocation-related matters to the governing boards and councils of the Agencies when asked to do so by the PC.
5. The TAC shall prepare periodic reports and recommendations as it deems necessary or advisable, or as requested, on matters related to the subregion and RHNA allocation and any other activities to the chief administrators of each of the Agencies including the County Executive, each city manager, and each town manager.
6. The PC may direct the TAC to perform any other duties so long as those duties are reasonably related to the purposes of this MOU.
7. No TAC member, assignee, or delegate shall participate in or endorse any political activity involving any individual candidate for public office or ballot measure. The selection of Task Force representatives pursuant to this MOU is not a political activity subject to this section.

6. CONSULTANTS

The PC may authorize the hiring of one or more consultants in accordance with Section 4.a.7 of this MOU to perform any or all of the following tasks:

- a. Assist the Parties, the PC, or the TAC in performing their duties relating to the RHNA allocation.
- b. Review and comment to the TAC and PC on the accuracy and adequacy of ABAG's RHNA allocations for the RHNA subregion.
- c. Advise and assist the TAC and PC regarding ABAG's RHNA allocation for the subregion if the Agencies determine that they do not agree with the ABAG RHNA subregion allocation.
- d. Work with ABAG to adjust the subregion's RHNA allocation if directed to do so by the PC.
- e. Facilitate and help develop consensus regarding RHNA methodology and allocation among the Agencies.
- f. Be sensitive to the concerns and desires of the various Agencies.
- g. Prepare adequate findings required by state law to support the RHNA allocations for the subregion and the jurisdictions of each of the Agencies for review by the TAC, the PC, and approval of the governing boards and councils of the Agencies.
- h. Assist in the submission of the proposed final allocation of the Agencies' RHNA allocations that is approved by the Agencies to ABAG for approval in accordance with the requirements of state law.
- i. Any other task related to the purposes of the subregion that is assigned to the consultant by contract or contract amendment approved pursuant to this MOU.

7. THE ASSOCIATION

The Association shall do all of the following:

- a. Provide support to the PC and the TAC for the subregion allocation work.
- b. Plan, organize, and maintain the work of the subregion and be responsible for its day-to-day tasks under the direction of the PC and with the assistance of the TAC and any consultants performing work for the Association or Agencies pursuant to this MOU.
- c. Regularly advise the PC, City and Town Managers, County Executive, and the governing boards and councils of the Agencies of all significant activities relating to the subregion.
- d. Request recommendations from the PC and/or governing boards and councils of the Agencies when advisable or required pursuant to this MOU.
- e. The Association may reasonably delegate any or all of the tasks in this Section 7 to consultants, the TAC, or Agencies when specifically authorized to do so in writing by the PC.

8. FUNDING OF SUBREGION

- a. Initial Funding. The estimated total cost of the RHNA Subregion work to be performed by the PC for the 2011-2030 Housing Element cycle (including consultants) is Fifty Thousand Dollars (\$50,000.00) ("Base Funding"). Within 60 days of the date of execution of this MOU, each Agency agrees to pay an equal share of the Base Funding to the Association in the amount of Three Thousand One Hundred Twenty-Five Dollars (\$3,125.00) ("Base Payment") to be held in trust by the Association for work performed by the Association and any consultants pursuant to this MOU.
- b. Subsequent Funding. Following the Base Payment by the Agencies, the PC may recommend that the Agencies make additional payments to fund work performed pursuant to this MOU. Any PC recommendation for additional funding shall specify the additional services to be funded, the reasons for such additional services, the amount of additional funding requested, and a reasonable deadline for the payment of such additional funds by the Agencies.
- c. Unexpended Funds. Any funds that remain unexpended following the conclusion of all work performed by the Association and any consultants pursuant to this MOU shall be refunded in equal amounts to all of the Agencies that have paid their Initial Funding and all Subsequent Funding in full.

Commented [TV1]: There are several comments from the Agencies that this estimate appears to be low. There is a concern that there may be a need to request the Agencies for more funds in the future and that the total funding is not predictable. They are concerned with funding surprises. Some of the Agencies appear to prefer stating a more realistic total costs with contingency funding included so that they can adequately and accurately advise their boards and councils and budget accordingly. The Task Force needs to determine what this funding amount should be based upon information from Association and potential consultants.

Commented [TV2]: Same comment as above.

9. AGENCY APPROVAL REQUIRED

- a. Participation in the RHNA subregion and allocation process requires the execution of this MOU and the adoption of a resolution to form and participate in the RHNA subregion by the governing board or council of each of the Agencies.

In the event an Agency fails to timely adopt any of the resolutions to form and participate in the RHNA subregion or execute this MOU, that Agency shall not be included in the subregion.

- b. The adoption by resolution of the governing board or council of an Agency is specifically required to approve the RHNA allocation for that Agency. Any resolution to adopt the final RHNA Allocation by an Agency that is allocated a different share of regional housing or a different share of housing in a specified household income category than its ABAG Default Allocation as defined in Section 11.c shall:
 1. Specify that the Agency approves and consents to the change in its ABAG Default Allocation; and
 2. Authorize the approval of any agreement, or reference any previously approved agreement, specifying the terms and conditions of the approval of the change in the Agency's ABAG Default Allocation.
- c. An Agency's failure to timely adopt a resolution approving its RHNA allocation shall constitute a withdrawal from the subregion, and the Agency shall notify all Parties of its withdrawal from the MOU in accordance with Section 11 and shall be subject to the allocation and funding provisions in Sections 12.c and 12.d.

10. **TERMINATION**

OPTION 1

Unless extended by mutual agreement of the Parties in writing, this MOU shall terminate upon the earliest of the following occurrences:

- a. Expiration of the 2022-2030 Housing Element cycle;
- b. By mutual agreement of the Parties;
- c. Upon the withdrawal of any Agency or Agencies from the subregion which results in a lack of the geographic continuity of subregion Agencies required by Government Code section 65584.03; or
- d. Upon the effective date of any change in state law following the Effective Date of this MOU that would:
 1. Increase the power, authority, or duties of RHNA subregions;
 2. Decrease the authority of the Agencies with regard to the RHNA subregion or RHNA allocation; and/or
 3. Make any voluntary obligation mandatory.

OPTION 2

This MOU shall automatically extend with no further action of the Parties upon expiration of the 2022-2030 Housing Element cycle in accordance with Section 3 unless terminated as follows:

- a. By mutual agreement of the Parties;
- b. Upon the withdrawal of any Agency or Agencies from the subregion which results in a lack of the geographic continuity of subregion Agencies required by Government Code section 65584.03; or
- c. Upon the effective date of any change in state law following the Effective Date of this MOU that would:

Commented [TV3]: Two options for termination of the MOU are provided. Some Agencies prefer Option 1 (terminates at end of this RHNA cycle unless expressly extended by the Parties), while County prefers Option 2 (automatic renewal unless expressly terminated by the Parties). Task Force should determine which option it will recommend.

1. Increase the power, authority, or duties of RHNA subregions;
2. Decrease the authority of the Agencies with regard to the RHNA subregion or RHNA allocation; and/or
3. Make any voluntary obligation mandatory.

11. WITHDRAWAL OF AGENCY

- a. Any city or town may withdraw from this MOU and from the RHNA subregion established hereunder by resolution of its governing board or council and by providing written notice of withdrawal to all of the Parties in accordance with Section 14. The rights and obligations of any such withdrawing city or town under this MOU shall terminate thirty (30) calendar days following receipt of such notice.
- b. The County shall not withdraw from this MOU after adoption of resolutions authorizing the formation of a RHNA subregion by the governing boards and councils of the Agencies except that the County may withdraw from the MOU under all of the following circumstances:
 1. Upon conclusion of a Housing Element cycle (i.e., the final adoption or approval of the RHNA allocation pursuant to Housing Element Law) and prior to the subregion's commencement of the RHNA allocation work for the following Housing Element cycle by the subregion Agencies, which shall be presumed not to begin until at least five (5) years after ABAG's final approval of the RHNA application for the immediately preceding Housing Element cycle; and
 2. Providing written notice of withdrawal to all of the Parties in accordance with Section 14; and
 3. The rights and obligations of the County under this MOU shall terminate sixty (60) calendar days following the date of its notice of withdrawal.
- c. Upon withdrawal prior to the Agencies' approval of the RHNA allocation for the subregion and each Agency and submission to ABAG, the withdrawing Agency shall use ABAG's allocation for its jurisdiction ("Default Allocation") and the remaining Agencies shall subtract the withdrawing Agency's ABAG Default Allocation from the subregion's total RHNA allocation. Upon withdrawal after the Agencies' approval of the RHNA allocation for the subregion and each Agency and submission to ABAG, the withdrawing Agency shall use the subregion allocation for its Agency and the remaining Agencies shall subtract the withdrawing Agency's subregion allocation for the withdrawing Agency from the subregion's total RHNA allocation.
- d. Upon withdrawal, funds collected pursuant to Section 8 prior to withdrawal shall not be returned to a withdrawing Agency.

12. INDEMINIFICATION

In lieu of and notwithstanding the pro rata risk allocation which might otherwise be imposed among the Agencies pursuant to Government Code Section 895.6, the Agencies agree that any losses or liabilities incurred by an Agency that are in any way

Commented [TV4]: This section was added because the original bylaws draft included a note that such a provision should be added. Do not believe it is necessary unless the PC and an Agency agree for an Agency to perform functions such as finance/accounting, contracting, etc., and then that contract can include such provision. Some of the Agencies agree that this is unnecessary. This is an abbreviated version for consideration by the Association representatives,

related to this MOU shall be borne by that Agency and shall not be shared pro rata. **No Agency, nor any officer, board member, employee or agent thereof shall be responsible for any damage or liability incurred by reason of the negligent acts or omissions or willful misconduct of another Agency hereto**, its officers, board members, employees or agents under or in connection with or arising from any work, authority or jurisdictions delegated to such Agency under this Agreement, including but not limited to any non-compliance by an Agency.

13. AMENDMENT OF MOU

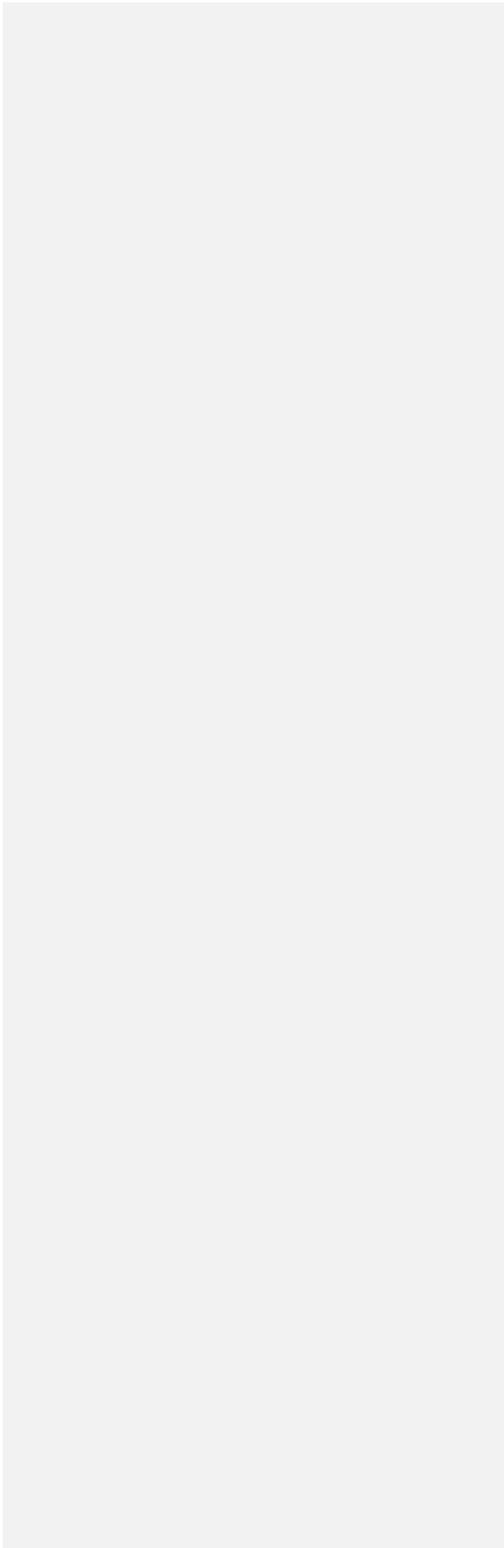
This MOU may be amended only by written agreement executed by all of the Parties.

14. NOTICES

Notices to the Parties shall be considered received within five (5) calendar days of placement in the U.S. Mail or by any other reasonably reliable means of delivery if delivered as follows:

PARTY NAME	With Copy To:
<u>County of Santa Clara</u> County Executive 70 W. Hedding Street, 11 th Floor, E. Wing San José, CA 95110	County Counsel County of Santa Clara 70 W. Hedding Street, 9 th Floor, E. Wing San José, CA 95110
<u>City of Campbell</u>	City Attorney
<u>City of Cupertino</u>	City Attorney
<u>City of Gilroy</u> City Administrator 7351 Rosanna Street Gilroy, CA 95020	City Attorney City of Gilroy 7351 Rosanna Street Gilroy, CA 95020
<u>City of Los Altos</u>	City Attorney

<u>Town of Los Altos Hills</u>	Town Attorney
<u>Town of Los Gatos</u>	Town Attorney
<u>City of Milpitas</u>	City Attorney
<u>City of Monte Sereno</u>	City Attorney
<u>City of Morgan Hill</u> City Manager 17575 Peak Avenue Morgan Hill 95037	City Attorney City of Morgan Hill 17575 Peak Avenue Morgan Hill, CA 95037
<u>City of Mountain View</u>	City Attorney
<u>City of Palo Alto</u>	City Attorney
<u>City of San José</u> City Manager 200 E. Santa Clara Street, 17 th Floor San José, CA 95113	City Attorney City of San José 200 E. Santa Clara Street, 16 th Floor San José, CA 95113
<u>City of Santa Clara</u>	City Attorney
<u>City of Saratoga</u>	City Attorney



<u>City of Sunnyvale</u>	City Attorney
<u>Cities Association of Santa Clara County</u>	Legal Counsel

15. SECTION HEADINGS

All section headings contained herein are for reference only and are not intended to define or limit the scope of any provision of this MOU.

16. COUNTERPARTS

This MOU may be executed in counterparts and so executed shall constitute one MOU which shall be binding upon all Parties. A photocopy of the fully executed MOU shall have the same force and effect as the original.

17. SIGNATURES

By affixing his/her signature below, each of the persons signing this MOU warrants and represents that he/she has read and understands the MOU, that he/she is authorized to sign this MOU, and that the Party on behalf of whom he/she signs agrees to be bound by its terms.

CITY OF CAMPBELL	APPROVED AS TO FORM: City Attorney
_____ [name] [title]	By: _____ [name] [title]
CITY OF CUPERTINO	APPROVED AS TO FORM: City Attorney
_____	By: _____

[name] [title]	[name] [title]
CITY OF GILROY	APPROVED AS TO FORM: City Attorney By:
[name] [title]	[name] [title]
CITY OF LOS ALTOS	APPROVED AS TO FORM: City Attorney By:
[name] [title]	[name] [title]
TOWN OF LOS ALTOS HILLS	APPROVED AS TO FORM: Town Attorney By:
[name] [title]	[name] [title]
TOWN OF LOS GATOS	APPROVED AS TO FORM: Town Attorney By:
[name] [title]	[name] [title]
CITY OF MILPITAS	APPROVED AS TO FORM: City Attorney By:
[name] [title]	[name] [title]
CITY OF MONTE SERENO	APPROVED AS TO FORM:

	City Attorney
<hr/>	By: <hr/>
[name] [title]	[name] [title]
CITY OF MORGAN HILL	APPROVED AS TO FORM: City Attorney
<hr/>	By: <hr/>
[name] [title]	[name] [title]
CITY OF MOUNTAIN VIEW	APPROVED AS TO FORM: City Attorney
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[name] [title]	[name] [title]
CITY OF PALO ALTO	APPROVED AS TO FORM: City Attorney
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[name] [title]	[name] [title]
CITY OF SAN JOSÉ	APPROVED AS TO FORM: City Attorney
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[name] [title]	[name] [title]
CITY OF SANTA CLARA	APPROVED AS TO FORM: City Attorney
<hr/>	By: <hr/>
[name] [title]	[name] [title]

CITY OF SARATOGA	APPROVED AS TO FORM: City Attorney
_____	By: _____
[name] [title]	[name] [title]
CITY OF SUNNYVALE	APPROVED AS TO FORM: City Attorney
_____	By: _____
[name] [title]	[name] [title]
COUNTY OF SANTA CLARA	APPROVED AS TO FORM: County Counsel
_____	By: _____
JEFFREY V. SMITH County Executive	[name] [title]
CITIES ASSOCIATION OF SANTA CLARA COUNTY	APPROVED AS TO FORM: Legal Counsel
_____	By: _____
[name] [title]	[name] [title]

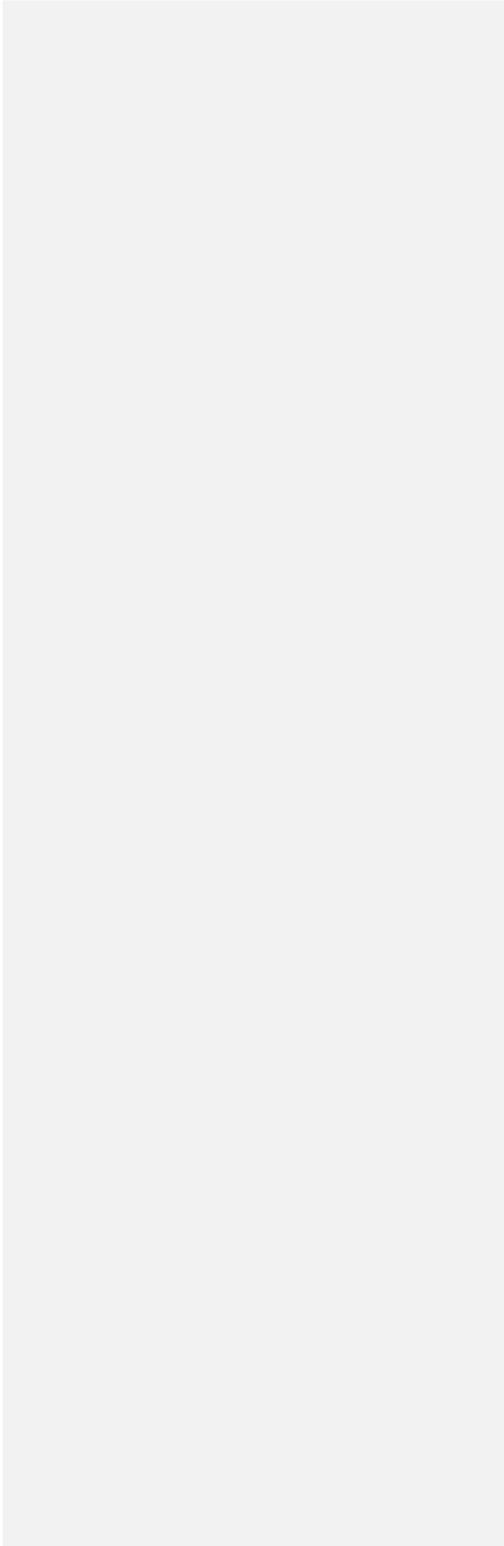


EXHIBIT A

RHNA POLICY COMMITTEE

RULES OF PROCEDURE

The following are the Rules of Procedure for the RHNA Policy Committee ("PC") as established by the Memorandum of Understanding entitled "Santa Clara County and Cities Regional Housing Needs Allocation Subregion Memorandum of Understanding" ("MOU") among the following Parties: the County of Santa Clara, the City of Campbell, the City of Cupertino, the City of Gilroy, The City of Los Altos, The Town of Los Altos Hills, the Town of Los Gatos, the City of Milpitas, the City of Monte Sereno, the City of Morgan Hill, the City of Mountain View, the City of Palo Alto, the City of San José, the City of Santa Clara, the City of Saratoga, the City of Sunnyvale, and the Cities Association of Santa Clara County.

1. OFFICERS.

- a. The officers of the PC shall be a Chairperson and a Vice Chairperson (collectively "Officers") who shall serve as follows:
 1. Upon formation of the PC, the PC shall at its first meeting elect the Officers.
 2. The Officers shall be PC representatives and shall be elected by majority vote of a quorum of the PC.
 3. The Officers shall serve for a term of one (1) calendar year commencing upon the date of the first PC meeting.
 4. The Chairperson and/or Vice Chairperson may be removed at any time by a majority vote of a quorum of the PC.
 5. If the Chairperson and/or Vice Chairperson is unable to serve or is removed, a new Chairperson and/or Vice Chairperson shall be elected by majority vote of a quorum of the PC.
- b. Chairperson, Powers and Duties. The Chairperson shall preside at all meetings of the PC.
- c. Vice Chairperson, Powers and Duties. The Vice Chairperson shall preside at meetings of the PC in the event of and during the absence, legally required abstention, or disability of the Chairperson.
- d. Chairperson Pro Tempore, Appointment. In the event of the absence, legally required abstention, or disability of the Chairperson and Vice Chairperson at any meeting of the PC, the PC shall appoint, by majority vote of the members present, so long as there is a quorum of the PC, one of the representatives as Chairperson pro tempore to preside over such meeting. Upon appointment, the Chairperson pro tempore shall have and perform all powers and duties of the Chairperson at the meeting for which he/she is appointed.

- e. Secretary. The Executive Director of the Association or his or her designee is hereby designated and appointed as the Secretary of the PC. The powers and duties of the Secretary may be performed by any duly appointed agent of the Secretary. The Secretary shall:
1. Post appropriate public notice of PC meeting agendas including the date, time, and location of the meetings.
 2. Attend all meetings of the PC, and prepare a written record of minutes of all actions taken at such meetings.
 3. Attest to all minutes of all PC meetings which shall have been approved by the PC, and maintain custody of the PC minutes.
 4. Maintain and have custody of all books, records, and papers of the PC.

2. MEETINGS.

- a. All PC meetings shall be held in accordance with the Ralph M. Brown Act, Government Code section 54950 *et seq.*
- b. The PC shall establish by resolution the date, time, and place for regular PC meetings as required by the Ralph M. Brown Act.
- c. Adjourned meetings and special meetings may be held by the PC pursuant to and in accordance with the provisions of the Ralph M. Brown Act.
- d. The PC may meet in a study session, informational workshop, or retreat at such time(s) and place(s) as the PC may deem appropriate or advisable and in accordance with the provisions of the Ralph M. Brown Act. These meetings are to allow the PC to engage in informational or educational discussions on topic areas to be determined by the PC. No decisions, actions or votes may be taken by the PC at such meetings of the PC. These study sessions, workshops and retreats may be conducted with less than a quorum of the PC present and do not constitute doing business under the provisions of Section 5.j.7 hereinbelow.

3. AGENDA.

- a. The Chairperson shall determine the agenda for each PC meeting. Agency representatives shall notify the Chairperson in writing of any items within the scope of the PC's authority that they desire to have placed on the agenda no later than 5:00 pm on the 15th calendar day before the meeting date. The Chairperson shall use his/her best efforts to include all items on the agenda that are requested by Agency representatives factoring time, availability of the Secretary and other necessary persons, and other resource constraints. Exceptions to the time requirements for agenda item requests may be made at the discretion of the Chairperson for urgent matters, but shall only be granted subject to compliance with the requirements of the Brown Act.
- b. Any and all matters which are authorized by the Chairperson to be placed upon the agenda for consideration by the PC at a regular meeting shall be filed with the Secretary not later than 5:00 p.m. on the 10th calendar day immediately preceding the regular meeting at which the matters on such agenda shall be

considered by the PC; and the Secretary shall on the day following said final filing date make up such agenda and shall on the same day cause a copy of such agenda to be mailed to each representative of the PC.

c. The PC shall not consider any matter that does not appear on the agenda.

4. QUORUM.

A majority of all the PC representatives shall constitute a quorum to do business; but a lesser number may conduct a study session, informational workshop or retreat pursuant to Section 2.d above, adjourn a meeting, or adjourn a meeting to a stated time and place.

5. VOTE REQUIRED.

- a. No action shall be taken by the PC unless it is taken in accordance with Section 4.f of the MOU, so long as there is a quorum present, except as follows:
- b. When less than a quorum is present, a majority of those present may adjourn the meeting, or adjourn the meeting to a specified time and place; or
- c. When less than a quorum is present for the hearing of an item before the PC, a majority of those present may continue the item to a specified time and place.

6. DISCUSSION THROUGH CHAIRPERSON ONLY; LIMITATION OF DISCUSSION; DISQUALIFICATION OF REPRESENTATIVES.

Discourse shall not be had directly among representatives of the PC nor between persons in attendance and representatives of the PC. Persons in attendance may address the PC or representatives thereof only through the Chairperson.

7. MOTIONS, DEBATE THEREOF, DEBATE LIMITED TO PC REPRESENTATIVES.

No debate of a motion shall be permitted prior to a second of the motion. When a motion is made and seconded, the motion shall be re-stated by the Chairperson before being debated; and such debate shall be limited to representatives of the PC only. Representatives of the PC may speak in debate of a motion only upon addressing the Chairperson and being recognized by the Chairperson. After the Chairperson has started to take the vote on the motion there shall be no further debate except that representatives of the PC may be allowed to explain their vote, or present appropriate motions as governed by Rosenberg's Rules of Order.

8. VOTING; AYES AND NOES.

- a. Every representative of the PC who is present at a meeting when a motion comes up for vote shall vote for or against the motion unless the PC representative has been recused from voting for any legal reason and abstains from voting because of such declared recusal.

- b. All voting by PC representatives shall be by roll call vote, or electronic vote, and the vote or abstention on that action of each representative present for the action shall be entered by the Secretary in the public record of the PC proceedings.

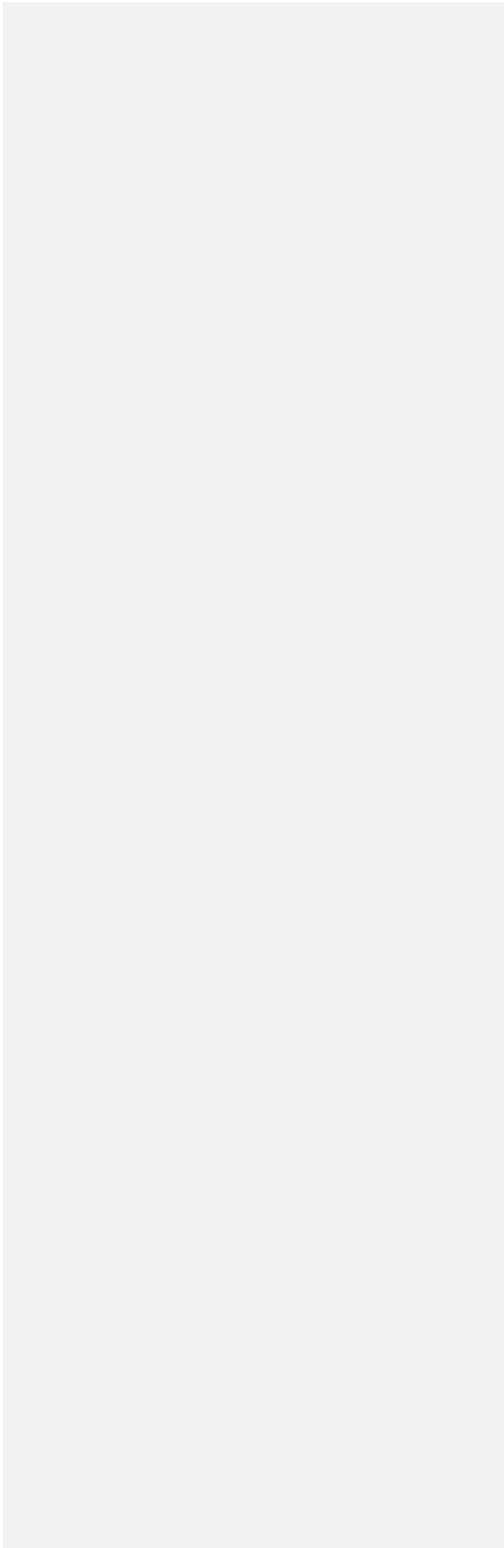
9. ORDER OF BUSINESS.

The order of business of the Committee shall be set by the Secretary. The PC Chairperson may at any time alter the above order of business at any meeting.

10. APPLICATION OF ROSENBERG'S RULES OF ORDER.

Except as otherwise expressly set forth in this Resolution, the general procedures to be followed by the PC at its meetings shall be those described in Rosenberg's Rules of Order, as those rules may be amended, updated or replaced from time to time; provided, however, that a failure to follow Rosenberg's Rules of Order by itself shall not invalidate any proceeding or action of the PC.

DRAFT



RESOLUTION NO. _____

A RESOLUTION OF THE [COUNTY OF SANTA CLARA/CITY OF X/TOWN OF X] AUTHORIZING [SPECIFY POSITION] TO EXECUTE A MEMORANDUM OF UNDERSTANDING AMONG PARTICIPATING LOCAL GOVERNMENT AGENCIES TO ESTABLISH A SANTA CLARA COUNTY-WIDE SUBREGION TO LOCALLY ADMINISTER THE ASSOCIATION OF BAY AREA GOVERNMENT (ABAG) REGIONAL HOUSING NEEDS ALLOCATION (RHNA) PROCESS FOR THE 2022-2030 HOUSING ELEMENT CYCLE

WHEREAS, the Association of Bay Areas Governments (ABAG) is required by State law to administer the Regional Housing Needs Allocation (RHNA) program as the council of governments in the Bay Area; and

WHEREAS, ABAG has begun preliminary work on developing RHNA allocations for the subregion of Santa Clara County including its incorporated cities and towns and unincorporated area with the objective of completing the program in August of [YEAR]; and

WHEREAS, Government Code sections 65584.03-65584.07 authorizes local agencies to administer the RHNA allocation process when they agree to create a subregion for the purposes of distributing housing need allocations among the members of the subregion; and

WHEREAS, Government Code section 65584.03(a) specifies the public agencies that may form a RHNA subregion, including a County and incorporated municipalities; and

WHEREAS, the City/Town/County of X desires to become a party of a subregion in Santa Clara County; and

WHEREAS, the City/Town/County of X desires to enter into a Memorandum of Understanding ("MOU") with the other Cities and Towns in Santa Clara County, the County of Santa Clara, and the Cities Association of Santa Clara County to define the relationships among the parties and authorize various activities and actions to form the RHNA subregion and reach agreement upon RHNA allocation among the parties, which MOU is attached hereto as Exhibit "A"; and

WHEREAS, the Cities Association of Santa Clara County will facilitate and provide staff support and other functions specified in the MOU; and

WHEREAS, Government Code section 65584.03 requires that each public agency party of a subregion must adopt a resolution authorizing its inclusion in the subregion; and

WHEREAS, each public agency member of the subregion shall enter into the MOU and adopt a resolution authorizing its inclusion in the subregion in order to be included in the subregion; and

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Commented [TV1]: The language in the original draft is inaccurate. Rather, Govt C sec 65583.03(a) is ambiguous as to whether the County must be a participant in the subregion. ABAG and County understanding is that County must be a member of subregion

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WHEREAS, adopted resolutions authorizing participation in a RHNA subregion must be sent to ABAG by **December 2019**; and

WHEREAS, ABAG must adopt a resolution approving the RHNA subregion;

NOW, THEREFORE, BE IT RESOLVED by the **City/Town Council of the City/Town of X/Santa Clara County Board of Supervisors** as follows:

1. The **City/Town/County** agrees to form a RHNA subregion of Santa Clara County (including incorporated jurisdictions and unincorporated areas) in accordance with Government Code sections 65584.03-65584.07 and the MOU attached hereto as Exhibit A.
2. **[Name/Position]** is hereby authorized to execute the MOU attached hereto and incorporated herein by reference as Exhibit "A."
3. This resolution shall be submitted by **[name/position]** within **[]** days of adoption to the Cities Association of Santa Clara County and the Association of Bay Area Governments (ABAG) for inclusion in the ABAG Resolution designating a RHNA subregion consisting of the incorporated jurisdictions within Santa Clara County and the unincorporated area of Santa Clara County.

[Each jurisdiction needs to add its own voting block, authorized resolution signatures, and certification here.]

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RESOLUTION NO.

A RESOLUTION OF THE [COUNTY OF SANTA CLARA/CITY OF X/TOWN OF X] AUTHORIZING [SPECIFY POSITION] TO EXECUTE A MEMORANDUM OF UNDERSTANDING AMONG PARTICIPATING LOCAL GOVERNMENT AGENCIES TO ESTABLISH A SANTA CLARA COUNTY-WIDE SUBREGION TO LOCALLY ADMINISTER THE ASSOCIATION OF BAY AREA GOVERNMENT (ABAG) REGIONAL HOUSING NEEDS ALLOCATION (RHNA) PROCESS FOR THE 2022-2030 HOUSING ELEMENT CYCLE

Commented [TV1]: All highlighted sections must be completed.

WHEREAS, the Association of Bay Areas Governments (ABAG) is required by State law to administer the Regional Housing Needs Allocation (RHNA) program as the council of governments in the Bay Area; and

WHEREAS, ABAG has begun preliminary work on developing RHNA allocations for the subregion of Santa Clara County including its incorporated cities and towns and unincorporated area with the objective of completing the program in **August of [YEAR]**; and

WHEREAS, Government Code sections 65584.03-65584.07 authorizes local agencies to administer the RHNA allocation process when they agree to create a subregion for the purposes of distributing housing need allocations among the members of the subregion; and

WHEREAS, Government Code section 65584.03(a) specifies the public agencies that may form a RHNA subregion, including a County and incorporated municipalities; and

WHEREAS, the **City/Town/County of X** desires to become a party of a subregion in Santa Clara County; and

WHEREAS, the **City/Town/County of X** desires to enter into a Memorandum of Understanding ("MOU") with the other Cities and Towns in Santa Clara County, the County of Santa Clara, and the Cities Association of Santa Clara County to define the relationships among the parties and authorize various activities and actions to form the RHNA subregion and reach agreement upon RHNA allocation among the parties, which MOU is attached hereto as Exhibit "A"; and

WHEREAS, the Cities Association of Santa Clara County will facilitate and provide staff support and other functions specified in the MOU; and

WHEREAS, Government Code section 65584.03 requires that each public agency party of a subregion must adopt a resolution authorizing its inclusion in the subregion; and

WHEREAS, each public agency member of the subregion shall enter into the MOU and adopt a resolution authorizing its inclusion in the subregion in order to be included in the subregion; and

WHEREAS, adopted resolutions authorizing participation in a RHNA subregion must be sent to ABAG by **December 2019**; and

WHEREAS, ABAG must adopt a resolution approving the RHNA subregion;

NOW, THEREFORE, BE IT RESOLVED by the **City/Town Council of the City/Town of X/Santa Clara County Board of Supervisors** as follows:

1. The **City/Town/County** agrees to form a RHNA subregion of Santa Clara County (including incorporated jurisdictions and unincorporated areas) in accordance with Government Code sections 65584.03-65584.07 and the MOU attached hereto as Exhibit A.
2. **[Name/Position]** is hereby authorized to execute the MOU attached hereto and incorporated herein by reference as Exhibit "A."
3. This resolution shall be submitted by **[name/position]** within **[]** days of adoption to the Cities Association of Santa Clara County and the Association of Bay Area Governments (ABAG) for inclusion in the ABAG Resolution designating a RHNA subregion consisting of the incorporated jurisdictions within Santa Clara County and the unincorporated area of Santa Clara County.

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[Each jurisdiction needs to add its own voting block, authorized resolution signatures, and certification here.]