

**CITY OF NAPA AND COUNTY OF NAPA
MEMORANDUM OF AGREEMENT
CONCERNING HOUSING AND REDEVELOPMENT**

This Memorandum of Agreement ("Agreement") is made and entered into as of _____, 2007 by and between the County of Napa, a political subdivision of the state of California ("County") and the City of Napa, a municipal corporation ("City").

RECITALS:

- A. The City and the County share a mutual commitment to encourage land use policies that preserve agricultural uses and that focus new development in urbanized areas.
- B. The City and the County also share a mutual commitment to cooperate toward pooling available resources in order to meet the housing needs generated within the County, including the regional housing need allocations ("RHNA") identified by the State Department of Housing and Community Development ("HCD") and the Association of Bay Area Governments ("ABAG").
- C. The City and the County have mutual interests in reducing blight, encouraging economic development in distressed areas, and encouraging affordable housing development.
- D. The City and the Napa Community Redevelopment Agency ("NCRA") will consider adoption of the Soscol Gateway Redevelopment Project Area (as summarized during a staff presentation of the Draft Redevelopment Plan at the NCRA meeting of September 18, 2007). The goals of the Soscol Gateway Redevelopment Project Area include, among other goals, providing infill housing along the Soscol Corridor to assist in meeting the housing needs of the City and the County.
- E. On October 7, 2003, the parties entered into a Memorandum of Understanding ("MOU") identified as Napa County Agreement No. 6148, and City of Napa Agreement No. 8428. The MOU identified a range of actions the City and the County agreed to take in order to achieve, among other goals, many of the issues identified in these recitals. While this Agreement is intended to update and supplement some of the terms of the MOU, the parties intend the provisions of the MOU to remain in full force and effect unless specifically modified by this or another Agreement.

NOW THEREFORE, IN CONSIDERATION OF THE MUTUAL PROMISES SET FORTH HEREIN, THE PARTIES AGREE AS FOLLOWS:

- 1. Support for Soscol Gateway Redevelopment Project Area. The County hereby supports the City's and NCRA's efforts to provide for needed infrastructure upgrades, economic development, and infill housing in areas subject to flooding by establishing the Soscol Gateway Redevelopment Project Area as described in the Draft Redevelopment Project Plan.
- 2. Repeal of Paragraph 4 of MOU. Paragraph 4 of the MOU relating to Revenue Sharing is hereby deleted in its entirety. The County shall have no obligation to make revenue sharing payments to the City as initially contemplated by Paragraph 4 of the MOU. The deletion of Paragraph 4 from the MOU shall survive any termination of this Memorandum of Agreement.
- 3. Allocation of City Housing Units to the County.

- a. The parties agree to work together to obtain ABAG approval for the City to identify sites to accommodate 164 housing units to be allocated to the County's RHNA over two HCD planning periods; 82 housing units during the 2007-2014 planning period, and 82 housing units during the subsequent planning period. As soon as ABAG issues a letter accepting the allocation of housing units from the City to the County as set forth in this Agreement, the parties will begin the process of updating their respective Housing Elements in compliance with all laws, including conducting any public hearings, environmental reviews, and related requirements as may be set forth in federal, state, and local laws and regulations.
 - b. After the City Council and the County Board of Supervisors approve the respective update to each party's Housing Element consistent with this Agreement, and after HCD certifies the Housing Elements, the City agrees to allocate built housing units to the County for the life of the Soscol Gateway Redevelopment Plan, up to a maximum of 164 housing units, consistent with the approach described on Exhibit "A," attached hereto and incorporated herein by reference.
 - c. The parties acknowledge and agree that this Agreement is not intended to and shall not in any manner be used to change the baseline for the City's future RHNA determinations by ABAG (other than those specifically identified herein for the planning periods of 2007-2014 and the subsequent period).
4. Notices. All notices required or contemplated by this Agreement shall be in writing and shall be delivered to the respective party as set forth in this section. Communications shall be deemed to be effective upon the first to occur of: (a) actual receipt by a party's Authorized Representative, or (b) actual receipt at the address designated below, or (c) three working days following deposit in the United States Mail of registered or certified mail sent to the address designated below. The Authorized Representative of either party may modify their respective contact information identified in this section by providing notice to the other party. The Authorized Representative of each party shall be identified on the "Attn" line, below:

City of Napa:

Attn: City Manager
P.O. Box 660
Napa, California 94559-0660

Copy: City Attorney
P.O. Box 660
Napa, California 94559-0660

County of Napa:

Attn: Napa County Executive Officer
1195 Third Street, Suite 310
Napa, California 94559

Copy: County Counsel
1195 Third Street
Napa, California 94559

5. Governing Law, Jurisdiction, and Venue. The interpretation, validity, and enforcement of this Agreement shall be governed and interpreted in accordance with the laws of the State of California. Any suit, claim, or legal proceeding of any kind related to this Agreement shall be filed and heard in a court of competent jurisdiction in the County of Napa.
6. Severability. If any term of this Agreement (including any phrase, provision, covenant, or condition) is held by a court of competent jurisdiction to be invalid or unenforceable, this Agreement shall be construed as not containing that term, and the remainder of this Agreement shall remain in full force and effect; provided, however, this paragraph shall not be applied to the extent that it would result in a frustration of the parties' intent under this Agreement.
7. Attorney's Fees. In the event any legal action is commenced to enforce or interpret this Agreement, the prevailing party is entitled to recover reasonable attorney's fees, costs, and expenses incurred, whether or not such action proceeds to judgment.
8. Modifications. This Agreement may not be modified orally or in any manner other than an agreement in writing signed by both parties.
9. Waivers. Waiver of a breach or default under this Agreement shall not constitute a continuing waiver or a waiver of a subsequent breach of the same or any other provision of this Agreement.
10. Entire Agreement. This Agreement, including all documents incorporated herein by reference, comprises the entire integrated understanding between the parties concerning the matters described herein. This Agreement supersedes all prior negotiations, agreements, and understandings regarding this matter, whether written or oral. The documents incorporated by reference into this Agreement are complementary; what is called for in one is binding as if called for in all.
11. Each Party's Role in Drafting this Agreement. Each party to this Agreement has had an opportunity to review this Agreement, confer with legal counsel regarding the meaning of this Agreement, and negotiate revisions to this Agreement. Accordingly, neither party shall rely upon Civil Code section 1654 in order to interpret any uncertainty in the meaning of this Agreement.
12. Signatures. The individuals executing this Agreement represent and warrant that they have the right, power, legal capacity, and authority to enter into and execute this Agreement on behalf of the respective legal entities of County and City.
13. Exercise of Discretion. The parties recognize and agree that nothing in this Agreement is intended to nor shall be interpreted to limit the ability of the individual members of the City Council and the Board of Supervisors to exercise their discretion in whatever manner appropriate.

IN WITNESS WHEREOF, this Agreement was executed by the parties hereto as of the date first above written.

COUNTY OF NAPA

By: _____

Chair of the Board

ATTEST:
GLADYS COIL
Clerk of the Board of Supervisors

By: _____

APPROVED AS TO FORM:
ROBERT WESTMEYER,
County Counsel

By: _____

CITY OF NAPA

By: _____

JILL TECHEL, Mayor

ATTEST:
SARA COX
City Clerk

By: _____

APPROVED AS TO FORM:
MICHAEL W. BARRETT
City Attorney

By: _____

EXHIBIT “A”

Page 1 of 1

1. For ABAG’s RHNA planning period for 2007 – 2014, the City will allocate up to 82 housing units to the County. The total number of 82 housing units will be allocated to each income category (very-low, low, moderate, and above moderate) using a percentage distribution equal to the percentage allocated by ABAG to the unincorporated area of the County in the final RHNA allocation for the 2007 – 2014 planning period. Using ABAG’s draft RHNA allocation dated June 29, 2007, it is anticipated that the 82 housing units will be allocated to each income category as follows:

Dates	Very-low	Low	Moderate	Above Moderate	Total
2007-2014	23	15	16	28	82

2. As each certificate of occupancy is issued for housing units in the City during the ABAG RHNA planning period of 2007-2014, the City will report to HCD the total number of housing units in each income category, and the City will credit the City and the County (respectively) in each income category based on the percentages set forth in the final RHNA allocation for the 2007-2014 planning period. Using ABAG’s draft RHNA allocation dated June 29, 2007, it is anticipated that the credits will be distributed based on the percentages set forth below (based on the parenthetical number of units for each entity in each income category):

Entity	Very-low	Low	Moderate	Above Moderate
County	(23) 5%	(15) 4%	(16) 4%	(28) 3%
City	(466) 95%	(381) 96%	(381) 96%	(882) 97%

For example, if (in year one) the City issued certificates of occupancy for 20 very low income housing units, and 5 low income housing units; the City would credit the County with 1 very low income unit (5% of 20) and 0 low income units, and the City would credit the City with 19 very low income units and 5 low income units. If (in year two) the City issued certificates of occupancy for 10 very low income housing units, and 20 low income housing units; the City would credit the County with 0 very low income unit and 1 low income units (4% of 25), and the City would credit the City with 10 very low income units and 19 low income units.

3. For ABAG’s subsequent RHNA planning period, the City will allocate up to 82 housing units to the County. The total number of 82 housing units will be allocated to each income category (very-low, low, moderate, and above moderate) using a percentage distribution equal to the percentage allocated by ABAG to the unincorporated area of the County in the final RHNA allocation for the planning period. The housing units allocated to the County will be credited to the City and the County in each income category annually for the life of the Soscol Gateway Redevelopment Plan based on the percentages set forth in the final RHNA allocations for the applicable planning period.