

**MEMORANDUM OF AGREEMENT
AMONG COALITION PARTNERS FOR THE
RESILIENT FACILITIES COALITION**

This Memorandum of Agreement (“MOA”) is between the undersigned public agencies, nonprofit organizations, and non-governmental organizations (collectively, the “Parties”) to form the Resilient Facilities Coalition (“RFC” or the “Coalition”), and is entered into on the date it is fully executed by the Parties (“Effective Date”).

RECITALS

A. The impacts of climate change have contributed to a warming climate and power outages, which call for improvements at public facilities to make them more resilient and energy independent to best serve our communities during power outages, severe weather events, and states of emergency;

B. The Parties have adopted Climate Action Plans or applicable stated climate change mitigation goals – such as the Cities of Cupertino, Morgan Hill, and Mountain View’s *Climate Action Plans*, San José’s *Climate Smart San José, Pathway to Carbon Neutrality*, and *Climate Adaptation and Resiliency Plan*, and Sunnyvale’s *Climate Action Playbook* – and/or have interest in conducting activities consistent with such goals;

C. The Parties have worked collaboratively to identify and plan for the installation of various improvements in public buildings within their jurisdictions to enhance resiliency and reduce greenhouse gas (“GHG”) emissions;

D. The Parties previously formed a collaborative coalition known as the Public Facility Resiliency Implementation Project (“PFRIP”) to pursue federal funding and approved participation through resolutions adopted by participating agencies, which have since expired;

E. All Parties have continued to interact as a Coalition and collaborate at a regional scale;

F. All Parties believe this Coalition provides strength and unity of purpose;

G. The Parties desire to execute this MOA to establish a formal framework for collaboration among the Parties, to govern the use of grant funds, incentives, rebates, and other external funding sources, to implement the RFC and to set out the obligations of the Parties for the life of the RFC; and

H. This MOA establishes goals, responsibilities, and obligations of the Parties.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

SECTION 1. PURPOSE OF THE MOA

The purpose of this MOA is to establish a formal framework for collaboration among the Parties in connection with the Resilient Facilities Coalition (“RFC” or the “Coalition”). The RFC supports sustainability and resiliency infrastructure in publicly owned and operated facilities throughout California.

SECTION 2. RFC FOCUS

RFC’s activities may include, but are not limited to, the planning, development, and implementation of:

- **Decarbonization Retrofits**, including electrified building systems such as heat pump heating, ventilation, and air conditioning (“HVAC”), heat pump water heaters, and electric commercial kitchen equipment.
- **Resiliency Upgrades**, including on-site renewable energy generation, solar photovoltaic systems, battery energy storage systems, and backup power infrastructure.
- **Electric Vehicle Charging Infrastructure for Public Fleets** intended to facilitate fleet electrification, operational readiness, and regulatory compliance, including alignment with the California Advanced Clean Fleets regulations and other applicable local, state or regional requirements.
- **Best-Practices and Design Guides** to encourage consistency in RFC-sponsored work products and unify user experiences at public facilities on a regional scale.
- **Workforce Development and Capacity-Building activities** related to public facilities, including training, education, and skill development for staff, contractors, and partners engaged in the planning, installation, replacement, operation, and maintenance of RFC-related infrastructure, such as electrified building systems, energy efficiency measures, resiliency systems, and associated equipment, consistent with applicable labor, procurement, and workforce requirements.
- **Shared Policy Adoption Strategies** that provide a forum and/or templates for addressing administrative needs, regulations, or planning documents that may be triggered as a result of RFC activities or new challenges that may arise for mitigating climate change.

- **Projects that Contribute to the Public Body of Knowledge** by documenting and sharing lessons learned, best practices, and case studies related to the planning, deployment, operation, and performance of greenhouse gas reduction and resilience technologies in public facilities, with the intent to support equitable benefits, inform future projects, and enable replication and scaling across jurisdictions and communities.
- Such activities shall initially **prioritize disadvantaged, vulnerable, or equity priority communities and emergency response facilities**, including facilities critical to disaster preparedness, response, and recovery.

SECTION 3. PROJECT INITIATION AND COLLECTIVE FUNDING EFFORTS

- A. The Parties acknowledge and agree that a core purpose of the RFC is to identify, initiate, and advance projects as described in Section 2 and to collectively pursue external funding opportunities, including but not limited to grants, incentives, rebates, and other public or private funding sources, in support of RFC's objectives.
 - i. Upon an affirmative agreement of the RFC to pursue a specific funding opportunity or project, to be affirmed by majority vote as specified in Section 6, participating Parties agree to cooperate in good faith and to undertake those actions reasonably necessary to support the preparation, submission, acceptance, and administration of such funding, consistent with their respective legal authorities and internal approval requirements. Such cooperation may include, as applicable, providing required documentation, certifications, data, reporting, and programmatic participation.
- B. The Parties further acknowledge that certain funding opportunities may require participating Parties to provide matching funds, in-kind contributions, or other forms of cost share, and that many grants and funding programs are structured as reimbursement-based funding, under which eligible costs are incurred in advance and reimbursed upon submission and approval of required documentation.
 - i. Any Party that agrees to participate in a funding application or awarded grant through the RFC shall be responsible for meeting any match, cost-share, or reimbursement requirements applicable to that Party, subject to the terms of the funding source and the Party's internal approvals.

- C. Nothing in this MOA obligates any Party to participate in a particular funding opportunity unless and until the RFC has agreed to pursue such opportunity and the Party has affirmatively agreed to participate.
- i. Nothing in this MOA obligates any Party to advance funds on behalf of another Party unless expressly agreed in writing.
 - ii. Any Party serving as a fiscal agent, lead applicant, subrecipient, or project sponsor shall be identified in a separate written agreement or funding instrument, as required.

SECTION 4. NATURE OF AGREEMENT; NON-BINDING EFFECT

This MOA reflects the Parties' good-faith intentions to collaborate and does not create a legally binding contract, partnership, joint venture, or agency relationship. Except as expressly set forth in all of Section 3 with respect to agreed-upon funding efforts, no Party is obligated to expend funds, provide services, or commit resources under this MOA unless expressly agreed to in a separate, written agreement approved in accordance with that Party's internal governance and legal requirements.

SECTION 5. ROLES AND RESPONSIBILITIES

The Parties recognize that participation in the RFC may include public agencies and nonprofit or nongovernmental organizations, each of which contributes distinct but complementary capabilities to advance its purposes. The RFC is intended to operate as a highly collaborative forum that relies on the good faith participation, cooperation, and mutual respect of its members to achieve shared objectives. The Parties acknowledge that the effectiveness of the RFC depends on voluntary engagement and commitment to transparent communication, coordination, and support among participating organizations.

A. Collaborative Nature of the RFC

Each Party agrees to:

- Designate a representative to participate in RFC-related coordination;
- Participate in meetings, information sharing, and collaborative activities as reasonably feasible;
- Retain full responsibility for its own operations, personnel, and compliance with applicable laws.

The Parties acknowledge that:

1. RFC activities are collaborative and voluntary.
2. Roles may vary by project, funding opportunity, or initiative.
3. Specific responsibilities, financial obligations, and deliverables shall be defined in separate agreements, grant documents, or project-specific contracts as appropriate.
4. This MOA does not constitute a formal legal relationship, and therefore no Party shall be deemed or authorized to act as the agent or legal representative of another Party solely by virtue of participation in the RFC.
5. Participation in the RFC does not create exclusivity, and Parties may engage in similar or related activities outside of this MOA.

B. Public Agency Participants

Public agency participants may include cities, counties, special districts, joint powers authorities, public utilities, and other governmental entities. Public agency participants may, but are not limited to:

1. Serve as lead applicants, co-applicants, or fiscal agents for funding opportunities, subject to applicable laws and internal approvals.
2. Provide access to publicly owned facilities, sites, or infrastructure for RFC-related activities and projects.
3. Participate in planning, policy development, technical coordination, and project implementation.
4. Contribute staff time, technical expertise, funding, or in-kind resources, as authorized by each agency.
5. Adopt policies, resolutions, or standards that support RFC objectives within their respective jurisdictions.
6. Enter into separate agreements as necessary to implement projects or receive grant funds.

Participation in the RFC does not obligate any public agency to commit funding, property, or other resources, except as described in Section 5.A, unless expressly authorized through separate action by that agency.

C. Nonprofit and Nongovernmental Organization Participants

Nonprofit and nongovernmental organization participants may include, but are not limited to, community-based organizations, educational institutions, technical assistance

providers, workforce organizations, philanthropic entities, and other mission-driven partners. These participants may, but are not limited to:

1. Provide technical assistance, community engagement, program delivery, workforce development, or subject-matter expertise.
2. Serve as co-applicants, subrecipients, contractors, or implementing partners for projects and funding opportunities.
3. Support outreach, education, and community partnership development.
4. Lead or assist with research, evaluation, documentation, and dissemination of best practices.
5. Contribute funding, in-kind resources, or programmatic services consistent with their organizational missions.

Participation does not obligate any nonprofit or nongovernmental organization to commit funding or resources, except as described in Section 5.A, unless agreed through separate written agreements.

SECTION 6. GOVERNANCE AND DECISION-MAKING

A. Governance Procedures

The RFC will operate through majority vote of the Parties present at a duly convened meeting. Meetings shall be convened with reasonable notice to the Parties. Each Party shall have one (1) vote exercised by its designated representative. The voting member shall be the listed designee for this agreement as specified in Section 16, and that designee may designate an alternate with at least 30 days prior notice to the RFC.

Except as provided below, decisions and recommendations of the RFC may be made by a majority of the Parties present at such meeting and are advisory only and shall not bind any Party without separate written approval, except as provided in Section 3 for agreed-upon funding efforts.

Notwithstanding the foregoing, any decision to dissolve the RFC or terminate this MOA shall require the presence and affirmative agreement of all Parties. No vote to dissolve the RFC shall be valid unless all voting members are present and have been afforded the opportunity to participate in such decision.

The Parties may establish working groups, steering committees, or other coordination structures as appropriate.

B. Conflict Resolution

The Parties agree to make good faith efforts to resolve any disagreements, concerns, or disputes arising from activities conducted under this MOA through informal discussion and collaboration.

If a disagreement arises, the Parties involved shall first attempt to resolve the matter through direct communication between designated representatives. If the matter cannot be resolved at the staff level, the issue may be elevated to senior leadership of the affected Parties for further discussion.

The Parties acknowledge that the RFC is intended to operate as a voluntary and collaborative forum, and nothing in this MOA creates any legally binding obligation to participate in dispute resolution processes or limits any Party's rights or remedies under applicable law. The Parties agree to continue working cooperatively on other RFC activities during the resolution of any disagreement, to the extent reasonably practicable.

SECTION 7. FINANCIAL CONSIDERATIONS

Except as expressly provided in Section 3, this MOA does not obligate any Party to provide funding or financial support. Each Party is responsible for its own costs unless otherwise agreed in writing. Any joint funding applications or financial commitments must be documented in separate agreements or funding instruments, as required.

SECTION 8. INDEMNIFICATION

In lieu of and notwithstanding the pro rata risk allocation, which might otherwise be imposed between the Parties pursuant to Government Code Section 895.6, the Parties agree that all losses or liabilities incurred by a Party shall not be shared pro rata but, instead, the Parties agree that, pursuant to Government Code Section 895.4, each of the Parties hereto shall fully indemnify and hold each of the other Parties, their officers, board members, employees, and agents, harmless from any claim, expense or cost, damage, penalty, or liability imposed for injury (as defined in Government Code Section 810.8) occurring by reason of breach of this MOA or the negligent acts or omissions or willful misconduct of the indemnifying Party, its officers, employees, or agents, under or in connection with or arising out of any work, authority, or jurisdiction delegated to such Party under this MOA.

No Party, nor any officer, board member, or agent thereof shall be responsible for any damage or liability occurring by reason of the breach of this MOA, negligent acts or omissions or willful misconduct or intentional acts of any other Party hereto, its officers, board members, employees, or agents, under or in connection with or arising out of any

work authority or jurisdiction delegated to such other Party under this MOA. The obligations set forth in this paragraph will survive the termination and expiration of this MOA.

SECTION 9. CONFIDENTIALITY AND PUBLIC RECORDS

The Parties acknowledge that certain Parties may be subject to the California Public Records Act or other open government laws. Confidential information shall be identified as such and handled in accordance with applicable law.

SECTION 10. ADDITION OF NEW PARTIES

Additional public agencies, nonprofit organizations, or non-governmental organizations may join the RFC after the Effective Date upon execution of a written joinder (see Exhibit A) to this MOA, in a form approved by the RFC. Upon execution of such joinder, each additional Party shall have the same rights, responsibilities, and voting authority under this MOA as the initial signing Parties.

The admission of additional Parties shall not alter, amend, or affect the rights, responsibilities, or relationships of the initial signing Parties, nor shall it require re-execution of this MOA by the initial signing Parties.

SECTION 11. TERM AND TERMINATION

This MOA shall become effective on the Effective Date and shall remain in effect unless terminated by an affirmative vote of a majority of the Parties as determined in accordance with the RFC's governance procedures and specified in Section 6.

Notwithstanding the foregoing, any member of the RFC may withdraw from this MOA at any time by providing 30 days' written notice to the RFC, and such withdrawal shall not affect the continued effectiveness of this MOA as to the remaining Parties; provided, however, that withdrawal shall not relieve a withdrawing Party of obligations it has expressly agreed to undertake in connection with an awarded grant or funding instrument.

SECTION 12. GOVERNING LAW

This MOA shall be governed by and construed in accordance with the laws of the State of California. Any litigation resulting from this Agreement will be filed and resolved by the

Superior Court of California for the County of Santa Clara, or a court that would regionally represent the affected Parties.

SECTION 13. ENTIRE AGREEMENT

This MOA constitutes the entire understanding of the Parties regarding the subject matter and may be amended only by written agreement of all Parties.

SECTION 14. EXECUTION IN COUNTERPARTS

This MOA may be executed in any number of counterparts and by each party in separate counterparts, each of which when so executed and delivered shall be deemed to be an original and all of which taken together shall constitute one and the same instrument.

SECTION 15. USE OF ELECTRONIC SIGNATURES

Unless otherwise prohibited by law, the Parties agree that an electronic copy of a signed contract, or an electronically signed contract, has the same force and legal effect as a contract executed with an original ink signature. The term “electronic copy of a signed contract” refers to a writing as set forth in Evidence Code Section 1550. The term “electronically signed contract” means a contract that is executed by applying an electronic signature using technology approved by the Parties.

SECTION 16. NOTICES

Individuals named here shall be the listed designees. Any notices provided under this MOA must be in writing and may be given either by mail or e-mail to the following addresses:

City of Cupertino

Name: Ursula Syrova

Email: UrsulaS@cupertino.gov

Address: 10300 Torre Ave. Cupertino, CA 95014

City of Mountain View

Denise Lin

Email: denise.lin@mountainview.gov

Address: 500 Castro Street. Mountain View, CA 94041

City of Morgan Hill

Name: Mario Pichardo

Email: mario.pichardo@morganhill.ca.gov

Address: 17575 Peak Avenue, Morgan Hill, California, USA 95037

City of San José

Name: Carol Boland Whattam

Email: carol.whattam@sanjoseca.gov

Address: 200 E. Santa Clara St. 6th Floor, San Jose, CA 95113

City of Sunnyvale

Name: Christina Raby

Email: CRaby@sunnyvale.ca.gov

Address: 456 W. Olive Ave. Sunnyvale, CA 94086

Prospect Silicon Valley

Name: Doug Davenport

Email: doug.davenport@prospectsv.org

Address: 3031 Tisch Way, 110 Plaza West, San Jose, CA 95128

IN WITNESS WHEREOF, the Parties have executed this Memorandum of Agreement as of the Effective Date by their respective duly authorized representations as follows.

SIGNATURES

City of Cupertino

By: _____
Name: Tina Kapoor
Title: City Manager
Email: TinaK@cupertino.gov
Date: _____

City of Cupertino, Approval as To Form

By: _____
Name: Michael Woo
Title: Senior Assistant City Attorney
Email: MichaelW@cupertino.gov
Date: _____

City of Mountain View

By: _____
Name: Kimbra McCarthy
Title: City Manager
Email: Kimbra.McCarthy@mountainview.gov
Date: _____

City of Mountain View, Approval as To Form

By: _____
Name: Montague Hung
Title: Assistant City Attorney
Email: Montague.Hung@mountainview.gov
Date: _____

City of Morgan Hill

By: _____
Name: Christina Turner
Title: City Manager
Email: Christina.Turner@morganhill.ca.gov
Date: _____

City of Morgan Hill, Approval as To Form

By: _____
Name: Elisa Tolentino
Title: City Attorney
Email: Elisa.tolentino@morganhill.ca.gov
Date: _____

City of San José

By: _____

Name: Emily Lam _____

Title: Director of Administration, Policy, and Governmental Relations

Email: Emily.Lam@sanjoseca.gov

Date: _____

City of San José, Approval as To Form

By: _____

Name: Arlene Silva

Title: Senior Deputy City Attorney

Email: Arlene.Silva@sanjoseca.gov

Date: _____

City of Sunnyvale

By: _____

Name: Tim Kirby

Title: City Manager

Email: tkirby@sunnyvale.ca.gov

Date: _____

City of Sunnyvale, Approval as To Form

By: _____

Name: Anais Aquino

Title: Senior Assistant City Attorney

Email: aaquino@sunnyvale.ca.gov

Date: _____

Prospect Silicon Valley

By: _____

Name: Doug Davenport

Title: Chief Executive Officer, Executive Director

Email: doug.davenport@prospectsv.org

Date: _____

EXHIBIT A: RFC JOINDER AGREEMENT

By executing this Joinder Agreement, the undersigned entity agrees to become a Party to the Memorandum of Agreement governing the Resilient Facilities Coalition (RFC).

Entity Name: _____

By: _____

Name: _____

Title: _____

Email: _____

Date: _____

Entity name: (_____), Approval as To Form

By: _____

Name: _____

Title: _____

Email: _____

Date: _____

Entity name: (_____), Listed Designee

Individuals named here shall be the listed designees. Any notices provided under this MOA must be in writing and may be given either by mail or e-mail to the following addresses:

Name: _____

Email: _____

Address: _____

Name: _____

Email: _____

Address: _____