

**DRAFT**

**AMENDED JOINT POWERS AGREEMENT OF CHAC**

This Amended Joint Powers Agreement (“Amended Agreement”) for CHAC is entered into by and among the City of Los Altos, Town of Los Altos Hills, City of Mountain View, Los Altos School District, Mountain View-Whisman School District and Mountain View-Los Altos High School District, which are organized and existing under the Constitution and laws of the State of California and is dated \_\_\_\_\_, 2024 for identification.

**RECITALS**

WHEREAS, The Joint Exercise of Powers Act (California Government Code Section 6500 *et seq.*) permits two or more public agencies by agreement to jointly exercise powers common to the Members; and

WHEREAS, in 1973 the City of Los Altos, Town of Los Altos Hills, City of Mountain View, Los Altos School District, Mountain View-Whisman School District and Mountain View-Los Altos High School District observed the need to promote mental health and well-being within their community and the lack of available mental health resources and programs in their community and formed CHAC, a nonprofit and Joint Powers Authority (“JPA”) in accordance with The Joint Exercise of Powers Act for the purpose of providing accessible and culturally competent mental health services;

WHEREAS, CHAC has been a vital resource for individuals and families facing various challenges over the last 51 years. CHAC’s commitment extends to addressing the diverse needs of the community, fostering a welcoming and inclusive environment for individuals from all backgrounds.

WHEREAS, CHAC grew into an organization focusing on delivering a range of high quality affordable mental health programs and support services in the North County community of Santa Clara County, serving Mountain View, Los Altos, Los Altos Hills, and Sunnyvale. CHAC provided mental health programming in various contexts, including schools, Family Resource Centers, and a clinic. CHAC offered prevention workshops, group therapy, and individual counseling services to youth and their families and operates from revenue secured through school contracts, philanthropic grants, FIRST 5 Santa Clara County, and sliding scale patient fees; and

WHEREAS, CHAC established a training program with local clinical education partners such as Palo Alto University, Wright Institute, and Santa Clara University, serving as a practice center for Master’s, Doctorate, and Postdoctoral students in psychology; and

WHEREAS, Changes in the behavioral health services environment related to funding and the cost of providing services prompted CHAC to undertake a Strategic Sustainability Planning Study (“Sustainability Study”) with the goal of finding a financially sustainable strategy to continue to provide access to services; and

WHEREAS, The Sustainability Study revealed it was no longer financially feasible for CHAC to operate as a standalone entity and CHAC should collaborate with another entity to ensure the continued provision of necessary services to the community; and

WHEREAS, CHAC recognizes other providers can serve the community and can also access MediCal; and

WHEREAS, Pacific Clinics is one of California’s leading nonprofit providers of behavioral health services, including mental health and wellbeing, social support services, substance abuse treatment, housing assistance and wellness programs for children, youths, adults and families; and

WHEREAS, CHAC has transferred its assets to Pacific Clinics to continue the provision of high quality and affordable mental health services and programs to the community; and

WHEREAS, CHAC will continue to exist for the sole purpose of winding up its affairs; and

WHEREAS, the members desire to terminate the Joint Powers Authority once it has fulfilled its obligations to wind up its affairs.

NOW, THEREFORE, the Parties agree to the following:

## **AGREEMENT**

**Section 1. Purpose.** As CHAC has concluded the provision of mental health services in fulfillment of the original mission of CHAC, the purpose for the JPA will cease to exist once it satisfies all of the obligations necessary to wind up the affairs of CHAC. This Amended Agreement outlines the method and process for winding up and terminating the JPA as set forth herein.

**Section 2. Parties to the Amended Agreement.** The City of Los Altos, Town of Los Altos Hills, City of Mountain View, Los Altos School District, Mountain View-Whisman School District and Mountain View-Los Altos High School District, individually referred to as “Member” or “Party” and collectively as “Members” or “Parties” to this Amended Agreement, intend to and do contract with all other Members as Parties to this Amended Agreement pursuant to the Joint Exercise of Powers Act.

**Section 3. Term.** This Amended Agreement shall be effective upon the execution hereof by all parties as attested by the signatures and dates of execution hereof. The Amended Agreement shall continue in effect until terminated as provided herein.

**Section 4. Scope of Power.** The Board shall have the power and authority to exercise any power common to the parties hereto and to exercise any power set forth in California Government Code Section 6508, provided that the same are for the furtherance of the objectives of this Amended Agreement as contained herein and in the recitals set forth above, and to the extent permissible thereunder, is authorized to do all acts necessary for the exercise of these powers on behalf of its Members. These powers include, but are not limited to, the following, in CHAC’s own name:

4.1 To make and enter into contracts;

- 4.2 To incur debts, liabilities, and obligations and to encumber personal property;
- 4.3 To acquire, hold, or dispose of personal property, contributions, funds, services, and other forms of assistance from persons, firms, corporations, and government entities;
- 4.4 To sue and be sued in its own name, and to settle any claim against it;
- 4.5 To receive and use contributions and advances from Members as provided in Government Code Section 6504, as amended including contributions or advances of personnel and equipment;
- 4.6 To retain the services of agents, contractors, and consultants;
- 4.7 To receive, collect, and disburse monies;
- 4.8 To contract for services from Members, including in-kind services;
- 4.9 Subject to this Amended Agreement or the Bylaws of CHAC, and only as authorized by the Joint Exercise of Powers Act, to exercise other reasonable and necessary powers in furtherance or support of any purpose of CHAC.

In the absence of its consent, no party to this Amended Agreement, appointing power, or members of the Board shall be bound to provide any sum of money, property, or service of any kind to CHAC. The Board shall have no power or authority to bind any parties to this Amended Agreement to any debt, liability, or obligation in the absence of express written authorization from the party to be bound.

**Section 5. Board of Directors.** CHAC shall be governed by the Board of Directors. The Board of Directors shall consist of one representative from each agency. Each Member's Legislative Body, according to its own procedures, shall appoint a representative to serve as a Director and represent the Member on the Board of Directors. The Director shall serve at the pleasure of their respective Legislative Body.

- 5.1 A Director shall be removed from the Board of Directors upon the occurrence of any one of the following events: (1) CHAC receives written notice from the appointing Member of the removal and/or replacement of the Director; (2) the death or resignation of the Director; (3) CHAC receives written notice from the Member that the Director is no longer qualified as provided in the first paragraph of this Section 5.
- 5.2 The Board of Directors shall have the following powers and functions:
  - 5.2.1. Except as otherwise provided in this Amended Agreement, the Board shall exercise all powers and conduct all business of CHAC, either directly or by delegation to other bodies or persons;
  - 5.2.2 The Board may elect an Executive Committee, as provided in Section 6.
  - 5.2.3 The Board shall be the policy setting body of CHAC;
  - 5.2.4 The Board shall appoint or retain the services of necessary agents, consultants, or independent contractors for the purpose of exercising the powers set forth in Section 4;

5.2.5 The Board shall cause to be prepared, and shall review, modify as necessary, and adopt the annual operating budget of CHAC. The Board shall adopt their budget no later than April 30<sup>th</sup> of each year.

5.2.6 The Board shall receive, review and act upon periodic reports and audits of the funds of CHAC, as required under Section 10 of this Amended Agreement;

5.2.7 The Board may adopt policies regarding personnel, conflicts of interest and other matters necessary or convenient for the efficient operation of CHAC;

5.2.8 The Board shall adopt a set of priorities and work plan for each fiscal year; and

Subject to the terms of this Amended Agreement, the Board shall have such other powers and duties as are reasonably necessary to wind up the affairs of CHAC in order to terminate the JPA.

5.2.9 The Board shall have no power or authority to incur any obligation in excess of the amount appropriated to its use by funding sources, including but not limited to revenues and funds from the participating member agencies or other agencies. The debts, liabilities, and obligations of the Board and CHAC shall not become the debts, liabilities, and obligations of the parties to this Amended Agreement unless expressly consented to by an individual party or parties, in which case such debts, liabilities, and obligations shall be imputed to that party or parties only.

#### **Section 6. Officers and Committees.**

6.1 Executive Committee. The Board shall elect an Executive Committee, consisting of a chairperson, vice-chairperson and secretary/treasurer from its members. These three officers shall serve as the Executive Committee of the Board.

6.2 The members of the Board shall serve without compensation.

6.3 From time to time, the Board may establish or abolish one or more advisory committees to perform such functions as the Board may determine.

**Section 7. Meetings of the Board of Directors.** The Board of Directors may hold special meetings as it may determine and shall hold regular meetings at least twice a year. The date, hour and place for each such regular meeting shall be fixed annually by resolution of said Board, which resolution. Each meeting of the Board of Directors, including without limitation, regular, adjourned regular and special meetings shall be called, noticed, held, and conducted in accordance with the Ralph M. Brown Act, Government Code Section 54950 *et seq.*, as amended.

CHAC shall require the Secretary/Treasurer or designee to take and maintain minutes of all regular, adjourned regular and special meetings. As soon as practicable after each meeting, the Secretary/Treasurer or designee shall forward to each Board Member, a copy of the minutes of the meeting.

**Section 8. Quorum and Voting.** The presence of a majority of the Board of Directors shall be required in order to constitute a quorum necessary for the transaction of business of the Board. No action of the

Board shall be valid unless a majority of the Board concur therein by their votes. However, less than a quorum may adjourn the meeting to a future date. Each Member of the Board shall have one vote.

**Section 9. Responsibilities for Funds and Property.** The Secretary/Treasurer, or his or her designee, shall have the custody of and disburse CHAC's funds. Proceeds of similar obligations of CHAC may be deposited with a trustee, agent or other depository and shall not be considered CHAC's funds for purposes of this Section. The Secretary/Treasurer may delegate disbursements to persons as may be authorized by the Board to perform that function.

The Secretary/Treasurer or designee shall perform all functions then required to be performed by Treasurer under the Joint Powers Law. The Secretary/Treasurer shall review the financial statements and the annual audit of CHAC.

Pursuant to Government Code Section 6505.1, as amended, the Secretary/Treasurer, and other persons as the Board may designate, shall have charge of, handle, and have access to the property of CHAC. CHAC shall secure and pay for a fidelity bond or bonds, in an amount or amounts and in a form specified by the Board of Directors, covering any officers or agents of CHAC who are authorized to hold or disburse funds of CHAC and any officers or agents who are authorized to have charge of, handle and have access to property of CHAC.

**Section 10 Accounts and Records.**

- 10.1 CHAC shall adopt an annual operating budget.
- 10.2 The Secretary/Treasurer of CHAC shall establish and maintain funds and accounts as may be required by good accounting practices and by the Board. Books and records of CHAC shall be open to and made available for inspection at all reasonable times upon request by authorized representatives of the Members.
- 10.3 CHAC shall adhere to the standard of strict accountability for funds and report all receipts and disbursements as set forth in the Joint Powers Law.
- 10.4 CHAC shall either make or contract with a Certified Public Accountant or public accountant to make an annual Fiscal Year audit of all accounts and records of CHAC, conforming in all respects with the requirements of the Joint Powers Law. A report of the audit shall be filed as a public record and be provided to each of the Members, and with the County Auditor of the County of Santa Clara. Costs of the audit shall be considered a general expense of CHAC. Any costs of the audit shall be borne by CHAC and shall be a charge against any unencumbered funds of CHAC available for this purpose.
- 10.5 Auditor's Report. The Auditor, within one hundred and twenty (120) days after the close of each Fiscal Year, shall give a complete written report of all financial activities for the prior Fiscal Year to the Board.

**Section 11. Member Responsibilities.** Each Member shall have the following responsibilities:

- 11.1. To appoint its Director to, or remove its Director, from the Board, as set forth in Section 5.
- 11.2 To consider proposed amendments to this Amended Agreement as set forth in Section 20:

**Section 12. Removal.** If the Board of Directors determines that reasonable cause exists to remove a Director from the Board, it can remove the Director and request that the Member who appointed the Director appoint a new Director. The Board may, by two-thirds majority vote of the entire Board, remove a Member based on a Member's breach of any material term of this Agreement, and the failure to cure that breach within sixty (60) days written notice. A terminated Member shall remain liable for any obligation under this Amended Agreement as described above.

**Section 13. Obligations of CHAC.** The debts, liabilities, and obligations of CHAC shall not be the debts, liabilities, and obligations of the Members. Any Member may separately contract for, or assume responsibility for, specific debts, liabilities, or obligations of CHAC. Nothing in this Amended Agreement shall be interpreted to limit the applicability of the provisions of Government Code Section 895.6.

**Section 14. Termination and Distribution of Assets.**

- a. Termination. Once the Board determines that the JPA has satisfied its obligations, the Board shall notify each of the Members and request written consent to terminate the JPA. This Amended Agreement may be terminated and the JPA dissolved with the written consent of two-thirds of the voting members. This Agreement and JPA may not be terminated, until all outstanding obligations and liabilities of the JPA have been paid in full or provision has been made for payment in full.
- b. Distribution of Assets. Upon termination of this Amended Agreement and dissolution of the JPA, any surplus money on hand shall be returned in proportion to the contributions made by the members in accordance with Government Code Section 6512..

**Section 15. Liability of Board of Directors, Officers, and Committee Members.**

15.1 The Members of the Board of Directors, Officers, and Committee Members of CHAC shall use ordinary care and reasonable diligence in the exercise of their powers and in the performance of their duties pursuant to this Amended Agreement. They shall not be individually liable for any mistake of judgment, or any other action made, taken, or omitted by them in good faith, nor for any act or omission by any agent, consultant or independent contractor selected with reasonable care, nor for loss incurred, resulting from any action made, taken, or omitted by them in good faith and with reasonable care through investment of CHAC funds, or failure to invest.

15.2 No Director, Officer, or Committee Member shall be responsible for any act or omission of any other Director, Officer, or Committee Member. Unless otherwise required by law, no Director, Officer, or Committee Member shall be required to give a bond or other security to guarantee the faithful performance of his or her duties pursuant to this Amended Agreement.

15.3 The funds of CHAC shall be used to defend, indemnify, and hold harmless CHAC for any Director, Officer, or Committee Member, for their actions taken within the scope of CHAC. Nothing herein shall limit the right of CHAC to purchase insurance to provide coverage for these types of losses.

15.4 These indemnification and defense obligations shall survive the termination of the Amended Agreement as to any acts or omissions occurring before such termination.

**Section 16. Indemnification.** To the fullest extent allowed by law, CHAC shall defend, indemnify, and save harmless the Members and their governing bodies, officers, agents and employees from all claims, losses, damages, costs, injury, and liability of every kind, nature, and description directly or indirectly arising from the performance of any of the activities of CHAC or the activities undertaken pursuant to this Agreement.

**Section 17. Bylaws.** The Board shall adopt Bylaws consistent with this Amended Agreement which shall provide for the administration and management of CHAC. The provisions of the Bylaws, as modified from time to time, shall establish the operating procedures and standards for CHAC.

**Section 18. Notices.** CHAC shall address notices, billings, and other communications to a Member as directed by that Member. Each Member shall provide CHAC with the email and physical address to which communications are to be sent. Members shall address notices and other communications to CHAC, at the office address of CHAC, or the email address of CHAC as directed by the Member and as set forth in the Bylaws. The Board, by resolution, shall designate a specific location at which it will receive notices, correspondence, and other communications and shall designate one of its members or its secretary as an officer for the purpose of receiving such service on behalf of CHAC.

**Section 19. Codes.** CHAC shall comply with all requirements of the Fair Political Practices Commission as required by law or regulation.

**Section 20. Amendment.** This Amended Agreement may be amended at any time by the unanimous vote of all parties hereto.

**Section 21. Severability.** Should any portion, term, condition, or provision of this Amended Agreement be decided by a court of competent jurisdiction to be illegal or in conflict with any law of the State of California, or to be otherwise rendered unenforceable or ineffectual, the validity of the remaining portions, terms, conditions, and provisions shall not be affected thereby.

**Section 22. Prohibition Against Assignment.** No Member may assign any right, claim, or interest it may have under this Amended Agreement, and no creditor, assignee or third-party beneficiary of any Member shall have any right, claim, or title to any part, share, interest, fund, or asset of CHAC. This Amended Agreement shall be binding upon and shall inure to the benefit of successors of the Members. This Amended Agreement is intended solely for the benefit of CHAC and its Members. No third party shall be deemed a beneficiary of this Amended Agreement or have any rights against CHAC or its Members.

**Section 23. Liberal Construction.** The provisions of this Amended Agreement shall be liberally construed as necessary or reasonably convenient to achieve the purposes of CHAC.

**Section 24. Non-Waiver.** No waiver of the breach of default of any of the covenants, agreements, restrictions, or conditions of this Amended Agreement by any Member shall be construed to be a waiver of any succeeding breach of the same or other covenants, restrictions, or conditions of this Amended Agreement. No delay or omission of exercising any right, power, or remedy in the event of a breach or default shall be construed as a waiver or a variation of any of the terms of this Amended Agreement or any applicable agreement.

**Section 25. Remedies for Breach.** If any Member shall default on any obligation contained in this Amended Agreement, the default shall not excuse any other Member from fulfilling its respective obligations under this Agreement. Any Member shall be entitled to pursue all legal and equitable remedies against another Member in response to any alleged default under this Amended Agreement. Any and all of the remedies provided to the Members, hereunder or by law now or hereafter enacted, are cumulative and the exercise of one right or remedy shall not impair the Members to any other remedy.

**Section 26. Section Headings.** All Section headings are for reference only and are not intended to define or limit the scope of any provision of this Amended Agreement.

**Section 27. Insurance.** If available, CHAC shall obtain insurance for all Members, appointed Members, and Committee Members, including, but not limited to, Directors and Officers liability insurance and general liability insurance containing policy limits in such amounts as the Board of Directors shall deem will be necessary to adequately insure against the risks of liability that may be incurred by CHAC. Insurance under this provision may include an insurance pool program.

**Section 28. Counterparts.** This Amended Agreement may be executed in parts or counterparts, each part or counterpart being an exact duplicate of all other parts or counterparts, and all parts or counterparts shall be considered as constituting one complete original and may be attached together when executed by the Members hereto. Facsimile and electronic signatures shall be binding.

**Section 29. Agreement Complete.** This Amended Agreement constitutes the full and complete agreement of the parties and supersedes any prior written agreement between the Members on the same topic.