

**A RESOLUTION OF THE MILPITAS REDEVELOPMENT AGENCY AND THE CITY COUNCIL OF THE CITY OF MILPITAS AUTHORIZING AND DIRECTING AGENCY STAFF TO PURCHASE TWO AFFORDABLE HOUSING UNITS AND TRANSFER THE UNITS TO THE CITY AND RELEASE THE RESALE RESTRICTIONS ON ONE OTHER AFFORDABLE HOUSING UNIT**

**WHEREAS**, California Redevelopment Law authorizes the Milpitas Redevelopment Agency (“Agency”) to set aside at least twenty percent (20%) of all tax increment revenue generated from the project area for the purpose of increasing, improving and preserving the community’s supply of low and moderate-income housing; and

**WHEREAS**, California Redevelopment Law (“CRL”) requires that fifteen percent (15%) of the housing units within the redevelopment project area shall be affordable to low and moderate-income households. Of those units, nine percent (9%) are to be affordable to low and moderate-income households, and six percent (6%) are to be very low-income households; and

**WHEREAS**, the Housing Element of the General Plan for the City has been certified by the Department of Housing and Community Development and identifies a Regional Housing Needs Allocation of 2,487 dwelling units for the City, of which 1,551 dwelling units are needed for very low, low, and moderate-income households; and

**WHEREAS**, currently nineteen percent (19%) of the units that have been approved for development or have been constructed in the project area are designated as affordable, with ten percent (10%) of those units for low and moderate-income households, and nine percent (9%) for very-low income households. This represents 100 more low and moderate-income units in the project area than the minimum amount required; and

**WHEREAS**, the existing housing market conditions over the past few years have made it extremely difficult for low-income households to obtain credit with stricter lending requirements, which limit the opportunity for low-income households to achieve homeownership, and there is currently no market for low-income one bedroom units and moderate-income buyers are purchasing market-rate units; and

**WHEREAS**, the owners of affordable housing units at 600 South Abel Street #208, 1101 S. Main Street #313, and 185 Parc Place Drive in Milpitas, California have contacted the Agency regarding their desire to resell their affordable housing units, which total three (3) units collectively; and

**WHEREAS**, under the Resale Restriction Agreements and Options to Purchase (“Resale Restriction Agreements”) to which those three (3) properties are subject, if the existing property owners cannot sell their units as affordable housing units to qualified buyers, the Agency must purchase those properties within 90 days or allow them to be sold at fair market value, thereby eliminating the affordable restrictions on the properties and removing said properties from the affordable housing pool; and

**WHEREAS**, to avoid the loss of available affordable housing, the Agency may, under the Resale Restriction Agreements, exercise its option to purchase the affordable units for the purpose of preserving the available affordable housing supply, and later resell those units to affordable income households at a time when such buyers are found; and

**WHEREAS**, specifically, the Agency may purchase affordable units at a price established by (i) appraisal (“Appraisal Method”) or (ii) the adjusted base purchase price paid by the current owner, which is adjusted by the year-to-year increases in the housing component of the San Francisco-Oakland-San Jose, California consumer price index (“Base Price Method”). The latter methodology may be used only if the Agency specifically waives its right to an appraisal and determines that, in its best judgment, the appraised value will be substantially higher than the current owner’s base purchase price; and

**WHEREAS**, since February 2009, the Redevelopment Agency has authorized the purchase of eleven moderate-income affordable units from home owners in order to preserve the affordability restriction and authorized staff to reduce the price of the units from moderate to low-income given that the price of moderate income units is very close to current market prices. The Redevelopment Agency has also authorized the purchase of eleven low-income units in order to

preserve the affordable units. A total of \$815,000 in additional housing funds was committed for price reductions and down-payment assistance loans for these units; and

**WHEREAS**, an additional \$90,000 would need to be invested in the one moderate-income unit for the Agency to purchase and resell it to a low-income household; and

**WHEREAS**, the two low-income units at 600 South Abel Street #208 and 1101 S. Main Street #313 could be purchased and resold with new \$50,000 and \$35,000 down-payment assistance loans, respectively, and sufficient funds are available in the Redevelopment Agency twenty percent (20%) Low-Income Housing Fund to fund such purchases and the costs associated with the resale of the two low-income affordable units; and

**WHEREAS**, pursuant to Section 33445 and other provisions of the CRL, the Agency may pay for the acquisition of real property and for the construction of improvements thereon, but may not pay for the maintenance of publicly-owned facilities. Furthermore, under Sections 33430 and 33432 of the CRL, the Agency may dispose and convey such interests in real property that it has acquired to the community and the public. In conformity with these provisions, the properties were and are being acquired for ultimate ownership and operation by the City and use by the public; and

**WHEREAS**, to the extent that Agency funds were used to acquire the properties and/or to pay for the cost and installation of any improvements thereon, Section 33445 of the CRL provides that the Agency is authorized, with the consent of the City Council, to pay for all or a part of the value of the land and the cost of the installation and construction of any building, facility, structure or other improvement that is publicly owned and that is located inside or contiguous to the Project Areas if the City Council determines: (1) that the acquisition of land or the installation or construction of the buildings, facilities, structures or other improvements that are publicly owned are of benefit to the Project Areas by helping to eliminate blight within the Project Areas or providing housing for low- or moderate-income persons; (2) that no other reasonable means of financing the acquisition of the land or installation or construction of the buildings, facilities, structures or other improvements that are publicly owned are available to the community; and (3) that the payment of funds for acquisition of land or the cost of buildings, facilities, structures or other improvements that are publicly owned is consistent with the Implementation Plan for the Project Areas adopted pursuant to CRL Section 33490. Such findings are made by the City and the Agency concurrently in this Resolution; and

**WHEREAS**, furthermore, pursuant to Section 33205 of the CRL, the Agency is authorized to delegate to the City any of the powers or functions of the Agency with respect to the planning and undertaking of a redevelopment project and the City is authorized to carry out and perform such powers and functions; and

**WHEREAS**, for purposes of aiding and cooperating in the planning, undertaking, construction or operation of redevelopment projects, the City is authorized under Sections 33220 and 33430 of the CRL to receive land and improvements upon the terms determined by the Agency Board and the City Council and with or without consideration; and

**WHEREAS**, the acts contemplated hereunder comply with the provisions of the California Environmental Quality Act (“CEQA”).

**NOW, THEREFORE** the Board of the Redevelopment Agency and the City of Milpitas hereby find, determine, and resolve as follows:

1. The Milpitas Redevelopment Agency Board and the City of Milpitas City Council have considered the full record before them, which may include but is not limited to such things as the staff report, testimony by staff and the public, and other materials and evidence submitted or provided to them. The recitals set forth above are found to be true and correct and are incorporated herein by reference.
2. The expenditure of Set Aside Funds for the purchase and/or resale of the two (2) affordable units located at 600 South Abel Street #208 and 1101 S. Main Street #313 to maintain the availability of affordable housing in the City, which will be of benefit to the Project Area, will further the goals of the Redevelopment Plan and will be consistent with the Implementation Plan adopted in connection therewith.

3. The purchase and/or resale of the two (2) affordable units located at 600 South Abel Street #208 and 1101 S. Main Street #313 is necessary to maintain the long-term affordability of the affordable housing units and will provide the opportunity for low-income households to become first-time homebuyers.
4. The purchase and/or resale of the two (2) affordable units is consistent with the provisions of CRL which requires that twenty percent (20%) of all tax increment revenues must be allocated to increasing, improving and preserving the community's supply of low and moderate-income housing.
5. Agency Staff is authorized and directed to exercise purchase options under the Resale Restriction Agreements and purchase the property at 600 South Abel Street #208 for the appraisal value in an amount not to exceed Two Hundred Thirty Thousand Dollars (\$230,000). Agency Staff is authorized and directed to exercise purchase options under the Resale Restriction Agreements and purchase the property at 1101 S. Main Street #313 for the appraisal value in an amount not to exceed Two Hundred Fifty Thousand Dollars (\$250,000). In addition, Agency Staff is authorized to expend monies for homeowners' association fees, maintenance costs, and other ownership-related fees that may accrue before the Agency resells the properties, and resale costs, as deemed appropriate by the Agency Executive Director.
6. Agency Staff is further directed to modify the Resale Restriction Agreement for the property at 600 South Abel Street #208 to provide a down-payment assistance loan not to exceed \$50,000.00. Agency Staff is further directed to modify the Resale Restriction Agreement for the property at 1101 S. Main Street #313 to provide a down-payment assistance loan not-to-exceed \$35,000.00.
7. The resale restrictions under the Resale Restriction Agreements for the property at 185 Parc Place Drive in Milpitas, California are hereby released.
8. The actions contemplated herein comply with the requirements of CEQA. The transfer in interests in property by grant deed and other instruments are ministerial, documentary acts that do not constitute a "project" pursuant to Section 15378(b)(4)-(5),(c) of the CEQA Guidelines.
9. The transfer of 600 South Abel Street #208 and 1101 S. Main Street #313 from the Agency to the City by grant deed, the form of which shall be satisfactory to Agency Counsel and the City Attorney, is hereby approved. The Agency Executive Director and the City Manager are hereby authorized and directed to convey the properties from the Agency to the City, and to execute a certificate of acceptance and such other documents and take such other actions as are necessary to carry out and implement the transfer of the properties to the City.

PASSED AND ADOPTED this \_\_\_\_ day of \_\_\_\_\_, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

\_\_\_\_\_  
Mary Lavelle, Agency Secretary/City Clerk

\_\_\_\_\_  
Jose S. Esteves, Chair/Mayor

APPROVED AS TO FORM:

\_\_\_\_\_  
Michael J. Ogaz, Agency Counsel/City Attorney