

**A RESOLUTION OF THE CITY OF MILPITAS HOUSING AUTHORITY AUTHORIZING AND DIRECTING STAFF TO RELEASE THE RESALE RESTRICTIONS ON 700 SOUTH ABEL STREET, #212**

**WHEREAS**, California Redevelopment Law authorized the Milpitas Redevelopment Agency to set aside at least twenty percent (20%) of all tax increment revenue generated from the redevelopment 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 required that fifteen percent (15%) of the housing units within the redevelopment project area to be affordable to moderate, low and very low-income households; and

**WHEREAS**, the former Milpitas Redevelopment Agency entered into a Memorandum of Understanding dated May 18, 2004 and an Owner Participation Agreement dated January 18, 2005 with KB Homes, South Bay, Inc., to provide 110 homes at prices that are affordable to households of moderate, low and very low-incomes for the development at 600 and 700 South Abel Street, also known as "Luna at Terra Serena"; and

**WHEREAS**, David Earl Greathouse and Alison Marie Greathouse ("Owner") purchased a moderate-income unit at 700 South Abel Street, #212, on January 3, 2008, and executed a Resale Restriction Agreement and Option to Purchase between Owner and the former Milpitas Redevelopment Agency as part of the purchase transaction; and

**WHEREAS**, on February 15, 2011, the City Council adopted Resolution No. 8062, authorizing the establishment of the City of Milpitas Housing Authority; and

**WHEREAS**, pursuant to ABx1 26 enacted effective June 28, 2011, as clarified and amended by AB 1484 effective June 27, 2012 (collectively, the "Redevelopment Dissolution Law");

1. The Milpitas Redevelopment Agency, together with every redevelopment agency in California, was dissolved as of February 1, 2012; and
2. The City of Milpitas Housing Authority Commission (the "Housing Authority"), the City Council, and the Milpitas Redevelopment Agency adopted joint Resolution HA3/8151/RA426 on January 4, 2012, whereby (a) the City of Milpitas ("City"), acting in a separate legal capacity and as a separate legal entity, elected to be the successor agency (the "Successor Agency") to the dissolved Redevelopment Agency for purposes of paying the obligations, unwinding the affairs, and liquidating specified assets of the dissolved Redevelopment Agency; and (b) the City selected the Housing Authority and the Housing Authority elected to take on the responsibility of performing the housing functions of the dissolved Redevelopment Agency; and

**WHEREAS**, the Owner of 700 South Abel Street, #212, notified the Housing Authority of their desire to sell the unit; and

**WHEREAS**, the Luna at Terra Serena Homeowners Association has entered into litigation with the developer over construction defects, thereby causing lending institutions to not lend money for a potential home mortgage for the purchase of a unit in the Luna at Terra Serena; and

**WHEREAS**, because of the litigation, after 90 days the Owner has not been able to find a qualified buyer and is now requesting that the Housing Authority either exercise its Purchase Option on the home or release the affordable restrictions to allow the Owner to sell the unit at fair market value; and

**WHEREAS**, on December 15, 2015, staff presented the issue to the Land Use and Transportation Subcommittee and the Subcommittee recommended that the Resale Restrictions be released and the Owner allowed to sell the unit at fair market value; and

**WHEREAS**, under the Resale Restriction Agreement and Option to Purchase to which the property is subject, if the existing property owner issues a Notice of Intent to Transfer and the Agency does not exercise its Options under the

Agreement or consent to the Transfer, the Agency is required to record a notice of abandonment of the Options and allow the unit to be sold at fair market value thereby eliminating the affordable restriction on the property; and

**NOW, THEREFORE,** the City of Milpitas Housing Authority Commission hereby finds, determines, and resolves as follows:

1. The City of Milpitas Housing Authority Commission has considered the full record before it, 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 it. The recitals set forth above are found to be true and correct and are incorporated herein by reference.
2. The resale restrictions under the Resale Restriction Agreement for the property at 700 South Abel Street, #212, in Milpitas, California are hereby released.
3. The Executive Officer (City Manager) for the City of Milpitas Housing Authority, or his designee, is authorized to execute any and all documents deemed necessary for the release of the Resale Restriction Agreement.
4. The City of Milpitas Housing Authority and Owner will share in the equity of the unit as outlined in the Resale Restriction Agreement and the City of Milpitas Housing Authority's portion will be deposited in the Housing Authority Fund.
5. The actions contemplated herein comply with the requirements of CEQA. The release of the resale restrictions is a ministerial documentary act that does not constitute a "project" pursuant to Section 15378(b)(4)-(5),(c) of the State CEQA Guidelines because the decision does not cause any environmental effects and merely involves the recordation of a Notice of Abandonment releasing the resale restrictions.

PASSED AND ADOPTED this \_\_\_ day of \_\_\_\_\_, 2016, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

\_\_\_\_\_  
Mary Lavelle, Authority Secretary

\_\_\_\_\_  
Jose S. Esteves, First Chair

APPROVED AS TO FORM:

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Christopher J. Diaz, Authority Counsel