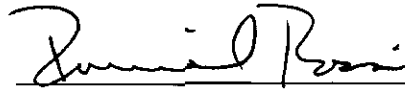


APPROVED AS TO FORM AND LEGALITY



Agency Counsel

**REDEVELOPMENT AGENCY
OF THE CITY OF OAKLAND**

RESOLUTION NO. 2003-77 = C.M.S.

FILED
OFFICE OF THE CITY CLERK
2003 OCT -2 PM 1:33

**A RESOLUTION APPROVING AND ADOPTING RULES GOVERNING
PARTICIPATION BY PROPERTY OWNERS AND THE EXTENSION OF
REASONABLE PREFERENCES TO BUSINESS OCCUPANTS IN THE
WEST OAKLAND REDEVELOPMENT PROJECT AREA**

WHEREAS, Section 33345 of the California Community Redevelopment Law (Health and Safety Code Section 33000 et seq.) provides that a redevelopment agency shall adopt and make available for public inspection rules to implement the operation of owner participation in connection with a redevelopment plan; and

WHEREAS, Section 33339.5 of the Health and Safety Code provides that a redevelopment agency shall adopt and make available for public inspection rules regarding the extension of reasonable preferences to persons who are engaged in business in the project area to reenter in business within the redeveloped area if they otherwise meet the requirements prescribed by the redevelopment plan; and

WHEREAS, the Redevelopment Agency has prepared a proposed Redevelopment Plan for the West Oakland Redevelopment Project (the "West Oakland Redevelopment Plan"); now, therefore, be it

RESOLVED: That the Redevelopment Agency hereby approves and adopts for the West Oakland Redevelopment Project those "Rules Governing Participation by Property Owners and the Extension of Reasonable Preferences to Business Occupants in the West Oakland Redevelopment Project" attached to this Resolution as Attachment A.

NOV 04 2003

IN AGENCY, OAKLAND, CALIFORNIA, _____, 2003

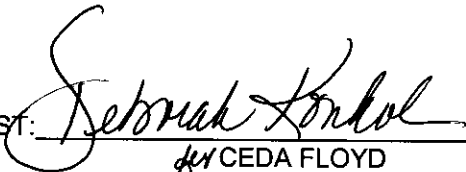
PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, BRUNNER, CHANG, NADEL, QUAN, REID, WAN, and CHAIRPERSON DE LA FUENTE -8

NOES- 0

ABSENT- 0

ABSTENTION- 0

ATTEST: 
CEDRA FLOYD
Secretary of the Redevelopment Agency
of the City of Oakland

ATTACHMENT A

**WEST OAKLAND REDEVELOPMENT PLAN
OWNER PARTICIPATION RULES**

(attached)

**RULES GOVERNING PARTICIPATION BY PROPERTY OWNERS
AND THE EXTENSION OF REASONABLE PREFERENCES TO
BUSINESS OCCUPANTS IN THE
WEST OAKLAND REDEVELOPMENT PROJECT**

Prepared by

**THE REDEVELOPMENT AGENCY
OF THE CITY OF OAKLAND**

Adopted _____, 2003

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- VII. [§700] OWNER PARTICIPATION AGREEMENTS
- VIII. [§800] NOTICE TO OWNERS; TIME TO ENTER INTO AGREEMENT
- IX. [§900] CONTENTS OF OWNER PARTICIPATION AGREEMENTS
- X. [§1000] LIMITATIONS ON ACQUISITION OF PROPERTY BY THE AGENCY
- XI. [§1100] PREFERENCE TO BUSINESS OCCUPANTS WITHIN THE PROJECT AREA
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**RULES GOVERNING PARTICIPATION BY PROPERTY OWNERS
AND THE EXTENSION OF REASONABLE PREFERENCES
TO BUSINESS OCCUPANTS IN THE
WEST OAKLAND REDEVELOPMENT PROJECT**

I. [§100] PURPOSE AND INTENT

These rules are adopted pursuant to the Community Redevelopment Law of the State of California (Health and Safety Code Section 33000, et seq.) in order to implement the provisions of the West Oakland Redevelopment Plan regarding participation by property owners and the extension of reasonable preferences to business occupants within the Project. These rules set forth the procedures governing such participation and preferences.

II. [§200] DEFINITIONS

As used herein, the following definitions apply:

- (1) "Agency" means the Redevelopment Agency of the City of Oakland, which is authorized to undertake the activities of a community redevelopment agency pursuant to the California Community Redevelopment Law, Health and Safety Code Section 33000, et seq.
- (2) "Business Occupant" means any person, persons, corporation, company, association, partnership, sole proprietorship, or other entity engaged in an operating commercial enterprise and occupying an office or other business premises within the Project Area on or after the date of adoption of these rules by the Agency.
- (3) "City Council" means the City Council of the City of Oakland, California.
- (4) "Owner" means any person, persons, corporation, association, partnership, or other entity holding title of record to real property in the Project Area on or after the date of adoption of these rules by the Agency.
- (5) "Owner Participation Agreement" means an agreement entered into by an Owner with the Agency in accordance with the provisions of the Redevelopment Plan and these rules.
- (6) "Project Area" means the area within the boundaries described as the West Oakland Redevelopment Project Area in the Redevelopment Plan
- (7) "Redevelopment Plan" or "Plan" means the West Oakland Redevelopment Plan adopted on _____, 2003, as such Plan may be further amended by the City Council.

III. [§300] ELIGIBILITY

Owners shall be eligible to participate in the redevelopment of property within the Project Area in accordance with the provisions of the Redevelopment Plan, these rules, and the limitations herein described.

Participation opportunities are necessarily subject to and limited by factors such as the following:

(1) The need to assemble and redevelop sites for integrated, modern development, given market conditions and development economies of scale in accordance with the eminent domain policy of the Redevelopment Plan.

(2) The capacity of an Owner to finance redevelopment or rehabilitation in accordance with this Plan.

(3) The development experience of an Owner and its capacity to undertake development projects as needed to meet Plan objectives.

(4) The inability of an Owner to maintain or operate its property in accordance with state or local code standards or health and safety laws, or the inability of an Owner to rectify conditions of physical or economic blight as defined in the Community Redevelopment Law.

(5) The need to coordinate development projects with other projects or existing uses in the Project Area.

(6) The need to construct, widen, or realign some streets.

(7) The need to construct or expand public facilities.

The Agency presently contemplates that in carrying out the Redevelopment Plan, certain portions of the Project Area may be acquired by the Agency for public improvements, facilities, and utilities and for other uses and purposes in accordance with the Redevelopment Plan. Therefore, owner participation opportunities will not be available for such properties.

IV. [§400] TYPES OF PARTICIPATION

Subject to these rules and the limitations in Section 300 and this Section 400, Owners shall be given a reasonable opportunity to participate in redevelopment by:

(1) Retaining all or a portion of their properties and developing or improving such property for use in accordance with the Redevelopment Plan;

(2) Acquiring adjacent or other properties within the Project Area and developing or improving such property for use in accordance with the Redevelopment Plan; or

(3) Selling their properties to the Agency and purchasing other properties in the Project Area.

The foregoing methods of providing owner participation opportunities shall not be deemed exclusive.

V. [§500] PARTICIPATION PROCESS

The Agency shall notify in writing Owners within the area which might be subject to acquisition by the Agency (“Affected Area”) for a particular project as per the limited eminent domain policy in Section 305 of the Redevelopment Plan, at least 90 days prior to adopting a resolution of necessity, of their reasonable opportunity to submit a proposal for the redevelopment of the Affected Area. The notification shall include:

- (1) An identification of the Affected Area;
- (2) A general description of the proposed use of the Affected Area, including any applicable use or design standards or restrictions;
- (3) A description of the minimum contents of a proposal and the date by which such proposals must be submitted; and
- (4) A general description of the standards and criteria which the Agency will use in selecting a developer.

Owners wishing to participate shall submit to the Agency, no later than 90 days following their receipt of notice concerning a proposed use or acquisition of their property, a written proposal including a statement of interest in participation, a description of the proposed development/improvement, a schedule for development, and a statement of qualifications. The Agency may also solicit and consider proposals from persons who are not owners.

Owners who fail to submit a proposal within such time period shall be deemed to have waived all rights of owner participation.

The Agency shall consider in good faith any proposals submitted by Owners. In evaluating such proposals, the Agency shall extend any available forms of development assistance which may be appropriate under the circumstances.

Each proposal shall be reviewed by the Agency specifically with respect to the following factors and criteria:

- (a) Conformity with the land use provisions of the General Plan and the Redevelopment Plan;

- (b) Compatibility with the objectives, standards, covenants, restrictions, conditions and controls of the Redevelopment Plan;
- (c) Compatibility with other proposed projects and existing uses in the area;
- (d) Compatibility with the needs or plans of the Agency or City to change or eliminate some land uses, to construct, widen or realign some streets, to reduce the total number of individual parcels in the Project Area, or to construct or expand public facilities;
- (e) Compatibility with parcelization of the Project Area into sites adequate for redevelopment, including the need to assemble and redevelop large sites for integrated, modern development, given market conditions and development economies of scale, in accordance with the eminent domain policy of the Redevelopment Plan;
- (f) The proponent's ability and capacity to finance the acquisition and development of improvements in accordance with the Redevelopment Plan;
- (g) The proponent's development experience and capacity to undertake development projects as needed to meet Plan objectives; and
- (h) The social, economic, or fiscal benefits to the community of the proposal.

If conflicts develop between the desires of prospective redevelopers for particular sites or land uses, the Agency is authorized to establish reasonable priorities and preferences among Owners, Business Occupants, and other prospective redevelopers. Some of the factors to be considered in establishing these priorities and preferences may include:

- (1) A participant's length of occupancy in the area;
- (2) Accommodation of as many participants as possible; and
- (3) The factors and criteria set forth in (a) through (h), above.

If the Agency does not accept the proposal of an Owner, the Agency shall notify the Owner within 30 days in writing and shall explain briefly why the proposal was not accepted.

If an Owner is selected by the Agency, the Agency may require the selected Owner to enter into an Owner Participation Agreement with the Agency as set forth below.

If an Owner is not selected and the Owner is subsequently displaced, the Agency shall use its best efforts to offer the Owner a reasonable opportunity to relocate or reenter into business at another location within the Project Area.

VI. [§600] CONFORMING OWNERS

The Agency may, in its sole and absolute discretion, determine that certain real property within the Clawson/McClymonds/Bunche Subarea of the Project Area presently meets the requirements of the Redevelopment Plan, and the Owners of such property will be permitted to remain as conforming Owners without an Owner Participation Agreement with the Agency, provided such Owners continue to operate, use, and maintain the real property within the requirements of the Redevelopment Plan.

In the event that any of the conforming Owners desire to (1) construct any additional improvements or substantially alter or modify existing structures on any of the real property described above as conforming, or (2) acquire additional property within the Project Area, then, in such event, such conforming Owners may be required by the Agency to enter into an Owner Participation Agreement with the Agency.

VII. [§700] OWNER PARTICIPATION AGREEMENTS

Owners wishing to participate in redevelopment within the Project Area may be required, as a condition to participation, to enter into an Owner Participation Agreement with the Agency if the Agency determines it is necessary to impose upon the property any of the standards, restrictions, and controls of the Redevelopment Plan. The Agreement may require the participant to join in the recordation of such documents as the Agency may require in order to ensure the property will be developed and used in accordance with the Redevelopment Plan and the Owner Participation Agreement.

VIII. [§800] NOTICE TO OWNERS; TIME TO ENTER INTO AGREEMENT

If the Agency determines that an Owner of real property within the Project Area shall be required to enter into an Owner Participation Agreement as provided in Section 700 of these rules, the Agency shall notify the Owner in writing at least 90 days prior to adopting a resolution of necessity of its intention to require an Owner Participation Agreement and shall provide the Owner with a copy of the proposed Owner Participation Agreement.

An Owner presented with an Owner Participation Agreement by the Agency must enter into the Agreement no later than 90 days following their receipt of notice, or will be deemed to have waived all rights to owner participation. An Owner must submit proof of its qualifications, including financial responsibility and development capacity, to carry out the terms and provisions of the Owner Participation Agreement.

IX. [§900] CONTENTS OF OWNER PARTICIPATION AGREEMENTS

An Owner Participation Agreement shall obligate the Owner, his or her heirs, successors and assigns, and tenants to devote the property to the uses specified in the Redevelopment Plan, abide by all provisions and conditions of the Redevelopment Plan for the period of time that the

Redevelopment Plan is in force and effect, and comply with all the provisions of the Owner Participation Agreement according to their terms, duration, and effect.

The Agency may recover from the proposed participant all costs associated with review of the proposal and the preparation and processing of the Owner Participation Agreement.

An Owner Participation Agreement may provide that if the Owner does not comply with the terms of the Agreement, the Agency, in addition to other remedies, may acquire such property or any interest therein by any lawful means, including eminent domain, subject to the limitations of Section 305 of the Redevelopment Plan, for its fair market value as of the date of the Owner Participation Agreement, and the Agency may thereafter dispose of the property or interest so acquired in accordance with the Redevelopment Plan.

An Owner Participation Agreement shall contain such other terms and conditions which, in the discretion of the Agency, may be necessary to effectuate the purposes of the Redevelopment Plan.

X. [§1000] LIMITATIONS ON ACQUISITION OF PROPERTY BY THE AGENCY

The Agency shall not acquire real property to be retained and developed by an Owner pursuant to a fully executed Owner Participation Agreement if the Owner fully performs under the Agreement.

XI. [§1100] PREFERENCE TO BUSINESS OCCUPANTS WITHIN THE PROJECT AREA

Business Occupants who desire to remain within the Project Area shall be extended a reasonable preference to remain or reenter in business within the Project Area if they otherwise meet the requirements prescribed in these rules and the Redevelopment Plan, provided said Business Occupants are able to demonstrate the financial ability to remain or reenter in business within the Project Area.

Reentry preferences shall necessarily be subject to and limited by factors such as the extent to which suitable relocation or reentry accommodations exist or are rehabilitated or developed within the Project Area; the extent to which suitable relocation or reentry accommodations are available within an acceptable time period or at rents or other terms that are acceptable to such displaced business occupants, and within their financial means; and the requirements of the Redevelopment Plan and applicable laws and regulations of the City.

XII. [§1200] AMENDMENT OF RULES

These rules may be modified or amended from time to time by the Agency at any regular or duly called special meeting, provided, however, that no such amendment shall retroactively impair the rights of Owners who have executed Owner Participation Agreements with the Agency in reliance upon these rules as presently constituted.