

**REDEVELOPMENT AGENCY
OF THE CITY OF OAKLAND
AGENDA REPORT**

TO: Office of the Agency Administrator
ATTN: Deborah Edgerly
FROM: Community and Economic Development Agency
DATE: June 26, 2007

RE: A Resolution Authorizing The Redevelopment Agency To Purchase 36 Units At The Pacific Cannery Lofts And Zephyr Gate Developments In The Wood Street Development District At Market Rate Prices And To Resell These Units At Affordable Sales Prices To Low And Moderate Income Homebuyers, And Allocating An Amount Not To Exceed \$10,350,000 To Subsidize The Affordability Of The Units

SUMMARY

The Community and Economic Development Agency (CEDA) is recommending the purchase of 36 homeownership units in the Wood Street Development District at market rate prices and the resale of those units at affordable sales prices to low and moderate income homebuyers in order to satisfy state redevelopment affordable housing production requirements and to facilitate compliance with Condition 100b of the Wood Street Conditions of Approval.

Two market rate ownership projects in the Wood Street Development District are nearing completion, Pacific Cannery Lofts and Zephyr Gate. According to the Conditions of Approval for the Wood Street District, the Agency may exercise the option to: 1) provide homebuyer assistance such that up to 12.65% of the units can be purchased at affordable sales prices by households at 100% of Area Median Income (AMI), or 2) purchase up to 12.65% of the units within each for-sale project at market rate. Staff recommends the Agency exercise the second option, to purchase the units at market rate, and recommends the units then be sold at an affordable sales price to households up to 100% of AMI. The Wood Street Development District and its Conditions of Approval were approved by the City Council by Resolution 79249 C.M.S. dated May 17, 2005.

Staff is recommending up to \$10,350,000 be allocated from the 2006 Affordable Housing Bond Fund to subsidize the difference between the market rate prices and the affordable sales prices. This will constitute an average subsidy of \$287,500 per unit. Staff is recommending these funds be set aside to purchase and sell these 36 units, but if any less expensive alternatives are identified after these funds are set aside, staff will pursue these and will come back to the Agency for approval.

FISCAL IMPACT

The \$10,350,000 subsidy to purchase and resell the affordable units is available from the 2006 Housing Bond Fund (9584), Housing Development Organization (88929), 2006 Housing Bond Project (L290410). The 2006 Housing Bond generated \$55 million for affordable rental and homeownership development. Of this amount, \$20 million was set-aside in anticipation of affordable housing commitments for the Oak-to-Ninth and Wood Street projects.

Up to 1,150 ownership units are entitled in the Wood Street Development District, of which up to 146 units may be designated as affordable to low and moderate income households. At an average subsidy of \$287,500 per unit, a total of \$42 million would be required to subsidize all 146 units (including the \$10.35 million requested in this report). Staff will need to return to Council as future projects move forward to request additional subsidy for the affordable units in those projects.

Staff anticipates bond proceeds from future Low and Moderate Income Housing Set-Aside generated from the Army Base Redevelopment Area will subsidize the future affordable units. Since Low and Moderate Income Housing funds haven't yet been generated from the Army Base Redevelopment Area, 2006 Housing Bond funds will subsidize these units in the near term and be reimbursed from future bond proceeds.

BACKGROUND

The Wood Street Development District and its associated Conditions of Approval were approved by the City Council on May 17, 2005. Condition 100 (Attachment A) addresses affordable housing within the district. First, this condition requires development of at least 94 rental units for households with incomes at or below 50% of AMI (\$41,900 for a family of four). This condition will be met through development of the 14th Street Apartments, a 99-unit rental development by BRIDGE Housing, which is anticipated to start construction later this year. The Agency provided an \$8,379,000 loan to the 14th Street Apartments project through the 2005-06 NOFA process (\$84,600 per unit).

Condition 100 also requires project sponsors of market rate ownership developments to reserve at least 12.65% of the units within each for-sale project, but no fewer than 9% of the total number of units built within Wood Street, for purchase by low and moderate income households. Approximately 1,600 units are entitled in the Wood Street district, of which approximately 1,150 are planned to be developed as ownership units and 450 are planned as rental units (99 of which will be affordable rentals). The 99-unit BRIDGE Housing affordable rental project, combined with 12.65% affordable ownership units (within the total planned 1,150 ownership units), are estimated to constitute the 15% affordable units required according to redevelopment law.

The Condition sets forth two options for the Agency to make the reserved ownership units affordable to low and moderate income households for the 45 years required by redevelopment

law. The Agency may elect to provide an additional subsidy to the homebuyers so the units are affordable to households with incomes at or below 100% of AMI (\$83,800 for a family of four), or the Agency may elect to directly purchase the reserved units. Staff is recommending the Agency purchase and sell the units at affordable sales prices, rather than provide large second mortgages to homebuyers, to ensure that property taxes are assessed based on the affordable sales prices rather than the market prices.

Condition 100 does not require that the Agency exercise either of these options during the option period. Notice from the developer of the availability of the reserved units is required six months prior to completion of each reserved unit. The Agency's period to elect to exercise one of these options ends 60 days from receipt of notice from the developer. The developer's obligation to make units available to the Agency for purchase or for additional subsidy would cease after the option period passes unless the Agency makes an election. The Agency has not yet received a six month notice of availability from either developer, but expects to receive the first notice in July or August, 2007.

The Condition requires BUILD (BRIDGE Housing's for-profit development arm) to commit at least \$2.5 million in mortgage assistance loans in the form of \$25,000 second mortgages for low to moderate income households to purchase reserved units. The loans are set forth as 4% interest-only payments for the first five years, with remaining payments amortized over 15 years at 4% interest. Because the loans have a 20-year term, and redevelopment law requires a 45-year affordability period, this mortgage assistance cannot be used to reduce the Agency subsidy. However, the assistance may enable a lower-income buyer to purchase a unit.

Should the Agency choose not to exercise its option under Condition 100, the developer must still reserve units for purchase by low or moderate income households, and must still provide the \$2.5 million in mortgage assistance. Those units would not count toward the Agency's affordability requirements under redevelopment law, because they would not be sold at an affordable housing price that conforms with redevelopment law, and be subject to 45-year affordability controls, both of which are required to count the units toward the area's affordable housing production requirement. Therefore, the Agency would need to find another way to provide the required moderate income affordable units.

KEY ISSUES AND IMPACTS

Allocation of Funds for Ownership Housing

The City's goal is to allocate equal portions of affordable housing funds for rental and ownership housing. As of the 2006-07 NOFA, the absolute distribution between rental and ownership housing this year was 77:23. If \$10,350,000 is allocated for the Wood Street homeownership units, the portion allocated to homeownership this year will increase to 42%.

The funding required for Wood Street, \$287,500 per unit, is high compared to the typical subsidy provided to an affordable development project funded through the NOFA. This year's

City/Agency subsidy for a rental unit ranged from \$70,000 to \$111,000 per unit, or an average of approximately \$100,000 per unit. Recent homeownership projects have received per unit City/Agency subsidies ranging from \$97,000 to \$175,000 per unit, with the average subsidy at \$137,000 per unit. However, some recent homeownership development projects have not been financially feasible without a larger City/Agency subsidy above 40% of the total development cost of the affordable units. Council will be considering an increase to the allowable subsidy to 50% for affordable homeownership development projects at the June 26th Community and Economic Development Committee meeting.

Redevelopment Law Affordable Housing Production Requirements

State redevelopment law requires at least 15% of new housing units developed within a redevelopment project area over a ten-year period be affordable to very low-, low-, and moderate-income households. At least 40% of the affordable units (i.e. 6% of all new units) must be targeted to households with very-low incomes (at or below 50% of AMI). The remaining 60% of the affordable units (i.e. 9% of new units) may be affordable to households up to 120% of AMI. Ownership units must be kept affordable for at least 45 years, rental units for at least 55 years. Within the Army Base Redevelopment Area, the required units for very-low income households will be provided by the 14th Street Apartments rental development. The purchase and resale of the affordable ownership units addressed in this report will satisfy the Agency's obligation for moderate-income units created by the Zephyr Gate and PCL developments. Additional moderate-income affordable units will need to be provided in each of the remaining for-sale developments.

The only land in the Army Base Redevelopment Area designated for residential development is located in the Wood Street district, and all but one parcel is already owned by developers with entitlements to build ownership or rental housing. One parcel could potentially be acquired for affordable housing development, the Phoenix Iron Works site located at 9th and Pine Streets, which is currently owned by CalTrans. However, this site presents numerous challenges, including a high level of hazardous waste and potential difficulties of negotiating the acquisition of the site from CalTrans.

Other than purchasing or subsidizing units within the project area, there are two alternative ways to meet the Agency's affordable housing production obligations under redevelopment law. First, the Agency may provide two affordable units outside the redevelopment project area for each housing unit that otherwise would have to be available inside the redevelopment area. At the highest recent subsidy (through the NOFA) of \$111,000 per rental unit or \$175,000 per ownership unit (compared to the proposed Wood Street subsidy of \$287,500 per unit), the Agency could produce 2.6 affordable rental units for households between 35% and 60% of AMI, or 1.6 affordable ownership units for households at 100% of AMI outside of the Army Base Redevelopment Area for the same cost to subsidize one ownership unit at Zephyr Gate and PCL.

Second, the Agency may aggregate affordable units produced in multiple project areas to meet the combined affordable housing requirements of the multiple project areas, if the Agency finds,

based on substantial evidence after a public hearing, that the aggregation will not cause or exacerbate racial, ethnic, or economic segregation. The Army Base Redevelopment Area Implementation Plan states the following regarding Wood Street Condition 100 and the potential for aggregation:

In the event the Agency is unable to provide such financing or determines that such financing is infeasible or impracticable, some or all of the housing production obligation will be met by aggregating new or substantially rehabilitated units in the Oakland Army Base Project Area with units in other project areas, consistent with the provisions of subparagraph (2)(A)(v) of Section 33413(b). It is the Agency's intent to give priority to the development of very low income units within the project area.

PROJECT DESCRIPTION

The Pacific Cannery Lofts (PCL), developed by Holliday Development, and Zephyr Gate, developed by Pulte Homes, will begin completing units by the end of 2007 and beginning of 2008 and will build a total of 289 units. PCL will include a total of 163 units, 20 of which will be designated as affordable. Zephyr Gate will include a total of 126 units, with 16 designated as affordable.

To provide the affordable homeownership units on-site, the Agency must fill the gap between the affordable sales prices and the market prices. Market prices are estimated to range between \$350,000 to \$610,000 for the one- to three-bedroom units in these developments. Affordable sales prices, calculated according to state redevelopment law to be affordable to households at 100% of AMI, will range from approximately \$163,250 to \$220,650 (see below Unit Affordability and Subsidy table), depending on the number of bedrooms.

Unit Affordability and Subsidy

Development	Unit Type	Affordable Units	Average Market Price	100% AMI Affordable Sales Price*	Average Per Unit Subsidy
PCL	1-bedroom	15	\$ 424,000	\$ 163,250	\$ 260,750
PCL	2-bedroom	5	\$ 557,000	\$ 182,300	\$ 374,700
Zephyr Gate	2-bedroom	14	\$ 467,143	\$ 197,000	\$ 270,143
Zephyr Gate	3-bedroom	2	\$ 610,000	\$ 220,650	\$ 389,350

* Affordable Sales Prices vary between the two developments due to differences in the Homeownership Association (HOA) dues for each development.

Homebuyers must sign a Declaration of Resale Restrictions (the Declaration) recorded on each property requiring the home be sold only to another eligible buyer at an affordable sales price determined by the City. The obligations delineated in the Declaration will be assumed by subsequent buyers for the term of the Declaration. The affordable sales prices will be calculated

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by a formula set forth by redevelopment law. Homebuyers will complete homeownership counseling and be screened for income and other eligibility requirements.

The affordable units will be distributed throughout the developments and will include the same finishes, fixtures, and amenities as the equivalent market rate units. The affordable unit types were selected to mirror the proportion of one-, two-, and three-bedroom units in each development. However, the cost to subsidize the two three-bedroom units is very high. Substituting two-bedroom units could reduce the Agency's subsidy by almost \$300,000.

SUSTAINABLE OPPORTUNITIES

Economic: The project will expand the affordable homeownership inventory in Oakland and therefore encourage households to stay in Oakland.

Environmental: The Wood Street development will provide housing on an underutilized site near to numerous AC transit lines and within a short distance to West Oakland BART. By developing land in already built-up areas, it will reduce pressure to build on undeveloped land. Providing affordable homeownership opportunities in Oakland will prevent households from choosing to purchase housing outside of the Bay Area and commute long distances for work.

Social Equity: The Wood Street development will provide a mixed-income community where affordable units are intermixed with the market rate units. The stability and pride of homeownership will be available for households who might not otherwise have the opportunity to purchase a home.

DISABILITY AND SENIOR CITIZEN ACCESS

The State's Title 24 and the Americans with Disabilities Act require consideration of persons with disabilities in the design and construction of housing. While the City's homeownership programs are open to seniors, in practice few first-time homebuyers are seniors.

RECOMMENDATION AND RATIONALE

Staff recommends the Agency purchase 36 units at the PCL and Zephyr Gate developments and resell these units at affordable sales prices to eligible homebuyers with incomes at or below 100% of AMI. Staff recommends that \$10,350,000 be allocated from the 2006 Housing Bond to subsidize the difference between the market prices and the affordable sales prices.

ALTERNATIVE RECOMMENDATIONS

Due to the high cost to subsidize these units, staff is providing a number of alternative recommendations for the Agency to consider.

1. Provide affordable units outside of the Army Base Redevelopment Area (two for one).

The Agency could decide not to exercise the option to provide a subsidy for the ownership units at PCL, Zephyr Gate, or future Wood Street ownership developments, and instead decide to produce twice the number of units outside of the Army Base Redevelopment Area through the annual NOFA process. At a subsidy (through the NOFA) of \$111,000 per rental unit or \$175,000 per ownership unit, the Agency could produce 2.6 affordable rental units for households between 35% and 60% of AMI, or 1.6 affordable ownership units for households at 100% of AMI outside of the Army Base redevelopment area for the same cost to subsidize one ownership unit at Zephyr Gate and PCL. However, sites would need to be located for these units, the developments would need to go through the City's NOFA, and this would not result in a permanently affordable, mixed-income community within the Wood Street district.

2. Aggregation of redevelopment project areas.

The Agency could decide not to exercise the option to provide a subsidy for the ownership units in PCL, Zephyr Gate, or future ownership developments, and could instead pursue the aggregation of redevelopment areas, such that units produced in other areas could count toward an overall production requirement for the Army Base Redevelopment Area. However, the Agency would be required to make findings that aggregation would not cause racial, ethnic, or economic segregation, which may be difficult given the existing affordable housing in other redevelopment areas, and the aggregation process could be a lengthy process that may generate community opposition.

3. Pursue other affordable housing development options in the Army Base.

The Agency could decide not to exercise the option to provide a subsidy for the ownership units in PCL and Zephyr Gate, and could instead direct staff to continue to attempt other means to produce the units. Other options include negotiating with owners of property in the Wood Street district to designate additional land for an affordable ownership or rental development. The purchase of the Phoenix Iron Works site from CalTrans could also be pursued further. These projects would most likely be funded through the annual NOFA process and would still require some level of public subsidy. However, it's possible that no alternative feasible affordable housing development opportunities will be identified in the redevelopment area.

4. Increase income level from 100% AMI to 120% AMI.

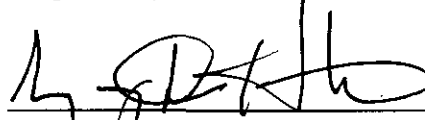
This report assumes that units will be sold at prices affordable to households at 100% of AMI. However, the selected scenario in Condition 100 does not require units be sold to households at 100% of AMI. The Agency could instead choose to sell the affordable units at prices affordable to households at 120% of AMI (\$100,560 for a family of four). Affordable sales prices at this income level would range from \$210,700 to \$280,000. This would reduce the Agency's subsidy to a total of \$8,500,000, or \$236,000 per unit. This would meet the affordable housing production requirements according to redevelopment law, and would still provide units at prices substantially below market rate. However, it would result in public subsidy to a higher income range than Council has typically supported.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends approval of the following Redevelopment Agency Resolution:

A Resolution authorizing the Redevelopment Agency to purchase 36 units at the Pacific Cannery Lofts and Zephyr Gate developments in the Wood Street Development District at market rate prices and to resell these units at affordable sales prices to low and moderate income homebuyers, and allocating an amount not to exceed \$10,350,000 to subsidize the affordability of the units

Respectfully submitted,



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APPROVED AND FORWARDED TO THE
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AGENCY ADMINISTRATOR

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Wood Street Affordable Homeownership Report

ATTACHMENT A: WOOD STREET CONDITION 100

100. Affordable Housing

Prior to the issuance of the first building permit.

a. In order to assist the Redevelopment Agency to meet the obligations of Health and Safety Code Section 33413 and the Redevelopment Plan to make available units affordable to very low income households, BUILD shall set aside Parcel 3 of VTPM 8551, which Parcel is approximately 1.5 acres (the "Affordable Housing Parcel") for a period of no less than one year from the City Council's approval of the District. During this period, the Affordable Housing Parcel shall be reserved for purchase by a nonprofit housing developer chosen by BUILD for the purpose of developing at least 94 rental units, including as many as thirty percent (30%) 3-bedroom units, if feasible, affordable to very low income households (the "Very Low Income Units"). During this period (1) BUILD and the nonprofit housing developer shall negotiate in good faith to enter into an agreement for the nonprofit housing developer to purchase the Affordable Housing Parcel for the Purchase Price, as defined below (the "Purchase Agreement"), within said one year period and (2) the nonprofit housing developer and the Redevelopment Agency or the City shall negotiate in good faith to enter into an agreement for the Agency or City to provide the financial assistance necessary to make such an affordable housing project economically feasible (the "Funding Agreement"). BUILD shall apply for such funding through the 2005 Notice of Funding Availability (NOFA) process. The Funding Agreement shall (1) provide for City/Agency funding under terms and conditions consistent with the City/Agency's affordable housing development guidelines and standard practices in the field of affordable housing finance; (2) provide that the nonprofit housing developer shall seek funding from non-Agency and non-City sources (including state and federal housing subsidy programs, low income housing tax credits, and private lenders) as appropriate; (3) require the nonprofit developer to commence construction of the project within three years from the date it acquires the site; and (4) provide for restrictions on the rental of the Very Low Income Units at an affordable rent only to very low income households (less than or equal to 50% of AMI) for at least 55 years, in accordance with Health and Safety Code Section 33413 (contingent on adequate Agency funding necessary to make the Very Low Income Units affordable to very low income households), with the restrictions in the form of recorded covenants running with the land that are enforceable by the Redevelopment Agency or the City.

For purposes of the above, the "Purchase Price" for the Affordable Housing Parcel shall be the lesser of (1) Fair Market Value, or (2) the Acquisition/Holding/Entitlement Costs. "Fair Market Value" shall mean the purchase price that an unrelated party negotiating at arm's length would pay to purchase such property unrestricted by affordable housing requirements, taking into account all then current market factors, including without limitation the quality, design, condition and location of the property including the extent and condition of the construction completed to date, if any, the amount of any and all liens, mortgages, and encumbrances against the property, environmental remediation costs, and the value of the existing improvements to such party.

"Acquisition/Holding/Entitlement Costs" shall mean (1) the actual price initially paid for the Affordable Housing Parcel by BUILD, calculated on the basis of the overall purchase price paid

by BUILD for developable acres within the Wood Street Zoning District and prorated on a square footage basis to the Affordable Housing Parcel, plus (2) actual costs incurred by BUILD in holding, maintaining and entitling the Affordable Housing Parcel (calculated on a developable square footage basis prorated to the Affordable Housing Parcel), including taxes, carrying costs (which shall be defined as the investment return BUILD's investor, CalPERS, has received on investments in similar projects in the Cal PERS CURE program (California Urban Real Estate) since its inception in 1997, but not to exceed 10%), insurance, maintenance, and other out-of-pocket payments by BUILD to third parties for holding, maintaining and entitling the property, but not including BUILD's administrative or staff costs. The Acquisition/Holding/Entitlement Costs shall be determined by an independent cost certification obtained by BUILD. BUILD shall submit its determination of Acquisition/Holding/Entitlement Costs, along with the independent cost certification, and its determination of Fair Market Value to the Redevelopment Agency within three months of the City Council's approval of the District. If the Agency disputes BUILD's determination either of Fair Market Value or Acquisition/Holding/Entitlement Costs, or both, as contained in BUILD's notice, the Agency shall notify BUILD in writing within 30 calendar days of its receipt of BUILD's determination, which notice shall set forth the Agency's determination of the Fair Market Value and/or cost of Acquisition/Holding/Entitlement. The Agency and BUILD shall thereupon attempt to resolve their differences within 10 days following BUILD's receipt of the Agency's notice. If the Agency and BUILD cannot agree on Fair Market Value during such 10-day period, the Agency and BUILD shall each appoint an appraiser who shall be an M.A.I. and a California licensed appraiser experienced in appraising commercial and residential real estate in Alameda County, and give notice of such appointment to the other within 10 calendar days after the foregoing 10-day period. Such appraisers shall, within 30 calendar days after the appointment of the last of them to be appointed, complete their written determinations of Fair Market Value and furnish the same to the Agency and BUILD. Each party shall pay the fees and costs of the appraiser appointed by it. If the valuations vary by ten percent (10%) or less of the higher value, the Fair Market Value shall be the average of the two valuations. If the valuations vary by more than ten percent (10%) of the higher value, the two appraisers shall, within ten (10) calendar days after submission of the last appraisal report, appoint a third disinterested appraiser who shall be an M.A.I. and a California licensed appraiser with the experience described above. If the two appraisers are unable to agree in a timely manner on the selection of the third appraiser, then either appraiser, on behalf of both, may request appointment of such third disinterested M.A.I. appraiser by the presiding judge of the Superior Court of Alameda County. Such third appraiser shall, within 15 calendar days after appointment, make a determination of Fair Market Value by selecting one of the prior appraisals. The third appraiser shall have no right to select a Fair Market Value other than as determined by one of the prior appraisals. If the Agency and BUILD cannot agree on Acquisition/Holding/Entitlement Costs during such 10-day period, the Agency and BUILD shall submit the issue to binding arbitration.

If, after good faith negotiations, BUILD and the nonprofit housing developer have not entered into a Purchase Agreement for the Affordable Housing Parcel within the one-year period, or the Agency and the nonprofit housing developer have not entered into a Funding Agreement within the one-year period, then BUILD shall provide notice to the Agency of its purchase option and the Agency shall exercise its purchase option within 60 days of the notice, for the purpose of providing housing at an affordable price to households at or below 50% of AMI, and deed restrict the parcel as affordable housing for households at or below 50% of AMI.

Upon exercise of the Agency's option, BUILD shall deliver title to the Affordable Housing Parcel to the Agency or its designee free and clear of any junior liens, leases, mortgages, or encumbrances, except those liens, mortgages, or encumbrances that have been specifically approved by the Agency in writing. Escrow for the sale of the Affordable Housing Parcel shall close and BUILD shall execute and deliver to the Agency or its designee a grant deed or deeds to the Affordable Housing Parcel no later than 180 calendar days after exercise of the option, at which time the Purchase Price shall be paid by the Agency or its designee to BUILD. Prior to the close of escrow, BUILD shall take all necessary steps to ensure that a title company will be able to issue to the Agency or its designee, upon close of escrow, a standard CLTA owner's policy of title insurance, in an amount equal to the Purchase Price, showing title to the Affordable Housing Parcel vested in the Agency or its designee, with only the following exceptions:

- Liens for property taxes not yet due and payable;
- Any other lien or encumbrance approved in writing by the Agency in its sole discretion;
- Conditions restricting use of the property to the development of the Very Low Income Units for rental only to very low income households.

At any time following the Agency's notice of its election to exercise the option, the Agency or its designee and its agents may enter the Affordable Housing Parcel for purposes of inspection, survey, tests, or other actions reasonably related to acquisition of the property by the Agency. The Agency or its designee shall indemnify and defend BUILD for any liability, claims or damages arising from such entry. The Agency may assign the option to purchase the Affordable Housing Parcel to any other entity in its sole discretion.

If after good faith negotiations either the Purchase Agreement or the Funding Agreement have not been entered into within the one-year period, and if the Agency or its designee has declined to exercise its option to purchase the Affordable Housing Parcel as set forth above, then BUILD shall have no further obligations with respect to affordable housing development on the Affordable Housing Parcel.

b. Each of the Wood Street Project Sponsors shall reserve at least 12.65% of the units within each for-sale project but no fewer than 9% of the total number of residential units built within the District (the "Reserved Units") for purchase by persons and families of low or moderate income until the Close of Escrow Date (defined below) for such unit. At least six months prior to the anticipated completion date of each Reserved Unit, the applicable Project Sponsor shall notify the Agency in writing of the anticipated completion date, the Purchase Price (defined below), and the address of each such unit (the "Availability Notice"). The Agency Administrator shall have 60 days from receipt of the Availability Notice (the "Option Period") to provide written notice to the applicable Project Sponsor that the Agency has elected to participate in the purchase of such unit, either by providing the Additional Homebuyer Purchase Assistance (defined below) or by directly purchasing the Reserved Unit (the "Agency Participation Notice"). The Agency Participation Notice need not specify whether the Agency will provide the Additional Homebuyer Assistance or purchase the unit; rather, it need only state

it will do one or the other by the Close of Escrow Date for each unit. If the Agency Administrator does not provide the Project Sponsor with the Agency Participation Notice during the Option Period, the Agency Administrator shall inform the Agency Board of such inaction, but such information shall not extend the Option Period.

Close of escrow shall occur within 165 days after completion of a Reserved Unit (“Close of Escrow Date”). The Purchase Price for the Reserved Unit shall be comparable to that of similar unit types, and situations within the same phase and development, except that in the event the closing occurs more than 120 days after completion of the unit, an amount equal to the extra costs attributable to construction financing costs resulting from such delay shall be added to the Purchase Price. All Reserved Units shall contain the same quality level of finishes, appliances and amenities, and the same standard features as are included in the base price for the same market rate unit.

Fewer than 12.65% of the units within each for-sale project may be reserved if the Project Sponsor demonstrates to the Agency Administrator’s satisfaction that the total number of Reserved Units to be built within the District, when combined with the Very Low Income Units described in paragraph a, will equal or exceed 15% of the total number of residential units built within the District.

BUILD or its designee shall commit at least \$2.5 million of mortgage assistance funding to assist persons or families of low or moderate income in qualifying to purchase the Reserved Units. This assistance will be provided in the form of a loan of up to \$25,000 per borrower as a second mortgage with 4% interest-only payments for the first five years, and the remaining payments amortized over 15 years at 4% interest. Such funds will be available consistent with the conditions imposed upon the provider of the assistance by the source of the funds (i.e., per unit maximums, credit criteria, etc.).

The Redevelopment Agency or City may provide any additional funding necessary for a person or family of low or moderate income to purchase a Reserved Unit at an affordable housing cost to persons or families of low or moderate income, with an affordability level for all Reserved Units within each respective for-sale project at or below 100% of area median income (the “Additional Homebuyer Purchase Assistance”). Should the Agency or City provide the Additional Homebuyer Purchase Assistance, the Wood Street Project Sponsors shall cooperate with the Agency and the City to record restrictions on the Reserved Units restricting resale only to persons and families of low or moderate income at an affordable housing cost, with an affordability level of all Reserved Units at 100 % of area median income within each respective for-sale project, for at least 45 years, in accordance with Health and Safety Code Section 33413. Such restrictions also shall require that Reserved Units may be resold only to households with incomes at or below 100% AMI, at an affordable housing cost as defined by California Redevelopment Law, during the 45 year restricted affordability period, and must be in the form of recorded covenants running with the land that are enforceable by the Redevelopment Agency or the City.

In the event the Agency fails to provide the Agency Participation Notice, then the Wood Street Project Sponsors shall have no obligation with respect to the sale of the Reserved Units, other than to reserve such units for purchase by persons and families of low or moderate income until

the Close of Escrow Date and to provide the mortgage assistance from BUILD or its designee as specified above.

c. The Project Sponsor shall establish a Homeownership Center in West Oakland no later than January, 2006, and shall provide operating funding for the Center for at least two years at no less than \$60,000 per year. The Center shall provide information on housing opportunities within the Project to prospective very low, low and moderate income homebuyers, and shall employ the services of home counseling agencies and financial institutions to assist such households.

d. Although the units built within the Wood Street Zoning District will be exempt from the provisions of Oakland's Just Cause Eviction Ordinance because they will be new construction, the Wood Street developers will agree to voluntarily incorporate and abide by provisions in tenant leases which would require cause before a tenant could be evicted from rental units within the Wood Street Zoning District.


e. The following terms are defined as follows:

- "affordable housing cost" means the definition contained in Health & Safety Code § 50052.5, as further defined in 25 California Code of Regulations § 6924.
- "affordable rent" means the current definition contained in Health & Safety Code § 50053, as further defined in 25 California Code of Regulations § 6922.
- "low income" means the definition contained in Health & Safety Code § 50079.5, as further defined in 25 California Code of Regulations § 6928.
- "persons and families of low or moderate income" means the definition contained in Health & Safety Code § 50093, as further defined in 25 California Code of Regulations § 6930.
- "monitor" means the collection of information about the continued affordability of a dwelling unit and taking steps to insure that affordability is maintained as required by law, pursuant to the provisions of the California Community Redevelopment Law, including but not limited to Health & Safety Code § 33418 and 33334.3.
- "very low income" means the current definition contained in Health and Safety Code § 50105, as further defined in 25 California Code of Regulations § 6926.

f. The Agency shall monitor, on an ongoing basis, the affordable rental housing units by requiring the then current owner to submit an annual report to the Agency containing all information required by Health & Safety Code § 33418, including but not limited to annual compliance reports, operating budgets and a fair housing marketing plan. The annual compliance report will include information as to the family size, household income and

affordable rent calculation. Additionally, the then current owner shall allow for on site inspections of tenant records and tenant units. As to the ownership units, the Agency shall monitor the initial and subsequent sales of the affordable units for compliance with all affordability resale restrictions as defined by California Community Redevelopment Law, including but not limited to an affordable housing cost calculation. The units are to be sold to owner occupants only.

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Agency Counsel

REDEVELOPMENT AGENCY
OF THE CITY OF OAKLAND

RESOLUTION No. _____ C.M.S.

A RESOLUTION AUTHORIZING THE REDEVELOPMENT AGENCY TO PURCHASE 36 UNITS AT THE PACIFIC CANNERY LOFTS AND ZEPHYR GATE DEVELOPMENTS IN THE WOOD STREET DEVELOPMENT DISTRICT AT MARKET RATE PRICES AND TO RESELL THESE UNITS AT AFFORDABLE SALES PRICES TO LOW AND MODERATE INCOME HOMEBUYERS, AND ALLOCATING AN AMOUNT NOT TO EXCEED \$10,350,000 TO SUBSIDIZE THE AFFORDABILITY OF THE UNITS

WHEREAS, on May 17, 2005, the Oakland City Council approved Resolution 79249 C.M.S. adopting the Conditions of Approval for the Wood Street Development District; and

WHEREAS, redevelopment law requires that at least 15% of newly constructed units in the Oakland Army Base Redevelopment Project Area over each 10-year period be affordable to moderate, low, and very low-income households for a minimum of 45 years for ownership units and 55 years for rental units; and

WHEREAS, construction of the 99-unit 14th Street Apartments development by BRIDGE Housing will satisfy the obligation to provide very low-income units in the Oakland Army Base Redevelopment Project Area arising out of planned residential development in the Wood Street Development District; and

WHEREAS, a total of 289 market rate ownership units are under construction at the Zephyr Gate and Pacific Cannery Lofts developments in the Wood Street Development District; and

WHEREAS, the Conditions of Approval give the Redevelopment Agency an option to purchase up to 12.65% of the homeownership units constructed in the Wood Street Development District at market rate, which the Agency can then resell at sales prices affordable to households at or below 100% of Area Median Income (AMI); and

WHEREAS, the Pacific Cannery Lofts development is anticipated to start completing units at the end of 2007 and the Zephyr Gate development is anticipated to start completing units at the beginning of 2008; and

WHEREAS, the Conditions of Approval require developers to provide a six month notice to the Agency prior to completion of units and the Agency must decide within 60 days whether to exercise the option to purchase reserved units; and

WHEREAS, the City of Oakland's Consolidated Plan for Housing and Community Development indicates that there is a need for affordable ownership housing, and has identified this activity as a priority; and

WHEREAS, the purchase and resale of the units will improve the supply of low and moderate income housing available in the City of Oakland, is an eligible use of the Agency's Low and Moderate Income Housing Fund under California Health and Safety Code Sections 33334.2 and 33334.3, and will benefit the redevelopment project areas in the City of Oakland by providing affordable housing opportunities within the community that will enhance the economic viability and redevelopment potential of the project areas; and

WHEREAS, a public hearing was held by the Agency on July 17, 2007, regarding the purchase and resale of the units; and

WHEREAS, the City of Oakland, as the Lead Agency for purposes of environmental review under the California Environmental Quality Act of 1970 ("CEQA"), has prepared an Environmental Impact Report for the Wood Street Project (the "EIR"), which covers the Pacific Cannery Lofts and Zephyr Gate developments (the "Projects"), analyzing the significant environmental effects and mitigation measures in accordance with the California Environmental Quality Act, Public Resources Code § 21000, et seq.; and

WHEREAS, the City Council in accordance with CEQA Guidelines § 15090 certified on May 17, 2005 that the Final EIR has been completed in compliance with CEQA and the Guidelines for Implementation of the California Environmental Quality Act (14 CCR sections 15000, et seq.); and

WHEREAS, the Agency, as a "Responsible Agency" under CEQA has independently reviewed and considered the environmental effects of the Projects as shown in the EIR and other information in the record; and

WHEREAS, the requirements of CEQA, the CEQA Guidelines as prescribed by the Secretary for Resources, and the provisions of the Environmental Review Regulations of the City of Oakland have been satisfied; and

WHEREAS, funds are available from the Agency's 2006 Affordable Housing Set-Aside Bond Fund to subsidize the difference between the market price and the affordable sales price; now, therefore, be it

RESOLVED: That the Redevelopment Agency hereby authorizes the Agency to exercise its option and purchase up to 36 residential units at the Pacific Cannery Lofts and Zephyr Gate developments at market rate prices; and be it

FURTHER RESOLVED: That the Redevelopment Agency hereby authorizes the Agency to sell any or all of these 36 units at affordable sales prices to eligible households with incomes at or below 100% of AMI; and be it

FURTHER RESOLVED: That up to \$10,350,000 is hereby allocated from the 2006 Affordable Housing Set-Aside Bond Fund (9584), Housing Development Organization (88929), 2006 Housing Bond project (L290410), Coliseum Program (SC12), for the subsidy required to purchase and resell units; and be it

FURTHER RESOLVED: That the Agency shall require that appropriate restrictions on the sale and resale of the affordable units for a minimum of 45 years be recorded against the units; and be it

FURTHER RESOLVED: That the Agency's purchase prices shall be comparable to the prices of similar unit types and situations within the same phase and development; and be it

FURTHER RESOLVED: That all designated affordable ownership units shall contain the same quality level of finishes, appliances, and amenities, and the same standard features as are included in the base price for the same market rate units; and be it

FURTHER RESOLVED: That the purchase and sale of the units shall be contingent on and subject to such other appropriate terms and conditions as the Agency Administrator or his or her designee may establish; and be it

FURTHER RESOLVED: That the Agency hereby finds and determines on the basis of substantial evidence in the record that the EIR fully analyzes the potential environmental effects of the Projects and incorporates mitigation measures to substantially lessen or avoid any potentially significant impacts in accordance with CEQA; and that none of the circumstances necessitating preparation of additional CEQA review as specified in CEQA and the CEQA Guidelines, including without limitation Public Resources Code Section 21166 and CEQA Guidelines Section 15162, are present in that (1) there are no substantial changes proposed in the Project or the circumstances under which the Projects are undertaken that would require major revisions of the EIR due to the involvement of new environmental effects or a substantial increase in the severity of previously identified significant effects, and (2) there is no "new information of substantial importance" as described in CEQA Guidelines Section 15162(a)(3); and be it

FURTHER RESOLVED: That the Agency hereby authorizes the Agency Administrator or his or her designee in his or her discretion to subordinate the priority of any of the Agency's recorded interests in the units to a lien or encumbrance of another private or governmental entity providing financial assistance to the Project, if the Agency Administrator or his or her designee determines that (1) an economically feasible alternative method of financing on substantially comparable terms and conditions but

without subordination is not reasonably available, (2) the Agency's investment in the event of default is reasonably protected, and (3) subordination is in the best interests of the Agency; and be it

FURTHER RESOLVED: That all legal documents shall be reviewed and approved by Agency Counsel for form and legality prior to execution, and copies will be placed on file with the Agency Secretary; and be it

FURTHER RESOLVED: That the Agency hereby appoints the Agency Administrator and his or her designee as agent of the Agency to conduct negotiations, execute documents, and take any other action with respect to the purchase and sale of the units consistent with this Resolution and its basic purpose.

IN AGENCY, OAKLAND, CALIFORNIA, _____, 2007

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN, REID, AND
 CHAIRPERSON DE LA FUENTE

NOES-

ABSENT-

ABSTENTION-

ATTEST: _____
 LaTonda Simmons
 Secretary of the Redevelopment Agency
 of the City of Oakland, California