

BUYER'S DISCLOSURE STATEMENT

EBALDC Affordable Homeownership Program

The East Bay Asian Local Development Corporation ("EBALDC") has helped to establish an affordable homeownership program for the homes in the Pacific Renaissance Plaza II. EBALDC's affordable homeownership program makes it possible for households whose incomes do not exceed the area median income to buy homes in Oakland's Chinatown.

The price that you are paying for your new home is below the market rate. In exchange for giving you the opportunity to buy your house at a below-market affordable price, EBALDC will require you to sign a Promissory Note, Deed of Trust and a Buyer's Occupancy and Resale Restriction Agreement with Option to Purchase (the "Resale Restriction Agreement"). **The Deed of Trust and the Resale Restriction Agreement will be recorded against your property.** These documents are enforceable by EBALDC. The City of Oakland may also, in certain instances, enforce these documents. In general, the Deed of Trust and the Resale Restriction Agreement set forth conditions that you must meet, including but not limited to the following:

- The Resale Restriction Agreement requires you to live in your home as your principal place of residence and generally prohibits you from renting-out your home.
- The Resale Restriction Agreement places controls on the sale of your home. There is a limit to the price at which you can sell the home. If you sell your home in violation of the Resale Restriction Agreement for more than the limited affordable price, you will have to pay EBALDC any excess sales proceeds you receive from the prohibited sale.
- You must follow certain steps and procedures when you decide to sell your home.
- EBALDC has an option to purchase your home at a restricted price when you put the home up for sale.
- The Resale Restriction limits your ability to refinance or take "cash out" of your home.

The purpose of the Promissory Note, Resale Restriction Agreement and Deed of Trust is to further EBALDC's goal of providing affordable homeownership opportunities to moderate income buyers. If you decide to sell your home, the Promissory Note, Resale Restriction Agreement and Deed of Trust are designed to keep your house affordable to other moderate-income households.

This Disclosure Statement explains the major provisions of the Promissory Note and Resale Restriction Agreement so that you will understand their requirements. **You**

should, of course, read the entire Promissory Note, the Resale Restriction Agreement, and the Deed of Trust and become completely familiar with them.¹

A. REQUIREMENTS IN EFFECT FOR TERM

The requirements that are in the Resale Restriction Agreement apply until the earlier of (i) the term of the Resale Restriction Agreement has expired, or (ii) the date you sell or transfer your home in accordance with the Resale Restriction Agreement and the Deed of Trust. (See Section 21 (Term of Agreement) of the Resale Restriction Agreement).

The term of the Resale Restriction Agreement will be forty-five (45)- years. If you own and live in your home for the whole forty-five (45)-year term, all of the requirements of the Resale Restriction Agreement go away.

B. PRIMARY RESIDENCE AND LEASING YOUR HOME

Your new home must be your principal place of residence. This means you must live in your home for at least nine (9) months out of each calendar year. For each year of the term of your Resale Restriction Agreement, you must tell EBALDC that you live in your home by sending in Exhibit B to the Resale Restriction Agreement. You are not allowed to lease or rent the house to anyone, unless you ask EBALDC in writing and EBALDC permits you to rent your home (in writing). (See Section 3 (Owner Occupancy and Leasing of Home) of the Resale Restriction Agreement).

EBALDC will only permit you to rent your home if: (1) EBALDC approves your lease and your lease is for no longer than twelve (12) months; and (2) you demonstrate to EBALDC that if you will incur substantial financial hardship of you do not rent out your home. (See Section 3 (Owner Occupancy and Leasing of Home) of the Resale Restriction Agreement).

If you rent out your home in violation of the Resale Agreement, you will be in default under the Resale Restriction Agreement. If you are in default under the Resale Restriction Agreement, EBALDC may require you to sell your home to EBALDC for a restricted affordable price. (See Section 3 (Owner Occupancy and Leasing of Home) of the Resale Restriction Agreement).

C. MAINTAINING YOUR HOME/ PROPERTY INSURANCE

By signing the Resale Restriction Agreement, you agree to keep your home and landscaping in good repair and in neat, clean, and orderly condition and to prevent deterioration of the home. (See Section 4 (Maintenance) of the Resale Restriction Agreement).

¹ Numerical examples are included in this Disclosure Statement to help you better understand the concepts, terms, and provisions of the Buyer's Resale Restriction Agreement, Deed of Trust and Promissory Note. Please be aware that these are simply to show how things work and that they are not intended to represent your specific situation. If you follow along with a calculator, you may not get exactly the same answers. Any differences are probably due to how your calculator "rounds-off" numbers.

You agree to keep a standard homeowner's insurance policy. Your insurance policy must name EBALDC as a "loss payee" and be in an amount equal to the replacement value of the home. Every five (5) years, the replacement value will be reviewed and adjusted as needed, if requested by EBALDC. (See Section 5 (Insurance Proceeds) of the Resale Restriction Agreement). (Please note that your Homeowner's Association insurance will not cover damages for the interior of your unit/personal property. You are encouraged to obtain such insurance.)

D. NOTICE TO EBALDC UPON SALE, ASSIGNMENT, TRANSFER, OR MORTGAGE

If you decide to move from your home, or to sell, assign or transfer your home or any partial interest in your home, you must promptly tell EBALDC by sending it a completed "Owner's Notice of Intent to Transfer" which is Exhibit C to the Resale Restriction Agreement. (See Section 7 (Notice of Intended Transfer; Preparation of Home for Sale) of the Resale Restriction Agreement).

There are restrictions on your ability to mortgage or borrow against your home. If you decide to record a mortgage or deed of trust against your home (for example, you refinance your first mortgage), or borrow an equity line of credit secured by your home you must promptly tell EBALDC by sending it a completed "Request to Refinance Notice" which is Exhibit F to the Resale Restriction Agreement. (See Section 24 (Refinance of First Lender Loan; Subordinate Loans) of the Resale Restriction Agreement). (See also Section J and K of this Disclosure.)

The notices you send to EBALDC must be sent by certified mail, return receipt requested, or express delivery service with a delivery receipt. Notices are considered effective as of the date received or the date delivery was refused. (See Section 32 (Notices) of the Resale Restriction Agreement).

E. EBALDC HAS OPTION TO PURCHASE

In exchange for the opportunity given to you to buy your home at an affordable, below-market price, you have granted EBALDC an option to buy your home at a restricted price if you sell your home during the term of the Resale Restriction Agreement. In other words, EBALDC has the first opportunity to buy your house before anyone else. EBALDC may also give its option to purchase your house to a public agency, a nonprofit organization, or a person or family meeting income and other requirements. (See Section 10 (EBALDC Purchase Option) of the Resale Restriction Agreement).

EBALDC does not have the option to purchase your home, however, in the case when a transfer is to an existing husband, wife, or domestic partner who signed the Promissory Note, to a husband, wife, or domestic partner who then becomes a co-owner of the home, to a husband or wife as part of a marriage or a divorce, to an inter vivos trust in which you are the beneficiary, or to a husband, wife, or domestic partner upon death of

the borrower. EBALDC also does not have the option to purchase your home if your child, parent or sibling inherits the home or if your heir is a qualifying low or moderate income household that has been qualified by EBALDC. (See Section 6 (Transfer) of the Resale Restriction Agreement).

If EBALDC in fact decides to use (or assign) its option to buy your house, it shall notify you within thirty (30) days after it receives your notice to sell, transfer or move from the home via the "EBALDC Response Notice". The purchase of your house under EBALDC option shall take place within ninety (90) days of the date of EBALDC Response Notice. (See Sections 8 and 10 of the Resale Restriction Agreement).

When you receive the EBALDC Response Notice, you should complete Exhibit D to the Resale Restriction Agreement and deliver it to EBALDC. (See Section 9 (Owner Acknowledgment of EBALDC Response Notice) of the Resale Restriction Agreement).

F. SALES PRICE OF HOME IS RESTRICTED: MAXIMUM RESTRICTED RESALE PRICE

EBALDC wants to make sure that your home remains affordable to moderate income households. Therefore, the Resale Restriction Agreement limits the sales price of your home if you sell within the term of the Resale Restriction Agreement. The Maximum Restricted Resale Price that you can receive is the lower of the Indexed Price described in Section F.1 below and the Fair Market Value as described in Section F.2.

1. INDEXED PRICE

- (a) Owner's Base Price (price at which you bought it)
 - (b) increased by the percentage increase in area median income from the date of your original purchase (the recording date of the Grant Deed for the property) to the date of receipt by EBALDC of the Owner's Notice of Intent to Sell
- plus
- (c) Appraised value (not cost) of any "Eligible Capital Improvements". Eligible Capital Improvements, must meet certain requirements and be approved in advance and in writing by EBALDC. Before you add any improvements to your home, you should review Section 11 of the Resale Agreement.

If your home has suffered from any damage or deferred maintenance while you own it, any decrease in value of your house will be subtracted in the calculation of the Maximum Restricted Resale Price, as will the amounts necessary to put the house in a "sellable condition".

Example 1 shows how the Indexed Price formula works.

EXAMPLE 1 You sell your house at the end of eight years. The original price of your three-bedroom home when you bought it was \$260,000. You decide to sell your home after owning it

for 8 years. The Area median income has increased by 5% since you first purchased your home. Five years after buying your home, you remodel your kitchen (with prior EBALDC written approval) and the remodeling work is valued by an appraiser as worth \$3,000 at the time you sell.

(a)	Original Price of Home	\$260,000
(b)	Median Income Increases by 5% over eight years	
	multiply (a) by 5%, then add result (\$13,000) to (a)	13,000 \$273,000
(c)	Appraised Value (not cost) of Eligible Capital Improvements	+ <u>3,000</u>
	<u>INDEXED PRICE</u>	\$276,000

2. FAIR MARKET VALUE

Under the Resale Restriction Agreement, the Fair Market Value can be determined in one of two ways. First, you and EBALDC can agree on a value. In the alternative, the Fair Market Value can be established by a real estate appraiser approved in advance by EBALDC. If possible, the appraisal will be based on sales prices of homes similar to yours that are sold in your market area during the preceding three (3)-month period. You will be responsible for paying for the appraisal (unless you are selling your home and the potential buyer provides one). The appraisal will not take into account the fact that the resale price of your home is restricted by the Resale Restriction Agreement.

The value of any (i) "Eligible Capital Improvements" that you have made to your home that meet the requirements set forth in Section 11A of the Resale Restriction Agreement, or (ii) damage or deferred maintenance that occurred while you owned the house that decreased its value shall be included in the appraisal. The Resale Restriction Agreement also allows you and EBALDC to set the Fair Market Value of your home by mutual agreement instead of relying on an appraiser.

Example 2 shows how the Indexed Price and the Fair Market Value of the home are compared to determine the Maximum Restricted Resale Price at which you can offer your house for sale.

EXAMPLE 2 The assumptions are the same as in Example 1. You sell your house at the end of eight years. The original sales price of your home was \$260,000. You decide to sell your home after owning it for 8 years. The Area median income has increased by 5% since you first purchased your home. Five years after buying your home, you remodel your kitchen (with prior EBALDC written approval) and the remodeling work is valued by an appraiser as worth \$3,000 at the time you sell. The Fair Market Value of your home is determined by appraisal, the cost of which is paid by you. The appraisal determines the Fair Market Value at \$450,000. This amount includes the value of the kitchen improvements, at \$3,000.

<u>INDEXED PRICE</u>	is less than	<u>FAIR MARKET VALUE</u>	then	<u>MAXIMUM RESTRICTED RESALE PRICE</u>
\$276,000	<	\$450,000	⇒	\$276,000

Since the Fair Market Value of the home is greater than the Indexed Price of the house, the Maximum Restricted Resale Price which you can receive from the sale of your home is \$276,000.

G. SELLING YOUR HOME

Under the terms of the Resale Restriction Agreement, when you sell your home within the term of the Resale Restriction Agreement, there are two (2) different ways that the sale can take place:

- EBALDC chooses to use its option to purchase your house at the restricted sales price or assigns the option to a third party who purchases the house at the restricted sales price.
- You sell the home at a restricted sales price to someone who meets specific income requirements like you had to meet. This buyer is called an "Eligible Purchaser" in the Resale Restriction Agreement.

These two cases are described below.

1. EBALDC EXERCISES ITS OPTION TO PURCHASE YOUR HOME

When you decide to sell your home, you must let EBALDC know in writing before you contact a real estate broker or lender and before you list the home in the Multiple Listing Service. This notice is called the "Owner's Notice of Intent to Transfer." The Owner's Notice of Intent to Transfer, which is Exhibit C of the Resale Agreement must be sent in a particular way and must include specific information (for example, it must include a pest report) as detailed in Section 7 (Notice of Intended Transfer; Preparation of Home for Sale) and Section 32 (Notices) of the Resale Restriction Agreement. If you fail to send EBALDC this notice, you will be in default under the Resale Restriction Agreement, and the sale of your home may be delayed.

EBALDC will then let you know in a notice called the "EBALDC Response Notice" whether or not it will use its option to purchase. See Section 8 (EBALDC Response to Owner's Notice of Intended Transfer) and Section 9 (Owner Acknowledgment of EBALDC Response Notice) of the Resale Restriction Agreement for details on what you must do once you receive EBALDC Response Notice.

If EBALDC decides to exercise its option to purchase, EBALDC will let you know that it wants to buy your home and provide the restricted sales price amount in

EBALDC Response Notice. The purchase by EBALDC shall take place within ninety (90) days of the date EBALDC Response Notice is sent to you.

When your home is bought by EBALDC or an EBALDC designee under EBALDC's option to purchase, you will pay to EBALDC a transaction fee equal to three percent (3%) of the sales price.

You should not contact a broker to sell you home until EBALDC has informed you that it will not exercise its option to purchase your home. If you contact a broker and EBALDC exercises its option, you will owe EBALDC a three percent (3%) transaction fee and you will be solely responsible for any additional broker fee.

2. **SALE TO AN "ELIGIBLE PURCHASER" AT THE RESTRICTED SALES PRICE**

If EBALDC does not choose to exercise its option to purchase your home, you must sell your home to an Eligible Purchaser. See Section 8B (Owner Sale at Restricted Price to Eligible Purchaser) and Section 12 (Sale By Owner If EBALDC Does Not Exercise Option to Purchase) of the Resale Restriction Agreement. An Eligible Purchaser is a household (1) who will live in the home; (2) and whose income is equal to or less than 100% of area median income; and (3) who will agree to sign resale restriction documents required by EBALDC and to otherwise cooperate with EBALDC.

Once you find a potential Eligible Purchaser, you must refer the proposed buyer to EBALDC so that EBALDC or its designee can determine if in fact he or she meets the requirements of an Eligible Purchaser. You and the proposed buyer must give specific information and documents to EBALDC as described in Section 12(D) (Sale By Owner If EBALDC Does Not Exercise Option to Purchase; Disclosures and Submittals) of the Resale Restriction Agreement.

When the sale of your home to the Eligible Purchaser is completed, you must submit to EBALDC the information and documents listed in Section 12D(8) of the Resale Restriction Agreement.

To cover its costs of income qualifying a future purchaser, if you sell your home in this way, EBALDC will charge you an administrative fee of .05% of the sales price you receive for your home.

3. **TRANSFER IN VIOLATION OF RESALE RESTRICTION AGREEMENT; PAYMENT OF "EXCESS SALES PROCEEDS" TO EBALDC**

If you sell or transfer your home in a way that violates the terms of the Resale Restriction Agreement, then you must pay to EBALDC any "Excess Sales Proceeds" that result from the sale of your house. For example, if you do not sell your home to EBALDC pursuant to EBALDC Option or to an Eligible Purchaser, but to someone else

for market value, then you will owe EBALDC any "Excess Sales Proceeds" that result from the sale.

The term "Excess Sales Proceeds" is defined in Section 13 of the Resale Restriction Agreement (Payment To EBALDC Of Excess Sales Proceeds) as the amount by which the gross sales proceeds you receive from the buyer exceed the Maximum Restricted Resale Price for the home. Another way to put it is the following:

$$\begin{array}{r}
 \text{Gross Amount of Money the New Buyer Paid for the House} \\
 \text{MINUS} \\
 \text{Maximum Restricted Resale Price} \\
 \text{(from EBALDC Response Notice)} \\
 \text{Equals the Payment to EBALDC of Excess Sales Proceeds}
 \end{array}$$

The amount of Excess Sales Proceeds that you pay to EBALDC is used by EBALDC for other affordable housing programs. You were given the chance to buy your home at an affordable price. When you sold your home at an unrestricted price in violation of the resale restriction, your home was lost as an affordable unit. When you pay the Excess Sales Proceeds to EBALDC, the funds will be used to help low and moderate income families purchase a home, who would not be able to obtain affordable housing without assistance.

Example 3 shows how the Excess Sales Proceeds are calculated.

EXAMPLE 3 You sell your house at the end of eight years. You originally paid \$260,000 for your home. EBALDC Response Notice sets the Maximum Restricted Resale Price at \$276,000. You do not notify EBALDC that you intend to sell your home. You sell your home to someone who does not qualify as an Eligible Purchaser. The house is appraised at \$450,000, and you sell the house for \$500,000. You must pay EBALDC Excess Sales Proceeds as calculated below:

Total Amount Market Purchaser Paid For House	\$ 500,000
MINUS	
Maximum Restricted Resale Price (from EBALDC Response Notice)	<u>- 276,000</u>
Amount of Excess Sales Proceeds You Pay to EBALDC	<u>\$224,000</u>

In cases where transfer of your home to another person is by means other than sale (with the exception of a creditor taking title), the amount of Excess Sales Proceeds is the difference between the original purchase price and the Fair Market Value of the home at the time of transfer.

H. CAPITAL IMPROVEMENTS YOU MAKE TO THE HOME

If you make improvements to the home, and you want the value of the capital improvements to be taken into account when the Maximum Restricted Resale Price (or option price) is calculated, you must obtain written approval of the improvements by EBALDC before the improvements are made and complete and send Exhibit E of the Resale Agreement to EBALDC. EBALDC will only approve improvements to your home for "credit" to your eventual sales price if certain conditions are met. First, the initial cost of such improvements must be at least One Thousand Dollars (\$1,000). Second, you must obtain two bids for the improvement work from contractors acceptable to EBALDC and provide those bids to EBALDC. Finally improvements must conform to existing building codes.

I. DEFAULT PROVISIONS

Because you are buying your home at a below-market rate affordable price, you agree to meet all of the conditions of all of EBALDC resale restriction documents, including the Promissory Note, Resale Restriction Agreement, and Deed of Trust. If you violate any provisions of EBALDC resale restriction documents, you are considered to be in default under the Resale Restriction Agreement. Also, if you default under any other loan on the home, such as the first mortgage, you would also be considered to be in default under the Resale Restriction Agreement. If you do not correct the violation, EBALDC could require you to repay Excess Sales Proceeds and/or exercise its option and buy your home. EBALDC could also go to court and get a court order to enforce the provisions of EBALDC documents, which may result in a foreclosure on your home.

J. REFINANCE OF YOUR FIRST MORTGAGE

The Resale Restriction Agreement allows you to refinance your first mortgage loan but requires you to follow certain procedures and places restrictions on the amount received by you from the refinancing. Before you decide to refinance, you should reread Section 24 of your Resale Restriction Agreement. If you decide to refinance you should complete and submit Exhibit F of your Resale Restriction Agreement to EBALDC.

Section 24 provides that following refinancing of your first mortgage, the principal amount of all debt secured by your house must not be greater than 90% of the affordable price for which you could then sell your home under the Resale Restriction Agreement. In addition, all of the debt secured by your home may not cause your monthly housing costs to exceed a housing cost that is affordable to you, as determined by EBALDC. (See Section 24 Refinance of First Lender Loan; Subordinate Loans). The amount for which EBALDC will permit you to refinance your first mortgage loan is called the "Permitted Refinance Amount". If you are considering a refinance of your first mortgage, you should contact EBALDC for a calculation of the amount "Permitted Refinance Amount".

EBALDC will not permit you to refinance if you are in default under the Resale Restriction Agreement, Promissory Note or Deed of Trust. If you have more than one purchase money loan, you must refinance both into one loan. EBALDC will not approve any mortgage loan which includes negative amortization, interest only payments, or balloon payments.

EBALDC may charge you \$250 in connection with your request to refinance.

K. JUNIOR LOAN AND EQUITY LINES OF CREDIT

The Resale Restriction Agreement allows you to place a second mortgage or equity line of credit on your Home, subject to the requirement that the total of debt secured against your home will not cause the total of all debt secured against your home to exceed the "Permitted Refinance Amount" (as defined in Section J above). If you are considering obtaining a junior mortgage loan or equity line of credit, you should carefully review Section 24(C) of your Resale Restriction Agreement and complete and submit to EBALDC Exhibit F of the Resale Restriction Agreement.

EBALDC may charge you \$250 in connection with your request to borrow a junior loan or equity line of credit.

L. INHERITANCE

Any person who inherits your home must promptly notify EBALDC in writing. Your spouse, domestic partner, parent, child or sibling may inherit your home, although they must continue to reside in your home and will remain subject to the terms and conditions of the Resale Restriction Agreement.

If the person inheriting your home is not your husband, wife, domestic partner, child, parent or sibling and such person intends to reside in your home, that person must qualify as a median income household and provide his or her household income information to EBALDC. If the inheriting person is a median income household, then he or she may reside in your home, so long as he or she executes a new Resale Restriction Agreement, Promissory Note and Deed of Trust. If the person's household income exceeds median income, he or she may occupy the Home for twelve (12) months before the Home must be transferred in accordance with the Resale Restriction Agreement. (See Section 6 (Transfer) of the Resale Restriction Agreement).

M. INSPECTION

EBALDC has the right to inspect your home and otherwise monitor your compliance with the Resale Restriction Agreement. (See Section 26 (Monitoring and Inspection by EBALDC)). You should also keep records evidencing your compliance with the Resale Restriction Agreement for five (5) years.

Please sign this Buyer's Disclosure Statement in the space provided below, and keep a signed copy for your records, and return the original to EBALDC at the following address:

East Bay Asian Local Development Corporation
310 Eight Street, Suite 200
Oakland, CA 94607
Attn: Executive Director

I have read and understand the above Buyer's Disclosure Statement.

By: _____
Signature of Buyer

Dated: _____

Print Name of Buyer

By: _____
Signature of Buyer

Dated: _____

Print Name of Buyer