

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SUNNYVALE AMENDING AND RESTATING THE POLICY FOR THE PROVISION OF HOUSING ASSISTANCE TO NEWLY APPOINTED CHARTER OFFICERS AND DEPARTMENT DIRECTORS AND REPEALING RESOLUTION NOS. 256-81, 226-88, 125-89, AND 160-96

WHEREAS, the recruitment and hiring of top quality high level management employees is essential to the efficient operation of the government of the City of Sunnyvale; and

WHEREAS, housing costs, the relative unavailability of new housing, and current housing financing conditions in the San Francisco Bay Area, and particularly in the City of Sunnyvale and adjacent cities, continue to be a significant disincentive to persons relocating to this area and an obstacle to the recruitment and hiring of top quality personnel; and

WHEREAS, these conditions are not only an obstacle to recruiting and hiring qualified employees, but also tend to discourage those employees from living in the City of Sunnyvale; and

WHEREAS, the City Council believes that the interests of the City of Sunnyvale would be best served by encouraging new Council appointed officers and department directors to live in Sunnyvale to ensure their ready availability and familiarity with the Community; and

WHEREAS, the City regularly invests its funds in a variety of financial securities are varying earning rates, some of which may be below current mortgage rates; and

WHEREAS, a portion of the City's reserves may be utilized to accomplish the intent of the City Council to promote the recruitment and hiring of the best available personnel and to encourage those employees to live in the City of Sunnyvale and still produce substantially equivalent investment income; and

WHEREAS, the City Council approved policy guidelines to provide interim financing assistance in appropriate cases to newly appointed City Council appointees and department directors to assist those employees in purchasing a residence within the City of Sunnyvale for the provision of housing assistance in 1981, and amended those guidelines in 1988, 1989 and 1996; and

WHEREAS, in order to continue to promote the objectives described in this resolution and update the previously approved policy guidelines, the City Council desires to amend and restate its housing assistance policy to accommodate changing market conditions and hiring needs; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SUNNYVALE THAT:

SECTION 1. The City Council finds that the recruitment and hiring of personnel to fill the positions of Council appointed officers and department directors is of key importance to the functioning of the City government, that it is in the interest of the City to encourage such officers to live within the corporate boundaries of the City of Sunnyvale, that the provision of housing assistance may, in certain cases, enhance the ability to accomplish these purposes, and that housing assistance can be provided without significantly affecting the financial status of the City.

SECTION 2. The City Council hereby declares that it is the policy of the City, in appropriate cases, to assist newly appointed Council appointed officers and department directors to reside within the City of Sunnyvale by making available, as an additional benefit of employment, a secured loan of City funds to acquire local housing when necessary to secure service. The need for housing assistance shall be reviewed on an individual basis and shall not be available as a matter of right to any newly appointed employee. In addition, the terms of any loan offered pursuant to this policy shall be negotiated based upon the individual circumstances surrounding the appointment of each employee, provided that the loan terms are consistent with the provisions of this resolution.

SECTION 3. Loans made pursuant to this policy shall be available only upon the following terms and conditions, and any consistent terms and conditions deemed reasonable by the City:

- (a) Eligible Positions. Newly hired Council appointed officers, department directors, and assistant city managers are eligible for housing loans under this program.
- (b) Employment Agreement Required. Loans shall be a benefit of employment in consideration for a new employee's services, documented in a separate written agreement entered into at or near the time of initial appointment. Employees offered housing loans must purchase housing within the first twenty four (24) months of the employment start date or shall be ineligible to receive a housing loan under this program.
- (c) Loan Amount. Loans shall not exceed an amount equal to ten times the employee's annual salary control point at the time of employment. The limit in this section is a maximum amount.
- (d) General Loan Requirements. Loans offered pursuant to this program shall be available only under all of the following conditions:
 - (i) The loan is solely for purchase of residential property within the City of Sunnyvale;
 - (ii) The new home is, in fact, used as the principal residence of the employee;
 - (iii) Loans are conditioned on future performance of substantial service by the employee and shall be due and payable in full upon sale or transfer of the property by the employee and within six months of either the termination for any reason of the employee's employment with the City or termination of the use of the property as the principal residence of the employee,

whichever occurs first. If the employee should retire on disability or die during the period of the loan, the loan shall be due and payable in full within one year of the date of disability or death.

- (iv) Loans shall not be assignable or transferrable.
- (e) Tax Treatment of Loans. Housing loans provided under this program shall comply with Internal Revenue Service regulations (including but not limited to 26 U.S.C. §217 and Temp. Treas. Reg. §1.7872-5T), as may be amended from time to time. Employees are strongly encouraged to seek advice from their own tax professional regarding loans issued pursuant to this policy.
 - (1) Tax Exempt Loans. Employees who meet the following criteria may be eligible for a tax-exempt employee relocation loan pursuant to IRS rules:
 - (i) The loan is a demand loan or a term loan with non-transferable interest benefits, and is conditioned on the future performance of substantial services by the employee.
 - (ii) The employee's new principal place of work must be at least 50 miles farther from his/her former residence than was his/her former principal place of work, or, if he/she had no former principal place of work, is at least 50 miles from his/her former residence.
 - (iii) The employee certifies that he /she reasonably expects to be entitled to and will itemize deductions for each year the loan is outstanding.
 - (iv) The loan proceeds must be used only to purchase the new "principal residence" of the employee as defined by the IRS.
 - (2) Taxable Loans. Employees who do not meet the criteria for tax-exempt employee relocation loans may receive mortgage assistance loans with the imputed interest considered taxable compensation and reported on the employee's W-2 and 1098-INT forms with any interest paid.
- (f) Loan Security. Loans shall be secured to the satisfaction of a committee composed of the City Manager, City Attorney, and Director of Finance and evidenced by a promissory note secured by a Deed of Trust.
- (g) Interest Rate. Loans shall have either a variable interest rate or a fixed interest rate. If the interest rate is fixed, the rate shall be the 11th District cost of funds prevailing prior to making the loan. If the interest rate is variable, the initial interest rate shall be the 11th District cost of funds prevailing prior to making the loan. The interest rate on variable interest rate loans shall be adjusted annually based upon changes in the 11th district cost of funds existing on the anniversary date of the loan; provided that any annual adjustment, whether increase or decrease, shall not exceed one half of one percent in any single year; and proved further that no adjusted rate shall vary from the initial interest rate by more than four percent. In no event shall any loan, whether at fixed or variable interest rate,

exceed ninety five percent (95%) of the appraised value the property as determined by a City-selected appraiser, or be for a term exceeding 45 years.

- (h) Refinance Requirements. If at any time during the term of a loan, commercial or other applicable financing becomes available at or below the interest rate applicable to the City loan, the employee shall refinance and retire the City loan.
- (i) Source of Loan Funding. Loans shall only be made from City funds which would otherwise be available and invested in financial securities with varying rates of return.
- (j) Interest Rate Discount Deferral. The employee may be permitted up to a two percent (2%) discount from the otherwise applicable interest rate for one period not exceeding five years. However, the total interest rate considering the base rate and discount for any loan authorized pursuant to this program shall not be less than two percent (2%). At the conclusion of the discount deferral period, the interest rate shall revert to the original rate from which the discount was taken. If this discount is utilized, at the time the loan is due and payable or when the employee elects to pay the loan through refinancing or otherwise, the employee shall pay the City, in addition to any other amounts due, an amount equivalent to the interest which would have been payable to the City if the interest rate discount had not been granted.
- (k) Closing Costs. As an additional benefit, the City may pay or reimburse the employee for specified closing costs incurred by the employee for purchase of the residence for which the loan is granted. Costs that may be covered by the City are document preparation, document recording fees, notary fees and escrow fees. The City shall not be responsible for any costs allocated to seller in the purchase agreement and the employee shall be responsible for all other costs, charges and fees related to or required for closing. No costs associated with the sale of the home may be covered under this benefit.

SECTION 4. In hiring and appointing department directors, the City Manager is authorized to act in accordance with the policy described in this resolution as necessary to fulfill recruitment and hiring needs for those positions. The City Manager is authorized to determine in each case whether to offer housing assistance as an element of compensation and the terms of any assistance provided. Any loan shall be consistent with the provisions of Section 3 of this resolution, however, the City Manager may impose additional and/or more restrictive conditions than those in Sections 3.

SECTION 5. Resolution Nos. 156-81, 226-88, 125-89 and 160-96 are hereby repealed. This repeal shall in no way affect the validity or terms and conditions of any transaction undertaken pursuant to those resolutions except to the extent provided in loan agreements executed prior to the adoption of this resolution.

Adopted by the City Council at a regular meeting held on _____, 2015, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:
RECUSAL:

ATTEST:

APPROVED:

City Clerk
(SEAL)

Mayor

APPROVED AS TO FORM:

City Attorney