

REDEVELOPMENT AGENCY OF
THE CITY OF SAN DIEGO

RESOLUTION NUMBER R- 04106

DATE OF FINAL PASSAGE FEB 14 2007

A RESOLUTION OF THE REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO REGARDING THE SUBORDINATION OF ITS AFFORDABLE HOUSING COVENANTS FOR THE NORTH PARK CONDOS ("LA BOHEME") PROJECT PURSUANT TO SECTION 33334.14 OF THE CALIFORNIA COMMUNITY REDEVELOPMENT LAW.

WHEREAS, the Redevelopment Agency of the City of San Diego ("Agency") is engaged in activities necessary to carry out and implement the Redevelopment Plan for the North Park Redevelopment Project area ("Project"); and

WHEREAS, in order to carry out and implement the Redevelopment Plan, the Agency approved a Disposition and Development Agreement ("DDA") with Western Pacific Housing, Inc. (a D.R. Horton company, "Developer") dated March 30, 2004, and amended on August 3, 2006; and

WHEREAS, Developer caused the site to be developed and used for the development of commercial, retail, live-work space and 224 for-sale condominium homes, twenty three (23) of which will be sold to and occupied by households whose income does not exceed 100 percent of the Area Median Income ("AMI"), and twenty two (22) of which will be sold to and occupied by households whose income does not exceed 120 percent of the area median income; and

WHEREAS, pursuant to the DDA, Agency and Developer executed an Agreement Affecting Real Property, recorded on January 31, 2005, as amended by the First Amendment to the Agreement Affecting Real Property, recorded on September 16, 2006, that required the

Developer to append to the Grant Deed conveying the affordable units to the initial purchasers an Addendum to Grant Deed (“Agency Addendum”) secured by a Subordinate Deed of Trust, Security Agreement and Fixture Filing (With Assignment of Rents) (the “Agency Deed of Trust”); and

WHEREAS, in conformance with California Community Redevelopment Law, the Agency Addendum and Agency Deed of Trust require that the affordable units be resold to and occupied only by qualifying median- and moderate-income households for the longest feasible period of time, but not less than 45 years; and

WHEREAS, California Community Redevelopment Law Section 33334.14 permits Agencies to subordinate their recorded restrictions to a lender’s deed of trust, potentially extinguishing the Agency’s affordability covenants in the event of foreclosure or surrender of deed in lieu of foreclosure, subject to a finding that “an economically feasible alternative method of financing, refinancing, or assisting the units or parcels on substantially comparable terms and conditions, but without subordination, is not reasonably available”; and

WHEREAS, Developer has presented evidence indicating that reasonable efforts to identify an economically feasible alternative method of financing the units on substantially comparable terms, but without subordination, have been unsuccessful; NOW, THEREFORE,

BE IT RESOLVED, by the Redevelopment Agency of the City of San Diego, as follows:

1. That it finds that an economically feasible alternative method of financing the affordable units on substantially comparable terms and conditions, but without subordination, is not reasonably available.

2. That it hereby authorizes the Agency Executive Director or designee to take such actions as may be necessary in order to subordinate the Agency’s affordability covenants and

restrictions contained in the Agency Addendum and Agency Deed of Trust to the lien of the lender providing financing for the affordable units, but only upon receipt by the Agency Executive Director or designee of written commitments from such lender, reasonably designated to protect the Agency's investment in the event of default, such as the following:


- a. A copy of all notices of default delivered to the affordable unit borrower by the lender shall be concurrently delivered to Agency;
- b. The Agency shall be provided with an opportunity to cure any and all defaults on the lender's encumbrances prior to any foreclosure under the lender's encumbrances; and
- c. In the event that prior to foreclosure by the lender on the affordable unit subject to default under the lender's encumbrances pursuant to its rights under the lender's encumbrances, the Agency takes title to the affordable unit and cures the default on the lender's encumbrances, the lender will not exercise any rights it may have under the lender's encumbrances to accelerate the obligations of the affordable unit borrower under the lender's encumbrances by reason of the transfer of the title to such affordable unit to the Agency.

Any subordination agreement executed by the Agency Executive Director or designee must be substantially in the form of the Subordination Agreement attached as Attachment No. 2 to the Staff Report accompanying this Agenda item.

3. That this activity is not a separate project for purposes of CEQA review pursuant to State CEQA Guidelines Section 15060(c)(3). This activity is covered under MND #5787 (North Park Condos). This activity is adequately addressed in this prior environmental document

as part of the previously approved project, and there is no change in circumstances, additional information, or project changes to warrant additional environmental review.

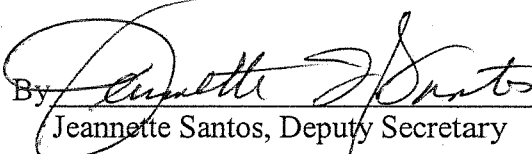
APPROVED: MICHAEL J. AGUIRRE, General Counsel

By 
Eunice C. Chan
Deputy General Counsel

ECC:nda
01/03/07
Or.Dept:Redev.Agency
RA-2007-61
MMS#4215

I hereby certify that the foregoing Resolution was passed by the Redevelopment Agency of the City of San Diego, at this meeting of FEB 06 2007

REDEVELOPMENT AGENCY

By 
Jeannette Santos, Deputy Secretary

Approved: 2-14-07
(date)


JERRY SANDERS, Executive Director

Vetoed: _____
(date)

JERRY SANDERS, Executive Director

Passed by the Redevelopment Agency of The City of San Diego on FEB 06 2007, by the following vote:

Agency Members	Yeas	Nays	Not Present	Ineligible
Scott Peters	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Kevin Faulconer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Toni Atkins	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Anthony Young	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Brian Maienschein	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Donna Frye	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jim Madaffer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ben Hueso	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage FEB 14 2007

AUTHENTICATED BY:

JERRY SANDERS
Executive Director of The City of San Diego, California.

(Seal)

ELIZABETH S. MALAND
Secretary of The City of San Diego, California.

By , Deputy

Office of the Redevelopment Agency, San Diego, California

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