



REDEVELOPMENT AGENCY OF
THE CITY OF SAN DIEGO

RESOLUTION NUMBER R- 04540

DATE OF FINAL PASSAGE JUL 02 2010

A RESOLUTION OF THE REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO APPROVING THE (i) INSTRUMENT RELEASING LIEN ON REAL PROPERTY (RELEASE OF GRANT DEED'S COVENANTS, CONDITIONS AND RESTRICTIONS), (ii) THE INSTRUMENT RELEASING LIEN ON REAL PROPERTY (RELEASE OF PAYMENT AGREEMENT), (iii) THE SUBSTITUTION OF TRUSTEE AND FULL RECONVEYANCE IN CONNECTION WITH THAT CERTAIN DEED OF TRUST WITH ASSIGNMENT OF RENTS (SHORT FORM) DATED OCTOBER 9, 2003, AND (iv) THE INDEMNIFICATION AGREEMENT BY AND BETWEEN THE AGENCY AND STEWART TITLE OF CALIFORNIA, INC. AND STEWART TITLE GUARANTY COMPANY, ALL IN CONNECTION WITH CERTAIN REAL PROPERTY OWNED BY THE AGENCY AND LOCATED WITHIN THE BARRIO LOGAN REDEVELOPMENT PROJECT AREA.

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 Barrio Logan Redevelopment Project [Redevelopment Plan]; and

WHEREAS, on or about November 21, 2000, the Agency and Mercado Alliance, LLC, a California limited liability company [Previous Developer] had entered into a Disposition and Development Agreement, as subsequently amended by First and Second Implementation Agreements, collectively referred to as the "Original DDA", with regard to certain real property located in the City of San Diego, County of San Diego, State of California, within the Barrio Logan Redevelopment Project Area [Project Area]; and

WHEREAS, pursuant to the Original DDA, on September 8, 2003, the Agency conveyed the Property to the Previous Developer by means of a certain Grant Deed, recorded as Instrument No. 2003-1094033 in the Official Records of San Diego County, California [Grant Deed], subject to, *inter alia*, a reversionary interest in favor of Agency [Reversionary Interest]; and

WHEREAS, the Grant Deed contains certain covenants, conditions and restrictions recorded against the Property; and

WHEREAS, pursuant to the Original DDA, on September 8, 2003, the Agency and Previous Developer recorded against the Property a certain Payment Agreement, as Instrument No. 2003-1094034 in the Official Records of San Diego County, California [Payment Agreement]; and

WHEREAS, Section 902 of the Payment Agreement provides in pertinent part that only the Agency, its successors and assigns, and the Previous Developer, its successors and assigns, in and to the fee title to the Property shall have the right to consent and agree to changes in, or to eliminate in whole or in part, any of the covenants or conditions contained in the Payment Agreement, or to subject the Property to additional covenants or conditions, without the consent of any tenant, lessee, easement holder, licensee, mortgagee, trustee, beneficiary under a deed of trust or any other person or entity having an interest less than a fee in the Property; and

WHEREAS, pursuant to the Original DDA, a certain Deed of Trust with Assignment of Rents (Short Form) dated October 9, 2003, executed by Mercado Alliance, LLC as Trustor, in which Enterprise Housing Financial Services, Inc. is named as Beneficiary (whose beneficial interest was assigned to the Agency by an instrument recorded August 1, 2006 as Instrument No. 2006-0543007 in the Official Records of San Diego County, California) and Faith E. Thomas as Trustee, was recorded against the Property on October 10, 2003, as Instrument

No. 2003-1250563 in the Official Records of San Diego County, California; and

WHEREAS, the Agency subsequently terminated the Original DDA, as evidenced by (i) that certain Exercise of Power of Termination, recorded May 2, 2006 as Instrument No. 2006-0309466 in the Official Records of San Diego County, California and (ii) that certain Additional Exercise of Power of Termination, recorded February 12, 2007 as Instrument No. 2007-0097446 in the Official Records of San Diego County, California, collectively referred to as the "Exercise of Power of Termination"; and

WHEREAS, the Exercise of Power of Termination triggered the Agency's Reversionary Interest and, as a result, the Agency is now the fee owner of the Property; and

WHEREAS, in accordance with Section 902 of the Payment Agreement, the Agency, as successor of the Previous Developer in and to the fee title to the Property, may now unilaterally make changes in, or eliminate in whole or in part, any of the covenants or conditions contained in the Payment Agreement; and

WHEREAS, the Previous Developer disputes that fee ownership of the Property reverted to Agency and has filed Case No. GIC 865872 in the Superior Court of San Diego County, recording notice thereof against the Property August 30, 2006 as Instrument No. 2006-0619916 in the Official Records of San Diego County, California [Notice of Pending Action]; and

WHEREAS, the Previous Developer further recorded against the Property on June 8, 2007 as Instrument No. 2007-0388994 in the Official Records of San Diego County, California that certain Deed of Trust with Assignment of Rents dated June 5, 2007, executed by Mercado Alliance, LLC as Trustor, naming LandGrant Development Unlimited and C. Samuel Marasco as Beneficiary and First American Title Insurance Company as Trustee [Previous Developer Deed of Trust]; and

WHEREAS, an examination of the Official Records of San Diego, California discloses the following matters of record affecting the Property: (i) the Exercise of Power of Termination, as defined above; (ii) the Notice of Pending Action, as defined above; and (iii) the Previous Developer Deed of Trust, as defined above; and

WHEREAS, the Agency desires to sell the Property and has requested that Stewart Title of California, Inc. and Stewart Title Guaranty Company, collectively referred to as "Stewart", issue policies of title insurance in connection therewith without mention therein of, or limitations of coverage based upon, such matters of record described above, collectively referred to as "Subject Exceptions"; and

WHEREAS, in light of the above, the Agency now desires to issue the proposed "Instrument Releasing Lien on Real Property (Release of Grant Deed's Covenants, Conditions and Restrictions)" in order (i) that the Grant Deed's covenants, conditions and restrictions be of no further force or effect and (ii) that the recorded Grant Deed's covenants, conditions and restrictions no longer be an encumbrance against the Property; and

WHEREAS, in light of the above, the Agency now desires to issue the proposed "Instrument Releasing Lien on Real Property (Release of Payment Agreement)" in order (i) that the Payment Agreement be of no further force or effect and (ii) that the recorded Payment Agreement no longer be an encumbrance against the Property; and

WHEREAS, in light of the above, the Agency now desires to issue the proposed "Substitution of Trustee and Full Reconveyance" in connection with that certain Deed of Trust with Assignment of Rents (Short Form) dated October 9, 2003, executed by Mercado Alliance, LLC as Trustor, in which Enterprise Housing Financial Services, Inc. is named as Beneficiary (whose beneficial interest was assigned to the Agency by an instrument recorded August 1, 2006

as Instrument No. 2006-0543007 in the Official Records of San Diego County, California) and Faith E. Thomas as Trustee, and recorded on October 10, 2003, as Instrument No. 2003-1250563 in the Official Records of San Diego County, California, in order to substitute the Agency as the new Trustee in the place of Faith E. Thomas, the Trustee presently of record, and to reconvey, without warranty, to the person or persons legally entitled thereto, all of the estate and interest derived to the Trustee; and

WHEREAS, in light of the above, the Agency now desires to enter into the proposed "Indemnification Agreement" by and between the Agency and Stewart in order for Stewart to issue policies of title insurance in connection therewith without mention therein of, or limitations of coverage based upon, the Subject Exceptions; and

WHEREAS, the Agency believes that the Instrument Releasing Lien on Real Property (Release of Grant Deed's Covenants, Conditions and Restrictions), the Instrument Releasing Lien on Real Property (Release of Payment Agreement), the Substitution of Trustee and Full Reconveyance in connection with that certain Deed of Trust with Assignment of Rents (Short Form) dated October 9, 2003, and the Indemnification Agreement by and between the Agency and Stewart are in the best interests of the Project Area, the City and the health, safety, morals and welfare of its residents, and in accord with the public purposes and provisions of applicable state and local law and requirements; NOW, THEREFORE,

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

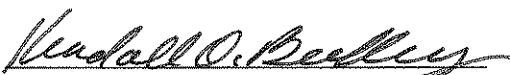
1. That the Agency hereby approves: (i) the Instrument Releasing Lien on Real Property (Release of Grant Deed's Covenants, Conditions and Restrictions), (ii) the Instrument Releasing Lien on Real Property (Release of Payment Agreement), (iii) the Substitution of

Trustee and Full Reconveyance in connection with that certain Deed of Trust with Assignment of Rents (Short Form) dated October 9, 2003, and (iv) the Indemnification Agreement by and between the Agency and Stewart.

2. That the Agency's Executive Director, or designee, is authorized, on behalf of the Agency, to execute (i) the Instrument Releasing Lien on Real Property (Release of Grant Deed's Covenants, Conditions and Restrictions), (ii) the Instrument Releasing Lien on Real Property (Release of Payment Agreement), (iii) the Substitution of Trustee and Full Reconveyance in connection with that certain Deed of Trust with Assignment of Rents (Short Form) dated October 9, 2003, and (iv) the Indemnification Agreement by and between the Agency and Stewart; a copy of each document, when fully executed, shall be placed on file with the secretary of the Agency as Document No. D- 04540a, Document No. D- 04540b Document No. D- 04540c Document No. D- 04540d respectively.

3. That the Agency's Executive Director, or designee, is authorized, on behalf of the Agency, to sign all documents necessary and appropriate to carry out and implement the above-referenced documents and this Resolution and to administer the Agency's obligations, responsibilities and duties to be performed under the above-referenced documents and this Resolution.

APPROVED: JAN I. GOLDSMITH, General Counsel

By 
Kendall D. Berkey
Deputy General Counsel

KDB:nda
06/02/10
Or.Dept:Redev.Agency
RA-2010-108

MMS #8908

Comp.: RA-2010-104

RA-2010-105

RA-2010-106

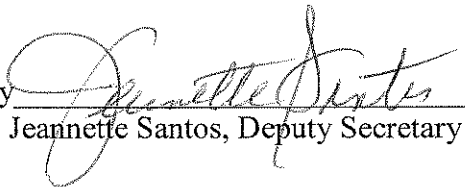
RA-2010-107

R-2010-887

R-2010-888

I hereby certify that the foregoing Resolution was passed by the Redevelopment Agency of the City of San Diego, at this meeting of JUN 29 2010.

REDEVELOPMENT AGENCY

By 
Jeannette Santos, Deputy Secretary

Approved: 7-2-10
(date)


JERRY SANDERS, Executive Director

Vetoed: _____
(date)

JERRY SANDERS, Executive Director

Passed by the Redevelopment Agency of The City of San Diego on JUN 29 2010, by the following vote:

Agency Members	Yeas	Nays	Not Present	Recused
Sherri Lightner	<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"/>
Todd Gloria	<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"/>
Carl DeMaio	<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"/>
Marti Emerald	<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 JUL 02 2010

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 *Janette Davis*, Deputy

Office of the Redevelopment Agency, San Diego, California
Resolution Number R- 04540