



## REDEVELOPMENT AGENCY OF

## THE CITY OF SAN DIEGO

RESOLUTION NUMBER R- 04665DATE OF FINAL PASSAGE APR 28 2011

A RESOLUTION OF THE REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO APPROVING (i) THE TERMINATION OF THE OWNER PARTICIPATION AGREEMENT DATED JUNE 28, 2005, AS AMENDED BY THE FIRST IMPLEMENTATION AGREEMENT DATED APRIL 18, 2006 (OPA), WITH CONSTELLATION PROPERTY GROUP HANCOCK, L.P. FOR THE STELLA AT FIVE POINTS HOUSING PROJECT WITHIN THE NORTH BAY REDEVELOPMENT PROJECT AREA AND (ii) ALL OTHER NECESSARY ACTIONS TO TERMINATE THE OPA.

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 Bay Redevelopment Project Area (Project Area); and

WHEREAS, in order to carry out and implement such Redevelopment Plan, the Agency and Constellation Property Group Hancock, L.P. (Owner) entered into that certain Owner Participation Agreement dated June 28, 2005, as amended by the First Implementation Agreement dated April 18, 2006 (collectively, OPA), for the development of the Stella at Five Points Housing Project (Project), a mixed-income residential development consisting of 85 for-sale condominiums, including 13 designated affordable for-sale units, located at 2015 Hancock Street within the Project Area; and

WHEREAS, the OPA provides for the Agency's subsidy to the Owner of up to \$1,690,000, or \$130,000 per affordable unit, and the disbursement of the Agency's funds is contingent on the occurrence of all of the following events: (i) the Completion of the Project, as defined in the OPA; (ii) the Agency's issuance of the Release of Construction Covenants;

(iii) the sale of each affordable unit to an income-qualified buyer; and (iv) the Owner's cure of all defaults within the required time period under the OPA; and

WHEREAS, the Owner has failed to perform several material obligations under the OPA, and the Agency has performed all of its duties and obligations under the OPA that were required to be performed by the Agency to date; and

WHEREAS, the Owner abandoned construction of the Project, defaulted on the senior loans and no longer has control of the Property and Project due to the appointment of a Receiver on February 20, 2009, by the Superior Court of the State of California, County of San Diego; and

WHEREAS, on November 24, 2010, the Agency issued a Notice of Default, Demand to Cure, and Notice of Intent to Terminate the OPA (Notice of Default) specifying the Owner's failure to perform several material obligations under the OPA. The Agency delivered the Notice of Default via certified mail to the Owner and the Receiver, with a copy to the senior lenders and the San Diego Housing Commission. A copy of the Notice of Default is included as Attachment 2 to Report No. RA-11-17 submitted to the Agency (Staff Report); and

WHEREAS, certain events of default identified in the Notice of Default have not been timely cured and remain uncured at present; and

WHEREAS, the Agency has duly considered all terms and conditions of the proposed termination of the OPA and believes that terminating the OPA is in the best interests of the City of San Diego 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 as well as the terms and conditions of the OPA; and

WHEREAS, to memorialize the termination of the OPA, the Agency now proposes to issue the following documents: (i) the Notice of Termination of the Owner Participation Agreement (Notice of Termination), the proposed form of which is included as Attachment 3 to

the Staff Report, thereby notifying the Owner and the Receiver of the action by the Agency's Board of Directors to terminate the OPA; and (ii) the Release of the Agreement Affecting Real Property (Release), the proposed form of which is included as Attachment 4 to the Staff Report, thereby releasing the Agency's interests in the Agreement Affecting Real Property (Including Resale Restrictions) entered into by and between the Agency and the Owner and recorded against the Property on June 12, 2007, which required 13 affordable for-sale housing units to be included within the Project pursuant to the OPA; NOW, THEREFORE,

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

1. That the Agency approves the termination of the OPA due to failure to cure identified events of default and violations under the OPA in a timely manner.
2. That the Agency approves and authorizes the Agency's Executive Director or designee, for and on behalf of the Agency, to take all reasonable and necessary actions and to execute on behalf of the Agency all reasonable and necessary documents to implement and carry out the purposes of this Resolution and the termination of the OPA including, without limitation, the Notice of Termination and the Release.

APPROVED: JAN I. GOLDSMITH, General Counsel

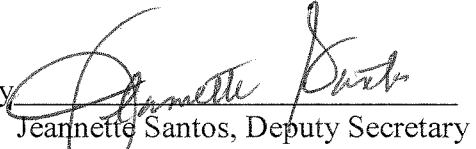
By Kevin Reisch  
Kevin Reisch  
Deputy General Counsel

KR:nja  
4/5/2011  
Or.Dept:Redev.Agency  
RA-2011-122  
PL#2011-06010

I hereby certify that the foregoing Resolution was passed by the Redevelopment Agency of the City of San Diego, at this meeting of APR 19 2011

REDEVELOPMENT AGENCY

By

  
Jeannette Santos, Deputy Secretary

Approved: 4.28.11  
(date)

  
JERRY SANDERS, Executive Director

Vetoed: \_\_\_\_\_  
(date)

\_\_\_\_\_  
JERRY SANDERS, Executive Director

Passed by the Redevelopment Agency of The City of San Diego on APR 19 2011, 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"/>
Lorie Zapf	<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"/>
David Alvarez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage APR 28 2011

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

Resolution Number R-

**04665**