

RESOLUTION NO. 306215

DATE OF FINAL PASSAGE OCT 12 2010

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO AMENDING CONDITION 13, THE AFFORDABLE HOUSING CONDITION, OF THE COSTA VERDE NORTH TENTATIVE MAP NO. 216983, PROJECT NO. 71264, PURSUANT TO THE WRITS OF MANDATE OF THE SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO – CENTRAL DIVISION.

WHEREAS, on October 13, 2008, by Resolution No. R-304230, the Council of the City of San Diego [City Council] approved Costa Verde North Tentative Map No. 216983, to allow for the conversion of 651 existing residential units to condominiums. The project site is located at 8720-8950 Costa Verde Boulevard within the University Community Planning area; and

WHEREAS, Costa Verde North Tentative Map No. 216983, included a condition requiring the Subdivider to provide affordable housing units (10 percent of the total) in compliance with the Affordable Housing Requirements of the City’s Inclusionary Housing Ordinance (Chapter 14, Article 4, Division 5 of the San Diego Municipal Code), as it was applied on the date of the City Council hearing; and

WHEREAS, the Subdivider filed a petition for a preemptory writ of mandate with the Superior Court of California against the City of San Diego pertaining to Condition 13 (the affordable housing condition) of Costa Verde North Tentative Map No. 216983; and

WHEREAS, on October 2, 2009, the Superior Court of California declared Condition 13 imposed upon the Costa Verde North Tentative Map to be contrary to law in that the Map should have been reviewed under the Inclusionary Housing Ordinance as it was applied on June 2, 2005,

the date the tentative map application was deemed complete, and, therefore, the Subdivider had the option to pay an in-lieu fee to satisfy the Inclusionary Housing Ordinance. The Court also commanded the City of San Diego to rehear Condition 13 of the Map consistent with the declaration above; and

WHEREAS, under Charter section 280(a)(2) this resolution is not subject to veto by the Mayor because this matter requires the City Council to act as a quasi-judicial body and where a public hearing was required by law implicating due process rights of individuals affected by the decision and where the Council was required by law to consider evidence at the hearing and to make legal findings based on the evidence presented; and

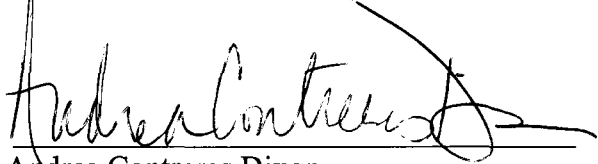
BE IT RESOLVED, by the Council of the City of San Diego that this Council hereby amends Condition 13 of Costa Verde North Tentative Map No. 216983, to provide the Subdivider with the option to pay an in-lieu fee to satisfy the Inclusionary Housing Ordinance, as follows:

**AFFORDABLE HOUSING CONDITIONS:**

13. Prior to the recordation of the Final Map, the Subdivider shall comply with the Affordable Housing Requirements of the City's Inclusionary Housing Ordinance (Chapter 14, Article 2, Division 13 of the Land Development Code). The Subdivider has the option of satisfying the requirements of the Inclusionary Housing Ordinance by entering into an agreement with the San Diego Housing Commission to either pay the applicable in-lieu fee, or by setting aside at least 10 percent of the units for households with an income at or below 100 percent AMI.

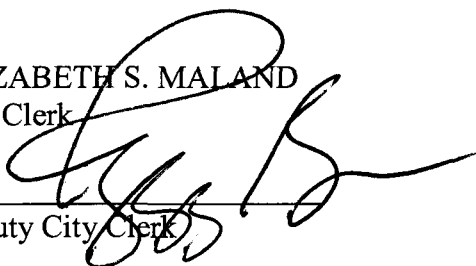
If the in-lieu fee is paid before recordation of the Final Map, the Subdivider shall pay the sum of \$1,171,920.75 (669,669 s.f. x \$1.75).

APPROVED: JAN I. GOLDSMITH, City Attorney

By   
Andrea Contreras Dixon  
Deputy City Attorney

ACD:cw  
04/05/10  
Or.Dept: DSD  
R-2010-724  
MMS# 11892

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of OCT 12 2010.

ELIZABETH S. MALAND  
City Clerk  
By   
Deputy City Clerk

Approved: \_\_\_\_\_  
(date)

\_\_\_\_\_  
JERRY SANDERS, Mayor

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

\_\_\_\_\_  
JERRY SANDERS, Mayor