

# RESOLUTION NO. 86-017

ADOPTED BY THE REDEVELOPMENT AGENCY OF THE CITY OF SACRAMENTO

ON DATE OF

**AUG 14 1986**

RESOLUTION OF THE REDEVELOPMENT AGENCY OF THE CITY OF SACRAMENTO RESCINDING, CANCELLING AND TERMINATING THAT CERTAIN AMENDED AND RESTATED DISPOSITION AND DEVELOPMENT AGREEMENT RELATIVE TO PROPOSED CAPITOL CENTER HYATT REGENCY HOTEL PROJECT AND AUTHORIZING THE ISSUANCE OF A NOTICE OF RECISSION AND TERMINATION RELATED THERETO.

WHEREAS, the Redevelopment Agency of the City of Sacramento ("the Agency") entered into that certain amended and restated Disposition and Development Agreement dated as June 10, 1986 ("the Agreement") by and between the Agency and Kings Capitol Hyatt, a California limited partnership ("the Redeveloper"); and

WHEREAS, the Redeveloper has failed, neglected and refused to comply with various terms, conditions and provisions of the aforesaid Agreement;

NOW THEREFORE BE IT RESOLVED, BY THE GOVERNING BODY OF THE REDEVELOPMENT AGENCY OF THE CITY OF SACRAMENTO AS FOLLOWS:

1. The Agency does hereby elect to rescind and has rescinded, cancelled and terminated the Agreement pursuant to California Civil Code section 1689(b) (1), (2), (3), (4), and (6) in that the Agency's consent to the Agreement was obtained by fraud and mistake, the consideration for the Agency's obligation has failed through the fault of the Redeveloper, the consideration for the Agency's obligations under the Agreement has become entirely void, the consideration for the obligation of the Agency has failed in a material respect, and the public interest will be prejudiced by permitting the Agreement to stand.

2. The Agency does hereby rescind, cancel, and terminate the Agreement pursuant to Section 703 (a)(ii) upon the ground that the Redeveloper has undergone a change in the ownership and distribution of the ownership interest of the Redeveloper and a change with respect to the parties in control of the developer and the degree thereof.

3. The Agency does hereby rescind, cancel, and terminate the Agreement pursuant to Section 703 (b) upon the ground that the Redeveloper has failed, neglected and refused to submit, pursuant to the Agreement and Agency Resolution 86-028, satisfactory evidence that it has the necessary equity capital.

4. The Agency does hereby rescind, cancel, and

AUG 14 1986

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terminate the Agreement upon the ground that the Redeveloper has failed, neglected, and refused to provide, within a reasonable time, information as to and a sworn statement of the ownership of the Redeveloper in timely response to a request by the Agency pursuant to Section 504 of Part II of the Agreement.

5. The Agency does hereby rescind, cancel, and terminate the Agreement upon the ground that the Redeveloper has failed, neglected and refused to comply with the conditions to the Assignment approved by the Agency on June 10, 1986 in that:

(a) the Redeveloper did fail, neglect and refuse to submit certifications by Cook Regency Corporation ("the Assignor") and by an independent certified public accountant satisfactory to the Executive Director of the Agency to the effect that the consideration received by the Assignor from the Redeveloper did not exceed the actual costs of such interest to the Assignor; and

(b) the Redeveloper did fail, neglect and refuse to submit certifications by the Redeveloper and by an independent certified public accountant satisfactory to the Executive Director demonstrating that the current assets of the Redeveloper equalled or exceeded the equity contribution required of the Redeveloper by the financing commitment approved by the Agency on June 10, 1986.

6. The Agency does hereby give notice that it has, independent of the foregoing, rescinded, cancelled and terminated that certain Agreement and Authorization to Enter Upon Land dated June 10, 1986 by and between the Agency and the Redeveloper upon the ground of each of the specifications set forth above. The Redeveloper, including its agents, servants and employees, shall immediately and forthwith cease and desist from any and all further work upon the land which is the subject of the Agreement, save and except such work as is necessary to restore the aforesaid site to its condition as of June 10, 1986.

7. The Agency does hereby retain and reserve unto itself any and all additional rights and remedies which may be available to it under law and/or under the Agreement.

8. The Executive Director is hereby authorized to issue on behalf of the Agency the attached Notice of Recission and Termination.

9. The Executive Director is further authorized to issue such further notices, enter into such agreements, and take such further actions as are reasonably necessary to effect the termination of the aforesaid agreement at the earliest possible date.

REDEVELOPMENT AGENCY OF THE  
CITY OF SACRAMENTO

BY *Aune Ruder*  
Chairperson

Attest:

*William H. Edger*  
Secretary