

REPORT TO THE SUCCESSOR AGENCY OVERSIGHT BOARD



DATE: March 24, 2017

TITLE: Resolution Approving a Purchase and Sale Agreement and Joint Escrow Instructions with ASP Properties, LLC for Real Property Located at 66550 and 66620 Pierson Boulevard

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Reviewed by: Robert Lee, Assistant City Attorney

RECOMMENDATION

Adopt a Resolution of the Oversight Board to the Successor Agency to the Redevelopment Agency of the City of Desert Hot Springs approving Purchase and Sale Agreement and Joint Escrow Instructions ("Purchase and Sale Agreement") between the Successor Agency to the Redevelopment Agency of the City of Desert Hot Springs and ASP Properties, LLC with respect to the real property located at 66550 and 66620 Pierson Boulevard, Desert Hot Springs, California (APN's 639-293-023, -0024, -025, -026, -027, -028) and approving certain related actions.

BACKGROUND

Pursuant to Health and Safety Code (the "HSC") § 34172 (a)(1), the Redevelopment Agency of the City of Desert Hot Springs was dissolved February 1, 2012. Consistent with the provisions of the HSC, the City Council of the City of Desert Hot Springs (the "City") previously elected to serve in the capacity of the Successor Agency to the Redevelopment Agency of the City of Desert Hot Springs (the "Successor Agency"). The Oversight Board for the Successor Agency ("Oversight Board") has been established pursuant to HSC § 34179 to assist in the wind-down of the dissolved redevelopment agency.

On March 11, 2015, the Oversight Board approved its Resolution No. OB-2015-003, approving the Successor Agency's Long-Range Property Management Plan (the "LRPMP") and on May 15, 2015, the Department of Finance ("DOF") approved the LRPMP and notified the Successor Agency that pursuant to HSC § 34191.3, the approved LRPMP shall govern, and supersede all other provisions relating to the disposition and use of all the real property assets of the former redevelopment agency. The approved LRPMP, which addresses the disposition and use of the real property assets held by the Successor Agency, includes 44 parcels of land grouped into sixteen (16) separate sites, of which four (4) sites have already been sold or transferred to the City, leaving twelve (12) sites (3 sites zoned general commercial and 9 sites located within the City's Vortex Specific Plan) to be sold pursuant to the approved LRPMP. In addition to these twelve (12) sites, the Successor Agency has two (2) surplus residential properties that are required to be sold, thereby creating a total of fourteen (14) sites to be sold (the "Successor Agency Properties").

DISCUSSION

The Successor Agency is the owner of that certain real property consisting of approximately 2.87 acres of vacant land located at 66550 and 66620 Pierson Boulevard, Desert Hot Springs, California (APNs 639-293-023, -024, -025, -026, -027, and -028) (the "Property") and within the LRPMP, the Property is: (i) identified as Site No. 8 of the LRPMP; (ii) described as Mixed-Use parcel with an existing approximately 28,000 square foot building; (iii) designated for future development; and (iv) more fully described within Exhibit "A" to the attached Resolution, which is an excerpt from the LRPMP.

On November 15, 2016, the Successor Agency approved an agreement with NAI Capital (the "NAI Agreement") to list and sell certain real property assets of the Successor Agency, all of which were subsequently listed for sale. As a part of the NAI Agreement, NAI has agreed to prepare a Broker's Opinion of Value (the "BOV") for each Successor Agency property that is sold. In response to NAI's listing, on February 23, 2017, Mr. Scott Parker, on behalf of ASP Properties, LLC and Builder Supply, a Desert Hot Springs hardware and lumber retailer and current tenant of the Property, offered to purchase the Property for \$1,400,000 (the "Purchase Price") (a copy of the offer letter is attached to the Resolution as Exhibit "B").

To determine whether the Purchase Price is fair and reasonable, the Successor Agency requested NAI to prepare a BOV. Based on past practice, the DOF has acknowledged that BOVs are an acceptable method and basis for confirming that the value of real property being sold by a successor agency is fair and reasonable.

On March 14, 2017, the Successor Agency received an updated BOV from NAI addressing significant adjustments to its March 6, 2017 BOV submittal. Newly evident information regarding flood and mold damage, along with the lack of ADA compliant infrastructure, caused NAI to amend its initial BOV of \$1,549,000 to \$1,364,066 and thereby indicating its opinion that the current market value of the Property is currently \$1,364,066 (the "BOV Market Value"). In consideration that the Purchase Price offered by Mr. Parker for the Property exceeds the BOV Market Value by \$35,934, or 2.57%, it may be concluded that the purchase price offered by Mr. Parker for the Property is fair and reasonable, as more fully described within the BOV for the Property, a copy of which is included as Exhibit "C" to the attached Resolution.

Selling the Property to ASP Properties, LLC represents the maximized value of the Property because (i) Mr. Parker, on behalf of ASP Properties, LLC and the current tenant, Builder Supply, intends to expand the business; (ii) when the Purchase Price is taken together with Mr. Parker's commitment for reinvestment in the site, the combined value is greater than the BOV; (iii) the proposed development of the Property meets the Successor Agency's economic development goals and the general planning of the area inasmuch as the Property will be an expansion of an already existing hardware store (the only hardware store in the City); and (iv) another developer may require the City to execute a hold harmless agreement as it pertains to relocation costs of the existing tenant, thereby costing the City an undeterminable amount of time and cost and it is for these reasons that it may be concluded that the Purchase Price is not only fair and reasonable, but will add value to Property that will exceed the BOV as well as the Purchase Price.

It is the intent of the Successor Agency to sell the Property for \$1,400,000. On March 21, 2017, the Successor Agency Board approved the Purchase and Sale Agreement, an executed copy of which is attached to the Resolution as Exhibit "D."

Consistent with the provisions of the HSC and the LRPMP, the effectiveness of the Purchase and Sale Agreement is subject to the approval of the Oversight Board. Due to the Successor Agency's current cash-flow insolvency condition, the Oversight Board and the DOF will be requested to permit the Successor Agency to retain the net land sales proceeds for the purpose of funding enforceable obligations authorized on a Recognized Obligation Payment Schedule.

Consistent with the provisions of the HSC, it is recommended that the Oversight Board approve the attached Purchase and Sale Agreement and retention of the net lands proceeds for the intended stated use.

FISCAL DATA

The purchase price offered for the Property is \$1,400,000. Consistent with the provisions of the HSC, the Successor Agency is requesting that the DOF permit the Successor Agency to retain the net land sales proceeds for the purpose of funding enforceable obligations authorized on a Recognized Obligation Payment Schedule.

EXHIBIT(S)

- 1) Resolution Approving Purchase and Sale Agreement and Joint Escrow Instructions for the property located at 66550 and 66620 Pierson Boulevard, Desert Hot Springs, California
- 2) Narrative for Site Number (8) – Excerpted from the DHS Long Range Property Management Plan (Exhibit A to Resolution)
- 3) February 23, 2017 Letter from Mr. Parker - Offer to Purchase the Property (Exhibit B to Resolution)
- 4) March 14, 2017 Brokers Opinion of Value prepared by NAI Capital (Exhibit C to Resolution)
- 5) Purchase and Sale Agreement and Joint Escrow Instructions between the Successor Agency and Mr. Parker (Exhibit D to Resolution)