

RESOLUTION NO. OB-2017- _____

RESOLUTION OF THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY OF DESERT HOT SPRINGS APPROVING THE PURCHASE AND SALE AGREEMENT AND JOINT ESCROW INSTRUCTIONS BETWEEN THE SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY OF DESERT HOT SPRINGS AND ASP PROPERTIES, LLC OR ITS ASSIGNEE WITH RESPECT TO THE REAL PROPERTY LOCATED AT 66550 AND 66620 PIERSON BOULEVARD, DESERT HOT SPRINGS, CALIFORNIA (APNS 639-293-023, -024, -025, -026, -027, -028) AND APPROVING CERTAIN RELATED ACTIONS

WHEREAS, pursuant to Health and Safety Code (the "HSC") § 34172 (a) (1), the Redevelopment Agency of the City of Desert Hot Springs dissolved February 1, 2012; and

WHEREAS, 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"); and

WHEREAS, 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; and

WHEREAS, pursuant to HSC § 34191.5 (c), the Successor Agency previously prepared and filed with the Department of Finance ("DOF") its Oversight Board-approved Long Range Property Management Plan ("LRPMP"); and

WHEREAS, on May 15, 2015, the DOF approved the Successor Agency's 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; and

WHEREAS, 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; and

WHEREAS, 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"); and

WHEREAS, 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

WHEREAS, the Property, which is one of the Successor Agency Properties, 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" attached hereto, which is an excerpt from the LRPMP; and

WHEREAS, 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; and

WHEREAS, 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; and

WHEREAS, 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 this Resolution as Exhibit "B"); and

WHEREAS, to determine whether the purchase price offered by Mr. Parker is fair and reasonable, the Successor Agency requested NAI to prepare a BOV, as 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; and

WHEREAS, on March 14, 2017, the Successor Agency received an updated BOV from NAI Capital indicating its opinion that the market value of the Property is currently \$1,364,066 (the "BOV Market Value"); and

WHEREAS, 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 attached to this Resolution as Exhibit "C"; and

WHEREAS, selling the Property to ASP Properties, LLC represents the maximized value of the Property because (i) Mr. Parker, on behalf of the current tenant, Builder Supply, intends to expand the existing 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; and

WHEREAS, approval of this Resolution will approve the Purchase and Sale Agreement and Joint Escrow Instructions (the "Purchase and Sale Agreement") between the Successor Agency and ASP Properties, LLC or its assignee with respect to the Property, a form of which is attached to this Resolution as Exhibit "D," and authorize certain related actions; and

WHEREAS, consistent with the provisions of the HSC and the LRPMP with respect to real property to be sold, the effectiveness of the Purchase and Sale Agreement is subject to the approval of the Oversight Board; and

WHEREAS, also consistent with the provisions of the HSC and the LRPMP with respect to real property to be sold, this Resolution, if approved by the Oversight Board, shall be submitted to DOF; and

WHEREAS, due to the Successor Agency current cash-flow insolvency condition, 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; and

WHEREAS, the proposed sale of the Property is exempt under the California Environmental Quality Act ("CEQA"), the State CEQA Guidelines (California Code of Regulations, Title 14, § 15000 *et seq.*, hereafter the "Guidelines") and the City's environmental guidelines, as a "common sense exemption," which provides that activities that cannot possibly have a significant effect on the environment are exempt from CEQA, 14 Cal Code Regs. §15061(b)(3); and

WHEREAS, during its meeting of March 21, 2017, the Successor Agency Board approved the Purchase and Sale Agreement and authorized certain related actions; and

WHEREAS, all of the prerequisites with respect to the approval of this Resolution have been met.

NOW, THEREFORE, BE IT RESOLVED, DETERMINED, AND ORDERED BY THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY OF DESERT HOT SPRINGS AS FOLLOWS:

Section 1. Recitals

That the Recitals set forth above are true and correct.

Section 2. Approval of Agreement and Related Approvals

That the Oversight Board hereby approve the Purchase and Sale Agreement and authorize the City's City Manager, acting for the Successor Agency, to (i) execute the same, (ii) make ministerial revisions to the Purchase and Sale Agreement which do not increase the Successor Agency's obligations or materially reduce the consideration payable to the Successor Agency; (iii) sign a grant deed and any other documents the execution of which is necessary or appropriate to carry out and implement the Purchase and Sale Agreement; (iv) administer the Successor Agency's obligations under the Purchase and Sale Agreement; (v) request the DOF to authorize the retention of the net land sales proceeds for the purpose of funding enforceable obligations authorized on a Recognized Obligation Payment Schedule; and (vi) take such other actions and execute such other documents as are necessary as may otherwise be required to fulfill the intent of this Resolution.

Section 3. Declaration

That the \$1,400,000 purchase price for the Property is determined to be fair and reasonable.

Section 4. CEQA

That the proposed sale of the Property is exempt under CEQA, the Guidelines and the City's environmental guidelines, as a "common sense exemption," which provides that activities that cannot possibly have a significant effect on the environment are exempt from CEQA, 14 Cal Code Regs. §15061(b)(3).

Section 5. Severability

That if any provision of this Resolution or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Resolution which can be given effect without the invalid provision or application, and to this end the provisions of this Resolution are severable. The Oversight Board hereby declares that it would have adopted this Resolution irrespective of the invalidity of any particular portion thereof.

Section 6. Effective Date

That this Resolution shall take effect immediately upon adoption.

Section 7. Certification

That the City Clerk acting for the Successor Agency's Oversight Board shall certify to the passage of this Resolution and enter it into the book of original resolutions.

PASSED, APPROVED, AND ADOPTED by the Oversight Board of the Successor Agency to the Redevelopment Agency of the City of Desert Hot Springs at a meeting held on the 23rd day of March, 2017, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

[SIGNATURES FOLLOW ON THE NEXT PAGE]

ATTEST:

Jerryl Soriano, CMC
Oversight Board Secretary

APPROVED:

Russ Martin
Oversight Board Chair

APPROVED AS TO FORM:

Barry J. Shultz
Oversight Board Legal Counsel

EXHIBIT "A"

**Narrative for Site No. 8
66550 and 66620 Pierson Boulevard
(APNs 639-293-023, -024, -025, -026, -027, and -028)
Excerpted from the
Long-Range Property Management Plan
(Pages 35-39)**

(See Attachment)

EXHIBIT "B"

**February 23, 2017 Letter From
Mr. Parker
Offered to Purchase the Property**

(See Attachment)

EXHIBIT “C”

**March 14, 2017
Broker’s Opinion of Value
Prepared by
NAI Capital**

(See Attachment)

EXHIBIT “D”

**Purchase and Sale Agreement and
Joint Escrow Instructions
between the
Successor Agency to the Redevelopment Agency
of the City of Desert Hot Springs
and ASP Properties, LLC**

(See Attachment)