

RESOLUTION OF THE COUNTYWIDE OVERSIGHT BOARD
FOR THE COUNTY OF CONTRA COSTA

Adopted this Resolution on 09/27/2021 by the following vote:

AYE:
NO:
ABSENT:
ABSTAIN:
RECUSE:



Resolution: 2021/37

A RESOLUTION OF THE COUNTYWIDE OVERSIGHT BOARD OF CONTRA COSTA COUNTY APPROVING A PURCHASE AND SALE AGREEMENT FOR 300 CUMBERLAND STREET AND A REPAYMENT AGREEMENT.

WHEREAS, the Successor Agency to the Redevelopment Agency of the City of Pittsburg (Successor Agency) owns that certain real property located at 300 Cumberland Street, also known as County Assessor’s Parcel Number 085-108-010 (Property); and

WHEREAS, on November 27, 2006, by Agency Resolution 06-1166, the former Redevelopment Agency of the City of Pittsburg (Agency) approved a Building Lease Agreement with respect to the Property by and between the Agency, as landlord, and EJ Phair Brewing Company, as tenant, dated December 1, 2006, which was later amended on June 4, 2007 by Agency Resolution 07-1200, on November 3, 2008 by Agency Resolution 08-1325, and then amended and restated on December 21, 2009 by Agency Resolution 09-1400; and

WHEREAS, the Third Amended and Restated Lease Agreement approved by Agency Resolution 09-1400 included a tenant improvement loan by the former Agency to EJ Phair Brewing Company in the original principal amount of \$315,505.22, the current outstanding balance of which is \$5,147.78; and

WHEREAS, as a result of the COVID-19 pandemic, EJ Phair Brewing Company was forced to close the restaurant and bar operation for approximately fifteen months during which time Buyer accrued a substantial delinquent rent obligation; and

WHEREAS, pursuant to Section 18.26 of the Third Amended and Restated Lease Agreement, EJ Phair Brewing Company (Buyer) has a contractual option to purchase the Property, which predates the AB 1486 (2019 statute) amendments to the State Surplus Land Act (Government Code section 54220 et seq.), requiring local agencies to make surplus property available for sale to certain preferred purchasers, including affordable housing sponsors, prior to selling property to a third-party purchaser for non-affordable housing purposes; and

WHEREAS, Buyer has exercised its option to purchase the Property for its current fair market value; and

WHEREAS, Buyer and Successor Agency have agreed upon a fair market value purchase price for the Property and the terms under which Buyer will repay Successor Agency the amount of \$72,955.24, representing the sum of the outstanding balance of the tenant improvement loan and a portion of the delinquent rent obligation over the next 36 months, with interest, and

WHEREAS, the Successor Agency and Buyer propose to enter into a Purchase and Sale Agreement (PSA) in the form attached to the staff report providing, among other things, for (i) Successor Agency’s sale of the Property to Buyer for a full fair market value Resolution No. 21- Page 2 of 3 September 27, 2021 purchase price of \$710,000 and (ii) Buyer’s execution and delivery of a promissory note in favor of Successor Agency in the amount of \$72,955.24 which promissory note will be secured by a second position deed of trust to be recorded against the Property at close of escrow; and

WHEREAS, on August 16, 2021, by Successor Agency Resolution 21-043, the Successor Agency approved the PSA.

NOW, THEREFORE BE IT RESOLVED that the Countywide Oversight Board hereby:

- 1) Finds that Buyer’s contractual right to purchase the Property, which predates the State’s enactment of the AB 1486 amendments to the State Surplus Land Act is protected by the constitutional “contract clause” set forth in Article I, Section 9 of the California Constitution.
- 2) Approves the PSA between the Successor Agency and the Buyer for the sale of the Property to Buyer for \$710,000 to be paid

in full at the close of escrow and directs the Executive Director or his designee to execute the PSA in the form attached to the staff report, subject to such minor technical changes or corrections as may be approved by the City Attorney.

3) Approves the Buyer's tenant improvement loan and delinquent rent repayment obligations detailed in the promissory note secured by second deed of trust attached as an exhibit to the PSA whereby the Buyer is required to repay \$72,955.24 with 3% interest per annum over 36 months, with the first 6 months payment at \$0 per month and the remaining 30 months at \$2,500 per month.

4) Directs staff to present the PSA to the California Department of Finance (DOF) for review and consideration following Oversight Board approval.

5) Subject to review and confirmation by the Oversight Board and DOF, and notification to HCD as provided in paragraph 4 above, directs staff to execute and deliver all documents, including a grant deed and second deed of trust, and take all actions necessary to consummate the purchase and sale and repayment transactions per the terms of the PSA.

6) Directs staff to deliver the net proceeds of sale to the County Auditor Controller for distribution to taxing entities as contemplated by the Successor Agency's long range property management plan and the Redevelopment Dissolution Law (AB x1-26).

7) Directs staff to pursue foreclosure of the Successor Agency's second deed of trust if, following notice and expiration of applicable cure periods, Buyer defaults on its obligations to repay Successor Agency the repayment amounts as evidenced by the promissory note secured by second deed of trust.

PASSED AND ADOPTED by the Countywide Oversight Board at a regular meeting on the 27th day of September 2021 by the following vote:

AYES: NOES: ABSENT: ABSTAIN:

ATTEST:

_____ Maureen Toms, Oversight
Board Secretary

Contact:

cc: City of Pittsburg - Maria Alliotti, City of Pittsburg - Bill Zenoni, City of Pittsburg - Janielyn Bayona, Maureen Toms, DCD