



CITY COUNCIL REPORT

7C

DATE: JULY 19, 2016

TO: MAYOR AND COUNCIL MEMBERS

FROM: HECTOR DE LA ROSA, ASSISTANT CITY MANAGER

SUBJECT: APPROVE A TRANSFER TITLE OF FARIA HOUSE PROPERTY FROM THE HOUSING SUCCESSOR AGENCY FUND TO THE CITY OF PINOLE IN EXCHANGE FOR PAYMENT OF FAIR MARKET VALUE OF THE FARIA HOUSE PROPERTY

RECOMMENDATION

It is recommended that the City Council of the City of Pinole approve Resolution No. _____, "Approving a Transfer Of Title for the Faria House Property from the Housing Successor Agency Fund to the City of Pinole in Exchange for Payment of Fair Market Value of the Faria House Property"

BACKGROUND

In June of 2011, the Legislature passed AB x1 26, (together with AB 1484 and SB 107, the "**Dissolution Law**"), dissolving redevelopment agencies in the State of California, including the Redevelopment Agency of the City of Pinole (the "**Former Agency**") and creating "successor agencies."

As allowed under the Dissolution Law, On January 17, 2012, the City elected to be the "Housing Successor" to the Former Agency. Accordingly, on January 25, 2012, the Successor Agency to the Former Agency (the "**Successor Agency**") transferred certain housing assets to the City pursuant to a Housing Asset Transfer list (the "**HAT**"). For properties transferred for affordable housing and subsequently sold, the proceeds from the disposition of Housing Successor properties must be used for affordable housing purposes.¹

On March 1, 2016, Staff presented a report to the City Council as the Successor Housing Agency seeking direction on formerly owned Redevelopment and Housing Agency Properties, including the Faria House.

The options presented by Staff for Council's consideration included:

- The City purchasing the properties at fair market value.
- Continue to utilize the Faria house and land as affordable housing.

¹ Sections 34176(d), 34180(f), 34191.5(c).

- Preserve the property as open space.

The direction from the Successor Housing Agency Board members was to obtain an appraisal of the Faria House.

REVIEW AND ANALYSIS

On June 15, 2016, the City received the Fair Market Value appraisal on the Faria House. The property was appraised as a mixed commercial/residential use consistent with the zoning and based on its “highest and best” use. The current zoning is categorized as Commercial Mixed use (CMU) which permits among other uses, library and museum.

In order to determine the value of the property (land and structure), the appraiser took into consideration the location, amenities, size, parking, and the known factor that the property has been vacant for many years. Understanding that the building would require a substantial amount of money to prepare for occupancy, the appraiser determined a value to renovate the building and applied that as a credit to the fair market value.

On June 21, 2016, and the Successor Housing Agency agreed to sell the Property to the City pursuant to the terms and conditions set forth in the attached Purchase and Sale Agreement.

FISCAL IMPACT

The appraised value was estimated at \$350,000. A credit of \$322,000 for renovation of the property was applied against the appraised value (rounded to the nearest hundred) to arrive at a sale value of \$30,000.

The purchase price of \$30,000 will be funded from the General Fund. As is required by State law, the proceeds from the sale of the property will be deposited in the Housing Fund to be used for future affordable housing projects/programs.

ATTACHMENTS

- A Resolution
- B Transfer Agreement

RESOLUTION NO. 2016-XX

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PINOLE TO
TRANSFER TITLE OF FARIA HOUSE PROPERTY FROM THE HOUSING
SUCCESSOR AGENCY FUND TO THE CITY OF PINOLE IN EXCHANGE FOR
PAYMENT OF FAIR MARKET VALUE OF THE FARIA HOUSE PROPERTY**

WHEREAS, by implementation of AB X1 26 (as amended by AB 1484 and SB 107, the “Dissolution Law”), which amended provisions of the California Redevelopment Law (Health & Safety Code § 33000 *et seq.*), and the California Supreme Court’s decision in California Redevelopment Association v. Matosantos, as of February 1, 2012, and the Redevelopment Agency of the City of Pinole (“Redevelopment Agency”) was dissolved; and

WHEREAS, pursuant to the Dissolution Law, the City of Pinole, elected to become the Successor Housing Agency to the Redevelopment Agency (“Housing Successor”); and

WHEREAS, on January 25, 2012, the City approved the transfer of housing functions of the Redevelopment Agency to the Housing Successor; and

WHEREAS, property known as County Assessor’s Parcel Number 401-120-035, 2100 San Pablo Avenue, Pinole, CA 94564 (the “Property”) was purchased by the former Redevelopment Housing Agency in accordance with Community Redevelopment Law (Health and Safety Code Sections 33000 *et seq.*) with affordable housing funds; and

WHEREAS, the Redevelopment Agency used affordable housing funds to move the Faria House to the Property and to construct a foundation for the Faria House; and

WHEREAS, the Property is one of the housing assets that was transferred to the City as Housing Successor; and

WHEREAS, the City desires to use the Property for a purpose other than for affordable housing purposes; and

WHEREAS, the City of Pinole desires to transfer the Property out of the Housing Fund for fair market value of the Property; and

WHEREAS, on June 15, 2016 an appraisal was performed on the Property to ascertain the fair market value for the transfer of the asset; and

WHEREAS, the fair market value of the property was \$30,000; and

WHEREAS, the City has prepared a transfer agreement (the “Transfer Agreement”) substantially in the form on file with the City Clerk for the transfer of the Property.

**NOW, THEREFORE, BE IT RESOLVED BY CITY COUNCIL OF THE CITY OF PINOLE
AS FOLLOWS:**

Section 1. The City of Pinole hereby transfers the Property out of the Housing Fund in exchange for the fair market value of the property, as set forth in the Transfer Agreement.

Section 2. The City Manager of the City of Pinole, or her designee, is hereby authorized to take such actions and to execute all documents as are necessary and appropriate to implement this Resolution.

Section 3. This Resolution shall take effect immediately upon its adoption.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Pinole held on the 19th day of July 2016, by the following vote:

AYES: COUNCILMEMBERS:
NOES: COUNCILMEMBERS:
ABSENT: COUNCILMEMBERS:
ABSTAIN: COUNCILMEMBERS:

Hector De La Rosa, Assistant City Manager/
Deputy City Clerk

**TRANSFER AGREEMENT
FARIA HOUSE**

THIS TRANSFER AGREEMENT (“this **Agreement**”) is entered into as of July 19, 2016 (the “**Effective Date**”), by and between the City of Pinole, as Successor Housing Agency to the Redevelopment Agency of the City of Pinole (“**Housing Successor**”) and the City of Pinole, a California municipal corporation (“**City**”). Housing Successor and City are each referred to as a “**Party**” and collectively referred to herein as the “**Parties.**”

RECITALS

A. Housing Successor is the owner of certain property located in the City of Pinole (the “**City**”) known as County Assessor’s Parcel Number 401-120-035, 2100 San Pablo Avenue, Pinole, CA 94564 (the “**Faria House Parcel**”), or the (“**Property**”), as more particularly described in Exhibit A attached hereto, and as diagrammed in Exhibit B attached hereto.

B. The Property was purchased by the former Redevelopment Housing Agency of the City of Pinole (the “**Agency**”) in accordance with Community Redevelopment Law (Health and Safety Code Sections 33000 et seq.) with affordable housing funds.

C. On June 29, 2011 the legislature of the State of California (the “**State**”) adopted Assembly Bill x1 26 (“**AB 26**”), which amended provisions of the Redevelopment Law and pursuant to AB 26 and the California Supreme Court decision in *California Redevelopment Association, et al. v. Ana Matosantos, et al.*, which upheld AB 26, the Agency was dissolved on February 1, 2012.

D. In June 2012, the legislature enacted Assembly Bill 1484 (“**AB 1484**,” and together with AB 26, the “**Dissolution Law**”), requiring various State and local audits of redevelopment funds and properties.

E. On January 17, 2012, the City Council adopted a Resolution affirming the City Council as a Successor Agency under AB x1 26.

F. On January 25, 2016, the City approved the transfer of housing functions of the Redevelopment Agency of the City of Pinole to the Housing Successor.

G. The Property is one of the housing assets that was transferred to the City as Housing Successor.

H. The City desires to use the Property for a purpose other than for affordable housing purposes.

I. On June 15, 2016 an appraisal was performed on the Property to ascertain the fair market value for the exchange of the asset.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements contained in this Agreement, and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged by the Parties, Housing Successor and City hereby agree as follows:

1. INCORPORATION OF RECITALS AND EXHIBITS. The Recitals set forth above and the Exhibits attached to this Agreement are each incorporated into the body of this Agreement as if set forth in full.

2. TRANSFER OF ASSET.

2.1 Agreement to Transfer. Subject to the terms and conditions set forth herein, Housing Successor agrees to sell the Property to City, and City hereby agrees to acquire the Property from Housing Successor.

2.2 Purchase Price. The purchase price for the Property to be paid by City to the Housing Fund of the Housing Successor is Thirty Thousand Dollars (\$30,000), which is equal to the appraised fair market value of the Property.

2.3 Payment of Purchase Price. The Purchase Price will be paid in immediately available funds to the Housing Fund upon recordation of a new deed on the Property.

3. BROKERS. City represents that no real estate broker has been retained by City in the procurement of the Property or negotiation of this Agreement. City shall indemnify, hold harmless and defend Housing Successor from any and all claims, actions and liability for any breach of the preceding sentence, and any commission, finder's fee, or similar charges arising out of City's conduct.

4. ASSIGNMENT. Absent an express signed written agreement between the Parties to the contrary, neither Housing Successor nor City may assign its rights or delegate its duties under this Agreement without the express written consent of the other, which consent may be withheld for any reason. No permitted assignment of any of the rights or obligations under this Agreement shall result in a novation or in any other way release the assignor from its obligations under this Agreement. Notwithstanding the foregoing, City has the right to assign its rights hereunder to an entity in which City maintains a controlling interest, without Housing Successor's consent however, City will not be relieved of any of its obligations under this Agreement.

5. MISCELLANEOUS.

5.1 Successors. Except as provided to the contrary in this Agreement, this Agreement shall be binding on and inure to the benefit of the Parties and their successors and assigns.

5.2 Governing Law. This Agreement shall be construed and interpreted in accordance with the laws of the State of California.

5.3 Integrated Agreement; Modifications. This Agreement contains all the agreements of the Parties concerning the subject hereof and cannot be amended or modified except by a written instrument executed and delivered by the parties. There are no representations, agreements, arrangements or understandings, either oral or written, between or among the parties hereto relating to the subject matter of this Agreement that are not fully expressed herein. In addition there are no representations, agreements, arrangements or understandings, either oral or written, between or among the Parties upon which any party is relying upon in entering this Agreement that are not fully expressed herein.

5.4 Severability. If any term or provision of this Agreement is determined to be illegal, unenforceable, or invalid in whole or in part for any reason, such illegal, unenforceable, or invalid provisions or part thereof shall be stricken from this Agreement, any such provision shall not be affected by the legality, enforceability, or validity of the remainder of this Agreement. If any provision or part thereof of this Agreement is stricken in accordance with the provisions of this Section, then the stricken provision shall be replaced, to the extent possible, with a legal, enforceable and valid provision that is in keeping with the intent of the Parties as expressed herein.

5.6 Time. Time is of the essence to the performance of each and every obligation under this Agreement.

5.7 Signatures/Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Any one of such completely executed counterparts shall be sufficient proof of this Agreement.

5.8 Date and Delivery of Agreement. Notwithstanding anything to the contrary contained in this Agreement, the Parties intend that this Agreement shall be deemed effective, and delivered for all purposes under this Agreement, and for the calculation of any statutory time periods based on the date an agreement between parties is effective, executed, or delivered, as of the Effective Date.

5.9 Representation on Authority of Parties. Each person signing this Agreement represents and warrants that he or she is duly authorized and has legal capacity to execute and deliver this Agreement. Each Party represents and warrants to the other that the execution and delivery of the Agreement and the performance of such Party's obligations hereunder have been duly authorized and that the Agreement is a valid and legal agreement binding on such Party and enforceable in accordance with its terms.

SIGNATURES ON FOLLOWING PAGE

IN WITNESS WHEREOF, this Agreement is executed to be effective as of the date first set forth above.

City:

City of Pinole

By:

City Manager

Attest:

City Clerk

Reviewed as to Form:

City Attorney

Housing Successor:

Successor Housing Agency to the City of Pinole

By:

Its:

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