

ORDINANCE No. 188860

*Authorize a Settlement and Mutual Release of Claims Agreement with Yoonhwa Cho, C&O Co., LLC in an amount not to exceed \$111,466 in return for the early termination of a commercial lease and satisfaction of Housing Bureau statutory requirements on certain real property located at 5020 N Interstate Ave (Ordinance)

The City of Portland ordains:

SECTION 1. The Council finds that:

1. On behalf of the City of Portland, the Portland Housing Bureau ("PHB") administers affordable housing programs using resources, including tax increment proceeds and federal funds to support the development of affordable housing.
2. PHB acquired certain real property located at 5020 N. Interstate Ave. (the "Property") on July 27, 2016 for the purpose of developing affordable housing.
3. The Property had an existing commercial tenant, J's Market, owned by Yoonhwa Cho & C&O Company, LLC (the "Tenant").
4. The Tenant entered into a Lease Agreement dated January 17, 2012 (as amended, the "Lease"). The term under the Lease expires on September 14, 2020 (the "Termination Date"). To prepare the Property for redevelopment, it is necessary to terminate the Lease in advance of the Termination Date.
5. The building needs substantial repairs; however, development plans include demolition of the current structure.
6. On October 23, 2017, PHB sent the Tenant a 90-day notice to vacate the Property.
7. On November 19, 2017, PHB received a proposal for terminating the remaining term of the Lease from the Tenant's attorney.
8. Thereafter, the parties have begun negotiations on a Settlement and Mutual Release of Claims Agreement (the "Settlement Agreement"). Under the Settlement Agreement, PHB will pay an amount to the Tenant not to exceed \$111,466.00 (the "Early Termination Payment") in consideration for the early termination of the Lease. The Early Termination Payment is based on the total of the Tenant's last three years of sales (\$112,940.00), divided by the total Lease period of 36 months (\$3,137.22), and multiplied by the remaining 34 months of the Lease as of November 2017 (\$106,666.00) plus a credit for two months of rent payments (\$4,800.00).

NOW, THEREFORE, the Council directs:

- a. The Director of PHB is hereby authorized to execute the Settlement Agreement.
- b. The Director of PHB is hereby authorized to execute any and all documents necessary to effectuate the Early Termination Payment.

SECTION 2. The Council declares that an emergency exists because a delay in the Settlement Agreement will delay the Tenant vacating the Property, create additional building repair expenses, and impact Tenant's sales which could negatively impact this agreement; therefore, this Ordinance shall be in full force and effective from and after its passage.

Passed by the Council: **MAR 14 2018**
Mayor Ted Wheeler
Prepared by: Cheyenne Sheehan
Date Prepared: January 23, 2018

MARY HULL CABALLERO

Auditor of the City of Portland

By


Deputy

Agenda No.

188860

ORDINANCE NO.

Title

with Yoonhwa Cho, CEO Co., LLC

*Authorize a Settlement and Mutual Release of Claims Agreement in an amount not to exceed \$111,466.00 in return for the early termination of a commercial lease and satisfaction of the Housing Bureau's statutory requirements on certain real property located at 5020 N Interstate Ave (Ordinance)

INTRODUCED BY Commissioner/Auditor: Mayor Ted Wheeler	CLERK USE: DATE FILED <u>MAR 06 2018</u>
COMMISSIONER APPROVAL Mayor—Finance & Administration - Wheeler <i>KE</i> Position 1/Utilities - Fritz Position 2/Works - Fish Position 3/Affairs - Saltzman Position 4/Safety - Eudaly	Mary Hull Caballero Auditor of the City of Portland By: <i>[Signature]</i> Deputy
BUREAU APPROVAL Bureau: PHB Bureau Head: Shannon Callahan <i>SC</i> Prepared by: Cheyenne Sheehan Date Prepared: 1/24/2018 Impact Statement Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/> Portland Policy Document If "Yes" requires City Policy paragraph stated in document. Yes <input type="checkbox"/> No <input type="checkbox"/> City Auditor Office Approval: required for Code Ordinances City Attorney Approval: required for contract, code, easement, franchise, comp plan, charter <i>[Signature]</i> Council Meeting Date <u>3-14-18</u>	ACTION TAKEN:

AGENDA		FOUR-FIFTHS AGENDA		COMMISSIONERS VOTED AS FOLLOWS:	
TIME CERTAIN <input type="checkbox"/> Start time: _____ Total amount of time needed: _____ (for presentation, testimony and discussion)					
CONSENT <input type="checkbox"/> REGULAR <input checked="" type="checkbox"/> 20 Total amount of time needed: <u>10 mins</u> (for presentation, testimony and discussion)				YEAS	NAYS
		1. Fritz	1. Fritz	<input checked="" type="checkbox"/>	
		2. Fish	2. Fish	<input checked="" type="checkbox"/>	
		3. Saltzman	3. Saltzman	<input checked="" type="checkbox"/>	
		4. Eudaly	4. Eudaly	<input checked="" type="checkbox"/>	
		Wheeler	Wheeler	<input checked="" type="checkbox"/>	