

RESOLUTION NUMBER R- 309963

DATE OF FINAL PASSAGE SEP 24 2015

Item 5400  
Subitem A  
Mon: 9/14/15

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO, ACTING IN ITS CAPACITY AS THE BOARD OF THE SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO, APPROVING CERTAIN ACTIONS RELATED TO THE AMENDED AND RESTATED LONG-RANGE PROPERTY MANAGEMENT PLAN GOVERNING THE DISPOSITION OF THE FORMER REDEVELOPMENT AGENCY'S NON-HOUSING REAL PROPERTY ASSETS.

WHEREAS, from its formation in 1958 until its elimination on February 1, 2012, the Redevelopment Agency of the City of San Diego (Former RDA) administered the implementation of various redevelopment projects, programs, and activities within designated redevelopment project areas throughout the City of San Diego (City); and

WHEREAS, the Former RDA dissolved as of February 1, 2012, in accordance with a deadline for elimination of all redevelopment agencies throughout California set forth in Assembly Bill x1 26 (AB 26), as modified by the California Supreme Court in a final opinion issued on December 29, 2011; and

WHEREAS, pursuant to Resolution No. R-307238 adopted effective January 12, 2012, the City Council of the City of San Diego (Council) designated the City to serve as the successor agency to the Former RDA and to retain the Former RDA's housing assets and assume the Former RDA's housing responsibilities; and

WHEREAS, at the time of the Former RDA's dissolution, the City, in its capacity as the successor agency to the Former RDA (Successor Agency), became vested with all of the Former RDA's authority, rights, powers, duties, and obligations under the California Community

Redevelopment Law and, by operation of law, received all assets, properties, contracts, leases, books and records, buildings, and equipment of the Former RDA; and

WHEREAS, the Successor Agency is winding down the Former RDA's affairs in accordance with AB 26, enacted on June 28, 2011, and subsequent legislation, including, but not limited to, Assembly Bill 1484 (AB 1484), enacted on June 27, 2012, and Assembly Bill 471, enacted on February 18, 2014 (collectively, the Dissolution Laws); and

WHEREAS, the Oversight Board has been formed to oversee certain actions and decisions of the Successor Agency in accordance with the Dissolution Laws; and

WHEREAS, the San Diego County Auditor-Controller (County Auditor), the State Controller, and the State Department of Finance (DOF) also possess certain rights and obligations under the Dissolution Laws with respect to the Successor Agency's administration of the Former RDA's operations; and

WHEREAS, in January 2013, the Successor Agency transferred all of the Former RDA's housing functions and assets, including real property assets, to the City in its capacity as the housing successor to the Former RDA, after the Oversight Board and the DOF approved a comprehensive list of housing assets pursuant to California Health and Safety Code (Code) section 34176(a); and

WHEREAS, based on a current inventory, the Successor Agency owns a total of 38 non-housing real property assets (each, a Property, and collectively, the Properties), some of which include multiple parcels; and

WHEREAS, the provisions of AB 26, specifically Code sections 34177(e) and 34181(a), require the Successor Agency to dispose of the Properties expeditiously and in a manner aimed at maximizing value; while allowing the Successor Agency to transfer certain governmental

purpose assets to the appropriate public jurisdiction and allowing the City to retain certain assets for future redevelopment purposes in exchange for the City's payment of the negotiated or appraised value of such assets to the other local taxing entities; and

WHEREAS, AB 1484 added Code sections 34191.1 through 34191.5, which immediately suspended the provisions of AB 26 related to disposition of the Properties, except with respect to transfers for governmental use under Code section 34181(a), and established a more flexible approach for disposition of the Properties; and

WHEREAS, Code sections 34191.1 and 34191.3 entitle the Successor Agency, upon the DOF's issuance of the finding of completion, to submit a long-range property management plan (PMP) for approval by the Oversight Board and the DOF, and provide that the approved PMP will govern the disposition and use of the Properties and supersede all other provisions relating to the disposition and use of the Properties; and

WHEREAS, Code section 34191.3 states that, if the PMP is not approved by January 1, 2016, Code sections 34177(e) and 34181(a) shall be operative with respect to the Successor Agency; and

WHEREAS, the DOF issued the finding of completion to the Successor Agency in a letter dated December 2, 2013, confirming that the Successor Agency had completed certain required payments to the County Auditor under the Dissolution Laws; and

WHEREAS, Code section 34191.5(c)(1) requires identification of certain information as to each Property in the PMP, including the acquisition date, acquisition value and current estimated value, purpose of acquisition, parcel information such as address, lot size, and zoning, any available appraisal information, estimated revenues, history of environmental contamination and remediation efforts, description of potential for transit-oriented development and

advancement of local planning objectives, history of previous development proposals and rental/lease, and proposed use or disposition; and

WHEREAS, Code section 34191.5(c)(2) requires categorization of the Properties within four permissible uses in the PMP, including (i) retention for governmental use pursuant to Code section 34181(a) (Governmental Use Properties); (ii) retention for future development (Future Development Properties); (iii) sale or liquidation (For Sale Properties); and (iv) fulfillment of an enforceable obligation (Enforceable Obligation Properties); and

WHEREAS, California Government Code section 54222 requires a public agency to provide advance notice of the proposed sale of “surplus land” to relevant governmental entities, in which event any entities who intend to acquire the land have 60 days to respond; and

WHEREAS, the Properties do not qualify as surplus land because the State Legislature, not the Successor Agency or the City, is dictating that the PMP govern the use and disposition of the Properties, and therefore, the noticing procedures for surplus land under State law do not apply to the disposition of the Properties; and

WHEREAS, on April 25, 2014, the Oversight Board approved the original PMP (Original PMP) prepared by the Successor Agency, and the Successor Agency submitted the same for DOF approval on April 26, 2014; and

WHEREAS, on April 6, 2015, the DOF informed the Successor Agency that it would not approve the Original PMP as submitted and that certain changes would be required; and

WHEREAS, on May 18, 2015, the Oversight Board approved of the Successor Agency’s transfer of ten Governmental Use Properties identified in the Original PMP to the City outside of the PMP and the same was approved by the DOF by letter dated August 28, 2015; and

WHEREAS, the Successor Agency has prepared the Amended and Restated Long-Range Property Management Plan, including a narrative summary and four exhibits (collectively, the ARPMP), a copy of which is included as Attachment A to Staff Report No. CSD-15-05/CSD-15-22 accompanying this Resolution (Staff Report); and

WHEREAS, the ARPMP amends and restates the Original PMP in its entirety to incorporate changes required by the DOF, add certain properties inadvertently not included in the Original PMP, delete certain properties that are to be transferred to the City as Governmental Use Properties outside of the PMP, reflect revised disposition strategies for certain properties, and make other revisions and clarifications to facilitate implementation of the ARPMP; and

WHEREAS, with reference to the four permissible use categories, the ARPMP includes: (i) eight Governmental Use Properties to be transferred by the Successor Agency to the City for continued use and operation; (ii) 22 Future Development Properties to be transferred by the Successor Agency to the City for future redevelopment purposes; (iii) six For Sale Properties to be sold by the Successor Agency to a third party; and (iv) two Enforceable Obligation Properties to be retained by the Successor Agency for fulfillment of the underlying enforceable obligation; and

WHEREAS, in the case of For Sale Properties, the Successor Agency, or its designee, would offer the properties for sale in accordance with applicable regulations and procedures, and any net proceeds from the sale would be distributed to the affected taxing entities (Taxing Entities) in accordance with AB 1484; and

WHEREAS, the Successor Agency interprets Code section 34191.5 as authorizing transfer of the Future Development Properties to the City under Code section 34191.5(c)(2)(A) without execution of a compensation agreement with affected Taxing Entities pursuant to Code

Section 34180(f) (Compensation Agreements). However, the DOF has taken the position that Compensation Agreements are required in connection with the transfer of Future Development Properties. Therefore, pursuant to DOF direction, the ARPMP provides that the City agrees, under protest and with a full reservation of rights, to execute a Compensation Agreement with the affected Taxing Entities in exchange for the Successor Agency's transfer of each Future Development Property to the City in accordance with the ARPMP. Each Compensation Agreement shall be subject to Council approval and shall specify that Net Proceeds (as defined below) from (1) the City's use of a Property, and (2) the City's disposition of a Property, will be remitted by the City to the County Auditor-Controller for distribution to the Taxing Entities in proportion to their respective shares of the property tax base; and

WHEREAS, for Future Redevelopment Properties retained by the City, Net Proceeds will equal income generated from the Property and received by the City, if any, minus all costs to the City of improvement, environmental remediation, operation, and maintenance of the Property. For Future Redevelopment Properties sold or disposed of by the City in a manner consistent with the future development objectives of the Property described in the ARPMP, Net Proceeds will equal sale or disposition proceeds received by the City, if any, minus all costs to the City of improvement, operation, environmental remediation, maintenance, and disposition of the Property; and

WHEREAS, the ARPMP provides that no Compensation Agreements will be required, and the City may retain proceeds from the use or disposition of the Future Development Properties, if a court order, legislation, or DOF action or policy change reverses the DOF's prior directive regarding Compensation Agreements in connection with Future Development Property transfers (a Reversal). Each Compensation Agreement will be structured so that if a Reversal

occurs after the execution of the Compensation Agreement, the City may unilaterally terminate it and retain all proceeds from the use or disposition of the Property. In the event of a Reversal prior to the full execution of a Compensation Agreement, the City's commitment to execute a Compensation Agreement with respect to each Future Development Property shall have no further effect; and

WHEREAS, the ARPMP provides that, while awaiting use or disposition of Future Development Properties, the City may grant or authorize temporary access and short-term use for special events and other interim uses as reasonable for the particular Property and the surrounding community; and

WHEREAS, the ARPMP provides that the City reserves the right to transfer ownership of any Future Development Property back to the Successor Agency, in which case the Successor Agency will promptly liquidate such Property in accordance with Code section 34191.5(c)(2)(B), in the event that either: (a) the City is unable, despite its diligent efforts, to execute a Compensation Agreement with the Taxing Entities with respect to that Property, or (b) the City disagrees with the compensation amount arising from a Compensation Agreement for that Property or from negotiations with the affected taxing entities; and

WHEREAS, a proposed agreement for the sale of each of the For Sale Properties will be presented at a future date, once a buyer and a purchase price has been identified, for approval by the Successor Agency, the Oversight Board, and the DOF; and

WHEREAS, the DOF has taken the position that certain Properties previously classified by the Successor Agency as Enforceable Obligation Properties are not subject to enforceable obligations. The Successor Agency maintains that these Properties are subject to enforceable obligations and therefore properly classified as Enforceable Obligation Properties, but has

reclassified them as either For Sale Properties or Future Development Properties pursuant to DOF direction, under protest, to facilitate approval of the ARPMP. The ARPMP provides that the Successor Agency and the City reserve their rights to challenge the DOF's directives with respect to classification of these Properties, and to restore the Enforceable Obligation Property classification of these Properties in the event a court order, legislation, or DOF action or policy change reverses the DOF's directive; and

WHEREAS, the Successor Agency has reclassified these Properties into new categories in the ARPMP based on the DOF's assurances that any remaining pre-AB 26 contractual obligations affecting the Properties will continue to be paid and fulfilled by the Successor Agency using the Redevelopment Property Tax Trust Fund. The City expressly disclaims any financial responsibility for such remaining contractual obligations as the fulfillment of such obligations properly rests with the Successor Agency; and

WHEREAS, Code section 34179(p) states that decisions made by the Oversight Board within its purview will supersede decisions made by the Successor Agency or Successor Agency staff; and

WHEREAS, the Oversight Board's decision regarding approval of the ARPMP will not become effective until after such decision has been approved or deemed approved by the DOF in accordance with Code sections 34179(h) and 34181(f); and

WHEREAS, it is therefore assumed for purposes of this Resolution that any modifications to the ARPMP made by the Oversight Board or the DOF will be binding on the Successor Agency.

WHEREAS, Successor Agency staff anticipates that future State legislation or DOF authorization might allow the Successor Agency to reclassify certain Properties as Governmental



Use Properties, and thereby enable transfer of those Properties from the Successor Agency to the City without payment of any monetary consideration to the Successor Agency or the affected Taxing Entities; and

WHEREAS, Successor Agency staff seeks authorization to administratively reclassify Properties as Governmental Use Properties in the ARPMP to allow transfer of such Properties from the Successor Agency to the City without payment of any monetary consideration to the Successor Agency or the Taxing Entities, to the extent permitted by future State legislation or DOF authorization; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, acting in its capacity as the board of the Successor Agency, as follows:

1. The Council finds and determines that the foregoing recitals are true and correct.
2. The Council received and heard any and all oral and written objections relating to the ARPMP, and all such oral and written objections are overruled.
3. The Council approves the ARPMP, including all attachments thereto. A copy of the ARPMP, in the final form approved by the DOF (Final Approved ARPMP), shall be placed on file with the City Clerk as Document No. RR- **309963**.
4. The Council authorizes the administration of the Properties by the Mayor or designee, on behalf of the Successor Agency, consistent with the Final Approved ARPMP.
5. The Mayor or designee is authorized to execute and record, on the Successor Agency's behalf, the conveyance instruments (collectively, the Conveyance Instruments) necessary to accomplish the transfer of the Governmental Use Properties and the Future Development Properties, as well as the Enforceable Obligation Properties where appropriate, from the Successor Agency to the City in accordance with the Final Approved ARPMP, and the

transfer outside of the ARPMP of the ten Government Use Properties identified in the Original PMP; including: (a) the grant deeds for the transfer of fee title ownership of such Properties, in substantially the form of Attachment B or Attachment C to the Staff Report; (b) the assignment and assumption agreements for the transfer of all contracts and other items related to such Properties, in substantially the form of Attachment D to the Staff Report; and (c) such other conveyance instruments as may be deemed necessary or appropriate to accomplish the complete transfer of such Properties. A copy of all Conveyance Instruments, when executed (and recorded in the San Diego County Recorder's Office, where appropriate), shall be placed on file with the City Clerk.

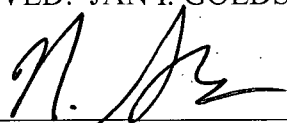
6. The Mayor or designee is authorized and directed to sign all documents on the Successor Agency's behalf that are necessary and appropriate to carry out and implement the Final Approved ARPMP and to administer the Successor Agency's obligations, responsibilities, and duties to be performed under the Final Approved ARPMP.

7. The Mayor or designee is authorized to reclassify Properties as Governmental Use Properties as permitted by future State legislation or DOF authorization, and to transfer such Properties to the City, provided that no compensation shall be paid by the City to the Successor Agency or Taxing Entities for such Properties.

8. The City Comptroller is authorized and directed to accept, on the Successor Agency's behalf, all revenues generated from the lease, transfer or sale of the Properties in accordance with the Final Approved ARPMP.

APPROVED: JAN I. GOLDSMITH, City Attorney

By



Nate Slegers  
Deputy City Attorney

NS:dkr  
09/01/15  
Or.Dept: Civic San Diego  
Doc. No. 1095601  
Comp. R-2016-119

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of SEP 14 2015.

ELIZABETH S. MALAND  
City Clerk

By   
Deputy City Clerk

Approved: 9/23/15  
(date)

  
KEVIN L. FAULCONER, Mayor

Vetoed: \_\_\_\_\_  
(date)

\_\_\_\_\_  
KEVIN L. FAULCONER, Mayor

Passed by the Council of The City of San Diego on SEP 14 2015, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Sherri Lightner	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lorie Zapf	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Todd Gloria	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Myrtle Cole	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mark Kersey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
David Alvarez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marti Emerald	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage SEP 24 2015

(Please note: When a resolution is approved by the Mayor, the date of final passage is the date the approved resolution was returned to the Office of the City Clerk.)

AUTHENTICATED BY:

KEVIN L. FAULCONER  
Mayor of The City of San Diego, California.

ELIZABETH S. MALAND  
City Clerk of The City of San Diego, California.

(Seal)

By *Mary Standy*, Deputy

Office of the City Clerk, San Diego, California

Resolution Number R- 309963