

RESOLUTION NO. 15-05

**A RESOLUTION OF THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY OF
THE CITY OF MONTEREY REDEVELOPMENT AGENCY**

**AMEND RESOLUTION NO. 14-03 TO REVISE SUCCESSOR AGENCY LONG
RANGE PROPERTY MANAGEMENT PLAN TO INDICATE PROPERTY AT 300
PACIFIC STREET SHALL BE TRANSFERRED TO THE CITY OF MONTEREY FOR
FUTURE DEVELOPMENT PURSUANT TO HEALTH AND SAFETY CODE SECTION
34191.5 (C)(2)(A)**

WHEREAS, on February 18, 2014 the Successor Agency of the Redevelopment Agency of the City of Monterey (the "Successor Agency") reviewed and approved the Successor Agency's Long Range Property Management Plan (the "LRPMP");

WHEREAS, on February 26, 2014 the Oversight Board of the Successor Agency (the "Oversight Board") reviewed and approved the LRPMP;

WHEREAS, the LRPMP was submitted to the State of California Department of Finance ("DOF") on March 4, 2014 for review and approval;

WHEREAS, the LRPMP submitted to DOF proposes transfer of the Hotel Pacific at 300 Pacific Street ground lease and property to the City of Monterey based on finding that the transfer is allowed pursuant to Health and Safety Code (HSC) Sections 34191.5 (c)(2)(A) to fulfill an enforceable obligation and as a governmental purpose property;

WHEREAS, DOF on October 15, 2015 advised the Successor Agency that the LRPMP will not be approved as submitted because the DOF has determined that the property transfer is not deemed to be an enforceable obligation and that the use of the property is not deemed to be a governmental purpose as defined in HSC Section 34179;

WHEREAS, DOF has required that the Successor Agency revise the LRPMP to require disposition of the property through either a sale or transfer to the City for future development before the DOF approves the LRPMP;

WHEREAS, as required by the DOF, the LRPMP has been revised to transfer the ground lease to the City of Monterey by assigning the ground lease to the City; and transfer of the property to the City of Monterey by Grant Deed for future development pursuant to HSC Section 34191.5 (c)(2)(A), subject to a compensation agreement with the affected taxing entities;

WHEREAS, on December 15, 2015 the Successor Agency reviewed and approved the Revised LRPMP as presented;

WHEREAS, the accompanying staff report (the "Staff Report"), incorporated herein by this reference, provides supporting information upon which the actions set forth in this Resolution are based.

WHEREAS, the City of Monterey determined that the proposed action is not a project as defined by the California Environmental Quality Act (CEQA)(CCR, Title 14, Chapter 3 ("CEQA Guidelines), Article 20, Section 15378). In addition, CEQA Guidelines Section 15061

includes the general rule that CEQA applies only to activities which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. Because the proposed action and this matter have no potential to cause any effect on the environment, or because it falls within a category of activities excluded as projects pursuant to CEQA Guidelines section 15378, this matter is not a project. Because the matter does not cause a direct or any reasonably foreseeable indirect physical change on or in the environment, this matter is not a project. Any subsequent discretionary projects resulting from this action will be assessed for CEQA applicability.

NOW, THEREFORE, BE IT RESOLVED BY THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY OF THE CITY OF MONTEREY REDEVELOPMENT AGENCY that that the foregoing recitals are true and correct, and, together with the information provided by the Successor Agency staff in the Staff Report and the public, form the basis for the approvals, findings, resolutions, and determinations set forth below.

BE IT FURTHER RESOLVED BY THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY OF THE REDEVELOPMENT AGENCY OF THE CITY OF MONTEREY that it hereby approves the Revised Long Range Property Plan as Shown in Exhibit A.

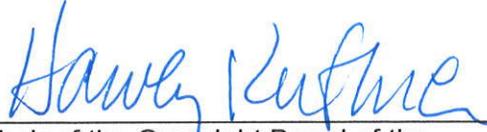
BE IT FURTHER RESOLVED BY THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY OF THE REDEVELOPMENT AGENCY OF THE CITY OF MONTEREY that it hereby finds that approval of the Long Range Property Management Plan (LRPMP) is warranted based on the following assessment:

1. This revised Long Range Property Management Plan constitutes the Successor Agency's good-faith efforts to address and comply with the requirements set forth in HSC 34191.5(c).
2. Under the LRPMP, the ground lease to the 300 Pacific Street property will transfer to the City of Monterey through assignment of the ground lease and the property will transfer to the City of Monterey for future development through grant deed and subject to a compensation agreement.
3. Transfer of the property to the City of Monterey allows the City to continue to fulfill the duties and obligations of the former redevelopment agency under the Closeout Agreement with HUD and the Custom House Redevelopment Plan.

PASSED AND ADOPTED BY THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY OF THE CITY OF MONTEREY REDEVELOPMENT AGENCY this 16th day of December 2015 by the following vote:

AYES:	4	BOARD MEMBERS:	Kuffner, Barrett, Mall, Nakamura, Pofahl
NOES:	0	BOARD MEMBERS:	None
ABSENT:	2	BOARD MEMBERS:	Potter, Rerig
ABSTAIN:	0	BOARD MEMBERS:	None

APPROVED:



Chair of the Oversight Board of the
Successor Agency of the City of Monterey
Redevelopment Agency
Monterey, California

ATTEST:



Secretary of the Oversight Board of the
Successor Agency of the City of
Monterey Redevelopment Agency
Monterey, California

APPROVED AS TO FORM:



Legal Counsel to the Oversight Board

RESOLUTION NO. 14-03

**A RESOLUTION OF THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY OF
THE CITY OF MONTEREY REDEVELOPMENT AGENCY**

**PURSUANT TO HEALTH AND SAFETY CODE SECTION 34191.5
APPROVE THE SUCCESSOR AGENCY LONG RANGE PROPERTY
MANAGEMENT PLAN THAT PROPOSES TRANSFER OF HOTEL PACIFIC
AT 300 PACIFIC STREET TO THE CITY OF MONTEREY**

WHEREAS, on January 12, 2012, the City Council of the City of Monterey pursuant to the Redevelopment Dissolution Act (AB x 26) elected to serve as the Successor Agency for the former Redevelopment Agency of the City of Monterey (the "Successor Agency");

WHEREAS, on September 10, 2013, the Successor Agency received notice of the State of California Department of Finance (DOF) Finding of Completion;

WHEREAS, in accordance to Health and Safety Code (HSC) Section 34191.5(b), successor agencies are required to address disposition and use of all real properties of the former redevelopment agencies in a long range property management plan;

WHEREAS, successor agencies are provided six months following issuance of a finding of completion to prepare and submit a long range property management plan;

WHEREAS, pursuant to HSC Section 34191.5(b), successor agencies long range property management plans, shall be submitted to the Oversight Board and the DOF for approval;

WHEREAS, the Successor Agency's Long Range Property Management Plan is due to DOF no later than March 10, 2014;

WHEREAS, the Successor Agency retains control of a single real property asset, the Hotel Pacific property located at 300 Pacific Street and it is the only real property asset to be addressed in the Long Range Property Management Plan;

WHEREAS, the Long Range Property Management Plan has been prepared in accordance to HSC section 34191(c) and it proposes to transfer the Hotel Pacific at 300 Pacific Street to the City of Monterey based on finding that the transfer is allowed pursuant to HSC Section 34919(c)(2) as an enforceable obligation and as a governmental purpose property;

WHEREAS, the Long Range Property Management Plan was reviewed and approved by the Successor Agency on February 18, 2014;

WHEREAS, on February 26, 2014, in accordance with HSC Section 34191.5(b), the Successor Agency Long Range Property Management Plan was submitted to the Oversight Board for review and approval;

WHEREAS, the City of Monterey determined that the proposed action is exempt from the California Environmental Quality Act (CEQA) Guidelines (Article 19, Section 15301, Class 1)

because the project is a property management plan that proposes a real property transfer of an existing improved property and the transfer in ownership does not necessitate any revision or improvements to the property.

NOW, THEREFORE, BE IT RESOLVED BY THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY OF THE CITY OF MONTEREY REDEVELOPMENT AGENCY that it hereby approves the Successor Agency of the City of Monterey Redevelopment Agency Long Range Property Management Plan as shown in Exhibit A.

BE IT FURTHER RESOLVED BY THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY OF THE CITY OF MONTEREY REDEVELOPMENT AGENCY that it hereby finds that approval of the Successor Agency of the City of Monterey Redevelopment Agency Long Range Property Management Plan warranted based on the following assessment:

1. Enforceable Obligation – The Hotel Pacific property was acquired by the City's Urban Renewal Agency assisted with funds from the United States Department of Housing and Urban Development ("HUD") under the Urban Renewal Program beginning in 1962. The redevelopment agency interest was solely as Ground Lessor due to agency name change in 1979. In 1977, the City and Federal Government concluded an Urban Renewal Agency-City of Monterey Closeout Agreement (the "Agreement"), which specifically states in Section 1: "The proceeds from the distribution of any property listed above after the financial settlement shall be treated as program income under the provisions of 24 CFR 570.206." (The Hotel Pacific property is listed in the Agreement and 24 CFR 570.206 authorizes payment of reasonable administrative costs related to the planning and execution of Community Development Block Grant (CDBG) eligible activities.) (Note the code reference is incorrect. The program income requirements are set forth at 24 CFR 570.504. The regulation citations have changed since the date of the Closeout Agreement.)

The City has consistently used the lease revenue from the Hotel Pacific to fund CDBG eligible projects. Going forward the City is the appropriate public jurisdiction to receive the property transfer. Pursuant to the Agreement, the City of Monterey is required, as the unit of the general local government, to use the disposition proceeds in a manner that is compliant with the Closeout Agreement. The Closeout Agreement and the CDBG regulations **prohibit** transferring the proceeds to the taxing entities for any disbursement provided in the Redevelopment Dissolution Statutes (ABx1 26, as amended by AB 1484). In this manner, transferring the property from the SA to the City of Monterey can be correctly characterized as fulfilling an enforceable obligation that was established between the City and Federal Government in the 1977 Agreement.

2. Governmental Purpose – Transferring the Hotel Pacific property to the City of Monterey is warranted as governmental purpose. The proceeds from the lease are restricted to only funding CDBG eligible projects and programs. These are community development activities designed to meet National Objectives principally related to the provision of decent housing, expanded economic opportunities, suitable living, and services to low-income, disabled, and senior individuals. The City of Monterey is the appropriate public jurisdiction to receive the property because the City with its established CDBG program is able to ensure that rent proceeds are expended on CDBG eligible projects.

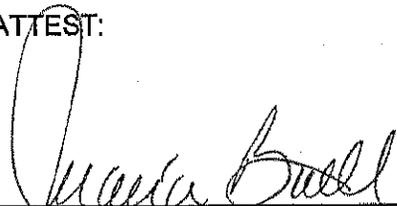
Additionally, the Urban Renewal Program was a federal program authorized by HUD to provide economic development to local government. It was a government program federally funded with covenants that restricted any future uses contrary to the purpose of the

program. Therefore, the property and ground lease for the hotel project serve a government purpose established by HUD under the Housing Act of 1949, as amended and the CDBG regulations.

AYES:	5	BOARD MEMBERS:	Kuffner, Adamson, Potter, Rerig, Nakamura
NOES:	0	BOARD MEMBERS:	None
ABSENT:	2	BOARD MEMBERS:	Winick, Della Sala
ABSTAIN:	0	BOARD MEMBERS:	None

APPROVED:

ATTEST:

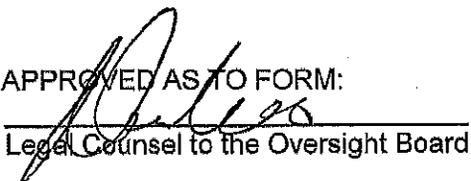


Secretary of the Oversight Board of the
Successor Agency of the
City of Monterey Redevelopment Agency
Monterey, California



Chair of the Oversight Board of the
Successor Agency of the City of Monterey
Redevelopment Agency
Monterey, California

APPROVED AS TO FORM:



Legal Counsel to the Oversight Board

**SUCCESSOR AGENCY OF THE CITY OF MONTEREY REDEVELOPMENT AGENCY
LONG-RANGE PROPERTY MANAGEMENT PLAN
(REVISED DECEMBER 7, 2015)**

Pursuant to Health and Safety Code Section (HSC) 34175(b) and the California Supreme Court's decision in California Redevelopment Association, et al. v. Ana Matosantos, et al., 53 Cal.4th 231 (2011), on February 1, 2012, all assets, properties, contracts, leases, books and records, buildings, and equipment of the former Redevelopment Agency of the City of Monterey transferred to the control of the Successor Agency to the Redevelopment Agency of the City of Monterey (the "Successor Agency") by operation of law. Additionally, HSC Section 34179.6 required the Successor Agency to conduct a diligence review for all of the other fund and account balances of the former Redevelopment Agency of the City of Monterey, excluding the Low and Moderate Income Housing Fund (the "Other Funds DDR"). The Successor Agency Oversight Board ("Oversight Board") approved the Other Funds DDR on April 10, 2013. Four real property assets of the Successor Agency were included in the Other Funds DDR: 1) Osio Plaza Walkway; 2) Custom House Plaza Walkway; 3) Spanish Plaza; and 4) 5 Custom House Ground Lease. The State of California Department of Finance (DOF) approved the Other Funds DDR on August 2, 2013. Following completion of the Other Funds DDR a fifth property, the Hotel Pacific at 300 Pacific Street, was identified as former redevelopment property.

Pursuant to HSC Section 43177(e) former redevelopment agency real property is subject to disposition. The disposition is to be done under the direction of the Oversight Board. It is to be done expeditiously and in a manner aimed at maximizing value. On October 23, 2013, DOF confirmed transfer of four of the five former redevelopment agency properties to the City of Monterey as governmental purpose properties consistent with HSC Section 34181(a) (Attachment A1). On December 3, 2013 the City of Monterey adopted Resolution No. 13-197 and accepted the transfer of Osio Plaza Walkway, Custom House Plaza Walkway, Spanish Plaza and Custom House Ground Lease. City acceptance of these transfers leaves a single property with the Successor Agency. The Hotel Pacific is the only former redevelopment property remaining with the Successor Agency. It is the only property disposition addressed in the Successor Agency's Long Range Property Management Plan and subject to Oversight Board and DOF approval. (See DOF determination dated August 14, 2013 that is provided as Attachment A2.)

Long-Range Property Management Plan Requirements

HSC Section 34191.5(b) specifies that long-range property management plans must include:

1. An inventory of the property;
2. Date of property acquisition;
3. Value at the time of acquisition;
4. Statement of the purpose for which the property was acquired;
5. Parcel data, including address, lot size and current zoning;
6. Estimate of the current value of the parcel, including any appraisal information, if available;
7. Estimate of any lease, rental or any other revenues generated by the property;
8. Description of the contractual requirement for the disposition of the revenue funds;
9. History of environmental contamination, including designation as a brownfield site, description of any related environmental studies, and history of any remediation efforts;
10. Description of the property's potential for transit-oriented development and the advancement of the planning objectives of the successor agency; and

11. Brief history of previous development proposals and activity, including the rental or lease of property.

The long-range property management plan must also identify the use or disposition of all the property assets of the successor agency. Disposition alternatives include retention of the property for governmental use, retention of the property for future development, the sale of the property, or the use of the property to fulfill an enforceable obligation. The long-range property management plan must separately identify and list properties that are dedicated to governmental use purposes and properties retained for purposes of fulfilling an enforceable obligation.

HSC Section 34191.5(c)(2) further provides that (a) if the long-range property management plan directs the use or liquidation of the property for a project identified in an approved redevelopment plan, the property shall transfer to the City; and (b) if the long-range property management plan directs the liquidation of the property or the use of revenues generated from the property, such as lease or parking revenues, for any purpose other than to fulfill an enforceable obligation or for use for a project identified in an approved redevelopment plan, the proceeds from the sale shall be distributed as property tax to the taxing entities.

This Revised Long Range Property Management Plan constitutes the Successor Agency's good-faith efforts to address and comply with the requirements set forth in HSC Section 34191.5(c). Pursuant to HSC Section 34191.5(d), the DOF's review hereof shall only consider whether this revised Long-Range Property Management Plan suffices as a good-faith effort to address the requirements set forth in HSC Section 34191.5(c).

Hotel Pacific at 300 Pacific Street

Property Summary

The City of Monterey Successor Agency holds an urban renewal project, now a former redevelopment agency property. This property is 300 Pacific Street. It is fully developed as a hotel and subject to a long term ground lease terminating December 31, 2058. Property size is 62,646 square feet. Assessor's parcel numbers are 001-568-004-000, 001-568-005-000 and 001-569-005-000. The General Plan designation is Commercial. The zoning designation is VAF (Visitor Accommodation Facility), which only allows for hotel or motel use with ancillary services. The assessor parcels and aerial photograph of the property is provided as Attachment A3.

The property was acquired by the City's Urban Renewal Agency assisted with funds from the United States Department of Housing and Urban Development ("HUD") under the Urban Renewal Program beginning in 1962. Funds were provided to the City pursuant to the Housing Act of 1949, as amended. Ten parcels were assembled over a six year period to facilitate development to implement the Custom House Redevelopment Project. Specific purchases were made as follows: 1) two parcels on 12/6/1962; 2) one parcel on 11/19/1962; 3) one parcel 11/23/1962; 4) one parcel on 1/7/1963; 5) one parcel on 2/7/1963; 6) one parcel on 4/4/1963; 7) one parcel on 6/17/1963; 8) one parcel on 5/25/1964; and 9) one parcel on 8/23/1968. It is staff's understanding that tax-increment funds were not used to purchase the properties and that Federal HUD funds were used to fund the purchase, subject to certain restrictions as provided in Subpart N of the Community Development Block Grant ("CDBG") regulations in 24

CFR 570.804(b)(7).¹ However, staff is unable to conclusively document that no tax-increment funds were used for the purchases. The purchases are documented in Grant Deeds. A portion of property consists of Jackson Street right-of-way that was dedicated by the City of Monterey to provide a contiguous development site. Federal HUD funds were used to fund the purchase. These funds were provided pursuant to Loan and Grant Contract No. Calif. R-34 for Urban Renewal Project – Custom House Redevelopment Plan. The City of Monterey April 1, 1977 Urban Renewal Agency Closeout Agreement (the “Closeout Agreement”) indicates the loan funds were paid back from project land assembly and disposition activities. The total purchase price of the assembled parcels was \$230,050. On October 26, 1984 the City of Monterey Redevelopment Agency entered into a ground lease to facilitate development of a hotel (“The Ground Lease”).

Development of the property as a hotel was initiated in 1985. Building occupancy was granted on September 19, 1986. The property has been continuously operated as a hotel since its opening. Pursuant to the Closeout Agreement rent proceeds required under the ground lease have continuously been treated as Community Development Block Grant (CDBG) program income. These proceeds are only used to fund CDBG eligible programs and projects (24CFR 570.504). Ground rent is the greater of a base rent or seven percent (7%) of gross business revenue. Average rental proceeds received in Fiscal Years 2012-2013, 2011-2012 and 2010-2011 is \$303,519.

The property is currently developed as its highest and best use. This conclusion is supported by consideration of the General Plan commercial use designation, Visitor Accommodation Facility (VAF) zoning designation and the terms of the existing ground lease, which are both consistent with the current use of the properties. Furthermore, the property is located within the boundaries of the Redevelopment Plan for the Custom House Redevelopment Project (“Redevelopment Plan”) and is a project included in the Redevelopment Plan as a redevelopment project. The hotel use continues to advance the planning objectives of the City and former redevelopment agency.

In respect to a potential for transit-oriented development, the property is not well situated for this type of development because it is fully developed as a hotel and 44 years remain before the ground lease will expire. Though it should be noted that the property is located within a .3 mile radius of the bus transit center at Simoneau Plaza and .12 mile radius of the Downtown Parking Garages, its current use and lease precludes redevelopment to transit-oriented development.

In respect to a history of environmental contamination, the Successor Agency has no knowledge of any environmental contamination of the property. The Successor Agency has also not performed any environmental studies of the property. The property is not classified as a brownfield site.

A Broker’s Opinion of Value (BOV) has determined an estimate of the current market value of the property. The BOV is included as Attachment A4. The current estimate of market value is \$2,505,840.

Disposition Proposal for 300 Pacific Street

¹ There are no records to indicate the conveyance of the property from the Urban Renewal Agency and to the former Redevelopment Agency of the City of Monterey.

The Successor Agency proposes to dispose of 300 Pacific Street through a transfer of the property to the City of Monterey for future development pursuant to HSC Section 34191.5(c) (2). Prior to transferring the property from the Successor Agency to the City, the City and local taxing entities will execute a compensation agreement. In support of this transfer for future development the Successor Agency finds the property is to be used for a project identified in the City of Monterey's approved Custom House Redevelopment Plan and that this proposed transfer is authorized pursuant to HSC Section 34191.5(c)(2)(A).

Conclusion

The Successor Agency LRPMP will dispose of the property at 300 Pacific Street through an assignment of the Ground Lease and the transfer of the property to the City of Monterey for future development by grant deed.

Long Range Property Management Plan Property Inventory Data Table is included as Attachment 1

Supporting Documents

1. Attachment 2 - October 23, 2013 DOF Letter Confirming Transfer of Four Former Redevelopment Agency Properties.
2. Attachment 3 – August 14, 2013 DOF Authorizing Addressing 300 Pacific Street in the Long Range Property Management Plan
3. Attachment 4 – Assessors Map
4. Attachment 5 – Broker's Opinion of Value
5. Attachment 6 – Pacific Street Motel Lease
6. Attachment 7 – Council Resolution No. 12,858 to Authorize Closeout Agreement
7. Attachment 8 – Urban Renewal Agency / City Closeout Agreement
8. Attachment 9 – CDBG Memorandum RE: Proceeds from the Sale of Land Connected to a Federally Funded Urban Renewal Project.