

Orange Countywide Oversight Board

Agenda Item No. 5

Date: 4/29/2025

From: Staff to the Oversight Board

Subject: A Resolution of the Orange Countywide Oversight Board Authorizing and Directing Actions Pertaining to Properties Approved to Be Retained for Future Development Under the Long-Range Property Management Plans and Related Compensation Agreements

Recommended Action: Adopt Resolution No. 25-014 to authorize staff to take actions pertaining to properties that have been retained by a city for future development under long-range property management plans, if the city still has not entered into related compensation agreement with affected taxing entities

Background

During 2013 through 2015, successor agencies prepared long-range property management plans (each, an “LRPMP”) to address the disposition of their former redevelopment agencies’ real properties.

On a LRPMP, the successor agency could list certain properties as “retain for future development” (each, a “Retained Property”) and, subject to approval of the LRPMP by the oversight board and the State Department of Finance (“DOF”), the successor agency could transfer the Retained Properties to its city. Under Health and Safety Code Section 34191.5(c)(2)(A)(iii), for the Retained Properties, the DOF or the oversight board may require compensation agreements (pursuant to which the city would make some compensation payment to the taxing entities).

For Orange County’s successor agencies that have Retained Properties on their LRPMPs, the DOF conditioned its approval of the LRPMPs on a recognition that compensation agreements with the taxing entities are required. The DOF permitted a successor agency to transfer a Retained Property to its city before any compensation agreement materialized, but by such time as the city sells the Retained Property to a third party, compensation agreements between the city and the affected taxing entities must be obtained.

Many cities successfully entered into compensation agreements with taxing entities in the interim years. However, it has come to the Board’s attention that there remain cities with Retained Properties that have not yet entered into compensation agreements with taxing entities.

Discussion

The attached resolution makes clear the Board's views concerning the need for a city to fulfill its obligations to enter into compensation agreements pursuant to the LRPMP. This includes the Board's right to publish or post notification (including by way of an instrument recorded in the County Official Records) that the city's sale of a Retained Property will not be valid unless the city has reached related compensation agreements with the taxing entities (such notification being referred to below as "Retained Property Notice").

By this resolution, the Board will authorize staff to: (i) inquire, and obtain information, about the status of the Retained Properties and related compensation agreements, (ii) gather other information for the Board to determine if the city has violated its obligations relating to the Retained Properties under the LRPMP, and (iii) at the direction of the Chair of the Board, publish or post Retained Property Notices with respect to any unsold Retained Property (including by way of recording one or more instruments in the County Official Records).

Impact on Taxing Entities

The DOF conditioned the approval of Retained Properties on an LRPMP on the city's agreement to enter into contracts with taxing entities, to ensure that the taxing entities would receive compensation that the taxing entities have negotiated. This resolution is in furtherance of the Board's fiduciary responsibilities to the taxing entities.

Attachment:

Proposed Resolution No. 25-014

RESOLUTION OF THE ORANGE COUNTYWIDE OVERSIGHT BOARD

RESOLUTION NO. 25-_____

A RESOLUTION OF THE ORANGE COUNTYWIDE OVERSIGHT BOARD AUTHORIZING AND DIRECTING ACTIONS PERTAINING TO PROPERTIES APPROVED TO BE RETAINED FOR FUTURE DEVELOPMENT UNDER THE LONG-RANGE PROPERTY MANAGEMENT PLANS AND RELATED COMPENSATION AGREEMENTS

WHEREAS, by the laws of the State of California (“State”), redevelopment agencies within the State were dissolved as of February 1, 2012, and successor agencies were established as successor entities to wind down the former redevelopment agencies’ affairs; and

WHEREAS, pursuant to Health and Safety Code (“HSC”) Section 34179(j), commencing July 1, 2018, the Orange Countywide Oversight Board (the “Board”) has jurisdiction over the successor agencies located within the County of Orange (“County”); and

WHEREAS, during 2013 through 2015, successor agencies prepared long-range property management plans (each, an “LRPMP”) to address the disposition of their former redevelopment agencies’ real properties; and

WHEREAS, pursuant to HSC Section 34191.3(a), once the LRPMP was approved by the oversight board and the State Department of Finance (“DOF”), the LRPMP shall govern the disposition and use of the related properties; and

WHEREAS, on a LRPMP, the successor agency could list certain properties as “retain for future development” (“Retained Properties” or each, a “Retained Property”) and, subject to the oversight board’s and the DOF’s approval of the LRPMP, the successor agency could transfer the Retained Properties to its city (or the county, in the case of the county successor agency); and

WHEREAS, under HSC Section 34191.5(c)(2)(A)(iii), for the Retained Properties, the DOF or the oversight board may require compensation agreements (pursuant to which the city would make some compensation payment to the taxing entities), but the city could execute the compensation agreements after the DOF’s approval of the LRPMP; and

WHEREAS, for the County’s successor agencies that have Retained Properties on their LRPMPs, the DOF conditioned its approval of the LRPMPs on a recognition that compensation agreements with the taxing entities are required; and

WHEREAS, the DOF permitted a successor agency to transfer a Retained Property to its city before any compensation agreement materialized, but by such time as the city

sells the Retained Property to a third party, compensation agreements between the city and the affected taxing entities must be obtained; and

WHEREAS, many cities successfully entered into compensation agreements with taxing entities in the interim years; and

WHEREAS, generally under these compensation agreements, the cities agreed, upon the sale of a Retained Property, to transfer the net sale proceeds to the County Auditor-Controller (“CAC”) for distribution to the taxing entities; and

WHEREAS, however, there remain cities with Retained Properties subject to the Countywide Oversight Board’s jurisdiction that have not yet entered into compensation agreements with the taxing entities; and

WHEREAS, the Board recognizes that, in most instances, successor agencies transferred the Retained Properties to their cities years ago; and

WHEREAS, the Board further recognizes that each successor agency and its city are separate legal entities; and

WHEREAS, with respect to each active successor agency in the County, the related city elected to serve as the successor agency under HSC Section 34173, and thus the city was present throughout the development of its successor agency’s LRPMP and has known the commitments made under the LRPMP regarding compensation agreements for the Retained Properties; and

WHEREAS, thus, each LRPMP documented the agreement, rights and obligations among the DOF, the oversight board, the successor agency, the city, and the taxing entities regarding the Retained Property and the requirement for compensation agreements; and

WHEREAS, when the city received a benefit by accepting a Retained Property transferred from its successor agency, the city also accepted the obligation to have compensation agreements in place by the time of sale of the Retained Property to a third party; and

WHEREAS, pursuant to the HSC Section 34179(i), the Board has fiduciary responsibilities to the taxing entities; and

WHEREAS, in the Board’s view, the Board has the right to act if a city violates its commitment pursuant to the LRPMP to enter into agreements to compensate the taxing entities for the Retained Properties; and

WHEREAS, in the Board’s view, a city’s unilateral declaration that no compensation agreement with the taxing entities could be reached without the Board’s approval is a violation of such commitment; and

WHEREAS, with respect to any unsold Retained Property still held by a city, the Board has the right to publish or post notification (including by way of an instrument recorded in the County Official Records) that the city's sale of the Retained Property will not be valid unless the city has reached related compensation agreements with the taxing entities (such notification being referred to below as "Retained Property Notice");

NOW, THEREFORE, BE IT RESOLVED BY THE ORANGE COUNTYWIDE OVERSIGHT BOARD:

SECTION 1. The Recitals set forth above are true and correct and are incorporated as a substantive part of this Resolution.

SECTION 2. With respect to each active successor agency that has Retained Properties listed on its LRPMP and in connection with which, the city has not yet executed any agreement to provide compensation to the taxing entities, Oversight Board counsel and staff are hereby authorized to take actions as they deem appropriate to: (i) inquire, and obtain information, about the status of the Retained Properties and related compensation agreements, (ii) gather other information for the Board to determine if the city has violated its obligations relating to the Retained Properties under the LRPMP, and (iii) at the direction of the Chair of the Board, publish or post Retained Property Notices with respect to any unsold Retained Property (including by way of recording one or more instruments in the County Official Records). Any and all previous Oversight Board counsel and staff actions consistent with this direction are hereby ratified and affirmed.

SECTION 3. If any provision of this Resolution or the application of any such provision to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Resolution that can be given effect without the invalid provision or application, and to this end the provisions of this Resolution are severable. The Oversight Board declares that the Oversight Board would have adopted this Resolution irrespective of the invalidity of any particular portion of this Resolution.

SECTION 4. The Clerk of the Oversight Board shall certify to the adoption of this Resolution and is directed to transmit this Resolution to the DOF.